


Drug Corners

Spatial Perspectives on Illegal Drug Markets

Drug Courts

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Overview

Drug courts are the oldest, most prolific, and most studied of the major alternative court models,
which also include domestic violence, mental health, community, and reentry courts. Similar to these other models, drug courts organize their cases on a separate court calendar, presided over by a specially trained judge. What distinguishes drug courts is their focus on cases involving an underlying drug addiction. To treat the addiction, drug courts employ a combination of treatment and judicial oversight, generally for 1 year or longer. Judicial oversight generally involves regular drug testing, meetings with court-affiliated case managers, and status hearings before the judge. At these hearings, the judge and participant directly converse, while the attorneys often remain silent. The judge typically responds to progress with verbal praise or tangible incentives (e.g., certificates, journals, or gift cards) and to noncompliance with interim sanctions (e.g., more frequent status hearings, community service, or short jail stays). Drug courts are voluntary programs; those who do not wish to participate can have their cases handled in a conventional fashion instead.

The first drug court was an adult program that opened in Miami-Dade County in 1989. In 2009, two decades later, 2,459 drug courts had been established. These courts include 1,317 adult, 476 juvenile, 322 family dependency, 172 DWI, 89 tribal, and 83 other drug courts (Huddleston and Marlowe 2011). The original adult model enrolls an estimated 55,000 defendants per year in the USA (Bhati et al. 2008). Comparable estimates are unavailable for any other model. Internationally, drug courts have spread to countries as varied as Australia, Canada, Chile, Jamaica, Mexico, New Zealand, Norway, and the United Kingdom.

Numerous studies have shown that the original adult drug court model reduces re-offending, as compared with conventional prosecution (Gutierrez and Bourgon 2009; Mitchell et al. 2012; Shaffer 2011). Research suggests that adult drug courts reduce drug use as well (Government Accountability Office 2011; Rossman et al. 2011).

Over the past decade, scientific study surrounding drug courts has begun to evolve from evaluations of program impact (do they work) to studies of which target populations and program features enhance their success. Research has begun to coalesce, for instance, around the idea that the judge – through judicial status hearings and conversational interactions with participants – plays a particularly influential role (Marlowe et al. 2003; Rossman et al. 2011). This research bolsters the initial premise of the model that ongoing judicial oversight can substantially bolster the effects obtainable through community-based treatment alone.

This entry reviews why drug courts arose, describes their core policies and practices, surveys the research literature, and summarizes several current issues and controversies.

**Origins**

Several overlapping trends created conditions ripe for drug courts. Foremost among them was the strain on criminal justice systems nationwide, resulting from skyrocketing court and correctional caseloads. For instance, from the early 1980s to the late 1990s, criminal court caseloads increased by more than 50% nationally (Ostrom and Kauder 1999). Over this same period, the increase in correctional caseloads was even greater. As compared with 500,000 jail and prison inmates in 1980, there were two million inmates at all points throughout the 2000s (Bureau of Justice Statistics 2012).

To explain these trends, key factors include the crack epidemic of the 1980s, combined with state and federal policies targeting drug-related crimes for aggressive enforcement. Beginning in 1998, data collected as part of the federal Arrestee Drug Abuse Monitoring (ADAM) Program confirmed the preexisting beliefs of many criminal justice officials that a high percentage of criminal arrestees were drug-involved. The 2003 survey found that 70% of arrestees in approximately three dozen jurisdictions tested positive for at least one of nine illegal drugs, and 37% of the arrestees were “heavy users,” defined by self-reported use of marijuana, cocaine, heroin, methamphetamine, or PCP in at least 13 of the past 30 days (Zhang 2003).

In this context, drug courts arose as a solution that could garner support from many sides of the
ideological spectrum. For liberals, drug courts held the potential to expand access to treatment while counteracting a growing trend towards the mass incarceration of drug offenders. For conservatives, drug courts held the potential to increase public safety (through recidivism reductions) and to limit the costs of incarceration to state and local taxpayers. Not surprisingly, federal funding for drug courts has persisted across three presidential administrations.

