
BACKGROUND AND INTRODUCTION

Many State and local criminal courts began to be inundated with felony drug defendants in the latter half of the 1980's. Concern over growing street drug dealing and drug-related crime led to greatly increased enforcement efforts against drug sellers and users, resulting in substantial increases in felony drug caseloads. Between 1980 and 1989, drug arrests in the United States increased 134 percent, while the number of total arrests increased only 37 percent. Moreover, data from the National Institute of Justice's Drug Use Forecasting Program suggest that drug use is common among arrestees for nondrug crimes as well. Suburban and rural courts, as well as those in urban areas, have been affected.

The emphasis on apprehension of low-level street dealers (often through undercover "buy-bust" or sting operations) and the escalation of legislated penalties against drug sale and possession have tended to yield large numbers of serious felony arrests. The strength of these cases, coupled with (1) more stringent plea bargaining and sentencing laws and (2) political pressure to be "tough" on drugs, has meant much greater use of incarcerative sentences for drug offenders. It is not surprising, therefore, that the Nation's jails and prisons have become severely overcrowded, primarily due to burgeoning incarceration rates for drug offenders.

The resultant strain on court systems has led to a continuing search for more effective ways to absorb the increase in drug arrests. In the past, for example, it was common practice to treat leniently felony drug arrestees who had no prior arrests or convictions. More recently, however, conviction and sentence

trends in State courts indicate an increasingly punitive response to drug arrests. This is evidenced by higher felony conviction rates and increasing percentages of convicted drug felons sentenced to incarceration. The emergence of crack cocaine in the mid-1980's, with the get tough policy response that it evoked, was an important basis for the increasingly punitive criminal justice reaction to drug crime.

The response of State and local courts to the drug case surge has primarily focused on processing cases rapidly to clear calendars and reduce pending felony caseloads. However, with the trend in recent years toward legislative initiatives to increase penalties for drug offenders and drug-related crime, and the existence of mandatory sentencing laws for repeat offenders in most States, there is competing pressure on the system at all phases of case processing *not* to treat these cases too leniently.

Courts faced with large numbers of nonviolent drug offenders are, therefore, in a bind: there are few jail or detention alternatives, limited treatment options, and overloaded probation departments that are perceived as ineffective. Dockets overloaded with drug cases mean fewer resources to adjudicate the more serious or violent felonies. Judges may be placed in the difficult position of trying to move cases through the system expeditiously, while simultaneously maintaining the defendant's legal and constitutional rights and responding to legislative and public pressures to treat drug cases seriously. Yet, there is growing recognition that incarceration alone does little to break the cycle of drugs and crime.

TWO SPECIAL DRUG COURT MODELS: DEDICATED DRUG TREATMENT VS. SPEEDY TRIAL AND DIFFERENTIATED CASE MANAGEMENT (DCM)— THE PROGRAM CONCEPT

Recent research has documented various methods that courts are employing to cope with these drug caseload pressures, ranging from improved management techniques to increased commitment to drug treatment. One of the most common, and potentially most useful court responses has been the creation of special drug courts (or “court parts”). By selectively processing felony drug cases, these courts are designed to relieve crowded felony dockets, reduce case processing time, and establish mechanisms for more creative and effective dispositions. In some cases, special drug courts link defendants to community-based drug treatment programs in an effort to reduce drug use and drug-related crime. By increasing the use of nonincarcerative sentencing alternatives for certain drug defendants, these special drug courts can result in substantial system cost savings.

There are several reasons why segregating drug cases may be an effective case management or criminal justice strategy. First, judges, prosecutors, and public defenders assigned to drug courtrooms become specialists and, therefore, are able to process cases more quickly and efficiently, thereby reducing pending caseloads and relieving crowded drug dockets. These efficiencies often are bolstered by new rules for these courtrooms (such as early and complete discovery; firm trial dates) that encourage early plea negotiation and settlement.

Second, segregating drug cases can speed the processing of both drug *and* nondrug cases. Drug cases processed through standard channels must compete with violent felonies for the court’s attention, resulting in drug cases usually receiving less attention, and

hearing and trial dates for drug cases are repeatedly postponed as the court deals with higher priority cases. Isolating drug cases eliminates this “unfair” competition and thus can speed the processing of both drug and nondrug cases.

Third, the nature of the street-level anti-drug law enforcement that characterizes many police responses to drug-related crime results in large numbers of relatively standardized cases with strong evidence and police witnesses. This reduces the likelihood that defendants will seek a trial, streamlines the case preparation and investigation process for prosecutors, and leads to the establishment of mutually understood and accepted “going rates” for felony drug cases.

Two main types of special drug courts have evolved: (1) those that use court-monitored drug treatment under a diversion, deferred prosecution, or deferred sentencing arrangement to attempt to achieve changes in defendants’ drug using behavior, and (2) those that use differentiated case management (DCM) or other special case processing procedures to speed the disposition of drug cases.

New York City in the early 1970’s was the first jurisdiction to use special drug courts. The courts were established in conjunction with the passing of harsher drug laws (the so-called “Rockefeller Drug Laws”). Over several years, however, as regular felony caseloads mounted, these “narcotics courts” began to be used for adjudicating nondrug felonies as well, and eventually became mixed calendar courtrooms. In 1987, in response to growing concern over the impact of the increase in crack and other felony drug cases

on the court's caseload, new drug courts (called "N" or Narcotics "Parts") were set up in four of the five boroughs of New York City.

