THE SENTENCING PROJECT

COMPARATIVE MODELS OF TREATMENT DELIVERY IN DRUG COURTS

by

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EXECUTIVE SUMMARY

OVERVIEW

Over the past ten years, growing concern over illegal drug use and drug-related crime has led to greatly increased enforcement efforts against drug sellers and users, resulting in substantial increases in felony drug caseloads in state and local criminal courts. This has largely driven the huge growth in jail and prison populations.

In response to burgeoning felony drug caseloads and concern about the efficacy of punitive anti-drug policies in reducing drug-related crime, courts are increasingly trying new methods to introduce treatment interventions into the adjudication process. One of the most common, and potentially most useful, responses of the courts has been to create dedicated treatment-oriented drug courts, to link defendants to community-based drug treatment programs in an effort to reduce drug use and drug-related crime.

Although the idea of dedicating specified courtrooms solely to drug cases dates from the early 1970's, when heroin was the primary drug of abuse among offenders, the first court to integrate drug treatment with the processing of drug felonies was in Dade County (Miami) Florida, whose Drug Court began operations in June 1989. This court soon became an early model for several other efforts to divert drug defendants into treatment, such as those in Oakland (CA), Portland (OR), and Fort Lauderdale(FL). Within a few years, a number of other jurisdictions had established treatment drug courts, and by the end of 1995 there were at least 50 such courts operating around the nation.

GOALS AND CHARACTERISTICS OF TREATMENT DRUG COURTS

Treatment-oriented drug courts are generally structured to achieve several basic goals:

- Concentrate expertise about drug cases into a single courtroom;
- Link drug-involved defendants to community-based treatment as soon as possible after arrest, with judicial oversight;
- Address other defendant needs through clinical assessment and effective case management;
- Reduce drug use and associated criminal behavior;
- Free up judicial and prosecutorial resources for adjudicating nondrug caseloads.

In order to attain these goals, treatment drug courts commonly incorporate some or all of the following basic operational characteristics:

- Timely identification of defendants in need of treatment and referral to treatment as soon as possible after arrest;
- Establishment of specific treatment program requirements, with compliance monitored by a judicial officer;
- Regular status hearings before a judicial officer to monitor treatment progress and compliance;
- Holding defendants accountable through a series of graduated sanctions and rewards;

- Use of a diversion model in which the case is dismissed or the sentence is reduced upon successful treatment completion;
- Periodic urine testing to monitor drug use.

Although most treatment drug courts incorporate these core functions, some drug courts add other enhancements that extend the breadth of services offered to offenders. Examples include:

- Early comprehensive clinical assessment of the offender's treatment, health, social service, and other needs;
- Matching individual treatment needs to specific treatment programs or services;
- Provision of aftercare and support services following treatment completion to facilitate successful reentry into the community.

A common theme in the grass-roots establishment of existing treatment-oriented courts has been careful planning and implementation involving all participating agencies. Such interagency collaboration can help to ensure that key system actors have a stake in the success of the court, and share common goals and strategies. Setting up a treatment-oriented court, as with any major change in the way cases are processed by the courts, presents a number of challenges. The experience of treatment courts to date suggests that successful implementation requires:

- extensive pre-program planning;
- careful groundwork with leaders of all the major agencies involved in criminal case processing;
- strong judicial leadership;
- close collaboration with key non-criminal justice entities such as treatment, public health, and social services agencies.

OPERATIONAL COMPONENTS OF THE DRUG COURT MODEL

The experience of treatment drug courts thus far suggests a number of important elements that are critical for identifying appropriate target populations, creating effective criminal justice/treatment linkages, and adjusting program operations as problems arise and circumstances or environments change. A treatment-oriented court operates in a dynamic setting, requiring flexible organizational structures and staff to respond as conditions evolve. This report provides an overview of the essential elements of:

- Eligibility Screening
- Assessment
- Treatment and Service Referral
- Management Information Systems
- Monitoring and Oversight
- Reward and Sanction Structure
- Caseflow Processing Mechanism
- Program Structure
- Research and Evaluation

FINDINGS FROM DRUG COURT EVALUATIONS

Several studies of treatment drug courts have been completed or are under way. With at least two experimental evaluations of drug courts recently completed (Phoenix) or under way (Washington, D.C.), and new multi-site evaluations planned in 1996 under National Institute of Justice funding, more assessments of the effects of treatment drug courts should be forthcoming over the next few years.

The evaluation results thus far offer promising indications that treatment drug courts can successfully engage large numbers of felony drug offenders into long term treatment, but somewhat mixed findings about the courts' impact on recidivism. An evaluation by the Crime and Justice Research Institute of the Dade County Felony Drug Court found that 60% of those admitted to treatment had favorable program outcomes. Recidivism rates were lower for Drug Court participants, with 33% rearrested within 18 months compared with over half of other felony drug defendants from both before and after the Drug Court's inception. Also, for those rearrested, the median number of days to the first rearrest was longer for Drug Court participants (235 days) than for sample cases from the other comparison groups (these ranged from 46 to 115 days to first rearrest).

The RAND Corporation evaluated the Maricopa County, Arizona (Phoenix) First Time Drug Offender (FTDO) program, a drug court for convicted drug offenders sentenced to probation. The evaluation found that 61% of the FTDO clients completed treatment within 12 months or were still in treatment at the 12-month follow-up; 30% successfully graduated and were discharged from probation within 12 months, and another 11% graduated and were transferred to standard probation. Among the 39% who failed, 15% absconded, and 20% were resentenced for a new arrest or technical violation. However, recidivism rates during a 12-month follow-up period were not significantly different for FTDO (31%) and regular probation with urine testing (33%). Technical violation rates were also not significantly different overall (40% and 46% respectively), but FTDO clients had a lower prevalence of violation for drugs (10% vs. 26% for probationers). Further analyses will be necessary to determine why the effects of this type of post-sentence drug court on recidivism may be limited. The more encouraging recidivism findings for the Miami drug court may reflect the very different populations served by the two courts, differences in the quantity or quality of drug treatment received, jurisdictional differences in enforcement policies, or other factors.

CONCLUSION

Despite their rapid spread, treatment-oriented courts are not a panacea for the problems of drug abuse. They must exist in conjunction with expanded education and prevention programs, and adequate and effective treatment availability for non-criminal justice populations. The experiences of the first generation of treatment-oriented courts have illuminated the need for a comprehensive approach to the handling of drug offenders that embodies the goals and needs of both the criminal justice and treatment/public health communities.

INTRODUCTION

Over the past ten years, growing concern over illegal drug use and drug-related crime has led to greatly increased enforcement efforts against drug sellers and users, resulting in substantial increases in drug caseloads in state and local criminal courts. Between 1985 and 1994 drug arrests in the United States rose by 38% while the number of total arrests increased by only 14% (Jamieson and Flanagan, 1987; Maguire and Pastore, 1995). Drug offenses represent both the largest category of felony defendants (30%) in large urban courts (Reaves and Smith, 1995), and the most common admission offense (30%) for state prison inmates (Perkins, 1994). Further, data from the National Institute of Justice's Drug Use Forecasting Program suggest that drug use is common among arrestees for nondrug crimes as well (National Institute of Justice, 1994).

This trend reflects an emphasis on apprehension of low-level street dealers, often through undercover "buy-and-bust" or sting operations, and the escalation of legislated penalties against drug sale and possession, tending to yield large numbers of serious felony arrests (Kleiman, 1986; Zimmer, 1987). The strong evidence in these types of cases, coupled with more stringent plea bargaining and sentencing laws and political pressures to be "tough" on drugs, has meant an increasingly punitive response to drug arrests in the State courts, and much greater use of incarcerative sentences for drug offenders. It is therefore not surprising that the nation's jails and prisons have become severely overcrowded, primarily as a result of burgeoning incarceration rates for drug offenders.

