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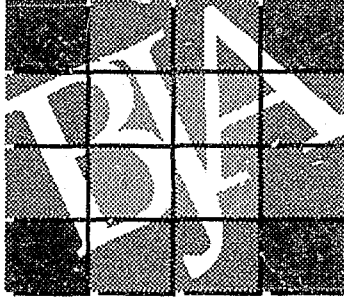
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Drug Night Courts: The Cook County Experience

147185

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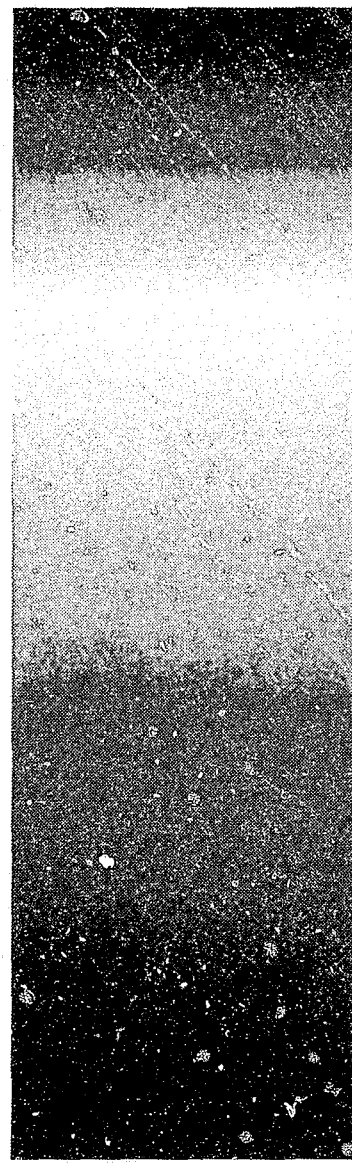
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MONOGRAPH

August 1994

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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.

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It is noteworthy that participation on the advisory board does not necessarily reflect total support for the concept of drug night courts. In particular, Randolph Stone, currently Clinical Professor of Law and Director of the Mandell Legal Aid Clinic, University of Chicago, and the Public Defender in Cook County when the drug night courts began, then opposed and continues to oppose the segregation of cases into such a court. However, he was invited—and he consented—to participate on the Advisory Board specifically so that his criticism could be heard.

BJA and the authors also acknowledge Arthur Lurigio and Susan Popkin of Loyola University, Chicago, for their efforts in observing court operations and assisting in the authorship of other publications on this topic; and Miki C. Akimoto of The Circle, Inc., for creating the worksheets and forms.

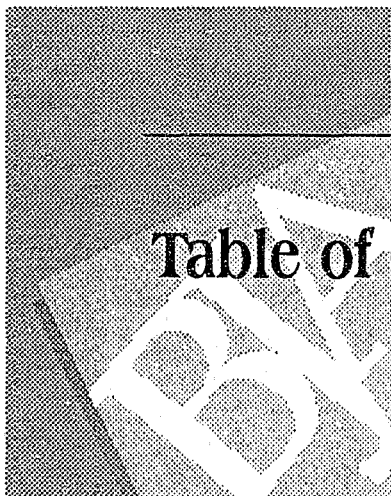


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Executive Summary

The drug night court program in Cook County (Illinois) Circuit Court began as an emergency measure to cope with rapidly expanding caseloads. In 1975, 6,000 felony cases were filed in the court. Two years later that number had more than doubled—to 14,000. In another 10 years, filings doubled again, to 28,000—and half that 28,000 were narcotics arrests.

When the County Board remained reluctant to add courtrooms, the court decided to try its own, hopefully temporary, solution: extending the hours of operation to make the existing physical facility do double duty. Because drug cases rarely require civilian witnesses, can be adjudicated quickly, and motions in them disposed efficiently, the court decided to limit the evening session to narcotics cases. Five drug night courts opened on October 16, 1989, and an additional three opened a year and a half later.

The Bureau of Justice Assistance (BJA) sponsored a research inquiry into the establishment of drug night courts and, by extension, into the establishment of extra-hours courts for special purposes generally. At that time, Cook County had the only existing example of a drug night court, although Los Angeles and Brooklyn had operated night felony courts earlier.

The study found that night operations can be quite efficient, with Cook County dramatically cutting processing time for drug cases. Innovative ways had to be found, however, to find quality staff to work the supposedly less desirable evening hours and to maintain high morale and efficiency. Those wishing to set up special night courts, however, must be vigilant to ensure that the quality of justice is not compromised. In Cook County, drug sentencing became more lenient, trials fewer (as opposed to pleas), and representation of defendants by private attorneys rather than public defenders less frequent.

The researchers recommend that those seeking similar results amid limited resources undertake a strategic plan that provides an overall vision for change and allows for actual changes to be made a step or two at a time rather than all at once. They stress that the specialized operation requires willing participation and active policy contribution by all principal participants—judges, administrators, prosecutors, the defense bar (both private and public), the sheriff's department, the probation office, drug treatment providers, and any labor unions involved.

Planning for the specialized operation should begin with an inventory and analysis of existing policies, followed by a determination of what new policies are required. The court must determine what types of cases it will hear, how it will handle problems of speedy disposition, what sentencing guidelines will prevail, how to manage guilty pleas without the appearance of "assembly-line justice," and what rules will govern the need periodically to reassign or realign staff assignments.

To avoid a worse backlog of cases than the one it was intended to solve, the specialized court will require workable intake controls and limits on individual workloads, such as limits on the caseload any one judge can accept.

One strong individual, usually the Chief Judge or Court Administrator, must lead in coordinated planning for the special court, but all the groups with key roles in the eventual operations—attorneys and accountants, deputies and doorkeepers—must be represented in the early decisionmaking if they are to function smoothly in the completed organization.

To avoid a worse backlog, the specialized court will require workable intake controls.

All who will work in the new court organization will require training to ensure they understand their roles and possess the required skills to fill them. A retraining plan must be formulated, likely requiring a new round of training whenever periodic staff rotation occurs.

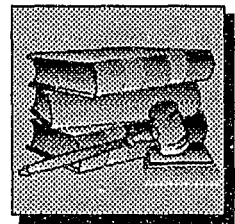
The court will need detailed knowledge of available drug treatment facilities and how defendants can be quickly and appropriately admitted to them. Without quick assessment for treatment needs, speedy disposition may become only a vain hope.