The first court to employ drug treatment as an integral part of the processing of drug felonies was the Dade County (Miami), Florida, Drug Court, which began operations in June 1989, and has become a model for several other efforts to divert drug defendants into treatment. Within a few years, a number of other jurisdictions facing their own drug caseload crises had established special drug courts and by mid-1993, there were at least 15 drug courts operating around the Nation.

There are several variations of special drug courts:

- Drug courts designed solely to reduce disposition time (Chicago, Milwaukee, New York City, Philadelphia).
- Treatment diversion or deferred prosecution courts, where defendants enter treatment shortly after arraignment and their cases are dismissed following successful treatment completion (Miami, Florida; Oakland, California; Portland, Oregon).
- Drug courts combining the two variations described above (St. Paul, Minnesota; Berrien County, Michigan).

The source guide at the end of this Program Brief provides capsule descriptions of a number of special drug courts. Depending upon their structure, special drug courts seek to achieve a number of key goals.

Speedy Trial/Expedited Case Processing Drug Courts Goals

- To concentrate drug case expertise in one courtroom.

- To reduce the time to disposition, without compromising due process or public safety considerations.
- To reduce the pending drug felony caseload.
- To relieve pressures on nondrug caseloads by diverting drug felonies out of mixed calendar courtrooms.
- To increase overall trial capacity.

Dedicated Drug Treatment/Case Management Drug Courts Goals

- To concentrate drug case expertise in one courtroom.
- To link defendants to community-based drug treatment.
- To address other defendant needs through effective case management.
- To reduce drug use and recidivism.
- To relieve pressures on nondrug caseloads.
- To increase overall trial capacity.

While many courts handle only drug possession cases, some courts also accept low-level drug sale cases and others process any drug felony, regardless of the type of offense. Generally, treatment-oriented drug courts tend to exclude defendants charged with drug sale, delivery, or trafficking unless they had a relatively minor role in the transaction or an underlying drug addiction is clearly driving their participation in drug selling.

CRITICAL ELEMENTS

To maximize effectiveness and ensure that implementation does not result in unanticipated negative consequences, special drug courts should include a number of critical elements. Some of these are characteristic of good court case management in general, while other elements are unique to special drug courts. In addition, although there are aspects of sound program design and operation that are common to any type of drug court, certain specific critical elements are uniquely applicable to either treatment-oriented or expedited drug case (“fast-track”) management drug courts, but not to both.

All Drug Courts

All drug court types require the following critical elements:

Program Planning and Support

- Strong and consistent leadership from the court administrator, chief judge, prosecutor, and public defender to maintain support for the program and ensure adherence to the drug court’s procedures and guidelines.
- Good relations with the media and community, fostered as early as possible in the planning process, to help maximize understanding and support of the special drug court’s goals.
- Fixed assignment to the special drug court for 6 months to 1 year of judge, assistant district attorneys, and public defender to allow staff to develop expertise about anti-drug enforcement, felony drug cases, drug abuse, and drug treatment and help to establish a mutually productive courtroom atmosphere. It is preferable that the drug court be staffed with volunteers from the prosecutor’s and public defender’s offices or that the drug court assignment be a vehicle for advancement, so that the potential for boredom or burnout is minimized. While some jurisdictions have relied

on volunteer judges to preside over the drug courts, while others have used a mandatory rotation system. Each system has benefits and drawbacks. Assignment to the drug court for more than 1 year may be problematic because the high caseload volume in the drug court, the pressure to dispose drug cases quickly, and the uniformity of much of the caseload may result in staff burnout and a consequent loss of efficiency and equitable case disposition.

- Ongoing communication among the drug court judge, prosecutor, and public defender to identify and resolve problems as they arise.
- Implicit or explicit agreement to abide by the procedural rules of the court. Interagency cooperation should be facilitated to the greatest extent possible. All participants must “buy into” the special drug court concept for it to achieve its goals.

Procedural Elements

- Have a strong and respected judge, who is dedicated to the principles of the special drug court, knowledgeable about drug abuse and drug treatment, and supported by the presiding judge and court administrator.
- Channel all eligible felony drug cases into the special drug court as early in the adjudication process as feasible. A decision must be made as to whether cases with nondrug charges, where there is evidence or suspicion of an underlying drug problem, will be eligible for the court.
- Implement a system of full and early discovery.
- Expedite production of laboratory reports and distribute the results to the prosecutor and to the defense as soon after an arrest as possible.
- Rotate staff at least once a year to prevent burnout and provide incentives to attract and retain quality staff. For a fuller discussion of the question of burnout, see the BJA Monograph, Assessment of the Feasibility of Drug Night Courts, “Principal Findings,” page 1.