The emergence of crack cocaine in the mid-1980s, and the punitive anti-drug policy response that it evoked, was an important basis for the increasingly punitive criminal justice reaction to drug crime (Belenko, 1993; Belenko, Fagan, and Chin, 1991). Moreover, the difficulties addicted drug offenders have in reducing their drug use and their consequently high recidivism rates have impelled many courts to seek new ways to reduce the cycle of drug use and crime.

Until relatively recently, the response of state and local court systems to the drug case surge has largely focused on processing cases as quickly as possible to clear calendars and reduce pending felony caseloads, such as through improved case management and differential case tracks (Belenko and Dumanovsky, 1993; Cooper and Trotter, 1994a, 1994b; Jacoby, 1994; Smith, Davis, and Goretsky, 1991). These courts, by selectively and rapidly processing felony drug cases, are designed to relieve crowded felony dockets, reduce case processing time, and establish mechanisms for more creative and effective dispositions. However, with the trend in recent years toward legislative initiatives to increase penalties for drug offenders or drug-related crime, and the existence of mandatory sentencing laws for repeat offenders in most states, there are competing pressures on the system at all phases of case processing not to treat these cases too leniently.

Courts faced with large numbers of non-violent drug offenders are thus in a bind: there are few jail or detention alternatives, limited treatment options, and overloaded probation departments that are perceived as largely ineffective. Dockets overloaded with drug cases mean fewer resources to adjudicate more serious or violent felonies. Yet, there is growing recognition that incarceration in and of itself does little to break the cycle of drugs and

crime, and that increased drug treatment interventions may offer greater long-term benefits in reducing drug-related crime (Falkin, 1993; Goldkamp, 1994a). Moreover, merely speeding up the disposition time may relieve pressures on crowded dockets but does little to address an offender's underlying drug problem or help break the cycle of drug use and crime through the expanded use of criminal justice-supervised drug treatment.

This report focuses on the recent advent of treatment-oriented drug courts, a promising innovation in the handling of felony drug offenders. These courts, which seek to divert drug offenders into treatment and away from incarceration, represent a fairly dramatic change in how the court system views and processes drug-involved offenders. As such it is important to understand how these courts developed, their structures, and the various ways in which they try to engage offenders in effective substance abuse treatment.

RATIONALE FOR TREATMENT-ORIENTED DRUG COURTS

Recent studies have documented various methods which courts are employing to introduce treatment interventions into the adjudication process (Cooper and Trotter, 1994a; Deschenes and Greenwood, 1995; Falkin, 1993; Goldkamp, 1994b; Tauber, 1994). One of the most common, and potentially most useful, responses of the courts has been to create dedicated treatment-oriented drug courts. In a growing number of jurisdictions, treatment-oriented drug courts link defendants to community-based drug treatment programs in an effort to reduce drug use and drug-related crime. By increasing the use of diversion or non-incarcerative sentencing alternatives for certain drug defendants, these programs have the potential to create substantial system cost savings while reintegrating drug-involved offenders into the community.

There are several reasons to expect that concentrating drug cases into dedicated treatment courts would represent sound criminal justice policy.

- First, judges, prosecutors, and public defenders assigned to drug courtrooms become specialists and therefore may become more efficient at processing these cases, and more knowledgeable about drug abuse, drug treatment, and the role treatment can play in the criminal justice process.
- Second, under standard case processing, drug cases compete for the court's attention with violent felonies, and are usually accorded lower priority. The result may be that hearing and trial dates for drug cases are repeatedly postponed, as the court deals with higher priority cases. Isolating drug cases within specially designated courtrooms eliminates this "unfair" competition, and can result in more individual attention to the individual case and therefore yield more appropriate and effective dispositions.
- Third, the nature of the street-level anti-drug enforcement that characterizes many of the police responses to drug-related crime results in large numbers of relatively standardized cases, with strong evidence and police witnesses (Kleiman, 1986; Zimmer, 1987). This reduces the likelihood that defendants will seek a trial, streamlines the case preparation and investigation process for prosecutors, and often leads to the establishment

of mutually understood and accepted "going rates" for felony drug cases. Further, this situation increases the likelihood of conviction and incarceration, and accordingly may provide an important incentive for defendants to accept diversion to treatment.

- Fourth, an underlying drug problem is likely to be the reason for criminal justice system involvement for many defendants charged with nondrug offenses. Accordingly, drug treatment interventions have the potential to reduce recidivism rates by reducing drug use.

Although the idea of dedicating specified courtrooms solely to drug cases is not new (in the early 1970's, when heroin was the primary drug of abuse among offenders, New York City set up special "Narcotics Courts," in response to the passing of harsher drug laws), the first court to integrate drug treatment with the processing of drug felonies was in Dade County (Miami) Florida, whose Drug Court began operations in June 1989. This court soon became an early model for several other efforts to divert drug defendants into treatment, such as those in Oakland (CA), Portland (OR), and Broward County (FL). Within a few years, a number of other jurisdictions facing their own drug caseload crises had established treatment drug courts, and by the end of 1995 there were at least 50 "treatment-oriented" drug courts operating around the nation (Cooper, 1995).

It is clear from recent developments that the treatment drug court model is closely consonant with current thinking among criminal justice, substance abuse treatment, and political leaders. For example, the 1994 Federal Crime Act contains provisions calling for Federal support for the planning, implementation, and enhancement of treatment drug courts for nonviolent drug offenders. The model anti-drug legislation recently proposed by the President's Commission on Model State Drug Laws recommends that judges require drug or alcohol treatment of drug-dependent offenders as early in the adjudication process as possible (The White House, 1993). The President's Commission recognized the potential for using the legal coercion of the courts to induce defendants to enter drug treatment, and that an arrest can represent a critical juncture to intervene in the drug-crime cycle.

Similarly, a recent joint policy statement by the Council of Chief Justices and the Council of State Court Administrators emphasized the importance of linking drug treatment to the court process in a meaningful and effective manner (National Center for State Courts, 1994). The Councils called for a comprehensive approach that includes (1) screening, assessment, and treatment at all criminal justice stages, (2) cooperation with treatment, public health, social services, and the educational system, and (3) coordination among federal agencies to increase the availability of treatment resources in the criminal justice system.

Finally, the Center for Substance Abuse Treatment (CSAT) of the Department of Health and Human Services has identified treatment-criminal justice system linkages as a major policy priority (see page 19 for a description of the CSAT-supported Little Rock drug court).

Treatment-oriented drug courts are generally structured to achieve several basic goals:

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- Link drug-involved defendants to community-based treatment as soon as possible after arrest, with judicial oversight
- Address other defendant needs through clinical assessment and effective case management
- Reduce drug use and associated criminal behavior
- Free up judicial and prosecutorial resources for adjudicating nondrug caseloads

In order to attain these goals, treatment drug courts commonly incorporate some or all of the following basic operational characteristics:

- Timely identification of defendants in need of treatment and referral to treatment as soon as possible after arrest
- Establishment of specific treatment program requirements, with compliance monitored by a judicial officer
- Regular status hearings before the judicial officer to monitor treatment progress and compliance
- Holding defendants accountable through a series of graduated sanctions and rewards
- Use of a diversion model in which case is dismissed or the sentence is reduced upon successful treatment completion
- Periodic urine testing to monitor drug use

Although most treatment drug courts incorporate these core functions, some drug courts add other enhancements that extend the breadth of services offered to offenders. Examples include:

- Early comprehensive clinical assessment of the offender's treatment, health, social service, and other needs
- Matching individual treatment needs to specific treatment programs or services
- Provision of aftercare and support services following treatment completion to facilitate successful reentry into the community

The remainder of this report outlines a conceptual framework for considering different models for treatment-oriented drug courts, and describes various current efforts to link substance abuse treatment to the adjudicative process. The focus here is on courts that use a diversion model to channel drug-involved felony offenders into drug treatment under judicial supervision. In addition to describing the structure and operations of several established drug courts, we summarize existing evaluations of their effectiveness, and discuss issues surrounding their implementation and operation.