The creators of the first drug courts, however, began with a relatively nonideological and practical objective: By routing drug cases to a single court calendar, the drug court model offered important efficiency advantages for overburdened court systems. Indeed, research demonstrates that efficiency was a critical objective motivating the earliest drug courts, but by the mid-1990s, efficiency was supplanted by the goals of rehabilitation and recidivism reduction (McCoy 2003).

Buttressing the case for rehabilitation as a legitimate court focus was the theory of therapeutic jurisprudence, which first gained currency in the early 1990s, just as drug courts began to spread (Wexler 1993). The theory argues that it is legitimate for the law to incorporate therapeutic considerations in addition to strictly legal ones that sentencing does not have to reflect “just desserts” alone (punishment proportional to offense) but can also embody a desire to address the underlying problems of the litigant. To facilitate the rehabilitation process, therapeutic jurisprudence embraces the idea that judges should adopt a nontraditional judicial role, including a willingness to engage in the classic drug court strategy of direct conversational interaction with defendants or other litigants.

Core Policy Components

Specific policies and practices vary from jurisdiction to jurisdiction, but in broad outline, the drug court model is relatively similar everywhere. To a large extent, this similarity reflects the influence of the National Association of Drug Court Professionals (NADCP), a trade association in existence since 1994 that produces drug court-related publications, provides technical assistance, and runs a popular annual training conference for drug court practitioners.

In 1997, NADCP convened a national group of experts and issued a document known as Defining Drug Courts: The Key Components (Bureau of Justice Assistance 1997). The document identifies ten policy components that all drug courts should adopt. Since the document was issued, federal and state agencies have routinely required drug courts to demonstrate that they follow all ten components in order to receive funding. The Key Components document has led drug courts to be defined by the following policies. (The list below does not verbatim reproduce the original “ten key components” but summarizes the resulting policies that now inform the field.)

- Early Identification: Potential participants are assumed to be especially receptive to the drug court intervention at the “crisis moment” comprised by the initial arrest or case filing. Therefore, drug courts screen and assess potential participants for drug dependence and other psychosocial problems as soon as possible after case initiation.
- Community-Based Treatment: Treatment is considered most effective when tailored to the individual. Therefore, drug courts link participants to community-based treatment, drawing on a continuum of possible outpatient and residential treatment modalities.
- Legal Leverage: Participants are considered most likely to remain engaged in treatment when faced with undesirable legal consequences for dropping out. Therefore, drug courts establish clear jail or prison alternatives for unsuccessful participation while using the positive incentive of a charge dismissal or reduction for graduates. (In family dependency drug courts, the legal incentives revolve around child reunification but are less cut and dry, since reunification must ultimately follow from the “best interests of the child.”)
- Judicial Status Hearings: Participants are assumed to perform better when under close surveillance by the court and when routinely
reminded of their responsibilities. Therefore, drug courts require participants to report back to court regularly, often weekly or biweekly at the outset of participation, for judicial status hearings on their progress.

- **Direct Judicial Interaction**: As an authority figure, the judge is assumed to be in a unique position to motivate compliance. Therefore, the judge directly converses with participants during scheduled judicial status hearings, asks participants about their needs, acknowledges and praises progress, and admonishes participants for noncompliance.

- **Drug Testing**: Frequent and random drug testing is assumed to deter drug use and also to assist drug court staff in understanding whether participants are currently receiving a sufficient intensity of treatment. Therefore, drug courts administer random drug tests.

- **Interim Sanctions and Incentives**: Classic behavioral modification theory recommends the consistent use of sanctions and incentives. Therefore, the judge imposes sanctions for noncompliance (including short jail stays) and distributive incentives for progress (including regular symbolic incentives, such as praise and courtroom applause).

