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Executive Summary:

# The New York State Adult Drug Court Evaluation

## Policies, Participants and Impacts

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# Executive Summary

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

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

## Methodology

This report includes an analysis of drug court policies and participant characteristics in eleven drug courts.<sup>1</sup> Four are from large urban counties of New York City (Bronx, Brooklyn, Manhattan, and Queens); one is suburban (Suffolk); three are from medium-sized cities (Syracuse, Rochester, and Buffalo); and three are from small city/semi-rural areas (Tonawanda, Lackawanna, and Ithaca).

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

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

<sup>2</sup> The post-program period begins on the graduation date for drug court graduates, the release date from jail or prison for drug court failures, and, for the comparison group on the release date or if there was no sentence of incarceration on the disposition date. Defendants were assumed to serve two-thirds of any jail sentence (a standard “good time” assumption) and the minimum prison sentence if there was a range.

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

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

### **Impact on Recidivism**

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

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

- *Reduced post-arrest recidivism:* Drug court participation led to a lower probability of recidivism three years after the initial arrest (significant in five courts and  $p < .10$  in the sixth). Depending on the drug court, recidivism reductions ranged from 13% to 47% (average reduction = 29%) relative to the comparison group level.
- *Reduced post-program recidivism:* Drug court impacts extended beyond the period of program participation. Drug court participation led to a lower probability of recidivism at one year post-program (significant in three courts,  $p < .10$  in one court, and suggested by the numbers but not significant in two). Post-program recidivism reductions ranged from 19% to 52% (average reduction = 32%).

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

- *Survival over time:* When comparing *in-program* to *post-program* recidivism rates for drug court participants, recidivism did *not* rise in the post-program period, but rather *declined* in three of the six courts. Further, when comparing participant and comparison group recidivism rates after each additional year following the initial arrest (a “survival analysis”), in only one of the six courts was there clear evidence of *attenuation* of the drug court impact over time. This was contrary to the expectation that the magnitude of the drug court impact would peak immediately following the arrest (when judicial monitoring is most intensive); instead, results in most sites revealed positive *long-term* impacts persisting beyond the period of active judicial supervision.
- *Impact of drug court graduation:* Drug court graduates were *far* less likely than comparison defendants to recidivate in all six courts; however, drug court failures were as likely, if not more so, as comparison defendants to recidivate in four of the six courts. Translation: the benefits of drug court participation largely accrue to those who successfully graduate.
- *Impact of arrest charge:* In Rochester, participants arrested on drug charges performed better relative to the comparison group than participants arrested on a select number of non-drug charges. Although the analysis is relatively limited in scope and requires future replication, the findings suggest that drug courts may be more successful in curtailing drug-based criminal behavior (indicated by *drug* charges) than in curtailing criminal behavior driven by other criminal propensities.
- *Other predictors of recidivism:* Among drug court participants and comparison defendants alike, those with prior misdemeanor convictions and of younger age were generally more likely than others to recidivate across all courts and analyses.

### **Impact on Case Processing and Case Outcomes**

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

- *Initial case processing speed:* Drug court cases reach initial disposition more quickly than conventional court cases. Participants in all six drug courts spent significantly *less* time from arrest to initial disposition/program entry than comparison defendants.
- *Total Time Pending:* When in-program participation time was included in the calculation, processing time for participants was far *longer* than for comparison defendants (due to the length of the drug court program). Hence to achieve positive impacts such as lower recidivism, drug courts require a significant up-front investment of court resources.
- *Sentencing:* Average sentence length stemming from the initial criminal case is sometimes shorter than in conventional prosecution – and sometimes not. Whereas graduates are never sent to jail or prison, drug court failures receive *longer* incarceration

sentences than comparison defendants in five of the six courts. This highlights the importance of drug court graduation in reducing the use of incarceration. When considering initial case outcomes for all participants at once (combining graduates and failures), drug court participants averaged significantly *shorter* jail or prison sentences in three of six courts; but in one court, drug court participants were sentenced for significantly *longer* on average and in the remaining two courts, there was no significant difference.

## Program Retention Rates

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

- *Retention rates:* The one-year retention rate exceeds the national standard of 60% for drug courts in eight of eleven courts studied (five New York State courts exceeded 70%).
- *Long-term retention/graduation rates:* When the retention period is extended to two and three years, more than half of participants in eight of eleven New York State courts are retained – and the rate exceeds 60% in three courts. The three-year retention rate gives a close approximation of each drug court’s final graduation rate.