The court must ensure that all its personnel have needed access to criminal histories, probation records, and any other records required for efficient decisionmaking in its day-to-day operations. Computerized filing is ideal, but by whatever means, the important element is *access*.

This monograph also offers suggestions for evaluating the program. Ideally, outside researchers would report on the strengths and weaknesses of the plan finally implemented. A less costly alternative, a series of internal evaluations—one a few months after implementation, another 6 months later, and yet another a year later—may serve the needs for evaluation. An appendix to the monograph provides worksheets for the planning and recording of decisions from the origin of a specialized court through the selection of sources for long-term funding.

Introduction

The Nation's courts are coping with increasing criminal litigation. Many of these cases are drug cases resulting from increasing enforcement of laws against drug offenses. Major "sting" and "clean sweep" operations result in large numbers of concurrent cases flooding the courts—cases that already overcrowded dockets are ill-prepared to handle. Despite this explosion of litigation, resources of State courts—courtrooms, judges, prosecutors, and other staff—have remained relatively fixed.



Many who work in the courts have reexamined their methods of caseload management with an eye toward increasing the capabilities of the court to handle the increased filings. Court delay reduction techniques, such as differentiated case management and expedited drug case management, have proved successful by increasing disposition rates and addressing backlogs. However, improved case management alone may not be sufficient to respond to the overwhelming caseload.

The Need for Specialization

A growing number of jurisdictions have created special courts to handle only drug or drug-related cases. These include Houston, Miami, Milwaukee, New Orleans, New York City, and Seattle. Increasing the capacity of the court must take into account the availability of human resources as well as physical assets of the courts. Most obvious is the need for additional courtrooms, areas for juries and witnesses, and office spaces. Some jurisdictions that might like to add special drug courts on daytime schedules may find that costs for additional physical assets make this option economically prohibitive.

Increasing capacity must take into account human resources as well as physical assets.

Thus, an alternative to increasing court capacity through capital expansion is to extend the hours that existing courtrooms can be used. Establishing a specialized drug night court makes sense for a number of reasons:

- Removing narcotics cases from the overall caseload unclogs the felony trial backlog, allowing courts to allocate more time to serious felony cases.
- Narcotics cases often do not involve civilian witnesses or require jury trials, thus minimizing the need for additional space at the court.

- Speedy disposition may be possible as a result of the specialization that judges, prosecutors, defense attorneys, and probation officers gain by handling only drug and drug-related cases.
- Drug night courts may provide a way for judges as well as prosecutors and defense attorneys, who would otherwise not have the immediate opportunity to try criminal cases, to gain such experience.

Choice of Study Site

At the time of assessment of drug night courts that led to this and one prior monograph,¹ Cook County, Illinois, had the only operating drug night court program. Of course, many large urban courts operate night sessions, primarily to handle arraignments, misdemeanors, or traffic cases. Two other courts—Brooklyn, New York, and Los Angeles, California—had operated felony night courts in the recent past. Still other courts have specialized day drug sittings. Lessons can be learned from these operations and they have yielded experiences to this text as appropriate. However, Cook County served as the primary model.

The idea of operating at night to handle drug cases was born as a stopgap response.

The drug night court began as an emergency measure to cope with rapidly expanding caseloads. In 1975, 6,000 felony cases were filed in the Criminal Division of Circuit Court. Two years later this number had more than doubled, to 14,000. By the late 1980's, the number of *drug* cases filed far exceeded the number of *all* cases filed 8 years earlier. By 1989, filings had doubled again—to 28,000—largely due to increased narcotics arrests, resulting in a caseload-to-judge ratio of 500 to 1. Still, the County Board was reluctant to add courtrooms or additional staff. Thus, the idea of operating the courts at night to handle drug cases was born as a stopgap response to a critically overcrowded court system.

Purpose of This Document

This monograph was designed to help court officials establish and manage a drug night court program (DNCP). In order to plan, implement, and evaluate a DNCP, its judges, administrators, and coordinator/managers will have to spell out its issues and concerns and develop specific strategies to address them. This process ideally will:

- Identify the potential impact of the DNCP on the overall court operation.
- Include all principal participants in the planning process from the beginning.
- Ensure that the DNCP is tailored to the needs of the court for which it is planned.

1. *Assessment of the Feasibility of Drug Night Courts*, Washington, D.C.: Bureau of Justice Assistance Monograph, June 1993. NCJ 142415.

- Ensure that, as a result of this process, the chief judge and administrators will have (1) a series of policies addressing how the DNCP will be implemented, (2) a series of management procedures dealing with both internal and external issues, (3) a communication and training plan, and (4) an evaluation plan.

This monograph identifies planners and traces the planning process in chapters 2 and 3, outlines implementation in chapter 4, and discusses evaluation in chapter 5. Then, in an appendix, a number of worksheets are provided both to help plan the DNCP and to train staff to implement it. To use them for both purposes, one should make photocopies: on white paper for planning purposes and on transparencies for training tools.

While these strategies were developed for local drug night courts, they are equally applicable to any specialized court operation. Thus policymakers and planners can use similar strategies to improve the court's response to a number of difficult problems.

Issues and Concerns

As the Cook County DNCP was developed, a number of issues and concerns emerged surrounding efficiency, quality of justice, and the drain on the human resources of the court. The impact of such issues needs to be carefully measured in planning, implementing, and monitoring the drug night court.

Efficiency

Concern was expressed over whether night court *can* be as efficient as day operations. Factors include staff fatigue, availability of supervisors, access to essential information such as probation or drug treatment histories, and availability of courtroom to accept overflow cases.

Quality of Justice

Some practitioners say drug night courts promote "assembly-line justice." They say specialization and the pressures associated with disposing of cases may make processing routine and create the potential for stressing speed to the neglect of the rights of the accused.

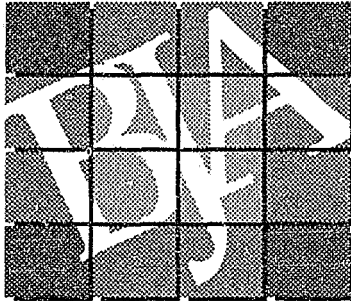
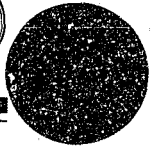
Randolph Stone, a University of Chicago law professor who was Public Defender when the drug night courts began, issued for inclusion in this monograph a formal statement of his objections to drug night courts.

