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Defining Drug Courts: The Key Components

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The National Association of Drug Court Professionals

Drug Court Standards Committee

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The production of this document was a joint effort of a dedicated group of drug court professionals and the Drug Courts Program Office, Office of Justice Programs, U.S. Department of Justice. It is my hope that this process and result will be the model for many successful cooperative projects.

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Preface

Purpose

Defining Drug Courts: The Key Components was produced by a diverse group of drug court practitioners and other experts from across the country, brought together by the National Association of Drug Court Professionals. The committee includes representatives from courts, prosecution, public defense, treatment, pretrial services, case management, probation, court administration, and academia and others with drug court experience. (See appendix 1.)

The committee intends for the benchmarks presented in this publication to be inspirational, describing the very best practices, designs, and operations of drug courts for adults with alcohol and other drug problems. The committee recognizes that juveniles present different legal, social, educational, and treatment issues. Although the document may be useful in developing a juvenile drug court, its focus is on adults. The committee also acknowledges that local resources, political, and operational issues will not permit every local adult drug court to adopt all aspects of the guidelines.

The benchmarks offered here are not intended as a certification or regulatory checklist because the field is still too new to codify policies, procedures, and operations. Because drug courts are evolving, the committee decided that the field would benefit most from general, practical guidance on how to get established, what to consider, whom to include, and how to proceed. The benchmarks are meant to serve as a practical, yet flexible framework for developing effective drug courts in vastly different jurisdictions and to provide a structure for conducting research and evaluation for program accountability.

With over 200 drug courts in the United States, examples could be cited for almost every concept in this document. It was a difficult decision, but the committee decided that citing examples would make the document too large and its organization unwieldy. Also, since the examples would describe current drug court operations in a developing field, the material would be time sensitive and would render the document dated almost as soon as it was published.

In such a new field, the best practices of today will, doubtless, change tomorrow. For this reason, a resource list is privided in appendix 2. This document should be considered a starting point in the process of compiling the knowledge and experiences of others on how to best design and implement drug courts.

How to Use This Document

Over 200 drug courts coordinate treatment delivery with judicial oversight; these are considered bona fide drug courts. Many other programs named "drug courts" have sprung up across the country in the past several years in response to expanding court dockets, clogged with drug—related offenses. They may look similar, but they may not provide the orientation toward treatment and judicial supervision described in this document. Some programs focus on expediting case processing. Others try to intervene before trial but do not use judicial oversight, immediate treatment intervention, or alcohol and drug testing. Adherence to the key components and benchmarks detailed here distinguish treatment-based, multidiscipline, full-range drug courts from other programs.

This document is organized around 10 key components, which describe the basic elements that define drug courts. The purpose of each key component is explained, followed by several performance benchmarks that give guidance for implementing each key component.

Introduction

Insanity is doing the same thing over and over again and expecting different results.
Anonymous

Background

For several decades, drug use has shaped the criminal justice system. Drug and drug-related offenses are the most common crime in nearly every community.[1] Drug offenders move through the criminal justice system in a predictable pattern: arrest, prosecution, conviction, incarceration, release. In a few days, weeks, or months, the same person may be picked up on a new charge and the process begins again.

The segment of society using drugs between 1950 and 1970 expanded with the crack cocaine epidemic of the mid-1980's, and the number of drug arrests skyrocketed.[2] Early efforts to stem the tide only complicated the situation. Initial legislation redefined criminal codes and escalated penalties for drug possession and sales. These actions did little to curtail the illicit use of drugs and alcohol. As law enforcers redoubled their efforts, America's prisons were filled,[3] compromising Federal and State correction systems' abilities to house violent and career felons.[4] Some States scrambled to "build out" of the problem, spending hundreds of millions of dollars on new prisons, only to find that they could not afford to operate or maintain them.[5]

Other jurisdictions, encouraged and supported by the Federal Government, developed Expedited Drug Case Management systems and were the first to adopt the term "drug court." These early efforts sped up drug case processing by reducing the time between arrest and conviction. Existing resources were used more efficiently, and serious drug trafficking cases were processed more rapidly. However, these efforts did little to address the problems of habitual drug use and simply sped up the revolving door from court to jails and prisons and back again.

As offenders flooded the criminal justice system, many were not identified as having problems

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[1]Drug Strategies, Keeping Score 1996: What are we getting for our federal drug control dollars. pp. 9–10, Washington, DC: Drug Strategies,1996.
[2]Drugs, Crime and the Criminal Justice System: A National Report. (NCJ133652), Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 1992. pp. 26, 61.
[3]Drugs and Crime Facts 1994. (NCJ154053). Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 1995.
[4]National Drug Control Strategy: Reclaiming Our Communities From Drugs and Violence.Washington, DC: The White House, February 1994.
Currie, E. Reckoning. New York: Hill & Wang,1995 p.15.
[5]National Directory of Corrections Construction, 1993 Supplement. (NCJ142525). Washington, DC: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice and the Bureau of Justice Assistance, July 1993. Currie, p.151.

with alcohol and other drugs or were released to the community without referral to treatment. When they were identified, attempts by judges to refer them to treatment often yielded meager gains, either because the few alcohol and other drug (AOD) abuse treatment programs were full and waiting lists were long or because cooperative working relationships between criminal justice agencies and AOD treatment providers were inadequate or nonexistent. In addition, the majority of drug abusers ordered by judges to participate in treatment did not remain involved in the process long enough to develop behaviors and skills for long-term abstinence.

The traditional adversarial system of justice, designed to resolve legal disputes, is ineffective at addressing AOD abuse. Moreover, many features of the court system actually contribute to AOD abuse instead of curbing it: Traditional defense counsel functions and court procedures often reinforce the offender's denial of an AOD problem. The offender may not be assessed for AOD use until months after arrest, if at all. Moreover, the criminal justice system is often an unwitting enabler of continuing drug use because few immediate consequences for continued AOD use are imposed. When referrals to treatment are made, they can occur months or years after the offense and there is little or no inducement to complete the program.

