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# 21st Century Criminology: A Reference Handbook

## Drug Courts

Contributors: J. Mitchell Miller

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*University of Texas at San Antonio*  
[p. 675 ↓ ]

## Chapter 78: Drug Courts

Drug courts are the most successful innovation to address the treatment needs of substance-abusing offenders. After their launching in 1989 by the Dade County, Florida, local prosecutor, Janet Reno (U.S. Attorney General, 1994–2000), the number of drug courts has proliferated to nearly 800 adult treatment courts and another nearly 1,200 problem-solving courts. The innovation alters how the court handles sentencing and monitors the case, and it integrates treatment into the primary goal of the sentence.

Drug courts provide a seamless system of care involving the judge, treatment agencies, probation/parole agencies, prosecutors, defenders, and other actors in the criminal justice system that are central in assisting offenders in achieving sobriety. This model provides a different framework for handling the drug-involved offender, including the recognition that sobriety is a process where decreased drug use occurs over a period of time. The use of drug testing, treatment, and sanctions also provides for an avenue to modify the existing process for handling offenders with substance abuse disorders.

The following discussion outlines the rationale for the model, the research results on drug treatment courts, the results of a current survey on drug courts, and next steps to advance the concept. The survey results presented are from the recent Criminal Justice Drug Abuse Treatment Studies National Drug Court Survey, the first survey to describe the characteristics of treatment in drug treatment courts.

## Needs of the Offender Population

Research has consistently shown that the rate of substance abuse and mental and physical health problems is much higher among the offender population than it is for the everyday person. While just under 2% of the general population is infected with

hepatitis C (Centers for Disease Control and Prevention [CDC], 2007), roughly 31% of incarcerated populations are infected (Beck & Maruschak, 2004). While one tenth of 1% of the general population is HIV-positive (Glynn & Rhodes, 2005), 2% of inmates are infected with the virus (Maruschak, 2006). A majority of prisoners (56%) and jail inmates (64%) have mental health problems (James & Glaze, 2006), while 16% of prisoners, jail inmates, and probationers could be classified as mentally ill (Ditton, 1999). This is compared to estimates that approximately 10% of adults had some form of serious psychological distress in the past year (Substance Abuse and Mental Health Services Administration [SAMHSA], 2006). The offender population is also at a higher risk for other physical health problems, such as asthma and diabetes, and findings have also shown that offenders returning home following incarceration are subject to higher rates of fatality as a result of substance abuse and violence (Binswanger, Stern, & Deyo, 2007).

Less than 10% of adults in the general population have substance abuse or dependency problems (SAMHSA, 2006). However, studies conducted by the Bureau of Justice [p. 676 ↓] Statistics found that over 80% of prisoners reported past drug use (Mumola, 1999), while two thirds of those in jail classified themselves as regular drug users (Karberg & James, 2005), and roughly half of probationers reported regular drug use (Mumola & Bonczar, 1998). Overall, offenders are 4 times as likely to have a substance abuse problem (SAMHSA, 2006), yet recent studies have shown that the availability of comprehensive treatment service is low across all correctional settings (Taxman, Perdoni, & Harrison, 2007) and that less than 8% of adult offenders have access to the level of care that they need.

Dealing with the pronounced needs of the offender population has proven troublesome for the criminal justice system, but the enactment of legislation creating stiff penalties for drug-related offenses has only compounded these difficulties. The laws meant to deter potential offenders from drug use instead resulted in a massive influx of offenders into the justice system. The Bureau of Justice Assistance (BJA) Drug Court Clearinghouse and Technical Assistance Project found that over 83% of the offenders who were scheduled for release from prison had been involved in drugs or alcohol during the time of their offense.

To reduce the burden of drug offenses on the criminal justice system and in an effort to provide treatment in the hopes that it will aid in preventing offender recidivism and improve their quality of life, drug treatment courts have become a common institution in communities across the United States.

## A Brief History of Drug Courts

In response to an explosion in the use of illicit drugs in the area, the first drug court was established in Dade County, Florida, in 1989. Though the drug problem in this particular jurisdiction was substantial, it mirrored similar issues arising across the United States: a majority of arrestees tested positive for drug use upon arrest, and recidivism rates for drug abuse were close to 67%. As a result, drug court programming became a viable alternative for dealing with drug-involved offenders, and these courts have continued to permeate the criminal justice landscape since their inception (according to the National Association of Drug Court Professionals [NADCP], there are now more than 2,000 drug courts in operation), to the point that all states are now reported to have an operating drug court or are in the planning phases of implementing one (Belenko, 1999).

Drug courts were initially designed to provide adequate rehabilitation for drug abusers by combining treatment with formal supervision and judicial sanctions. The core tenets of drug courts, as outlined by the Drug Courts Program Office, are early identification, referral, and screening; ongoing and continuous criminal justice supervision; comprehensive substance abuse and rehabilitation services; mandatory drug testing on a regular basis; judicial status hearings in which a judge reviews the progress of participants; appropriate sanctions and incentives given for levels of compliance with program requirements; and coordination among all actors (treatment, courts, probation, etc.).

The underlying notion driving each of these concepts is that drug court programming links the various stages and systems within the criminal justice process to provide a comprehensive and efficient means of supervising and treating offenders with substance-related problems. Members of the legal system work together with drug court and treatment staffs to determine who is the best fit for their programs, to lay out treatment and supervision plans, and to help bring the mission of treating offenders'

substance abuse problems to the forefront. This structure allows for the construction of supervision plans that will best fit each offender's needs and is consistent with research findings showing that such a differential approach to supervision planning is best in most cases (Taxman & Bouffard, 2002).