ESTABLISHING A TREATMENT-ORIENTED COURT

Treatment courts generally have not emerged out of a vacuum. Some evolved from existing programs or efforts to engage defendants in treatment, such as through Treatment Alternatives to Street Crime (TASC) program interventions, limited diversion programs, conditions of pretrial release, conditions of probation, or in conjunction with intermediate sanctions. But these earlier efforts were often fragmented, inconsistently or inappropriately used, or not viewed as sufficiently effective. Supervision of treatment often rested on several agencies, and consequently it was difficult to monitor treatment progress or compliance with court-imposed conditions. In many jurisdictions, several years of efforts to provide treatment have preceded the establishment of treatment-oriented courts. Often, there already existed an organizational structure, such as an interagency task force or substance abuse committee, through which planning efforts could be channeled. Some jurisdictions used planning grants or seed money from the Federal, state, or local governments.

A common theme in the grass-roots establishment of existing treatment-oriented courts is careful planning and implementation. Since the success of this program depends in large part on securing "structural accountability," it appears important that all participating agencies share responsibility for program planning and implementation (Peters, 1994; Tauber, 1994). This should include collaboration in decision-making, sharing information and resources, and coordinating efforts, so that all agencies concerned are involved in all stages of the program. Such interagency collaboration can help to ensure that key system actors have a stake in the success of the court, and share common goals and strategies.

Setting up a treatment-oriented court, as with any major change in the way cases are processed by the courts, presents a number of challenges. The experience of treatment courts to date suggests that successful implementation requires (1) extensive pre-program planning, (2) careful groundwork with leaders of all the major agencies involved in criminal case processing, (3) strong judicial leadership, and (4) close collaboration with key non-criminal justice entities such as treatment, public health, and social services agencies (Peters, 1994; Tauber, 1994). Ongoing monitoring of the drug court by the court administration is also necessary to identify problems or changes in procedures as they occur.

OPERATIONAL COMPONENTS OF THE TREATMENT DRUG COURT MODEL

The experience of treatment drug courts thus far and the types of programs now starting to emerge suggest a number of important elements for a successful intervention. In this section the key operational components of a treatment-oriented court are described. No single court, of course, can be expected to be able to incorporate all these key elements. Although individual jurisdictions may differ in the mechanisms and procedures for linking offenders to drug treatment under court supervision, a number of elements are critical for identifying appropriate target populations, creating effective criminal justice/treatment linkages, and monitoring and adjusting program operations as problems arise, and circumstances or

environments change. A treatment-oriented court operates in a ***dynamic*** setting, requiring flexible organizational structures and staff to respond as conditions evolve.

1. Screening

There may be several stages of eligibility screening -- ideally this should commence as soon as possible following arrest. Clearly defined and articulated eligibility criteria, agreed to by all relevant parties during the planning period, are important to ensure that the drug court is used for the appropriate offender population. A typical sequence of eligibility screening would be:

a. Initial eligibility screening based on gross program eligibility criteria, such as charge and criminal history
b. District Attorney screening with regard to case seriousness, defendant culpability, mandatory incarceration statutes, criminal history, or plea bargaining restrictions.
c. Defense attorney review of complaint and discovery materials, need for drug treatment, and discussion with client
d. DA and defense attorney agree on placement
e. Judge reviews case to assess eligibility
f. Treatment provider may also screen for eligibility (especially if there is only one provider for the Court)
g. Probation or pretrial services or other supervising agency reviews eligibility

Although most courts admit only drug possession cases, some also accept low-level sale cases, and a few process any drug felony, regardless of the type of offense. Generally, treatment-oriented drug courts have excluded defendants charged with sale, delivery, or trafficking unless they had a relatively minor role in the transaction or an underlying drug addiction is clearly driving their participation in drug selling. The Washington, D.C. Superior Court Drug Intervention Project (see below) is an exception in that any type of felony drug defendant is eligible, including those charged with sale of drugs, regardless of their prior conviction record. The Portland, Oregon drug court also accepts defendants with extensive prior records, but excludes those charged with drug sale or trafficking.

2. Assessment

Assessment includes the determination of the nature and extent of the defendant's substance abuse history, mental and physical health problems, social and economic status, readiness for treatment, and types of treatment and other services required to address identified problems. Careful, clinical-based assessment is important to assure appropriate targeting, to develop a proper and comprehensive case management or treatment plan, and to match clients to appropriate services (see ***Referral*** below).

Among the important elements of the assessment process are:

- Use of multiple assessment instruments, treatment readiness scales, psychological tests

- Assessment by trained substance abuse specialists or clinical staff
- A comprehensive assessment is desirable: in addition to substance abuse status and treatment needs, this includes other social service needs, health needs, involvement of family in treatment process, housing, etc. The substance abusing defendant population is likely to include substantial numbers with special needs, such as medical problems, women with small children, polydrug use, and mentally-ill chemical abusers (MICAs). Thus many defendants could require other services aside from treatment; a broader public health perspective is essential and the probable need for ancillary services should be anticipated
- A preliminary treatment plan can be developed at this stage (although the final treatment plan should await review by the treatment provider), and the defendant matched to the appropriate program(s). A case management perspective should be incorporated throughout the treatment court process
- A determination of public safety risk, using objective risk assessment scales if possible
- The assessment should be conducted as soon as possible after arrest, once program eligibility has been determined and the prosecutor and defense counsel have agreed to participate

3. Referral

Appropriate treatment and other service referrals are essential to maximize the potential effectiveness of the treatment-oriented court. Placement of a defendant in a program that does not have the suitable level of intensity or restriction can lead to a high rate of treatment failures and undermine the overall effectiveness of the program.

- Program administrators should carefully choose the drug treatment program(s) to which defendants will be referred. It should be decided whether one type of treatment or several modalities will be made available, and what the critical elements of the treatment process will be. Locating the treatment program in geographic proximity to the courthouse may be important in ensuring that defendants arrive at their critical first treatment appointment.
- Some treatment-oriented courts contract directly with treatment providers for slots reserved for drug court clients, others rely on the availability of treatment slots funded by single state agencies. Careful consideration must be given to assuring the immediate availability of treatment for offenders referred from the court.
- It is also important (within resource constraints) to provide a broad range of treatment and modalities and services, with flexible mechanisms created to move defendants from less intensive to more intensive treatment (and vice versa) as progress dictates. Ancillary services to address social, health, or other problems should be promulgated by the case manager. CSAT's Model for Comprehensive Alcohol and Other Drug Abuse Treatment (see Appendix) is one tool for appraising the quality and scope of treatment services available to defendants in the treatment-oriented drug court.
- The treatment referral staff should not be associated with the treatment providers to avoid an actual or appearance of conflict of interest

4. Management Information Systems

Comprehensive and flexible management information systems, as with any court-based program, are critical to the proper functioning, oversight, and evaluation of the treatment-oriented court. Treatment-oriented courts face the additional challenge of integrating information about treatment and public health services with court processing and other criminal justice system data.

