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**Retrospective Evaluation of Two Pioneering Drug Courts:  
Phase I Findings from Clark County, Nevada, and Multnomah County, Oregon**

*An Interim Report of the National Evaluation of Drug Courts*

John S. Goldkamp  
Michael D. White  
Jennifer B. Robinson

April 2000

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**Retrospective Evaluation of Two Pioneering Drug Courts:  
Phase I Findings from Clark County, Nevada, and Multnomah County, Oregon**

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### **Las Vegas (Clark County)**

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*In Memoriam*

**Robert Williams, Jr.**

This study is dedicated to the memory of Robert Williams, Jr., a central figure in the operation of the Multnomah County Drug Court (S.T.O.P.) Program from its beginnings in 1991. Robert was one of the pioneers in a pioneering court. He touched thousands of lives, including ours.

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*By*  
*John S. Goldkamp*  
*Michael D. White*  
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**Executive Highlights**

**Introduction to the Evaluation of the Clark County and Multnomah County Drug Courts**

This interim report presents findings from the first phase of the evaluation of two of the nation's pioneering drug courts in Las Vegas, Nevada, and Portland, Oregon, supported by the National Institute of Justice under its National Drug Court Evaluation (I) program of funding. The research has examined the experiences of the Multnomah County Drug Court (also known as the S.T.O.P. or Sanction-Treatment-Opportunity-Progress program) and the Clark County Drug Court from their inceptions in 1991 and 1992 until very recently. The two-site evaluation employed a variety of methods, including observation, interview, group meetings with key actors, focus groups of drug court participants, and retrospective sampling and archival data collection to chart the evolution and impact of the approaches in the two sites.

In this interim report, we describe the evolution and operation of the two drug courts, including short-term follow-up measures of treatment and criminal justice outcomes. The Phase I research makes two important contributions to the drug court research literature. First, it analyzes drug courts over time and, hence, considers implementation and outcome findings in the context of the dynamic process of change and evolution associated with the drug court movement. In fact, the experiences of these two courts, as early, first-generation leaders of the movement, provide a unique opportunity to learn about the growth of the drug court innovation and the challenges they faced in institutionalizing new ideas in specific settings over time.

Second, the Phase I research conceptualizes evaluation questions and organizes findings using the framework of a drug court typology. The drug court typology offers a tool for building a body of findings linked to the critical elements of the drug court innovation and for avoiding inappropriate comparisons of dissimilar drug courts. In adopting this approach, the study was not designed to measure the performance of two of the founding drug courts one against the other. Rather, its aim was to present two illustrative case studies using a common frame of reference, the drug court typology, to define appropriate questions for evaluation and to organize findings on the basis of common themes.

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Findings from Phase II of the research, including longer-term impact measures and questions of special interest in each site will be presented in a subsequent report. That report also considers the Multnomah County and Clark County Drug Courts in the larger contexts of their justice systems and urban settings.

### Design of the Retrospective Studies

The retrospective evaluation of the drug courts in Clark County and Multnomah County has several principal components. Descriptive data were collected to help understand the development and evolution of each of the courts over time through observations of the court and treatment processes, interviews with the principal system actors involved in the drug courts, and focus groups with participants. These descriptive data provided an understanding of how the courts grew and changed over time and were employed to identify chronological milestones of important events and challenges in the lives of each drug court. Archival data collection was organized to complement the descriptive data in showing changes in the population of participants, in the workload, and in the assessment of participant outcomes over time.

The sampling strategy was designed to capture the effects of important changes in both courts over time (including changes in targeted and enrolled populations) by stratifying on the basis of time periods. To ensure that the sampling design was representative of each time period, approximately equal numbers of cases were randomly drawn in each designated time period for the samples of drug court participants as well as the comparison groups.

*The Multnomah County Design:* The sampling strategy employed for the evaluation of the STOP program in Multnomah County stratified according to two-year time periods from 1991 to 1997. We randomly sampled 150 drug court participants from each stratum represented by the following periods: 1991-1992,<sup>1</sup> 1993-1994, 1995-1996 and 1997 alone. This resulted in about 75 cases from each individual year, with the exception of 1997, from which we sampled 100 defendants (total n=692). We had special questions about the 1997 period in Portland that required a distinct and slightly larger sample. We created two comparison groups for each time period consisting of a) those who attended the Defender orientation and did not enter the drug court process (total n=401), and b) those who did not attend the Defender orientation and did not attend the petition hearing or enter drug court (total n=401). Though less than ideal, this strategy (adjusted by the use of post hoc controls in comparative analyses of outcomes<sup>2</sup>) was the only reasonable option available for designating comparison groups in Multnomah County. For drug court participants and comparison group defendants entering the court process from 1991

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<sup>1</sup> The 1991-1992 sample was supplemented with an additional random sample of 104 cases upon discovering that treatment records for the earliest participants were lost when the program changed treatment providers after 11 months of operation.

<sup>2</sup> In the second phase we extended the follow-up data collection to included a two year follow-up for the 1997 defendants.

through 1995, the criminal justice outcomes follow-up covered one-, two- and three-year periods. For those entering the processing in 1996, the follow-up study included one- and two-year periods. For the 1997 cases, a one-year follow-up was carried out.

*The Clark County Design:* Our sampling approach in Clark County, designed to represent cases from 1993 through 1997,<sup>3</sup> was stratified by year. For each of the years 1993, 1994, 1995, 1996, and 1997, we randomly sampled about 100 drug court participants (total n=499) and 100 comparison group defendants entering the judicial process at the District Court arraignment stage (total n=510). The comparison group defendants were identified from overall entering felony drug cases and included mainly defendants who were not made aware of the drug court option. Thus, they were similar to drug court defendants who entered the process and who did pursue the drug court path. Data were collected to represent follow-up or observation periods of one-, two- and three years (depending on the recency of the year sampled) from the point of entry in the judicial process, not from date of termination from the program. The design incorporated one-, two-, and three-year follow-up periods for 1993 and 1994 defendants, one- and two-year follow-up periods for 1995 and 1996 defendants, and a one-year follow-up for 1997 defendants.<sup>4</sup> Stated another way, standard one-year follow-up periods were available for samples from all years, two-year follow-ups were available for the 1993, 1994, 1995 and 1996 samples, and three year follow-ups were available for 1993, 1994, and 1995 drug court participants and comparison group defendants. In Clark County, the comparison group was identified through court and prosecutor data by selecting drug defendants who were similar to drug court participants, but who did not enter the drug court and whose cases were processed in the normal manner.

In the design and conduct of this study, we have been careful to emphasize that its purpose has not been to compare the effectiveness of two drug courts, one against the other. Despite their similarities, the two drug courts differ from one another in important respects, just as they differ from many of the other drug courts now in existence in court systems around the country.

### Target Problem

*Multnomah County:* The Multnomah County Drug Court was formed in response to the rapid growth in the drug caseload in Circuit Court in Oregon's Fourth Judicial District toward the end of the 1980's and beginning of the 1990's. The development of Drug Court was a collaborative response by the court, prosecutor and defender designed to cope with the strains placed on the justice system by the burgeoning and frequently recycling drug caseload. Prior to implementing the Drug Court (S.T.O.P.) in 1991, the Circuit Court had adopted reforms in caseload management aimed at better managing the drug cases of the 1980's. Although the locus of the drug caseload problem was in the court and justice system, it had its roots in the community where the drug problem and law enforcement responses generated the high volume justice caseload. The formation

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<sup>3</sup> In the second phase of the research, we sampled from 1998 as well.

<sup>4</sup> In the second phase, with more time passing, we extended follow-up data collection to include a three-year follow-up for the 1995 defendants and two-year follow-ups for 1996 and 1997 defendants.

and adoption of the Multnomah County Drug Court occurred in the context of other initiatives focusing on the impact of drugs on the community, principally the District Attorney's Community Prosecution initiative based on neighborhood-specific problem solving and enforcement, and the related establishment of "drug-free zones" to remove drug activity from key neighborhoods and business districts in Portland.

Clark County: The motivation for the development of the Clark County Drug Court was similar. Led by the chief judge (and then Drug Court judge), with the collaboration and support of the District Attorney and Public Defender, the Eighth Judicial District adapted the Miami approach to the special drug-crime problems of Las Vegas and its environs. Like its counterpart in Multnomah County, the Clark County Drug Court was designed to respond to the increasing system strains on the court and local justice system caused by the felony drug caseload, particularly on the local jail facilities. Partly because Clark County was located at the crossroads of drug trafficking routes to the southwestern and western United States, Las Vegas was dramatically affected by the drug epidemic of the 1980's. After having made efforts to process the mounting drug-caseload as efficiently as possible, the chief judge was inspired by the Miami example and turned to the drug court model in the hopes that dealing with defendants' addiction in a rigorous program of treatment would serve as a more productive alternative. The court-based approach was therefore, first, meant to address the causes of a problem of major system strain, but was also embraced because of its potential implications for affecting drug-related crime around Las Vegas.

### **Target Population**

Multnomah County: The Multnomah County Drug Court targeted felony drug defendants charged with level I or II drug possession offenses under Oregon statutes, many of whom would face some prison time if convicted. The rationale for focusing on this category, like the reasoning for the original Miami Drug Court's targeting of felony drug defendants, was twofold: these cases accounted for a rapidly growing portion of the criminal caseload, and a majority were substance-abusers. From its earliest days, the Multnomah County Drug Court has not excluded candidates on the basis of their prior criminal records. Over time, more than half had prior arrests, nearly half had prior convictions, and a small proportion (about one-tenth) had prior convictions for serious crimes against the person. This policy did not change, even with the advent of Federal funding and its restrictions against using funds to pay for the treatment of persons with prior convictions for violent crimes. (The Drug Court developed procedures for separating funding of persons with prior convictions for violent offenses from the rest of its enrolled participants.) For a short period of time (1995-1996), the Multnomah County Drug Court sought to expand its target population to include persons on probation and/or parole. Although a small proportion of its clientele (less than ten percent) over time has included participants in this category, the Drug Court's target population has not changed significantly from its original emphasis.

In other ways, however, the target population served by the Multnomah County Drug Court did change. From 1991 through 1997, most Multnomah County Drug Court



participants were older than other criminal justice populations, averaging in their early 30's, and were mostly white. Proportionately fewer participants were African Americans or Hispanic in the late 1990's than at the program's outset, dropping from about 40 percent to 20 percent from the first years of operation. The proportion of participants who were women increased from about 20 percent to 30 percent over the study period.

The population targeted by the Multnomah County Drug Court changed over time in the kinds of substances most frequently abused. The majority of targeted participants reported using cocaine or crack cocaine, half used marijuana, about one-fourth used heroin and one-fourth methamphetamines over the period of the study. However, the prevalence of self-reported cocaine use dropped from over two-thirds when the Drug Court began operation, to less than half of participants toward the end of our study period. Self-reported methamphetamine and heroin use each roughly tripled proportionately over the study period. Principal substances of abuse varied among participants based on race/ethnicity. As use of cocaine and crack cocaine dropped 25 percent among white participants over the study period, their use of methamphetamines doubled and of heroin tripled from the beginning to the end of the study period. Cocaine/crack cocaine use dropped among African-American participants, but still was reported by nearly two-thirds in 1997; marijuana use dropped notably and methamphetamines and heroin were not ever self-reported as major substances of abuse among African American participants. The great majority of Hispanic participants reported use of cocaine/crack cocaine (reaching about 87 percent in 1994-1995, but declining thereafter) and marijuana.

Clark County: The Clark County Drug Court initially targeted a similar population of felony drug defendants, focusing on felony possession and "under-the-influence" offenses. Many of these defendants would face state prison terms, if convicted. The target population did not remain static in Clark County, however. Due to a change in Nevada drug law making many felony possession offenses eligible for probation rather than prison and a change in prosecutorial policy regarding Drug Court candidacy beginning in 1994, the Drug Court began a shift from diversion of felony drug defendants to enrollment of offenders who pled guilty to participate in Drug Court in exchange for reduced charges (going from felony to misdemeanor convictions) and/or probation. From 1993 to 1997, the principal emphasis had been nearly reversed from diversion (an adaptation of the Miami model) to post-conviction participants.

With this shift in the type of cases enrolled came other significant changes in the attributes of Clark County's target population. Participants no longer were exclusively those charged with felony drug offenses, but increasingly included persons convicted of drug-related crime, such as burglary. Participants were older on average (over 30) at the end of the study period than at the beginning. Female participants dropped from 38 percent initially to 24 percent in 1997. The proportion of participants who were African American grew from nine percent in 1993 to 27 percent in 1997. The drugs of abuse self-reported by participants did not change notably over the study period, with about one-third using cocaine/crack cocaine, over half using marijuana, half using methamphetamines and very few reporting heroin use. Although reported drug use

patterns did not vary notably over the five years of study, they did differ markedly by the race/ethnicity of participants. African American and Hispanic participants reported two to three times the use of cocaine/crack cocaine as white participants. White participants much more frequently reported methamphetamine abuse (half to two-thirds, depending on the year). Methamphetamine use was much less common among Hispanic participants, and nearly non-existent among African American participants.

### **Modification/Adaptation of Court Processing and Procedures**

Although both drug courts began what seemed very similar approaches, they differed considerably in the ways in which they were incorporated into the judicial process. In Multnomah County, felony drug defendants who could be possible candidates for Drug Court were identified at the post-arrest charging stage by the prosecutor and were instructed to attend orientation within the day, to be followed by an appearance at the Drug Court petition hearing on the same day or the next day. Thus, identification and enrollment of candidates was designed to occur in a centralized fashion at the earliest stages of processing and to facilitate reasonably prompt placement in Drug Court and treatment. In Clark County, candidates were identified among felony drug defendants mostly held in the jail. Some of these were at the beginning stages of criminal processing, but others were much farther along and involved in plea negotiations. Candidates who wished to be considered for Drug Court were assessed very promptly and, if found to be eligible and in need of treatment, began treatment immediately, often in advance of a first drug court appearance.

*Multnomah County:* Two features have distinguished the Multnomah County Drug Court (the "Portland model") procedurally: the requirement to stipulate to the facts in the police complaint to enter the program, and the 14-day "opt-out" provision. In adapting the original Miami diversion model to its own local needs, the Multnomah County Drug Court planning team officials decided that more of a stake in the treatment process would be required of participants. By being required to stipulate to the facts of the complaint, the defendant would be admitting to facts that, if he or she failed to complete the program, would almost certainly lead to prompt adjudication and conviction. If successful in the program, however, the charges would be withdrawn and no conviction would result, with expungement of the defendant's arrest possible later.

The 14-day opt-out provision allowed the defendant to consult with counsel and "opt-out" of the program within 14 days of the petition hearing (at which Drug Court participation official begins). Defendants might do this for legal reasons (believing there are good grounds for dismissal or acquittal) or because they decide that treatment is not what they really want. At the same time, the District Attorney may use that same 14-day period to disqualify a defendant from the program upon discovering new evidence or additional information leading him to believe the person would not be an appropriate participant in Drug Court. The opt-out option was employed infrequently by defendants entering the Multnomah Drug Court. However, its relative use increased over time from 0 percent of 1991-1992 to ten percent of 1997 of entering candidates. Both of these features of the Portland model, adopted by other jurisdictions around the country, were

thought to have the possible effect of discouraging enrollment of candidates. (Many would not be willing to "stipulate" and gamble on their ability to perform in treatment and many would "opt out" when, during the early rough going, they decided treatment was simply too difficult.) We found no evidence of such an effect in the years studied.

Clark County: The mechanism for identifying candidates for the Clark County Drug Court in Las Vegas was less centralized than in Multnomah County in that it did not occur as arrests were processed through a single gateway for drug offenses. Instead, candidates were identified on a voluntary basis shortly after arrest (at first appearance) or at the Detention Center among detainees who indicated interest upon learning of the program. In other words, all possible felony drug arrestees were not ordered through a central mechanism for screening to determine candidacy. Once voluntarily identified, however, all candidates had to attend the Defender orientation and report to the treatment provider for assessment pending an appearance in the Drug Court. Thus, some candidates would be identified shortly after arrest and very early in the criminal process, while others—pretrial detainees—could have been awaiting processing for some time (before or after first appearance) before attending orientation and assessment.

As the Clark County Drug Court shifted from focusing primarily on diversion (when charges would not be filed, unless a defendant was terminated from the Drug Court), candidates were identified at later stages of processing, at the point of plea negotiation. Defendants pleading guilty typically were held longer in pretrial detention and were referred to orientation and assessment much longer after arrest than their diversion-based counterparts. By the end of the study period, although the Clark County Drug Court still permitted diversion cases, the locus of its intervention had moved to conviction and post-conviction stages of the criminal process.

When the Clark County Drug Court is considered in its larger geographical context (i.e., not as the "Las Vegas" Drug Court, but as the central county drug court), it has played a special role in modifying court procedure by encouraging a constellation of related drug court efforts in juvenile court, family court (for dependency and neglect cases), justice court and two rural county justice courts in locations remote from Las Vegas. From the point of view of court processing and system adaptations, the Clark County ("Las Vegas") indirectly promoted intervention in the court process at a variety of stages from a regional perspective.

### **Reaching the Target Population: Identifying and Enrolling Candidates**

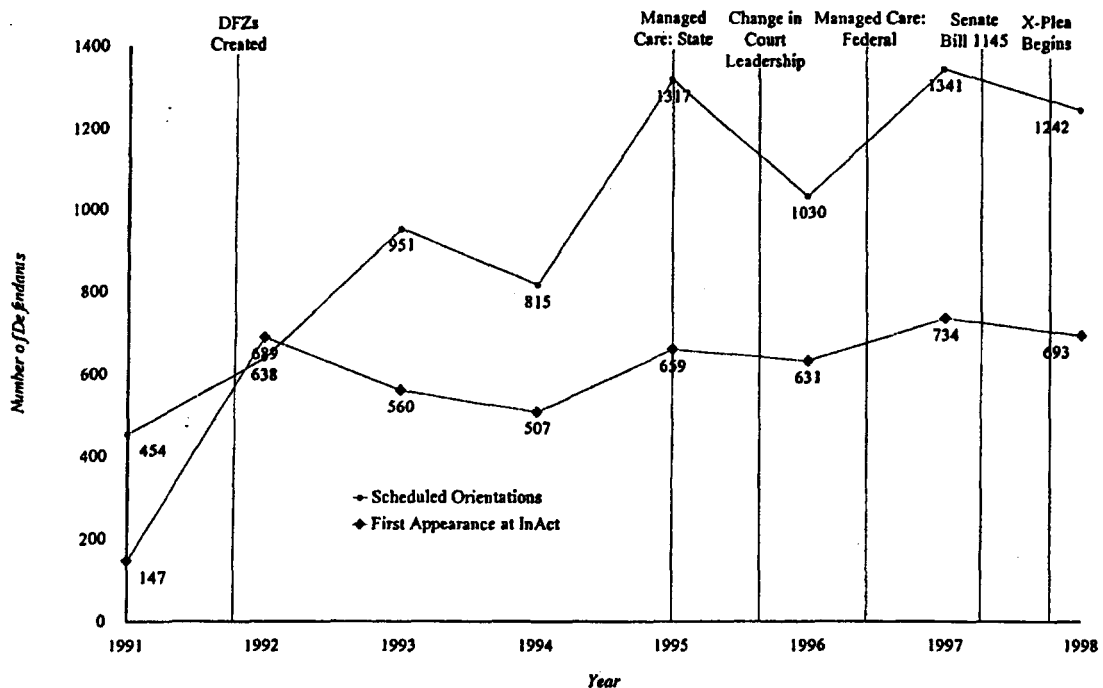
In setting the stage for outcome-oriented analyses and assessing implementation progress over time, we considered analysis of the identification and enrollment of candidates in the two court systems to be particularly useful. The most basic interest in measuring this aspect of drug court functioning is as a rough gauge of the jurisdiction's success in establishing a program that reaches its target population. (Certainly, results of "outcomes analysis" would be of little interest in a drug court that was able to enroll very little of its target population. The more important implication would be that the drug court was never effectively implemented.) Trends in enrollments and volume of

participants admitted over time provide useful information about the growth of the program.

### Screening and Enrollment

Analysis of trends in defender orientations (the first candidate screening step in both court systems) and enrollments revealed rapid growth in two relatively high-volume drug courts reaching similar numbers of candidates over the periods studied. (See Figure A.) Enrollments into the Multnomah County Drug Court grew from 147 in its first half-year (1991) to over 689 new participants in its first full year (1992). By 1997 and 1998, admissions hovered around 700 new candidates. Figure B shows that the Clark County Drug Court enrolled 414 in its first full year (1993), reached 623 in its fourth year (1996), and exceeded 700 new participants in 1998. At the simplest level, these findings show stable, large volume and growing drug courts, one in its ninth and the other in its seventh year of operation.

Figure A Enrolling the Target Population: Scheduled Orientations and Enrollment of Candidates in the Multnomah County Drug Court, 1991 - 1998



[Note: Vertical lines representing key events are not intended to mark exact dates but rather to illustrate the time of the intervention.]

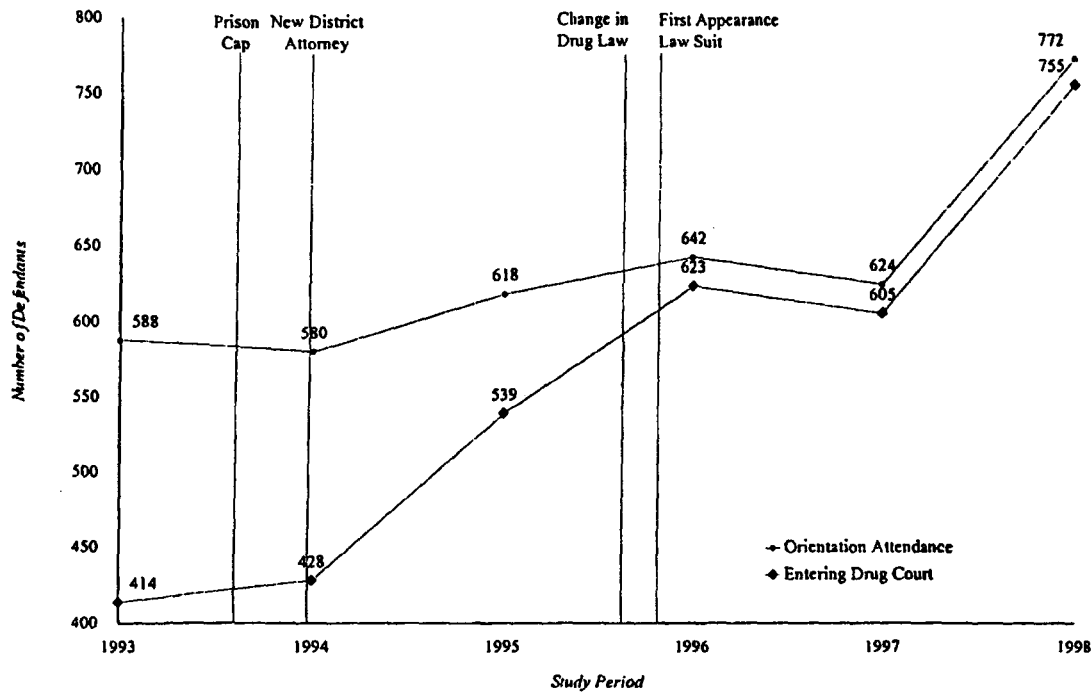
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To serve as a rough estimate of the extent to which the site courts reached their targeted populations, we constructed a "target-population-reached" ratio by contrasting the numbers of candidates identified through the screening process (scheduled orientations in Multnomah County and actual orientations in Clark County) with the number entering and beginning the drug court process. Ratios of enrolled participants to screened candidates were relatively high in both drug courts, fluctuating around .6 (six enrolled for every ten oriented) in Multnomah County and between .7 and 1.0 in Clark

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County.<sup>5</sup> Analysis of these ratios over time in the two sites showed great consistency in Multnomah County, once the program was under way (after initial treatment provider difficulties were addressed during program start-up). In Clark County, the ratio of enrollment to orientations improved steadily from .7 in 1993 to .98 in 1997 when a majority of participants were attending orientation as a requirement of a guilty plea, rather than out of voluntary interest.