While drug courts provide a means to specifically target and treat offenders' drug problems and research shows that "drug courts outperform virtually all other strategies that have been used with drug-involved offenders" (Belenko, 1998), knowledge regarding the overall state of drug courts across the United States is still in its infancy, due both to the nature of research conducted to date and to the lack of substantive knowledge on these courts' constitution.

## What is Known about Drug Courts?

Drug courts may "work" for many reasons, but perhaps the most fundamental of these is the fact that drugabusing offenders, simply put, need drug treatment. Drugabusing offenders tend to respond better to treatment than other dispositions (Marlowe, DeMatteo, & Festinger, 2003). However, these offenders tend to have difficulty remaining in treatment of their own accord, and even when they do, this treatment is often not available to them for durations long enough to yield impacting changes in behavior. What drug courts provide is a means of integrating treatment into the criminal justice process (Rossman & Rempel, 2007; Taxman & Bouffard, 2002) in a manner that stresses offender accountability through formalized responses to their behavior, and provides the continuous presence of representatives from a broad range of criminal justice agencies.

## Effectiveness of Drug Courts

Though drug courts are a relatively recent innovation, a growing body of literature has been devoted to investigating their working components and overall impacts. Studies continue to find that drug courts and other alternative methods of sanctioning, which tend to be tailored more to the needs of the individual offenders, have positive

outcomes [p. 677 ↓ ] both in regard to the offenders themselves, as well as to the public at large.

Marlowe (Marlowe et al., 2003) begins his investigation by considering the merits and shortcomings of the public health perspective and the public safety perspective for dealing with offenders and suggests that a better way of looking at the problem is by integrating both of these positions.

The public health perspective holds that clients are best served by focusing on treatment and having minimal involvement with the criminal justice system. In this view, drug abuse is a disease needing treatment, not punishment. This approach requires that clients attend sessions and participate for a minimum of 3 months for effective treatment, with 6 to 12 months of participation being ideal. However, about 70% of clients drop out of treatment programs within the first 3 months, and only 10% generally stay for an entire year.

On the other hand, the public safety perspective argues that offenders require constant supervision to prevent them from reoffending. This approach requires imprisonment or intermediate sanction programs such as probation and parole. A potential drawback of this approach is that imprisonment has to date generally failed in deterring future drug use. Many drug offenders return to drug use and criminal behavior after release. In-prison treatment tends to reduce recidivism by 10%, but without follow-up treatment, there is no significant difference in results for those who had inprison treatment. Likewise, intermediate sanction programs typically yield a 10% decrease in recidivism, but 50% to 70% of offenders fail to meet the program requirements. These programs are also usually administered without treatment, with high emphasis on sanctions.

Integrated strategies, which are embodied through programs such as drug courts, work release, and therapeutic communities, are structured so that substance abuse treatment makes up the core of the program, while criminal justice agents ensure attendance and adherence to program parameters. These programs incorporate community treatment, opportunities for clients to avoid formal charges, close supervision, and certain consequences for noncompliance.

Such integrated programs have consistently been found to be effective in reducing drug use and recidivism. Work release programs and therapeutic communities have shown a 30% to 50% reduction in rearrests for clients. In drug courts, an average of 60% of clients complete at least a year of the program, and about 50% successfully graduate. Although rearrest rates do not appear to be different for drug court clients at 12 months, there is a “delayed effect” at 36 months according to studies of an Arizona drug court (Deschenes, Turner, & Greenwood, 1995; Turner et al., 2002).

Turner et al. (2002) explored prior research conducted on the effectiveness of drug treatment courts over the past decade, beginning with a discussion of the experimental field evaluation of the Maricopa County (Arizona) FirstTime Drug Offender (FTDO) Program. The program targeted first-time felony drug offenders with treatment needs.

It was designed to last from 6 to 12 months and consisted of orientation sessions and monthly status reports in front of the drug treatment court judge. The FTDO Program was evaluated on a four-cell randomized track. Three tracks varied the intensity and frequency of drug abstinence testing (none, monthly, biweekly), and the last track was the drug user treatment court program. A total of 630 offenders sentenced between 1992 and 1993 were randomly assigned to either the drug user treatment court or one of the three testing conditions and tracked for a period of 12 months. During this time, data were collected on outcomes such as employment, drug use, and recidivism.

Findings from the FTDO Program study showed that 40% of those in the drug treatment court successfully completed the program within 12 months. In addition, 61% of those assigned to the drug treatment courts either completed the program or were still enrolled at 12 months. The study also found that 85% of drug treatment court respondents were more active in drug education programs and outpatient counseling. However, participants in both tracks (the treatment court and the testing conditions) tested positive for drug use at least once during the 12-month followup, and 30% of all offenders were arrested within the first 12 months of probation for a new offense. Despite being successful in providing drug-using offenders with access to treatment, drug treatment court programs had little impact on officially recorded recidivism.

The FTDO study left open questions regarding the longer term impact of drug courts (longer than 12 months). Turner et al. (2002) summarize a 36-month follow-up study,

which tracked 80% of the original 630 drug user offenders from the FTDO program. The results from the follow-up reveal that drug treatment court participants were less likely to commit a drug-related violation as compared to their testing condition counterparts (64% versus 75.2%), and fewer were arrested in the 36-month period (33.1% versus 43.7%).

In another study that looked at the long-term impact of drug courts, Wolfe, Guydish, & Termondt (2002) studied the Southern San Mateo (California) County Drug Court during its first 3 years of operation (1995–1998). Primary results showed differences between individuals who participated in the drug court program versus those who did not. The researchers conducted a follow-up 2 years after their initial study in which there were similar findings: Arrest rates were lower for graduates of drug court treatment program than for the control group.

