

144534

**U.S. Department of Justice
National Institute of Justice**

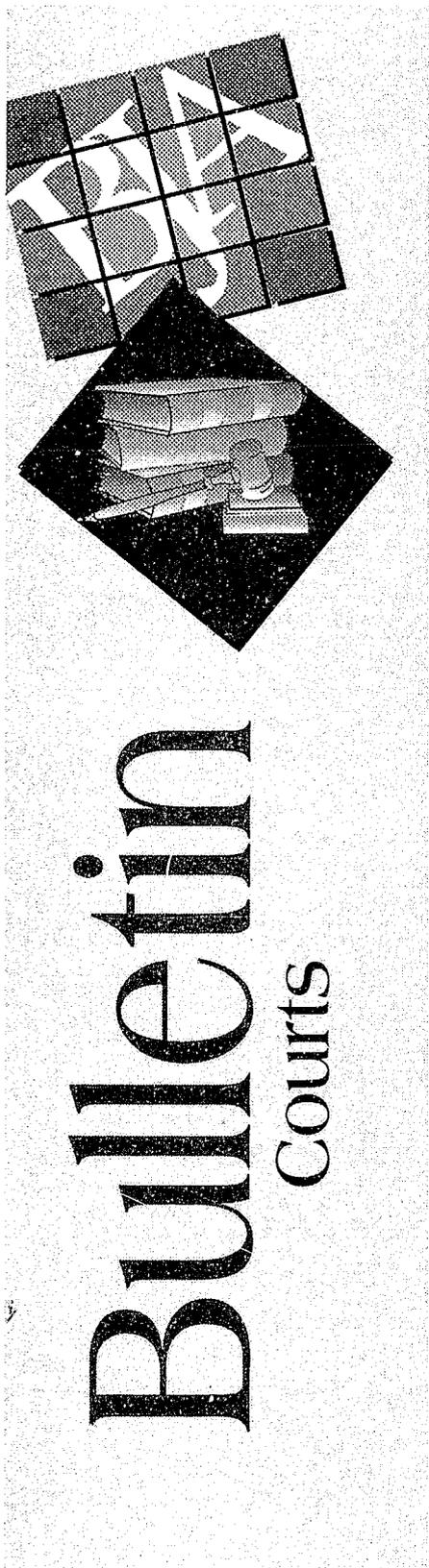
This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this [REDACTED] material has been granted by

Public Domain/OJP/BJA
U.S. Department of Justice

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the [REDACTED] owner.



Expedited Drug Case Management

Caroline S. Cooper, The American University

The influx of drug cases during the past decade has forced many judicial systems to reexamine existing methods for managing the criminal docket and to consider special strategies for handling drug cases. Central to this examination has been the recognition that effective management of the drug caseload and supervision of drug-involved offenders require early judicial intervention and flexible case management approaches. Such approaches permit judges to tailor applicable sanctions and treatment intervention strategies to individual offenders.

Several judicial strategies to deal with the drug caseload and the drug-involved offender have been developed based on this recognition. These strategies have included special drug court divisions within trial courts, expedited case processing procedures, deferred prosecution programs requiring court-supervised treatment and counseling, increased coordination of the treatment and supervision functions within the adjudication process, and various combinations of these approaches. All of these strategies are based on early case screening to determine the degree of judicial supervision required for disposition and early treatment intervention, where feasible, to promote the rehabilitation of offenders and lessen the likelihood of continued drug usage and criminal activity.

Although these strategies vary among jurisdictions, their underlying premise is that drug cases present special case management and treatment intervention issues that courts must address. The most significant of these issues include:

- The need to manage a large number of cases that vary considerably in the severity of potential applicable sanctions, which generally predict the level of management simplicity—or complexity—of the case disposition process.
- The large number of drug cases that involve possession of relatively small amounts of illicit substances.
- The frequency of pretrial motions to challenge initial stops or suppress seized evidence, the outcome of which often determines the outcome of the case.
- The universal need for laboratory analyses for prosecution purposes.