- **Multiple Chances**: The physiological effects of withdrawal, as well as psychological and other barriers to recovery, may make relapse-free drug court participation unlikely for many. Therefore, drug courts use interim sanctions to respond to initial relapses or other noncompliance while terminating participants only for repeated or severe misbehavior.

- **Case Management**: Court-affiliated case managers are used as a critical liaison between community-based programs and the court (i.e., judge and attorneys). Therefore, most drug courts employ staff members who devise the treatment plan, suggest modifications based on progress, and communicate with treatment providers. Case managers may also meet regularly with participants to motivate progress or address newly apparent needs.

- **Ancillary Services**: It is assumed that participants may have multitude of needs, including co-occurring mental health disorders, lack of education, vocational or employment deficits, and family dysfunction. Therefore, drug courts are prepared to link participants to additional services other than substance abuse treatment.

- **Collaboration**: Drug courts are predicated on the notion that the court, attorneys, and treatment providers should seek the same goals: the rehabilitation of the individual and the consequent reduction in that individual’s threat to public safety. Therefore, once a participant is enrolled, all parties curtail the adversarial process and are supposed to work together to promote the recovery of the individual. To facilitate collaboration, most drug courts hold regular “staffing” meetings attended by an interdisciplinary “drug court team.” In these meetings, the team discusses specific cases and makes decisions, usually by consensus, on how to respond to their compliance and service needs.

### Research on Adult Drug Courts

More than 150 evaluations have been conducted to date, of which by far the greatest number has focused on the adult drug court model.

### Do Adult Drug Courts Work?

Research has amply demonstrated the positive impact of adult drug courts on re-offending. Across more than 90 studies, including statewide evaluations in California, Indiana, Maryland, New York, Ohio, and Washington, adult drug courts have consistently produced recidivism reductions – although the precise magnitude of the impact has varied from site to site. Three meta-analyses – which synthesize the findings of other studies – variously estimated that adult drug courts produce an average reduction in the rearrest or reconviction rate of 8–13 percentage points (Gutierrez and Bourgon 2009; Mitchell et al. 2012; Shaffer 2011). (e.g., a 13-point reduction might involve a rearrest rate of 50% in the comparison group declining to 37% among those in drug court.) Most evaluations tracked defendants over 2 years or less, but several extended
the follow-up period to 3 years or longer and still reported positive effects (Gottfredson et al. 2006; Rempel et al. 2003).

Only a handful of studies have directly examined effects on future drug use, but their results also were mostly positive (e.g., see Gottfredson et al. 2005). NIJ’s Multi-Site Adult Drug Court Evaluation, a 5-year study of 23 drug courts and six comparison jurisdictions (Rossman et al. 2011), found that in the year prior to 18-month follow-up, drug court participants were significantly less likely to report any drug use (56% vs. 76%) or any “serious” use (41% vs. 58%). (Serious use omits marijuana and “light” alcohol use, with the latter defined as less than four drinks per day for women and less than five drinks per day for men.) The same study also detected positive effects when examining the results of oral swab tests that were conducted at the 18-month follow-up.

Among the plethora of single-site studies in the literature, three involve the random assignment of defendants to drug court and control conditions. The first of these randomized controlled trials took place in Maricopa County (AZ) and detected mixed results after 1 year (Deschenes et al. 1995) but more positive results after a 3-year timeframe (Turner et al. 1999). A randomized trial of a New South Wales (Australia) drug court reported a significant reduction in rearrests over 18 months (Shanahan et al. 2004). Finally, a randomized trial of the Baltimore drug court found that over 3 years, the court significantly reduced rearrests (Gottfredson et al. 2006) as well as drug and alcohol use (Gottfredson et al. 2005).