Listwan and colleagues (Listwan, Sundt, Holsinger, & Latessa, 2003), in their study of the Hamilton County Drug Court in Cincinnati, Ohio, found that drug court programming indeed has an impact on those involved. Participation in a drug court had an effect on recidivism for drug crimes, but did not have an effect on general rearrest rates. The more involvement someone had in the drug court, the more likely the person was to reduce his or her criminal behavior.

Preliminary findings from Rossman and Rempel (2007) also suggest that drug courts are a more effective means of [p. 678 ↓] processing drug-abusing offenders through the criminal justice system. Drug court participants fared better than comparison groups in all measures of drug use (less use) and criminal activity (less), while they logged more time in treatment; had more contact with case workers; and had overall better opinions of judges and the system, which is hypothesized to influence offender readiness and willingness to work toward treating their substance abuse problems. According to Brocato and Wagner (2008), offenders who enter treatment abuse programs with positive motivation to not only change their habits but to change their lifestyles are more successful than individuals who lack such motivation.



# Judicial Review Hearings

One of the more heralded aspects of drug courts is their position within the justice system, and their ability to bridge the various interests of the many agencies in the system. Rather than focusing on one aspect of supervision such as compliance, or attendance in treatment, drug court participation is structured to view each of the single components of an offender's involvement with the justice system as a part of a larger mission to effectively address his or her problem behaviors and formulate plans for preventing future criminal activity and substance use.

Programs such as the drug court use an integrated strategy to produce consistent reductions in criminal drug use and recidivism. These programs combine community treatment and case management services with consistent criminal justice supervision and monitoring, give the offender education and employment support, and allow for close contacts with family and social connections. Furthermore, they add the power of judicial interaction, which creates a means of formal sanctioning if the guidelines and requirements of the program are not adhered to (Wilson, Mitchell, & Mackenzie, 2006). However, the influence of the judicial component has come into question. The notion that judicial reviews help to formalize the drug court process is not in doubt, but rather, it is the idea that this judicial interaction impacts offender outcomes that has been questioned.

Marlowe, Festinger, et al. (2003) recognize the judicial component as “the single-most defining component” of a drug court, but openly question how much this aspect influences outcomes. In this study, all drug offenders were randomly assigned to receive biweekly judicial status review hearings or to a group where they were monitored by case managers or treatment providers (who could ask for such hearings but only in response to offender noncompliance). The remainder of drug court programming was identical for both groups. Baseline interviews were conducted with clients, then monthly follow-ups, and follow-ups at 6 and 12 months after completion. Findings showed that more frequent hearings did not result in lower rates of reported substance use or other illegal activity or increase offenders' likelihood of attending treatment sessions. However, biweekly hearings did result in a greater likelihood of intervention and in detection of noncompliance.

The authors stress that while these findings begin to shed light on what may be a common misconception (that increased presence of a judge has a significant impact on offender behavior), more detail must be gathered on what exactly happens *during* these status review hearings: In other words, it is not enough only to know that they occur; what takes place and how must also be understood.

Festinger et al. (2002) examined whether different types of offenders respond differently to judicial progress hearings, hypothesizing that the hearings would prove more effective for clients who are antisocial and more drug dependent. Results showed that participants diagnosed with antisocial personality disorder (APD) achieved more weeks of abstinence in the biweekly (requisite) hearings group, and the same was true of those with a history of substance abuse. However, participants without APD fared better in the group that attended hearings as needed. More antisocial clients in drug court programs may require more supervision and structure than those without. The same can be said for those with a prior history of drug abuse and treatment. Conversely, clients without antisocial personality disorder or prior drug abuse may have more negative reactions to intense supervision by the criminal justice system. Such findings highlight the point made by Marlowe, Festinger et al. (2003) that each aspect of drug courts must be examined individually and thoroughly in order to fully understand their effectiveness and impact.

Marlowe and colleagues (Marlowe, Festinger, Lee, Dugosh, & Benasutti, 2006) continued this research by examining the effectiveness of matching certain offenders to more or less frequent status review hearings. This study, like the first, divided participants between two groups, but used a prospective matching design rather than completely random placement. In the first group (matched), high-risk offenders (those with diagnosed APD or history of drug abuse) were assigned to biweekly status hearings, and low-risk offenders were assigned to hearings only when deemed necessary by the case manager. In the second group (unmatched), all participants were assigned to the standard hearing schedule imposed in the drug court program (every 4–6 weeks). Participants were randomly assigned to groups.

Results were as expected: High-risk participants in the matched group had significantly more drug-negative tests than any of the other three groups, and high-risk participants in the unmatched group had significantly fewer consecutive weeks of drug-negative

screenings. Also, those in the highrisk matched grouping were referred by the judge for IDD (intellectual and developmental disabilities) counseling more than their unmatched counterparts, which suggests that their treatment was more individually tailored to their needs. There was no significant difference between the matched and unmatched groups in terms of low-risk clients, which indicates that judicial status hearings may not be a necessary component of treatment for these individuals.

[p. 679 ↓ ]

Marlowe and colleagues (Marlowe, Festinger, Dugosh, Lee, & Benasutti, 2007) repeated this study and found consistent results. Within high-risk participants, graduation rates from the matched group were 75%, compared to 56% from the unmatched group. Again, there was no major difference within low-risk participants, though those from the unmatched group had a 3% higher graduation rate than those from the matched group. Similar results were found in terms of urinalysis results and change in Addiction Severity Index (ASI) scores.