Management Information System Support

- Establish computerized management information system support dedicated exclusively to the special drug court. The case tracking and monitoring system can be housed on a personal computer or be part of the court's mainframe case tracking system.
- Share data on program operations with all relevant agencies, including treatment and public health as well as criminal justice agencies.
- Establish ongoing monitoring of the special drug court by the judiciary, court administrator, and/or the executive branch. The number of cases adjudicated, number of cases pending, time to disposition, types of disposition, and sentences should be compiled and reported regularly. Treatment program services and client performance should be monitored by the drug court judicial staff or the agency responsible for supervising drug court defendants (such as the probation department). The jurisdiction should also develop the capability of evaluating the impact and long-term effects of the special drug court, either using inhouse research staff or using an outside contract evaluator.

Dedicated Drug Treatment Courts

Dedicated drug treatment courts require the following critical elements:

Program Planning and Support

- The drug treatment program(s) to which defendants will be referred must be carefully chosen.
- The type of treatment or treatment modalities that will be made available as well as critical elements of the treatment process must be carefully considered.
- The treatment program must be located in geographic proximity to the courthouse to ensure that defendants arrive at their critical first treatment appointment.

Procedural Elements

- Conduct early prosecutorial screening to weed out weak cases to avoid “dumping” (i.e., putting into the drug court cases likely to have resulted in *nolle*

prosequi or dismissal) or “net-widening” (extending the court's control to defendants likely to have been safely released without supervision, or sentenced to a minor sanction). Participation in the drug court treatment program should be voluntary, and there should be an early “grace” period during which defendants are allowed to withdraw and return to the standard adjudication route.

- Provide drug defendants with early access to a treatment diversion track. Implement direct court links to community-based treatment programs and provide expedited client screening for treatment needs. Treatment should begin as soon as possible following the first drug court appearance, even the same day. Treatment services can be outpatient, residential, or a combination of the two, depending on resource availability, the nature of the local drug problem, and the philosophy of the drug court planners and judges.
- Establish clear rules and procedures for responding to violations of the drug court's policies. Rewards for complying and sanctions for not complying with the court's or treatment program's requirements should be applied fairly and consistently. Some drug courts impose short jail terms for failures; others rely on oral admonishments. Allowance for relapse episodes and a willingness to give defendants a chance to reform should be part of the underlying philosophy.

Expedited Drug Case Management

Expedited drug case management (EDCM) courts require the following critical elements:

- Establish clear guidelines for consistent and reasonable plea offers from the prosecution aimed at early resolution of cases.
- Set consistent and firm dates for plea negotiations, trials, and filing motions by the drug court trial judge. Sound case management principles, as developed in the Differentiated Case Management and Expedited Drug Case Management programs, should be applied.
- Bypass the grand jury process, where applicable, through use of a Superior Court or Prosecutor's Information or defendant waiver of a grand jury hearing.

IMPLEMENTING A SPECIAL DRUG COURT

Setting up a special drug court, as with any major change in the way felony cases are processed by the courts, can present a number of challenges. Successful implementation requires (1) extensive pre-program planning, (2) careful groundwork with leaders of all the major agencies involved in criminal case processing, and (3) strong leadership. Ongoing monitoring of the drug court by the court administration is also necessary to identify problems or changes in procedures as they occur. The four critical components of effective implementation are an interagency committee; a needs assessment of the local court system; incentives for judges to preside over the special drug court; and written procedures for assigning and maintaining cases in the drug court. These components are described in more detail below.

■ An interagency planning committee to prepare a detailed action plan for setting up the drug court. It is very important to be realistic about what a special drug court practically can and cannot achieve to avoid disappointment and criticism later on. Special drug courts will not solve the drug abuse problem, nor will they eliminate crime. Some, perhaps many, defendants will fail in a treatment program and be returned to jail.

Ideally, this committee would be chaired by a judicial leader or court administrator. In addition to judicial officers, participants should include the prosecutor, public defender, and representatives of the drug treatment community, and perhaps the corrections or sheriff's department, probation officials, and representatives of the executive branch, such as the local criminal justice coordinator or public safety commissioner.

The key to this planning stage is evaluating the ability of the existing system to more effectively dispose felony drug cases. Is a special drug court necessary or can current caseloads be more effectively absorbed through a general improvement in case management?

The planning committee should carefully establish the goals and objectives of the special drug court by answering the following questions:

- What type of drug court is needed or desired?
 - Should drug treatment be a key component of the court?
 - What types of offenders will be eligible, and will any charges be excluded?
 - Will defendants be required to plead guilty, waive their grand jury or speedy trial rights, or stipulate to the police arrest report before being adjudicated in the drug court?
 - Will the court function as a diversion or deferred prosecution program, with the case dismissed or *nolled* following successful treatment completion?
- A "needs assessment" of the local court system.
- What is the current drug and nondrug felony caseload?
 - What is the average time to disposition for drug and for nondrug felony cases?
 - What is the average caseload per judge?
 - What are the current barriers to more rapid disposition times?
 - What is the current availability of drug treatment programs for criminal justice clients?
 - What, if any, are the existing diversion or alternatives-to-incarceration programs in the jurisdiction for drug-involved defendants?
- Incentives for judges to preside over the special drug court may need to be created by the judicial administrators if a highly skilled volunteer judge cannot be found. This assignment may be viewed as boring and repetitive, a certain route to frustration and burnout. Or, many judges may feel uncomfortable

taking on what some see as a “social worker” role in monitoring progress in drug treatment and cajoling defendants to stay off drugs. Therefore, it may be necessary to create incentives for judges to staff the drug court. For example, the drug court judge might be selected from among municipal, misdemeanor, or county court positions and be appointed an acting superior or circuit court judge. Or, a term on the drug court might provide a step up in seniority status for a felony trial court assignment. Similar incentive issues may apply to the prosecutor’s and public defender’s offices.