Do Adult Drug Courts Save Money?
Part of the original rationale for adult drug courts was to generate cost savings for increasingly overburdened criminal justice systems. Moreover, an array of cost-benefit studies almost universally confirms that drug courts save money, at least in the long term. An evaluation of nine adult drug courts in California found that the median drug court saved $5,139 per participant (Carey et al. 2005). This study also found that across multiple public agencies, including the court, prosecutor, public defender, law enforcement, probation, corrections, and treatment, the largest savings were accrued by corrections—through reductions in incarceration—and the only agency that incurred a net cost was treatment (e.g., through Medicaid/Medicare payments). Other cost studies have reported similar findings. For instance, across six sites in Washington State, five produced cost savings at an average of $3,892 per participant (Barnoski and Aos 2003). NIJ’s Multi-Site Drug Court Evaluation detected average savings of $5,680–$6,208 per participant across its 23-site drug court sample. However, this last study came with an important asterisk: Drug courts entailed higher up-front costs (for treatment and other services) than comparison jurisdictions. Drug courts ultimately produced savings by reducing recidivism: that is, by reducing the costs that would otherwise have been produced by future crimes. These crime-related savings largely materialized, because drug courts achieved a significant reduction in the most serious future crimes that have otherwise produced substantial healthcare and property-related costs to victims. In sum, drug courts achieved a significant return on investment with high-risk offenders who might otherwise have committed serious crimes, but they produced far smaller savings, if any, with low-risk offenders.

Why Do Adult Drug Courts Work?
Much of the early research on adult drug courts focused on the bottom-line question of whether they work, but recent studies have yielded a rich array of findings concerning why they work—which theories of change explain their capacity to alter participant behavior for the better.

Treatment. A long-standing prior literature finds that when drug-addicted individuals are retained in treatment for significant periods—at least 90 days and ideally up to 1 year—those individuals tend to engage in less posttreatment drug use and criminal behavior. Research also shows that cognitive-behavioral therapy (CBT) is particularly effective in creating the pro-social thought, attitudinal, and decision-making changes that can, in turn, elicit pro-social behaviors (see Lipsey et al. 2007). Finally, research
suggests that treatment is most effective when it does not adopt a “one-size-fits-all” approach but is tailored to the individual characteristics, learning style, and needs of each participant (Andrews and Bonta 2006). Despite the sizable preexisting literature on this subject, drug court research has yet to uncover a clear treatment effect. Instead, some research suggests that many drug courts refer participants to treatment providers that have failed to adopt evidence-based practices (Lutze and van Wormer 2007). A recent meta-analysis concurs that evidence-based practices are underutilized and finds that when they are used, drug courts produce larger recidivism reductions than otherwise (Gutierrez and Bourgon 2009). This analysis indicates that treatment can contribute to positive impacts, but because treatment quality varies substantially, it does not always produce its desired effects.

**Deterrence.** Based on research with other offender populations, it is possible to deter future misbehavior with legal sanctions that involve certainty (each infraction elicits a sanction), celerity (sanction imposed soon after the infraction), and severity (sanction is sufficiently undesirable to deter noncompliance but not so severe as to preclude upgrading to a more serious sanction after subsequent infractions) (e.g., Marlowe and Kirby 1999). In a drug court context, deterrence entails routine surveillance through judicial status hearings, drug tests, and case manager meetings; threat of interim sanctions; and threat of incarceration for final termination. Of these practices, several studies have found that drug testing and judicial status hearings are effective in reducing crime and drug use (e.g., Gottfredson et al. 2007; Marlowe et al. 2003; Rossman et al. 2011). Yet, several studies involving in-depth participant focus groups suggest that it is less the deterrent effect of surveillance and more the positive engagement effect of motivational interactions with a judge that leads judicial status hearings in particular to be effective (e.g., Goldkamp et al. 2001).