- Treatment providers should also have a client tracking and services management information system. Such a system should have the ability to report regularly to court on treatment progress, services received, urine test results, etc. The judge or other court personnel should have on-line access to treatment progress data for defendants in the courtroom, if necessary, subject to federal and local confidentiality regulations and procedures.
- It is important for all participating agencies to share data on program operations, including treatment and public health as well as criminal justice agencies

5. Monitoring and Oversight

Strong and consistent leadership from the court administrator, chief judge, prosecutor, and public defender is important to maintain support for the program and assure adherence to the drug court's procedures and guidelines. In addition:

- Ongoing communication among the drug court judge, prosecutor, public defender, treatment providers, and any supervising agency such as probation is important to identify and resolve problems as they arise.
- Clear responsibilities for case and treatment decisions should be established. It is natural that tensions between treatment provider and court will arise over responding to relapse, abrogation of program rules, etc. These are very difficult issues to resolve and are related to the very different goals and philosophies of criminal justice and public health agencies. It is critically important to carefully develop linkages and mutual understanding among courts, other criminal justice agencies, and treatment/public health systems.
- There should be ongoing monitoring of the treatment-oriented court by the judiciary, court administrator, and/or the executive branch. The number of cases adjudicated, number of pending cases, time to disposition, types of dispositions, and sentences should be compiled and reported regularly by the court administrator's office. Unanticipated effects on nondrug or ineligible drug cases should be monitored as well. Treatment program services and client performance should be monitored by the drug court judicial staff, the case manager, or the agency responsible for supervising drug court defendants (such as the probation department).

6. Reward and Sanction Structure

As the program descriptions below indicate, some treatment-oriented courts have relied on a structured system or rewards and punishments, or client contingency contracts, to enforce compliance with the requirements of the courts. Such performance incentives help to formalize the coercive aspects of court-supervised treatment, and therefore may help promote retention in treatment.

It is important to establish clear, written rules and procedures for responding to violations of the drug court's policies. Rewards and sanctions for complying or not complying with the court's or treatment program's requirements should be applied fairly and consistently. Some drug courts impose short jail terms for failures (sometimes escalating the length of the jail term for each subsequent failure), others rely on oral admonishments. Allowance for relapse episodes and a willingness to give defendants a chance to change should be part of the underlying philosophy. This is another area in which the tensions between the court and treatment provider may be quite apparent. It is natural for a judge to want to respond immediately and strongly to violations of his or her orders; on the other hand, treatment providers are more apt to handle a resumption of drug use as part of the recovery process. Both groups must try to compromise in the best interests of the treatment court and the defendant, so that relapse is recognized as inevitable, but that the rules and procedures of the court are not ignored or taken too lightly.

7. Processing Mechanism

There are various mechanisms for linking substance abuse treatment to the adjudication process. However, there are certain key issues that should be considered in developing and operating a treatment-oriented court.

- As noted above, eligibility criteria should be clearly defined and applied as early as possible in the adjudication process. Cases with weak evidence should be screened out to minimize "dumping" (i.e., putting into the drug court cases likely to have resulted in *nolle prosequi* or dismissal), or net-widening (extending the court's control to defendants likely to have been safely released without supervision, or sentenced to a minor sanction). Of course, such defendants might choose to enroll in the drug court and should be allowed to do so, if otherwise eligible. Participation in the drug court treatment program should be voluntary, and there should be an early "grace" period, as in Portland's S.T.O.P. drug court (see below), during which defendants are allowed to withdraw and return to the standard adjudication route.
- Drug-involved defendants should be provided with early access to a treatment diversion track. Direct court links to community-based treatment programs should be established and expedited client screening for treatment needs provided. Treatment should begin as soon as possible following the first drug court appearance.
- If a diversion-type model is to be used, there are several mechanisms for responding to successful treatment completion. Charges can be dismissed or reduced (for example from a felony to a misdemeanor), the length of probation sentence can be reduced, or other sentencing conditions eliminated. Defendants might be required to plead guilty before entering the program, then have the plea vacated after treatment completion. Other programs place defendants in treatment prior to plea. Each model carries with it different levels of legal coercion and incentives for the defendant to comply with judicial requirements.
- Case flow procedures should be carefully charted, with agency and individual responsibilities, and paper or computer documentation clearly delineated

- It is important to have a judge with good leadership abilities who is knowledgeable about drug abuse and drug treatment, and who is supported by the presiding judge and court administrator
- Channel all eligible felony drug cases into the treatment-oriented court as early in the adjudication process as feasible. A decision must be made as to whether cases with nondrug charges, where there is evidence or suspicion of an underlying drug problem, will be eligible for the court
- Implement a system of full and early discovery, and require the timely filing and resolution of motions
- Expedite the production of laboratory reports, presentence investigations, and other key documents and distribute the results to prosecutor and defense as soon as possible
- Schedule regular status hearings to review treatment progress and compliance with other court conditions

8. Program Structure Issues

Several other operational and structural elements will help maximize the effectiveness of the treatment-oriented drug courts:

- The fostering of good relations with the media, legislature, and the community should begin as early as possible in the planning process to help maximize understanding and support of the treatment-oriented court's goals.
- There should be fixed assignment of judge, assistant district attorney, and public defender for 6 months to one year. This ensures the development of expertise about anti-drug enforcement, felony drug cases, drug abuse, and drug treatment and helps establish a mutually productive courtroom atmosphere. It is preferable that the drug court be staffed with volunteers from the prosecutor's and public defender's offices, or that the drug court assignment be a vehicle for advancement, so that the potential for boredom or burnout are minimized. Some jurisdictions have relied on volunteer judges to preside over the drug courts, others have used a mandatory rotation system -- each system has its benefits and drawbacks. Assignment to the drug court for more than one year may be problematic because the high caseload volume in the drug court, the pressure to monitor treatment progress, and the uniformity of much of the caseload may result in staff burnout and a consequent loss of efficiency and equitable case dispositions.
- All participants should "buy into" the treatment-oriented drug court concept in order for it to achieve its goals. There should be implicit or explicit agreement to abide by the procedural rules of the court. Interagency cooperation should be facilitated to the extent possible.
- One difficult issue is determining the ideal caseload size. The court should maintain a sufficient caseload to maximize cost effectiveness, but not too large to preclude individual attention to each defendant and regular, meaningful status hearings

9. Research and Evaluation

Carefully wrought, methodologically sound evaluations of program operations and impact are important for several reasons:

- To be accountable to funding agencies

- To further knowledge of the impact of new models of court-supervised treatment interventions
- To help refine program operations and learn from experience
- To increase understanding about treatment effectiveness in criminal justice populations, the impact of treatment-oriented courts on recidivism and drug use, and the cost-effectiveness of alternative sanctions

Each jurisdiction should develop the capability of evaluating the impact and long-term effects of the treatment-oriented drug court, either with in-house research staff or using an outside contract evaluator. Process/implementation studies are also important and should be encouraged. Funding agencies increasingly require evaluations as a condition of funding.

EARLY MODELS OF TREATMENT-ORIENTED COURTS

Although many treatment-oriented drug courts have used as their starting point the so-called "Miami Model" of diversion, each jurisdiction has tended to introduce its own unique variations on the diversion theme. This is necessitated by cross-jurisdictional differences in drug treatment availability, varying levels of cooperation from the local prosecutor and public defender, exigencies of funding and staffing, the strength of the local probation or pretrial services department, the locus of oversight for planning and implementing the drug court, and many other factors. Accordingly, there are in a sense as many types of treatment drug courts as there are drug courts. However, most of the programs share at least several of the common characteristics described earlier, including early intervention, judicial monitoring, rewards and sanctions, and regular status hearings with treatment progress reports.

In this section we describe the basic structure and operations of four well-established treatment-oriented courts that developed as variations of the "Miami model" drug court. The Dade County program has been described in detail in several other reports (Finn and Newlyn, 1993; Goldkamp and Weiland, 1993) and will not be described here.