■ Written procedures for assigning and maintaining cases in the drug court should be established by the interagency planning group. There should be specific procedures for responding to violations of court orders or treatment program rules, and/or dirty urines,¹ and there should be rewards for achievements.

In drug courts where defendants will be required to enter pleas, prosecutors could establish written plea bargaining guidelines for their assistants in order to establish standard “going rates” for drug cases. To establish processing procedures, it must be determined which cases will be tracked into the special drug court and which will be excluded. Will the drug court be exclusively for first-time offenders or will defendants with prior convictions be eligible?

¹Containing evidence of drug use.

PROGRAM EXPERIENCES

Special drug courts are a relatively new innovation, with many new ones still in the process of being established. With few exceptions, however, the operations of the drug courts have met or exceeded the expectations of those involved in their planning and operation. For those special drug courts designed to alleviate calendar pressures by reducing processing time (for example, Chicago, New York City, Milwaukee, and the various Expedited Drug Case Management sites), there have been dramatic reductions in disposition times. These time reductions have meant substantial savings in court processing costs. Differences between sentences imposed on felony drug offenders in “fast-track” special drug courts and regular courts (or compared with sentences imposed before the special drug court was implemented) suggest that the quicker pleas are achieved by offering somewhat more lenient sentences than those that would be received through standard case processing mechanisms, with higher rates of probation sentences and shorter sentences for those receiving prison terms.

For those drug courts that have placed emphasis on the diversion and treatment of drug offenders (for example, Broward County and Miami, Florida; Oakland, California; Portland, Oregon), there is evidence of reduced recidivism and drug use, high program completion rates, and considerable jail and prison cost savings. There have been some problems and difficulties encountered in implementing and operating special drug courts, however. Some highlights of program experiences to date follow.

All Drug Court Types

■ Despite the most careful and detailed planning process, drug court program policies will have to evolve over time, because many aspects of the adjudication, assessment, and treatment process cannot be fully anticipated until the court begins operations. Treatment program policies and regimens may depend on the mix of defendants referred, the

cooperation of related community-based and government agencies, and the skills of the treatment staff hired for the program. The drug court’s policies with respect to failures to appear in court, failures to cooperate with the treatment program, or dirty urines, will also evolve over time as the judge and treatment professionals learn over time which behaviors can be safely tolerated, which responses are most effective in changing defendants’ behaviors, and how the various courtroom actors interrelate.

■ The costs of processing and sentencing offenders through drug courts can be substantially lower than standard routes of adjudication. In the Miami drug court program it costs about \$700 per year to maintain a defendant in treatment, although the costs of occasional jail time for those who fail to appear or get rearrested add to this expense. The overall cost of processing a case through New York City’s “N Part,” if sentencing costs are included, is about one-third the cost of regular processing and one-tenth the cost if sentencing costs are excluded.

■ Drug courts, even those requiring treatment participation, are able to adjudicate or supervise substantial caseloads. For example, the Miami and Portland drug courts maintain active caseloads of about 1,200 and 600, respectively. The Milwaukee speedy trial drug courts dispose about 600 felony drug cases per year per courtroom, and New York City’s “N Parts” dispose about 2,300.

■ There has also been some concern that despite the gains in processing efficiency, special drug courts can result in inappropriate case outcomes: prosecutors worry that dispositions will be too lenient, and feel that prison rather than treatment is the appropriate disposition for felony drug offenders, especially repeat offenders and those charged with selling drugs. In addition, the pressure to speed cases through these special courtrooms raises the question of whether an “assembly line” mentality will lead to such routinized processing that individual aspects of a case or defendant relevant to the disposition of a case will be ignored or discounted. Drug courts that emphasize court-monitored treatment and rehabilitation and a

long-term relationship with the defendant appear to circumvent these problems, both by tailoring treatment and supervision protocols to the needs of individual defendants and by their ability to maintain low recidivism rates for those who participate actively in the program.

■ Many special drug courts, including treatment-oriented courts, have found surprisingly strong support from local media and community groups. Positive media coverage and public acceptance of the use of drug treatment as an alternative to prosecution or incarceration have encouraged drug court judges in Portland, Broward County, Miami, Milwaukee, and elsewhere.

Dedicated Drug Treatment Courts

■ A treatment program representative's daily presence in court can provide the drug court judge important and valuable information upon which to base supervision and disposition decisions. It also serves as a "check and balance" for assessing the veracity of defendants' statements to the courts and the reasons for lack of progress in treatment. Some drug courts give great weight to the recommendations of the treatment program representative when making case decisions.