He wrote:

First, it is another Band Aid or quick-fix approach to a fundamental problem in the criminal justice system, namely the absence of adequate and balanced funding. Second, I believe drug night courts enhance the sense of "apartheid" in our legal system. Third, the segregation of drug cases encourages judges, prosecutors, and defenders to dehumanize the accused citizen in their efforts to dispose

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Experience**

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of cases. For example, in 1989, the "temporary" Cook County Night Narcotics Court with five judges aimed to hear 5,000 cases. In 1991, this temporary solution had expanded to eight courts and had disposed of almost 13,000 cases, many in less than one hour. Justice is not a byproduct of an efficient court system; justice must be the goal of the system. The integrity of the criminal justice system should not be sacrificed at the altar of judicial efficiency and case disposition rates.

Human Resources Issues

Finding staff to work evening hours can be a challenge. Extensive contract negotiations and innovative strategies may be the only mechanisms a court can use to recruit and maintain night court staff. Most prominent of the problems affecting morale and productivity are fatigue and the impact evening schedules may have on family responsibilities. Another concern may be security, both in the courthouse and traveling to and from work. Other problems may be the lack of time and facilities at the courthouse for breaks, the fast pace of evening sessions, and isolation from colleagues working days.

"These and other issues were addressed," Judge Fitzgerald wrote in the foreword to this monograph, "and Cook County's experience is incorporated in this monograph. Cook County drastically reduced pending cases in the daytime courts while significantly decreasing processing time for drug cases. By these standards, the program has been a resounding success." So resoundingly were daytime cases reduced, in fact, that median processing time fell from 215 days to 170. Judges had hoped for 5,000 drug dispositions a year, but the night courts actually handled 9,700 cases in 1990.

Judge Fitzgerald also wrote, however, that "the Cook County program was never intended to be a permanent solution to our overcrowded courts. We look forward to the day when our country is able to provide sufficient court facilities to process all cases during the normal business day."

Strategic Planning

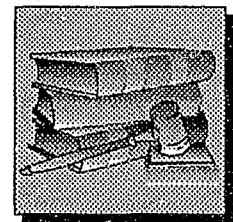
Courts that consider implementing a drug night court program face a range of issues so complicated (and sometimes apparently contradictory) that their efforts require careful, effective strategic planning. This section outlines an approach that should lead to effective implementation.

Strategic planning methods are common in both the private and public sectors.¹ These methods typically include gathering information, exploring alternatives, and setting a course of action based on a clear organizational vision and identification of specific issues on which action is required.

Application of the strategic planning approach also relies on a management concept developed by Quinn.² This approach encourages decisionmakers to establish an overall plan or vision for change as part of the strategic plan, but also acknowledges that tight resources, competing priorities, and obstacles to change are common in any administration. Therefore this approach encourages adoption of the overall plan one or two steps at a time.

Using the process of strategic planning to identify what decisions need to be made, when they should be made and by whom, and what actions are required to implement them, this stepwise procedure often is more likely to succeed than introducing change all at once. Lessons learned in implementing early changes can make later changes more efficient. Some issues likely to arise over components of DNCP can test an organization's real commitment to change:

- Night operations require commitment from multiple interests, all of which must have decisionmaking roles during the initial planning stages. These interest groups include the defense bar (public and private), probation



Lessons learned in implementing early changes can make later changes more efficient.

1. L.L. Byars, *Shaping Management Planning and Implementation*, New York: Harper and Row, 1984, p. 6. B. Yavitz and W.H. Newman, *Strategies in Action: The Execution, Politics, and Payoff of Business Planning*, New York: The Free Press, 1982. T.E. Becker, *Strategic Planning for Workplace Drug Abuse Problems*, Rockville, MD: National Institute on Drug Abuse, 1989; also, Becker, "Managing AIDS at Work," *Healthy Computers 1, 2* (1984).

2. J.B. Quinn, *Strategies for Change: Logical Incrementation*, Homewood, IL: Richard D. Irwin, 1980, p. 58.

department, sheriff's department (or whatever other group is responsible for making detainees available for trial), the clerk's office, and community-based treatment providers.

- Clear criteria must be developed for fitting the night court program into existing operations. Will the night court try cases or will trials be reserved for day court? Will the night court hear discovery motions and conduct pretrial hearings? Will it integrate existing cases or start with a clean docket?
- Appropriate disposition guidelines must be set for specific types of cases. Prosecutorial standards also must be made clear (and made public) so that defendants know up front what a plea-bargain offer entails.
- Recruiting and rotation policies must be determined for judges and other court personnel.

The strategies of incremental change may help avoid the quick fix in a tight-resources environment when these strategies are based on the overall vision of what the court wishes to accomplish.

Problems of this nature are not susceptible to a quick fix, but the strategies of incremental change may help avoid the quick fix in a tight-resources environment when these strategies are based on the overall vision of what the court wishes to accomplish. Incremental change thus becomes, in effect, a commitment to doing things right even if the changes are implemented over a period of time. Without such a guiding philosophy, organizations frequently fall into quick-fix, stereotyped patterns of response that have more to do with anxiety and defensiveness than with good problem solving.³

Preliminary Steps

A number of preliminary steps will help the court define the purpose of DNCP, identify the principal participants, and assess the needs and resources of the court. These preliminary steps should be accomplished before undertaking the implementation strategies described in section 4.

Defining the Purpose of the DNCP: Short- Versus Long-Term Needs

A court may examine the possibility of establishing a drug night court for several reasons: to reduce the backlog of drug cases or other felony cases; to focus on the quality of drug case disposition (for example, trying to find more appropriate treatment solutions) to prevent the "revolving-door" syndrome of drug-related cases; to resolve without capital expenditure the lack of sufficient courtrooms to handle the volume of criminal cases; or to integrate the court operations into an overall communitywide approach to addressing drug-related problems.

3. T.E. Becker, "A Strategic Planning Approach to Program Development." A.T. Laszlow and M.B. Ayres, 1994, *Workplace HIV/AIDS Policy and Planning: Lessons Learned From Workplace Substance Abuse Programs*, Rockville, Maryland: Center for Substance Abuse Prevention, p. 34.

Although night operations can serve both short- and long-term needs of the court, it is imperative that courts thoughtfully examine why they are considering implementing night operations and what they hope to accomplish by instituting a DNCP. Defining the purpose is an essential part of the preliminary planning process because the components of the DNCP will be guided by the program's intended purposes. For example, a community outreach element will be important if the program is intended as part of a proactive effort by the court to involve the community in drug abuse prevention and enforcement strategies.