Figure B Enrolling the Target Population: Orientation Attendance and Enrollment of Candidates in the Clark County Drug Court, 1993 - 1998



[Note: Vertical lines representing key events are not intended to mark exact dates but rather to illustrate the time of the intervention.]

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### Timing of Intervention

Because a drug court's ability to "reach" its target population is a function of both the extent to which that population is enrolled and the speed with which that screening and enrollment occurs, we also analyzed the time it takes first to identify and then to start candidates in the treatment process. Such an analysis of processing time provides an indicator of the timeliness of treatment delivery over the study periods—testing assumptions about the ability of the drug courts to achieve "early intervention," an important component of the early drug court model. From arrest, candidates averaged (median) seven days to entry into treatment in Multnomah County from 1993-1997 with

<sup>5</sup> Note that the ratios are based on slightly different data in the two jurisdictions and are not directly comparable. The Clark County ratio is higher because "orientations" are actual orientations attended after defendants had indicated a preliminary interest in Drug Court. In Multnomah County, the orientation measure is based on "scheduled" orientations, many of which do not result in attendance.

some fluctuation, once the disruption of treatment services in the start-up period is set aside.

In Clark County, the timeliness of intervention through the voluntary screening process was shortest in the early stage of implementation when diversion was the primary emphasis of the Drug Court, averaging (median) 40 days from arrest to Drug Court entry during 1993-1994, and 155 days from 1995-1996.<sup>6</sup> The differences in time to Drug Court entry in Clark County are partly explained by the shift to plea cases as the dominant type of drug court participant—in which time from arrest to guilty plea would precede entry into the Drug Court. However, the enrollment times increased in both pre-plea (diversion) and plea categories over time. It took diversion cases a median time of nine days to enter Drug Court in 1993 and 168 days in 1997. Plea cases averaged 113 days from arrest to Drug Court entry in 1993 and 178 in 1997.

### The Influence of External Factors/Events on the Operation of the Drug Courts

Because the nature and volume of enrollments (governed by the screening process) form the “lifeblood” of drug court operation, we viewed this gatekeeping function as a critical gauge of implementation with significant implications for program performance and vitality in other areas. An important part of our analysis in the Phase I research sought to understand the patterns in enrollment over time in each of the court systems by placing them in the context of influential external events. In both sites, we developed a chronology of historical milestones in the implementation of the drug courts and selectively tested the impact of key events or external factors identified in that process. The examination of contextual factors influencing the enrollments of candidates in the two courts began with an analysis of trends in drug arrests during the periods studied. In neither site was there a direct concordance between arrest trends and enrollments in the drug courts, with the possible exception of the 1996-1997 period in Multnomah County when the large volume of drug arrests may have exercised upward pressure on enrollments. In other words, Drug Court screening and enrollment was not merely a function of drug arrests produced through local enforcement activities.

*Multnomah County:* Using interrupted time series analysis, we tested the impact of six potentially influential external events (indicated in Figure A) on enrollments in the Multnomah County Drug Court: the creation of drug-free zones in Portland (1992), the enactment of state managed health care (1995) and Federal welfare reform (1996), changes in judicial supervision and policies of the Drug Court (1996), a new law moving sentenced offenders from state prison to local jails (1997), and the implementation of the District Attorney’s expedited plea program (X-PLEA) to accelerate the adjudication of the large volume of felony drug cases including many eligible for Drug Court (1997).

The greatest—but far from only—impact appeared to be associated with changes in the judicial leadership in Circuit Court, the move to replace the dedicated drug court judge with a quasi-judicial referee (and subsequent rotation of many judges into Drug

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<sup>6</sup> In Clark County treatment begins immediately after assessment and does not wait until the first appearance before the Drug Court judge.

Court for very short periods), and the simultaneous shift to more restrictive policies regarding participation and performance in the Drug Court. The shift in judicial approach, getting at core assumptions about the judge's role in the drug court process, had a strong negative effect on Drug Court enrollments (associated with a notable decrease). Surprisingly, the implementation of the expedited plea program, allowing would-be Drug Court candidates to enter an early plea and receive probation did not discourage enrollments; rather they increased temporarily during the same period.

Clark County: In Clark County, the time series analysis considered the potential impact of four key events indicated in Figure B: the imposition of a population "cap" on the local jail facility by the Federal court (1993), a change in District Attorney and prosecutor policies regarding eligibility for Drug Court (1994), a change in Nevada drug law allowing probation for drug felonies when prison had been the norm (1995), and a Federal injunction against the "eight-day kick-out" policy that allowed defendants to be jailed up to eight days in Las Vegas prior to first appearance before a judge (1995).

We found a strong negative impact on enrollments associated with the change in prosecutor and prosecutorial policy favoring guilty pleas as a requirement for entering Drug Court. Increases in enrollments were associated with the enactment of the law permitting probation in felony possession cases previously receiving prison sentences. Increases in screening and enrollment also appeared associated with the Federal court order requiring the local justice system to produce arrestees before a judge for arraignment within 48 hours (instead of eight days).

In short, the analyses of screening and enrollment as indicators of drug court implementation over time not only revealed relative efficiency in enrolling the target populations in the two sites, but identified patterns in enrollments that were not simply explained by fluctuations in drug arrests by local police. Key events in the larger environment, in fact, appeared to have important influences on the enrollment of candidates and may have resulted in changes in the nature of the target population and the capacity of the courts to deal with them effectively. Two examples in particular appeared to be influential in affecting enrollment—and other aspects of drug court functioning—the temporary abandonment of the dedicated judge approach in the Multnomah County Drug Court and the shift in prosecutorial policy leading to plea-based entry to Drug Court in Clark County.

### Measuring Capacity

Finally, we considered Drug Court enrollments not only as a measure of how well the site courts reached their target populations ("hit" their targets), but also how close they came to reaching their operating capacity. From this perspective, Drug Court implementation can be measured against an estimated workload capacity that may be defined as a planning goal (in the early stages of implementation) or an agreed upon capacity determined by staff and treatment resources. Officials in the two jurisdictions had taken different, informal approaches to estimating workload capacity.

- In Clark County, the Drug Court judge aimed to provide services for about 1,000 participants at a given time.
- In Multnomah County, the concept of workload capacity was more experientially based. With only one other drug court in the country (Miami) to serve as a point of reference, Multnomah officials worked toward a workload capacity tied to the availability of resources, assessing the ability to handle the volume on an ongoing basis.

However differently the notion of workload capacity evolved in these two courts, the result was similar: both quickly reached and exceeded their workload expectations at an early stage. Instead of having difficulties in enrolling sufficient numbers of participants to make full use of available resources—a problem in other developing drug courts—the Clark County and Multnomah County Drug Courts soon found that they needed to expand and to develop additional resources to serve the workload tapped.

### **Responses to Performance in Treatment: Participant Accountability**

The influence of rehabilitative aims on the design and operation of drugs courts is fundamental and evident to the observer. Many participants appear to derive encouragement and affirmation from the interactions with the judge and their experiences in the courtroom. The drug court model's heavy reliance on rehabilitative values notwithstanding, there is a clear, often explicit structural emphasis on deterrence as an operating philosophy. Janet Reno's reference to the drug court approach as the "carrot and the stick," for example, is shorthand for assumptions of classical deterrence theory that human behavior may be shaped by rewards and punishments or, at least, avoidance of pain and pursuit of pleasure. Although it may be difficult to sort out the general and specific deterrent aspects of the court process from its treatment elements, the clear policy emphasis of holding participants accountable for their behavior, rewarding them for good progress and imposing "sanctions" for noncompliant behavior, reflects a strong emphasis on deterrence.

Drug courts vary in the extent to which they make use of jail ("motivational jail" in the parlance of the Miami Drug Court) as a central sanction. (Theoretically, participants could spend a considerable time in jail in the drug court program in the name of treatment, in order to avoid jail imposed in connection with a sentence that was probably not rehabilitative in intent.) The drug court is an arena of general deterrence when participants are sanctioned or rewarded in front of a packed courtroom of other participants, with the express purpose of "teaching a lesson." Specific deterrence is achieved when individual participants are sanctioned by judicial reprimand, or by sitting in the jury box, or by jailing, until, fearful enough of the further consequences, they begin to comply with program requirements. Termination from the program and being left to face the consequences (of jail or prison terms) of the original charges is a publicly imposed deterrent of last resort.

This research was not designed to test the effectiveness of the deterrent ingredients of the drug court process in the two sites; nor were we able to fully assess the

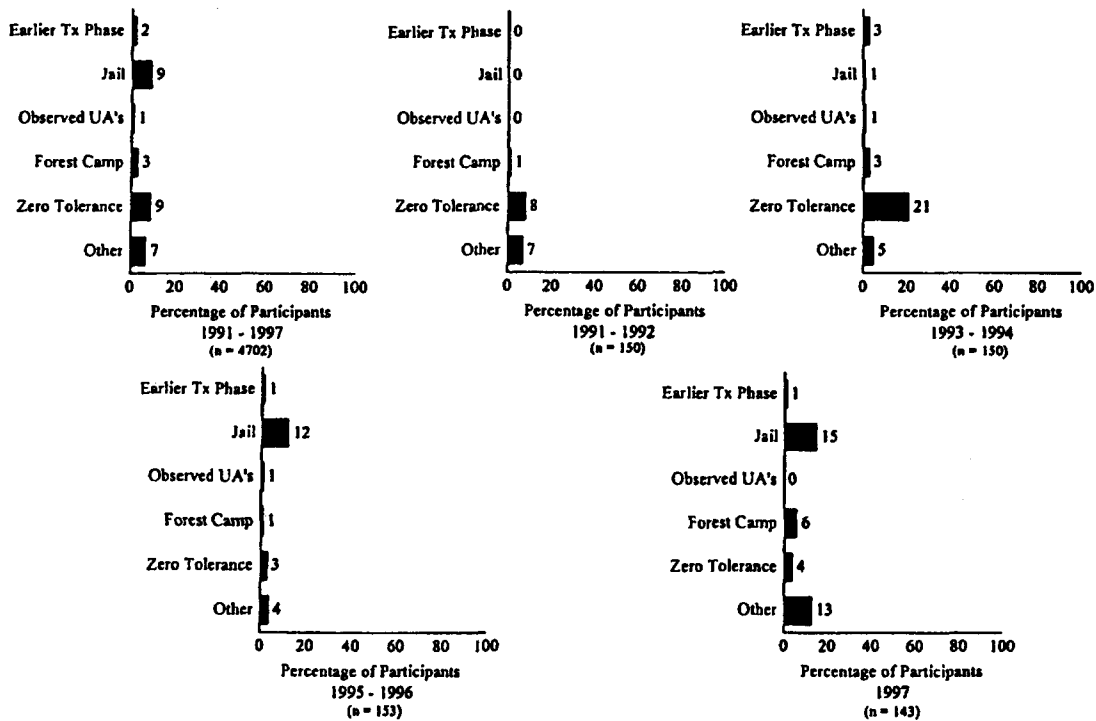


relative impact of incentives compared to sanctions. On a more basic level, however, we were able to document the imposition of sanctions for participant noncompliance in the Multnomah and Clark County Drug Courts and chart the use of jail. (See Figures C and D.)

### Use of Jail as a Sanction

The Multnomah County Drug Court made use of a variety of less restrictive sanctions (such as ordering observed drug tests or returning a participant to an earlier phase in treatment) and more restrictive sanctions (such as attending forestry camp run by the Department of Corrections for short periods) short of jail. The use of sanctions generally increased in that court over the study period from about one imposed per every eight participants to one imposed per every two participants entering the program. Figures C.1 and C.2 show that the use of jail as a sanction increased from about 0 percent in 1991-1992 to 15 percent among 1997 participants. Participants entering the Drug Court from 1991-1997 spent a median three days in jail in Multnomah County, but with minor fluctuation over time. Over the entire study period, participants averaged three days in jail directly attributable to Drug Court sanction. The average days jailed remained fairly constant over time, ranging from two to five days, with the exception of a notable drop in the 1993-1994 cohort to zero days.

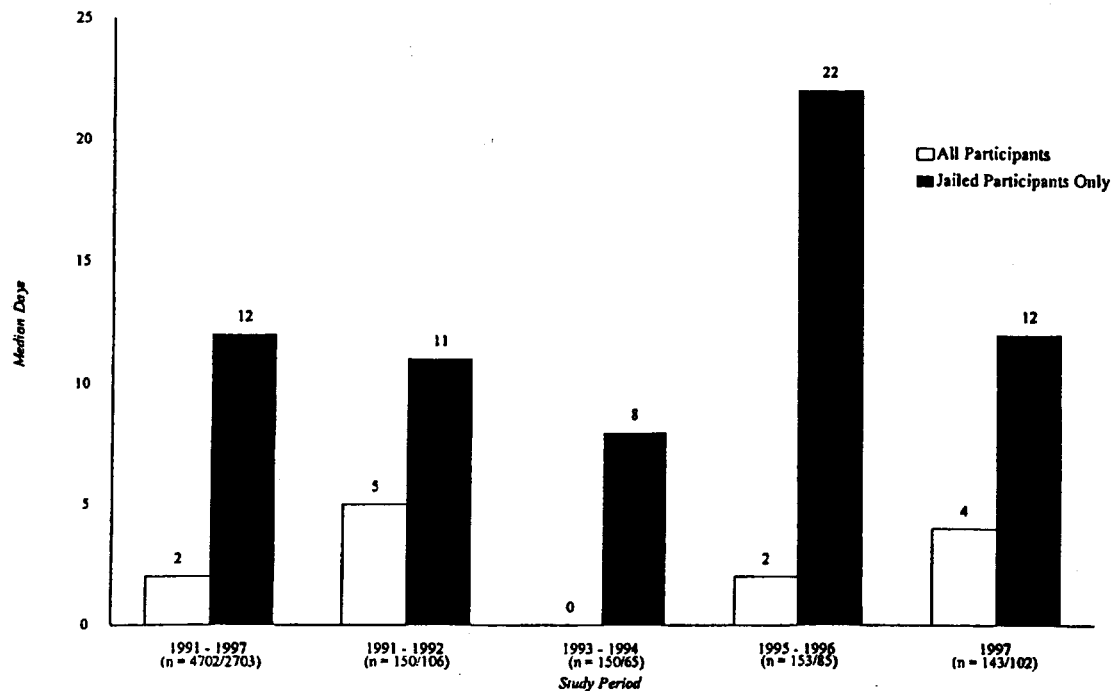
Figure C.1 Types of Sanctions Imposed on Multnomah County Drug Court Participants during One Year Observation Period, 1991 - 1997



[Note: Although the Zero Tolerance program was not created until January 1994 under Judge Robinson, treatment provider records indicate its use in 1991 and 1992.]

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Figure C.2 Confinement Directly Attributable to the Drug Court among Multnomah County Drug Court Participants during One Year Observation Period, 1991 - 1997



[Note: In this figure, we rely on median, rather than mean, as our measure of central tendency because the median is less affected by extreme values. For example, the median number of days confined for the entire study period is 3; the mean is 17, ranging over time from 10 in 1993-1994 to 20 in 1995-1996. In addition, confinement includes both Drug Court sanctions and Drug Court bench warrant confinement.]

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In Clark County, less restrictive sanctions included returning participants to an earlier treatment phase, requiring them to make up missed treatment appointments, ordering them to undergo observed drug testing, not to mention the very stern reprimands delivered by the judge in court. Figures D.1 and D.2 show that jail was imposed somewhat more frequently as a sanction in the Clark County Drug Court, however, with about 32 percent of participants entering from 1993 through 1997 sent to jail at least once in their first 12 months. The rate of jailing increased over time from 18 percent of 1993 participants to 44 of 1996 participants and 48 percent of 1997 participants. Over the entire study period, participants averaged (a median of) no days in jail directly attributable to Drug Court sanctioning during the first year of participation. For those participants who were jailed, the use of jail increased notably over time from about five days per participant in 1993 to ten days in 1994 and 1995, 14 days per participant in 1996 and 13 days in 1997.

The two courts differed fairly sharply in the frequency of use of jailing and, ultimately, in the days per defendants that would be spent in jail during the first 12 months of participation in the drug courts. The increase in the use of jailing in Clark County corresponded to the shift in the make-up of its entering caseload, as diversion became the less common and guilty plea the more common method of entry. We interpret this increased use of jail as a sanction over time as a reflection of the nature of the changed Drug Court caseload and the higher risk of noncompliance and reoffending it represented, rather than a change in the sanctioning philosophy of the Drug Court judge.

Figure D.1 Types of Sanctions Imposed on Clark County Drug Court Participants during One Year Observation Period, 1993 - 1997

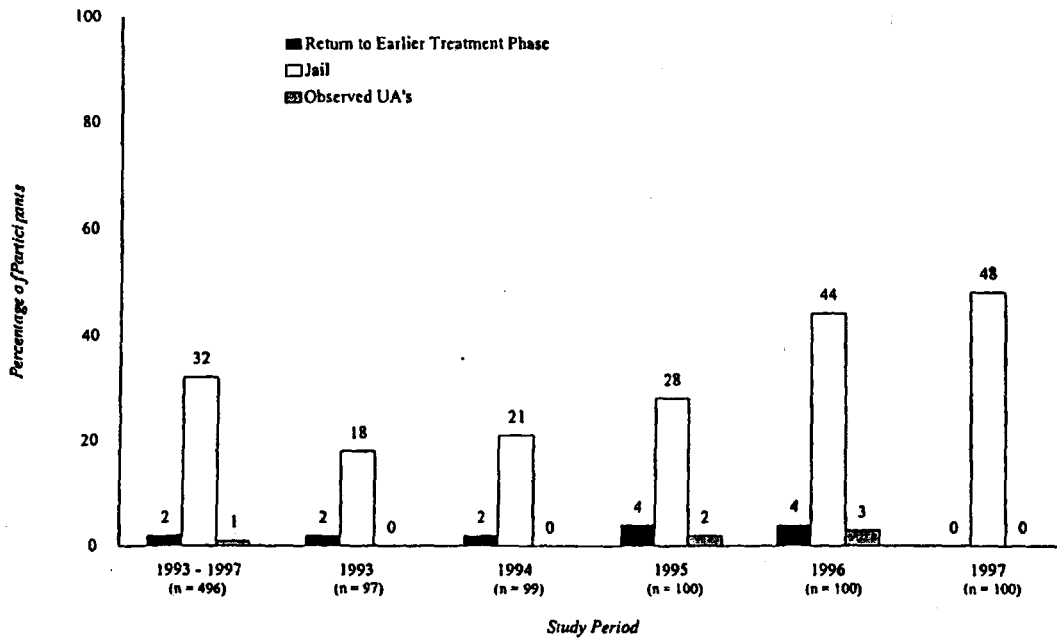
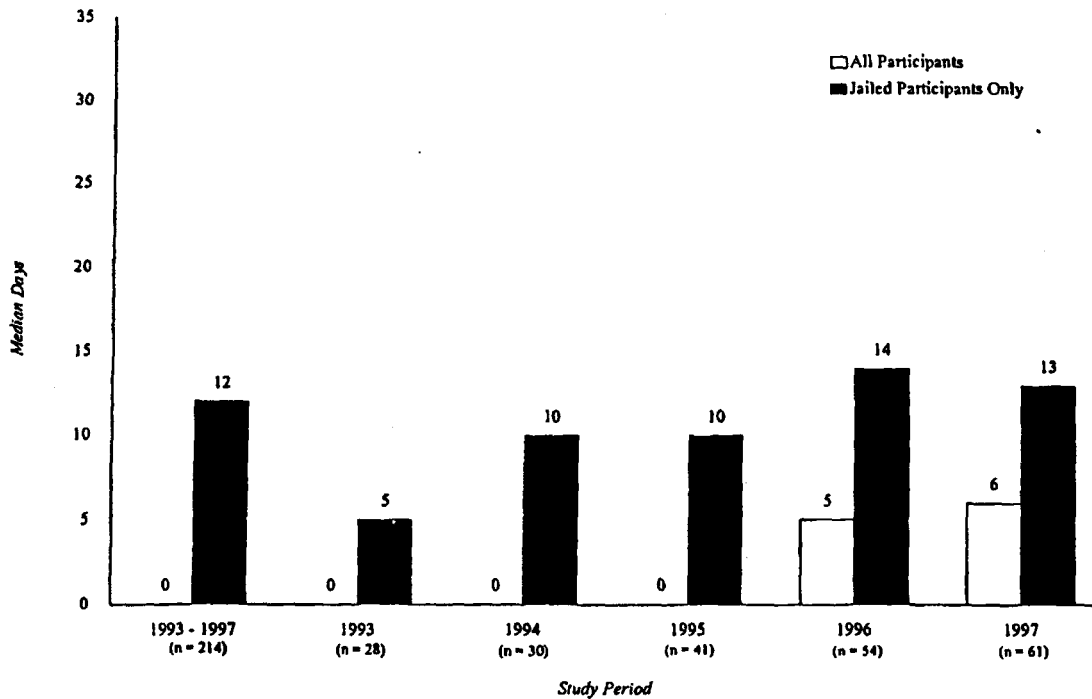


Figure D.2 Confinement of Clark County Drug Court Participants Directly Attributable to the Drug Court during One Year Observation Period, 1993 - 1997



[Note: In this figure, we rely on median, rather than mean, as our measure of central tendency because the median is less affected by extreme values. For example, the median number of days confined for the entire study period is 0; the mean is 6, ranging over time from 1 in 1993 to 11 in 1996. In addition, confinement includes both Drug Court sanctions and Drug Court bench warrant confinement.]

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If this interpretation is correct, however, and the utilization of jail corresponds to a perceived need to provide appropriate levels of deterrence to participants who are at increasingly higher risk of noncompliance and reoffending, then there are important potential implications for jail capacity: drug courts could conceivably add to the use of local confinement rather than serve as alternatives to incarceration, as originally intended.

