

Drug Courts

Introduction

"Those offenders with histories of substance abuse or mental illness present a unique challenge and innovative approaches must be considered, such as Drug Courts and Family Courts, to reduce offender recidivism and to promote public safety."

Charles E. Jones (Former Chief Justice of the Arizona Supreme Court) from "A Strategic Agenda for Arizona's Courts 2002-2005"

A drug court is a special court given the responsibility to handle cases involving substance-abusing offenders through comprehensive supervision, drug testing, treatment services and immediate sanctions and incentives.

Drug courts offer a comprehensive, supportive, and therapeutic approach as an alternative to traditional methods of prosecuting cases involving offenders who are charged with substance abuse. This comprehensive approach offers the participant an extensive treatment program that involves a collaboration of judge, prosecutor, defense counsel, case managers and treatment providers. The judge both leads and works as a member of this team. A non-adversarial approach is used to encourage and promote substance-free behavior.

The primary goal of drug courts is to put a stop to substance abuse and related criminal activity. Drug courts are unique in the criminal justice environment because they build a close collaborative relationship between criminal justice and drug treatment professionals.

How Does a Drug Court Work?

Within a cooperative courtroom environment, a judge heads a team of court staff, attorneys, probation officers, substance abuse experts, and treatment professionals all working in unison to support and monitor a participant's progress towards recovery. The team discusses the participant's progress and/or any difficulties that have arisen since his/her last appearance. All team members are then given the opportunity to provide input and make recommendations to the judge on any action that might be considered in court.

Following the team meeting, the team members attend open court. In turn, each participant presents him/herself to the bench, and discusses individual progress or any other relevant issues that have arisen since the last court hearing, directly with the judge. This is also an opportunity for family members to discuss any issues that have arisen. Drug Court strongly encourages parental and family input, as this may be the best gauge of compliance at home.

In exchange for successful completion of the program, the court may dismiss the original charge, reduce or set aside a sentence, offer some lesser penalty, or offer a combination of these.

Participation in a drug court program is strictly voluntary.

Qualifications & Eligibility

"Drug court programs afford courts the opportunity to look beyond the criminal act that brings an individual into contact with the court system and to consider the larger context of his or her life — as well as the future of that individual in the community — rather than having to resort to unproductive

incarceration."

California Supreme Court Chief Justice Ronald M. George, Spoken at the San Francisco Drug Court Graduation, December 2002.

Drug Court is a voluntary program available to defendants who meet the eligibility requirements.

A participant must enter a plea and begin the Drug Court program within fourteen days of his or her arrest. Each participant must complete a program for no less than one year. The program incorporates regular court appearances, intensive treatment, education, counseling, drug screening, and payment of all required fees.

Additional qualifications include:

- The participant must be charged with a probation eligible offense.
- The participant does not have any prior felony convictions for a violent crime or sexual offense.
- The participant does not have a pending felony charge.
- The participant is a legal resident.
- The participant is willing to participate in all aspects of the Drug Court Program.

Upon successful completion of all requirements of the Drug Court program, the charges are dismissed or reduced.

Requirements

"I'm seeing something real, something that has changed people's lives. There is hope."

Mississippi Supreme Court Justice Kay Cobb, speaking to Drug Court graduates in Brookhaven, Mississippi.

Drug court programs may be very demanding. Participants receive intensive supervision composed of frequent court appearances and drug screening, along with highly structured courses of treatment and recovery services. Active monitoring of a participant's progress allows the Drug Court Team to actively support the recovery process and react quickly when appropriate therapeutic supports are necessary or to reinstate criminal proceedings when participants cannot comply with the program.

Adult felony drug courts require a minimum of 52 weeks to complete. Juvenile drug court programs require a minimum of six to ten months for completion. During this time, participants will successfully participate in: detoxification (If necessary), inpatient and outpatient treatments, substance abuse counseling and support services, drug education classes, random drug screening, and completion of community service hours.

In conjunction with these requirements the participant will receive probation, supervision, and case management services, The participant is also required to attend regularly scheduled status hearings before a judge. The Drug Court may also provide family counseling, life-skill development, and job skills training services.

