

DWI/Drug Courts: Reducing Recidivism, Saving Lives
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For more than a decade, a quiet revolution has occurred within the criminal justice system. Dade County, Florida established the first drug court in the United States. Today, 1,183 drug courts can be found across the country with some hundreds more in the planning stage (Huddleston, Freeman-Wilson & Boone, 2004). Although program specifics and populations vary depending upon community priorities and resources, the objective of every drug court is the same: to engage defendants charged with drug-related offenses in comprehensive, enduring programs that integrate adjudication, substance abuse treatment and close supervision.

All drug courts are part of an innovative judicial model whereby offenders are held accountable for their actions but afforded the tools they need to break the patterns of drug abuse that so damage their lives, as well as the lives of others. The major goals of most drug courts have been established with the benefit of both offenders and the communities in which they live in mind. Typically, the goals are to reduce drug use and associated criminal behavior by engaging and retaining drug-involved offenders in treatment services; to concentrate expertise about drug cases into a single courtroom; to address other defendant needs through clinical assessment and effective case management; and to remove drug cases from traditional courtrooms, freeing them to adjudicate non-drug cases.

Today there is irrefutable evidence that drug courts are achieving what they set out to do. In a series of critical reviews published from 1998 to 2001 of over 120 evaluations of drug courts located throughout the nation, the National Center on Addiction and Substance Abuse at Columbia University determined that “drug courts provide the most comprehensive and effective control of drug-using offenders’ criminality and drug usage while under the court’s supervision. Drug courts provide closer, more comprehensive supervision and much more frequent drug testing and monitoring during the program than other forms of community supervision. More importantly, drug use and criminal behavior are substantially reduced while offenders are participating in drug court” (Belenko, 1998; 2001). To put it bluntly, “we know that drug courts outperform virtually all other strategies that have been attempted for drug-involved offenders” (Marlowe, DeMatteo, & Festinger, 2003). Perhaps the most important finding is that offenders who become part of a drug court program are succeeding upon completion. Comparisons with other groups reveal much higher retention rates and lower recidivism and drug-use rates for drug court participants both during the life of a program and after the program ends (Belenko, 1998; 2001).

The most substantial and compelling national study to date was commissioned by the National Institute of Justice and released in 2002 whereby a sample of 2,020 graduates from 95 drug courts in 1999 and 2000 were tracked to establish a benchmark national aggregate recidivism rate. The study estimates that after graduation, only 16.4 percent of drug court graduates had been arrested and charged with a serious offense after one year and 27.5 percent at the two year mark. These estimates represent the expected outcomes for those who succeed in drug court: one year after graduation, only one out of six drug court graduates would be expected to be re-arrested and charged with a serious offense. (Roman, Townsend, & Bhati, 2002). A 2000 Vera Institute of Justice report concluded that “the body of literature on recidivism is now strong enough, despite lingering methodological weaknesses, to conclude that completing a drug court program reduces the likelihood of future arrest.” (Fluellen & Trone, 2000).

The positive outcome for drug courts begs the question: If drug court programs can reduce recidivism among the populations they now serve, could the drug court model, applied to

a wider network of offenders, have an even greater impact on crime rates? More specifically, could the drug court model work for hardcore drunk drivers?

To date, it has been left to the traditional courts and criminal justice system to deal with DWI cases, and it has become clear that the traditional process is not working for repeat offenders. Punishment, unaccompanied by treatment and accountability, is an ineffective deterrent for the repeat DWI offender. The outcome for the offender is continued dependence on alcohol; for the community, continued peril. A new strategy exists to fight against repeat impaired driving. A strategy that is being wielded in courts across the nation by adopting the proven drug court model. Generally called "DWI/Drug Courts," offenders are held at the highest level of accountability while receiving long-term, intensive treatment and compliance monitoring. There are currently 42 stand-alone DWI/Drug Courts and many more hybrid DWI/Drug Courts. Providing system oversight and system accountability, DWI/Drug Courts monitor the justice and treatment system as well as the offender.

DWI/Drug Courts are distinct court systems dedicated to changing the behavior of alcohol/drug dependant offenders arrested for DWI. The goal of DWI/Drug Courts is to protect public safety by attacking the root cause of DWI: alcohol and other drug abuse.