Providing a clearer test of deterrence theory, research also suggests that the threat of jail or prison for failing drug court altogether is a key factor motivating compliance. NIJ’s Multi-Site Adult Drug Court Evaluation found that participants who perceived themselves to face more severe consequences in the event of program failure engaged in less noncompliance than others while enrolled in the program and less crime and drug use at follow-up (Rossman et al. 2011). This research is consistent with previous studies, which generally link greater legal leverage to improved treatment outcomes (e.g., Rempel and DeStefano 2001; Young and Belenko 2002). Qualifying these findings, research also makes clear that it is not only the factual jail or prison sentence that participants face in the event of failure that influences their performance. Drug court participants who face similar legal consequences may have differing perceptions of those consequences due to what the participants were told, by whom, how often they were reminded of their responsibilities, and how well they actually understood those consequences. Research has shown that eliciting participant perceptions of legal pressure comprises the critical link to improved behavioral outcomes (Young and Belenko 2002).

As opposed to the threat of incarceration for final program failure, research has been less clear concerning the deterrent effect of interim sanctions. In determining when and how to use sanctions, drug courts often employ a great deal of individualized discretion—that is, using different sanctions with different participants and not necessarily imposing a sanction in response to each and every infraction (Rempel et al. 2003; Rossman et al. 2011). Yet, individualized discretion may vitiate the behavior modification principle of certainty, which holds that it is best to impose a sanction each time and to employ similar sanctions in response to similar infractions. Moreover, it is unclear at this time whether interim sanctions might yield clearer and more positive effects if drug courts adhered more consistently to best sanctioning practices.

**Procedural Justice.** Procedural justice concerns the fairness of court procedures and interpersonal treatment while a case is processed (Tyler and Huo 1990). Key dimensions include voice (litigants have their side heard), respect (litigants are treated with dignity and respect), neutrality (decision-makers are seen as trustworthy and unbiased), and understanding
Research on Other Drug Court Models

This section reviews what has been learned to date about juvenile, family dependency, and DWI drug courts. In addition, reentry courts receive attention in a separate alternative courts entry (Lindquist et al., this volume).

As compared with the adult model, some have argued that juvenile drug courts may not be as successful, since juveniles do not tend to be addicted to drugs. Instead, they are more often casual drug users, especially of marijuana, who face a series of other social and psychological problems, including ties to deviant peer groups, low family functioning, poor educational performance, poor impulse control, and developmental disabilities. Still other juveniles may not have any severe problems of this nature but may instead be engaging in common teenage deviance that is likely to desist on its own time, in the absence of intervention. Indeed, results to date have been mixed. A recent meta-analysis of 34 juvenile drug court evaluations detected an average reduction in re-offending of eight percentage points; however, the average effect was smaller in the most methodologically rigorous studies, and when isolating drug-related re-offending in particular, there was not any significant impact (Mitchell et al. 2012).

Although these results are ostensibly disappointing, some researchers have found that when juvenile drug courts employ certain evidence-based practices, they can be more effective. Specifically, several studies have found that juvenile drug courts produce positive outcomes when they facilitate pro-social peer activities, limit contact with antisocial peers, involve family members in judicial status hearings, and employ evidence-based treatments such as multidisciplinary therapy, which entails comprehensive engagement with the youth, parents, teachers, and other systems in which the youth are involved (Salvatore et al. 2010; Schaeffer et al. 2010).

By comparison with juvenile drug courts, research findings have tended to be more positive for the remaining drug court models. Family dependency drug courts are somewhat unique in that they seek both to reduce substance abuse by the respondent parent and to achieve a positive permanency outcome for the child. Across several family dependency drug courts that have been evaluated, five of seven produced increased treatment completion rates for the respondent, and six of eight produced increased rates of parent-child reunification than equivalent comparison groups (e.g., see Fritsche et al. 2011; Green et al. 2009).

DWI courts have also yielded positive impacts. A recent meta-analysis isolated the impact of 28 DWI courts on re-offending and found that all except four reduced re-offending to at least some degree, with an average reduction of 12 percentage points (Mitchell et al. 2012). It is perhaps unsurprising that the results for DWI
courts mirror those for the original adult model. These two models are highly similar, with both focusing on drug-involved adult criminal defendants – except DWI courts serve those whose court case involved DWI or DUI charges.