■ Treatment-oriented drug courts may be either highly selective or may accept any eligible defendant. For example, the Portland drug court accepts felony drug possession defendants with any length conviction history, but in the past has excluded gang members. Defendants with up to three prior nondrug felony convictions and any number of prior drug felony convictions are now eligible for the Miami drug court (at the start only first offenders were eligible). The Broward County program, however, accepts only first offenders arrested for felony drug possession.

■ Defendants in treatment-oriented drug courts are primarily crack and cocaine abusers, and often have other problems. For example, the Portland program estimates that 10 percent of their defendants are HIV positive, and 25-30 percent have mental health problems. Accordingly, drug court clients may require substantial resources and extensive case management efforts in order to maximize the chances of successful participation. The flexibility to be able to individually tailor some aspects of the program to creatively respond to relapses or other failures is an important

feature of a successful drug court, but requires the hands-on involvement of the judge in each case.

■ Program failures tend to occur early in the treatment process, during the first few months. This is a period of difficult transition for many drug abusers, and the requirements of the treatment program may be formidable for many defendants. Some may not be ready to accept the demands of drug treatment or to give up the drug lifestyle. The use of regular acupuncture treatments, especially early in the program, can help ease defendants' cravings for drugs, can relax them, and make them more amenable to treatment intervention.

■ Success rates can be high in treatment-oriented drug courts, but bench warrants are also common. During the 18 months between August 1991 and January 1993, 944 cases were diverted to Portland's S.T.O.P. Program.² Of these, 19.8 percent (187) ended in "stipulated fact" trials, indicating program failure—78 percent were either active cases or the defendants had graduated. Bench warrants—which indicate that the defendant has missed a court appearance or has had a relapse in treatment, neither of which is generally considered a reason for program termination—were issued for 28.4 percent of graduates and 55.2 percent of all S.T.O.P. defendants. Defendants arrested on a bench warrant may spend between 2 and 8 days in jail before returning to treatment. Warrant rates in the Miami drug court were similar, around 54 percent; the likelihood of high warrant rates is another reason drug courts must carefully consider their response to program failures.

■ Treatment-oriented drug courts have reported lower recidivism rates for those who remain in treatment compared to those who drop out or similar defendants not participating in the program. The rearrest rate for Portland drug court completers after one year was 6 percent, compared to 24 percent for program failures. The rearrest rate after 18 months was 28 percent in Miami, about half the rate of comparable offenders before the drug court began. Finally, only 1 percent of the Broward County participants were returned to jail or prison after 1 year, compared to 46 percent of first time drug offenders placed on straight probation. Of course, a higher rearrest rate for program failures was expected, since rearrest can be a reason for dismissal from the treatment program.

²The Sanction, Treatment, Opportunity, Progress Program.

■ In Portland, court-monitored drug treatment services were initially contracted through a private provider. After the program's first year, however, operational problems arose with this treatment provider, and the county decided to contract directly with a provider whose clients would be referred exclusively from the drug court. This arrangement has given the court much better control over defendant supervision and more timely and accurate information about the defendant's progress in treatment.

■ There appears to be a need for aftercare programs following completion of court-ordered treatment. Broward County offers voluntary weekly group meetings for graduates, and encourages continuing participation in Alcoholics Anonymous and Narcotics Anonymous. In some jurisdictions, there has been ongoing debate over the optimal level of formal structure and intensity of the treatment program.

■ In Broward County, it was difficult initially to get offenders into the treatment program because their cases were not dismissed; they had to plead guilty and go on probation. A new Florida State law that took effect on October 1, 1993, will allow judges to dismiss a case after the defendant successfully completes court-monitored treatment. This should increase program participation and provide a stronger incentive for defendants to complete the treatment program. There also was some resistance at first from the public defender to placing offenders into treatment—over time, however, the public defender has become much more supportive of the drug court.

Expedited Drug Case Management (“Fast-Track”) Courts

■ Fast-track programs have generally found that the processing time for felony drug cases can be greatly reduced after program startup. Reductions in pretrial detention time and resultant cost savings have accompanied the reduction in processing time as well. The Milwaukee drug court found an increase in the rate of drug trials from 2 percent to 7 percent, due to increased trial capacity, and a reduction in disposition

times in the general felony courts as caseloads were reduced. Other courts, such as Philadelphia's, have found that expediting drug cases *reduced* the percentage of drug cases going to trial.

■ In several jurisdictions, there has been strong initial and sometimes continuing resistance to the drug courts from the defense bar (primarily the public defender). In “speedy trial” or “fast-track” drug courts, defense concerns have centered around placing defendants under inordinate time pressure to accept pleas, having inadequate time to prepare motions and assess the State's case against their clients, and a perceived lack of time to develop possible detention, disposition, or sentencing alternatives. Defense attorneys may “test” the firmness of motion and trial deadlines in the fast-track courts.

■ In New York City, where adjudication in drug courts is optional for felony drug offenders, there has been continuing underutilization of the drug court, as the majority of defendants refuse to waive their grand jury rights, reject the early plea offer from the prosecutor, and seek a trial through regular adjudication mechanisms. For drug courts that do not process all the drug cases in the jurisdiction, the number of drug court dispositions, as a percentage of *all* disposed drug felony cases, is a measure of the “coverage” of the drug court. An evaluation of the New York drug courts found that only 37 percent of felony drug cases reached final disposition in an “N Part,” although there was substantial variation by borough and disposition type.

