

Drug Courts an Effective Treatment Alternative

By Michael Rempel, Dana Fox-Kralstein, and Amanda Cissner

In response to national concerns over the flood of drug-involved offenders into the courts and correctional institutions, growing numbers of courts are experimenting with treatment-based alternatives. These are designed to provide a more meaningful response to addiction-driven crime by addressing the root of the problem and reducing the likelihood of future offending. If successful, individual offenders receive the treatment they need, and society gains in the form of lower recidivism rates, improved public safety, and lower expenditures for jails or prisons.

Several approaches to court-mandated treatment have emerged since the early 1990s. Of these, drug courts have arguably become the most widespread. The original Miami Drug Court opened in 1989. By September 2003, 1,078 drug courts had opened, 693 serving adult criminal defendants and the others serving juveniles or respondents in family court abuse or neglect cases. (Office of Justice Programs, BJA Drug Court Clearinghouse and Technical Assistance Project, American University, as of September 8, 2003.) A growing number of states, including New York, California, Ohio, Missouri, Louisiana, and Utah, have initiated coordinated efforts to institutionalize their drug court policies statewide. Although practices still vary widely from state to state (and county to county), the outlines of the drug court model are clear: addicted defendants are linked to treatment; progress is monitored by a team composed of a specially trained judge, lawyers, and clinical staff; participants converse directly with the judge during regular court appearances; the judge responds to progress and setbacks with a range of rewards and sanctions; and successful participants have the charges against them dismissed or reduced, while those who fail are sentenced to jail or prison.

What sets drug courts apart from older court-mandated treatment approaches is intensive judicial involvement: ongoing collaboration among a judge, clinical staff, and otherwise adversarial attorneys to promote each participant's recovery; and close judicial supervision through regular court appearances, in-court interaction, rewards, and sanctions.

Drug courts largely took hold out of a deep dissatisfac-

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tion—felt by many front-line practitioners—with the status quo in criminal courts, coupled with a largely intuitive belief in the power of treatment. The future of drug courts depends increasingly on producing tangible *results*: more defendants completing treatment, lower recidivism rates, and concrete returns on the investment via correctional, health care, or other cost savings. To examine these issues, the Center for Court Innovation, an independent think tank that seeks to reduce crime, aid victims, and promote public confidence in justice by improving the performance of courts and other criminal justice agencies, in collaboration with the New York State Unified Court System, recently completed a statewide evaluation of 11 New York drug courts. This article reviews several of the study's most important findings.

A successful intervention

We found that court mandates are effective in motivating treatment compliance. Drug court participants stay in treatment much longer than those entering it voluntarily. After one year, more than 60 percent of participants in eight of 11 drug courts studied either successfully graduated or were still active in treatment. The same eight of 11 produced a three-year retention rate of more than 50 percent. By comparison, a sampling of inpatient treatment programs nationwide showed that just 10 to 30 percent of mostly voluntary participants had remained active in treatment after merely the first year. (Ward S. Condelli and George DeLeon, *Fixed and Dynamic Predictors of Client Retention in Therapeutic Communities*, 10 J. SUBSTANCE ABUSE TREATMENT 11–16 (1993).) Our recidivism analysis focused on six drug courts: three in New York City (Bronx, Brooklyn, and Queens), one suburban county (Suffolk) and two medium-sized cities in upstate New York (Syracuse and Rochester). Recidivism rates for drug court participants were compared with non-participating defendants who had nearly identical criminal histories, arrest charges, and basic demographics (age, race, and sex). We compared recidivism over two key time frames: a three-year period starting with the initial arrest date, and a one-year period starting with the final disposition date, i.e., the graduation or failure date for drug court participants. The study was among the first in the country to track recidivism over such extended time frames.

Reduced recidivism. The six drug courts reduced the re-conviction rate by an average of 29 percent over three years after the initial arrest. Further, positive effects extended be-

yond the period of program participation: the same drug courts reduced the reconviction rate by an average of 32 percent over the one-year “post-program” period.

Differences across courts. Specific recidivism reductions for the six courts did vary considerably. Over one year post-program, recidivism reductions ranged from a low of 19 percent up to 52 percent in the Queens Treatment Court, which reduced the reconviction rate from 25 percent to 12 percent.