**Issues and Controversies**

Drug courts have spawned a large number of issues and controversies. Several prominent examples follow, of which some concern the legal and constitutional implications of the drug court model, whereas other issues concern specific findings in the evaluation literature.

**The Therapeutic Judicial Role**

Some have expressed concern that it may not be legally appropriate for judges to serve in any other capacity than as neutral arbiters of facts and legal questions. In a well-publicized commentary, the Honorable Morris B. Hoffman succinctly summarized this position as follows: "Judges have the right to exercise only those powers necessary to dispose of the cases before us. When we succumb to the very human temptation to do more – to fill the void that is so achingly apparent in so many of the dysfunctional people we see every day – we not only risk being wrong, but we risk being imperial (2000: 1478)." Hoffman further posits that when the judicial branch involves itself in social policymaking, or when individual judges apply therapeutic methods, it violates the constitutional separation of powers, which leaves it exclusively to the legislative and executive branches to develop and implement social policy (2000: 1479).

Others judges have sought to articulate how legal due process can be maintained even as judges extend their focus beyond legal process alone to the outcomes their decisions produce, such as recidivism reductions (see Hora et al. 1999). Moreover, a survey of more than 1,000 trial court judges nationwide found, on balance, support for judging methods that are common to drug courts and other alternative courts. Eighty percent of the responding judges believed it was very or somewhat important for judges to consider "the individual needs or underlying problems of the litigant," whereas only 25 % believed that that "problem-solving compromises the neutrality of the court" (Farole et al. 2008).

Nonetheless, some would question whether majority opinion matters on these kinds of questions. The therapeutic judicial role that drug courts embrace – and especially the use of direct interaction between judge and participant coupled with a less adversarial process between the attorneys – remains highly controversial as legal practices. As a legal protection for drug court participants, while not opposing the therapeutic judicial role per se, the National Association of Criminal Defense Lawyers (NADCL) (2009) recommends that defense attorneys be present at all judicial status hearings, in the event that issues arise (e.g., related to sanctions or possible program termination) that require zealous defense advocacy.

**Risk of Net Widening**

A second concern, also rooted in legal due process principles, is that drug courts may inappropriately deepen and lengthen the criminal justice involvement of many defendants. Known as "net widening," this concern takes two essential forms. First, some have linked the establishment of drug courts to the increased criminalization of nonviolent drug behavior; that is, to rampant drug arrests and prosecutions (Drug Policy Alliance 2011). However, there is relatively little evidence to support this concern beyond a reported massive increase in drug arrests after the founding of the Denver (CO) Adult Drug Court (Hoffman 2000).

The second variant of net widening appears in the argument that, despite their widely promulgated status as an alternative to incarceration, the average drug court increases the criminal justice involvement of their participants – and increases rather than reduces time spent incarcerated (Drug Policy Alliance 2011). Here, critics can point to hard evidence supporting their position. A number of multisite studies found that adult drug court participation lasts about 15 months on average, representing a longer period of time than the jail or prison sentence that most participants would have otherwise faced under conventional prosecution (Rempel et al. 2003; Rossman et al. 2011).
These same studies also found that those who fail drug court receive a significantly longer jail or prison sentence than they would have received had they not enrolled in the first place. After considering the lengthier sentences imposed on those who fail with the complete avoidance of jail or prison sentences for those who graduate from drug court, the average effect on incarceration appears to be a wash. Neither NIF's Multi-Site Adult Drug Court Evaluation nor a randomized controlled trial of the Baltimore drug court detected a net difference in incarceration sentences between drug court and comparison defendants (e.g., see Rossman et al. 2011). Further, in a study of six New York State drug courts, when combining those who graduated and failed the program, participants averaged significantly shorter incarceration sentences than the comparison group in three sites, a significantly longer sentence in one site, and no difference at all two sites (Rempel et al. 2003). Drug court proponents might counter that, even if drug courts do not produce an average reduction in incarceration on the initial criminal case, they may still reduce incarceration in the long term through recidivism reductions. This is exactly why the cost-benefit literature has found that adult drug courts save money in the long term. Nonetheless, those who are concerned with net widening tend to predicate their position on the basic legal fairness of the initial court outcomes, regardless of whether outcomes are positive in the long term.