Interestingly, the research in New York found that defendants whose sample arrest was processed through an “N Part” were more likely to be disposed in an “N Part” for a drug felony rearrest. Among defendants rearrested on felony drug charges within 2 years of their sample arrest, 28.7 percent of the sample “N Part” cases were again disposed in “N Part” at rearrest, compared to only 15.7 percent of sample non-“N Part” cases. This difference held after controlling for prior conviction record, the sanction type imposed on the sample arrest, or the disposition of rearrest.

EVALUATIONS OF SPECIAL DRUG COURTS

Because special drug courts are a relatively recent innovation, evaluative information about their impact and cost-effectiveness are only just beginning to emerge. To date there have been outside evaluations of the drug courts in New York City, Miami, Chicago, Philadelphia, and Milwaukee. In addition, the local jurisdictions in Berrien County, Michigan; Oakland, California; and Portland, Oregon, have issued descriptive internal assessments of the operations of their drug courts. Also, researchers at The American University, in Washington, D. C., and the Jefferson Institute for Justice Studies, in Alexandria, Virginia, have been studying the implementation and operation of the Differentiated Case Management and Expedited Drug Case Management Programs for the past several years.

Below is a summary of the major results of some of the research studies of special drug courts:

A recent American Bar Association (ABA) report, *Strategies for Courts to Cope with the Caseload Pressures of Drug Cases* (1991), evaluated four distinct court management techniques for handling large felony drug caseloads. The four courts included in the study were Cook County (Chicago), Milwaukee, Philadelphia, and Dade County, Florida. Whereas the first three have as their primary goal the rapid processing of drug cases, Dade County focuses on drug treatment aimed at reducing both drug use and recidivism. The ABA also conducted a separate, more in-depth study of the operations of the Cook County Night Drug Court.

The study examined several key issues concerning attempts to reduce court delay caused by large influxes of felony drug cases: Do strategies to speed case processing affect the “quality of justice” (distribution of dispositions/sentences)? Are strategies aimed at drug treatment, rather than at reduced processing time, successful in decreasing recidivism? And, are gains made by such strategies offset by changes in the processing of nondrug felonies?

The findings indicated that the “speedy disposition” courts achieved more rapid processing of drug cases, and that this can be accomplished without isolating drug cases. Philadelphia initiated a tracking system to address the backlog of both drug and nondrug cases, and attained disposition time reductions for all case types. The Pierce County (Tacoma), Washington DCM program focused on drug cases at first, but later expanded to include sexual assault, and then all case types. The experiences of Cook County and Milwaukee, suggested, however, that the segregation of drug cases in special courtrooms, combined with sound case management techniques, can speed up the disposition of both drug and nondrug cases. In Philadelphia, the median number of days to disposition of drug cases was reduced from 294 to 158 (and from 211 to 143 days for nondrug cases); in Milwaukee the median dropped from 253 to 117 (and from 196 to 154 days for nondrug felonies); and in Chicago the implementation of night drug courts reduced the median days to disposition from 245 to 69 for drug cases (and from 215 to 170 days for nondrug cases).

The ABA study also concluded that more lenient sentences were associated with quicker dispositions. In Philadelphia, shorter average prison sentences were imposed more often after the introduction of the DCM system. Similarly, Chicago had an increase in the use of probation sentences and a decrease in prison sentences. Only Milwaukee showed no evidence of changes in sentencing patterns with the introduction of the speedy trial drug court.

Although some critics have argued that paying special attention to drug cases drains needed resources from the adjudication of serious nondrug felonies and can, therefore, result in slower disposition times and pending case backlogs for nondrug cases, the ABA findings suggest that “fast-track” drug courts can yield reduced processing time for both drug and nondrug cases. The use of special procedures or dedicated courtrooms to deal with drug cases appears to help improve the management of all types of felony cases.

The ABA study was somewhat reserved in its conclusions regarding the efficacy of the Dade County drug court in reducing drug use and recidivism. Their data on recidivism were based on all cases assigned to the drug court, while only one-third to one-half actually entered a treatment program; therefore, any effects of treatment may have been concealed by use of this larger sample. Time at risk for rearrest also was not considered when examining recidivism in the ABA study. However, a more recent outside evaluation, using quasi-experimental techniques, found that recidivism rates after 18 months under drug court supervision (28 percent for any offense, and 11 percent for a drug offense) were about half the rates for a comparable group of offenders from a period before the drug court opened. Also, drug court defendants had a longer time before rearrest and were arrested for less serious offenses.

Researchers at the New York City Criminal Justice Agency in Manhattan recently completed a BJA-funded evaluation of the impact of New York's "N Parts." The New York study examined the drug court effects on disposition times, case outcomes, recidivism rates, and court processing costs. A summary of those findings follows:

Time to Disposition

Consistent with the ABA report findings and research on the DCM and EDCM programs, cases processed through New York City's "N Parts" had significantly faster processing times compared to similar cases adjudicated through regular court parts. Among cases reaching final disposition in the lower court, time to disposition for "N part" cases was 48.9 days, compared to 115.9 days for other court parts. Recognizing that some of the differences in processing time may be attributable to differences in case or defendant characteristics, multivariate analyses were used to test the independent effect of court part, when controlling for borough, prior felony convictions, and release status. These analyses support the earlier conclusions: court type was the best independent predictor of processing time. The model indicated that "N part" processing reduced time to disposition by approximately 85 days, when other factors were held constant.