DWI/Drug Courts utilize all criminal justice stakeholders (prosecutors, defense attorneys, probation, law enforcement, and others) along with alcohol/drug treatment professionals. This group of professionals comprises a "DWI/Drug Court Team," which is usually accountable to the DWI/Drug Court judge who heads the team. The DWI/Drug Court Team uses a team-oriented approach to systematically change participant behavior. This approach includes identification and referral of participants early in the legal process to a full continuum of drug/alcohol treatment and other rehabilitative services. Compliance with treatment and other court-mandated requirements is verified by frequent alcohol/drug testing, close community supervision and interaction with the judge in non-adversarial court review hearings. During these review hearings the judge employs a science-based response to participant compliance (or non-compliance) in an effort to further the team's goal to encourage pro-social, sober behaviors that will prevent DWI recidivism (Loeffler & Huddleston, 2003).

The missions, objectives and operations of a drug court that exclusively targets illicit drug abusers, a stand-alone DWI/Drug Court that targets alcohol or other substance impaired drivers, and a hybrid type of DWI/Drug Court that targets a mix of DWI offenders and illicit drug abusers are nearly interchangeable. All are part and partial of the drug court model. The structure of the three types of treatment courts is also similar.

The major difference is that in the stand-alone or hybrid DWI/Drug Courts, the offenders come to the court as a direct result of an impaired driving arrest and a documented history of impaired driving. In contrast, in the more traditional drug court docket the targeted offenders are those who have engaged in non-traffic related criminal behavior (as opposed to illegal driving behavior) as a result of their use of illegal substances. Experience has shown, however, that the participants in these two treatment court environments are far more similar than different. Although wholeheartedly endorsing the use of either of the above-noted applications of the drug court model, there are several advantages to operating stand-alone DWI/Drug Courts, most notably because they allow for development of a more specialized treatment focus and a more case manageable network of relevant and supportive community resources. DWI/Drug Courts shine a spotlight on the triggers and consequences of non-responsible alcohol intake. They embrace the community of victims of DWI episodes and encourage the fair and sensitive inclusion of victim advocates in the treatment process. Most importantly perhaps, they serve as a potential unifying hub for the myriad of agencies and organizations that have been part of piecemeal attempts to plug the gaps in the drunk driver control system. DWI/Drug Courts can and should serve as a unifying venue of accountability for the repeat DWI offender. By partnering with the respective state's department of motor vehicles, Governor's highway safety

commission, highway patrol, local law enforcement accident prevention squads, MADD and other accident prevention and victim support groups, DWI/Drug Courts can add teeth to the justice system's response to repeat drunk driving.

A DWI/Drug Court's coercive power is the key to admitting DWI offenders into treatment quickly and for a period of time that is long enough to make a difference. This proposition is unequivocally supported by the empirical data on substance abuse treatment programs. Data consistently show that treatment, when completed, is effective. However, most addicts and alcoholics, given a choice, will not enter a treatment program voluntarily. Those who do enter programs rarely complete them. About half drop out in the first three months, and 80 to 90 percent have left by the end of the first year. Among such dropouts, relapse within a year is the norm.

Accordingly, if treatment is to fulfill its considerable promise as a key component of DWI reduction policy, DWI offenders not only must enter treatment but must remain in treatment and complete the program. If they are to do so, most will need incentives that may be characterized as "coercive." In the context of treatment, the term coercion - used more or less interchangeably with "compulsory treatment," "mandated treatment," "involuntary treatment," "legal pressure into treatment"- refers to an array of strategies that shape behavior by responding to specific actions with external pressure and predictable consequences. Moreover, evidence shows that substance abusers who get treatment through court orders or employer mandates benefit as much as, and sometimes more than, their counterparts who enter treatment voluntarily (Sate1, 1999; Huddleston, 2000).

DWI/Drug Court is the best vehicle within the criminal justice system to expedite the time interval between arrest and entry into treatment, and provide the necessary structure to ensure that a DWI offender stays in treatment long enough for treatment benefits to be realized.

Evaluation studies are vital in sustaining DWI/Drug Court programs. Courts conduct outcome evaluation studies to demonstrate the dramatic effect of DWI/Drug Courts on the community, to assess relative costs, and to maintain or seek funding.

With their rapid expansion and proven effectiveness, DWI/Drug Courts are changing the mindset of criminal justice professionals and effecting how DWI offenders are handled. Treatment with intensive supervision works with this population – and promises better long-term outcomes, through decreased recidivism.