In response, a few forward-thinking and innovative jurisdictions began to reexamine the relationship between criminal justice processing and AOD treatment services. Several commonsense improvements sprang up spontaneously throughout the Nation. It became increasingly apparent that treatment providers and criminal justice practitioners shared common goals: stopping the illicit use and abuse of all addictive substances and curtailing related criminal activity. Each system possessed unique capabilities and resources that could complement the other and enhance the effectiveness of both if combined in partnership. Thus, the concept of treatment-oriented drug courts was born.

Drug courts were first implemented in the late 1980's, but they did not develop in a vacuum. They are an outgrowth of the continuing development of community-based team-oriented approaches that have their roots in innovative programs developed by pretrial, probation, and parole agencies, as well as treatment-based partnerships such as TASC (Treatment Alternative to Street Crime) and law enforcement innovations such as community policing programs.

Nor are drug courts the culmination or focal point of this evolution in community-based court programs. "Community courts," encouraged by the success of drug courts, have emerged over the past several years to include domestic violence courts, DUI (driving under the influence) courts, juvenile and family drug courts, neighborhood courts, and even "deadbeat dad" courts. These courts are designed to reflect community concerns and priorities, access community

resources, include community organizations in policymaking decisions, and seek general community participation and support.

Drug courts and other new and innovative community-based court programs making up the community court field are, in turn, part of the "community justice" field. Along with community policing, community prosecution, and community corrections, these programs are evolving fast, gaining momentum, and spreading across the country. As the community justice field evolves into the 21st century, so too will drug courts.

What Is a Drug Court?

The mission of drug courts is to stop the abuse of alcohol and other drugs and related criminal activity. Drug courts offer a compelling choice for individuals whose criminal justice involvement stems from AOD use: participation in treatment. In exchange for successful completion of the treatment program, the court may dismiss the original charge, reduce or set aside a sentence, offer some lesser penalty, or offer a combination of these.

Drug courts transform the roles of both criminal justice practitioners and AOD treatment providers. The judge is the central figure in a team effort that focuses on sobriety and accountability as the primary goals. Because the judge takes on the role of trying to keep participants engaged in treatment, providers can effectively focus on developing a therapeutic relationship with the participant. In turn, treatment providers keep the court informed of each participant's progress so that rewards and sanctions can be provided.

Drug courts create an environment with clear and certain rules. The rules are definite, easy to understand, and most important, compliance is within the individual's control. The rules are based on the participant's performance and are measurable. For example, the participant either appears in court or does not, attends treatment sessions or does not; the drug tests reveal drug use or abstinence. The participant's performance is immediately and directly communicated to the judge, who rewards progress or penalizes noncompliance. A drug court establishes an environment that the participant can understand—a system in which clear choices are presented and individuals are encouraged to take control of their own recovery.

The Planning Process

Drug courts require a coordinated, systemic approach to the drug offender. Comprehensive and inclusive planning is critical. Planning begins with a vision of what will be achieved when the drug court succeeds. A mission statement evolves from this vision, giving rise to goals and objectives that create form and function. Clearly defined goals and objectives should be measurable and provide accountability for State and local funding agencies and policymakers who ultimately will ensure the continuation of the court.

Planning must be detailed, and thorough and must include as many perspectives as possible. A myriad of issues must be addressed, including offender identification and eligibility criteria; treatment methods, expectations, and support service availability; organizational coordination; formal policies and procedures; contractual and budgetary agreements; ongoing supervision; and process and outcome evaluation.

The judge, court administrator, clerk, prosecutor, defender, and other staff are particularly important to the planning process. The initial planning group should also include representatives from State and local treatment provider agencies, law enforcement, pretrial services, jails, probation services, and other community-based organizations. This core group develops a work plan addressing the operational, coordination, resource, information management, and evaluation needs of the program. The work plan should be specific, describing roles and responsibilities of each program component. For example, eligibility criteria, screening, and assessment procedures must be established. Both court and treatment case management procedures and information systems must be developed. Graduated responses to both participant compliance and noncompliance must be defined. Treatment requirements and expectations need to be understood and agreed to by the planning group.

Drug court programs should have the capacity to demonstrate tangible outcomes and cost—effectiveness. It is unlikely that drug courts will thrive without demonstrating reductions in AOD use, decreases in criminal behavior, and improvements in the employability and educational levels of participants.

As the planning process continues, additional challenges will arise. Once the drug court begins, what isn't working will quickly become apparent and must be adjusted or modified. Key personnel will change over time. Experience will bring growth and expansion. Mechanisms must already be in place to address these challenges.

Although the plan may never be perfect, the time allotted for planning should be sufficient to consider all of the critical issues, but short enough to implement while enthusiasm for the new endeavor is high.

Key Component #1

Drug courts integrate alcohol and other drug treatment services with justice system case processing.

Purpose: The mission of drug courts is to stop the abuse of alcohol and other drugs and related criminal activity. Drug courts promote recovery through a coordinated response to offenders dependent on alcohol and other drugs. Realization of these goals requires a team approach, including cooperation and collaboration of the judges, prosecutors, defense counsel, probation authorities, other corrections personnel, law enforcement, pretrial services agencies, TASC programs, evaluators, an array of local service providers, and the greater community. State-level organizations representing AOD issues, law enforcement and criminal justice, vocational rehabilitation, education, and housing also have important roles to play. The combined energies of these individuals and organizations can assist and encourage defendants to accept help that could change their lives.

The criminal justice system has the unique ability to influence a person shortly after a significant triggering event such as arrest, and thus persuade or compel that person to enter and remain in treatment. Research indicates that a person coerced to enter treatment by the criminal justice system is likely to do as well as one who volunteers.[6]

Drug courts usually employ a multiphased treatment process, generally divided into a stabilization phase, an intensive treatment phase, and a transition phase. The stabilization phase may include a period of AOD detoxification, initial treatment assessment, education, and screening for other needs. The intensive treatment phase typically involves individual and group counseling and other core and adjunctive therapies as they are available (see Key Component 4). The transition phase may emphasize social reintegration, employment and education, housing services, and other aftercare activities.