The time to disposition for New York City "N Part" cases disposed in Superior Court should, by

definition, be much shorter compared to other court parts, since arraignment and felony plea normally occur on the same day. "N Part" cases that received felony dispositions in Superior Court had an average processing time of 13.6 days, non-"N part" cases averaged 151.5 days. The independent effects of court type were tested using regression models with results similar to those found for the lower court—processing through the "N Part" reduced time to disposition by 136 days for cases disposed in Superior Court.

Recidivism Rates

In general, there were no systematic differences in recidivism patterns between defendants processed through "N Parts" on the sample arrest and those processed through other court parts. Within 2 years of the sample arrest, 53.5 percent of the "N Part" cases and 50.9 percent of those processed through other parts were rearrested. "N Part" cases had a slightly higher rate of drug felony rearrest (37 percent) compared to non-"N Part" cases (33.5 percent). Nondrug felony arrest rates were similar in "N" and non-"N Part" courts.

However, after controlling for time at risk for rearrest, the research revealed that non-"N Part" defendants had significantly higher annualized arrest rates than did "N part" defendants. This most likely reflected the lower amounts of street time for non-"N" defendants. The mean adjusted annual number of rearrests for non-"N Part" cases was 5.6, while for "N Part" cases the number was 3.3. Drug felony rearrests averaged 1.6 per year at risk for "N Part" cases, and 3.9 for other court parts. Similar patterns were evident across rearrest charge type.

Multivariate analyses of recidivism suggested that "N Part" processing had little independent effect on the likelihood of rearrest. The specialized, more rapid handling of felony drug cases in the "N Parts," and the more lenient sentences, apparently did not result in higher rearrest prevalence.

Processing Costs

Although "N Part" sample cases were processed more rapidly than non-"N Part" cases, differences in the handling of rearrests may have been such that, over

time, differences in processing costs were eliminated. Thus, a comparison of sample case and rearrest processing costs between “N parts” and other court parts, provides an estimate of the long-term costs of “fast-track” type drug courts.

The average overall cost of “N part” sample cases was approximately one-third the cost of standard processing (\$9,705 vs. \$26,227). When costs associated with incarceration time were excluded, “N Part” processing was only one-tenth as costly as that of non-“N Part” (\$453 vs. \$4,618 per case). For cases disposed in Superior Court, the differences were even greater.

The average rearrest costs also were substantially lower for sample arrest “N Part” cases, even though the prevalence of rearrest was roughly equal for “N Part” and non-“N Part” cases. The average total processing cost for the sample case *plus* the first rearrest for “N Part” cases also was about one-third that of non-“N Part” cases (\$12,367 versus \$36,564).

SOURCES FOR FURTHER INFORMATION

Dedicated Drug Courts

Berrien County (St. Joseph), Michigan

This jurisdiction modified its Differentiated Case Management program to include a court-monitored treatment program for drug cases in one of the DCM tracks. The drug court in turn has five adjudication tracks based on case complexity, type of drug charge, and the defendant's need for treatment. Prosecution is deferred if the defendant enters the treatment program and successful completion of the treatment program results in dismissal of the original charges.

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Broward County (Fort Lauderdale), Florida

Broward County's Drug Court, which began in July 1991, includes a 1-year outpatient drug treatment program for first time offenders charged with felony drug possession. Defendants must plead guilty and are placed on probation; successful treatment completion results in a termination of probation. Defendants appear in court on a regular basis for status hearings. The court and treatment program use a system of "rising interventions" in which more intensive supervision and treatment are ordered following relapse. Continued relapses may result in short periods in a jail-based or residential treatment program.

Contact:

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305-357-7095

Cook County (Chicago), Illinois

The Cook County Drug Court is unique in that it operates as a night court, operating between the hours of 4:00 p.m. and 11:00 p.m. each weekday. This "fast-track" program was established in October 1989, with five courtrooms; currently there are eight. The drug court was created to help alleviate crowded felony dockets and large pending drug caseloads. Most defendants are sentenced to probation and there is limited drug treatment available.

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Dade County (Miami), Florida

Dade County's Drug Court, established in June 1989, channels defendants arrested on felony drug possession charges into its court-run Diversion and Treatment Program. The program lasts 1 year and provides treatment and case management services including counseling, acupuncture, fellowship meetings, education, and vocational services, combined with strict monitoring through urine testing and regular court appearances. Defendants who successfully complete the program have their cases dismissed.

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Maricopa County (Phoenix), Arizona

Contact:
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Milwaukee, Wisconsin

Milwaukee's two Drug courts, implemented in May 1990, were designed to process cases through to disposition within 90 days of arraignment. Early discovery exchanges are a crucial component of the Speedy Trial Drug Courts, since plea offers are made within 7 days of arraignment. By the 10th day, dates are set for motions and trial: the trial date is within 2 months of this appearance. The Drug Courts have had positive effects in reducing processing time and backlog for both drug and nondrug cases. The Milwaukee program also includes a Victim (neighborhood) Impact Statement that informs the community of upcoming sentencing dates in an effort to involve the community in drug case prosecution and to change community attitudes. Drug treatment is not part of Milwaukee's Speedy Trial Drug Courts.