Differentiating Between EDCM and DCM

EDCM, or Expedited Drug Case Management, builds upon DCM, or Differentiated Case Management.* Underlying both is a recognition that many cases can—and should—proceed through the court system at a faster pace than others if appropriate pathways are provided. Therefore, in both systems cases do not wait for disposition simply on the basis of the chronological order of their filing.

Both EDCM and DCM use similar case management procedures. However, whereas DCM can be used to manage all types of criminal cases, EDCM is designed specifically for drug cases, and therefore its emphasis—in addition to management—is on drug treatment, counseling, and rehabilitation. The three EDCM demonstration programs described here applied these common practices:

- Early screening of each drug or drug-related case and classification according to the complexity and priority of case processing.
- Simultaneous early screening of each defendant to determine the extent of drug dependency, the need for educational and vocational training and other rehabilitation services, and eligibility for and amenability to treatment and other community-based supervision programs.
- Assignment of cases to appropriate case processing tracks, each of which had special provisions for court events and treatment intervention strategies as well as timeframes for their occurrence.
- Continuous monitoring of the case disposition process, with track reassignment if necessary.
- Continuous monitoring of each defendant's compliance with pretrial and postadjudication conditions of release, with the court's response to violations designed to reinforce defendants who were making an effort to become rehabilitated and sanction those who were not.
- Coordination of existing treatment, vocational, educational, and other community resources for drug case supervision, both pretrial and postadjudication, and development of additional resources, as needed.

* For a detailed description of BJA's DCM Demonstration Program, see the BJA Program Brief *Differentiated Case Management*.

■ The importance of the court's immediate intervention for both treatment and sanctioning purposes.

■ An increasing recognition that drug use is an illness that requires treatment as well as sanctions.

These special characteristics have made it essential that the adjudication and disposition components of the judicial process be closely linked and that dispositional alternatives, including early assessment of defendants' treatment needs, be identified as soon as possible after the adjudication process begins.

Effective management and disposition of the drug caseload has, therefore, required courts to conduct early screening of each case to differentiate between:

■ Defendants eligible for and amenable to treatment and rehabilitation and those who are not.

■ Cases that can be processed fairly quickly and those that require more extensive court supervision.

In performing these functions, many courts have assumed the role of treatment facilitators in addition to their traditional adjudication roles. They have also coordinated services among a number of agency personnel who are involved at various stages of the adjudication and disposition process. These personnel have included police officers, prosecutors, laboratory analysts, defense counsel, pretrial and postadjudication supervision authorities, and treatment providers. Developing mechanisms to coordinate services among agencies that have traditionally been independent, and in some instances adversarial, has presented a major



challenge to most judicial systems. The Bureau of Justice Assistance (BJA) has attempted to address these issues through its Expedited Drug Case Management (EDCM) Demonstration Program.

Expedited Drug Case Management Demonstration Program

In 1989 BJA launched the Expedited Drug Case Management Demonstration Program to help State courts of general jurisdiction address the special management and treatment intervention issues presented by the drug caseload and the drug-involved offender. The goal of the EDCM demonstration program was to develop, pilot test, and refine Differentiated Case Management (DCM) techniques for processing drug cases and, in addition, to incorporate a variety of treatment and rehabilitation services in the case disposition process, both pre-trial and postadjudication. Three jurisdictions, each with a different approach for managing the drug caseload, were selected by BJA to develop EDCM programs that could be adapted by other jurisdictions. These jurisdictions were Middlesex County (New Brunswick), New Jersey; Multnomah County (Portland), Oregon; and Philadelphia, Pennsylvania.¹

Benefits That Can Be Achieved Through an Expedited Drug Case Management Program

The three EDCM demonstration projects confirmed the benefits of

¹ Although BJA's EDCM Demonstration Program focused initially upon these three sites, its principles were quickly adapted by a number of other jurisdictions that received limited technical assistance from BJA.

applying DCM techniques to the drug caseload as well as the importance of developing management systems to promote early screening and treatment intervention for all drug-involved defendants as soon as possible after arrest.