The Ten Guiding Principles of DWI/Drug Courts

Guiding Principle #1: Target Population

A DWI/Drug Court primarily targets offenders charged with driving under the influence of alcohol or illicit drugs and diagnosed as having a serious alcohol or illicit drug problem. Special emphasis is placed on the previously convicted DWI offender whose fear of prosecution has proven to be an ineffective deterrent to continued DWI behavior.

Guiding Principle #2: Clinical Assessment

Defining one's target population lays a blueprint for a program's eligibility screening process. A systematic DWI offender referral process ensures that potentially eligible participants are not inadvertently or inappropriately denied the opportunity for participation. One's eligibility screening process will funnel out those from the pool of potentially eligible participants who are not appropriate for the program. For those who are still potentially eligible after a review of information contained in legal documents, a short face-to-face screening interview is absolutely necessary.

Guiding Principle #3: Developing the Treatment Model

When developing the treatment model, there are several factors that the DWI/Drug Court Team must consider. These factors include focusing on differences in providing adequate treatment, relying on the expertise of the treatment provider, providing cross-training for all DWI/ Drug Court Team members on substance abuse, treatment and the criminal justice system, addressing demographic differences that call for adjustments to transitional drug court treatment models, incorporating best practices, providing greater availability of ancillary intervention strategies, i.e., victim impact panels, community service at emergency rooms, addressing cross-addiction to legitimately prescribed paid medications, being aware of less availability of criminal justice incentives, utilizing 12-step programs, providing specialized cognitive restructuring groups dealing with driving, residential/in-patient resources, and jail-based treatment.

Guiding Principle #4: Supervision and Public Concern

There are unique characteristics attributable to those who drive under the influence of alcohol and other drugs. Unlike illicit drug use, the alcoholic may not have lost support of family and friends, and in many cases may still have some semblance of a functional lifestyle. Similarly, while the court involvement may be considered inconvenient or embarrassing, the alcohol use may be condoned and even expected by family or work associates. Because of this, the DWI offender is often in a greater state of denial than other addicts and therefore more resistant to the goals of the drug court team and specifically to supervision efforts. The offender who drives under the influence is however, extraordinarily dangerous, and this coupled with the quick dissipation of alcohol from one's system makes increased supervision a necessity. Public safety remains the paramount concern and therefore more frequent monitoring by the court, the probation department and treatment must occur. Because there is potential for a greater level of danger to the public, supervision must be tighter, and the response to violations must be faster and stricter. This is accomplished through technical innovation, random and frequent drug and alcohol testing, home and other field visits, office contacts and weekly judicial review.

Guiding Principle #5: Agency, Organization and Community Partnerships

While partnerships are the cornerstone of any effective collaborative program and certainly necessary within the general drug court model, they are perhaps most important in the DWI/Drug Court setting where public safety is at great risk. Partnerships fulfill two main purposes: to increase services for program population, thereby increasing the likelihood of their long-term success; and to gain the support and understanding of agencies and organizations that might otherwise be opposed to DWI/Drug Courts. Chambers of Commerce, law enforcement, victim advocacy groups, MADD, SADD, service clubs and organizations, media organizations, defense attorneys and public defenders, attorneys working throughout the legal system, insurance companies, treatment groups, 12 step programs, licensing agencies such as ABC or ABLE Commissions, Departments of Motor Vehicles, schools, colleges and universities, hospitals, medical clinics, faith-based and culturally appropriate organizations, local pharmacies, and pharmaceutical groups can assist with support or services.

Guiding Principle #6: The Role of the Judiciary

The drug court field needs more courageous judges who are committed to implementing DWI/Drug Courts wherever they are needed. The judge who endeavors to implement a DWI/Drug Court, or who is assigned the task of being the judge in an existing program, ideally will be a judge with extensive experience handling DWI cases. An experienced judge with a strong and positive reputation in the legal community will be in the best position to forge the kinds of partnerships necessary to develop and implement a successful DWI/Drug Court. The judge must also possess the leadership skills and the motivational energy necessary to produce buy-in from the various entities which have a stake in the issue of DWI. The DWI/Drug Court

judge should be a person who tempers his or her judicial authority in a manner which encourages teamwork and empowers others to contribute to the team process. Differences of opinion can lead to creative solutions to problems and the judge must incubate an environment where team members are encouraged to offer input.

Guiding Principle #7: Case Management.

