

Vermont Legislative Research Shop

Drug Courts

Nationally and locally, our court systems have become overburdened by case load—those staffing the

accountable, gained credibility as more specialists, lawmakers, and those involved in criminal justice recognized that compulsion to use and abuse drugs was indicative of more than willful law-breaking—it is linked to a psychological and physiological craving similar to the disease model.

Drug courts offer addicted offenders community-based treatment in place of incarceration. A survey of 382 drug courts showed that the most common charges are felony drug possession, misdemeanor drug possession, and then associated charges (Roman 2005). Offenders are subject to random weekly urine analysis monitoring to ensure they are in compliance with their treatment and remain clean and sober. They are held accountable close in time to their infractions as a result of prompt and predictable court sanctions. Typically, participants see the judge every two weeks, and a multidisciplinary team verifies the offender's participation in the counseling sessions. Drug courts are also remarkable for their component of encouragement—the judge and team often encourage the participant and offer praise and motivational incentives following any accomplishment. If defendants complete the treatment successfully, the charges against them are typically reduced and they can avoid jail or prison terms (Berman 2005). The Federal Bureau of Justice Statistics states that a successful participant is defined as someone who has not: violated the rules of their supervision and been returned to jail or prison, committed another crime, or attempted to escape supervision (Kinsella and Fuller 2003).

Some drug court programs have after-care planning that connects participants with their community and other resources, giving them the tools necessary to effectively transition back into the community (Judge Josey-Herring 2005).

Estimates show that each year about 20,000 to 25,000 drug-involved offenders enter drug courts around the country, while each year 550,000 or 600,000 drug-involved offenders entering the justice system meet a clinical definition of being at risk of dependence (Roman 2005). At the end of 2007, there were 2,016 drug courts in about 1,100 counties, according to the National Drug Court Institute. The institute says that number is up from 1,048 five years ago and is nearly 1,800 more than existed ten years ago (Unze 2007). The 2003 Federal Bureau of Justice Statistics shows figures indicating states could save millions of dollars by using community-based supervision instead of state prison—approximately 10 percent of state prisoners are non-violent drug offenders (Kinsella and Fuller 2003).

rigorous and thorough 25 studies, one can conclude that drug courts reduce criminal offending by 15 to 20 percent (Roman 2005). This represents a reduction in recidivism. Yet evidence that drug courts reduce drug use is much harder to measure, since monitoring drug use is difficult. John Roman of the Urban Institute says, “Even though the evidence is sort of ambiguous, I think the preponderance of the evidence is that adult drug court participants use fewer drugs and fewer of them use drugs during the period when they are participating in the drug court” (Roman 2005).

The studies show that the adult with a long history of both drug use and multiple contacts with the criminal justice system is the most helped by these adult drug courts. There exists greater skepticism of the efficacy of juvenile drug courts however, due to the nature of juvenile transgressions and the lack of knowledge on the pathologies of juvenile substance use. Peter Reuter, from the University of Maryland, an expert on drug policy, finds that drug involvement among juveniles may be less prevalent than 10, 15 years ago. For those aged 18-25, drug use has decreased or remained stable². Cocaine, heroin, and methamphetamine use is lower than it was in the 1990s. Marijuana use increased in the early 1990s, yet it has stabilized. Most juvenile offenders show up in the criminal justice system because of marijuana use—yet marijuana is not identified as a drug with a dependency potential strongly related to criminality. Juveniles are arrested mostly for marijuana possession, and thus do not stand to benefit from a drug-treatment program. Thus addicts are far fewer in number amongst the juvenile population than the adult population (Reuter 2005).

Participants in a juvenile drug court might experience a longer period of time and deeper involvement within the juvenile justice system, due to the treatment approach, than had they been processed the traditional way. This intensive intervention might be inappropriate for juveniles who do not carry addiction problems (Roman 2005).

There is a broad consensus, however, that drug courts are an improvement to the traditional court system. For example, Judge Anita Josey-Herring of the District Columbia Superior Court says:

From a judicial perspective, I believe drug courts work. By using a multidisciplinary approach, the drug court team not only addresses the participants' substance abuse needs but also their mental health, physical health, and social service and educational problems to the extent that resources allow. This effort requires a tremendous commitment by the judge and other stakeholders involved in that process, and it requires an investment of a personal nature as well as financial resources. This holistic approach forces the system to really hone in on core problems of drug court participants to affect the root causes of why the participant is using drugs (Judge Josey-Herring 2005).