Courts using EDCM strategies have been able to improve their capacity to control the caseload shortly after filing, to develop individualized treatment intervention and sanctioning strategies, and to ensure that the court's intervention proceeded in a timely and effective manner. Some of the other benefits reported by jurisdictions adopting EDCM strategies include:

Although these strategies vary among jurisdictions, their underlying premise is that drug cases present special case management and treatment intervention issues that courts must address.

- Increased court efficiency.
- Increased productivity of judges, prosecutors, indigent defense counsel, and their staffs.
- Reduction in the number of defendants who fail to appear and in the number of bench warrants that must be issued.
- Reduction in pretrial jail days used for detained defendants.
- Reduction in costs for pretrial detention.
- More effective treatment services for offenders.

In addition, the communication mechanisms and coordination of services forged among agencies implementing EDCM programs

have contributed to a more collegial approach to the management of drug cases and to a greater awareness among the various agencies of the interdependency of their functions.

Key Components of the Program

The three EDCM demonstration programs used a range of case management and treatment intervention strategies that promoted early and continuous court supervision. Although the operational characteristics of these strategies varied among jurisdictions, the programs built upon nine key components, which are described below.

Case differentiation criteria. The EDCM programs established the factors to be used to determine case processing priority as well as the level of preparation and amount of court intervention required to achieve a timely and just resolution of each case. The case differentiation criteria used in EDCM programs related to case characteristics, defendants' backgrounds, potential severity of sentencing, and public policy priorities.² EDCM program criteria commonly distinguished among cases involving:

- Possession of small amounts of controlled substances versus more serious drug offenses such as conspiracy, delivery, and trafficking.
- Single defendants versus multiple defendants.
- Severity of the potential sentence, including distinctions

² These criteria were modified to comply with local drug statutes and prosecutorial priorities.



between defendants eligible for deferred prosecution, if that option was available, and defendants subject to mandatory incarceration.

■ Violent versus nonviolent offenses.

Case-processing tracks and procedures. The EDCM programs created a sufficient number of case processing tracks (generally between three and five) to accommodate the disposition requirements of the caseload. In addition, events and time intervals were identified for each track to promote fair and efficient case disposition and meaningful supervision of defendants. The case processing procedures for each track allowed the court to intervene soon after arrest to ensure that each case was managed expeditiously and that the arrest resulted in an immediate sanction and/or treatment for each eligible defendant in a rehabilitation program. The track procedures supported the court's responsibility for monitoring defendants' compliance with conditions of pretrial release and provided for immediate court intervention when violations occurred.

Early defendant screening for substance abuse dependency. The EDCM programs evaluated each defendant charged with a drug-related offense as soon as possible after arrest to identify the extent of drug dependency, amenability to treatment, and support services needed to promote rehabilitation and minimize the likelihood of recidivism. This comprehensive assessment provided the framework for determining the treatment and other community resources needed to support rehabilitation. Ideally the assessment was

completed before the defendant's first appearance in court so that the results could be incorporated into the conditions of release.

Pretrial release and alternative sanctioning. From a judicial perspective, the EDCM program involved substantially more court-supervised treatment and support services than other criminal case processing programs. Judges tailored the conditions of pretrial and probationary release for each defendant and then monitored performance after those conditions

were imposed. In addition, services had to be carefully monitored to be sure that the changing needs of each defendant were met. Judges frequently conducted routine status conferences face to face with defendants to discuss overall progress as well as specific problems that warranted additional court services.

Coordination between the court and treatment providers. Developing a cooperative relationship between the court and treatment providers was one of the most

Middlesex County

Tracking Drug Cases Through EDCM

Within 5 days of an arrest, the Middlesex County EDCM program assigned drug cases to one of two tracks: track A for cases subject to mandatory incarceration penalties, and track B for other drug cases. Track A cases that were not disposed of by plea within the first 2 weeks after filing were referred to the grand jury for indictment within 21 days and then scheduled for trial 45 days later. Track B cases that were not disposed of within the first 2 weeks following arrest were assigned to a third track, track C, for trial on an information (that is, an accusation sworn by the prosecutor) within 30 to 45 days.

Regardless of track assignment, all defendants eligible for pretrial release appeared within 1 week of arrest before the EDCM judge, who imposed conditions of release tailored to the treatment and rehabilitation needs of each defendant. These release conditions included regular urinalysis, drug counseling, obtaining or retaining employment, and perhaps family counseling and educational or vocational training.