In consideration of these issues, NACDL (2009) recently advocated a number of reforms. First, contrary to the practice in many drug courts, NACDL proposed that prosecutors should not be allowed to reject cases for drug court when formal charge and criminal history criteria indicate that the case is eligible to participate. NACDL noted that some prosecutors may tend to reject the highest-risk cases, even though such cases are the least vulnerable to net-widening concerns. More generally, NACDL recommended limiting drug court eligibility to those defendants who would otherwise face lengthy sentences under conventional prosecution while developing less intensive programming for defendants who face less legal exposure.

Adult Drug Court Volume
The net-widening critique typically translates into a policy recommendation to limit participation to those individuals who would otherwise face substantial legal exposure (Drug Policy Alliance 2011). Some social scientists, however, have suggested that drug courts should increase rather than reduce their numbers. One analysis estimated that in 2005, whereas 1,471,338 adult arrestees in the USA either abused or were dependent on drugs, only 55,365 (3.8%) were enrolled in an adult drug court (Bhati et al. 2008). Even allowing that these estimates are now several years dated and were based on extrapolations from multiple data sources, this analysis makes clear that adult drug courts reach a small fraction of the eligible pool. This same study also projected that whereas adult drug courts in 2005 produced financial benefits to society worth about $624 million, if these courts had served all substance-abusing and substance-dependent defendants, the benefit might have reached $46 billion – resulting from an investment of $13.7 billion in treatment. Importantly, the implication that drug courts should serve more participants does not automatically contradict the aforementioned concerns about net widening. Some might reconcile these considerations in proposing that adult drug courts should reach a higher percentage of all serious cases – those that face substantial legal exposure – while carefully restricting eligibility where net-widening concerns might apply.

Uneven Treatment Quality
A long-standing research literature supports the general benefits of substance abuse treatment. Yet, drug court research has yet to provide clear confirmation of the positive effects of treatment – as opposed to judicial status hearings or other drug court practices. This does not mean that treatment is unimportant, for less than a handful of drug court studies to date have attempted a tease out its specific impact. Still, available research indicates that many drug court programs do not provide what national experts would term evidence-based treatment. Many treatment programs suffer from inadequate staff training, high turnover, lack of written curricula specifying what each treatment session
should cover, and insufficient use of proven cognitive-behavioral therapy techniques (Lutze and van Wormer 2007). In addition, a serious drug addiction is a brain disease that can often be addressed in part through medication-assisted treatment (MAT). However, many drug courts do not have access to local treatment programs whose staff is trained to provide and monitor such treatment (Lutze and van Wormer 2007). Of final note, whereas drug court participants often possess multiple problems other than substance abuse, including pro-criminal thought patterns, ties to antisocial peers, antisocial personality patterns, and employment deficits, many drug courts neither conduct a rigorous assessment for these other needs nor are able to make appropriate treatments available.

Some might conclude that drug court staff should monitor and seek to improve the quality of treatment. Supporting such a conclusion, a recent review found that drug courts that do adhere to one or more evidence-based assessment and treatment practices produced significantly larger reductions in re-offending than other drug courts (Gutierrez and Bourgon 2009). However, in many jurisdictions, particularly small ones with a limited number of available providers, it may simply not be possible for a court to order or obtain best treatment practices. Accordingly, the question of how to improve the quality of treatment received by drug court participants is one that depends not merely on clear guidance from research but also on overcoming practical obstacles to the dissemination of evidence-based practices within local provider communities.