The National Association of Drug Court Professionals has set forth these eight key elements to provide a guideline and structure format for Drug Courts in the Nation.

1. Drug Courts integrate alcohol and other drug treatment services with justice case processing.
2. Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.
3. Eligible participants are identified early and promptly placed in the Drug Court program.
4. Drug Court provides access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
5. Frequent alcohol and other drug testing to monitor abstinence.

6. A coordinated strategy governs Drug Court responses to participants' compliance.
7. Ongoing judicial interaction with each Drug Court participant is essential.
8. Clear monitoring and evaluation measures track the achievement of individual participants' program goals and gauge the effectiveness of the program.

Desired Outcomes

"Drug courts are an effective and cost efficient way to help non-violent drug offenders commit to a rigorous drug treatment program in lieu of prison. By leveraging the coercive power of the criminal justice system, drug courts can alter the behavior of non-violent, low-level drug offenders through a combination of judicial supervision, case management, mandatory drug testing, and treatment to ensure abstinence from drugs, and escalating sanctions."

President George W. Bush

Drug courts were created with the intent of stopping substance abuse and related criminal activity. Drug courts are unique in the criminal justice environment because they build a close collaborative relationship between criminal justice and drug treatment professionals.

Benefits of Drug Court

Drug Courts have been proven to reduce recidivism and prevent relapses, which in turn reduces jail overcrowding. Statistical evidence and research supports the proposition that drug courts reduce criminal activity. For example, a study conducted in 1998 by the University of Utah's School of Social Work revealed that recidivism rates for local drug court graduates remained at a steady seven percent. In contrast, the US Justice Department estimates that approximately 45 percent of offenders convicted of similar charges but whom have not participated in drug court will relapse and commit another crime. This recidivism rate is even higher, at 60 percent, for offenders imprisoned for their convictions. Reduced recidivism reduces jail overcrowding.

Drug courts additionally work by saving tax-dollars. For example, drug court treatment for one offender costs approximately seven dollars per day. This is compared to the \$50 dollar a day cost of incarcerating one individual in a state prison. The state of Arizona has noted significant financial benefits of the drug court program. In the year 2001, total incarceration costs avoided by Maricopa County were \$129,347.40.

Drug Courts have shown significant public health benefits as well. The US Department of Justice reports that over 500 drug free babies have been delivered to female drug court participants while enrolled in the program. Programs such as alumni support groups also emphasize long-term success and give participants the tools and experience necessary to rebuild their lives.

Breaking the cycle of addiction and adopting a drug-free lifestyle has shown to reduce emergency room, hospital, and medical costs.

Drug courts also provide opportunity for education and/or vocational training. This often reduces the need for public assistance and assists the participant in developing skills for self sufficiency.

Ramifications of Substance Abuse

"I believe the success of drug courts is well documented, and strong Congressional support should be given to the rehabilitation of future drug offenders. Traditional incarceration has yielded little gains for our drug offenders. Costs are too high, and the rehabilitation rate is minimal. The drug courts of America are an excellent way to make strides forward in our fight against drugs."

Senator Ben Nighthorse Campbell

The Costs of Substance Abuse

In the year 2000, drug abuse cost American society an estimated 160 billion dollars. More significant are the immeasurable losses that are represented by this staggering figure; the destruction of lives, the damage of addiction, fatalities from car accidents, illness, and lost opportunities and dreams.

Drug abuse drives some of America's most costly social problems—including domestic violence, child abuse, chronic mental illness, the spread of AIDS, and homelessness. Drug treatment costs, hospitalization for long-term drug-related disease, and treatment of the consequences of family violence burden our already strapped health care system. Illicit drug users make over 527,000 costly emergency room visits each year for drug related problems.*

In 2000, there were more than 600,000 hospital emergency department drug episodes in the United States. Health care costs for drug abuse alone were about \$15 billion. The Center for Disease Control and Prevention has estimated that 36 percent of new HIV cases are directly or indirectly linked to drug users who inject illegal substances into their bloodstream.

(Source: United States Drug Enforcement Agency)

Homelessness

The rate of drug abuse among the homeless has been conservatively estimated at better than 50 percent. Chronic mental illness is inextricably linked with drug abuse. In Philadelphia, nearly half of the VA's mental patients abused drugs. The prevalence of drug use within the homeless population is substantially higher than that found in the general population.