The pretrial release conditions were closely monitored by probation department staff, who were helped by a cadre of volunteers who performed

daily telephone verification with employers and counselors. Defendants who violated any of these conditions were immediately apprehended and brought before the EDCM judge for a preconviction hearing. The EDCM judge reviewed defendants' performance, modified the conditions of release as necessary to promote rehabilitation (such as increasing the frequency of urinalysis or making referrals to enhanced treatment programs), and attempted to motivate defendants to become drug free.

One unique feature of the Middlesex County EDCM program was the network of community resources the EDCM judge developed to assist the court in monitoring the conditions of release. During the pretrial and postadjudication periods, the EDCM judge had access to a job bank to which released defendants could be referred, a network of mentors for defendants and their families, and tutoring assistance for defendants. A community restitution program was also established through which convicted criminals could be required to perform work for community agencies that were immunized, through special legislation, from civil liability arising from their participation in the restitution program.



important aspects of the EDCM program. Critical to this relationship was the development of common goals and objectives that ensured that the court and treatment providers were not adversaries, using different criteria to judge the success or failure of defendants. Also critical were communication mechanisms that were established for treatment providers to report regularly on each defendant's progress to the court.

Through these communication mechanisms the court set down the conditions for a defendant's performance, such as urine tests, participation in treatment and counseling programs, and employment.³ The court also measured performance against the objective information reported by the treatment provider and determined how violations were to be treated. The court and treatment providers talked with one another regularly about the operation of the EDCM program and the methods by which each could reinforce the work of the other.

Mobilization of community resources. The EDCM programs depended on a broad network of treatment and community resources such as religious organizations, educational institutions, treatment providers, business and industrial representatives, and individual volunteers. Services provided included education, treatment, employment,

³ Urine test results, sufficiently frequent to provide a continuing profile of defendant performance, were considered the most important information for the court in its monitoring function, supplemented with other objective data available to measure defendant compliance with the requirements of his or her rehabilitation program.

community restitution, and individual and family mentoring. Judicial officials mobilized resources in the community to support their treatment intervention strategies for drug-dependent defendants and promoted regular communication between the judicial system and community representatives.

To help citizens understand the efforts the court was making to combat drug abuse, some judicial officials attempted to educate

Courts using EDCM strategies have been able to improve their capacity to control the caseload shortly after filing, to develop individualized treatment intervention and sanctioning strategies, and to ensure that the court's intervention proceeded in a timely and effective manner.

community groups about the relationship between the court and the community in combating substance abuse. This dialog also helped the court understand community concerns and priorities.

Mechanisms for interagency coordination. The EDCM programs coordinated the functions of the agencies involved in the case disposition and defendant rehabilitation process and established mechanisms for communication. Frequent consultation between the court and the service agencies occurred from the time EDCM program planning began. Relevant information was shared, interdependent roles were established,

and a commonality of purpose was developed. Some jurisdictions established special coordinating groups that met periodically to address these issues.

Program management and monitoring. Judicial officials ensured that cases proceeded to disposition according to applicable procedures and timeframes by seeing that resources for the adjudication, rehabilitation, and supervision of drug-involved offenders were available when needed and that the court intervened promptly when violations of conditions of pretrial and probationary release occurred. Information on the status of each drug case and each defendant was readily available to the court. This information was compiled from criminal records, treatment provider files, social service histories, and case processing records. Staff were given responsibility for coordinating the delivery of adjudication services, monitoring case progress, and ensuring that treatment and other rehabilitation services were provided when needed. Most jurisdictions developed specially designed management information systems to accomplish these tasks.

Constant monitoring of the EDCM programs permitted judicial officials to assess the degree to which program goals were achieved, to address operational problems as they occurred, to resolve policy issues as they arose, and to fine-tune program procedures as needed.