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Mobile, Alabama

Contact:
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Mobile County Courthouse
Mobile, AL 33602
205-690-8474

Multnomah County (Portland), Oregon

Multnomah County's S.T.O.P. (Sanction, Treatment, Opportunity, Progress) Program was initiated in August 1991. Defendants charged with felony possession of a controlled substance can participate voluntarily in this treatment program, which lasts approximately 1 year. The program, much of which is tailored to suit the individual needs of each participant, is divided into four phases. In addition to monthly status hearings, the program includes random urinalysis, acupuncture, group counseling, and concludes with a Life Management and a Guidance Phase, to ensure easy transition out of the program. Participants also are required to attend Narcotics Anonymous and/or Alcoholics Anonymous meetings. Defendants who successfully complete the S.T.O.P. Program have their criminal indictments dismissed.

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New York City, New York

New York City's criminal court system operates four "N Parts," one in each of the largest boroughs of New York City. All drug felony cases, regardless of the charge severity or the defendant's prior criminal record, are adjourned to an "N Part" 5–10 days after the initial arraignment for possible disposition by plea. The prosecutor's "best" plea offer is made at that time, and the defendant usually must accept the plea offer that same day or face possible indictment and felony trial through regular felony court processing routes. If the plea offer is accepted by the defendant, he or she waives the right to a grand jury hearing, and pleads guilty to a Superior Court Information, usually within 2 or 3 weeks of the arrest.

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Oakland, California

Oakland's FIRST (Fast, Intensive, Report, Supervision, Treatment) Program, implemented in January 1991, directs less serious felony drug offenders into treatment administered by the County Probation Department. Diversion is generally granted within 2 days of a defendant's release from custody, and lasts for up to 2 years. The FIRST Program uses progressive sanctions to reward program compliance and punish noncompliance, with the severity determined by the seriousness of program failure. The program is divided into three phases: Diversion Placement, Intensive Evaluation and Supervision, and Final Supervision and Treatment. Treatment includes group probation sessions, educational sessions, regular

urinalysis, and a community counseling program. Successful program completion may mean the dismissal of the defendant's case, or reduction to as little as 9 months in the diversion term.

Contact:

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Oakland-Piedmont-Emeryville Municipal Court
661 Washington Street
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Washington, D.C.

Washington D.C.'s Drug Intervention Project, proposed by the Superior Court of the District of Columbia and scheduled to begin in Fall 1993, would require judges to oversee and encourage defendants' participation in drug treatment through incentives and immediate consequences for failure to comply. Along with this intervention, the project would centralize treatment services in the courts. The project includes a Graduated Sanction regimen, in which sanction severity increases by the number of positive drug test results, and an Enhanced Treatment Program with four levels of intervention ranging from drug testing, day treatment, and a residential substance abuse treatment program.

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Differentiated and Expedited Drug Case Management Programs

Philadelphia, Pennsylvania

Philadelphia's Expedited Drug Case Management (EDCM) Program channels defendants into four tracks, one of which is for cases eligible for diversion from trial or for disposition at arraignment. Drug cases, generally processed through this track, are referred by the County Department of Probation and Parole, which works toward expanding alternatives to incarceration and community-based correctional services. The Probation Department also has established

the Drug Offender Work Program (DOWP) for defendants with low levels of drug involvement and less serious criminal histories.

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Pierce County (Tacoma), Washington

The initial goals of Pierce County's Drug Case Management (DCM) Program included the promotion of the speedy disposition of drug cases and the reduction of jail crowding. Although at the time of its creation in July 1988, the program handled only felony drug cases, by April 1990, it had expanded to include sexual assault cases and the rest of the criminal docket. Under the Pierce County DCM Program cases are assigned to specific tracks based on case complexity. Since the program required that the court take over case calendaring, previously under the control of the prosecuting attorney, the DCM Program served to establish the court's scheduling, management, and monitoring functions. In addition to greatly reducing case processing and pretrial detention time, the DCM Program has significantly decreased the number of bench warrants issued (by 50 percent) and has increased staff efficiency.

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Ramsey County (St. Paul), Minnesota

In December 1990, a special fast track for drug cases was implemented as part of Ramsey County's Differentiated Case Management Program. Recommendations for the Fast Track Programs are made 2 weeks after arraignment, depending on results of drug tests and record checks, and sentencing occurs 4 weeks later. If approved for treatment, the defendant is sent to a 1-year treatment facility, with defendants serving jail time sent to the treatment facility upon release. Fast Track supervision lasts from 120 to 160 days, and involves special case management services including urinalysis, unscheduled contacts, and 1-year followup supervision. Violations of probation are responded to quickly and are strongly sanctioned.

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Ramsey County Courthouse
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Wayne County (Detroit), Michigan

Detroit's DCM Program uses five tracks, each with additional subtracks. In general, the faster track cases are those carrying lesser penalties under Michigan's sentencing guidelines.

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