## The Role of Treatment in Drug Courts

While participation in drug courts would seem to imply access to substance abuse treatment, this component of drug courts is perhaps the most difficult to generalize or expand upon. From state to state and court to court, the type of treatment services available to offenders varies greatly. This is a function of the resources available in particular communities, as well as factors such as treatment programs' allowance of criminal justice clients. Treatment services are even proscribed differently from case manager to case manager, or counselor to counselor, making an accurate depiction of the role of treatment in drug courts and how it is delivered to clients even more of an exercise in imprecision. Regardless, evidence points to the positive impact that treatment has on drug court outcomes, making a more definitive understanding of this concept critical.

Taxman, Pattavina, and Bouffard (2005) examined use of a manualized treatment curriculum in drug courts in Maine. The Differentiated Substance Abuse Treatment (DSAT) curriculum formalized the treatment process in the participating courts by

implementing screening for substance abuse, employing a multiphase approach to treatment, and providing staff with training on the curriculum. The researchers observed reductions in various risk factors, as well as changes in attitudes and behaviors that would position the offenders to be more open and ready for treatment.

In another study, Taxman and Bouffard (2005) examined how treatment impacts graduation rates. The researchers cite evidence that the graduation rate in drug courts sits in the 35% to 40% range (Belenko, 1998, 1999, 2001; Taxman & Bouffard, 2003), but underscore the critical point that there is little evidence to explain the differences between those who complete drug court versus those who do not. In this study, they looked at the effect of treatment on graduation rates in four drug courts and found that individuals participating in more treatment had a greater likelihood of graduating. However, they are careful to point out that even graduates had a hard time following the complex drug court program requirements.

As noted above, various factors can influence the type and dosage of treatment delivered to clients. One such factor is the staff members within agencies. Taxman and Bouffard (2003) examined the philosophies of treatment counselors and how they impact the services delivered to drug abusers. In this study of four adult drug courts, the researchers administered surveys, conducted in-person interviews, and observed treatment sessions led by counselors. The counselors were found to support several causes for substance abuse, did not have a strong affiliation with any one model of treatment, and were observed employing various approaches to treatment during counseling sessions. Counselor characteristics, such as education or recovery status, were found to have some influence on their beliefs regarding the causes and solutions for substance use problems, and these factors in turn have a role in influencing the types and effectiveness of treatment services provided to clients.

On one hand, the researchers found these diverging opinions on the causes and means of dealing with substance abuse problems to acknowledge the complicated nature of offender addiction (Taxman & Bouffard, 2003). On the other hand, counselors' "eclectic" approach to providing services may further muddy an already elaborate situation, as these methods (or lack thereof) do not give the client a clear picture of how to deal with their problems, and the messages given by counselors from one session to the next may vary considerably. The authors conclude by recommending a manualized

approach and the implementation of proven techniques to help standardize care to make it more lasting and effective.

Similar findings on the beliefs of staff in correctional facilities were uncovered by Taxman, Simpson, and Piquero (2002). While the authors did observe more consistency in beliefs than they had hypothesized, there was still a disconnect between the theories that impact causation and those that are the basis for interventions. In other words, while there was semblance in terms of their opinions of the separate ideas of the causes and responses to substance abuse, there was little connection between these ideas.

The problem of differing messages and approaches is further compounded by what is often a systemic disconnect between criminal justice agencies and those providing treatment services to drug court clients. While a driving principle behind drug treatment courts is that participation will result in decreased substance use and a decrease in substance use will result in reductions in criminal behavior, little research has focused on the delivery of these treatment services and how they are interconnected with the overall programmatic features of drug courts. Taxman and Bouffard (2002) cite previous research illustrating the great variation in the types and amounts of treatment services offered in treatment facilities, but point to the lack of consistency in messages and goals between these facilities and criminal justice agencies as the major issue facing effective programming.

In assessing the integration of goals and activities between treatment and criminal justice agencies, the authors identified what appears to be a “compartmentalized” system of care, in which treatment is not generally [p. 680 ↓ ] integrated into overall drug court philosophy, and when it is, it is integrated with specific segments of court operations, as opposed to throughout the process as a whole. Screening and assessing for substance abuse problems are often done separately by treatment and criminal justice agencies, and there does not appear to be integration at the “key decision point” of determining clients' appropriateness for treatment. Further complicating the issue is that most treatment services are rerouted into existing community treatment networks, meaning that the criminal justice agencies often have little knowledge of what type of treatments take place and, just as important, how frequently. Add this to the discussion from above, where findings showed great variance in the methods and intentions of

treatment services, and another layer is added to this ever-growing problem of effective service delivery in drug courts.

To help deal with these issues, Taxman and Bouffard (2002) recommend formalizing integration of treatment and criminal justice agencies at several critical points. First, a shared philosophy of substance abuse is recommended. Though cooperating agencies may differ in terms of their roles in dealing with these problems, fostering a shared view of the causes of substance abuse problems is vital for working out fluid and effective responses to them. Along these lines, unified or joint policy decisions are beneficial, as they solidify these shared philosophical views and establish means for dealing with the problem itself. The most important recommendation, however, is information sharing across these agencies. With this, criminal justice agencies will be better informed of the extent of offender problems and the response given to them, and likewise, treatment agencies will have a better understanding of the other risk factors associated with the offenders' substance abuse needs.

## The Importance of Tailoring Treatment to Individual Offenders

Public health advocates claim that clients are disadvantaged by criminal justice involvement, in that it can increase antisocial behavior and cause distrust of treatment providers, not to mention its high financial burden. However, public safety advocates argue that drug-involved offenders are characteristically impulsive and irresponsible, and they need close monitoring and supervision to foster a sense of accountability and help them stay on the right path. Research suggests that both arguments may be accurate, but that they describe different types of clients. The risk principle provides that intensive supervision and criminal justice involvement are useful for high-risk offenders with a strong inclination to engage in drug abuse or criminal activity, but such severe monitoring tends to be impractical for low-risk offenders. Risk factors such as age, start of criminal activity/drug use, and antisocial personality disorder (APD) can influence which method is best for dealing with these individuals, making the consideration of individual circumstances and characteristics imperative.