Performance Benchmarks:

1. Initial and ongoing planning is carried out by a broad-based group, including persons representing all aspects of the criminal justice system, the local treatment delivery system, funding agencies, the local community other key policymakers.
2. Documents defining the drug court's mission, goals, eligibility criteria, operating

[6]Hubbard, R., Marsden, M., Rachal, J., Harwood, H., Cavanaugh, E., and Ginzburg, H. Drug Abuse Treatment: A National Study of Effectiveness. Chapel Hill: University of North Carolina Press, 1989.

Pringle G., Impact of the criminal justice system on substance abusers seeking professional help, Journal of Drug Issues. Summer, pp. 275–283, vol 12, no. 3, 1982.

procedures, and performance measures are collaboratively developed, reviewed, and agreed upon.

3. Abstinence and law-abiding behavior are the goals, with specific and measurable criteria marking progress. Criteria may include compliance with program requirements, reductions in criminal behavior and AOD use, participation in treatment, restitution to the victim or to the community, and declining incidence of AOD use.

4. The court and treatment providers maintain ongoing communication, including frequent exchanges of timely and accurate information about the individual participant's overall program performance.[7]

5. The judge plays an active role in the treatment process, including frequently reviewing of treatment progress. The judge responds to each participant's positive efforts as well as to noncompliant behavior.

6. Interdisciplinary education is provided for every person involved in drug court operations to develop a shared understanding of the values, goals, and operating procedures of both the treatment and justice system components.

7. Mechanisms for sharing decisionmaking and resolving conflicts among drug court team members, such as multidisciplinary committees, are established to ensure professional integrity.

[7] All communication about an individual's participation in treatment must be in compliance with the provisions of 42 CFR, Part 2 (the federal regulations governing confidentiality of alcohol and drug abuse patient records), and with similar State and local regulations.

Key Component #2

Using a nonadversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.

Purpose: To facilitate an individual's progress in treatment, the prosecutor and defense counsel must shed their traditional adversarial courtroom relationship and work together as a team. Once a defendant is accepted into the drug court program, the team's focus is on the participant's recovery and law-abiding behavior—not on the merits of the pending case.

The responsibility of the prosecuting attorney is to protect the public's safety by ensuring that each candidate is appropriate for the program and complies with all drug court requirements. The responsibility of the defense counsel is to protect the participant's due process rights while encouraging full participation. Both the prosecuting attorney and the defense counsel play important roles in the court's coordinated strategy for responding to noncompliance.

Performance Benchmarks:

1. Prosecutors and defense counsel participate in the design of screening, eligibility, and case-processing policies and procedures to guarantee that due process rights and public safety needs are served.

2. For consistency and stability in the early stages of drug court operations, the judge, prosecutor, and court-appointed defense counsel should be assigned to the drug court for a sufficient period of time to build a sense of teamwork and to reinforce a nonadversarial atmosphere.

3. The prosecuting attorney

   - reviews the case and determines if the defendant is eligible for the drug court program;
   - files all necessary legal documents;
   - participates in a coordinated strategy for responding to positive drug tests and other instances of noncompliance;
   - agrees that a positive drug test or open court admission of drug possession or use will not result in the filing of additional drug charges based on that admission; and

- makes decisions regarding the participant's continued enrollment in the program based on performance in treatment rather than on legal aspects of the case, barring additional criminal behavior.

4. The defense counsel

   - reviews the arrest warrant, affidavits, charging document, and other relevant information, and reviews all program documents (e.g., waivers, written agreements),

   - advises the defendant as to the nature and purpose of the drug court, the rules governing participation, the consequences of abiding or failing to abide by the rules, and how participating or not participating in the drug court will affect his or her interests;

   - explains all of the rights that the defendant will temporarily or permanently relinquish;

   - gives advice on alternative courses of action, including legal and treatment alternatives available outside the drug court program, and discusses with the defendant the long-term benefits of sobriety and a drug-free life;

   - explains that because criminal prosecution for admitting to AOD use in open court will not be invoked, the defendant is encouraged to be truthful with the judge and with treatment staff, and informs the participant that he or she will be expected to speak directly to the judge, not through an attorney.

Key Component #3

Eligible participants are identified early and promptly placed in the drug court program.

Purpose: Arrest can be a traumatic event in a person's life. It creates an immediate crisis and can force substance abusing behavior into the open, making denial difficult. The period immediately after an arrest, or after apprehension for a probation violation, provides a critical window of opportunity for intervening and introducing the value of AOD treatment. Judicial action, taken promptly after arrest, capitalizes on the crisis nature of the arrest and booking process.

Rapid and effective action also increases public confidence in the criminal justice system. Moreover, incorporating AOD concerns into the case disposition process can be a key element in strategies to link criminal justice and AOD treatment systems overall.

Performance Benchmarks:

1. Eligibility screening is based on established written criteria. Criminal justice officials or others (e.g., pretrial services, probation, TASC) are designated to screen cases and identify potential drug court participants.

2. Eligible participants for drug court are promptly advised about program requirements and the relative merits of participating.

3. Trained professionals screen drug court—eligible individuals for AOD problems and suitability for treatment.

4. Initial appearance before the drug court judge occurs immediately after arrest or apprehension to ensure program participation.

5. The court requires that eligible participants enroll in AOD treatment services immediately.

Key Component #4

Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.

Purpose: The origins and patterns of AOD problems are complex and unique to each individual. They are influenced by a variety of accumulated social and cultural experiences. If treatment for AOD is to be effective, it must also call on the resources of primary health and mental health care and make use of social and other support services.[8]

In a drug court, the treatment experience begins in the courtroom and continues through the participant's drug court involvement. In other words, drug court is a comprehensive therapeutic experience, only part of which takes place in a designated treatment setting. The treatment and criminal justice professionals are members of the therapeutic team.

The therapeutic team (treatment providers, the judge, lawyers, case managers, supervisors, and other program staff) should maintain frequent, regular communication to provide timely reporting of a participant's progress and to ensure that responses to compliance and noncompliance are swift and coordinated. Procedures for reporting progress should be clearly defined in the drug court's operating documents.