Appropriate Target Population

General research on offender interventions recommends varying program intensity based on risk of re-offense. Specifically, research indicates that high-risk defendants — those who are especially likely to re-offend in the absence of any intervention — require a particularly intensive form of treatment. By contrast, low-risk defendants may not be well served by an intensive and lengthy intervention such as drug court; since they are unlikely to re-offend in any case, low-risk defendants may be better served if they are left alone (Andrews and Bonta 2006).

Little research has put the risk principle to the test in drug courts. However, it is conceivable that the literature on juvenile drug courts is somewhat mixed, in part because these courts may order some teenagers to a year or more of intensive program participation, who might otherwise have desisted from crime on their own — that is, their risks and needs may have been too low to merit subjecting to the intensive drug court model.

Regarding adult drug courts, one study of the Los Angeles program confirmed that it was more effective with high- than low-risk defendants (Fielding et al. 2002). Similarly, NIJ’s Multi-Site Adult Drug Court Evaluation found some evidence that those who were particularly likely to commit serious crimes in the future and those who presented with a more severe addiction at baseline were especially likely to benefit from their participation. This same study uncovered few other differences in the magnitude of the drug court impact, based on participant demographics (age, race, or sex) or self-reported motivation at baseline (Rossman et al. 2011).

Interestingly, the social science-based concern that drug courts are best suited to high-risk defendants dovetails with the aforementioned defense bar position that drug courts should limit eligibility to high-risk/high-leverage defendants, who would otherwise face a substantial jail or prison sentence in the absence of drug court participation. In considering these issues, the National Association of Drug Court Professionals recently issued a two-part series of policy papers that essentially advised drug courts to abandon a “one-size-fits-all” program model in favor of multiple tracks (Marlowe 2012). In this system, programs would apply the full drug court model to defendants who pose a high risk of re-offending and have serious treatment needs related to a substance-dependence problem (track 1). Those who combine a high risk of re-offending in general but with less serious drug treatment needs in particular would receive intensive judicial oversight but less intensive community-based treatment (track 2). Conversely, those who combine a low risk of re-offending with serious treatment needs would receive less intensive oversight — that is, status hearings only when noncompliant — coupled
with regular treatment (track 3). Finally, those who are both low risk and low need might receive general prevention services but would not be required to attend any form of intensive judicial oversight or treatment (track 4). Although the state of Missouri intends to implement a track system along these lines, it is unclear whether a new national movement will be launched in this direction. Moreover, research has not been conducted to determine whether a track-based system in fact yields improved drug court outcomes. In short, the development of tailored responses to different defendant populations is a potential cutting-edge policy direction that may or may not ultimately be the subject of broad experimentation nationwide.

Conclusion

As the first alternative court model, drug courts have existed since 1989, spawned the development of other alternative courts in the USA and internationally, and been the subject of a growing body of research and evaluation studies. At the same time, important unanswered questions persist. These include the effectiveness of models other than adult and DWI drug courts, the role of treatment in explaining drug court success and how to improve its quality, the appropriate target population for the full-length drug court model, and the solution to a number of competing legal and social science considerations that variously mitigate in favor of and against expanding the number of individuals who are enrolled in drug courts. Regardless of the effectiveness of any one model, the diffusion of drug courts nationwide has transformed the role that many courts are now prepared to embrace in devising solutions to vexing social problems.

Related Entries

- Community Courts
- Mental Health Courts
- Reentry Courts
- Therapeutic Jurisprudence

Recommended Reading and References


Bhati A, Roman J, Chalfin D (2008) To treat or not to treat: evidence on the prospects of expanding treatment to drug-involved offenders. The Urban Institute, Washington, DC


Drug Courts’ Effects on Criminal Offending

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Overview

Drug courts are problem-solving courts that divert generally low-level drug-involved offenders from conventional prosecution. These courts use their...