Harrell, Cavanagh, and Roman (1998) examined the impact of differing court dockets on offender drug use and criminal activity in their study of the Washington, D.C., Superior Court Drug Intervention Program (SCDIP). Offenders were randomly assigned to one of three dockets. The sanctions-driven docket offered drug-involved defendants a program of graduated sanctions with weekly drug testing, referrals to community-based treatment, and judicial monitoring of drug use, while the treatment docket offered drug offenders weekly drug testing and an intensive, court-based day treatment program. The remaining participants were placed in a standard docket, which offered drug offenders weekly drug testing, judicial monitoring, and encouragement to seek community-based treatment programs.

Records obtained from the Pretrial Services Agency provided data on defendant characteristics to determine intervention eligibility including criminal history, case processing, and drug test results. Semistructured interviews were also conducted annually on each docket to gather information on those who were offered treatment or programs. Focus group interviews were conducted to gather insight on the defendants' views on drug court procedures and programs. The evaluation assessed the extent to which SCDIP sanctions and programs reduced drug use and criminal activity, increased voluntary participation in drug treatment services, and improved socioeconomic functioning of participants in the year following the program.

Many of the defendants participating in the standard docket voluntarily participated in community-based treatment programs during pretrial release. One third reported detox services and one quarter reported outpatient treatment. Approximately two thirds (65%) were sentenced to probation: 88% of those who consistently tested drug free in the month before sentencing and 63% of those who tested positive for drugs or skipped tests. Graduated sanctions program participants were more willing to receive detox during the program, while 60% of participants reported attending drug treatment services such as Alcoholics Anonymous (AA) as did 63% of those on the standard docket. Overall, 19% of the 140 participants graduated from the treatment program, whereas 9% left the program in good standing. Two thirds of the participants, including all graduates from this program, received probation.

The entire target group of drug-using defendants on both sanctions and treatment dockets were more likely to test drug free in the month before sentencing. There was



a lower likelihood of arrest with sanction program participants who had more days on the street prior to their first arrest after sentencing than with the standard docket group. Treatment participants were not significantly less likely to be arrested in the same year as sentencing or to have more street days [p. 681 ↓ ] before first arrest during the year. Treatment participants were significantly less likely to be arrested for a drug offense than those of the standard docket.

DeMatteo, Marlowe, and Festinger (2006) analyzed the benefits of utilizing secondary prevention services for low-risk drug court clients. Most substance abuse treatment programs are tailored to be beneficial to high-risk clients with serious substance abuse problems, but these programs may be unnecessary or even harmful to those without serious problems. Secondary prevention strategies are designed to interrupt the acquisition of addictive behaviors, rather than trying to treat addiction directly, and are intended for those who have been exposed to risk factors related to certain behaviors but have not yet displayed said behaviors.

Standard drug court procedures incorporate several programs that are ill-suited to the needs of low-risk clients. For example, group counseling sessions often combine high-risk and low-risk offenders and can lead to learned deviance in the low-risk clients. Twelve-step programs are not considered appropriate for individuals who are not addicted to drugs or alcohol and can actually weaken their resistance to such addictions. Motivational interviewing, which is designed to help drug abusers realize the extent to which drug use has negatively affected their lives, may lack effect for those on whom drug use has yet to have a major detrimental effect. It is recommended, then, that interventions for low-risk clients should focus more on interfering with the reinforcing properties of drugs, rather than treating what may be emerging problems as full-fledged addictions.

Marlowe and colleagues (Marlowe, Festinger, Lee, & Patapis, 2005) examined whether perceived deterrence theory helps explain the success of drug courts in dealing with drug-involved offenders. Perceived deterrence theory reasons that the likelihood of an offender engaging in drug use or criminal activity is affected by the perceived likelihood of being detected and the certainty of being punished or rewarded based on behavior. This research used data from three experimental studies on the effect of judicial status



hearings on drug court outcomes, in which participants were randomly assigned to either Group 1 (biweekly hearing schedule) or Group 2 (hearings only as needed).

In addition to testing for program success, ASI, and APD, participants were subject to a “perceived deterrence questionnaire,” which was a 6-item Likert scale assessing participants' perceptions of the likelihood that they would be detected/sanctioned for infractions and recognized/rewarded for achievements, and the likelihood that sanctions/rewards would be meaningful for them. This questionnaire was administered 3 times monthly over the course of the study.

Based on data from the questionnaires, participants were classified into one of five clusters: believers (34%), average (27%), skeptics (11%), disillusioned (14%), and learners (14%). Believers had high perceived deterrence over the whole course of the program, while skeptics had the opposite. Average had consistently moderate scores. Disillusioned had initially high perceived deterrence, but scores diminished over time, while learners experienced the opposite effect. Believers tended to be older and female, while skeptics were younger and less frequently female. Participants with prior treatment history tended to be disillusioned. Males (who tended to not be believers) had lower graduation rates. Cluster groupings were not significantly linked with ASI scores, alcohol problems, or legal problems.

## Findings from Meta-Analyses

Though the studies discussed to this point have gone to great lengths in establishing a base of knowledge on drug courts, many of these efforts have been limited to one or a handful of study sites or have looked at only one or a few aspects of drug court operations. To address the need for more generalizable information on drug courts, recent research has focused on evaluating knowledge from the field as a whole, in the form of systemic reviews and metaanalyses.