### Productivity of the Drug Court

The productivity of a drug court can be conceived as its ability to produce desired results (e.g., reduced substance abuse, relief to the jails and court caseloads, reduced drug-related offending, increased functioning of participants in employment, family and school settings) per amount of resources consumed. Thus, measures of impact are interrelated in assessing Drug Court productivity and are a function of the extent to which the court enrolls its target population in treatment, retains participants in treatment until graduation, delivers services to ensure retention and completion, and generates crime- and drug-free behavior among its participants during and subsequent to the drug court process. In addition to looking at screening and enrollment of candidates, in Phase I research we employed a variety of measures focusing on performance related to treatment progress and reoffending during the first twelve months of participation in the drug courts, two important—but not exclusive measures of productivity. See Figures E and F.

Figure E Treatment Outcomes among Multnomah County Drug Court Participants, 1991 - 1997

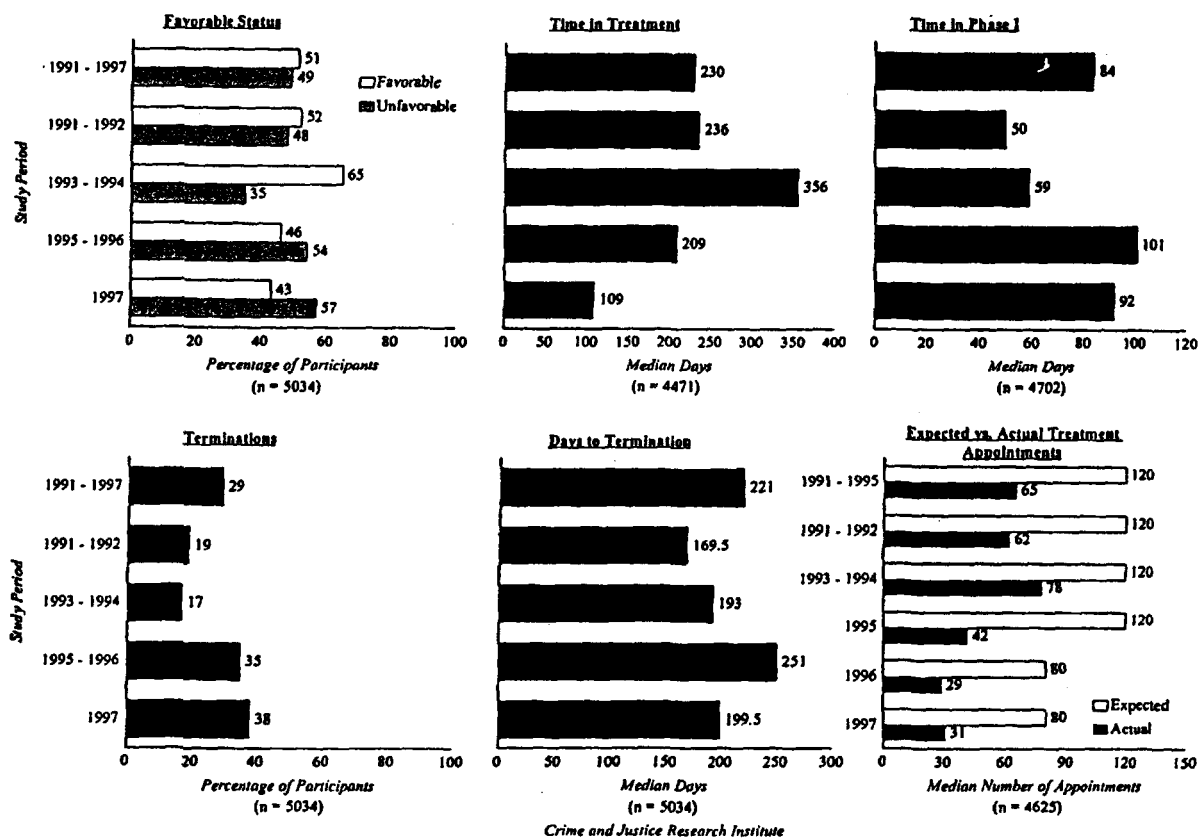
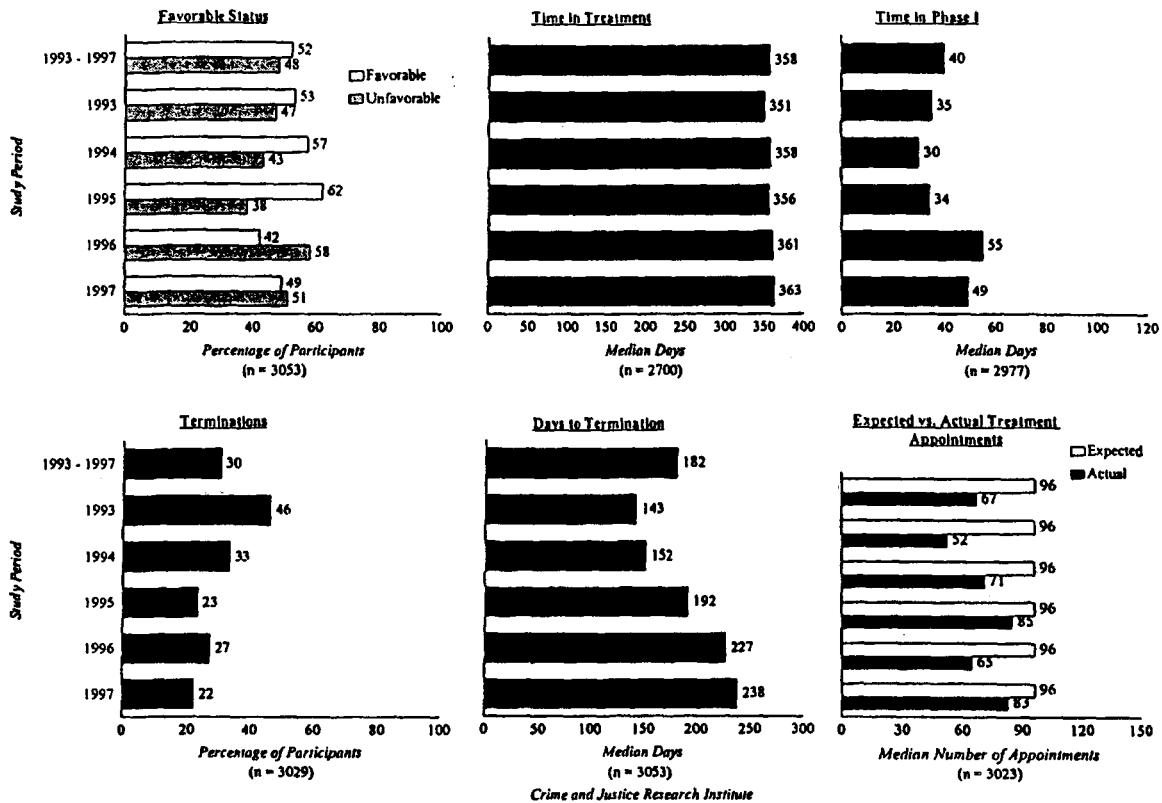


Figure F Treatment Outcomes among Clark County Drug Court Participants, 1993 - 1997



Participation in Treatment

Length of Time in Treatment: The treatment literature argues reasonably that retention in treatment is an important factor in successful treatment outcome. In both of these drug courts, an important goal is to provide treatment over at least a 12-month period (before graduation would be possible). Time in treatment is both a product of the drug court process and an outcome: it is something the court seeks to provide and it is a function of participant performance.

- Measuring time in treatment from the date of the first treatment appointment to the last date seen in treatment, Multnomah County Drug Court participants averaged (a median of) 230 days active in treatment during the overall study period from 1991 through 1997, notably less than the 365-day ideal implicit in a 12-month program. This outcome varied by year, with a median of 356 days for 1993-1994 participants during their first 12 months in Drug Court, but then dropping to 209 days in 1995-1996 and to 109 days among 1997 participants.
- Clark County Drug Court participants recorded a median of 358 days in active treatment status over the full study period, with only minor variation by year.

Actual versus Expected Attendance in Treatment: Another way to measure delivery of treatment (and attendance at treatment) among drug court participants is to compare the actual number of days participants attended treatment with the expected number of days

that treatment would be provided. (The actual attendance in treatment includes all participants starting the process; thus, some would expect to attend the full number of appointments required and some would drop out early in the process, recording few attended treatment appointments.) The expected values were derived from adding the requirements for attendance during each of the phases in each site and represent the number that all participants should attend if they all stayed in Drug Court for 12 months.

- In Multnomah County, participants would be expected to attend treatment about 120 times during a relatively trouble-free 12-month period. Under the four-phase treatment regimen, Multnomah County participants actually attended treatment a median of 65 times during the first 12 months of Drug Court, or about 54 percent of the expected level (with a high of 78 actual days attended among 1993-1994 participants and a low of 42 days in 1995). Under the revised three-phase approach (1996-1997, where the expected attendance is 80 times), the actual days attended dropped to a median of 30, or less than 40 percent of the expected level.
- Based on the attendance requirements in Clark County, Drug Court participants would be expected to attend treatment about 96 times during the first 12 months. In fact, during the full study period, participants attended a median of 67 appointments, or about 70 percent of the expected level with little variation.

Attendance in Court: One of the basic assumptions of the drug court model is that progress in treatment is greatly enhanced by the central, in-person, supervisory role of the drug court judge.

- From 1991 through 1997 Multnomah County Drug Court participants averaged 13 in-court appearances during the first year (including successful participants who attended regularly all year and unsuccessful participants who made few appearances). The average number of appearances per defendant varied somewhat by study period.
- In Clark County, Drug Court participants averaged 15 court appearances during their first 12 months, with only minor year to year variation.

Graduation from the Drug Court: Because both drug courts require 12 months as a minimum period of treatment before graduation, we would expect few participants to complete drug court successfully and graduate within the one-year observation period we employ in this report.

- In fact, about four percent of Multnomah County Drug Court participants and two percent of Clark County Drug Court participants graduated within 12 months of beginning the program.

Completion of Treatment Phases: A more practical measure of treatment progress is to examine the most advanced phase in treatment achieved by participants by the end of 12 months in the Drug Court.

- From 1991-1995, few participants (six percent) in Multnomah County had completed Phase III and were nearly ready to graduate at year's end; 49 percent of participants failed to complete Phase I successfully by 12 months. In 1996-1997 (when the program was based on a three-phase treatment approach), larger

percentages of participants entered the last treatment phase, 11 percent in 1996 and 18 percent in 1997.

- In Clark County, 19 percent had completed Phase III and 25 percent had not completed Phase I in the first 12 months; these percentages varied notably by cohort.

#### Participant Status at the End of the Year:

- In Multnomah County during the period 1991-1997, 51 percent of participants were in a favorable treatment status (were still active or had graduated), and 49 percent were in an unfavorable status (had been "terminated," were in jail, or were fugitive). The proportion of each study cohort in a favorable drug court status at the end of 12 months declined dramatically over time, however, from 52 percent of the 1991-1992 participants to 43 percent of the 1997 participants.
- Approximately 52 percent of Clark County participants from 1993-1997 were in a favorable treatment status at the end of the first year. The proportion in a favorable status increased from 53 percent in 1993 to 62 percent in 1995, but then dropped to 42 percent and 49 percent in 1996 and 1997, respectively.

#### Unfavorable Terminations in the First 12 Months:

- Approximately 29 percent of Multnomah County Drug Court participants entering from 1991 through 1997 were terminated from the program within 12 months. That overall termination rate masks a clear trend in the Multnomah County Drug Court of steadily increasing rates of termination over time, ranging from a low of 17 percent of 1993-1994 participants to 35 percent of 1995-1996 participants and 38 percent of 1997 participants.
- Thirty percent of Clark County Drug Court participants entering the program between 1993 and 1997 were terminated in their first year. This overall termination rate hides a clear trend in the opposite direction, however. The Clark County Drug Court began with a relatively high termination rate (46 percent of 1993 participants) and moved to lower termination rates (27 percent in 1996, 22 percent in 1997).

#### Reinvolvement in the Criminal Justice System

In Phase I, the research contrasted the criminal justice outcomes of drug court participants and comparison group defendants for a period of 12 months from entry into the Drug Court. (See Figures G and H.) In Clark County, the comparison group was sampled from similar felony drug defendants who were not processed through Drug Court. In Multnomah County, two comparison groups were employed consisting of felony drug defendants ordered to the Defender orientation but not entering Drug Court. One group included Drug Court eligible defendants who never attended orientation or Drug Court (the "never attended" group), the second attended orientation but never entered the program (the "never entered" group).

Figure G Criminal Justice Outcomes among Multnomah County Drug Court Participants, 1991 - 1997

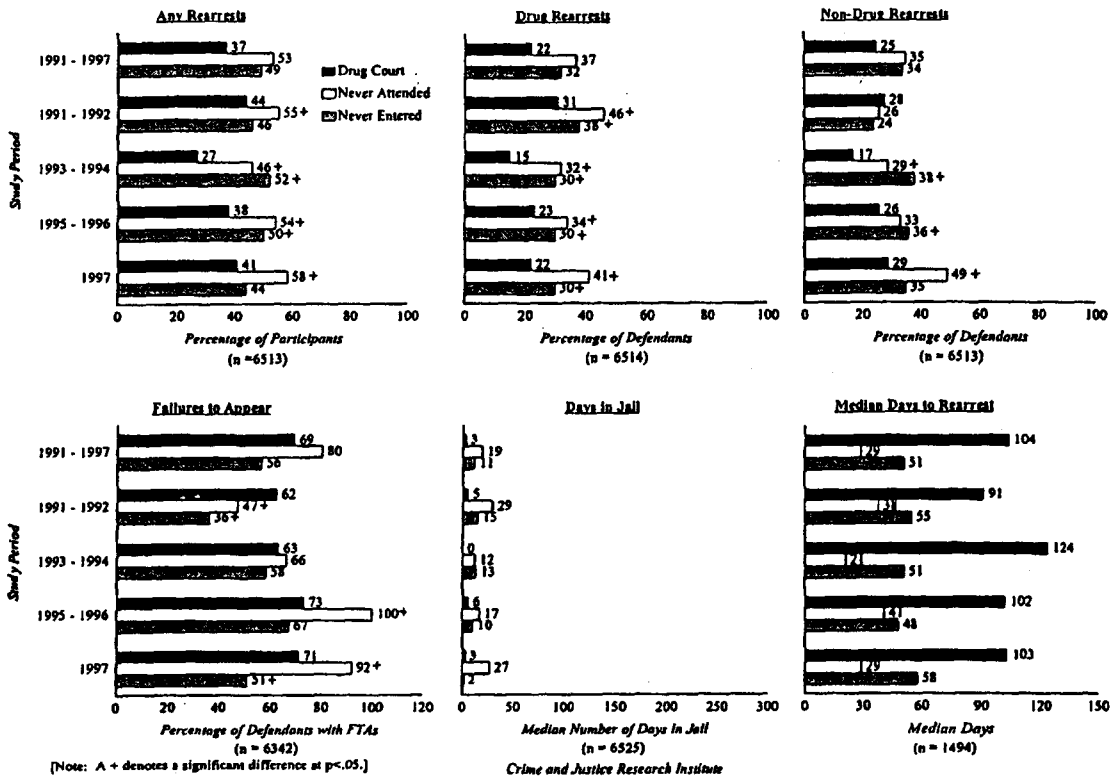
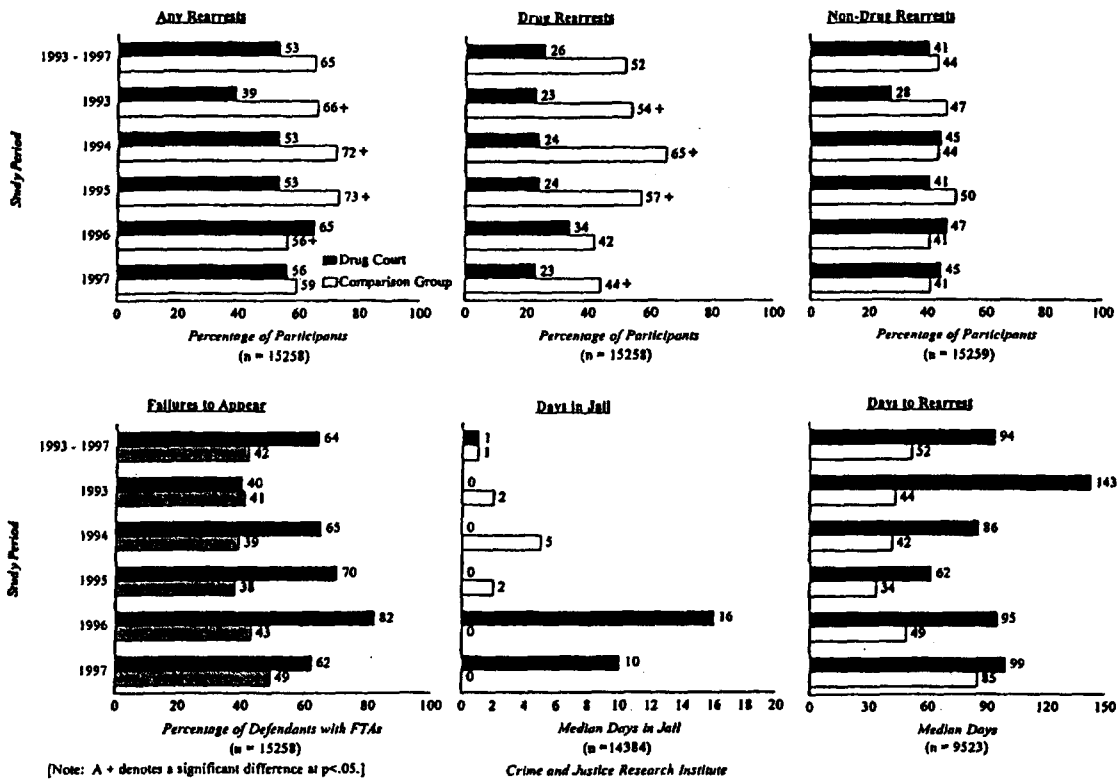


Figure H Criminal Justice Outcomes among Clark County Drug Court Participants, 1993 - 1997





Failure to Appear in Court: With many more required appearances in court, the opportunity for failures-to-appear in court should be greater among drug court participants. This assumption was basically supported by the Phase I findings.

- In Multnomah County, Drug Court participants recorded proportionately fewer bench warrants (69 percent) than the "never attended" comparison group (80 percent) and proportionately more than the "never entered" comparison group (56 percent).
- In Clark County a much larger proportion of Drug Court defendants (64 percent) than comparison group defendants (42 percent) recorded bench warrants for missed court appearances.

Days in Jail after Entry into the Drug Court: Drug courts were conceived in part to serve as a means for providing an alternative to incarceration for drug offenders.

- Proportionately fewer (58 percent) Multnomah County Drug Court participants entering the court from 1991 through 1997 were confined during the first 12 months of the program than their comparison group counterparts (73 percent of the never-attended and 68 percent of the never-entered defendants). When they were confined, they averaged fewer days in confinement (three) than both comparison groups (19 and 11 median days). This finding varied over time. By 1997, Multnomah County Drug Court participants were confined proportionately more often (at 73 percent) than their never-attended comparison (at 77 percent) and more often than their never entered group counterparts (at 58 percent).
- A slightly smaller proportion of Clark County Drug Court participants (54 percent) than comparison group defendants (57 percent) entering from 1993 through 1997 were confined during the 12-month follow-up. However, this overall rate masks a change over time seen on a year by year basis.
- At the early stages of Drug Court in Clark County, participants were confined less frequently than the comparison group defendants (39 percent compared to 60 percent of comparison group defendants in 1993). However, by 1997 Drug Court participants were being confined proportionately more often than their counterparts (66 percent of participants versus 48 percent of comparison group defendants). From 1993 through 1995, participants averaged fewer days in jail (with a median of zero days) than the comparison group during the first 12 month period. During 1996 and 1997, the reverse was true: drug court participants averaged 16 days in 1996 and 10 days in 1997, compared to medians of zero days for comparison group participants. Again, these differences coincide with the shift in the Clark County Drug Court's population from diversion to convicted offenders.

Rearrest for New Offenses: A clear aim of the drug court innovation is to reduce offending by providing drug treatment.

- For the 1991-1997 study period in Multnomah County, Drug Court participants were rearrested less frequently (37 percent) than defendants in both comparison

groups (53 percent of the "never attended" and 49 percent of the "never entered"), notable and significant differences.

- Clark County Drug Court participants from 1993 through 1997 were rearrested less often (53 percent) than their comparison group counterparts (65 percent). That overall rate masks changes in rearrest trends in Clark County over time, however. Among 1993 defendants, the difference between Drug Court participants (39 percent) and the comparison group (66 percent) was huge. The difference between the groups grew smaller over time until the 1996 Drug Court participants recorded a higher rearrest rate (65 percent) than comparison group defendants (56 percent) and recorded only a slightly lower rate (56 percent) than the comparison group (59 percent) in 1997. Again, the Clark County changes occur in a period corresponding to the shift from a diversion-based to a conviction-based population of participants.
- Drug Court participants recorded notably lower rearrest rates for drug offenses in both jurisdictions fairly consistently over time in both Multnomah and Clark Counties.

*Time to Rearrest:* When rearrested, Drug Court participants in both locations took much longer to be rearrested than their comparison group counterparts.

- In Multnomah County, the median time to rearrest for Drug Court participants was 104 days, compared to 29 days for the "never attended" and 51 days for the "never entered" comparison groups.
- In Clark County, the median time to rearrest for Drug Court participants was 94 days, compared to 52 days for their counterparts. Analysis of the timing of rearrests over the 12-month period showed that in both jurisdictions, the lower rearrest rates among Drug Court participants is defined very early on, within the first month, when more comparison group defendants are rearrested.

## **Conclusion**

One of the most important contributions of the Phase I Drug Court National Evaluation research described in this report is the finding that the dynamics, operation, and impact of drug courts may change considerably over time. This retrospective examination of the two courts of a period of five years in Clark County and seven years in Multnomah County has permitted examination of changes in key aspects of the courts (from enrollments to terminations and rearrests) in the context of external events or factors. In Clark County, the impact of the shift beginning in 1994 to accepting mostly persons who pled guilty to enter the Drug Court appeared to have a notable impact on enrollments, the types of persons in the program, the use of sanctions, and on treatment and criminal justice outcomes. In Multnomah County, the move away from a dedicated judge to a referee and to rapid rotation of judges for very short periods in Drug Court, along with changes toward more restrictive policies, affected enrollments and outcomes as well. In the Phase II report, we will extend the analyses of treatment and criminal

justice outcomes to two and three years and present investigations of some of the special aspects of these two courts that reflect their local adaptation of the drug court model.