Broward County (Fort Lauderdale), FL

Important features of the Broward County Drug Court:
- Continuum of treatment in and out of custody
- County-funded and operated outpatient treatment program with slots dedicated to drug court clients
- Use of acupuncture as integral part of treatment process

This is a pretrial intervention program for first time felony drug offenders that began in July 1991. Those involved in drug sale, with a prior felony conviction, or who had previously participated in the drug court, are ineligible.

Eligible defendants are immediately diverted into a designated court and treatment program that includes acupuncture, urine testing, counseling, fellowship meetings, education, vocational training, and aftercare. Unlike some other treatment-oriented courts, there is no formal assessment of treatment needs or drug history by clinical professionals. Rather, it is assumed that if a defendant has been arrested for possession or purchase of any controlled substance, he or she is likely to benefit from treatment.

Regular scheduled status hearings before the judge are used to monitor a system of increasing interventions in which more intensive supervision and treatment may be ordered in response to relapse. Continued relapses may result in sanctions ranging from a few days in jail to several months in a residential treatment or jail-based treatment facility. Successful progress in treatment is rewarded with public approbation at the status hearings; after one year, defendants graduate from the program and the charges are dismissed.

The treatment services are provided by the Broward County Outpatient Drug Court Treatment Program, funded by the county's Alcohol and Drug Abuse Services Division. There are three phases: Phase I, lasting about 30 days, includes assessment and evaluation, optional daily acupuncture and urinalysis, individual and group counseling, and self-help groups. Phase II (23 weeks) requires attendance at the treatment program two to three times per week, includes optional acupuncture, individual and group therapy, and self-help groups. The emphasis is on the maintenance of a drug-free lifestyle, social adjustment, and the development of appropriate mechanisms for coping with stress. The final Phase III is a comprehensive aftercare program lasting 26 weeks. During this phase there is more emphasis on educational and vocational skills, group therapy, and self-help groups. Clients attend the program one day per week at minimum. Aftercare groups are also available for program graduates.

Oakland, CA:

Important features of the Oakland F.I.R.S.T. diversion project:
- Contingency contract
- State-mandated diversion statute
- Rapid intervention and onset of treatment
- Probation department provides some of the treatment

Diversion to drug treatment is mandated by law in California for first time drug offenders, and provides the statutory basis for the Oakland drug court (called the "F.I.R.S.T. Diversion Project," for *F*ast, *I*ntensive, *R*eport, *S*upervision, and *T*reatment). This program diverts felony drug offenders into treatment administered or monitored by the County Probation Department. Upon successful completion of the program, criminal charges are dismissed. Diversion is generally granted within two days of an offender's release from custody following arrest. Once accepted into the F.I.R.S.T. program, the defendant is sent directly

to the County Probation Department for an orientation session, and is assigned to a specific probation officer who reports directly to the judge for progress report hearings. For the first ten weeks, divertees are required to have a minimum of two contacts per week with program staff, which include group sessions, drug education, AIDS classes, and urine tests.

The defendants are required to sign a "contingency contract" which specifies the precise program requirements at each phase, the benefits that will accrue if the conditions are satisfied (e.g. reduction of the diversion term, reduced court diversion fees), and the consequences of failure to comply with the conditions set by the judge. Progressive sanctions are used to punish non-compliance, with the severity determined by the number and seriousness of program failures. Less serious violations may result in increased supervision or treatment, whereas more severe or continued violations could result in several days in custody. Progressive sanctions are applied with the understanding that there will be consequences for a defendant's failure to fulfill the terms of the contract.

As with all treatment drug courts, the underlying philosophy of the Oakland Drug Court is to promote the rehabilitation of drug-using offenders. To this end, court and staff try to work cooperatively, and the judge may at times form a personal relationship with individual divertees. The court calendar is structured to demonstrate both the benefits and consequences of the program. This is reinforced with a calendar that starts with program failures, continues through progress reports and, finally, successes. Both successes and failures are prominently displayed to the other participants and their families present in the courtroom.

The F.I.R.S.T. diversion program has three distinct phases. In Phase I, "Diversion Placement," felony drug defendants are arraigned (day 1), then interviewed by Pretrial Service personnel to determine the diversion recommendation, and by the Public Defender (day 2). A probation officer then reviews the diversion report and makes a recommendation, considered by the District Attorney, Public Defender, and the court, as to the appropriateness of diversion (day 3).

In Phase II, the two-month "Intensive Evaluation and Supervision" phase, the client is directed to an orientation with his or her assigned probation officer (this occurs immediately after being granted diversion). For the next ten weeks the client is responsible for reporting twice a week to the probation officer; attending five group probation sessions (four drug education and one AIDS education session); taking three urine tests; registering with and participating in a community counseling program; and making payments toward a diversion fee. Those who successfully complete Phase II graduate to Phase III. Those who performed inadequately may be given a five week extension to complete Phase II, may repeat Phase II, or may be assigned to individual probation supervision.

The "Final Supervision and Treatment" phase, Phase III, lasts for three months. The client is required to attend eight group probation sessions; meet twice with their probation officer; take four urine tests; participate in community counseling for eight weeks; and make

diversion fee payments. Those who successfully complete Phase III are granted whatever incentives were outlined in their contingency contract, which can include dismissal of the case. Those who perform inadequately may repeat Phase III or be terminated from the program.

Phoenix, AZ

Important features of the Phoenix FTDO treatment-oriented court:
- Post-sentence program
- Defendants under probation supervision
- About one-third of the participants were arrested for marijuana possession
- Many defendants are also required to do community service following treatment completion

The Maricopa County First Time Drug Offender (FTDO) program is an example of a post-adjudication treatment-oriented court. Defendants have been sentenced to probation, and they must be first time drug possession cases (other priors are allowable). The drug court term is 6-12 months; if they successfully complete the treatment and supervision requirements within 12-18 months under the terms of their contingency contract with the Court, the probation sentence (usually 3 years) is reduced. Unless the offender has other unfulfilled conditions of probation or sentence, such as community service, or restitution, probation is terminated after successful drug court participation.

Treatment services are provided through contracts with two private, community-based providers. Defendant progress is monitored by the assigned probation officer, who acts as a liaison with the treatment program. Both the probation officer and a treatment representative attend each status hearing. The treatment regimens have been designed from a "holistic" approach -- traditional individual and group counseling is supplemented by social skills training, family counseling, relapse prevention, and vocational and health care training. Although individual treatment plans are developed for each participant, there are four basic structural components that every client receives: drug education, process groups, case management, and aftercare.

There are three treatment phases, each lasting a minimum of two months:
(1) ***Orientation.*** Participants receive drug education and social skills training. Requirements include one education class and one process group per week, attendance at 12-step meetings, random urine tests, and bi-monthly meetings with the probation officer.
(2) ***Stabilization.*** This phase focuses on relapse prevention. Participants attend one process group and 12-step meeting per week, undergo random urine testing, and meet regularly with their probation officer.

(3) ***Transition.*** This final treatment phase is designed to prepare the client for "reentry" into the community and requires attendance at 12-step meetings and one process group per week.

Each phase may be repeated depending on the participant's progress and individual needs. In addition, aftercare services are available for up to nine months, including process groups and "booster" sessions.

Portland, OR:

Important features of the Portland S.T.O.P. program:
- Direct contract with treatment provider for dedicated slots
- Criminal record not considered in eligibility
- Defendants have 2 week grace period to withdraw from program
- Defendants waive rights to trial and agree to "stipulation of facts" bench trial if they fail the program

The S.T.O.P. (Sanction-Treatment-Opportunity-Progress) program is a deferred prosecution initiative designed to divert drug offenders into treatment. Eligible defendants are those charged with felony possession of a controlled substance, with no significant evidence of drug dealing and with no violent crime charges pending at the time of arrest. Criminal history, whether prior felony or misdemeanor convictions, is generally not considered in determining eligibility. The program began in August 1991.