In his review of 37 drug court process evaluations, Belenko (2001) found that participants are predominantly male (72%), are unemployed (49%), or have poor employment and education; have prior criminal records (74% had at least one felony charge); and had at least one failed attempt in treatment (76%). These offenders tend

to have serious physical and mental health problems that complicate the recovery process. In addition, drug court clients have a high prevalence of reported prior physical and sexual abuse and suicide attempts. In accordance with postindictment recidivism, the evaluations are consistent with previous findings that a majority of the studies reveal a reduction in recidivism rates for drug court participants.

Turner et al. (2002) reviewed the Nationwide Evaluation of 14-Site Drug Treatment Court Programs conducted by the Drug Court Program Office in 1995–1996. The program was designed to describe and evaluate eligibility requirements, court and treatment requirements, and program implementation of 14 drug treatment courts representative of drug treatment court programs across the country. It was determined that the programs met the key qualifications of effective drug treatment court programs by integrating alcohol and drug user treatment services with justice system processing; following a nonadversarial approach, which promotes public safety while protecting the due process rights of the offender; providing access to drug-treatment-related services; frequently testing for abstinence; coordinating strategies to govern drug treatment court responses to participants' compliance; and facilitating ongoing judicial interaction with each participant.

However, the authors conclude by stating that while drug treatment courts continue to grow in popularity, and while they have been found to be generally effective, there is still **[p. 682 ↓ ]** much to learn about how drug treatment courts work and how influential they are in reaching desired outcomes.

Belenko (1999) points to several weaknesses in existing research and gaps in knowledge. One of the major limitations of existing research revolves around outcome measures. While drug courts are often commended for their impact on recidivism, the meaning of this reduction is often limited, and it varies from study to study. Estimates on program retention and outcome measures on recidivism would wield more power if time periods were clearly specified. This would allow a more accurate comparison of findings for more established drug court programs, as compared to those early in their development, or on their last legs. Furthermore, these outcomes are most often defined by rearrest, while few evaluations include followup information outside of formal arrest data. Studies also tend to ignore those participants who quit or are discharged from

drug court programs, leaving major questions about an even more at-risk segment of this already high-risk population and potentially overstating the benefits of participation.

The use of comparison groups in extant research is also troubling. Comparison groups are either not utilized or are composed of participants that differ from the typical drug court client, making true-to-form comparisons of drug court participants versus the general offender population difficult (Belenko, 1999).

Similar sentiments are shared by Wilson et al. (2006). In their meta-analysis, these researchers looked at the results of 55 evaluations on drug courts. These evaluations often showed a reduction in criminal offending in drug court groups as compared to control groups, but although the general findings suggest that drug offenders taking part in a drug court are less likely to reoffend than those sentenced to traditional corrections methods, these authors also point to flaws in study samples and methodologies as evidence that any congratulatory marks should be viewed through a critical lens. In other words, as stated by Goldkamp, White, and Robinson (2001), research as presently constructed tends to show that “successes succeed and the failures fail.”

Wilson et al. (2006) point to several improvements in future research that would advance the field. First, they state that the overall quality of study design should be improved so that more reliable and generalizable data can be gathered. They also point to the need for an expanded view of program effectiveness to include deeper measures of a program's impact on substance use (not simply rearrest or failed drug tests) and the need for more detailed accounts of comparison groups.

## What is Missing from Current Research?

Though research has steadily increased and, perhaps more importantly, improved in recent years, the field is still lacking in several key areas. There exists a base of recommended drug court treatment practices and operations, and while it is known how these factors work in specific courts, there is not yet comprehensive knowledge of how they are implemented at a national level. The field needs expanded information regarding not only the number of drug courts and participants within them, but also knowledge of *what* these courts do and *how* they do it.

The National Drug Court Survey was conducted to help fill these gaps in knowledge. The study provides a picture of the national drug court landscape and the treatment delivery structure within it, giving the field a glimpse of the current state of drug courts, which can be used to form a baseline from which future growth and a plan for improvements can be established. The following will highlight findings from this study.

## The National Drug Court Survey

To fill the gap in knowledge on drug courts, the National Drug Court Survey was administered to drug court coordinators and treatment providers across the United States as a project of the Criminal Justice Drug Abuse Treatment Studies (CJ-DATS) research cooperative. The focus of this study was to provide a more accurate picture of the characteristics of courts and their administrators and employees, the types of treatment services offered within drug courts, arrangements with treatment and other service providers, the integration of evidence-based practices, as well as a host of other information. With this data, more focused and informed improvements for drug courts can be designed.

## Methodology

The sampling frame for the National Drug Court Survey was composed of drug court coordinators and the agencies that provide treatment services to these courts. The first portion of the sample, drug court coordinators, was generated in two parts. First, the sampling frame from another CJDATS study, the National Criminal Justice Treatment Practices Survey (NCJTP), was used. The NCJTP sampling frame was drawn from a representative sample of prisons and community correctional facilities using a twostaged stratified sampling technique.<sup>1</sup> This left 72 counties from which all active adult drug courts were selected. The second portion of the coordinator sample consisted of all adult drug courts that have received an implementation or enhancement grant from the Office of Justice Programs since 2002. The final coordinator sample consisted of 208 adult drug courts. Each coordinator was then asked to give the contact information for the treatment agencies providing services to their clients, and surveys

were mailed to each of these agencies. A response was received from 68% of courts (141 of 208), and a matching pair of coordinator and treatment surveys was received for 75% of courts in the sample (100 of 141).

[p. 683 ↓ ]

## Characteristics of Drug Courts

On average, drug courts had 102 participants on any given day.<sup>2</sup> Thirty-two percent of courts had an average daily population of under 40 drug court participants (DCPs), while 41% ranged from 41 to 100 DCPs, and 27% had over 100 DCPs on any given day. The average court graduates 38 DCPs on an annual basis, while discharging an average of 29 due to noncompliance with program requirements. Sampling weights were applied to the NCJTP portion of respondent data to generate a national estimate of drug court participants. This resulted in an estimate of 49,000 DCPs across the country on any given day. This figure is higher than the last estimate of DCPs generated by Huddleston and colleagues (Huddleston, Freeman-Wilson, Marlowe, & Roussell, 2005), a result of the continued increase in the number of drug courts across the country.