While primarily concerned with criminal activity and AOD use, the drug court team also needs to consider co-occurring problems such as mental illness, primary medical problems, HIV and sexually-transmitted diseases, homelessness; basic educational deficits, unemployment and poor job preparation; spouse and family troubles—especially domestic violence—and the long-term effects of childhood physical and sexual abuse. If not addressed, these factors will impair an individual's success in treatment and will compromise compliance with program requirements. Co-occurring factors should be considered in treatment planning. In addition, treatment services must be relevant to the ethnicity, gender, age, and other characteristics of the participants.

Longitudinal studies have consistently documented the effectiveness of AOD treatment in reducing criminal recidivism and AOD use.[9] A study commissioned by the Office of National Drug Control Policy found AOD treatment is significantly more cost-effective than domestic law

[8] Treatment-Based Drug Court Planning Guide and Checklist, Combining Alcohol and Other Drug Abuse Treatment With Diversion for Juveniles in the Justice System, TIP #21, Treatments Drug Courts: Integrating Substance Abuse Treatment With Legal Case Processing, TIP #23. Rockville, MD: Center for Substance Abuse Treatment, 1996.
[9] The Effectiveness of Treatment for Drug Abusers Under Criminal Justice Supervision. Lipton, D., Washington, DC: National Institute of Justice, Research Report, November 1995.

enforcement, interdiction, or "source-country control" in reducing drug use in the United States[10]

Research indicates that the length of time an offender spends in treatment is related to the level of AOD abuse and criminal justice involvement.[11] A comprehensive study conducted by the State of California indicates that AOD treatment provides a $7 return for every $1 spent on treatment. The study found that outpatient treatment is the most cost-effective approach, although residential treatment, sober living houses, and methadone maintenance are also cost-effective.[12] Comprehensive studies conducted in California[13] and Oregon[14] found that positive outcomes associated with AOD treatment are sustained for several years following completion of treatment.

For the many communities that do not have adequate treatment resources, drug courts can provide leadership to increase treatment options and enrich the availability of support services. Some drug courts have found creative ways to access services, such as implementing treatment readiness programs for participants who are on waiting lists for comprehensive treatment programs. In some jurisdictions, drug courts have established their own treatment programs where none existed. Other drug courts have made use of pretrial, probation, and public health treatment services.

Performance Benchmarks:

1. Individuals are initially screened and thereafter periodically assessed by both court and treatment personnel to ensure that treatment services and individuals are suitably matched:

    - An assessment at treatment entry, while useful as a baseline, provides a time specific "snapshot" of a person's needs and may be based on limited or unreliable information. Ongoing assessment is necessary to monitor progress, to change the treatment plan as necessary, and to identify relapse cues.

[10] Rydell, P., Everingham, S. Controlling Cocaine: Supply Versus Demand Programs. Santa Monica, CA: RAND Corporation, Office of National Drug Control Policy, Policy Research Center, 1994.
[11] Field, G. Oregon prison drug treatment programs. In C. Leukefeld and F. Tims (eds.), Drug Abuse Treatment in Prisons and Jails. Research monograph series #108. Rockville, MD: National Institute on Drug Abuse, 1992. Wexler, H., Falkin, G., and Lipton, D. Outcome evaluation of a prison therapeutic community for substance abuse treatment. Criminal Justice and Behavior, 17, pp 71-92, 1990.
[12] Evaluating Recovery Services: The California Drug and Alcohol Treatment Assessment (CALDATA) General Report. Sacramento, CA: California Department of Alcohol and Drug Programs, April 1994.
[13] Ibid.
[14] Societal Outcomes and Cost Savings of Drug and Alcohol Treatment in the State of Oregon. Salem, OR: Office of Alcohol and Drug Abuse Programs, Oregon Department of Human Resources, February 1996.

- If various levels of treatment are available, participants are matched to programs according to their specific needs. Guidelines for placement at various levels should be developed.

- Screening for infectious diseases and health referrals occurs at an early stage.

2. Treatment services are comprehensive:

   - Services should be available to meet the needs of each participant.

   - Treatment services may include, but are not limited to; group counseling; individual and family counseling; relapse prevention; 12-step self-help groups; preventive and primary medical care; general health education; medical detoxification; acupuncture for detoxification, for control of craving, and to make people more amenable to treatment; domestic violence programs; batterers' treatment; and treatment for the long-term effects of childhood physical and sexual abuse.

   - Other services may include housing; educational and vocational training; legal, money management, and other social service needs; cognitive behavioral therapy to address criminal thinking patterns; anger management; transitional housing; social and athletic activities; and meditation or other techniques to promote relaxation and self-control.

   - Specialized services should be considered for participants with co-occurring AOD problems and mental health disorders. Drug courts should establish linkages with mental health providers to furnish services (e.g., medication monitoring, acute care) for participants with co-occurring disorders. Flexibility (e.g., in duration of treatment phases) is essential in designing drug court services for participants with mental health problems.

   - Treatment programs or program components are designed to address the particular treatment issues of women and other special populations.

   - Treatment is available in a number of settings, including detoxification, acute residential, day treatment, outpatient, and sober living residences.

   - Clinical case management services are available to provide ongoing assessment of participant progress and needs, to coordinate referrals to services in addition to primary treatment, to provide structure and support for individuals who typically

have difficulty using services even when they are available, and to ensure communication between the court and the various service providers.

3. Treatment services are accessible:

   - Accommodations are made for persons with physical disabilities, for those not fluent in English, for those needing child care, and/or for persons with limited literacy.

   - Treatment facilities are accessible by public transportation, when possible.

4. Funding for treatment is adequate, stable, and dedicated to the drug court:

   - To ensure that services are immediately available throughout a participant's treatment, agreements are made between courts and treatment providers. These agreements are based on firm budgetary and service delivery commitments.

   - Diverse treatment funding strategies are developed based on both government and private sources at national, State and local levels.