Identifying the Challenges: Human Resources and Operations

The DNCP will require both human and operational resources to function. Thus, the challenge to the court is to attempt to identify both the human and operational challenges that may thwart a successful implementation of the DNCP. Such challenges may include:

- Maintaining the quality of justice so the night court does not become "assembly-line justice."
- Selecting and motivating court staff, including judges, prosecutors, probation officers, defense bar, and treatment personnel.
- Developing intake control procedures to ensure that appropriate cases are selected for the night court.
- Developing a way to access case files, probation records, treatment history, and other needed information at night.
- Setting up communications so other court personnel and the public learn about night court operations.
- Addressing overtime and other contract issues for unionized personnel.
- Addressing night security issues.

Once the court has identified the challenges, it must also identify the plan to address the challenge, the individual agencies charged with implementing the plan, and the time when it will be implemented. Worksheet 1 in the appendix will help document this step.

Identifying the Principal Participants

Although instituting a DNCP may rest with a single individual within the court (a chief judge or a court administrator, for example), successful implementation of the program will require the commitment and cooperation of many agencies both inside and outside the court. To secure their cooperation, the principal participants must be identified early and invited to assist in the planning. Failure to include them may hinder the program's progress.

The challenge to the court is to attempt to identify both the human and operational challenges that may thwart a successful implementation of the DNCP.

In Chicago, Milwaukee, and New York, the defense bar was especially critical of specialized evening sessions. In Milwaukee, public defenders at first refused to staff the specialized day-court drug cases, but after the court regularly appointed defense attorneys for indigents, the public defenders eventually acquiesced.

Despite objections in Cook County, the public defender's office did staff the night court, but expressed concern that the private bar would be forced out of criminal defense work in drug cases by the "double shift" of day court and night court. This apparently has occurred; the private bar appears in few night cases.

These examples show the importance of the early involvement of all players if the program is to succeed. The objective of this preliminary task should be to ensure that each unit that has daily interaction with the court is identified and notified of the emerging program. Worksheet 2 will help identify the principals for early planning; a future section will discuss the concept of a program task force.

A strategic plan that provides detail without exhaustive background will provide the most useful guidance.

Assessing Existing Policies and Procedures

Existing prosecutorial policies, plea-bargaining guidelines, intake control procedures, case management systems, and the existence of computerized case files are examples of existing policies that will have to be examined and perhaps modified to meet the needs of the drug night court. Because drug treatment programs are vital to program implementation, their policies regarding client eligibility and availability of services as well as their current relationship with the court will be important to evaluate. Any needed changes to these policies must be incorporated to make the drug night court concept maximally effective.

Assessing whether these existing policies and procedures may be modified or expanded to incorporate the needs of the DNCP is critical before decisions are made to develop new policies. Part 1 of worksheet 3 will help clarify the extent to which existing policies may be adapted to meet the needs of the DNCP, and part 2 will facilitate thinking about new policies, the reasons for their development, and the implementation strategies to be proposed.

The Strategic Planning Approach

The strategic planning process may require weeks or even months to develop a set of goals and proposed activities. The final strategic plan should address policy issues, specific planning activities to take place, and the means by which the DNCP will be integrated with the court's existing operations.

A strategic plan that provides detail without exhaustive background material will provide the most useful guidance for creating a program. For example, the strategic plan may outline the main components of the DNCP without

developing a full text of this policy. It may set goals and general procedures for training about the program without detailing training content. Appendixes to the plan may provide more specific information, if needed, or a separate guide to implementation might be developed.

The strategic plan should address the timeframe for implementation of the program and whether an incremental-change approach will be used. If the incremental approach will be employed, the strategic plan should state clearly the rationale for the order in which components will be initiated, the manner in which feedback from early implementation efforts will be used to guide later activities, and what problems may be encountered with a new program that is up and running while still missing some key ingredients.

Once the strategic plan is drafted, it should be reviewed by representatives of each of the principal agencies to determine whether its general goals and procedures are fair, technically correct, and feasible. In a union environment, full review by labor officials is essential for later support.

The strategic plan should be reviewed by principal agencies to determine whether it is fair, technically correct, and feasible.

Implementing the Strategic Plan

Once these preliminary steps have been completed and the strategic plan made final, the court can develop the DNCP following these steps:

- Developing policies for the drug night court. Typically, these need to be written policies that clearly delineate the court's position on issues including staffing, the types of cases that need to be heard by the court, intake control procedures, and case management procedures.
- Developing training for all court personnel addressing the purpose and operation of the DNCP. The key to effective implementation of the program will be support for it by all court personnel. Training is one of the most important ways to foster that support.
- Developing an internal and external communication program to inform the court, agencies that provide support to the court, the community, and the public about the DNCP and its operation.
- Developing and expanding the treatment resources available to the court.
- Identifying potential funding resources for the continuation of the program.
- Developing recordkeeping and evaluation program components. Keeping good information about the program will help operate it efficiently by supplying mechanisms for program improvement.

Conceptual Foresight: A Critical Element

A good strategic plan has built-in components for conceptual foresight—for anticipating possible deficiencies or problems in implementation and

planning in advance for their resolution. Many otherwise good programs fail because their designers did not anticipate problems.

Planners of specialized court programs such as the DNCP should consider five basic questions about their newly designed programs:

- Are there any deficiencies in available leadership resources? Does the plan have the approval of the Chief Judge and the heads of each of the principal agencies involved? Are one or more top managers giving enthusiastic lip service to the program but expressing private doubts or hesitations? In a union environment, are labor leaders supportive?
- Are there any deficiencies in available personnel or financial resources? Do key personnel have sufficient skills, knowledge, and experience needed to implement a full-scale program plan? For example, despite excellent commitment of finances, could county budget cuts create a funding crisis? What would happen if certain key personnel left the organization?
- Might there be a problem of overresponse, developing a program more intense than the court's current problems really justify? An overly intensive program, especially one that is expensive or contains controversial elements, may lose credibility quickly.
- Might there be a problem of overexpectation? Is the program being "sold," or at least being viewed by the court or the community as leading to an immediate cure of all problems related to drug abuse in the community? If so, when this unrealistic expectation is not fulfilled, the other benefits of the program may be ignored, and credibility can be permanently compromised.
- Might there be a problem of overextension—a program that is intended to meet a real need, but sets more ambitious goals than it can realistically accomplish? Again, quick loss of credibility can occur.