Case management, the series of inter-related functions that provides for a coordinated team strategy and seamless collaboration across the treatment and justice systems, is essential for an integrated and effective DWI/drug court. There are five core functions of case management in DWI/Drug Courts. They are: 1) assessment; 2) planning; 3) linking; 4) monitoring; and 5) advocacy. Although the performance of these functions is shared by various members of the DWI/Drug Court Team, a specially designated team member serves as the person primarily responsible for coordinating the development and pursuit of participant case plans, linking participants to resources and monitoring participant and service provider performance.

Guiding Principle #8: Transportation

Perhaps the most unique aspect which differentiates DWI/Drug Court considerations from other drug courts is the issue of transportation. Clients in DWI/Drug Courts face a more complex issue, which is the suspension or revocation of their privilege to drive as a direct result of their arrest. DWI/Drug Courts must insist that the client adhere to any and all restrictions on their driving privileges and sanctions should be imposed on them for violations of those restrictions. Within the same context, however, DWI/Drug Court clients should not be allowed to use lack of transportation as an excuse for missing appointments or other program requirements. Some jurisdictions may have good accessibility to alternative means of transportation such as public transportation, taxi service, bicycle loan programs, bike trails, and so on. Some programs obtain donated bus passes or tokens and they are distributed to participants as part of their program of incentives.

Guiding Principle #9: Evaluation

Several people and groups have a vested interest in the effectiveness of the programs. They include legislatures, victims impact groups (e.g., MADD), advocacy groups, e.g. health care industry, local funding sources (county commission, local planning councils, local law enforcement); state funding sources (AOD office; governor's crime commission or equivalent); state judiciaries; media; law enforcement. Measures and evaluation are important to all of these groups. It is essential to obtain annual data, and 3-year reports. Anecdotal measures may be useful and a powerful tool to evaluate the effectiveness of the program.

Guiding Principle #10: Sustainability

Sustainability is the last and the most important guiding principle of DWI/Drug Courts. There are several ways to obtain funding for a DWI/Drug Court including direct donors (e.g., computer companies, drug companies insurance industry, auto industry), participant contributions, public funding (e.g., one-time grants, grants that flow through other organizations, endowments), state sources of funding, state legislature, promote special legislation, excise liquor taxes, state-regulated liquor outlets, other state agencies (e.g., health departments), local support: city council, county commission (Board), health, housing, law enforcement, private sources of money by forming a (501)(c)3 corporation (be cautious with this method). The best way to approach this issue is to research other DWI/Drug Courts and seek out information about how others have obtained funding and achieved sustainability. The success of each DWI/Drug Court is based on the resources in its own community coupled with the ability to find additional resources or funding as needed.

DWI/Drug Court Outcome Statistics:

In September of 2002, The University of New Mexico's evaluation of the Bernalillo County Metropolitan Court's DWI/Drug Court Program:

- Only 36 of the 341 graduates had been rearrested for DWI since the program's inception, which reflects a recidivism rate of 10.6%

The Fredericksburg, Virginia DUI/Drug Court completed a Recidivism Rate Comparison Study in 2001 between all DUI Court referrals and a sampling of referrals without DUI Court monitoring. The study concludes that:

- graduates of DUI/Drug Court (probationers with DUI court monitoring) had an 8% recidivism rate;
- unsuccessful completion of DUI/Drug Court held a 22% recidivism rate;
- Probationers with DUI/Drug Court monitoring had a 15% recidivism rate for successful completion and 45% recidivism rate for unsuccessful completion

In December of 2003, the Kootenai County, Idaho Prosecuting Attorney's Office and the Idaho Transportation Department's Office of Highway Safety completed an analysis of the Kootenai County DUI Court, an alcohol treatment program for persons arrested for their second DUI offense within 5 years or BAC of 0.20% or higher.

- Results to date showed a 70% program success rate for the 46 graduates of the program, versus a 40% to 60% completion rate of treatment from non-court referrals.
- Upon completing the program, only 4% of the 46 graduates received another DUI.
- A comparison of the graduate group with 100 persons eligible for the program but not participating showed 14% had received a DUI.

A five-year study conducted on the Lansing, MI DUI/Drug Court demonstrates a 13% recidivism rate for graduates of the DUI/Drug Court program versus 35% for a comparison group. In addition to these statistics, Lansing's DUI/Drug Court has the highest rate of collected court fees and fines (90%) versus an average of 60% for the rest of the Michigan state DUI/drug courts.

For more information about DWI/Drug Courts, C. West Huddleston, Director, or Kristen Daugherty, Training Coordinator, of the National Drug Court Institute (NDCI) at (703) 575-9400 or visit NDCI's website at www.ndci.org.