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**Retrospective Evaluation of Two Pioneering Drug Courts:  
Phase I Findings from Clark County, Nevada, and Multnomah County, Oregon**

**I. Introduction to the Evaluation of the Clark County and Multnomah County Drug Courts**

**Organization of the Interim Report**

This interim report presents findings from the first phase of the evaluation of two of the nation's pioneering drug courts in Las Vegas, Nevada, and Portland, Oregon. The NIJ-supported research has examined the experiences of two of the original drug courts, the Multnomah County Drug Court (also known as the S.T.O.P. or Sanction-Treatment-Opportunity-Progress program) and the Clark County Drug Court, from their inception in 1991 and 1992 until very recently. The two-site evaluation employed a variety of methods, including observation, interview, group meetings with key actors, focus groups of drug court participants, and retrospective sampling and archival data collection to chart the evolution and impact of the approaches in the two sites. In this report, we describe the evolution and operation of the two drug courts and provide short-term measures of treatment and criminal justice outcomes. In the final report, we will present more complete findings and other measures of the impact of the drug courts in their larger justice system and urban context. Overall research makes two important contributions to the understanding of drug courts and their effectiveness. It analyzes drug courts over time and, hence, reflects the dynamic process of change and evolution associated with this movement. It also conceptualizes evaluation questions in the context of a drug court typology so that research can begin to build a body of findings relating to the critical elements of the drug court innovation (and to avoid comparing dissimilar drug courts inappropriately).

## The Impact of Drug Courts and Change over Time

By all measures, the growth of treatment drug courts in the United States has been extraordinary since the establishment of the first court in Dade County in 1989, with upwards of 400 courts reportedly now in operation and others in some stage of planning or preparation. Taken at its most challenging, the substance of the drug court model of court innovation represents a paradigm shift in justice and drug treatment sufficiently compelling to support serious research attention. One of the challenges posed by the growth of this phenomenon is that the "model" itself has not remained static; instead, it has evolved and diversified dramatically. Changes in the drug court movement overall paralleled changes in specific sites as programs have also evolved over time.

Although there are common elements shared by most drug courts (see NADCP's discussion of "key components" 1997), proliferation of the drug court model is not explained by the wholesale adoption of a fixed, "cookie-cutter" approach in the many jurisdictions across the nation. Predictably, the original Miami model evolved in its successive applications to other settings, and was itself transformed in substance and procedure as the basic model traveled across the United States and to locations abroad. The drug court methodology has been adapted to grapple with other problems associated with criminal court populations, including community issues, domestic violence and mental health. The substance of the drug court movement has directly and indirectly spawned a variety of related innovations, so that one can now speak of "problem-solving"

or “problem-oriented” courts<sup>7</sup> to refer to a more active, “hands-on” judicial and justice-system philosophy.

Given the growing numbers of drug courts and the still relatively few published formal studies in the literature (see Belenko’s 1998 review of the literature), the priorities for research examining drug courts still include a need for basic knowledge about their nature and impact, as variations of the model are applied to populations in very different settings. In addition, as many jurisdictions in the planning stages are reaching the point of implementation, there is an important need for a synthesis of the issues and problems addressed—the lessons learned—during implementation and initial operation of drug courts. Thus, an equally important task for research is to capture the experiential base and practical knowledge generated by these courts as particular problems have been identified and addressed in various settings.

#### Key Research Questions

The challenge for in-depth drug court evaluation research encompasses key questions that can be broadly grouped into the four following categories:

1. Questions about the special role of courts (and judges) in the drug court approach;
2. Questions about the “new” working relationship between criminal courts and substance abuse treatment and health care providers;
3. Questions about the content of treatment and the impact of the drug court approach on its participants (defendants and offenders of certain types); and
4. Questions about the impact of the drug court on surrounding systems (including the larger court and justice systems, the treatment, public health, mental health, housing and education systems, as well as on specific neighborhoods and locations within jurisdictions).

The first two questions about the impact of the special role of the treatment drug

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<sup>7</sup> This term was employed by John Feinblatt of the Center for Court Innovation in New York to refer to the growing family of innovations in court systems deriving from the drug court model. See New York Chief Judge Kaye’s commentary in *Newsweek*, October 11, 1999.

court and its different goals, methods and style, and about the dynamic tension between criminal court values and treatment methods in shaping a new working relationship are at the foundation of the treatment drug court model (Goldkamp 1994) and presume some accepted common understandings of the key functional elements of drug courts. The third question points to the need to consider the ingredients or significant elements of the treatment approach employed by drug courts. This means getting inside the "black box" of treatment methods used in drug courts and also understanding their interaction with the judicial and criminal justice functions that are involved in the overall modality, particularly including the interplay between treatment and deterrent sanctions employed by the court. The fourth question recognizes that drug courts are implemented in the context of the larger court, justice, health, treatment, and other service delivery systems. Thus, as drug courts become instruments of change, evaluation of their effects should include consideration of impact on surrounding systems and, quite importantly, on specific communities and locations within jurisdictions. This last research area seems increasingly important as drug courts become more prevalent and compete with other systems and initiatives for funding and other resources in their attempts to address crime and health problems in the community. These general categories of questions have informed the design of the research in Clark County and Multnomah County.



## **II. Analytic Framework for the Study of Drug Courts**

### **Use of a Drug Court Typology for a Common Analytic Framework**

As Belenko's (1998) recent review suggests, studies have contributed important pieces of information to the understanding and evaluation of treatment drug courts. Still, even with these beginnings and many more studies on the way, the current research picture resembles a jigsaw puzzle missing many of the pieces. This leaves policy-makers, funders, court leaders and researchers to draw their own inferences from examination of the several pieces about what the overall puzzle may in fact be about. There is a need not only for more pieces of the information puzzle from single-site research, but also for a clear conceptual framework to help organize the production of knowledge more efficiently and to permit reasonable inferences about the effect of the drug court model across sites. In particular, the growing number of diverse, single-site, local evaluations associated with DCPO-funded implementation sites points to the need for a common framework for evaluation. Without such a unifying framework, we may soon be frustrated to learn that we have moved from having relatively few studies of drug courts to having many single-site studies (and some multi-site studies) that differ considerably in scope, focus, design and findings. As this occurs, it will be necessary post-hoc to impose a theoretical framework on the diverse body of studies to draw out common findings and lessons about the nature and impact of drug courts—much as the GAO (1995) and Belenko (1998) have tried to do in recent reviews. In this research, we have tried to address both the need for more “pieces” (see e.g., our discussion of measures of court workload and community impact in our final report), and the need for a unifying conceptual framework with which to organize evaluative questions and findings.

Defining the "key components" or identifying functional dimensions of drug courts is important for research because vague and elastic definitions of drug courts raise questions of internal and external validity when single- and/or multi-site studies are performed. Internal validity is threatened when there is no clear idea of which elements operate (and how they operate) to produce an impact in a particular court. Without focused empirical examination, one is at a loss to claim that particular aspects of the drug court (e.g., judicial supervision, drug testing, outpatient treatment, acupuncture, sanctioning) are or are not related to favorable or unfavorable drug court outcomes. External validity is threatened when, without clear operational definitions of the drug court model, it is difficult to draw inferences from single-site findings that would apply to the drug court innovation more generally and in other settings. Without some explicit and agreed-upon working definitions, there can be little reasonable basis for comparative analyses of what may remain the "apples and oranges" of drug courts.

Establishing a useful conceptual framework for research is not something that has to start now from *tabula rasa*. We have argued earlier (Goldkamp, 1994 and 1994a; Goldkamp, 1997) that evaluation of drug court programs should start with an attempt to understand the purposes of the specific innovations being evaluated on their own terms. We have further argued that evaluation should also be able to assess the impact of their common elements. Understanding both the common elements and the individual adaptations requires that, from an operational as well as a research perspective, there is some agreed upon base definition of what legitimately constitutes a drug court. In a conference white paper from the First National Drug Court Conference in 1993, we (Goldkamp, 1994) identified more than 20 key issues and assumptions made in the design

and operation of treatment drug courts that should be scrutinized both by court systems as they implement these programs and by evaluation research. The issues identified at that time, mostly still salient today (Goldkamp 1999), ranged in substance from selection of target populations and development of appropriate legal procedures for diverting cases from normal processing, to generation and communication of timely information between court and treatment officials, optimal treatment approaches and expected treatment outcomes.

Other important strides in conceptualizing the key structural components of drug courts include some helpful descriptions of treatment drug courts and their attributes (see, e.g., American University 1995, 1996, 1997; Goldkamp 1994a; Finn and Newlyn 1993; Belenko 1992; Smith et al. 1991) as well as program materials produced by many of the courts. Perhaps most noteworthy is the DCPO-sponsored National Association of Drug Court Professionals' standards report identifying ten "key components" of drug courts (NADCP 1997). The components include integration of treatment and case processing; a non-adversarial approach which also respects due process and public safety; early identification and enrollment of participants; provision of a continuum of treatment services; drug testing; court responses to performance in treatment; hands-on judicial supervision of treatment; monitoring and evaluation; continuing interdisciplinary education; and, forging partnerships between the court and other criminal justice, health, social service agencies and the community.

This retrospective study of the Multnomah County and Clark County drug courts sought to incorporate these structural components of drug courts into a drug court

classification that posits eight critical, differentiating dimensions (Goldkamp 1995, 1999).<sup>8</sup> (See Figure 1.)

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### Figure 1 Key Dimensions of a Drug Court Typology

1. Target Problem
  2. Target Population
  3. Modification/Adaptation of Court Processing and Procedures
  4. Identifying, Screening, and Enrolling Candidates
  5. Structure and Content of Treatment
  6. Responses to Performance in Treatment: Participation  
Accountability
  7. Productivity of the Drug Court
  8. Extent of System-wide Support and Participation
- 

1. Target Problem: Treatment drug courts all share an emphasis on substance abusing defendants or offenders and the premise that by addressing drug problems the courts will encourage lower rates of return to the criminal justice system. Beyond sharing that basic theme, however, drug courts may differ notably in the *problems* they target. They may include an emphasis on drug-related crime in a certain area, a large increase in drug cases in the court caseload, the role of substance abuse in the overcrowded correctional population, or the overlap between substance abuse and co-occurring problems in the court population, such as domestic violence, mental health, homelessness or HIV.
2. Target Population: Given that some version of a substance-abuse/crime problem has motivated a jurisdiction to consider the drug court approach, a second critical classifying criterion is the nature of the *target population* that has been defined for the particular treatment court. Populations targeted by the courts include drug defendants and convicted offenders, other misdemeanants and felons, juveniles, female offenders, alcohol offenders, domestic violence offenders, persons facing probation or parole revocation, and even drug offenders serving prison terms in state facilities. In addition to the nature of the target population selected for the drug court, jurisdictions also vary in the "degree of difficulty" associated with that population. Although we do not have an agreed upon means for quantifying the challenge represented by specific target populations, a court focusing on marijuana and alcohol using

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<sup>8</sup>The working typology based on key elements of drug courts that we have proposed grew out of our earlier Miami Drug Court research (Goldkamp 1993, 1994), observations of the drug court movement (1994), discussions of the research requirements of a national evaluation approach to drug courts (1994), participation in training seminars for jurisdictions planning drug courts, as well as consideration of the DCPO/NADCP "Key Components." It has been modified slightly since its description in Goldkamp (1999).

probationers is dealing with a less difficult treatment population than one enrolling homeless, long-term heroin addicts. Ultimately, the degree of difficulty associated with the chosen target population should be an important dimension that differentiates drug courts from one another.

3. Screening—Reaching the Target Population: Given clearly defined target populations, drug courts will also differ in the capacities and mechanisms used to reach or enroll their designated target populations. Depending upon the nature of the population and the way the program has been structured, some jurisdictions may successfully *screen in* (reach) nearly all of the persons intended, while others may rule out or otherwise miss large portions of those they intended to process and treat. How courts vary on this dimension is critically important in any meaningful evaluation of impact, given the aim of the drug court to enroll and treat a specific target population.
4. Modification/Adaptation of Court Processing and Procedures: Drug courts also have in common the fact that they have adapted or modified their normal processing functions in various ways to create the treatment orientation. However, they will differ notably in the ways and degrees in which they have departed from the “traditional” (hands-off, referring-out) judicial role, defense and prosecution (and other agency) roles, the stage of processing at which intervention occurs, and the formal arrangements or procedures by which defendants or offenders enter the drug court program.
5. The Structure and Content of Treatment: Drug courts all offer treatment to substance-abusing defendants or offenders. They differ considerably, however, in the timing and nature (content) of treatment services they provide, in the supplemental or ancillary services provided (acupuncture, housing, health services, educational or vocational services), in the duration, and arrangement of treatment services (a public provider, private providers, combinations), as well as in costs and method of funding.
6. Responses to Performance in Treatment—Participant Accountability: All treatment drug courts have procedures for encouraging substance abusers to enter and to stay in the treatment program. Courts differ significantly in the ways in which they have devised incentives to encourage positive participation in the treatment process and employed disincentives to discourage poor performance. Some courts are very “sanction” or punishment oriented, setting a schedule of penalties that can result from various program violations, often involving jail. Others are somewhat more tolerant of missteps (relapse) in the treatment process and allow for readmission and repetition of elements of the treatment program, while offering rewards along the way, dismissal of charges and ultimate expungement of the criminal record upon successful graduation.
7. Productivity of the Drug Court: Another critical dimension can also be described as the productivity or the nature and impact of the work produced by the drug court. Productivity measures would include the capacity of the drug court and volume of

cases handled, the nature of the court workload and dispositions, the degree of difficulty associated with addressing the problems of the participants in the drug court process, the use and costs of resources associated with the drug court's operation and the rate of graduation over time, as well as drug use and reoffending during and after the program.

8. Extent of System-wide Support: Finally, all drug courts have in common some degree of system-wide support among other criminal justice actors and the treatment community. However, the nature and depth of this support among other important system actors and branches of government vary and are likely to have an important influence on the effectiveness of the drug court. Means of funding and prospects for future funding are elements of classifying drug courts on the basis of system support.

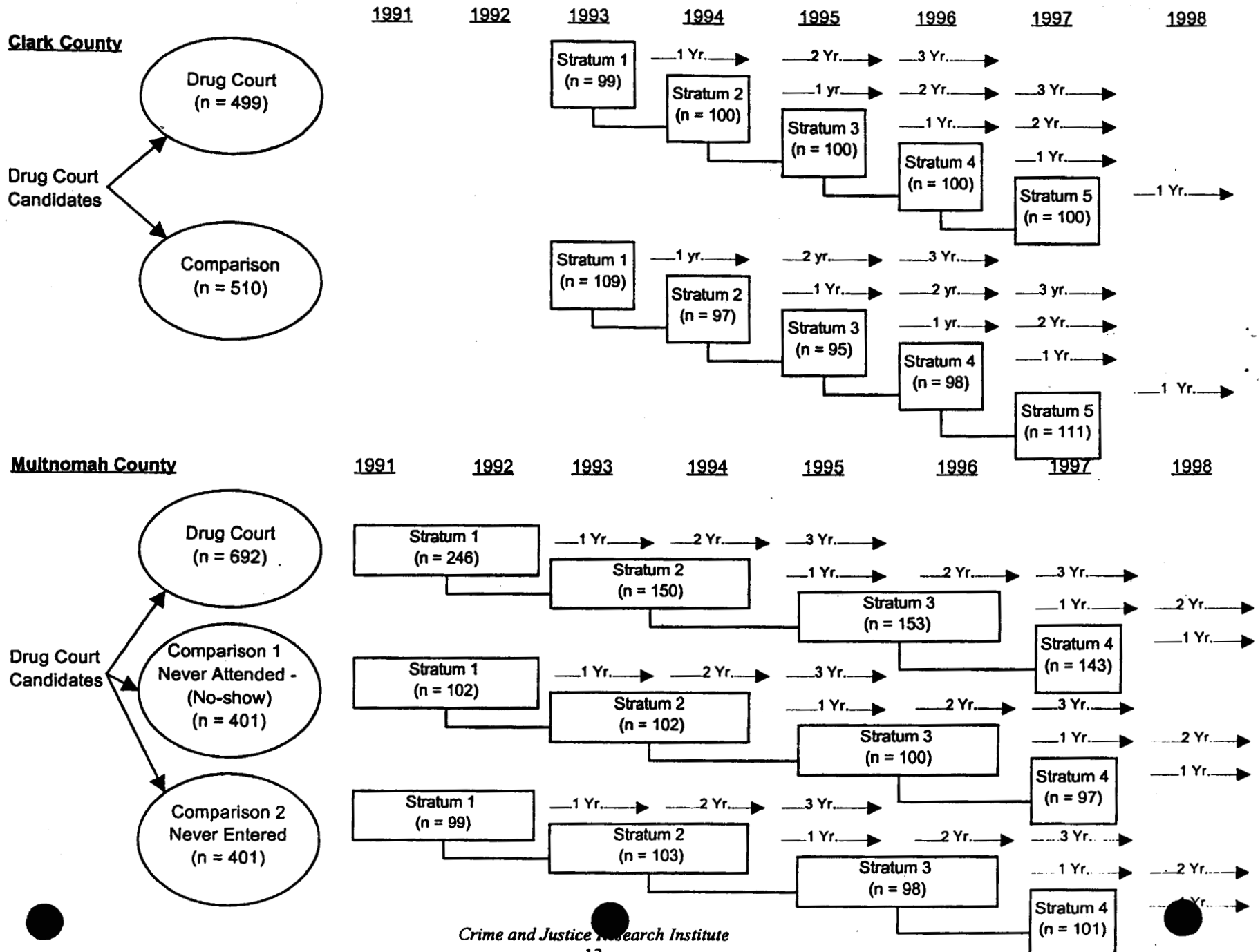
This typology of the critical elements differentiates drug courts and provides an organizing framework that takes into account key similarities and differences. The description of the Multnomah County and Clark County Drug Courts in this report reflects these key dimensions of the drug court typology. In addition, analyses and findings are presented within the framework of these critical elements. In Section XI, we interpret the interim findings from both jurisdictions in light of some of the critical dimensions of the drug court typology.

### **III. Design of the Evaluation in Clark County, Nevada, and Multnomah County, Oregon**

The retrospective evaluation of the drug courts in Clark County and Multnomah County has several principal components. Descriptive data were collected to help understand the development and evolution of each of the courts over time through observations of the court and treatment processes, interviews with the principal system actors involved in the drug courts, and focus groups with participants. These descriptive data provided an understanding of how the courts grew and changed over time and were employed to identify chronological milestones of important events and challenges in the lives of each drug court. Archival data collection was organized to complement the descriptive data in showing changes in the population of participants, in the workload and to assess participant outcomes over time.

Figure 2 depicts the disproportionate stratified sampling design employed in each site to make certain that data collection would reflect the various stages of the comparatively "long" histories associated with each of the drug courts. The ages of the Clark County and Multnomah County drug courts (7 and 8 years respectively) make them among the select few drug courts with such an extensive body of experience. Each court has gone through an evolution from initial implementation to the more seasoned programs now in place and has experienced more challenges than many young programs in their first stages of operation. The sampling strategy shown in Figure 2 was designed to capture the effects of important changes in both courts over time (including changes in

**Figure 2 The National Drug Court Evaluation Design:  
Retrospective Sampling of Drug Court and Comparison Groups in Multnomah and Clark Counties**





targeted and enrolled populations) by stratifying on the basis of time periods.<sup>9</sup> To ensure that the sampling design was representative of each time period, approximately equal numbers of cases were randomly drawn from each designated time period to produce the samples of drug court participants and comparison group defendants.<sup>10</sup>

### The Multnomah County Design

The sampling strategy employed for the evaluation of the Multnomah County Drug Court was stratified according to time periods from 1991 to 1997. We randomly sampled 150 Drug Court participants from each stratum represented by the following periods: 1991-1992,<sup>11</sup> 1993-1994, 1995-1996 and 1997. This resulted in about 75 cases from each individual year, with the exception of 1997, from which we sampled 100 Drug Court participants (total n=692). (We had special questions relating to 1997 that required a slightly larger sample.)

The cases of all potentially eligible defendants were handled through a central process in Multnomah County. Because we were unable to find "overflow" cases of drug defendants who had not come into contact with the drug court screening process, we could not select comparison groups that were identical to drug court defendants, but were simply not located and screened through the drug court process. In fact, shortly after arrest, the District Attorney's staff reviewed all cases and referred all eligible felony drug cases from arraignment to Drug Court orientation at the Defender's office. From that point, eligible drug cases followed one of three routes: a) they went to an initial petition

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<sup>9</sup> Appendix B summarizes the population sizes, sampling ratio, and standard error associated with each drug court and comparison group stratum and the samples overall.

<sup>10</sup> We intended to employ randomly selected matched samples, but were ultimately unable to due to the limitations of the data, with the exception of one year (1997) in Clark County.

<sup>11</sup> We supplemented our 1991-1992 sample with an additional, randomly selected 104 cases upon discovering that treatment records for the earliest participants were lost when the program changed treatment providers after 11 months of operation.

hearing in the Drug Court courtroom at which time they indicated that they wished to enter the program; b) they went to the petition hearing and did not go forward into the drug court (and were processed in the normal fashion); or c) they failed to attend the Defender orientation as required and failed to attend the petition hearing as required. This last group later rejoined the normal process and had charges adjudicated without participating in the Drug Court.

This screening process made it difficult to find a comparison group of defendants who were similar to Drug Court participants in all ways, except for the fact that they did not participate in Drug Court. Categories of non-Drug Court defendants differed from the drug court group in important ways. Defendants who declined or were rejected by the District Attorney may have had active cases or prior criminal histories that were different from those entering Drug Court. Defendants failing to attend the early stages of processing may have been higher risk (more failure-prone) than those entering the Multnomah County Drug Court. We believed that merely dividing eligible defendants into two groups for study—Drug Court versus non-Drug Court defendants—would be misleading given the nature of early case processing in Circuit Court. Thus, we created two comparison groups for each time period consisting of those who attended the Defender orientation but did not choose to enter the Drug Court process (total n=401), and b) those who did not attend the Defender orientation, did not attend the petition hearing and did not enter Drug Court (total n=401). Though less than ideal, this strategy (to be adjusted by the use of post hoc controls in comparative analyses of outcomes) was the only reasonable strategy available for designating comparison groups for the study of the Multnomah County Drug Court.

For Drug Court participants and comparison group defendants entering the court process from 1991 through 1995, the criminal justice outcomes follow-up covered one-, two- and three-year periods. For those entering the processing in 1996, the follow-up study included one- and two-year periods. For the 1997 cases, a one-year follow-up study was carried out. In discussing outcomes in this report, we focus principally on one-year, short-term observation periods for all years from point of prosecutor charging.

### The Clark County Design

The Clark County Drug Court began operation relatively late in 1992. Our sampling approach, designed to represent cases from 1993 through 1997,<sup>12</sup> was stratified by year. For each of the years 1993, 1994, 1995, 1996, and 1997, we randomly sampled about 100 Drug Court participants (total n=499) and 100 comparison group defendants entering the judicial process at the District Court arraignment stage (total n=510). The comparison group defendants were identified from overall entering felony drug cases and included mainly defendants who were not made aware of the drug court option. Thus, they were fairly similar to drug defendants who entered the process and who did pursue the Drug Court path. Data were collected to represent follow-up or observation periods of one-, two- and three years (depending on the recency of the year sampled) from the point of entry in the judicial process, not from date of termination from the program.<sup>13</sup> Thus, the design incorporated one-, two-, and three-year follow-up periods for 1993 and 1994 defendants, one- and two-year follow-up periods for 1995 and 1996 defendants, and

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<sup>12</sup> In Phase II of the research we sampled from 1998 as well.