With all these potential problem areas, the key to success is advanced planning—starting with the assumption that problems can and will occur, but that negative consequences can be limited or avoided with indepth strategic planning. Understanding the strategies for using existing resources can also be of enormous help.

An overly intensive program, especially if expensive or controversial, may lose credibility quickly.

Drug Night Court Components

This discussion sets out the components of a model drug night court program. It describes five *essential* components and explains why each is considered indispensable to implementation of the program, then describes two secondary components that will enhance the operation.

Policy Development

Comprehensive written policies and operating procedures provide the foundation for the DNCP. Planners first should complete the policy and procedures analysis—part 1 of worksheet 3—to assess existing policies before they begin writing the new policies for the DNCP. Part 2 of worksheet 3 will help set out the policy statements, their purpose, and the strategies for their implementation. Policy development should begin with the following issues, and each subsequent program component should have a corresponding written policy.

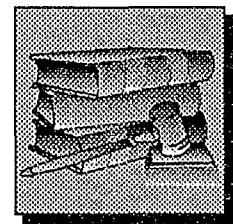
Types of Cases Heard

A clear delineation of the types of cases the night court will hear is critical for both the court's image and its operation. For example, a policy that limits the night court to hearing motions, arraignments, and misdemeanor cases may at first facilitate reducing the backlog of cases and be relatively simple to manage. Over the long term, however, such a policy may make the court only a "process" treadmill. Such a situation may make attorneys, defendants, and the community view the night court as an inadequate response.

The drug night court might consider both misdemeanor and felony cases appropriate, with the possible exception of complex conspiracy cases. The intake control and case management components of the program could develop a policy addressing the disposition of minor drug offenses.

Speedy Disposition Guidelines

Whenever a court faces severely overcrowded dockets, speedy disposition becomes a critical issue. Drug night courts are no exception; they may, in fact, need speedy disposition guidelines more than any other specialized court operation. Speedy disposition guidelines, developed with the advice



Whenever a court faces severely overcrowded dockets, speedy disposition becomes a critical issue.

Prosecutors and defense representatives alike agreed that the drug night courts made it possible to give more time and attention to violent felony cases.

and consent of all principal parties in the court, should carefully address issues such as plea cutoff dates, motion settlement dates, and trial dates. The guidelines should be periodically reviewed and modified.

To further speed their disposition, Cook County applies a timeline to drug night court cases. Instead of considering motions on trial dates as day court does, night judges set motion hearings within 30 days of assignment. Trial dates are normally set within the subsequent 30 days.

As the processing time for narcotics cases dramatically lessened under the Cook County drug night court program, so did the time for other felony cases. Formerly, only 18 percent of narcotics cases were adjudicated and sentenced within 90 days of assignment; after the night courts opened, 52 percent were disposed within 90 days in 1990 and 48 percent in 1991. Median time to disposition dropped from 245 days in 1989 to 86 days in 1990 and 95 days in 1991.¹

Prosecution and defense representatives alike agreed that the drug night courts made it possible to give more time and attention to violent felony cases. After the night courts opened, 48 percent of all felony filings went to them, cutting case-to-judge ratios in the other felony courts. Case processing times for nondrug cases dropped from a median of 215 days to 170 days.

Sentencing Guidelines and Plea Management

Guidelines should be developed addressing all phases of the sentencing process, including plea negotiations. Clear, written guidelines should govern prosecutors' roles and practices. The absence of such guidelines can foster sentencing disparity and can have a significant impact on plea negotiations, informal and private by their nature.

Written guidelines give defense attorneys and their clients a set of options and possible dispositions, thus minimizing disparities among sentencing recommendations for similar types of offenses and defendants. Giving defendants an early understanding of how they will be sentenced if they plead guilty can encourage prompt disposition.

Developing a method for managing guilty pleas can improve the quality of justice. For example, providing defendants with a written statement describing the plea process and requiring defense attorneys to thoroughly explain its consequences may minimize what, in many courts today, seem to be "assembly-line guilty pleas."

1. These results were reported earlier by Barbara E. Smith, Robert C. Davis, Sharon R. Goretzky, Arthur J. Lurigio, and Susan J. Popkin in a Bureau of Justice Assistance Bulletin, *Drug Night Courts: How Feasible Are They?* July 1993:p. 2 (NCJ 142725); also in a BJA Monograph, *Assessment of the Feasibility of Drug Night Courts* (June 1993:pp. 10-16; NCJ 142415).

Staff Recruitment and Rotation

Recruiting judges, lawyers, and other court personnel to work nights is a formidable task. DNCP is unlikely to be perceived as a desirable assignment. Planners need to consider a number of ways to identify and maintain competent staff. The use of incentives, such as the following, may be appropriate: pay differential for support staff or unionized employees; trial experience, such as an opportunity for less experienced attorneys to try felony cases; or choice of court assignments for judges who are rotating out of the program.

In Cook County, judges were recruited for night duty by making the assignment an *upward* step. The presiding judge hand-picked volunteer judges from a panel of associate judges presiding over misdemeanor court and traffic cases—and arranged for them, in night court, to achieve special authority to try felony cases.

Establishment of a rotation policy for all court personnel is essential. Rotation policies should balance the competence of staff, which comes from experience, with the nightwork problems of fatigue, burnout, and family disruption.

The least desirable way of assembling a DNCP staff is to assign individuals summarily without offering any incentives, rotation, or options. The "I'm in charge and you will do what I say" style of management will never be effective for longer than the short term. If the DNCP is to become an integral part of the court's operation, it will demand the support of dedicated staff.

Intake Control and Case Management

Docket overcrowding can be forestalled if cases are screened and tracked at the preliminary hearing stage. Intake screening of cases is a critical component of an effective court operation inasmuch as cases that might be more suited for diversion (such as an order for treatment) may be identified early and handled appropriately. Consistent screening procedures can help both prosecutors and defense attorneys identify cases that will be tried instead of pleaded.

In Cook County's drug night courts, which process an impressive number of cases in any given session, intake control is exercised by the presiding judge, who keeps a watchful eye on caseload while assigning cases to night court. When he determines that caseloads are becoming prohibitively high in night court, he keeps drug cases in the day division until night caseloads diminish.