Importance of drug court graduation. Drug court graduates—those successfully completing all program requirements—were far less likely than nonparticipants to reoffend. Over one year post-program, the reconviction rate was 71 percent less for graduates compared with nonparticipants across the six courts. On the other hand, drug court failures were as or more likely as nonparticipants to reoffend. This means the benefits of the drug court accrue only to those who successfully complete.

Peering behind the headlines

So what is the “bottom-line”? Drug courts work, as demonstrated by their effects on recidivism. Yet recidivism was only part of what was examined. In looking more deeply at what goes on in each program, we discovered that drug courts are not monolithic. The drug courts in our study varied substantially on a large number of policies, including who is eligible (felony or misdemeanor charges; drug-related or nondrug charges; how serious a drug problem is required); types of treatment used; judicial supervision practices; graduation requirements; legal consequences of graduation (case dismissal or charge reduction); and legal consequences of failure (length of the resulting sentence).

More universal across the 11 drug courts, however, was the reality that participants faced severe problems extending well beyond addiction. They struggled with unemployment, homelessness, and low levels of educational achievement; also, females faced greater socioeconomic disadvantages than males and also had consistently more severe drug use and treatment histories.

We further sought to explore what drug court policies make the greatest difference. We found that immediacy is critical. Participants who, within the first 30 days, maintained contact with the program and avoided requiring a warrant to be issued for their return were significantly more likely to graduate. Early disappearances reflect both the quality of participant compliance (noncompliant participants are of course more likely to warrant early) and the court’s speed of case processing (participants who can begin treatment right away due to rapid case processing are less likely to warrant).

We also found that even among successful participants, some amount of relapse and noncompliance is common. More than half of all graduates had one or more positive

drug tests during participation; and many participants had multiple positives, usually in the early stages of participation. This highlights the importance of according “multiple chances” to those experiencing early compliance problems, continued drug use especially. In this regard, it is notable that prior to the advent of drug courts, judges often mandated addicted offenders to treatment, but would typically re-sentence them to jail after just one or two relapses.

As to who reaps the most benefit from drug court, the study suggests that participants facing more serious charges and a longer sentence in the event of program failure are more likely to succeed. Of the six courts included in the recidivism analysis, the two that produced the smallest reductions in recidivism relative to conventional courts also enrolled the highest percentages arrested on less serious misdemeanor charges. This supports the premise that greater legal coercion increases the chances that an addicted person will succeed in treatment. Since all drug courts apply at least some coercion to motivate compliance, this further demonstrates their overall potential to break the cycle of crime, addiction, and incarceration.

Although drug courts often present themselves as an alternative to incarceration, findings on this point were mixed. Although drug court graduates are never sentenced to jail or prison, failures on average received longer sentences than nonparticipants in five of six courts. This again draws attention to the vital role of drug court graduation in achieving the desired benefits of the drug court, since graduates always succeed in avoiding incarceration.

This study, coupled with a rigorous examination of the Baltimore City Treatment Court (Denise Gottfredson, Stacy S. Najaka, and Brook Kearley, *Effectiveness of Drug Treatment Courts: Evidence from a Randomized Trial*, 2(2) CRIMINOLOGY AND PUB. POL’Y 171–96 (2003)) and a recent review of 42 drug court studies in other locations (David B. Wilson, Ojmarrh Mitchell, and Doris L. MacKenzie, “A Systematic Review of Drug Court Effects on Recidivism,” draft manuscript (2003)) provide a compelling case that drug courts successfully rehabilitate more offenders than conventional case processing methods. Since drug courts vary a great deal in their policies and practices, the study also highlights the importance of seeking more information about what practices are most effective and for which categories of participants the drug court intervention works best. For instance, it may be that an approach with a less intensive judicial supervision element, such as Brooklyn’s prosecutor-run DTAP program, works as well as drug courts with some categories of defendants, while the added judicial oversight and court-based services in the drug court play a crucial role in serving others.

The full text of the report as well as the executive summary and conclusions may be found at http://courtinnovation.org/center_1publications.html.