<sup>13</sup> We have adopted a fixed observation period (of one, two, or three years) from a starting point early in the judicial process so that a standard frame of reference is employed. Use of the point of termination from the drug court to begin the follow-up period results in very different and inconsistent follow-up periods for participants who may have stayed in the Drug Court for very short or long periods. It also does not provide a framework for follow-up that can just as easily be applied to the analysis of comparison group defendants.

a one-year follow-up for 1997 defendants.<sup>14</sup> Or, stated another way, standard one-year follow-ups were available for samples from all years, two-year follow-ups were available for the 1993, 1994, 1995 and 1996 samples, and three year follow-ups were available for 1993, 1994, and 1995 drug court participants and comparison group defendants. In Clark County, the comparison group was identified using court and prosecutor data by selecting drug defendants who were similar to drug court participants, but who did not enter the drug court and whose cases were processed in the normal manner.<sup>15</sup>

#### Note on Overall Comparisons

When totals for all years are presented in figures in the text, the totals represent the weighted totals (estimated for the populations of all years).

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<sup>14</sup> In the second phase, with more time passing, we extended follow-up data collection to include a three-year follow-up for the 1995 defendants and two-year follow-ups for 1996 and 1997 defendants.

<sup>15</sup> These cases did not include defendants who declined Drug Court, but rather defendants who merely did not come into contact with the Drug Court screening process.

#### **IV. Description of the Multnomah County Drug Court: Development and Evolution**

##### **Formation of the Multnomah County Drug Court (STOP)**

Portland is the principal population center of Multnomah County, an Oregon county of about 600,000 residents. Like Clark County and other urban jurisdictions, the drug-related criminal caseload of the Multnomah County Circuit Court expanded notably during the 1980s and 1990s. By the end of the 1980s, Multnomah County's arrest rate for drug felonies of 602 per 100,000 residents was well above the national average for the largest 100 counties.<sup>16</sup> In 1993, two years after the Multnomah County Drug Court began operation, Circuit Court processed approximately 7,000 felony cases, of which 30 percent involved drug offenses and an estimated additional 25 percent involved other drug-related crimes.<sup>17</sup> After observing the Miami Drug Court, Judge Harl Haas, Metropolitan Public Defender Jim Hennings, and District Attorney Michael Schrunk, adapted the Miami Drug Court model to address their local problems and established the Multnomah County Drug Court, which began operation in August 1991, with initial funding from the Bureau of Justice Assistance and state block grant funding. The Multnomah County Drug Court—known as the Sanction-Treatment-Opportunity-Progress or STOP program—modified the diversion-based Miami approach. What became known as the “Portland” model required defendants to “stipulate to the facts” in the police report as a condition of participating in the program. Under this procedure, if a defendant succeeded in the Drug Court, the charges could be dismissed—as in the original diversion

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<sup>16</sup> The arrest rate for the largest 100 counties in the nation was 495 per 100,000 residents.

approach—with the possibility of having the original arrest expunged from the record. If, on the other hand, a defendant failed to complete the Drug Court treatment regimen, the Drug Court judge would hold a “stipulation to the facts” bench trial and adjudicate the charges promptly. Usually, such a hearing would result in a finding of guilt and be followed by sentencing by the judge.

### Summary Description of the Multnomah County Drug Court Model

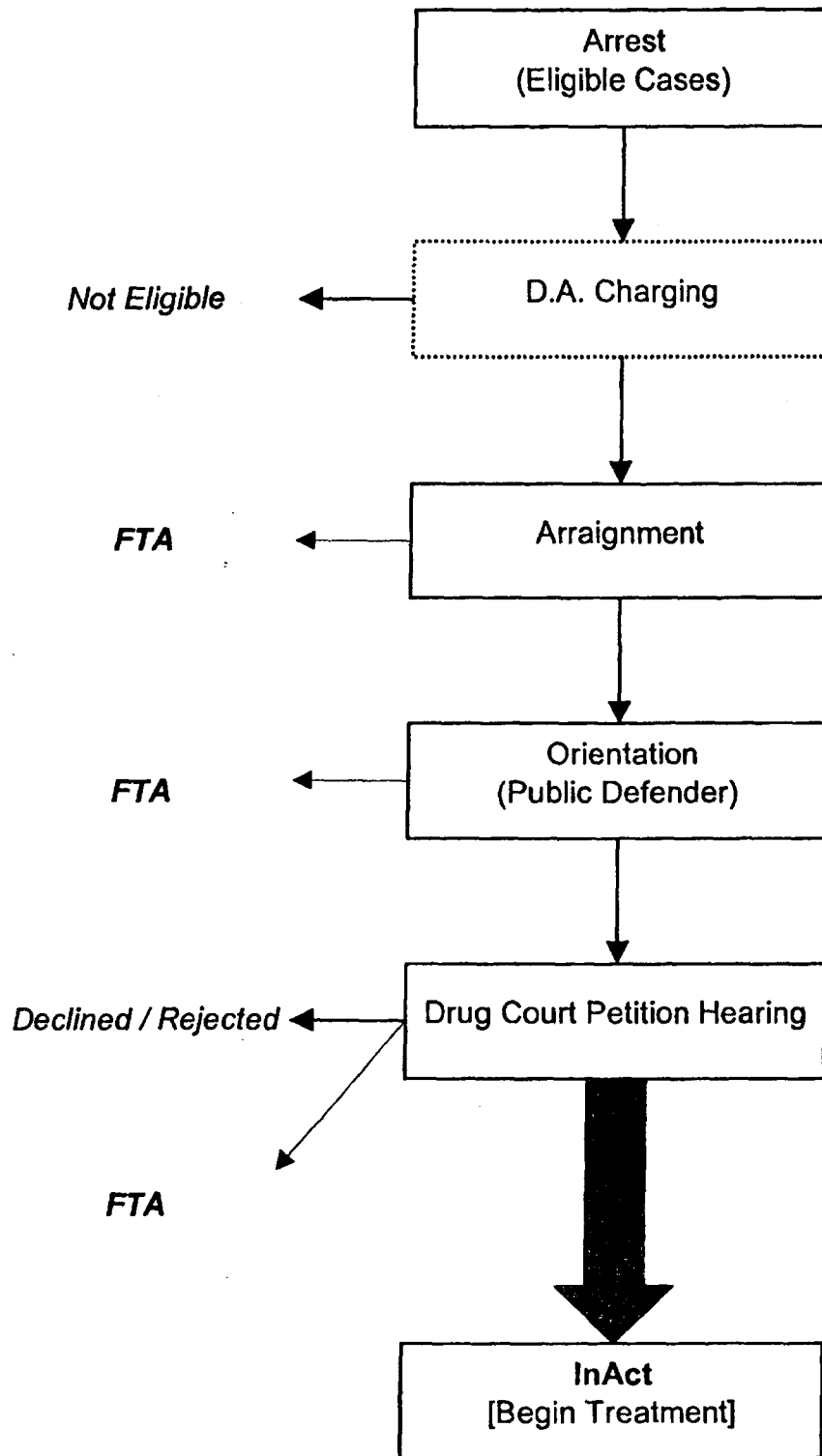
The target population for the Multnomah County Drug Court (STOP program) has remained fairly consistent over time, focusing on felony drug defendants. Shortly after arrest, the District Attorney reviews all felony drug possession charges. Persons who are charged with level I and II drug offenses are ordered at arraignment to attend a Drug Court orientation conducted every day at the office of the Metropolitan Public Defender. (See Figure 3) The Multnomah County Drug Court has taken the position that it will not necessarily exclude defendants on the basis of prior record. When defendants are accepted who do not conform to the Federal criteria for funding,<sup>17</sup> their treatment is paid through non-Federal sources. At the Defender orientation, the normal adjudication process and the Drug Court alternative are explained. Whether they decide to enter the drug court or not, defendants are required to attend a petition hearing before

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<sup>17</sup> In an effort to address its rapidly growing felony caseload, Circuit Court implemented a fast-track program designed to speed disposition of felony drug cases thereby placing a strain on state and local corrections. Although this approach was successful in moving more cases to faster dispositions, it did not seem to exhaust the supply of drug cases.

<sup>18</sup> Federal funding cannot be used for persons with convictions for prior offenses.

Figure 3 Screening of Candidates into the Multnomah County Drug Court, 1991 - 1997



the Drug Court judge. If they wish to participate, they stipulate to the facts in the criminal complaint.

Usually on the day following the petition hearing, the defendant attends an initial treatment appointment at InAct, Inc., the designated Drug Court treatment provider. InAct, Inc. is a private, not-for-profit agency which offers a multi-phased outpatient treatment program. The Department of Community Justice manages the contract with InAct and has made available residential treatment and detoxification services for Drug Court participants. Participants are evaluated for substance abuse treatment needs using the "Multnomah Clinical Assessment" (MCA) instrument, an instrument derived from the Addiction Severity Index, to define the appropriate scope and level of care need in treatment. Based on the assessment, an initial treatment plan is developed and given an initial review after 45 days, then is updated every 90 days thereafter. Also within the first month of treatment, participants undergo standard medical screening and are tested for HIV/AIDS, tuberculosis, and other infectious diseases. Education and employment needs are determined as well.

Following assessment, participants enter the first phase of treatment.<sup>19</sup> The goal of the first phase is to engage the client in the initial process of "engagement" change and emphasize the need for personal growth as he or she is able to receive and integrate information that supports the program of recovery. According to the provider's description, a variety of treatment services are provided during Phase I, including:

- One-to-one sessions with primary counselor at least once per week;
- Group sessions two times per week;
- Acupuncture (daily in prescribed conditions);

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<sup>19</sup> This section describes the treatment process as it exists now. It was initially conceived as a four-phase treatment process. In July 1996, the treatment process was redesigned to include only three treatment phases.



- Random urinalysis.

Other areas addressed during this phase may include child care, transportation, literacy, and legal issues. Phase I is designed typically to take about five to six weeks, although its actual length has varied based on the particular participant. Participants may be referred to in-patient detoxification or residential treatment to stabilize the participants so they can return to the outpatient program at InAct.

Phase II (“addiction and recovery training”), conceived to require a minimum of sixteen months, is designed to provide information to the client so he/she may better understand the addictive process and develop concrete goals for achieving and maintaining a life in recovery. Treatment services include:

- one to one sessions with primary counselor at least once per week;
- group sessions twice per week;
- daily acupuncture;
- a minimum of bi-weekly urinalysis.

InAct describes Phase II group sessions as addressing a variety of topics, including addiction, co-dependency, and peer resistance to values clarification and motivation. Where possible, InAct begins to provide access to services related to literacy, education and employment during this phase of treatment.

Phase III (“life skills training/monitoring”), estimated to take three months, provides specific training in life skill areas identified as being necessary for the client to sustain on-going recovery. Monitoring is also provided to continue to assist the client in integrating recovery skills into his/her daily life. Group sessions address topics such as addiction, relapse prevention, family relationships, communication skills, HIV/AIDS awareness, and nutrition. According to InAct, Phase III treatment services include:

- one-to-one sessions with a primary counselor at least once per month;

- group sessions once per week;
- acupuncture (elective)
- bi-monthly urinalysis.

Participants are nominated for graduation when they and their counselor agree that they have completed all necessary life skills training, have integrated recovery skills into daily living, and have met the court's requirements for completion of the program.

The court closely monitors the performance of participants in treatment and a variety of rewards (incentives) and sanctions are employed to guide them through the treatment process. Incentives include advancement to the next phase of treatment, certificates for completing phases successfully, reduction in frequency of drug tests, and graduation. The Multnomah County Drug Court has employed a range of sanctions for non-compliance. The Drug Court may require more frequent random urinalysis, return to detoxification, assignment to the "Zero Tolerance" program, repeating a treatment phase, delaying progress to the next treatment phase, or delaying graduation. Sanctions may include work release (through the Multnomah County Restitution Center), work camp (Forest Project in Mount Hood National Forest), and work crew (through the Department of Community Corrections' Community Service program). Participants may receive jail as a sanction and, ultimately, termination from the Drug Court.

#### **Special Features of the Multnomah County Drug Court (STOP) Program**

The Multnomah County Drug Court has several features that distinguish it from other drug courts. These include expansive program eligibility for some defendants with prior criminal records, early placement of candidates in treatment, a 14-day "opt-out"

period and drug free zones / exclusion zones, which are identified areas with high rates of drug crime, from which program participants are excluded by court order.<sup>20</sup>

### Eligibility Criteria

Initially, the Drug Court accepted as candidates defendants who:

- were charged with felony possession of a controlled substance level I or II only (no evidence of drug dealing);
- had other felony or Class A misdemeanor cases or pending charges against the defendant;
- had detainers lodged against the defendant from other jurisdictions;
- had DUI charges against the defendant arising out of the same incident giving rise to the current drug charge.

Other restrictions were added over time including:

- No prior involvement in the Drug Court (i.e., one try was all that was allowed);
- No evidence indicating defendant will be unable to succeed in the Drug Court;
- The state is not seeking a departure from the presumptive sentence;
- The defendant is not already on probation or parole.<sup>21</sup>

The Multnomah County Drug Court was distinctive among the first generation of drug courts (and is still unusual among more recent drug courts) for not excluding defendants based on prior criminal record. Federal funding criteria for drug courts excludes persons with convictions for violent offenses. Once the Multnomah County Drug Court accepted federal funding through the Drug Court Program Office, they had to either adhere to the federal criteria or develop procedures to ensure that participation of defendants with prior convictions for violent offenses would be funded exclusively through non-federal sources. They chose to do the latter.

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<sup>20</sup> The prohibition was initially defined to focus on persons arrested for sales. Subsequently, persons arrested for possession (including attempt and conspiracy) were added. Later, after a legal challenge, the exclusion was modified to include persons who were convicted, not just arrested (including conviction for solicitation). Drug Court participants (who have not been convicted) must agree to abide by Drug Free Zones (i.e., avoid them) as a condition of entering the program.

<sup>21</sup> This restriction was not routinely enforced.

In 1995, Multnomah County BJA funding to begin treating probationers/parolees through "STOP II." Federal funding supported the STOP II program for approximately 2 years until the Drug Court as a whole absorbed its clientele. Since that time, the Drug Court has continued to treat a number of participants who are on probation (approximately 8% of our drug court sample was on probation at the time they entered the program).<sup>22</sup>

### Early Intervention

The Multnomah County Drug Court process was designed ideally to screen and place eligible defendants in treatment within several days of arrest. After the issuing of charges by the District Attorney, eligible defendants are ordered to attend "orientation" at the Metropolitan Public Defender where the Drug Court option is explained. Usually between one and three days after arrest, eligible defendants appear at a hearing in Drug Court at which time they petition to enter the program, or decline to participate and have their cases set on the normal criminal calendar. Defendants who wish to enter the program are immediately referred to treatment for intake and may have their first appointment with the treatment program three to four days after their arrest. This emphasis on "early intervention" was adapted from the Miami Drug Court approach that sought to put candidates into treatment on the same or next day after their first court appearance (bond hearing).

### 14-Day Opt-Out Period

The stipulate-to-the-facts approach adopted by the Multnomah County Drug Court raised serious issues for defense counsel, who considered that entrance requirement

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<sup>22</sup> Drug Court participants on probation represented six percent of the participant population in 1991-1992, 19 percent in 1993-1994, 11 percent in 1995-1996 and 15 percent in 1997.

tantamount to tendering a plea of guilty. (Once defendants stipulate to the facts in drug cases, usually they have few grounds for otherwise fighting the charges, should they change their minds about participating in the Drug Court.) The Defender agreed to support the Drug Court as long as defendants could change their minds—"opt out"—if, within 14 days, they decided to proceed with adjudication of their charges in the normal fashion. This could occur for two basic reasons: first, upon investigating the facts of the case, the Defender could discover grounds for contesting the charges (e.g., for suppressing the evidence based on an illegal search) and defendants might prefer to take their chances having the charges adjudicated.

Second, defendants could simply decide that the rigors of the treatment process were not for them. The 14-day period is also used by the District Attorney to review the cases and background of some defendants in more depth. By agreement, the District Attorney also reserves the right to remove defendants from the program at this stage, based on additional evidence that may have come to light subsequent to the Drug Court petition hearing. This rather unique mechanism, giving both defense and prosecution the chance to review the status of the defendant's participation after almost two weeks in treatment, has inadvertently come to be an opportunity for defendants to enter treatment for a two-week trial period with the option to withdraw at the end of that period.

The 14-day opt-out period is a special adaptation of the original drug court model developed in Multnomah County. Initially, some who believed that treatment needed to be "coercive" thought that this procedure might seriously undermine the treatment process. It was feared that initial decisions to engage in the Drug Court regimen would be lacking in commitment and that seriously substance-involved individuals who

typically had poor experiences in other treatment programs would see the "opt-out" as an easy out at the two-week mark, just when treatment began to appear difficult. In fact, the record has shown otherwise: very few defendants who begin treatment subsequently opt out. (But see the discussion in section IX of "early dropout.") Rather, the opt-out period originally designed as a compromise to preserve the rights of defendants has evolved into a sensible "trial" treatment period during which participants can learn what is really involved and treatment resources can be focused on those who have some commitment to treatment. (In our focus groups, participants were very clear that they viewed this two-week period as an introduction to treatment that they saw as very helpful.)

#### Portland's "Drug Free" Zones

The Multnomah County Drug Court was established as one of a number of justice reform initiatives dealing with the drug crime problem in Portland in the early 1990s. The Multnomah County District Attorney's Office Community Prosecution project, another pioneering justice reform initiative predating the Drug Court by a year, facilitated the passage by City Council of an ordinance establishing a number of "drug-free zones." The drug-free zones to prohibit persons arrested for (under a first version) or convicted of (under a revised version) of drug offenses from re-entering specific areas of the city. Although the Multnomah County Drug Court acts as a central downtown drug court, it serves a collection of neighborhoods and areas around the city. The Court is unique (to our knowledge) in that it operates in the context of these "drug-free zones." The aim of the drug-free-zone concept was to improve quality of life in targeted areas for residents, businesses, and visitors to those areas, by reducing drug-related criminal activity and the less serious crimes and incivilities associated with it. The first drug-free zones were

demarcated in February, 1992, shortly after the Drug Court began operation, focusing on areas of the city with significantly higher incidence of drug dealing and drug use (measured through arrests). The original ordinance created three drug-free zones, one each in Old Town, Lower East Burnside, and Washington Park. Drug-free zones have to be re-authorized every two years, and changes have been made to their definitions over time. For example, in 1994, the Washington Park zone was eliminated. In 1997, two residential neighborhoods in Northeast Portland were added.

Although the criteria have been modified over time, the ordinance generally excludes all defendants arrested for drug charges, including possession, sale, and related solicitation and conspiracy, from the drug-free zones for a period of 90 days (originally, only defendants arrested for sales charges were subject to the drug-free-zone restrictions; possession arrests were added in February 1993 and attempt and conspiracy charges were added in February 1994). The ordinance allows defendants a period of seven days to appeal the exclusion before it goes into effect. A defendant found in a drug-free zone during an exclusion period can be arrested for criminal trespass. Upon conviction on the drug charge, the exclusion is extended for one year. These policies have been upheld in the face of court challenges asserting a violation of the right to travel, due process, and equal protection. The rules associated with the drug-free zones have been extended to apply to Drug Court participants. Defendants who enter the Drug Court program must sign a drug-free-zone exclusion form, agreeing to stay out of the restricted areas for a period of one year. Defendants who have valid reasons for entering the zones are issued variances that permit them to enter the zones. One important exception to the exclusion recognizes that the Drug Court treatment provider's offices are located in the Downtown

drug-free zone. In short, the downtown Drug Court deals with defendants who operate in a geographical framework in the Portland area and are affected by the restrictions imposed by the drug-free zones.

### Implementation Highlights

#### Arranging Acceptable Treatment Services

The Multnomah County Drug Court began to accept its first participants in August 1991. Approximately 11 months later, the Drug Court program terminated its contract with the first treatment provider because the arrangement was not working as expected. With a large number of defendants in process, the Court experienced a three-month hiatus as a more responsive treatment approach was devised through InAct, Inc. The new provider began accepting participants in September 1992. The interruption in the delivery of treatment services caused by the decision to drop the initial provider meant that a large number of participants who had already agreed to the terms of Drug Court participation received little or no treatment for several months. When InAct, Inc. opened its doors it had both a large backlog of treatment cases and new participants entering on a weekly basis. The Drug Court and the new provider found that many defendants were reaching the 12-month participation stage, at which time they would be eligible for graduation—absent a showing that they had not met the requirements of the treatment process. In fact, some participants were given the benefit of the doubt and graduated having had a gap in treatment services during the treatment interruption.

#### Changes in Judicial Supervision

In a partnership with Metropolitan Public Defender Hennings and District Attorney Schrunk, the Multnomah Drug Court was launched and supervised from its inception in 1991 through the end of 1993 by Judge Harl Haas, a forceful and dynamic



judge who is recognized as one of the founding judges of the drug court movement in the United States. In January 1994, Judge Haas was succeeded as Drug Court judge by Judge Roosevelt Robinson, who had an equally distinctive leadership style. Judge Robinson presided over the Drug Court until January 1996, when the chief judge of Circuit Court questioned the need to allocate a full-time judge to supervise Drug Court and decided instead to assign a non-judge referee. After Referee Lewis Lawrence presided over the Drug Court program for one year, in January 1997 the chief judge assigned what amounted to a mix of referees and judges on a rotating schedule for relatively short intervals. In a dramatic contrast from the original single-judge approach designed to foster close identification with one judicial figure as the leader of the Drug Court, from January 1997 through June 1998, 18 judges and 4 referees presided over the Drug Court, often with several different judges conducting drug court sessions in a given week. Under new court leadership, however, Judge Haas volunteered to return to the Drug Court beginning in June 1998 to restore the practice of one principal judge presiding in the Drug Court.

#### Changes in Policy Governing Drug Court Participation

Throughout most of its existence, the Drug Court program has been guided by a policy board made up of the Drug Court judge, District Attorney Michael Schruck, Metropolitan Public Defender Jim Hennings, and treatment provider Director Valerie Moore (the sole provider for the Drug Court since 1992). The policy board addressed important issues facing the program as they surfaced and planned and implemented changes as needed to improve the overall operation and effectiveness of the Drug Court. On several occasions, the board attempted to address problems associated with Drug

Court defendants who were on bench warrant status for extended periods of time. In October 1994, the policy board proposed to automatically terminate defendants in bench warrant status for a year or more (those who had been missing for six months were given an opportunity to convince the court to not terminate). The board also developed a classification system of bench warrants and procedures for handling each type, and identified clinical procedures for treating participants arrested for drug dealing. In November, 1994, InAct proposed procedures for participants away from treatment for an extended period of time, either because of bench warrant status or program suspension. InAct also proposed terminating participants on bench warrant status for three consecutive months; however, this 90-day rule was not officially adopted until June 1996 under Referee Lawrence.