## Administrators and Staff

A total of 87% of drug courts reported having a singularly focused coordinator, while the remaining courts used existing positions (judges, case managers, etc.) to administer the program. On average, coordinators or those in charge of drug courts reported having been in their position for just over 4 years. The majority were between the ages of 36 and 55 (65% of coordinators fell within this range) and were women (65%). A total of 32% reported having a bachelor's degree, while 44% reported having a master's degree or higher.

On average, courts had 12 full-time and part-time staff members working with the drug court, with an average of 3.2 new hires in the past year. Courts had an average of 2.8 treatment counselors assigned to the court, and 1.2 treatment coordinators on staff.

## Determining Eligibility and Admission

In determining eligibility for drug court, legal criteria are far more integral in making admission decisions than issues related to severity of offenders' substance use problems or treatment needs. Furthermore, legal staff, such as prosecutors, defense attorneys, and judges, are far more influential in reaching admission decisions than other members of the drug court team. Whereas members of the legal team are involved in reaching admission decisions in over 92% of courts, coordinators and case managers are involved in 79% of courts, and only 48% of courts involve treatment providers in making this decision.

## Screening and Assessments

Overall, 68% of drug courts reported using a standardized substance abuse screening tool. The most commonly used tools are the Addiction Severity Index (ASI) (used in 45% of courts) and the Substance Abuse Subtle Screening Inventory (SASSI) (23%). Only 21% use risk assessment tools, most commonly, the Level of Service Inventory-Revised (LSI-R) (18%) and the Wisconsin Risk and Needs (WRN) tool (4%), and less than 4% use mental health screening tools. Thirty-three percent of courts use a tool created by the state or a tool of their own design.

Policy-based reassessments are extremely rare, with only 4% of courts having written protocol for doing so. On the other hand, 77% of courts reassess as a reaction to DCPs' performance or compliance. A total of 18% of courts do not reassess for severity of substance use disorders.

## About Phases and Treatment within Drug Courts

Though the phase approach is a hallmark of drug courts, this structure is not universally adopted. Roughly three quarters of drug courts reported using formal phases, with

approximately half using a four-phase structure and 25% using a three-phase structure. The remaining 25% of courts do not have a set phase structure. The typical drug court program lasts approximately one year.

“Low-impact” services such as drug testing, self-help meetings, and group counseling are those most frequently integrated within drug courts. While these less intensive services are pervasive across all courts, more intensive, treatment-oriented services are not as common, particularly as participants move further along within the phase structure. Though clinical treatment services such as motivational enhancement, psychosocial education, individual counseling sessions, or family therapy sessions are offered in 61% of programs' Phase 1, by Phase 3 only 54% of programs provide clinical services. By Phase 4, only one third of programs (36%) provide clinical treatment services.

The same trend is seen in regard to attendance at status review hearings. Though in earlier phases, DCPs are required to attend status review hearings in front of a judge twice per month or more (88% of courts require such attendance in Phase 1, and 80% in Phase 2), as they move further along within the program, their required attendance decreases substantially. By Phase 3, only 21% of courts require appearances in front of judges every 2 weeks or more frequently, and by Phase 4, this drops to 15%. In addition, by Phase 4 over half (53%) of courts have no set schedule for DCPs' attendance at status review hearings.

These low rates of continuous attendance at status review hearings are symbolic of an overall pattern of a lack of judicial involvement across the drug court process. Though it is one of the “key components” of drug courts, ongoing judicial interaction with DCPs is practiced in less than 10% of courts (7.8%). In addition, nearly half (45%) of courts reported that judges do not review or modify treatment plans.

## Service Delivery in Drug Courts

Coordinators and case managers are more frequently involved in case planning and treatment activities than members of the legal team. Where nearly 80% of coordinators and [p. 684 ↓] case managers maintain contact with treatment providers, 25% of



judges, 14% of defense attorneys, and 13% of prosecutors engage in this activity. Coordinators and case managers are also far more likely to contact other service providers in the community, to identify short and long-term goals for the DCP, and to adjust the treatment plan when the DCP is doing poorly.

Overall, the legal team is less involved than its drug court or treatment counterparts in such treatment activities, engaging in an average of 1.3 (of 8) activities, as compared to 4.5 for the core drug court team and 6.3 for treatment agencies and providers. This pattern also holds true for legal teams' involvement in drug-court-related activities as a whole. Whereas judges, defense attorneys, and prosecutors are involved in an average of 4.9 (of 19) activities, coordinators and case managers are involved in an average of 11.3, and treatment providers in an average of 12.5.

## Treatment Arrangements with outside Agencies

Most courts reported having an agreement or contract for treatment services with an outside treatment agency (23% had no such arrangements). One third (33%) of courts reported having a formal agreement for services, which often laid out the types of services to be provided (62%) or dealt with issues related to confidentiality (53%). In addition to formal agreements, 43% of courts reported also having contracts with treatment providers, through which money changes hands in exchange for services. Within these arrangements, 13% required the drug court to pay service fees, 20% required the DCP, and 68% had some combination of court and DCP fees. Nearly half (46%) of courts had formal written agreements with up to three treatment service providers, while 27% had agreements with more than three providers.

## Treatment Agencies and Staff

Treatment agencies reported serving an average of 75 clients. Though over three quarters of agencies reported being licensed, only 32% reported accreditation by



the Commission on the Accreditation of Rehabilitation Facilities (CARF) or the Joint Commission on the Accreditation of Health Care Organizations (JCAHO).