Intake control should also limit the number of cases assigned to individual judges. Principal parties, including prosecutors, defense bar, treatment professionals, and probation officers should clearly define an acceptable and practical range of cases. Perhaps formulas, much like classification systems, could be calculated to help administrators render assignment decisions that weigh elements of the case, discovery issues, and sentencing options.

Intake screening of cases is a critical component of an effective court operation inasmuch as cases that might be more suited for diversion may be identified early and handled appropriately.

Tightly imposed sentencing orders keep cases proceeding smoothly through the system. Finally, courts should consider different models of case processing for felony and misdemeanor cases as well as for "possession" and "delivery" cases. These cases may require specialized case management in response to their inherently disparate features.

Training for Court Personnel

All court personnel—including judges, administrators, the sheriff's department, probation officers, and the defense bar—should undergo training before implementation of the night program. Training should address the basic operational issues of the drug night court, the roles and responsibilities of all key staff, and the policies and procedures of the court. Judges, attorneys, and probation officers should get specialized training in the etiology, manifestation, and treatment of drug addiction. Training sessions should occur when staff rotation does, or as needed.

Judges, attorneys, and probation officers should get specialized training in the etiology, manifestation, and treatment of drug addiction.

Access to Information

The court must have access to accurate criminal histories, probation records, and other information to make case decisions efficiently. A computerized system for accessing such information is preferable, but regardless of the court's existing or planned system, the key ingredient is access. In Cook County, although access to information at night is more difficult than during the day, there was no evidence that information needed in night court was missing more often or that adjudication was delayed as a result.

Drug Treatment

Many of the defendants coming before the court will be drug users. Thus, whether the court orders probation or commits the defendant to a correctional facility, a system for identifying new treatment resources and for maintaining close working relationships with drug treatment agencies and providers is a primary component of the DNCP. In addition DNCP's should develop procedures by which defendants can be quickly assessed for their treatment needs. Without prompt assessment, delays will inevitably defeat the goal of speedy disposition.

Planners for this component should focus on several critical aspects:

- Availability of treatment slots—in many areas, these are severely limited.
- Limitations set by specific treatment providers, or by statute, concerning the kinds of defendants they will accept. For example, legislation in Illinois prohibits TASC² from accepting offenders charged with violent crimes or drug sales.

2. Treatment Alternatives to Street Crime, a program that allows a drug-dependent offender to enter treatment as a condition of release.

- The impact that the involvement of treatment agencies has on the time it takes to process a case. Does involvement delay the process? If so, what strategies can be designed to minimize the delay?
- Provisions for training judges, attorneys, and probation officers regarding the consequences of addiction.

Dedicated Teams (Secondary Component)

Although not essential to the operation of a DNCP, a dedicated team of prosecutors improves the efficient management of cases. Such a team can help facilitate establishment of uniform standards for screening cases, charging decisions, and sentencing recommendations. An effective prosecutorial team can also contribute to the police investigatory function, expedite open and early disclosure motions, and facilitate consistent plea negotiation policies that foster due process and the overall quality of justice. Finally, team prosecution can give less experienced attorneys an opportunity to work with more senior staff, building expertise and providing an incentive to work on the DNCP.

Community Outreach (Secondary Component)

By taking a proactive approach to informing the community about the drug night court, this component involves the community in a partnership with the court to address the problems of drug abuse in the community. The premise is that drug cases are not victimless crimes but instead that the community as a whole is the victim of the drug dealer and his network. Thus communities, as victims, deserve the right to allocution during the court proceedings as a part of the case disposition.

Clearly this component is important if the court views drug night courts as a long-term solution to an endemic problem. Although controversy remains over the wisdom of incorporating this component into all drug night court programs, the concept complements other community-involvement, community-empowerment approaches in other sectors of the criminal justice system (such as community policing, community crime prevention, and community partnerships for drug abuse prevention programs).

*Drug cases are not
victimless crimes but
instead the community
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Implementing the Drug Night Court

Implementing a specialized court program, such as that of a drug night court, requires the commitment of all court officials. This section describes specific steps in establishing a DNCP based both on the principles of strategic planning and the experience of court officials in developing specialized operations. It also refers the user to worksheets to be used by policy-makers and trainers in developing their programs.

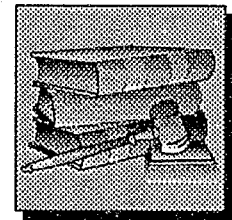
Practical steps to implementing a drug night court program include the following:

Selecting a Program Coordinator or Manager

The DNCP needs a champion and leader. Preferably this person should be the Chief Judge or the Court Administrator. If coordination is to rest with the administrator, it is imperative that the Chief Judge support the concept and use his or her influence to ensure successful implementation. Someone with the following characteristics and skills is likely to be successful as the coordinator:

- An individual who commands the respect of the entire court and who holds a position of authority to make the necessary operational changes within the court.
- A risk-taker who is willing to take positions on controversial issues and is willing to take a leadership role to address these controversies.
- A problem-solver who can identify any barriers to the program and the means to overcome them.
- A coalition-builder who can work effectively with and negotiate among conflicting interests within the court, bringing them together toward a common goal.
- A strong communicator who can articulate vocally and in writing the incentives, goals, objectives, and mission of the DNCP and who can deliver briefings to all of the principal participants of the program as well as to the community.

In addition, the coordinator should be able to identify and evaluate existing and emerging services that may be of value to the program. For example,



The night court needs a champion and leader—preferably the Chief Judge or Court Administrator.

many medical, legal, and social service agencies have developed special treatment programs for drug offenders.

The task force should represent all interested parties . . . It should consist of persons who have earned the respect of their organizational peers, have excellent communication skills, and are willing to serve as program advocates.

Establishing a Program Task Force

Creation of a task force ensures involvement and open dialog among all of the principal participants, not just judges and the court administrator, and engenders program "ownership" necessary for successful implementation. The task force should represent all interested parties, including prosecutors, the defense bar (both public and private), the sheriff's office, probation, treatment providers, and labor unions. It should consist of persons who have earned the respect of their organizational peers, have excellent communication skills, and are willing to serve as program advocates. An effective task force can be instrumental in:

- Developing policy statements for operation of the DNCP, the rationale for each policy, and implementation strategies.
- Garnering program support from a cross-section of the court.
- Identifying court employees' concerns about DNCP operations.
- Examining existing policies and procedures and identifying linkages to the DNCP.
- Planning the communication strategy and providing recommendations for the training program.
- Implementing the program.