In April 1995, the board ruled that all after-graduation balances (fees) should be converted to civil judgments, allowing the state to collect these debts for ten years. However, in July of that year, the board decided that all cases set for expungement would have outstanding STOP fees dismissed. This rule lasted for less than a year and was modified by Referee Lawrence when he took over supervision of the program. In July 1995, the STOP eligibility rules were modified to allow probationers and parolees to participate, the criteria regarding drug amounts involved in the underlying charges were modified slightly, procedures for transferring STOP participants to other jurisdictions were adopted, and guidelines were developed for STOP participant transfer to outside treatment agencies (other than InAct).

During Referee Lawrence's tenure presiding over the Drug Court in January 1996, the policy board met less often and played less of a role in shaping policy. Under Referee

Lawrence, many of the rules governing participation in the Drug Court were made more restrictive. In February of that year, many of the general policies for the program were modified. The new policy required participants to finish Phase I within 6 months and to complete treatment within 18 months. Participants on methadone were required to provide an approved six-month detoxification plan. (This rule was rescinded in July 1997.) Participants on bench warrant status for more than 30 days were required to go through detoxification in jail or in an in-patient facility prior to returning to the Drug Court. More restrictive rules were put in force governing the payment of fees: participants would henceforth begin paying fees within 90 days from the start of treatment, and graduates with outstanding fees would not have their charges dismissed. In August 1996, Referee Lawrence limited candidates for Drug Court to only two chances to attend the defender and InAct orientations.

#### Prosecution Policy Changes

In 1996, the District Attorney agreed to expand the eligibility criteria by no longer barring candidates who had participated and failed in Drug Court previously and by removing some drug quantity restrictions in certain categories of cases. In July 1997, the District Attorney's office began a new Expedited Plea Program to help move larger numbers of drug cases through the judicial process. This program offered a sentence of one year's probation to Drug Court-eligible defendants in exchange for an early guilty plea. Because it addresses felony drug defendants, many of whom would be eligible for Drug Court, this program appeared to have the potential of competing with Drug Court

for the same defendants (and, some thought, offered an easier and more attractive disposition).

### Health Care Reform

The Drug Court's principal treatment provider, InAct, Inc., has had to adjust to changing laws relating to managed health care and welfare reform. Oregon's managed care reform, the Oregon Health Plan, went into effect in May 1995. As the STOP program continued to expand and become more diverse, the County did not increase its financial support and the program was forced to supplement its funding with insurance revenue. As a result, InAct was forced to place greater emphasis on investigating and initiating participants' coverage through managed care. Essentially, the District Attorney's office continued to identify a growing pool of eligible defendants at the charging stage, but InAct did not receive a concomitant increase in funding from the county to pay for their treatment.

Because InAct staff could not turn Drug Court enrollees away, they focused their efforts on getting new participants registered and covered through public health insurance. In February 1996, InAct began collecting medical information on participants registered for the Oregon Health Plan. In July 1996, the Drug Court contacted the state Office of Alcohol and Drug Abuse Programs to seek assistance in getting major health plans to recognize InAct as an "essential community provider." When Federal welfare reform, the Personal Responsibility and Work Opportunity Reconciliation Act, was passed in August 1996 InAct again had to adapt to changing laws governing insurance coverage and reimbursement.

### Funding Availability

Like other drug courts, the Multnomah County Drug Court has had to work constantly to find funding to deliver services to the enrolled population and to keep the program viable. After arranging funding sources for the initial period of the program, it was clear that additional sources of funding would need to be found to sustain the program. As a result of the 1994 Omnibus Crime Control Act that for the first time made Federal funds available for drug courts, the Multnomah County Drug Court received an enhancement grant for \$512,055 from the Drug Court Program Office of the Department of Justice in September 1995. In April 1996, the program used Federal funding to expand treatment services, including family counseling, mental health services (a psychiatric nurse practitioner), aftercare, employment services, an alumni association, naturopathic services (physician and interns), as well as to upgrade the management information system. Also in April 1996, the Department of Community Corrections reduced its contribution to the Drug Court budget by \$90,000 for the nearly completed fiscal year 1995-96. In July 1996, state funding through the Edward Byrne block grant expired and was not renewed, causing a budgetary crisis for the STOP program. As part of their effort to deal with other aspects of the drug problem, the county had started STOP II in 1995, which sought to expand the Drug Court target population to include probationers, parolees and drug-involved property offenders. When funding for STOP II ran out in July 1996, the County declined to provide bridge funding to sustain the program while other funding was secured.

Despite difficult funding problems, the Drug Court caseload was nevertheless expanding, to the extent that additional sessions had to be scheduled. In January 1997, Drug Court expanded to Tuesday through Friday (half day sessions) and twice monthly

night sessions. Seven months later, Drug Court was expanded to five days a week. The program was also forced to adjust to the changing nature and treatment needs of its participants. In February 1996, for example, STOP received emergency funds from the Office of Alcohol and Drug Abuse Programs to develop services more responsive to its Hispanic participants. (See Figure 4 for a summary of milestones.)

**Figure 4 Milestones in the Development of the  
Multnomah County Drug Court, 1991 – 1998**

**1991**

**August** - Drug Court begins; Byrne and local city/county funds utilized.

**1992**

**February 27** - Ordinance for drug-free zones is passed; zones to be reviewed every three years.

**July** - Contract with first treatment provider terminated.

**September** - InAct, Inc. begins service as new treatment provider.

**1993**

**February 23** - Drug-free zone ordinance modified to include arrests for possession.

**1994**

**January** - Judge Haas leaves Drug Court; Judge Robinson presides; Zero Tolerance program begins.

**February 23** - Drug-free zones re-authorized; one zone eliminated and attempt crimes added; Zone size limits eliminated.

**October** - Drug Court leadership develops clinical procedures for treating clients arrested for/suspected of drug dealing.

**1995**

**February** - InAct begins efforts to obtain contracts with managed care insurance companies under Oregon Health Plan.

**July 1** - Drug Court eligibility rules modified; probationers and parolees now eligible; drug amount criteria modified slightly.

**September 30** - Multnomah County Drug Court awarded \$512,055 Enhancement grant by the Drug Court Program Office, U.S. Department of Justice.

**1996**

**January** - Judge Robinson completes Drug Court assignment; Referee Lawrence presides.

**February 1** - Policies for Drug Court are modified: more restrictive time limits for completion of Phase I and the program, for payment of fees, and for treatment.

**April 1** - InAct begins treatment enhancements using funds from the Federal Government to expand counseling and human services departments, as well as to implement a new management information system.

**May 1** - District Attorney's office expands Drug Court eligibility: prior failure no longer bars re-entry into program, current participants receiving new PCS charge will not be offered Drug Court on new charge, and drug quantity restrictions removed.

**1997**

**July** - DA's Expedited Plea (X-plea) program for drug cases begins; Drug Court docket expanded to Monday through Friday.

**1998**

**March 4** - Community Court begins.

**June 8** - Judge Haas returns to Drug Court and begins review of changed policies.





## V. Description of the Clark County Drug Court: Development and Evolution

### Formation of the Drug Court

Like many other American jurisdictions in the decade of the 1980s, the Clark County, Nevada, justice system—and that of its principal population center, Las Vegas—experienced the effects of the drug epidemic of the 1980s. The impact of drug enforcement efforts placed severe burdens on police, courts, jails and state correctional institutions at the end of the 1980s and in the early 1990s. With the highest incarceration rate in the nation (*Sourcebook of Criminal Justice Statistics* 1993: Table 6.30), three-quarters of prison inmates convicted of felony offenses in Nevada were self-reported drug and alcohol abusers (*Clark County Drug Court Program Manual* 1992). According to the Classification and Planning Division of the Department of Prisons in Nevada, 19 percent of inmates incarcerated in state prisons were convicted for drug offenses during the early 1990s; many other inmates had committed drug-related offenses. The drug problem was especially acute in Clark County, which, with Las Vegas at its center, contained 62 percent of the state's population. A major tourist attraction because of its gaming industry, Las Vegas sits at a cross-roads between Arizona, California and points east, and, in addition to attracting an itinerant population, is at the center of drug trafficking routes. The drug problem at the end of the 1980s resulted in large increases in arrests, in the criminal court caseload, and in the population of the Clark County Detention Center, which increased by 63 percent between 1985 and 1991.

When Judge Jack Lehman became Chief Judge of the Eighth Judicial District Court in June of 1990, he attended a course in judicial administration at the National Judicial College in Reno, Nevada, at which he heard a presentation about the Dade

County, Florida, Drug Court by Miami Judge Stanley Goldstein and Tim Murray, then the Dade County's Director of the Office of Substance Abuse Control. Judge Lehman sought to adapt the Dade County innovation to the drug-related offender population in his court system. He presented the idea to the Clark County Criminal Justice Task Force and conducted site visits to Dade County in August 1991 and Multnomah County, Oregon, in March 1992.

A first challenge in adapting the Miami Drug Court model to the Las Vegas setting was to identify resources to support its implementation and operation. Part of the early funding of the court was generated creatively through revenues derived from a new Clark County DUI and traffic school. This source of funding initially provided treatment for approximately 400 offenders. Following the negotiation and approval of a contract with a treatment provider, Choices Unlimited, and the start of the DUI/traffic school, the Clark County Drug Court officially began operation in October 1992.

In its program description (Clark County Drug Court Program Manual, 1992), the new Drug Court outlined two primary goals:

- To target first-time drug offenders and provide them with a cost-effective and successful program of drug rehabilitation that is closely monitored by the court and offers offenders the opportunity to recover from the ills of substance abuse
- To offer offenders a positive alternative to incarceration while lessening the burden to the County's criminal justice system

The Clark County Drug Court also adapted key features of Miami's diversion drug court model and was designed to target first-time felony defendants charged with either being "under the influence of a controlled substance" or "possession of a controlled

substance.”<sup>23</sup> Successful completion of the year-long program would result in dismissal of charges. The Drug Court arranged with one central provider, Choices Unlimited, to provide treatment services focusing mostly on outpatient treatment, consisting of group and individual counseling, skills development, stress management, and self-esteem building and acupuncture.

### Summary Description of the Clark County Drug Court Model

Figure 5 represents the screening process through which drug court candidates have been identified for the Clark County Drug Court. During the first few years of its operation, the Clark County Drug Court functioned primarily as a diversion court, adapted from the original Miami model. After arrest, defendants attend arraignment in Justice Court where the initial pretrial release decision is made and eligible defendants are referred voluntarily to the Defender’s Office for orientation. In some cases, detained defendants would be made aware of the drug court option while in jail and request participation. If, after Defender orientation and consultation, they agreed to participate in the Drug Court treatment process under Judge Lehman’s supervision, they were next asked to undergo an assessment by treatment (Choices) staff to determine treatment need. Under the diversion model, defendants entered Drug Court in advance of formal charging by the District Attorney. Successful participants could then have charges dismissed and, ultimately, the arrest expunged. But under the recently more common plea-based model, they would enter a guilty plea in the Drug Court and participate in Drug Court as a

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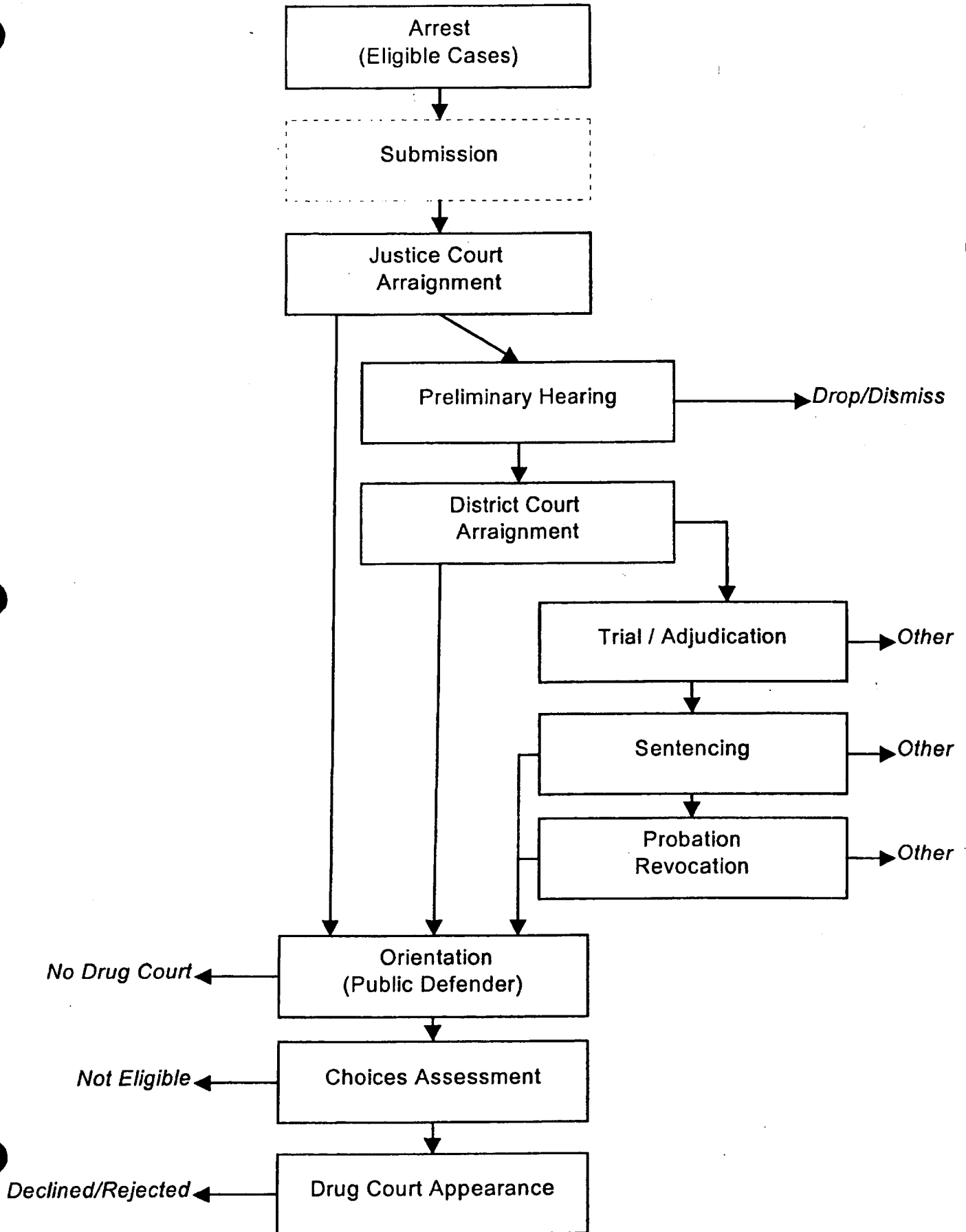
<sup>23</sup> The statutory penalties for first offense possession and under-the-influence was 1-6 years in the Nevada State Prison and a \$5,000 fine. Probation was also an option though not mandated. Prior to the start of the Drug Court, the standard arrangement in such cases was pleading guilty to a misdemeanor (dangerous drug not to be introduced into interstate commerce), with 2-6 months suspended jail time, short-term counseling, staying out of trouble for six months, and \$250 fine. If the defense wanted a dismissal, the defendant would have to plead to a felony and stipulate to treatment, which allowed for a stayed adjudication and dismissal upon successful completion of up to three years probation.

convicted person. In court they would be given instructions about how to proceed with the program. If they chose not to participate or were found not to be in need of treatment or otherwise to be ineligible, they appeared in the same court, informed the judge of their decision and had their cases scheduled on a normal trial calendar.

In January 1994, a newly elected District Attorney took office. Within a year, there was a shift in emphasis that showed defendants entering less frequently under the original diversion approach and more frequently as the result of a plea or charge bargain resulting in a conviction prior to admission to the Drug Court. Thus, defendants whose cases had moved to and through preliminary hearing, District Court arraignment and/or to subsequent stages of processing were referred to Choices for evaluation for treatment need and then would enter Drug Court under terms other than those promising ultimate withdrawal and dismissal of charges. For example, defendants may have agreed to plead guilty to lesser charges, sometimes dropping from a felony to a misdemeanor, or may have pled guilty in exchange for probation and participation in drug court.

Within one to three days of the defendant's orientation, the defendant attends an initial treatment appointment for assessment. Following assessment, the participant and counselor develop a treatment plan that serves to guide the participant through the early phases of treatment. The treatment plan helps set goals, determines the most appropriate methods for achieving those goals, and develops target dates for attaining those goals. The treatment plan is reviewed and updated as the participant progresses through treatment.

**Figure 5 Screening of Candidates into the Clark County Drug Court, 1992 - 1998**



There are three basic components of the Choices Unlimited treatment regimen: urinalysis, acupuncture, and counseling. Initially, the participant is drug tested every other day, but the frequency of testing decreases as the participant moves through treatment. The judge has access to all test results and can order a test at any given time. The judge can also order that the urinalysis be observed by treatment staff. False UA's result in automatic termination from the program.

The second component of treatment is acupuncture. Acupuncture is required through Phase I (detoxification) and encouraged throughout the program as the need arises to lessen depression, anxiety, and insomnia; reduce or eliminate withdrawal symptoms (i.e., drug craving, nausea, body aches, etc.); and assist with stress reduction and relapse prevention.

The third treatment component, substance abuse counseling, is offered in three formats: individual, group, and educational. Defendants are required to attend all three types of counseling, which are designed to develop self-awareness, self-worth, and self-discipline. Individual and group sessions emphasize problem identification and development of alternative solutions. Educational sessions include videos, lectures, guest speakers, and question/answer sessions.

Treatment consists of a structured four-phase outpatient program lasting a minimum of one year. Each phase has specified treatment objectives, therapeutic and rehabilitative activities, and specific requirements for movement into the next phase. The first treatment phase, detoxification, includes the following components:

- attendance at treatment six days per week;
- urinalysis every other day;
- group sessions twice per week;
- acupuncture daily.

Psycho/social evaluation and medical history are also completed during this phase. One to one and family counseling are available as needed, as is a spirituality group. Participants remain in Phase I until they have at least five consecutive clean UA's. Phase I generally lasts about one month, but completion can range from two weeks to six months. Participants move on to Phase II once drugs are out of their system and a treatment plan has been identified, including an assessment of housing, transportation, family, and general living needs.

The second phase of treatment, "wellness education," consists of 24 sessions covering such topics as diet, nutrition, exercise, stress management, anger control, communication, and relationship development. The goal of Phase II is to equip participants with the skills required to maintain a healthy and realistic lifestyle. Phase II includes the following:

- three groups sessions per week;
- three UA's per week;
- acupuncture as needed;
- one to one and family counseling as needed.

Services available to participants during Phase II include adult basic education, GED preparation, spirituality, and conjoint family counseling. If a participant relapses in Phase II, he or she must resume acupuncture until six consecutive clean UA's have been recorded. In order to move to Phase III, the participant must complete all 24 sessions and have at least the most recent five UA's negative.

In the third phase of treatment, the participant must attend two recovery groups per week and drug test twice per week. Groups are topic-oriented and sometimes led by a participant selected in advance. A licensed co-counselor is present to ensure that

treatment goals are addressed. Other available services include educational programs, employment training, couples groups, women's groups, Hispanic groups, and other ethnic and gender sensitive services. Weekly sessions are offered for family members or significant others to introduce them to their role in recovery. If a participant relapses in Phase III, he or she must resume "needling" until six consecutive clean UA's are recorded. In order to move on to Phase IV, a participant must complete a minimum of six months of treatment and have at least six months of successive clean UA's.

According to the program's descriptive materials, Phase IV is designed to provide participants with the tools, time, and assistance required for long-term sobriety. Participants must attend at least one process group per week and submit to one drug test per week. Groups are less structured and focus on specific personal issues. Choices staff believe that the group process is critically important as participants begin to move away from the tight control of the court and start to lay the foundation and support system for a healthy, drug-free lifestyle. The participant must also complete a graduation project which includes an aftercare plan, relapse prevention plan, personal goals and objectives plan, present prevention program, and another pre-approved project.

Participants must meet a variety of criteria before graduating from the program. First, any missed sessions must be made up. Second, all financial obligations must be fulfilled. Third, an individual pre-graduation conference must be completed. Last, the participant must be "clean" for a minimum of three months and have no unexcused absences within three months. Participants are expected to be employed or in an educational or vocational program prior to graduation.



Graduates of the Clark County Drug Court operate an Alumni Association that meets weekly. A Choices staff member acts as a liaison and ensures that the group remains healthy and supportive. The association seeks to provide a clean social environment for graduates as well as an outlet for service opportunities. As part of a continuing aftercare service, any graduate may return to Choices Unlimited for acupuncture, to attend groups, or to receive any type of counseling at no cost.

Each participant is required to pay program fees at a weekly rate set by the judge. Fees are set based on the participant's financial status and are paid directly to the county clerk, who has a representative in court. Payment records are reported to the judge as part of the progress report, and although a participant cannot be terminated for non-payment, all fees must be paid prior to final disposition of the case.

The Drug Court uses a range of sanctions to address noncompliance with program rules. One group of sanctions directly involves the treatment regimen and includes increased and/or observed drug testing, acupuncture (as part of a relapse), increased participation in individual and/or group counseling, and commitment to residential treatment. Other sanctions more directly involve the court, such as stern in-court reprimands by the judge, more frequent status reviews and incarceration.

Alternatively, the Drug Court uses a range of incentives to promote and reward positive behavior, including phase advancement, fewer drug tests, unobserved drug tests, certificates, T-shirts, key chains, and participation in a "mentor" program. Other incentives are more directly related to the courtroom experience, such as judicial praise, lower fees, less frequent court reviews, graduation, and reduction or dismissal of criminal charges.

## Special Features of the Clark County Drug Court Program

### Stability

It is perhaps odd to characterize an innovation that has struggled for resources over its period of existence as stable. However, in several important ways, the Clark County Drug Court has proven to be one of the more stable operating drug courts in the nation. First, the judge who founded the Drug Court in 1992 is still presiding over it. He has been central in all developments, changes and efforts to secure resources for its operation. He has personally presided over the Drug Court experiences of many thousands of participants. In fact, as our participant focus groups in Las Vegas demonstrated, participants identify Drug Court with Judge Lehman. In short, his role and leadership have provided a remarkable consistency in application over eight years. In addition, the Drug Court continues to be served by the original treatment provider, Choices Unlimited, which, like the Multnomah County Drug Court's provider, has been designed, evolved and adapted entirely in response to the needs of the Drug Court. In fact, the treatment provider has provided impetus for enhancing the treatment regimen of the Drug Court and for securing needed funding to support treatment services. Just as participants identify the Drug Court with Judge Lehman, they also have consistency in approach from the Court's single treatment provider. The Defender's Office has also been consistent in its support of the Drug Court function, with dedicated attorneys who have served long periods in the Drug Court. The prosecutor supported the Drug Court, although changes in emphasis and personnel have occurred with changes in administration.