Participation is voluntary. Defendants are informed about the program at arraignment, and interested defendants consult with the public defender by the next day. The first S.T.O.P. hearing occurs on the second day after arraignment. Upon entering the program, defendants waive grand jury and speedy jury trial rights, as well as any right to contest the stop and search in their case. They are, however, given an additional 14 days to withdraw, allowing them time to decide if they want to continue in the treatment program, and the defense time to review all of the discovery materials. Program data indicate that 80% of eligible defendants are accepted into program, and very few withdraw during the 14-day grace period.

Defendants pay a $300 fee for participation; this fee is often not collected until the defendant graduates and obtains employment. The program lasts twelve months, with monthly status hearings that include the public defender, prosecutor, and a treatment representative. Nighttime status hearings are held twice a month to accommodate defendants who are working.

Program failure results in a bench trial based solely on the facts as stated in the police report. These trials last about two minutes, representing considerable cost savings to the

DA, the court, and the Public Defender. These "stipulated fact" trials are scheduled during the time of the status hearings so that the consequences of program failure can be observed by other program participants. Although during the planning of the S.T.O.P program the Public Defender raised some concerns about the fairness of the stipulated fact trial requirement, it was ultimately agreed to by all parties, and appears to have worked well in practice. Under Oregon's sentencing guidelines for felony drug possession, most drug court failures are sentenced to probation. S.T.O.P program officials have also pointed to this procedure as yielding substantial cost savings compared with the standard plea bargaining or trial process. Whether the stipulated fact trials increase program compliance among other drug court clients has not been empirically tested.

At the monthly status hearings, as with most treatment-oriented drug courts, the judge reviews treatment progress, including urinalysis reports, and may make changes in the frequency of testing, type of treatment, or participation in other services. The imposition of these conditions is based on the recognizance authority of the court. If the defendant does not appear for a scheduled status hearing, a bench warrant is issued unless there is a good excuse for non-appearance. In that case a "special" warrant is issued pending reappearance. At the status hearings, custody cases are heard first and are led into court in chains. These are mainly bench warrant cases that had been remanded for short jail stays, they are usually then ordered released and return to the treatment program. Bench warrants may also result in a placement for eight weeks in the Forest City Work Camp in order to be allowed to return to the program.

All treatment is conducted by InAct, a private community-based treatment provider that operates under a contract with the Multnomah County Department of Community Corrections. The annual treatment program cost of $600,000 is shared by the state ($400,000), Multnomah County ($100,000), and the city of Portland ($100,000). By contracting directly with a single treatment program, the Drug Court is assured that sufficient slots will be available for its participants, and that the court will have some leverage in obtaining information about participant progress in treatment. And, all treatment occurs in one physical location, making it easier for participants to keep commitments.

Treatment begins with an initial assessment and orientation (Phase I - "Transitional Development") which lasts four weeks; participants must attend the treatment program six days per week during this phase. Phase II, "Stabilizing Development" (3 to 5 months), includes random urinalysis, acupuncture and group counseling three times a week, and special focus groups as needed. In the final six months, the program is tailored to each participant's needs. Phase III, "Life Management," is a monitoring phase that lasts for the rest of the 12 month treatment period, and includes weekly check-ins, random urinalysis, and acupuncture. Phase IV, Guidance, is offered to clients who have successfully completed all other required program components, and is designed to ensure the client's readiness to leave the diversion program. In the tenth month, clients begin attending Narcotics Anonymous/Alcoholics Anonymous five times a week for the final two months of the

program. Every month, three days before the status hearing, the judge receives a progress report from InAct.

An underlying philosophy of the S.T.O.P. program, as in most drug courts, is that drug abuse is a chronic condition and relapses are expected as part of the recovery process. Thus, relapse prevention and management is incorporated into the treatment regimen, through multiple treatment episodes, aftercare, and a continuum of interventions including acupuncture. Recently, the court added employment and literacy components.

Defendants who successfully complete the S.T.O.P. program have their criminal indictment dismissed. Program failure usually results in convictions after the "stipulated fact" trial, with sentences of presumptive probation and a short jail term. More severe cases may get 6 months in state prison. Defendants are sentenced immediately after the trial. Program drop-outs are not eligible for S.T.O.P. upon a subsequent drug possession arrest.

EMERGING MODELS OF TREATMENT-ORIENTED COURTS

In this section we describe three examples of the second "generation" of treatment-oriented courts. These new efforts are using the experience of the first few years of treatment diversion drug courts to inform new designs. Some of these newer drug courts seek to take the best elements of existing drug courts and adapt them to other jurisdictions. As knowledge about more effective assessment, referral, and treatment delivery improves, it is also expected that the older as well as newer drug courts will benefit from improved assessment and treatment referral, more effective drug treatment, more sophisticated monitoring, and improved coordination and cooperation between the treatment and public health systems and the courts.

Washington, D.C.:

The Superior Court Drug Intervention Project established new procedures for processing felony drug offenders in the District of Columbia. This five-year demonstration project, supported in part by a grant from the Center for Substance Abuse Treatment (CSAT) of the Department of Health and Human Services), aims to systematically deliver treatment services to pretrial defendants charged with felony drug offenses, with the goal of reducing drug use and recidivism. An impact evaluation, also funded by CSAT, is being conducted by an outside evaluator. The project has two different "Drug Courts" designed to improve the effectiveness of supervision of drug offenders, reduce the use of unnecessary incarceration, and increase the impact and effectiveness of drug treatment. Both drug courts incorporate frequent drug testing, with close monitoring of defendant behavior by program staff and the judge. One court uses a graduated sanctions regimen with available referral to existing treatment programs, while the other provides intensive drug treatment in a program located within the court complex. The Drug Intervention Project embodies several key elements:

Early Intervention. Drug arrestees are given a urine test shortly after arrest, and the test results are made available at the initial arraignment when the pretrial release decision is made. Defendants charged with felony drug offenses are randomly assigned to one of three courts (the two Drug Courts or a third court operating in the traditional manner). Defendants assigned to these courts who tested positive at arrest are required to give urine samples twice per week. Test results from the time the defendant is released, monitored by the Pretrial Services Agency, are made available to the judge at the subsequent felony arraignment in Superior Court (usually 3-4 weeks later). If a defendant tests positive at least twice during this period they are eligible for more intensive treatment interventions.

Judicial monitoring. As with most treatment-oriented drug courts, a key feature of this project is the direct participation of the judge in monitoring the defendant's treatment progress and rewarding those who are doing well while sanctioning defendants that are not progressing at a sufficient pace. Regular status hearings and the availability of computerized treatment and pretrial data (see below) ensure that the Drug Court judges have comprehensive, on-line information on which to base case decisions.

In-court computerized data. The Drug Courts have on-line computer access in the courtroom to the defendant's urine test results and details of treatment participation. Such information enables the judges to make better informed case decisions and assures defendant accountability. For example, urine test results are directly entered from the lab equipment to the Drug Court's computer system so that judges have real-time information on each defendant's drug use.

Frequent urine testing. Drug Court participants are administered regular urine tests by the D.C. Pretrial Services Agency, with the test results available on the in-court computer. Defendants receiving standard case processing and those in the Graduated Sanctions Program are tested twice weekly; positive drug test results trigger a series of measured responses of increasing severity in the latter courtroom. Defendants in the Enhanced Treatment Program are tested five times per week, and positive drug tests result in more intensive treatment programming.