   - Health care delivered through managed care organizations is encouraged to provide resources for the AOD treatment of member participants.

   - Payment of fees, fines, and restitution is part of treatment.

   - Fee schedules are commensurate with an individual's ability to pay. However, no one should be turned away solely because of an inability to pay.

5. Treatment services have quality controls:

   - Direct service providers are certified or licensed where required, or otherwise demonstrate proficiency according to accepted professional standards.

   - Education, training, and ongoing clinical supervision are provided to treatment staff.

6. Treatment agencies are accountable:

   - Treatment agencies give the court accurate and timely information about a participant’s progress. Information exchange complies with the provisions of 42 CFR, Part 2 (the Federal regulations governing confidentiality of AOD abuse patient records) and with applicable State statutes.

- Responses to progress and noncompliance are incorporated into the treatment protocols.

7. Treatment designs and delivery systems are sensitive and relevant to issues of race, culture, religion, gender, age, ethnicity, and sexual orientation.

Key Component #5

Abstinence is monitored by frequent alcohol and other drug testing.

Purpose: Frequent court-ordered AOD testing is essential. An accurate testing program is the most objective and efficient way to establish a framework for accountability and to gauge each participant's progress. Modern technology offers highly reliable testing to determine if an individual has recently used specific drugs. Further, it is commonly recognized that alcohol use frequently contributes to relapse among individuals whose primary drug of choice is not alcohol.

AOD testing results are objective measures of treatment effectiveness, as well as a source of important information for periodic review of treatment progress. AOD testing helps shape the ongoing interaction between the court and each participant. Timely and accurate test results promote frankness and honesty among all parties.

AOD testing is central to the drug court's monitoring of participant compliance. It is both objective and cost-effective. It gives the participant immediate information about his or her own progress, making the participant active and involved in the treatment process rather than a passive recipient of services.

Performance Benchmarks:

1. AOD testing policies and procedures are based on established and tested guidelines, such as those established by the American Probation and Parole Association. Contracted laboratories analyzing urine or other samples should also be held to established standards.

2. Testing may be administered randomly or at scheduled intervals, but occurs no less than twice a week during the first several months of an individual's enrollment. Frequency thereafter will vary depending on participant progress.

3. The scope of testing is sufficiently broad to detect the participant's primary drug of choice as well as other potential drugs of abuse, including alcohol.

4. The drug-testing procedure must be certain. Elements contributing to the reliability and validity of a urinalysis testing process include, but are not limited to,

    - Direct observation of urine sample collection;

    - Verification temperature and measurement of creatinine levels to determine the

extent of water loading;

- Specific, detailed, written procedures regarding all aspects of urine sample collection, sample analysis, and result reporting;
- A documented chain of custody for each sample collected;
- Quality control and quality assurance procedures for ensuring the integrity of the process; and
- Procedures for verifying accuracy when drug test results are contested.

5. Ideally, test results are available and communicated to the court and the participant within one day. The drug court functions best when it can to respond immediately to noncompliance; the time between sample collection and availability of results should be short.

6. The court is immediately notified when a participant has tested positive, has failed to submit to AOD testing, has submitted the sample of another, or has adulterated a sample.

7. The coordinated strategy for responding to noncompliance includes prompt responses to positive tests, missed tests, and fraudulent tests.

8. Participants should be abstinent for a substantial period of time prior to program graduation.

Key Component #6

A coordinated strategy governs drug court responses to participants' compliance.

Purpose: An established principle of AOD treatment is that addiction is a chronic, relapsing condition. A pattern of decreasing frequency of use before sustained abstinence from alcohol and other drugs is common. Becoming sober or drug free is a learning experience, and each relapse to AOD use may teach something about the recovery process.

Implemented in the early stages of treatment and emphasized throughout, therapeutic strategies aimed at preventing the return to AOD use help participants learn to manage their ambivalence toward recovery, identify situations that stimulate AOD cravings, and develop skills to cope with high-risk situations. Eventually, participants learn to manage cravings, avoid or deal more effectively with high-risk situations, and maintain sobriety for increasing lengths of time.

Abstinence and public safety are the ultimate goals of drug courts, but many participants exhibit a pattern of positive urine tests within the first several months following admission. Because AOD problems take a long time to develop and because many factors contribute to drug use and dependency, it is rare that an individual ceases AOD use as soon as he or she enrolls in treatment. Even after a period of sustained abstinence, it is common for individuals to occasionally test positive.

Although drug courts recognize that individuals have a tendency to relapse, continuing AOD use is not condoned. Drug courts impose appropriate responses for continuing AOD use. Responses increase in severity for continued failure to abstain.

A participant's progress through the drug court experience is measured by his or her compliance with the treatment regimen. Certainly cessation of drug use is the ultimate goal of drug court treatment. However, there is value in recognizing incremental progress toward the goal, such as showing up at all required court appearances, regularly arriving at the treatment program on time, attending and fully participating in the treatment sessions, cooperating with treatment staff, and submitting to regular AOD testing.

Drug courts must reward cooperation as well as respond to noncompliance. Small rewards for incremental successes have an important effect on a participant's sense of purpose and accomplishment. Praise from the drug court judge for regular attendance or for a period of clean drug tests, encouragement from the treatment staff or the judge at particularly difficult times, and ceremonies in which tokens of accomplishment are awarded in open court for completing a

particular phase of treatment are all small but very important rewards that bolster confidence and give inspiration to continue.

Drug courts establish a coordinated strategy, including a continuum of responses, to continuing drug use and other noncompliant behavior. A coordinated strategy can provide a common operating plan for treatment providers and other drug court personnel. The criminal justice system representatives and the treatment providers develop a series of complementary, measured responses that will encourage compliance. A written copy of these responses, given to participants during the orientation period, emphasizes the predictability, certainty, and swiftness of their application.

Performance Benchmarks:

1. Treatment providers, the judge, and other program staff maintain frequent, regular communication to provide timely reporting of progress and noncompliance and to enable the court to respond immediately. Procedures for reporting noncompliance are clearly defined in the drug court's operating documents.