A total of 57% of respondents fall between the ages of 36 and 55, 55% are female, and on average they have spent 7 years with their agencies and 3 years in their positions working with the drug court. A total of 20% of respondents reported having a bachelor's degree, and 55% have an advanced degree, with the most common fields of education being counseling (30%), social work (27%), and psychology (16%).

Staff in treatment agencies have an average caseload of 25 clients (both drug court clients and their general client caseload). Sixty percent of staff have credentials in substance abuse treatment (such as CADAC, CASAC), while 75% have specialized training in substance abuse treatment (credits toward CADAC, CASAC), and 30% have certification in a general mental health specialty. Seventy-six percent of agencies allow staff to be in recovery, with 37.5% of staff actually in recovery, while 46% of agencies allow ex-offenders on staff, though only 12% of staff are exoffenders. Roughly one third (34%) of staff have a bachelor's degree, one third (34%) have a master's degree or higher, and the remaining staff have a 2-year degree (17%) or less (15%).

## Characteristics of Treatment Services Provided by outside Agencies

Only 56% of agencies reported using a standardized substance abuse screening or assessment tool, while 54% use a stateor agency-designed tool. Slightly over half (52%) of agencies reported using a written treatment protocol or curriculum, with 26% of these agencies using the Martix model, while others tended to develop their own protocol. One third (33%) of agencies trained staff on their protocol for up to 2 days, while 23% of agencies trained staff by having them watch other counselors. Ten percent of agencies do not train staff on their treatment protocol.

A total of 31% of agencies provide specialized services for co-occurring disorders, while 42% provide specialized services for adult offenders. Roughly 60% of agencies reported providing cognitive-behavioral services 2–3 times per week or more, though

only 23% offer short-term residential programs (28 days or less), and less than 20% offer detoxification (19%) or long-term residential programs (18% offered programs that were 6 months or longer). Mental and physical health services are more common across treatment agencies. Roughly half of agencies reported providing counseling or assessment for mental health problems, whereas 32% provide HIV/AIDS testing, and 38% provide counseling for HIV/AIDS.

Pharmacological services are rarely provided by treatment agencies. Only 17% of agencies prescribe buprenorphine, while 16% report prescribing Antabuse, 15% report prescribing naltrexone, and 12% prescribe methadone. More troubling is the fact that very small percentages of DCPs in treatment agencies are recommended for these medications, with no more than 6% (Antabuse) being recommended for any of those listed.

## Utilization of Evidence-Based Practices

Compared to national findings on their use in community correctional settings (Friedmann, Taxman, & Henderson, 2007), drug courts are more likely to implement consensus-driven, evidence-based practices (EBPs). On average, drug courts utilize 5.5 (of 11) EBPs, compared to 4.6 for probation and parole agencies.

Addressing co-occurring disorders is the most commonly utilized EBP (present in 96% of treatment agencies), followed by the use of incentives for positive DCP [p. 685 ↓ ] behavior (89%) and the presence of a continuum of care (84%). The use of standardized risk tools (21%) is quite low. Other important EBPs are also widely uncommon, as only 38% of agencies use engagement techniques, and 41% involve family in treatment. Less than three quarters (72%) of agencies report planned service durations of over 90 days, while half (53%) report that the staff in their agencies are qualified to address the needs of DCPs.

An important difference in the use of EBPs is found between agencies that have a written agreement or contract for services with outside treatment agencies and those that do not. In particular, agencies with agreements or contracts are much more likely to

implement standardized substance abuse tools, to involve family in treatment, to report systems integration, and to use graduated sanctions.

## Adherence to Key Components

On average, drug courts implement 6 of the 10 key components, with nearly all courts reporting drug and alcohol treatment with case processing (99%), 87% supporting continued staff training or education, 77% establishing partnerships with other community agencies to enhance effectiveness, and 77% monitoring substance use through frequent drug testing. However, only 25% of courts identify eligible participants early on in the criminal justice process, 22% report that a coordinated strategy determines responses to DCPs' compliance, and 8% report ongoing interaction with the drug court judge.

## Integration

Perhaps the most innovative aspect of drug courts is their unique position within the criminal justice system. Bringing together key players from the legal, treatment, and corrections communities, drug courts have the ability to bridge the services and functions of these agencies to more effectively supervise offenders and target their specific needs. With this, meaningful integration among these agencies becomes critical.

Drug courts collaborate with treatment agencies on an average of 7.2 (of 12) activities—activities such as sharing DCPs' needs for types of treatment, developing joint policy and procedures manuals, cross-training staff, holding joint staffing, pooling funding, and so forth. While this degree of integration indicates relatively formal working relationships with substance abuse agencies, a more informal system exists in regard to working relationships between the drug courts and prosecutorial agencies, in which these agencies collaborate on an average of 4.7 of the aforementioned activities.

## Conclusion

Drug courts are still growing, and much is needed to understand how each of the parts contributes to the overall functioning and outcomes generated. Drug courts continue to demonstrate positive findings. The National Drug Court Survey fills a gap by providing a picture of how drug courts operate. While improvement needs to occur, it appears that the drug court model is viable. The proliferation of the drug court means that the innovation is working well. Although it appears that more work needs to be done to develop the model, particularly in terms of adopting evidence-based treatments, the drug court model is thriving.

## Notes

1. See Taxman, Young, Wiersema, Rhodes, and Mitchell (2007) for a complete discussion of NCJTP survey methodology.
2. Three cases were excluded from this average due to their having an average daily population of over 1,000 participants.

Faye S. Taxman and Matthew Perdoni *George Mason University*

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