Graduated Sanctions Program. Defendants initially assigned to this Drug Court who test positive at arrest and continue to test positive following release are placed under the Graduated Sanctions regimen. Defendants have a case manager designated who assists him or her in obtaining treatment services and complying with program rules. During their participation, defendants continue to be tested twice a week for the duration of their case. A positive test or missed appointment triggers the imposition of an escalating scale of sanctions ranging from three days in the courtroom (first positive test or missed appointment) to seven days in jail (fourth sanction). On the third level sanction the defendant is required to spend at least seven days in the detoxification facility. When defendants test positive they are required to return to court the next day where the judge "sanctions" the defendant. All defendants are referred as needed to existing

community-based substance abuse treatment services. Defendants are under supervision of this court for four to six months.

The Enhanced Treatment Program. Defendants assigned to this Drug Court who test positive twice following arrest are place in an intensive community treatment program located in the court complex. The treatment protocol includes attendance at the program and urine tests five days per week, acupuncture detoxification, individual and group counseling, literacy tutoring, drug education, and vocational counseling. Treatment plans are individualized to meet the needs of each defendant and are modified in response to the defendant's performance in the program. The judge is closely involved in each defendant's progress in treatment; congratulating defendants when they move from one phase to the next and reprimanding those who do not show adequate progress in treatment. The treatment program lasts six to eight months.

Little Rock, AR:
The Comprehensive Court-Treatment Collaborative Project began in 1993, and is a multi-agency effort to provide a continuum of effective alcohol and other drug (AOD) abuse treatment for defendants entering the Pulaski County (Little Rock) court system. Participating Federal agencies include the Center for Substance Abuse Treatment, Centers for Disease Control, and the State Justice Institute. Within the state of Arkansas, the Project is a collaborative effort among the Arkansas Bureau of Alcohol and Drug Abuse, the Division of Alcohol and Drug Abuse Prevention, the Administrative Office of the Courts, Probation Department, and other state, county, and city agencies.

The basic goals and objectives are broader than the traditional "Miami model" drug court. These goals include an interagency collaboration to provide continuous and comprehensive drug and alcohol treatment to all persons appearing before the court, the creation of a computerized, cross-systems case management system, the development of a centralized automated assessment and referral system serving all criminal justice agencies, and the diversion under court supervision of offenders needing AOD treatment and other public health interventions. The key operating principle of the Little Rock project is the need to effectively and cooperatively link agencies of the treatment and public health systems with the various components of the criminal justice system.

This project aims to provide a national model for the assessment, referral, and monitoring of defendants in need of AOD treatment and health interventions, using state-of-the-art computerized assessment systems and the development of effective linkages between the justice and public health systems.

The critical components of the Comprehensive Court-Treatment Collaborative Project include:

- A centralized diagnostic unit, operated by the Arkansas Division of Alcohol and Drug Abuse Prevention, that will conduct comprehensive assessments of defendants referred by the various parts of the court system

- Recommendations by the diagnostic unit for the appropriate level of AOD treatment and primary health care

- The use of a computerized diagnostic and assessment system accessible to all components of the justice and treatment systems

- The development of a diversion program to route lower-level offenders into treatment *in lieu* of prosecution

- The continuing monitoring of the defendant by case managers and reliance on their recommendations and those of the central assessment unit for ongoing treatment placement decisions as the defendant moves through the criminal justice system

The diversion program is the drug court component of the Little Rock system. Called the Supervised Treatment and Education Program (S.T.E.P.), the court began operations in June 1994. Funding has been provided from a number of sources, including several agencies of the State of Arkansas, the State Justice Institute (a program evaluation), the National Center for State Courts (computer system software development), and CSAT (technical assistance).

The S.T.E.P. drug court is designed for non-violent, first-time drug offenders, who are referred from Municipal Courts in Pulaski or Perry Counties. Although funded for 400 treatment slots per year, referrals during the first few months of operations were much slower than expected. As with other treatment-oriented drug courts, participants in the Little Rock program will waive their rights to speedy trial; the treatment program is designed to last at least one year.

An important aspect of this drug court, however, is the involvement of the Central Intake Unit that links the court to public health as well as treatment agencies. In addition to determining the nature and severity of the defendant's substance abuse problem, the assessment includes tests for HIV, other sexually transmitted diseases, hepatitis B, tuberculosis, and other potentially disabling conditions, conducted by a public health nurse. Defendants who screen positive initially receive a full health screening for the identified disorder. Screening and assessment for substance abuse problems use the Addiction Severity Index, the Drug Abuse Screening Test, and the Alcohol Dependence Scale, administered by a trained interviewer/counselor.

All S.T.E.P. participants receive treatment services from a well-established contracted treatment provider, the Twenty Four Hour Center. The treatment center is located in the same building as the drug court. Although the treatment of choice is outpatient, residential

treatment is made available to clients if they are not succeeding in the outpatient program. The program uses a case management approach, and the case manager or counselor is always present at the court status hearings. There are three phases of treatment that incorporate drug education, twelve-step programs, urine testing, individual, group and family counseling, and acupuncture. Additionally, vocational counseling and relapse prevention are provided at the appropriate stage of treatment. Given the public health orientation of the Arkansas Collaborative Project, it is not surprising that referrals to health services are an important part of the treatment protocol.

Baltimore, MD:

Baltimore's Drug Court, which began operation in March 1994, embodies several years of cooperative planning by a diverse group of agencies, including representatives from the criminal justice system, bar association, health and treatment agencies, the Mayor of Baltimore, the Governor, and university researchers. Led by the Baltimore City Bar Association, a committee was established in 1990 to study the substance abuse crisis and its impact on the criminal justice system. Among its numerous recommendations was the establishment of a drug court. In an effort to create a comprehensive approach to reducing substance abuse and recidivism among offenders, the Baltimore City Drug Treatment Court incorporates two separate tracks:

(1) Non-violent offenders whose criminal behavior is related to addiction can be diverted from prosecution following successful completion of treatment, in a model based on similar efforts in Dade County, Oakland, and Mobile. They are supervised by the Drug Court's Diversion Unit, part of the Department of Public Safety's Pretrial Release Services Division.

(2) Defendants not eligible for diversion are placed on a probation track, and are supervised by probation/parole agents in the Drug Court's Probation Unit. Compliance with drug treatment agreements is also required.

As in the Oakland and Phoenix drug courts, Baltimore's drug court diversion clients are required to sign a contract with the State indicating the program requirements, including a series of graduated sanctions, some of which can be applied by the supervising officer without court approval.

Eligibility for the diversion track is determined shortly after arrest. Initial eligibility screening is made on the basis of a review of the current charges, prior record, and substance abuse status. Those meeting these criteria (no history of violent or weapons offenses; no prior drug court involvement; no prior drug sale convictions; 18 or older; no current warrants, detainers, or open probation or parole cases; willing to enter substance abuse treatment, and; approval by the State's attorney and defense counsel) are sent for intensive assessment to determine their treatment, health, social services, and supervision needs. Such assessment is accomplished approximately 14 days from arrest for those detained and 18 days for those on pretrial release. The assessment is done by trained addiction specialists. The assessment report makes recommendations for the intensity of

treatment (all treatment is outpatient, although defendants with multiple relapses might be placed in residential treatment for a period of time) and the specific program to be assigned, other rehabilitation needs (such as housing, education, and vocational training), and provides a draft of the contract between the defendant and a State. The prosecutor and defense counsel then negotiate the terms of the defendant's participation, except that treatment recommendations are non-negotiable. The defendant has the option at this point to decline drug court diversion and proceed with regular prosecution. The Drug Court judge makes the final determination as to participation, and can accept, reject, or modify the agreement made by the prosecutor and defense.