2. Responses to compliance and noncompliance are explained verbally and provided in writing to drug court participants before their orientation. Periodic reminders are given throughout the treatment process.

3. The responses for compliance vary in intensity.

    - Encouragement and praise from the bench;
    - Ceremonies and tokens of progress, including advancement to the next treatment phase;
    - Reduced supervision;
    - Decreased frequency of court appearances;
    - Reduced fines or fees;
    - Dismissal of criminal charges or reduction in the term of probation;
    - Reduced or suspended incarceration; and
    - Graduation.

4. Responses to or sanctions for noncompliance might include

    - Warnings and admonishment from the bench in open court;
    - Demotion to earlier program phases;
    - Increased frequency of testing and court appearances;
    - Confinement in the courtroom or jury box;
    - Increased monitoring and/or treatment intensity;
    - Fines;

- Required community service or work programs;
- Escalating periods of jail confinement (However, drug court participants remanded to jail should receive AOD treatment services while confined); and
- Termination from the program and reinstatement of regular court processing.

Key Component #7

Ongoing judicial interaction with each drug court participant is essential.

Purpose: The judge is the leader of the drug court team, linking participants to AOD treatment and to the criminal justice system. This active, supervising relationship, maintained throughout treatment, increases the likelihood that a participant will remain in treatment and improves the chances for sobriety and law-abiding behavior. Ongoing judicial supervision also communicates to participants—often for the first time—that someone in authority cares about them and is closely watching what they do.

Drug courts require judges to step beyond their traditionally independent and objective arbiter roles and develop new expertise. The structure of the drug court allows for early and frequent judicial intervention. A drug court judge must be prepared to encourage appropriate behavior and to discourage and penalize inappropriate behavior. A drug court judge is knowledgeable about treatment methods and their limitations.

Performance Benchmarks:

1. Regular status hearings are used to monitor participant performance:

    - Frequent status hearings during the initial phases of each participant's program establish and reinforce the drug court's policies, and ensure effective supervision of each drug court participant. Frequent hearings also give the participant a sense of how he or she is doing in relation to others.

    - Time between status hearings may be increased or decreased, based on compliance with treatment protocols and progress observed.

    - Having a significant number of drug court participants appear at a single session gives the judge the opportunity to educate both the offender at the bench and those waiting as to the benefits of program compliance and consequences for noncompliance.

2. The court applies appropriate incentives and sanctions to match the participant's treatment progress.

3. Payment of fees, fines and/or restitution is part of the participant's treatment. The court supervises such payments and takes into account the participant's financial ability to fulfill these obligations. The court ensures that no one is denied participation in drug courts solely because of inability to pay fees, fines, or restitution.

Key Component #8

Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.

Purpose: Fundamental to the effective operation of drug courts are coordinated management, monitoring, and evaluation systems. The design and operation of an effective drug court program result from thorough initial planning, clearly defined program goals, and inherent flexibility to make modifications as necessary.

The goals of the program should be described concretely and in measurable terms to provide accountability to funding agencies and policymakers. And, since drug courts will increasingly be asked to demonstrate tangible outcomes and cost-effectiveness, it is critical that the drug court be designed with the ability to gather and manage information for monitoring daily activities, evaluating the quality of services provided, and producing longitudinal evaluations.

Management and monitoring systems provide timely and accurate information about program operations to the drug court's managers, enabling them to keep the program on course, identify developing problems, and make appropriate procedural changes. Clearly defined drug court goals shape the management information system, determine monitoring questions, and suggest methods for finding information to answer them.

Program management provides the information needed for day-to-day operations and for planning, monitoring, and evaluation. Program monitoring provides oversight and periodic measurements of the program's performance against its stated goals and objectives.

Evaluation is the institutional process of gathering and analyzing data to measure the accomplishment of the program's long-term goals. A process evaluation appraises progress in meeting operational and administrative goals (e.g., whether treatment services are implemented as intended). An outcome evaluation assesses the extent to which the program is reaching its long-term goals (e.g., reducing criminal recidivism). An effective design for an outcome evaluation uses a comparison group that does not receive drug court services.

Although evaluation activities are often planned and implemented simultaneously, process evaluation information can be used more quickly in the early stages of drug court implementation. Outcome evaluation should be planned at the beginning of the program as it requires at least a year to compile results, especially if past participants are to be found and interviewed.

Evaluation strategies should reflect the significant coordination and the considerable time required to obtain measurable results. Evaluation studies are useful to everyone, including funding agencies and policymakers who may not be involved in the daily operations of the program. Information and conclusions developed from periodic monitoring reports, process evaluation activities, and longitudinal evaluation studies may be used to modify program procedures, change therapeutic interventions, and make decisions about continuing or expanding the program.

Information for management, monitoring, and evaluation purposes may already exist within the court system and/or in the community treatment or supervision agencies (e.g., criminal justice data bases, psychosocial histories, and formal AOD assessments). Multiple sources of information enhance the credibility and persuasiveness of conclusions drawn from evaluations.

Performance Benchmarks:

1. Management, monitoring, and evaluation processes begin with initial planning. As part of the comprehensive planning process, drug court leaders and senior managers should establish specific and measurable goals that define the parameters of data collection and information management. An evaluator can be an important member of the planning team.

2. Data needed for program monitoring and management can be obtained from records maintained for day-to-day program operations, such as the numbers and general demographics of individuals screened for eligibility; the extent and nature of AOD problems among those assessed for possible participation in the program; and attendance records, progress reports, drug test results, and incidence of criminality among those accepted into the program.

3. Monitoring and management data are assembled in useful formats for regular review by program leaders and managers.

4. Ideally, much of the information needed for monitoring and evaluation is gathered through an automated system that can provide timely and useful reports. If an automated system is not available, manual data collection and report preparation can be streamlined. Additional monitoring information may be acquired by observation and through program staff and participant interviews.

5. Automated and manual information systems must adhere to written guidelines that protect against unauthorized disclosure of sensitive personal information about individuals.