Worksheet 2 will help in the selection of task force members.

Conducting a Needs Assessment

A needs assessment may determine what existing court resources can be used to ensure success of the DNCP and what issues and concerns principal participants and court employees have about the DNCP operation. Thus, the assessment should:

- Determine what concerns judges, prosecutors, defense attorneys, and others have about implementation of the DNCP.
- Determine what concerns other court employees have about DNCP operations.
- Identify the necessary provisions of labor contracts that would expedite or impede implementation of the DNCP.
- Identify any existing policies, procedures, and resources that may be used for the DNCP.

Worksheet 4 can be used for assessing the concerns and resources.

The program components are the foundation for the DNCP. Once the components have been identified and policies and procedures have been written (worksheet 3, parts 1 and 2), the DNCP can be introduced through an internal and external communication strategy.

Implementing an Internal and External Communication Strategy

A well-designed and executed communication strategy, targeted both at the court and, sometimes, the community at large, can help ensure the DNCP's success. Communication should be viewed as a proactive part of the program rather than as a series of reactive responses. As with all aspects of the DNCP, the communication strategy must have the support of the principal participants. Further, it should:

- Involve representatives from all segments of the court.
- Identify the target audiences (judges, probation officers, treatment agencies, the community) and priorities for each.
- Include a plan, including messages, content, and timing, for implementing the communication strategy.
- Identify appropriate trainers to implement the communication strategy.

Worksheet 5 can be used to devise the communication strategy, including the nature of the communication, the messages to be disseminated, the intended audiences, and the methods to be used.

Preparing a Training Plan

The training plan is a part of the internal communication strategy. It might include a series of initial seminars for all court personnel to introduce the DNCP as well as periodic updates addressing changes in policies and procedures and specialized training sessions for specific audiences. The training plan should describe the training audience, the goals and content of the training, how the training will be delivered, and what resources will be needed to complete the training.

Worksheet 6 can be used to complete a training plan.

Developing a Model for Evaluating Program Activities

Planners often overlook evaluation, which is an essential part of any comprehensive program. Even a simple evaluation strategy can help ensure that the DNCP continues to meet the court's needs and remains responsive to changes in the types of drug cases seen by the court. The evaluation strategy should include five major components:

A well-designed and executed communications strategy, targeted both at the court and, sometimes, the community at large, can help ensure the DNCP's success.

The evaluation strategy involves systematically examining the DNCP to document its impact and identifying and solving barriers to its overall functioning.

- **Defining the program's goals and objectives.** This process consists of examining written program documentation and discussing program goals and objectives with the principal participants.
- **Detailing the program's history.** This information clarifies the program's scope and limitations. It can often be obtained from those with the court who were principally responsible for the program's design. Issues to address include origins of the program, changes in the program since its inception, and recommendations for the program's future.
- **Defining the program's content.** The evaluation should determine whether the court has adopted each of the essential program components and, if any were not adopted, document the reasons.
- **Describing program processes and outcomes.** This step requires discriminating between program implementation processes and outcomes.
- **Summarizing the program and providing recommendations for change.** A report should be developed describing the evaluation activities and findings. Abbreviated versions of the report may be prepared for different audiences inside and outside the court in the form of employee annual reports, reports to the Chief Judge and County Commissioners, news media briefings, and reports to the community at large.

The evaluation strategy involves systematically examining the DNCP to document its impact and identifying and solving barriers to its overall functioning. Evaluation results can serve as valuable guidance for modifying the DNCP as necessary. Section 5 details how to implement the program evaluation.

Identifying Funding Resources and Options

Often specialized court operations receive their initial funding from State or Federal grants or private sources. These funds are typically earmarked for development and are not intended to sustain a successful program over the long term. As program planners focus their attention on developing the program and overcoming early obstacles to the program, they often overlook long-term financing issues and fail to address them until initial development funds are almost exhausted. It is important, however, that during the planning process, policymakers and administrators attempt to identify potential funding options and resources beyond the initial ones. In fact, this process should be ongoing throughout the implementation of the DNCP.

Worksheet 7 can be used to identify funding options and resources for the DNCP.

Evaluating the Drug Night Court

The decision to establish a drug night court involves substantial commitment and resources. Program planners have a right to know how well the program works and a need to know how to improve on it. Although an outside evaluation by persons trained in social science methods provides an objective, third-party expert opinion, the cost may be prohibitive.

However, self-evaluation by officials within the program can provide meaningful insight. The following steps should prove useful:

Selecting a Team of Evaluators

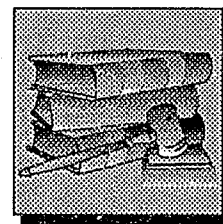
Among a number of ways to conduct an evaluation of the program, one is to select a team from among the key components of the drug night court program, including a judge, prosecutor, public defender, probation official, corrections official, treatment specialist, etc. Although this approach avoids the appearance of bias by any one part of the system and helps ensure that all the concerns of the various participants are addressed, such an internal evaluation *has* inherent bias problems.

An alternative method may be to select professional researchers to assess the program. Local colleges and universities as well as professional associations may serve as valuable resources to identify suitable evaluators.

Ideally the team should plan a series of evaluations—one a few months after the onset of the program, one 6 months later, and one a year later. In this way, evaluation results can be fed back into the program to make midcourse corrections and improvements.

Developing an Evaluation Plan

The team must decide which elements of the program need to be evaluated and what level of effort to expend. At a minimum, the evaluation should assess the *speed* and *types* of dispositions before and after implementation of the DNCP. A more complete evaluation would ideally include examining other important outcome measures, such as the rate of placement of defendants in treatment programs, the percentage of defendants represented by private counsel, and the percentage of cases resolved by jury trial before and after implementation of the DNCP.



At a minimum the evaluation should discuss the speed and types of dispositions before and after implementation of the DNCP.

Individual and focus-group interviews with those who staff the drug night court can be extremely helpful in gaining private perceptions of what works, what does not work, and suggestions for improvement. Using an outside facilitator to conduct the focus groups, if possible, will help ensure that respondents will be candid and unbiased. Additional evaluation components can be added depending on the goals of the evaluation and resources available to conduct it.

The evaluation goal must be to develop recommendations to improve the process—not simply to produce a report card on how well the program is doing.