### Modification and Expansion of the Program

Although the Clark County Drug Court is one of the nation's oldest and longest-running drug courts, it has not simply followed its original model into an unchanging routine. Rather, it has adapted, expanded and evolved, and stimulated system change in other parts of the court system. Originally, most participants were defendants who entered the Drug Court in a diversionary status (or "provisional plea" status), adapted from the Miami model. In the mid-1990s, increasing numbers of participants entered the Court in a post-conviction status, through entry of a plea in exchange for probation or reduced charges. This shift to post-conviction categories of participants has allowed the inclusion of some offenders whose charges were "drug-related," rather than just drug offenses. In 1997, for example, 18 percent of the participants had lead charges involving burglary, up from one percent in 1993. The original core Drug Court has sparked "spin-off" drug court innovation in justice court, juvenile court, family court and, especially challenging, in rural jurisdictions in Clark County more than 100 miles from Las Vegas. The volume of cases entering Drug Court has grown so much that Judge Lehman presides over calendars averaging 200 participants per session and the Court has added sessions to keep up with the volume, including an evening session on Wednesdays for participants who are working. In fact, as a result of this growth, the Drug Court is considering expanding to full-time, five days per week (in addition to the evening session), beginning January 2000, while adding a major Justice Court component.

### Treatment

Partly because of its uninterrupted relationship with the Drug Court over time, the Clark County treatment provider has had the opportunity of evolving with the Court's

needs and has offered a resource that many other drug courts have probably not had. Over time, Choices Unlimited has had to adapt to change and to consider ways to expand services to the Drug Court population as the innovation developed and the treatment population changed (from diversion to post-conviction, from adult urban to adult rural, to family and juvenile courts). For example, as the number of women whose drug offenses were somehow associated with the gaming industry appeared to increase (either because they were employees or were involved with drugs, prostitution or other crime occurring in proximity of casinos), Choices held focus groups with women in treatment to try to determine how their special needs could be addressed.

Like its Multnomah County counterpart, Choices Unlimited has provided basic treatment services similar to those seen under the original drug court model focusing on the close connection between outpatient treatment, frequent random drug testing, counseling, acupuncture and the reinforcing presence of the Drug Court judge. The treatment philosophy emphasizes outpatient services, treating participants in the settings in which they find themselves, and relying on the lessons of accountability provided by the treatment structure itself and the Drug Court process. In the focus groups of the Clark County Drug Court participants, the requirement for acupuncture during Phase I and during any relapse and the drug-testing regimen were described as essential ingredients in a treatment process that provided structure and accountability. Failing to do "needling" and failing to drug test are treated by the judge as serious infractions that could lead to sanctions. In short, the Clark County approach remained fairly close to the original Miami model initially, but has grown and adapted over time.

A special feature of the Clark County Drug Court treatment process has been its open invitation to participants' significant others to enter the treatment process, so that participants do not return home at night to a setting in which close friends or family members are continuing to be involved with drugs. Once in the program, significant others are provided treatment as full program members.

In 1997 and 1998, the Drug Court planning group continued to develop and consider methods for improving its overall effectiveness. In April 1997, Clark County officials began their review of the CADI Drug Court case management system. In January 1998, Clark County hired a Drug Court Manager, whose responsibilities include improving coordination of information and services, serving as a liaison between the adult and juvenile drug courts, developing new funding opportunities, and grant writing. In October 1998, the Drug Court changed one of its basic policies to extend the length of time a participant must be clean and sober to graduate, from 3 months to 6 months.

#### Participant Fees

Drug Court participants in Clark County must pay weekly fees toward their treatment costs. Fees are assigned by the judge on a sliding scale (adjusted in consideration of the participants' ability to pay and ranging from \$10 to \$40 per week for participants who are in advanced stages of the process and who are employed. The judge insists on payment in court and sanctions participants who fall too far behind. Final disposition of the criminal case may be delayed until all fees are paid. There are several reasons for the emphasis on fees. One quite simply is that the fees are needed to help defray the costs of treatment. The other, more philosophical reasons are that paying for services provides a lesson in responsibility and that persons are apt to make better use of

**Figure 6 Milestones in the Development of the Clark County Drug Court,  
1990 – 1999**

**1990**

**June** - Judge Lehman becomes Chief Judge.

**July** - Judge Lehman hears presentation about Dade County Drug Court by Judge Goldstein and Timothy Murray.

**1991**

**August** - Clark County officials visit Dade County Drug Court.

**September** - Sub-committee established under direction of Judge Lehman to begin preparations for the Drug Court.

**1992**

**March** - Judge Lehman visits Multnomah County (STOP) Drug Court in Portland, OR.

**July** - DUI and traffic schools begin operation in Clark County, generating funds for Drug Court.

**September** - Contract negotiated and approved with treatment provider, *Choices Unlimited*.

**October** - Drug Court begins, funded through County DUI and traffic schools.

**1993**

**November** - First Drug Court graduate.

**1995**

**June 26** - Nevada Governor signs bill to appropriate \$250,000 for Clark County Drug Court.

**July 18** - Clark County Board of Commissioners ratifies grant application to Drug Court Improvement and Enhancement Program for \$814,681, with \$271,561 in local non-matching funds.

**October** - New legislation reduces penalties for certain drug offenses, formerly receiving prison, including automatic probation for simple possession convictions.

**1996**

**April 16** - Clark County Board of Commissioners approves additional annual funding for *Choices Unlimited* from \$440,000 to \$852,000. Additional funds are used to expand current adult services and include juvenile substance abuse offenders.

**July 1** - Choices begins financial screening of all new juvenile and CPS drug court clients.

**August** - Clark County Drug Court is selected as a site for the joint DCPO / NIJ national drug court evaluation.

**September 30** - Clark County's grant application to Drug Court Improvement and Enhancement Program is approved for \$699,816.

**1997**

**April 28** - CADI Drug Court Case management system is presented to Clark County officials.

**July** - Client fees for adults at Choices are increased (\$1500 adult; \$725 juvenile).

**1998**

**January** - Drug Court Manager is hired.

**February** - Drug Court begins in Moapa Valley – Mesquite.

**March** - Drug Court begins in Laughlin.

**October** - Court changes rules on how long client must be clean to graduate (from 3 to 6 months).

**1999**

**January** - Judge Gaston becomes Juvenile Drug Court Judge and begins review and modification of the Juvenile Drug Court.

the services that they pay for. The judge can be heard in court lecturing a participant who has recently tested positively for drugs, but cannot seem to pay the weekly fees, explaining that the excuse of not having money to pay treatment fees is unconvincing if the participant can somehow afford to buy drugs.

### Implementation Highlights

Implementation highlights or milestones associated with the development of the Clark County Drug Court are summarized above in Figure 6.

### Funding

In November 1993, thirteen months after opening, the Clark County Drug Court graduated its first participant. Choices Unlimited has been the sole treatment provider for the Clark County Drug Court since its inception, although the contract between the County and Choices has been modified several times, mostly due to increased costs of treatment and expansion of services. Nearly a year after the initial contract with Choices Unlimited was agreed upon, the Clark County Board of Commissioners approved an amendment that increased participant fees (\$800 to \$1,000), urinalysis costs (\$1.25 to \$1.50), and credit reimbursement amounts (\$50 to \$62.50). In September 1994, the Board approved increased funding to Choices Unlimited from \$400,000 to \$440,000 per year, and in April 1996 funding was nearly doubled to \$852,000, as the program continued to expand adult treatment services and added a capacity to treat juvenile offenders involved in substance abuse. In July of 1996 Choices began screening and treating participants from Family Court, with a dual emphasis on the juvenile drug court and a dependency and neglect drug court. In July 1997 participant fees for both adults and juveniles were increased, in part to fund unlimited urinalysis testing.

To supplement its local funding, the Clark County Drug Court has obtained grants for additional funding. In May 1995, the Clark County Board of Commissioners funded the District Attorney's Office (\$154,899) to support staffing in the Drug Court. A month later, the Governor of Nevada signed a bill appropriating \$250,000 for the Drug Court. In September 1996, the Drug Court received a Drug Court Improvement and Enhancement grant (\$699,816 with \$237,863 local match). The additional funding was used to add approximately 400 new participants, to expand daycare, transportation, job placement, and GED education services, and to add four new positions (an attorney and legal office specialist for the Public Defender's office, a courtroom clerk and financial specialist for the Clerk's office). Finally, although no additional funding was made available to the program, the Clark County Drug Court was selected as a site for the joint Drug Court Program Office/National Institute of Justice National Drug Court Evaluation (I) in August 1996.

#### Changes in Target Population and Case Processing

The types of defendants targeted by the Drug Court changed from the initial emphasis on first time felony defendants charged with being under the influence or possession of a controlled substance beginning in 1995. Federal funding for drug courts through the Drug Court Program Office of the Department of Justice, prohibited grantees to use funds for offenders convicted of violent offenses. By the end of 1996, the Clark County Drug Court began to use funds received through the Drug Court Enhancement grant, which meant making certain that such funding was not used to pay for excluded categories of offenders.



In July 1995, the Nevada legislature passed a law that reduced the penalties associated with certain categories of drug offenses. In particular, the legislation prohibited jail time for felony possession of a controlled substance (for first and second offenses), hitherto the Drug Court's most common qualifying offense. The new law, generally ensuring probation as the typical sentence in these cases, provided an incentive for the prosecutor to support Drug Court because of the view that it offered more intensive supervision than regular probation. At the same time, removed of the threat of a jail sentence, it may have reduced the incentive for defendants to choose the drug court path. In January 1994 a new District Attorney took office at a time when Drug Court officials were considering broadening eligibility criteria to allow admission of defendants with more extensive prior histories and those from later stages of processing. The new District Attorney favored expanding the target population to include those pleading guilty who would participate in the Drug Court as convicted offenders. Successful participation in these cases would not result in withdrawal of the plea and dismissal of charges. In many cases, defendants who successfully completed the program would be convicted on lesser charges, usually misdemeanors. Other convicted participants received Drug Court as part of their probation. By 1997, a shift to convicted offenders as the dominant group of participants entering Drug Court was evident.

With this general shift in mode of entry (conviction on guilty plea), there also was an expansion of the types of charges that were allowed into Drug Court. In 1993, nearly three-quarters of the participants entering drug court were charged with either possession or being under the influence of a controlled substance. By 1997, just over one third (38 percent) of drug court participants in this study were charged with possession or being

under the influence; instead, charges involving distribution, possession with intent to sell, and non-drug related offenses became more prevalent. By 1997, over one-third of the cases in Drug Court did not involve drug charges, reflecting an increasing participation of offenders charged with drug-related property crimes (burglary, theft, etc.).

#### Expansion of the Drug Court Concept in Clark County

The original drug court model in Clark County stimulated several "spin-off" innovations in different court settings designed to address drug-involved offenders in the various other court systems. In March 1995 the Clark County Juvenile Court was established seeking to adapt the principles of adult drug court to the juvenile court setting where increasing numbers of juveniles facing adjudication for delinquency appeared to be drug-involved. The Juvenile Drug Court has evolved rapidly, undergoing an in-depth transformation. Under the recent direction of Judge Robert Gaston, presiding family court judge, linking juvenile drug treatment to school, family and peers, with special linkages to community organizations such as the Boys and Girls Clubs of America. Family Drug Court was developed during roughly the same period to deal with family members for whom substance abuse was a critical issue in dependency and neglect proceedings.

It is true that most of the participants of the Clark County Drug Court in District Court reside in and around Las Vegas (the Drug Court is often referred to as the "Las Vegas Drug Court"). However, the Eighth Judicial District has jurisdiction in felony matters for all of Clark County, a very large area encompassing Henderson, North Las Vegas, Boulder City, Laughlin, and Moapa Valley and including remote rural, desert and resort communities. Over time, the adult drug court in Las Vegas had experience with

persons arrested in Las Vegas but residing in more remote Clark County locations (and the logistical difficulties posed for those persons in traveling to treatment in Las Vegas). In addition, Municipal and Justice Courts in other Clark County locations served as feeder courts to the District Court in Las Vegas in felony matters. Whether arrested in a remote location (for adjudication in Las Vegas in the District Court), or arrested in Las Vegas but residing elsewhere, it became clear that some participants had to travel up to 250 miles per day to attend treatment, an obstacle likely to discourage successful completion of the program.

With a small amount of funding through the Bureau of Justice Assistance's Open Solicitation, the Clark County planners developed a "circuit" drug court which began operation in February 1998. This approach takes advantage of the fact that the prosecutor and defender in Las Vegas are responsible for staffing courts in the rural locations in Clark County and makes available a drug court mechanism and treatment resources adapted to the needs of several key rural locations. With treatment offices in Moapa and Laughlin, rural drug courts operate on alternating weeks in Laughlin and in Moapa for the Mesquite Valley communities of Mesquite, Glendale, Logandale, Bunkerville, Overton, and Moapa. Choices Unlimited expanded treatment services including drug testing, group counseling and acupuncture, in Mesquite, Overton and Moapa, as well as in Laughlin. Because further funding has not been identified, treatment in Maopa may be discontinued in the near future. At the time of this report, the Clark County Drug Court officials are planning implementation of a Re-entry Drug Court which, in partnership with a sister court in Reno, will supervise state prison inmates released early to Drug Court supervision.



## **VI. Enrolling the Target Populations in the Multnomah and Clark County Drug Courts**

One of the dimensions of the drug court typology focuses on the identification and enrollment of candidates into a jurisdiction's drug court. Once a target population has been defined for a drug court, an important evaluation question is to consider how well the drug court enrolls or reaches its target population (how well it "hits" its target). Analyses of comparative outcomes makes little sense if the program has not been well-implemented, if in fact only a small portion of the intended population has been engaged in drug court treatment. This section considers measures the extent to which the studied drug courts have enrolled their target populations.

### **The Multnomah County Drug Court**

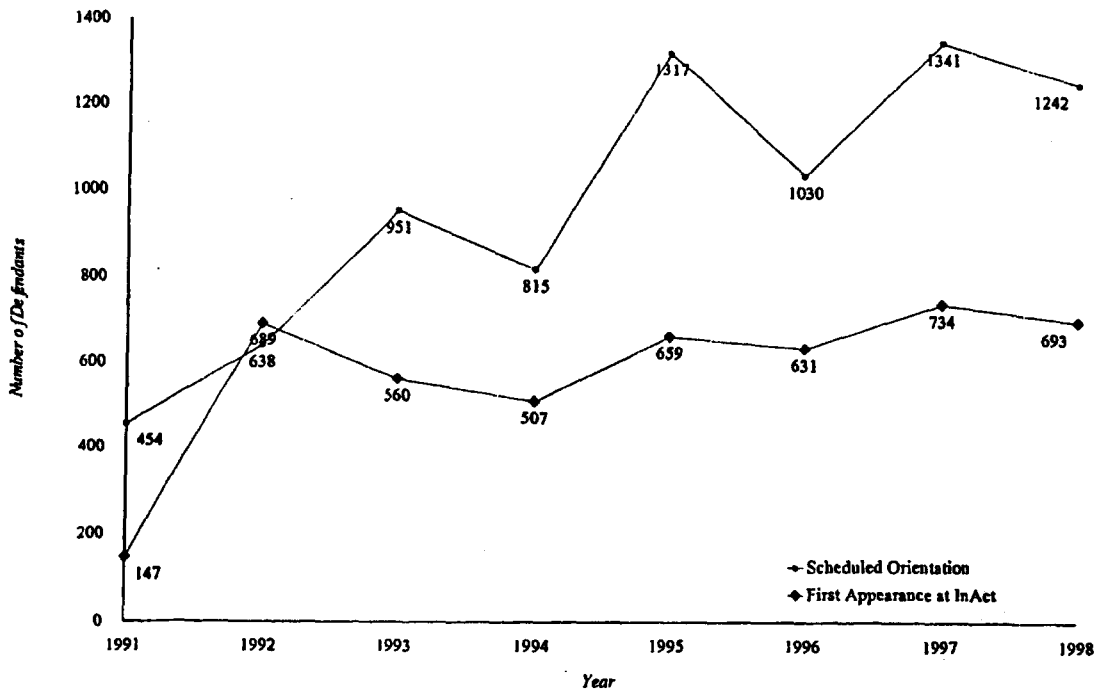
#### **Reaching the Target: Enrollment of Candidates**

Figure 7 exhibits data representing the identification and enrollment of candidates at the early stages of processing for Drug Court eligibility in Multnomah County. As noted above, all eligible felony drug cases are processed centrally after arrest and are ordered to attend Drug Court orientation at the Metropolitan Defender's Office, regardless of whether they later chose to participate in the program. Thus, all defendants (cases in this figure) scheduled for orientation serve as a good measure of potentially eligible Drug Court participants. The pool of potentially eligible candidates entering the court system continued to grow from the inception of the program. Figure 7 shows that scheduled orientations increased from 454 in 1991 to 638 in 1992, then again substantially increased throughout the rest of the observation period with the exception of

several notable drops (in 1994 and 1996). From 1995 through 1998, well over one thousand cases were scheduled for Defender orientation each year.

In contrast with the identification of a pool of potential candidates represented by scheduled orientations, Figure 7 also displays actual Drug Court enrollments, including defendants who attended the petition hearing and at least a first treatment appointment at InAct, Inc. Actual enrollments showed a large initial increase from 147 in 1991 (at program start-up in August) to just under 700 in 1992, then dropped in 1993 and 1994, to be followed by an increase again in 1995, until reaching more than 700 in 1997 and just under 700 in 1998.

Figure 7 Enrolling the Target Population: Scheduled Orientations and Enrollment of Candidates in the Multnomah County Drug Court, 1991 - 1998



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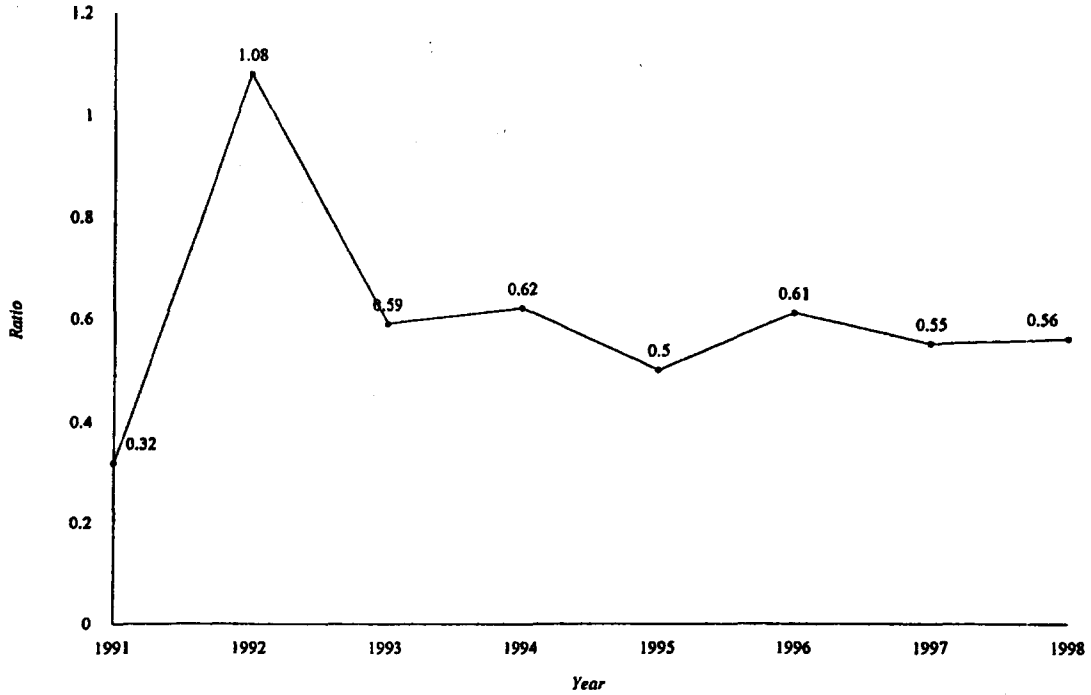
Figure 8 shows the ratio of candidates enrolled to felony drug defendants scheduled for Defender orientation. In the last half of 1991, for example, roughly one in

three (.32) scheduled for orientation enrolled in the Drug Court and attended treatment. The 1992 ratio of 1.08 is an artifact of the backlog of persons in treatment and entering treatment with the new provider after the temporary disruption of services. (In other words, it appears that more entered Drug Court treatment than were identified as candidates for treatment because of the backlog of persons identified as candidates who were waiting for treatment to "reopen.") Thereafter, half or more (in 1993, 1994, 1996, 1997, and 1998) of all eligible felony drug defendants were enrolled in the drug court (the ratios of enrolled to scheduled for orientation exceeded .50.) This rate of enrollment of the roughly screened candidate pool appears quite high and is an indication that the screening process in Multnomah County was quite effective in encouraging defendants to voluntarily enter the Drug Court treatment process. What is perhaps more striking is that in Multnomah County this also means that the Drug Court was enrolling more than half of the felony drug cases (PCS level I and II) entering the court system, a rather remarkable level of diversion from the normal adjudication process.

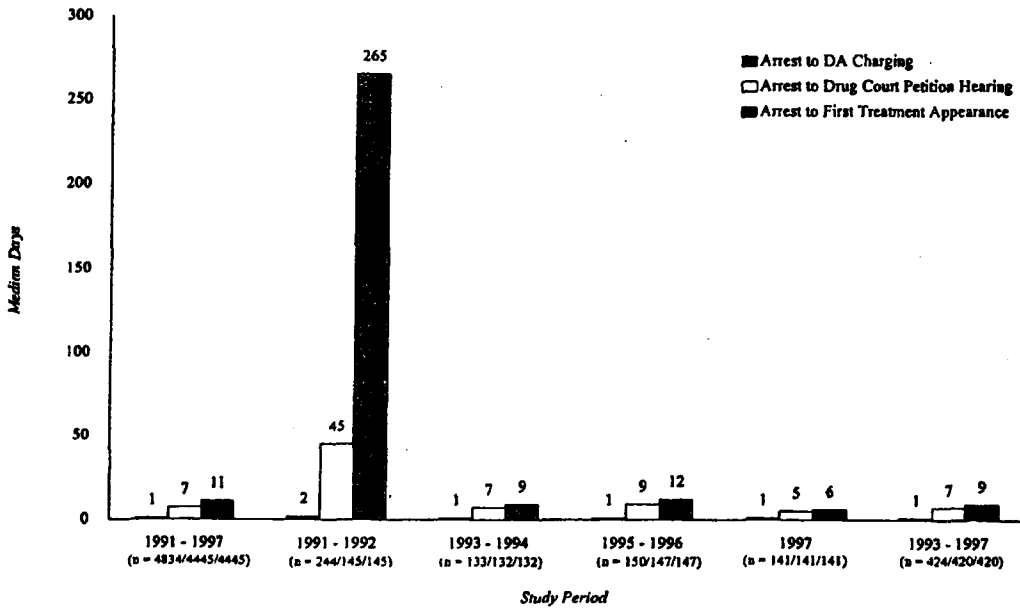
#### Enrollment Processing Time

Just as a drug court can be assessed on the extent to which it reaches its targeted population, it can be gauged on the timeliness of its intervention. In the original drug court model, "early" or "immediate" intervention was considered to be an important value. Arrest was considered a possibly valuable event during which an addict might "reach bottom" and be open to the idea of treatment (in the face of the penalties that could be exacted by the justice system upon conviction). Figure 9 displays the times from arrest to critical processing events in the Drug Court screening and enrollment

**Figure 8 Ratio of Enrolled Defendants to Defendants Attending Orientation by the Public Defender in the Multnomah County Drug Court, 1991 - 1998**



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**Figure 9 Time from Arrest to Drug Court Enrollment in Multnomah County, 1991 - 1997**



[Note: Data from 1991 - 1992 reflect delays associated with the disruption of changing to a new treatment provider.]