6. Monitoring reports need to be reviewed at frequent intervals by program leaders and senior managers. They can be used to analyze program operations, gauge effectiveness, modify procedures when necessary, and refine goals.

7. Process evaluation activities should be undertaken throughout the course of the drug court program. This activity is particularly important in the early stages of program implementation.

8. If feasible, a qualified independent evaluator should be selected and given responsibility for developing and conducting an evaluation design and for preparing interim and final reports. If an independent evaluation is unavailable the drug court program designs and implements its own evaluation, based on guidance available through the field.

   - Judges, prosecutors, the defense bar, treatment staff, and others design the evaluation collaboratively with the evaluator.

   - Ideally, an independent evaluator will help the information systems expert design and implement the management information system.

   - The drug court program ensures that the evaluator has access to relevant justice system and treatment information.

   - The evaluator maintains continuing contact with the drug court and provides information on a regular basis. Preliminary reports may be reviewed by drug court program personnel and used as the basis for revising goals, policies, and procedures as appropriate.

9. Useful data elements to assist in management and monitoring may include, but are not limited to,

   - The number of defendants screened for program eligibility and the outcome of those initial screenings;

   - The number of persons admitted to the drug court program;

   - Characteristics of program participants, such as age, sex, race/ethnicity, family status, employment status, and educational level, current charges; criminal justice history; AOD treatment or mental health treatment history; medical needs (including detoxification); and nature and severity of AOD problems;

- Number and characteristics of participants (e.g., duration of treatment involvement, reason for discharge from the program);
- Number of active cases;
- Patterns of drug use as measured by drug test results;
- Aggregate attendance data and general treatment progress measurements;
- Number and characteristics of persons who graduate or complete treatment successfully;
- Number and characteristics of persons who do not graduate or complete the program;
- Number of participants who fail to appear at drug court hearings and number of bench warrants issued for participants;
- Re-arrests during involvement in the drug court program and type of arrest(s); and
- Number, length, and reasons for incarcerations during and subsequent to involvement in the drug court program.

10. When making comparisons for evaluation purposes, drug courts should consider the following groups:

    - Program graduates;
    - Program terminations;
    - Individuals who were referred to, but did not appear for, treatment; and
    - Individuals who were not referred for drug court services.

11. At least six months after exiting a drug court program, comparison groups (listed above) should be examined to determine long-term effects of the program. Data elements for follow-up evaluation may include

    - Criminal behavior/activity;
    - Days spent in custody on all offenses from date of acceptance into the program;

- AOD use since leaving the program;
- Changes in job skills and employment status;
- Changes in literacy and other educational attainments;
- Changes in physical and mental health;
- Changes in status of family relationships;
- Attitudes and perceptions of participation in the program; and
- Use of health care and other social services.

12. Drug court evaluations should consider the use of cost-benefit analysis to examine the economic impact of program services. Important elements of cost-benefit analysis include

- Reductions in court costs, including judicial, counsel, and investigative resources;
- Reductions in costs related to law enforcement and corrections;
- Reductions in health care utilization; and
- Increased economic productivity.

Key Component #9

Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations.

Purpose: Periodic education and training ensures that the drug court's goals and objectives, as well as policies and procedures, are understood not only by the drug court leaders and senior managers, but also by those indirectly involved in the program. Education and training programs also help maintain a high level of professionalism, provide a forum for solidifying relationships among criminal justice and AOD treatment personnel, and promote a spirit of commitment and collaboration.

All drug court staff should be involved in education and training, even before the first case is heard. Interdisciplinary education exposes criminal justice officials to treatment issues, and treatment staff to criminal justice issues. It also develops shared understandings of the values, goals, and operating procedures of both the treatment and the justice system components. Judges and court personnel typically need to learn about the nature of AOD problems and the theories and practices supporting specific treatment approaches. Treatment providers typically need to become familiar with criminal justice accountability issues and court operations. All need to understand and comply with drug testing standards and procedures.

For justice system or other officials not directly involved in the program's operations, education provides an overview of the mission, goals, and operating procedures of the drug court.

A simple and effective method of educating new drug court staff is to visit an existing court to observe its operations and ask questions. On-site experience with an operating drug court provides an opportunity for new drug court staff to talk to their peers directly and to see how their particular role functions.

Performance Benchmarks:

1. Key personnel have attained a specific level of basic education, as defined in staff training requirements and in the written operating procedures. The operating procedures should also define requirements for the continuing education of each drug court staff member.

2. Attendance at education and training sessions by all drug court personnel is essential. Regional and national drug court training provide critical information on innovative developments across the Nation. Sessions are most productive when drug court

personnel attend as a group. Credits for continuing professional education should be offered, when feasible.

3. Continuing education institutionalizes the drug court and moves it beyond its initial identification with the key staff who may have founded the program and nurtured its development.

4. An education syllabus and curriculum are developed, describing the drug court's goals, policies, and procedures. Topics might include

   - Goals and philosophy of drug courts;
   - The nature of AOD abuse, its treatment and terminology;
   - The dynamics of abstinence and techniques for preventing relapse;
   - Responses to relapse and to noncompliance with other program requirements;
   - Basic legal requirements of the drug court program and an overview of the local criminal justice system's policies, procedures, and terminology;
   - Drug testing standards and procedures;
   - Sensitivity to racial, cultural, ethnic, gender, and sexual orientation as they affect the operation of the drug court;
   - Interrelationships of co-occurring conditions such as AOD abuse and mental illness (also known as “dual diagnosis”); and
   - Federal, State, and local confidentiality requirements.

Key Component #10

Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness.

Purpose: Because of its unique position in the criminal justice system, a drug court is especially well suited to develop coalitions among private community-based organizations, public criminal justice agencies, and AOD treatment delivery systems. Forming such coalitions expands the continuum of services available to drug court participants and informs the community about drug court concepts.

The drug court is a partnership among organizations—public, private, and community-based—dedicated to a coordinated and cooperative approach to the AOD offender. The drug court fosters systemwide involvement through its commitment to share responsibility and participation of program partners. As a part of—and as a leader in—the formation and operation of community partnerships, drug courts can help restore public faith in the criminal justice system.