Conducting the Evaluation

The evaluation team must project a systematic, nonbiased approach to selecting its sample of before-and-after cases and in surveying the staff. Anonymous written surveys of staff may encourage honest responses, and well-run focus-group sessions may uncover shared common concerns. The evaluation team should encourage critical discussion rather than adopt a defensive stance on issues raised by the drug night court staff.

Analyzing the Evaluation Results

Whether the plan calls for a series of evaluations throughout the drug night court program or a single assessment, the evaluation goal must be to develop recommendations to improve the process—not simply to produce a report card on how well the program is doing.



Sources for Further Information

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Planners' Worksheets

The worksheets on the following pages are designed to help plan the DNCP and to train staff to implement it. They can be copied on white paper for planning purposes or into transparencies for training.

Worksheet 1: What Are the Challenges?

This worksheet is designed to assist in identifying the challenges in developing and implementing a drug night court program and the actions which would be taken to overcome these barriers. A part of this task is to identify the individual or agency that will be responsible for developing an action plan and the timeframe in which the action plan will be implemented.

Challenge	Action Plan	Who Needs To Be Involved	Timeframe
Recruiting Staff			
Access to Case Files and Other Necessary Information			
Intake Control Procedures and Case Management			
Internal/External Communications			
Financial Resources			
Training Needs and Implementation			
Working With Drug Treatment Agencies/Providers			
Night Security Procedures			
Union Overtime and Contract Issues			

Worksheet 2: Identifying the Principal Participants

List each agency and representative that should participate in the development and implementation of the DNCP.

Agency	Representative, Position	Comments (Telephone #, Schedule, etc.)

Worksheet 3: Policy and Procedures Analysis

This worksheet is designed to assist you to: 1) identify the existing policies and procedures of the court that may be relevant to implementation of the DNCP; and 2) identify new policies and procedures that need to be developed for the *specific* purposes of the program. Some examples are provided.

Part 1: Existing Policies and Procedures			
Issue	Considerations	Existing Policies / Procedures	Comments
What types of hearings should the night court handle? <ul style="list-style-type: none"> • plea cases? • jury trials? • bench trials? 	The purpose of the night court is to <i>dispose</i> of a substantial number of drug cases; however, holding trials at night would be cumbersome and might slow the process.	None currently exists.	Need to develop a <i>clear</i> policy on this.
What guidelines, if any, are there for speedy disposition?	Processing time for narcotics and felony cases can be reduced.		Be sure to get input from all principal parties in the court.
Should the night court handle both trials and other hearings?	Some felony cases such as complex conspiracy cases may be inappropriate for night operations.		
What guidelines are there for the sentencing process, including plea negotiations?	The absence of guidelines can foster sentencing disparity.		Be sure to watch out for guidelines that might lead to "assembly-line justice."
How will staff be recruited for night courts?	Supplying incentives (i.e., pay differential or choice assignments after night court rotation) may lead to high-quality staff.		See personnel office and labor union where appropriate.

Worksheet 3: Policy and Procedures Analysis (continued)

Part 2: New Policy/Procedure for the DNCP		
Policy Statement:		
Rationale:		
Implementation Strategy		
Action Plan	Who is Responsible	Timeframe

Worksheet 4: Identifying Existing Concerns and Resources

	Problem Need	Possible Solutions/Resources	Contact Person/ Phone Number	Comments
1.	Identifying treatment resources for drug-involved offenders.	TASC.		TASC's current policy is not to accept clients who have been charged with "delivery" or "sales" offenses.
2.	Determine concerns of judges, prosecutors, defense attorneys, and any other principal participants in DNCP.	Develop a survey.		
3.	Identify necessary provisions of labor contracts.	Labor unions.		
4.				

Worksheet 5: The Communication Strategy

Communication	Messages	Delivery Mechanism	Audiences	Timing
Planning Process	<ul style="list-style-type: none"> • Why a Specialized Court is needed and important • The impact the program will have on the court • Who's involved in the planning • Solicit recommendations 	Panel discussion	<ul style="list-style-type: none"> • Heads of principal agencies • Labor representatives • Community agencies involved in implementation 	Within 1 month of decision for developing DNCP

Worksheet 6: The Training Plan

A training plan should be designed for each audience targeted (such as judges, court staff, community-based service providers, community at large). If interdisciplinary training is planned (in which each of the principal agencies participates in a single training event), the training plan should be completed to encompass the goals of the interdisciplinary training.

Audience	Goals	Content	Delivery Method	Timing	Costs	Resources Needed
Judges	To understand the assignment/rotation policy	Discussion of recruitment, assignments, and rotation policy	Memo followed by discussion at regular judges' meeting	2 hours	None	None
Probation Officers	To identify treatment options	Description of all applicable services	Panel of representatives from treatment agencies	1/2-1 day	<ul style="list-style-type: none"> • Room rental • Lunch • Reproduction 	Treatment providers
Prosecutors						
Public Defenders						

Worksheet 6: The Training Plan (continued)

Audience	Goals	Content	Delivery Method	Timing	Costs	Resources Needed

Worksheet 7: Identifying Funding Resources and Options

Component of Program	How Currently Funded	Funding Gap	Resources/Options	Contact
Salaries of prosecutors	U.S. Department of Justice grant contributes 50 percent	Grant ends 12/31/94	<ol style="list-style-type: none"> 1. Apply for new/extension grant 2. Build into line-item in county or State budget 	

For More Information

BJA has a range of publications related to case processing and scheduling, including:

- *"Differentiated Case Management,"* Fact Sheet (FS 000051).
- *Differentiated Case Management,* Program Brief (NCJ 140189).
- *Differentiated Case Management,* Implementation Manual (NCJ 142416).
- *Assessment of the Feasibility of Drug Night Courts,* Monograph (NCJ 142415).
- *Drug Night Courts: How Feasible Are They?,* Bulletin (NCJ 142725).
- *Drug Night Courts: The Cook County Experience,* Monograph (NCJ 147185).
- *Special Drug Courts,* Program Brief (NCJ 144538).
- *Expedited Drug Case Management,* Bulletin (NCJ 144534).
- *Family Violence: Interventions for the Justice System,* Program Brief (NCJ 144532).
- *Accountability in Dispositions for Juvenile Drug Offenders,* Monograph (NCJ 134223).
- *"Trial Court Performance Standards,"* Fact Sheet (000059).

Call the BJA Clearinghouse at 800-688-4252
to order these publications.