Unemployment

While a small percentage of drug court participants have steady jobs at the time they enter the program, a substantial number (generally more than 65%) are unemployed or employed only on a sporadic basis. (Many of the individuals who are employed at the time of entry into a drug court program report that they were able to retain employment by demonstrating participation in the drug court. Additionally, a high proportion of unemployed individuals obtain employment while participating in a drug court program).

In Arizona, as in most states, working while under the influence of illegal substances is grounds for termination of employment. Additionally, Arizona's unemployment compensation law may disqualify an individual from receiving benefits if the employee is discharged for willful or negligent misconduct associated with employment. Misconduct includes, among other things, repeated intoxication, whether from the use of intoxicating liquor or the use of illegal drugs on the employer's premises or when reporting to work, as well as a violation of any rule of conduct or safety. Misconduct also includes failure to pass, or refusal to take a drug test or alcohol impairment test administered by or at the request of the employer. (Ariz. Rev. Stat. Ann. § 23-775 (1993), § 23-619.01 (b) 1994.)

According to Arizona Revised Statute § 23-493.05, an employer may take adverse employment action based on a positive drug test or alcohol impairment test. On receipt of a positive drug test or alcohol impairment test result that indicates a violation of the employer's written policy, on the refusal of an employee or prospective employee to provide a drug testing sample or on the refusal of an employee to provide an alcohol impairment testing sample, an employer may use that test result or test refusal as a basis for disciplinary or rehabilitative actions that may include any of the following:

- A requirement that the employee enroll in an employer provided or employer approved rehabilitation, treatment or counseling program, which may include additional drug testing and alcohol impairment testing, participation in which may be a condition of continued employment and the costs of which may or may not be covered by the employer's health plan or policies.
- Suspension of the employee, with or without pay, for a designated period of time.
- Termination of employment.
- In the case of drug testing, refusal to hire a prospective employee.
- Other adverse employment action.

Unemployment is one of many serious repercussions of using illegal substances.

Incarceration

Increased efforts by law enforcement to reduce substance abuse and narcotics trafficking have resulted in the arrest, prosecution and incarceration of tens of thousands of persons each year for crimes associated with the possession and use of illegal drugs. Drug offenders account for more than one-third of the growth in the state prison population and more than 80 percent of the increase in the number of federal prison inmates since 1985.³

In 1996, a voter's referendum in Arizona referred to as the Drug Medicalization, Prevention and Control Act (Also known as Proposition 200) rewrote the statutes for drug possession. Simply put, the first time a person is convicted of possession of marijuana or other illegal substances, the law requires a sentence of probation and drug counseling. The second conviction also earns a probation sentence but can include jail time. After a third conviction, the defendant can be sentenced to prison.⁴

However, in Arizona, more serious drugs carry increasingly stricter penalties, such as substantial prison terms and large fines. A person arrested for possession of illegal drugs may often be charged with a felony.

There is no question that drug abuse is not only costly and harmful to the user, but to society as a whole.

¹ U.S. Department of Health and Human Services. National Center on Child Abuse and Neglect. Protecting Children in Substance Abusing families. 1994

² The Guidelines for Identifying Substance Exposed Newborns;
<http://www.governor.state.az.us/cps/documents/SenGuidelines.pdf>

³ *Substance Abuse: The Nation's Number One Health Problem*, prepared by the Schneider Institute for Health Policy, Brandeis University for The Robert Wood Johnson Foundation, 2001.

⁴ Michael Kiefer, *The Arizona Republic*, July 26, 2004.

Pima County Superior Court: Drug Court
<http://www.sc.pima.gov/?tabid=92>

Coconino Drug Court
<http://www.coconino.az.gov/drugcourt.aspx?id=256>

Office of National Drug Control Policy
<http://www.whitehousedrugpolicy.gov/>

National Association of Drug Court Professionals
<http://www.nadcp.org/nadcp-home/>

Juvenile Drug Courts: Strategies in Practice, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance
<http://www.nadcp.org/nadcp-home/>