Judicial system leadership. Judicial leadership in designing and overseeing the EDCM programs was essential in all three demonstration jurisdictions. With their multiple case-processing tracks, expedited procedures for intervention and



supervision, and coordination among judicial and treatment agencies, EDCM programs required local justice and treatment agencies to change their operations significantly. For example, courts had to alter their case-assignment practices, laboratories had to devise new procedures for prioritizing analyses, and treatment providers had to modify their protocols to accommodate court reporting requirements.

By designating one judge to oversee the program and working with the justice system and other agencies to implement it, jurisdictions increased the likelihood that

program procedures would be applied consistently. Some courts began their drug case management and intervention programs by having one judge, with specially assigned prosecutors and indigent defense counsel, to handle all EDCM cases. After an initial test period, some jurisdictions rotated responsibility for overseeing the EDCM program to other interested judges.

Implementation Agenda

Implementation of an EDCM program can help jurisdictions to

manage their caseloads and initiate immediate treatment and other rehabilitative measures for defendants released during the pretrial period, thereby maximizing the likelihood of rehabilitation. Following is a description of the primary tasks involved in implementing an EDCM program.

Determine who should be involved in planning the program.

Once a court has made a commitment to adopt the EDCM process, the agencies and individuals integral to adjudication and treatment referral need to be identified and involved in program planning. At a minimum, these include the chief judge, the presiding criminal judge, the court administrator, the prosecutor, the indigent defense service provider, the sheriff, pretrial and probation agencies, county health department officials, and treatment program representatives. Jurisdictions with TASC (Treatment Alternatives to Street Crime) programs should contact them in defining overall program needs.

Develop a Differentiated Case Management program for case processing purposes.

Those individuals who are involved in the adjudication aspect of drug cases should develop a Differentiated Case Management system to create an adequate range of case processing tracks, with applicable procedures and timeframes, to address the range of disposition procedures for the drug cases filed.

Identify treatment and other community resources needed to implement the court's treatment intervention strategies.

Simultaneously with the development of a DCM program for case processing purposes, a list should be

Multnomah County

Integrating Case Processing and Treatment Services

The Multnomah County EDCM program established three case processing tracks:

■ A deferred prosecution track (called the STOP program), to which eligible defendants were assigned within 3 days of arrest for a period of 1 year. Managed by a specially assigned judge, this track allowed defendants to complete a treatment program that included drug education, counseling, and other community support services.*

■ A track for defendants who were charged with drug offenses but were not eligible for deferred prosecution, either because they were terminated from the STOP program for noncompliance or because they faced other pending charges.

■ A track for defendants, most of them drug dependent, who were charged with drug-related offenses (primarily property).

Different court events and timeframes applied to each track, with referral to a variety of pretrial and probation treatment, counseling, and other community-based assistance programs incorporated into all of them, and playing a central role for the STOP program cases.

One unique feature of the Multnomah County program has been the integration of the deferred prosecution track with the other case processing tracks. If a defendant is terminated from the deferred prosecution program for noncompliance, that person's case is referred to the applicable case processing track for immediate disposition.

* Special case processing tracks for cases eligible for deferred prosecution such as those implemented in Multnomah County are frequently called "drug courts" and are being used in a number of jurisdictions.



compiled of the principal treatment providers and others in the community who can provide supervision, counseling, vocational training, education, job placement, and other services to drug-dependent defendants and their families. In addition, other community groups that can supplement and/or coordinate these services need to be involved in the program design and operation. These may include religious groups, local educational institutions, and business organizations that can provide a network of community volunteer resources to support the court's supervision, referral, and monitoring needs.

Develop a mechanism to coordinate and expand community resources that can be enlisted to support the court's program goals.

The court should develop a mechanism for identifying and coordinating the community resources needed to support the program. To perform this function, a member of the court staff or a staff person of a participating agency might be designated to develop educational materials describing the court's EDCM program, coordinate community resource needs with existing program capabilities, and prepare a catalog of available resources.

Develop a management information system to manage and monitor the program. Information from a variety of justice agencies and other sources will be needed for defendant screening, case tracking, monitoring, treatment referral, and overall program evaluation to ensure that program goals and objectives are being achieved. In some jurisdictions, initial information system development proceeded through use of personal computers.