Doug Marlowe, a researcher at the University of Pennsylvania, wrote: "More research has been published on the effects of drug courts than on virtually all other interventions for drug-abusing offenders combined. Taken together, the results of experimental studies proved the efficacy of drug courts beyond doubt" (Marlowe).

A study done by the National Drug Court Institute in 2005 showed 70% of drug court participants graduate from the program and re-offend at a rate of 17% on average. Offenders who do time in prison

² Though the use of methamphetamines has increased, it is still less than 1 percent of the population having used methamphetamines in the recent past. Though in certain communities it has had devastating effects, on the national level, methamphetamine use is less serious a problem than cocaine or heroine, and it doesn't appear to be spreading to larger populations (Reuter, 2005).

have an average recidivism rate of 66%. In addition, the same study showed the annual average cost of a drug court participant is \$3,500, while annual prison costs range from \$13,000 to \$44,000 per inmate (Unze 2007).

Challenges for the Drug Court Program

The greatest challenge for the drug court system presently is finding a way to explain how the model produces behavioral change in terms of drug use and criminal offending. Which approaches are most effective, and why are they effective? This is a difficult question to answer because, as mentioned before, the programs vary in their approach.

Political support (and thus funding) for drug courts has varied over the years. Federal funding was first authorized in the Crime Bill in 1994, yet at that time, the courts were seen as unacceptable, or “soft on

Table 1: Recidivism Rates Compared

^a expressed as the average number of arrests suffered during the follow up period, not as a percentage.

Source: Belenko, Steven & Dumanovsky, Tamara. 1993. "Special Drug Courts: Program Brief." Washington, DC: Bureau of Justice Assistance, US Department of Justice.

California

In 1998, the Judicial Council adopted section 36 of the California Standards of Judicial Administration, which provides guidelines and clarification specifically for pre-plea diversion drug courts. A pre-plea diversion program allows for the defendant to participate in a program that includes counseling, drug testing, education, etc. If all the requirements are met, the charges against the defendant are dismissed. Under Penal Code section 1000.5, all participants in drug courts shall:

1. Be eligible for early entry;
2. Receive treatment and re

- Based on these data, with 90 adult Drug Courts operating statewide as of 2002 and an estimated 100 participants in each court annually, adult Drug Courts may be saving up to \$18 million a year in California's criminal justice system.

The second study, co-administered by the Department of Alcohol and Drug Programs and the Administrative Office of the Courts reveals additional key findings:

- Arrest rates, compiled from 17 counties for 1,945 participants who completed drug court, declined by 85 percent in the first two years after admission, compared to the two years before entry.
- Conviction rates for the same participants dropped by 77 percent and incarceration rates declined by 83 percent.
- Social outcome data, compiled from 28 counties for 2,892 participants, indicated that 70 percent of participants were employed upon completion of drug court. Almost 62 percent were unemployed when they entered the program.
- Ninety-six percent of the babies born to program participants, 132 babies, were drug free at birth.

New Hampshire

A study of the New Hampshire Department of Corrections found that, "by combining drug treatment, counseling, vocational and educational programs, and close supervision, participants were able to work and live at home... the program improved the lives of participants, protected the public's safety, and saved the state an estimated \$10 million dollars" (Kinsella and Fuller 2003).

Kansas

In 2000, Kansas mandated that rather being sent to prison, probation and parole violators would become part of the state's community corrections system. "The Kansas Sentencing Commission estimates that millions of dollars have been saved with this program, and 774 prison beds have been left open (Kinsella and Fuller 2003)." Reforms include reduced length of community supervision for low-level offenders and the provision of additional funds to establish three new day reporting and treatment centers (Kinsella and Fuller 2003).

Vermont

Currently, there are two drug courts in Vermont – one in Chittenden County and one in Rutland County. Both are functioning and staffed. Both have reported the success rate of their individual drug court (See Table 2 and 3).

In Bennington County, Section 121 in the Appropriation Act of FY'06 directBllars" Tw{007 Tw[2(S{007s)4.9(tim)

Table 2: Data collected on Vermont Drug Courts, and Drug Court Participants

Drug Court Initiative Counties	Chittenden County Adult Drug Treatment Court	Rutland County Adult Drug Treatment Court
Through 12/31/06		

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