The Baltimore drug court model incorporates extensive and early assessment by health professionals, a range of available treatment services, and the intention to match each participant to the most appropriate services. Key components of the Baltimore Drug Court include a team approach to service delivery, and the use of one of four Day Reporting Centers around the city. At these Centers, participants receive specialized services (such as vocational training, parenting skills, life skills training, housing assistance), are administered urine tests, and meet with their supervising agent. Participants are referred to one of three treatment programs which include various levels of outpatient treatment: Standard Care, Enhanced Care, or Intensive Care. Treatment is designed to last from twelve to eighteen months. Another interesting and potentially important aspect of the program is the close supervision of clients by pretrial services case managers, who are given the power to impose certain limited sanctions on defendants without judicial approval. However, the periodic status hearings assure that the Drug Court judge will be kept apprised of the defendant's progress and have an opportunity to review any such sanctions.

In October 1994 the Circuit Court for Baltimore City began its own Drug Treatment Court program. This program is similar in design and process to the District Court model described above, and the two courts share many of the same resources. However, since the Circuit Court handles felony cases, eligible defendants are carefully screened by the State Attorney's office prior to admission. All offenders in this program plead guilty at the first Circuit Court appearance, and are given a suspended probation sentence pending their participation in the Drug Court.

FINDINGS FROM DRUG COURT EVALUATIONS

Given that treatment-oriented drug courts are a relatively new phenomenon, there is still a paucity of evaluations that examine the long-term impacts of these programs. With the growing national interest in drug courts and the potential role of treatment in reducing drug-related crime, careful studies of their cost-effectiveness and impact on drug use and criminal activity are needed to help guide policy. Although, broader, national multi-site evaluations will be necessary to assess the impact of drug courts and to help guide their evolution, several studies of treatment drug courts have been completed or are under way. These preliminary findings offer promising indications that these programs are achieving their goals, while being less costly than other case processing alternatives. With two

experimental evaluations of drug courts recently completed (Phoenix) or under way (Washington, D.C.), and new multi-site evaluations planned in 1996 under National Institute of Justice funding, more assessments of the effects of treatment diversion drug courts should be forthcoming over the next few years.

The most comprehensive external evaluations of treatment drug courts to date are those of the Dade County Drug Court by John Goldkamp (Goldkamp and Weiland, 1993; Goldkamp, 1994b), and the RAND experimental evaluation of the Phoenix program (Deschenes and Greenwood, 1995). Following are brief summaries of the findings from those evaluations.

Dade County:
A recently completed evaluation by the Crime and Justice Research Institute of the Dade County Felony Drug Court examined that court's impact on case processing outcomes, treatment program outcomes, and recidivism rates (Goldkamp and Weiland, 1993; Goldkamp, 1994b). Because this was a retrospective study an experimental design was not feasible, so the researchers used several matched comparison groups of felony drug and non-drug defendants from time periods before and after the Drug Court's inception. The use of multiple comparison groups is less ideal than a true experimental design where defendants would be randomly assigned to the Drug Court or to standard case processing. However, the strength of multiple comparison groups (as opposed to a single comparison group) is that consistent differences between the experimental (i.e. Drug Court) and the comparison groups would yield a higher degree of confidence that the intervention had a real impact on offenders and that the differences were not due to chance.

Among the study's key findings were that 60% of those admitted to treatment had "favorable" outcomes. The median time in treatment was one year for these defendants and 225 days for those with "unfavorable" treatment outcomes. Recidivism rates were lower for Drug Court participants, with 33% rearrested within 18 months compared with over half of other felony drug defendants from both before and after the Drug Court's inception. Also, for those rearrested, the median number of days to the first rearrest was longer for Drug Court participants (235 days) than for sample cases from the other comparison groups (these ranged from 46 to 115 days to first rearrest).

Phoenix:
The RAND Corporation's evaluation of the Maricopa County, Arizona (Phoenix) First Time Drug Offender (FTDO) program utilized an experimental design in which probationers were randomly assigned to one of four probation supervision tracks. One of the four tracks is the FTDO Drug Court, where drug testing and treatment are provided by a private treatment provider. The other three tracks involve varying levels of contacts with the probation officer and urine testing. Defendants are eligible if they have been convicted of felony drug possession, are eligible for the program, and have been recommended by the probation officer preparing the pre-sentence investigation report.

Preliminary results of the evaluation were recently published (Deschenes and Greenwood, 1995): 61% completed treatment within 12 months or were still in treatment at the 12-month follow-up; 30% successfully graduated and were discharged from probation within 12 months, and another 11% graduated and were transferred to standard probation. Among the 39% who failed, 15% absconded, and 20% were resentenced for a new arrest or technical violation.

Recidivism rates during a 12-month follow-up period were not significantly different for FTDO (31%) and regular probation with urine testing (33%). Similar percentages of FTDO clients and regular probationers were rearrested on drug charges (18%). Technical violation rates were also not significantly different overall (40% and 46% respectively), but FTDO clients had a lower prevalence of violation for drugs (10% vs. 26% for probationers). Thus the early findings suggest that this type of Drug Court intervention may not have much effect on criminal behavior for this population. Further analyses will be necessary to determine why the effects of the program on recidivism may be limited. The more encouraging recidivism findings for the Miami drug court may reflect the very different populations served by the two courts, differences in the quantity or quality of drug treatment received, jurisdictional differences in enforcement policies, or other factors.

CONCLUSION

There has been great national interest in treatment-oriented courts since the Dade County drug court began operations in 1989. This focus reflects the culmination of years of frustration with surging court caseloads of felony drug offenders, jails and prisons overcrowded with substance-abusing offenders, and the seeming inability of the criminal justice system to solve the drug-crime problem under existing paradigms. The newly emerging collaborations between the justice and treatment/public health systems, and the resulting impetus to try new models for handling drug offenders, seem to offer considerable hope for a long-term reduction in drug-related crime and lower jail and prison populations.

This report has summarized some of the salient features of both the first and second generations of treatment-oriented courts, and described several of them in some detail. The next few years presents a great opportunity, as well as many challenges, for jurisdictions to craft creative and effective responses to the large numbers of drug-involved offenders. Among the ongoing challenges are:

- The need to learn more about the efficacy of treatment-oriented courts, including their long-term impacts on drug use and recidivism, cost-effectiveness, optimal planning and implementation strategies, and optimal program models

- The importance of furthering our understanding of the elements of substance abuse treatment that are most effective, and creating better mechanisms for matching criminal justice clients to treatment

- The opportunity to learn more about the treatment, public health, and social service needs of offender populations, and to determine the best means of delivering services to them

Despite their rapid spread, treatment-oriented courts are not a panacea for the problems of drug abuse. They must exist in conjunction with expanded education and prevention programs, and adequate and effective treatment availability for non-criminal justice populations. The experiences of the first generation of treatment-oriented courts have illuminated the need for a comprehensive approach to the handling of drug offenders that embodies the goals and needs of both the criminal justice and treatment/public health communities

In addition to the attention accorded to treatment drug courts in the 1994 Federal Crime Act, other recent developments presage increasing attention toward linking substance abuse treatment to the criminal justice process in new and innovative ways. The Center for Substance Abuse Treatment has been sponsoring the development of a series of Treatment Improvement Protocols (TIPS) on substance abuse/criminal justice issues. (See Appendix for a list of current titles). Further, a national organization of drug court judges and other interested individuals (the National Association of Drug Court Professionals) was formed in 1994 with the goal of reducing substance abuse and crime by promoting and advocating the establishment and funding of drug courts, and collecting and disseminating information and technical assistance to its members.

These initiatives, and the continuing recognition that (1) substance abuse is a major contributing factor to crime and social problems, and that (2) the traditional emphasis on enforcement and punishment of drug offenders has had little impact on substance abuse, suggest that treatment-oriented courts will play an increasingly visible role in the nation's response to drug-related crime.

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APPENDIX

CSAT TREATMENT IMPROVEMENT PROTOCOLS IN CRIMINAL JUSTICE

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