Philadelphia

Expanding EDCM to the Criminal Docket

The Philadelphia EDCM program targeted felony cases assigned to the Waiver Division of the Court of Common Pleas, which handled approximately 70 percent of the court's criminal caseload. In general, cases assigned to the Waiver Division were the less serious felony cases—almost all of which involved drug offenses and drug-involved offenders—and were tried before the bench rather than a jury.

Initially, four case processing tracks were established. Tracks A and B targeted incarcerated and nonincarcerated defendants, respectively, whose cases were deemed amenable to disposition at arraignment or shortly thereafter or who were eligible for diversion or immediate treatment referral. Track C was

for defendants with multiple cases pending who were offered an opportunity to dispose of all of their pending cases in a consolidated plea agreement. All other cases were assigned to Track D.

After the first year, the EDCM program was expanded to the rest of the criminal docket by creating three additional tracks. Regardless of track assignment, each defendant was screened shortly after arrest to determine the extent of drug usage, to assess the amenability to treatment and rehabilitation services, and to identify potential treatment and other referral programs that could be brought to the attention of the EDCM judge as soon as the defendant appeared in the Court of Common Pleas.

Ensure adequate interagency coordination, management, and program support. The court should take the lead in ensuring that adequate mechanisms are developed to promote ongoing coordination among all agencies involved and resolve coordination problems as they arise. The court will also need to ensure that community involvement is focused on areas that pose no legal or other liability to participants and that defendants who require the help of trained professionals receive those services.

Provide orientation sessions and ongoing training for agency staff, volunteers, and community groups. A variety of orientation programs and ongoing training workshops, geared to the range of individuals involved with the EDCM program, are essential to ensure that everyone understands the

goals, policies, and procedures of the EDCM program and the relationship of its specific role to achieve the program vision. Topics to be covered include specific policies and procedures required for program operation, evaluation measures, and issues relating to interagency coordination.

Conduct ongoing program assessment and fine tuning, as needed. Any program that seeks to expedite the court's management of drug cases and treatment intervention for drug-involved offenders needs to be dynamic and flexible, responding to changes in caseload and defendant characteristics, public policy, and treatment and sanctioning requirements. Program operations and defendant treatment needs and sanctions imposed should be monitored continuously to identify problems



in program policies procedures, or resources as they arise; recommend required changes; and provide periodic reports on the efficacy of the program to all agencies involved.

Conclusion

The range of case differentiation and treatment intervention programs that courts have been designing demonstrates that, despite the increase in volume, courts can individualize case disposition and the sanctions imposed upon defendants. The variety of case management and treatment intervention strategies underway represents a unique period of experimentation and innovation in the case management process and in the relationships among justice system, treatment, and community service agencies. Despite their differences, all of these strategies build upon the collaboration—not

simply cooperation—of local criminal justice system officials and, frequently, many other local public and private agencies. This collaboration, together with the innovative procedures and programs developed, reflects a fundamental rethinking of the judicial function and the role that the court and the judiciary can play in the war on drugs.

Sources for Further Information

Publications on DCM and other crime and drug prevention efforts are available from:

BJA Clearinghouse
Box 6000
Rockville, MD 20850
Telephone: 800-688-4252
Fax: 301-251-5212

Additional information on Expedited Drug Case Management Programs can be obtained from:

Charles Hollis, Chief
Courts and Prosecution Branch
Bureau of Justice Assistance
633 Indiana Avenue NW.
Washington, DC 20531
Telephone: 202-514-5943

Caroline S. Cooper
Deputy Director
School of Public Affairs
Justice Programs Office
The American University
4400 Massachusetts Avenue NW.
Washington, DC 20016-8159

This document was prepared by The American University, supported by grant number 89-DD-CX-K023, awarded by the Bureau of Justice Assistance, U.S. Department of Justice. The opinions, findings, or recommendations expressed in this document are those of the author and do not necessarily reflect the official position or policies of the U.S. Department of Justice or The American University. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime.

NCJ #144534

U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

Washington, D.C. 20531

Official Business
Penalty for Private Use \$300

BULK RATE
POSTAGE & FEES PAID
DOJ/BJA
Permit No. G-91