Performance Benchmarks:

1. Representatives from the court, community organizations, law enforcement, corrections, prosecution, defense counsel, supervisory agencies, treatment and rehabilitation providers, educators, health and social service agencies, and the faith community meet regularly to provide guidance and direction to the drug court program.

2. The drug court plays a pivotal role in forming linkages between community groups and the criminal justice system. The linkages are a conduit of information to the public about the drug court, and conversely, from the community to the court about available community services and local problems.

3. Partnerships between drug courts and law enforcement and/or community policing programs can build effective links between the court and offenders in the community.

4. Participation of public and private agencies, as well as community-based organizations, is formalized through a steering committee. The steering committee aids in the acquisition and distribution of resources. An especially effective way for the steering committee to operate is through the formation of a nonprofit corporation structure that includes all the principle drug court partners, provides policy guidance, and acts as a conduit for fundraising and resource acquisition.

5. Drug court programs and services are sensitive to and demonstrate awareness of the populations they serve and the communities in which they operate. Drug courts provide opportunities for community involvement through forums, informational meetings, and other community outreach efforts.

6. The drug court hires a professional staff that reflects the population served, and the drug court provides ongoing cultural competence training.

Appendix 1: Drug Court Standards Committee

Bill Meyer, Chairman Judge, Denver Drug Court Denver, CO	Carlos J. Martinez Assistant Public Defender Law Offices of Bennett H. Brummer Miami, FL
Ed Brekke Administrator Civil & Criminal Operations Los Angeles Superior Court Los Angeles, CA	Roger Peters Associate Professor University of South Florida Florida Mental Health Institute Department of Mental Health Law and Policy Tampa, FL
Frank Tapia Probation Officer Oakland, CA	Molly Merrigan Assistant Prosecutor Jackson County Drug Court Kansas City, MO
Jay Carver Director, District of Columbia Pretrial Services Agency Washington, DC	John Marr CEO Choices Unlimited Las Vegas, NV
Caroline Cooper Director OJP Drug Court Clearinghouse and Technical Assistance Project American University Washington, DC	Ana Oliveira Director Samaritan Village Briarwood, NY
Barry Mahoney President The Justice Management Institute Denver, CO	Jane Kennedy Executive Director TASC of King County Seattle, WA
U.S. Department of Justice **Office of Justice Programs Representatives** Marilyn McCoy Roberts Director, Drug Courts Program Office Office of Justice Programs	Susan Tashiro Program Manager Office of Justice Programs

National Association of Drug Court Professionals Judge Jeffrey S. Tauber President Marc Pearce Chief of Staff	**Writer and Coordinator** Jody Forman The Dogwood Institute Charlottesville, VA

Appendix 2: Resource List

Federal Organizations and Agencies Providing Information and Guidance on Drug Courts:

The White House
Office of National Drug Control Policy (ONDCP)
Executive Office of the President
The White House
Washington, DC 20500
Tel: 202/395-6700

U.S. Department of Justice

Bureau of Justice Assistance
Office of Justice Programs
U.S. Department of Justice
633 Indiana Avenue NW
Washington, DC 20531
Tel: 202/307-6185
Fax: 202/305-1367

Drug Courts Program Office
Office of Justice Programs
U.S. Department of Justice
633 Indiana Avenue NW
Washington, DC 20531
Tel: 202/616-5001
Fax: 202/307-2019

National Criminal Justice Reference Service
P. O. Box 6000
Rockville, MD 20849-6000
Tel: 800/688-4252 or 301/251-5500

Federal Agencies and Organizations Providing Information on AOD Treatment:

U.S. Department of Health and Human Services

Alcoholism and Substance Abuse Branch
Indian Health Service
5600 Fishers Lane, Room 5A-20
Rockville, MD 20857
Tel: 301/443-7623

Center for Substance Abuse Treatment
Substance Abuse and Mental Health Services Administration, Public Health Service
5515 Security Lane
Rockville, MD 20852
Tel: 301/443-5700

National Clearinghouse for Alcohol and Drug Information
11426 Rockville Pike, Suite 200
Rockville, MD 20852
Tel: 800-729-6686

National Institute on Alcohol and Alcoholism
Substance Abuse and Mental Health Services Administration, Public Health Service
Willco Bldg., Suite 400-MSC7003
6000 Executive Blvd.
Bethesda, MD 20892
Tel: 301/443-3851

National Institute on Drug Abuse
Substance Abuse and Mental Health Services Administration, Public Health Service
5600 Fishers Lane, Room 18-49
Rockville, MD 20857
Tel: 301/443-0107

Organizations Providing Information on Drug Courts:

Drug Court Clearinghouse and Technical Assistance Project
American University
Justice Programs Office
Brandywine, Suite 660
4400 Massachusetts Avenue, NW
Washington, DC 20016-8159
Tel: 202/885-2875
Fax: 202/885-2885

Justice Management Institute
1900 Grant St., Suite 815
Denver, CO 80203
Tel: 303/831-7564
Fax: 303/831-4564

National Association of Drug Court Professionals
901 North Pitt St, Suite 300
Alexandria, VA 22314
Tel: 800/542-2322 or 703/706-0576
Fax: 703/706-0565

State Justice Institute
1650 King St., Suite 600
Alexandria, VA 22314
Tel: 703/684-6100
Fax: 703/684-7618

Private Organizations Providing Information on AOD Treatment:

American Society of Addiction Medicine, Inc.
Upper Arcade, Suite 101
4601 North Park Avenue
Chevy Chase, MD 20815
Tel: 301/656-3920

Guidepoints: Acupuncture in Recovery
(Information on innovative treatment of addictive and mental disorders)
7402 NE 58th St.
Vancouver, WA 98662
Tel: 360/254-0186

National Acupuncture

Join Together
441 Stuart Street, 6th Floor
Boston, MA 02116
Tel: 617/437-1500

Partnership for a Drug Free America
State Alliance Program
405 Lexington Ave., 16th Floor
New York, NY 10174
Tel: 212/922-1560