## Predictors of Success

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

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

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

- *Immediacy*: Immediate engagement in treatment (e.g., avoidance of early warranting) universally and strongly predicted drug court graduation.
- *Importance of graduation*: Graduation is itself a powerful predictor of avoiding *post-program* recidivism; those who failed drug court were *far* more likely to recidivate in the post-program period.<sup>5</sup> Further, contrary to previous research with non-drug court populations, no benefit was found to spending more total *time in treatment* only to fail in the end. Among those who failed, more time in the drug court program (measured in four courts) or more days specifically attending treatment (measured in one court) had no impact on post-program recidivism. These results strongly point to drug court *graduation* as the pivotal indicator of long-term outcomes.

## **Drug Court Policies and Participant Characteristics**

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

- *Diversity of approaches*: There is no single drug court model. All eleven courts mandate community-based treatment, regular drug testing, case management visits, updates before a dedicated judge, and rewards and sanctions in response to progress or noncompliance. However, policies vary considerably across several domains – legal eligibility criteria, whether a guilty plea is required prior to entry (the pre-plea or post-plea models), approach to treatment and case management, specific sanctioning practices, graduation requirements, legal consequences of graduation (e.g., case dismissal or charge reduction), and legal consequences of failure (e.g., length of resulting jail or prison sentence).
- *Drug use patterns*: The eleven courts also treat participants with different presenting problems. The median duration of drug use ranges from eight years (Manhattan and Queens) to eighteen (Brooklyn); and while the five most common primary drugs are similar statewide (heroin, crack, cocaine, marijuana, and alcohol), they are used in different proportions in each jurisdiction.
- *Socioeconomic disadvantage*: In all eleven courts, nearly half of the participants (and a much higher percentage in several) were neither employed nor in school at intake. More than a quarter of participants were currently or formerly homeless in seven courts.
- *Female participants*: The challenges faced by female drug court participants were particularly acute (including *more* severe drug use, treatment histories, and socioeconomic disadvantage than males), highlighting the need for supplemental services for this population.

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

## Treatment and Recovery

Major findings about the treatment and recovery process include:

- *Treatment capacity*: Despite early questions about whether there is sufficient treatment capacity in New York State to serve the increased demand for treatment generated by drug courts, so far participants have been able to enter treatment rapidly. The median time from drug court intake to treatment placement is less than one month in eight of nine courts examined and less than ten days in three courts.<sup>6</sup>
- *Treatment modality*: Over half of participants begin in an outpatient modality, in all but two courts. When clinically feasible, most courts prefer to begin participants in *outpatient* treatment and then upgrade to inpatient in response to relapses or other compliance problems. Characteristics generally indicating a higher probability of inpatient care are primary drug of choice (heroin), living situation (homeless), employment status (unemployed) and age (younger defendants).
- *Relapse*: Relapse and noncompliance are common, even among those who ultimately succeed. In seven of eight courts examined, at least half of all graduates had at least one positive drug test, and many had several positives – usually in the earlier stages of participation. This highlights the value of drug courts according multiple chances to participants experiencing early problems.
- *Graduated sanctions*: In responding to noncompliance, drug courts apply sanctions, such as writing an essay, observing drug court for several days from the jury box, more frequent court appearances or case management visits, community service, or short jail stays. However, drug courts vary widely in the type and severity of sanctions most frequently used. Across three courts examined in depth (Brooklyn, Queens, and Suffolk), none routinely follow a “graduated sanctions” model, where successive infractions are met with increasingly severe sanctions. Instead, some infractions are *always* met with a similar sanction response. For example, a warrant or new arrest in Brooklyn nearly always incurs a jail sanction. Also, drug court teams frequently make individualized decisions based on what they believe will be most effective with a particular participant rather than adhering to a rigid schedule of graduated sanctions.
- *Achievements beyond substance abuse recovery*: Beyond substance abuse recovery, drug courts seek to promote further achievements and lifestyle changes in the areas of employment, education, vocational training, housing, and family reunification. Consistent with these goals, across all nine courts examined, graduates were significantly *more* likely to be employed at graduation than intake. Also, graduates in five of the nine courts were significantly more likely to be in school at graduation than intake.

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

## Conclusion

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

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