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process. The average (median) time from arrest to charging by the District Attorney was one day in all periods from 1991 through 1997, with the exception of 1991-1992 when the median was two days from arrest.

The time from arrest to the Drug Court petition hearing at which the defendant indicated his/her intention of entering Drug Court or going to trial in the normal fashion averaged (a median of) seven days. The median time to petition hearing was considerably longer during the 1991-1992 period (45 days) due to the disruption of the treatment process caused by the change from the first treatment provider to the current provider. It was shortest (with a median of 5 days) in 1997.

The median time from arrest to first treatment appointment was very long (265 days) in 1991-1992 because of the treatment start date reflects information of the "new" provider (InAct, Inc.). A large number of Drug Court participants may have entered the initial treatment program and made a good deal of progress prior to the disruption of treatment experienced when the court changed providers. Thus, the median time from arrest reflects the extended periods of treatment then delay that may have occurred for persons entering the process under the initial provider.

After 1991-1992, the median times from arrest to treatment are much shorter, nine days during 1993-94, 12 days during 1995-96, and six days in 1997. The longer time from arrest in the 1995-96 period may be explained by the implementation of the short-lived STOP II program introducing some probationers in the Drug Court population. Persons placed on probation and then entering Drug Court, of course, would have proceeded through the adjudication process well beyond arrest before entering treatment

at InAct, Inc. These individuals would have increased the average time from arrest to treatment because they reflected the addition of non-diversion cases to the court process.

#### Enrollments as a Portion of the Target Population

In the case of Multnomah County, the proportion of persons scheduled for orientation represents that part of the criminal caseload targeted by the Drug Court. Thus, the Drug Court enrolled half or more of the relevant felony drug caseload in its treatment process, with the remainder opting to have their cases adjudicated in the normal way. Enrollment of this portion of the caseload represents a sizeable impact on the processing of the drug caseload in the overall court system.

#### Enrollment as a Portion of Drug Court Workload Capacity

Another way to measure implementation effectiveness is to consider the extent to which the drug court has successfully enrolled candidates in light of its planned or actual operational capacity. This measure compares the extent of implementation to what the planners aims were relating to probable working capacity. Thus, if drug court planners anticipated setting in place a court that admits 500 persons annually to treatment, but enrolls only 100 of its targeted candidates, it would be operating at 20 percent of its workload capacity. Another court might reach and exceed its planned and actual capacity and struggle to manage its workload, having outgrown its operating capacity. The workload capacity might be expected to change significantly over time as candidates are more effectively screened and enrolled, or as resources and personnel are made available (or not). A measure of workload capacity provides important context with which assessment and outcome findings can meaningfully be viewed.

How a drug court conceives of capacity may vary considerably, however. As drug courts begin operation, their workload capacity goals may be more uncertain and flexible, greatly influenced by early experience as the theoretical model moves toward actual implementation. With no previous examples or prior experience to draw on, the earliest courts, including the Miami Drug Court, and the Multnomah and Clark County Drug Courts, were guided by informal capacity goals as they faced many unknowns. In Multnomah County, the notion of capacity was one that was tested through experience. That is the Court, the Defender, the District Attorney and the treatment provider gauged "capacity" by their initial experience, aiming to reach a sizeable population while managing within available funding and staff resources. Discussions with site officials suggest that informal goals were met or exceeded in practice, as enrollments reached from 500 to 700 participants. The Metropolitan Public Defender reports that the Drug Court advisory committee would like to more formally assess workload capacity at the current time to answer the question, "How large a caseload should the Drug Court handle?"

### **The Clark County Drug Court**

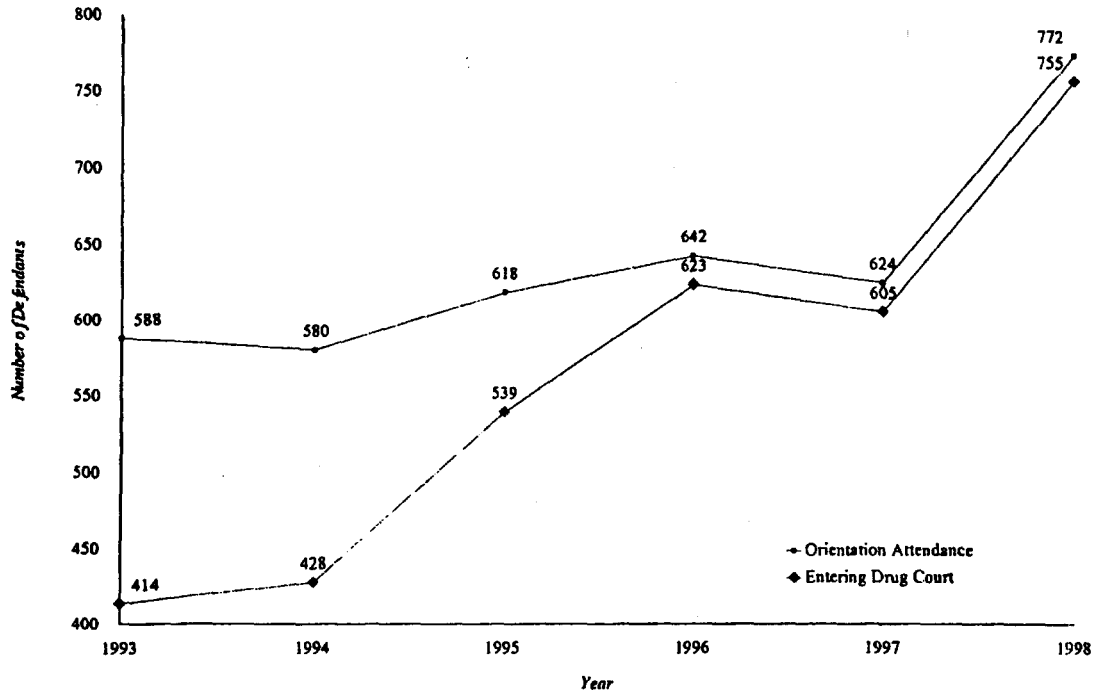
#### **Reaching the Target: Enrollment of Candidates**

The Clark County Drug Court began operating at the end of 1992. Figure 10 displays the numbers of candidates identified (attending orientation) and enrolled (attending treatment at least once) from 1993 through 1998. (Note that because of data availability the measure of "identification" employed in Clark County is actual attendance at orientation, in contrast to the "scheduled" orientations used in the analysis of Multnomah County targeting above). Defender orientations of felony drug defendant

candidates increased from an initial level of 588 in 1993 and 580 in 1994 to over six hundred thereafter, peaking at 642 in 1996 and settling to 624 in 1997. These levels were fairly stable from the beginning of the Drug Court's operation, increasing a maximum of 9 percent over the 1993 level. In 1998, however, orientation attendance jumped to 772 candidates, a 24 percent increase over 1997. Actual Drug Court enrollments increased much more dramatically during the same period, from 414 participants enrolled in 1993 to 623 in 1996 (a 51 percent increase). After a minor drop in enrollments to 605 in 1997, enrollments increased again to 755 in 1998 (an additional increase of 25 percent). The 1998 enrollments were at a level 82 percent higher than the 414 Drug Court participants enrolled in 1993. The Clark County Drug Court has grown substantially both in the initial identification of candidates (attending orientation at the Defenders) and in actual enrollments.

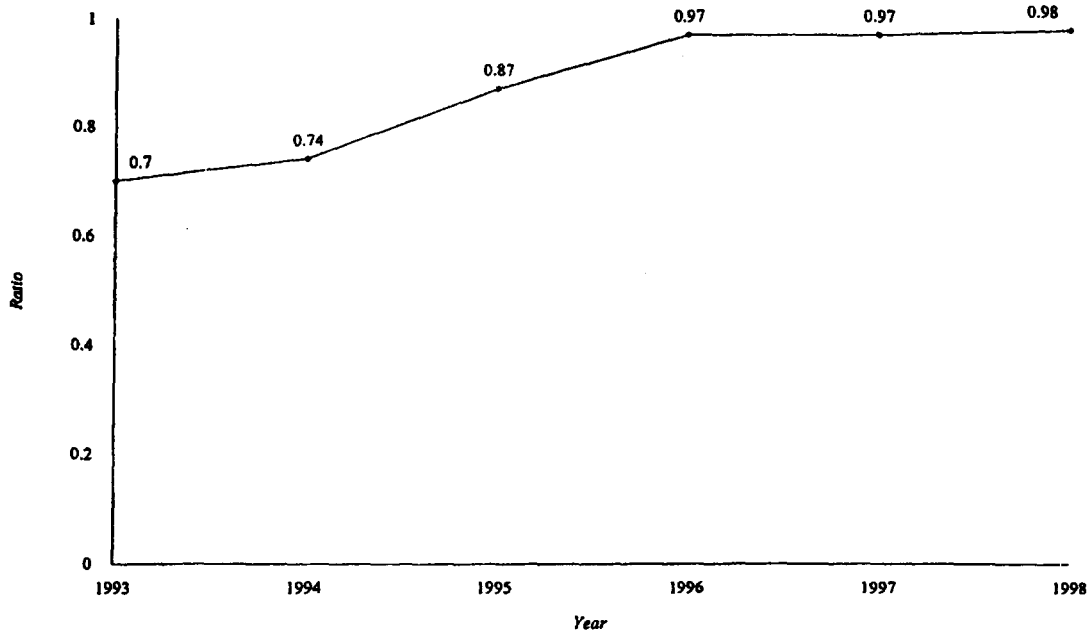
Figure 11 estimates the rate of enrollment of identified candidates as a ratio of persons attending treatment to persons attending orientation. In 1993 about seven candidates entered the drug court, for every ten "oriented" by the Defender. This ratio was similar in 1994 at .74, but then climbed dramatically to .87 in 1995, and .97 in 1996 and 1997 before peaking at .98 in 1998. We need to point out important differences in the measures of target population enrollment employed in the two sites. In Multnomah County, the denominator reflects all eligible drug cases that are ordered (scheduled) to attend Defender orientation, with the numerator representing those who formally entered Drug Court and attended at least the beginning of the treatment process. In Clark County, where the screening process is not as centralized (different categories of cases

**Figure 10 Enrolling the Target Population: Orientation Attendance and Enrollment of Candidates in the Clark County Drug Court, 1993 - 1998**



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**Figure 11 Ratio of Enrolled Defendants to Defendants Attending Public Defender Orientation in the Clark County Drug Court, 1993 - 1998**



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are accepted), the denominator reflects persons actually attending orientation. In Clark County, a larger proportion of those attending orientation would have already been interested in enrolling in the Drug Court and would represent a more concentrated group of favorably inclined candidates. Thus, a somewhat higher ratio of enrollments to orientees is expected.

Even in adjusting for these differences in the denominator (orientation attendees in Clark County as opposed to those scheduled for orientation in Multnomah County), the ratios of candidates enrolled to candidates "oriented" by the Defender appear to be quite high and may reflect efficient and improved targeting of candidates. In addition, it is likely that as the dominant mode of entry into the Clark County Drug Court shifted from front-end diversion-style enrollments to plea-based entrants into Drug Court, greater proportions of candidates would have been pre-screened as to need for treatment and willingness to enter Drug Court (as part of their plea arrangements). A larger proportion of persons attending orientation from arrest and/or from pretrial detention than of persons entering as part of a plea agreement would be likely to decline drug court participation.

#### Enrollment Processing Time

The lengths of time between arrest, orientation and first Drug Court appearance grew dramatically from 1993 through 1997. As we noted earlier, the Clark County Drug Court identified candidates and enrolled them in treatment at different stages of criminal processing, including shortly after arrest, from pretrial detention, and at plea negotiation. Figure 12 shows that overall, participants averaged 95 days from arrest to defender Drug Court orientation, 103 days from arrest to assessment by Choices, the treatment provider, and 117 days from arrest to first appearance in Drug Court to begin participation

formally. These overall median times for the years 1993-1997 mask a clear trend over time. In its start-up phase (1993) during which most participants were entering through diversion, participants averaged (a median of) 12 days from arrest to Defender orientation and 24 days to assessment and Drug Court. These median times climbed dramatically in each successive year. Figure 12 also shows that overall enrollment times changed over the years, from 1993 through 1997. Note that before 1995, the time from the arrest of candidates to their defender orientation was less than one month (with a median of 25 days), from arrest to assessment was 39 days, and arrest to first appearance in Drug Court was just over one month (40 days). The overall arrest to orientation time quintupled when the years 1995-1997 are examined, with the time to assessment from arrest more than tripling, and from arrest to Drug Court appearance nearly quadrupling.

One explanation for the lengthening of these screening time frames may be the increasing enrollment of persons through plea negotiations in more recent years. Figure 13 shows that the enrollment processing times for diversion (pre-plea) candidates was notably shorter than for defendants entering the court through a plea negotiation. Typically, plea-based enrollments involved persons awaiting adjudication of their charges for longer periods. Persons entering drug court pre-plea (through diversion) attended orientation a median of 74 days after arrest, compared to persons entering drug court through plea negotiations, who reached orientation in about 133 days after arrest. Pre-plea participants were assessed about 89 days after arrest, compared to a median of 137 days for plea participants. Pre-plea participants attended their first drug court session

Figure 12 Time from Arrest to Drug Court Enrollment in Clark County, 1993 - 1997

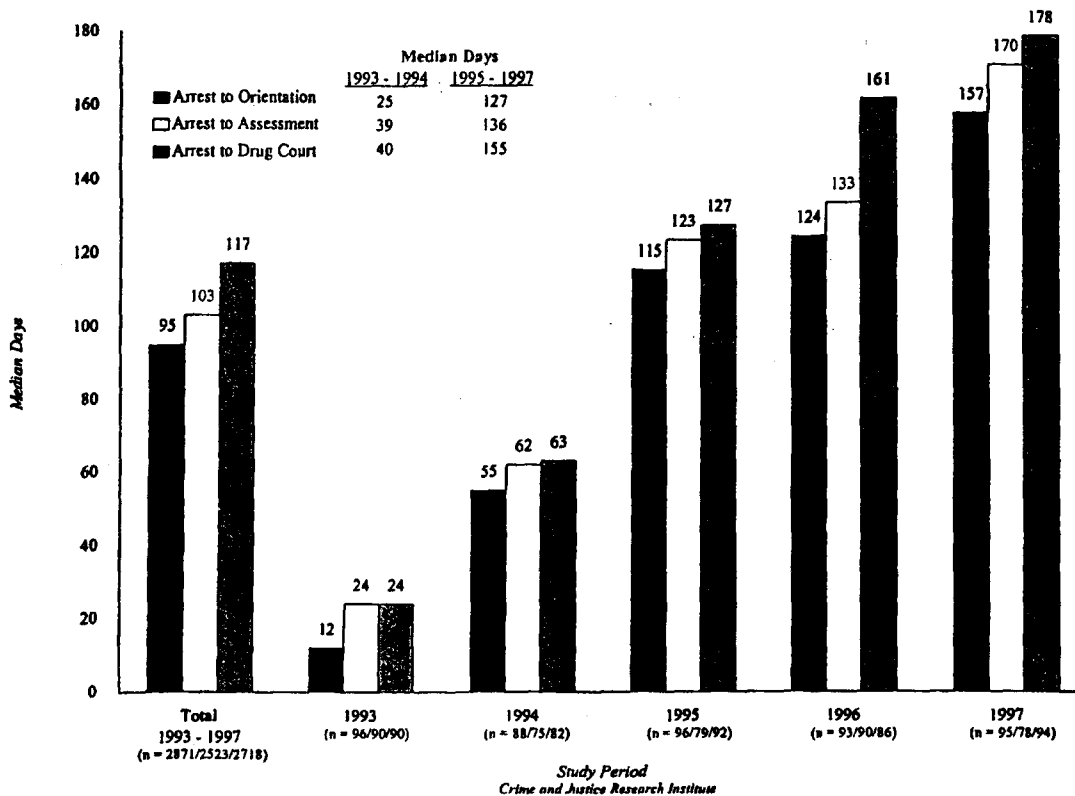
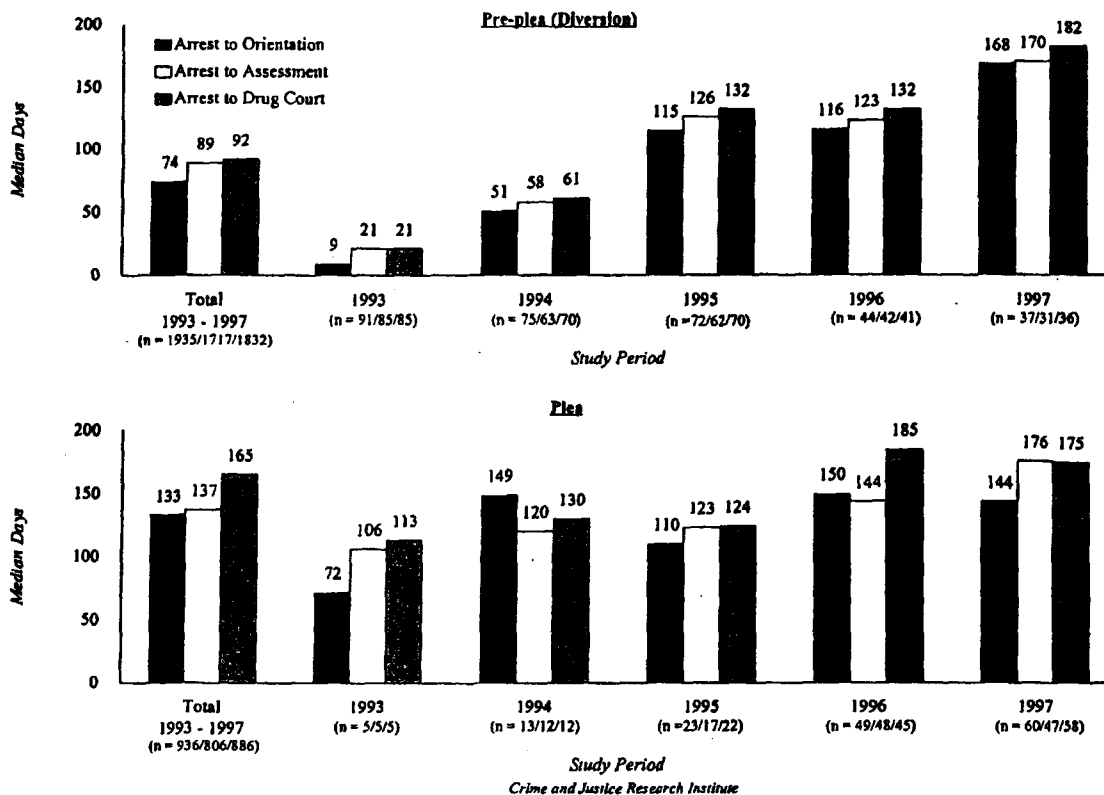


Figure 13 Time from Arrest to Drug Court Enrollment in Clark County, 1993 - 1997, by Pre-plea and Plea





about three months (92 days) after arrest, compared to more than five months (165 days) for plea-based participants. Although Figure 13 supports the interpretation that enrollment times increased over time in Clark County because of the increasing plea-based enrollments, it also shows that enrollment processing was lengthening over the years, particularly since 1995, regardless of type of enrollment.

#### Enrollments as a Portion of the Target Population

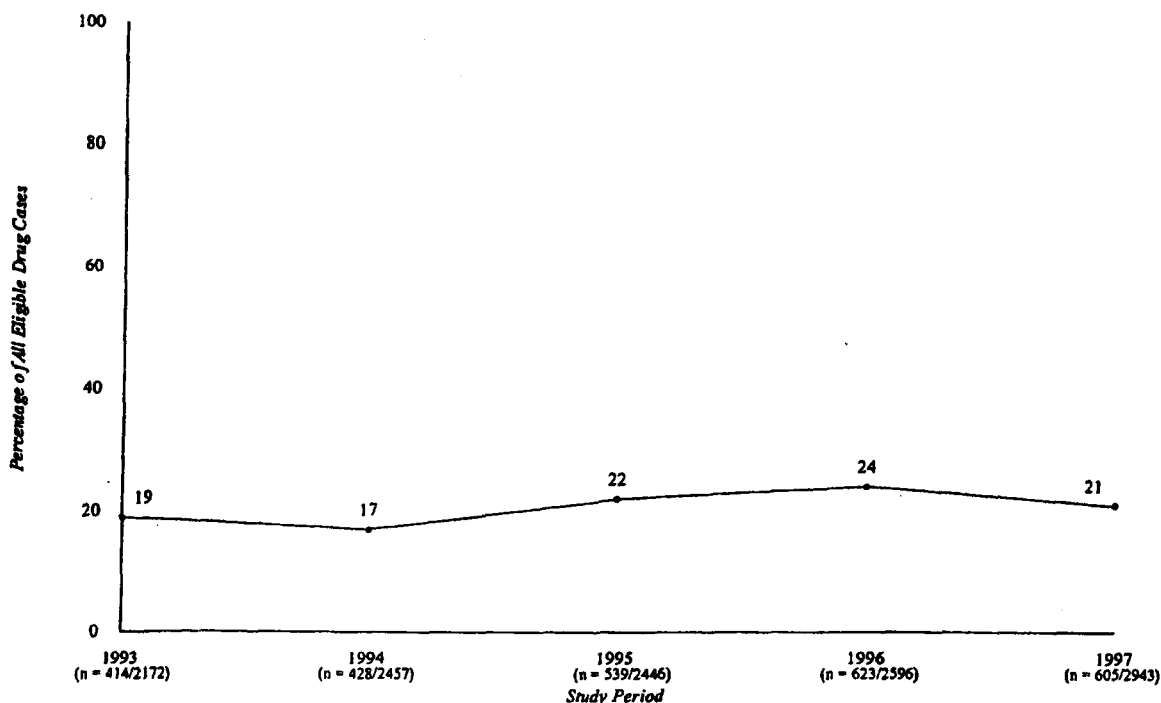
It is difficult to estimate the share of the potential target population reached by the Clark County Drug Court during the years studied. First, the potential target population would include a variety of drug and drug-related cases at the pretrial and post-plea stages. Secondly, there is no easily accessible measure of all persons conceivably eligible (based on charges, prior history and treatment need) in the District Court criminal caseload from 1993 through 1997. (We are confident, however, that the size of the target population would almost certainly exceed the court's capacity to process and treat individuals.) Figure 14 estimates in a rough sense that approximately about 20 percent of all persons charged with drug felonies during that period were enrolled in Drug Court. If these estimates are reasonable, they indicate that the Clark County Drug Court has encompassed and diverted from the normal adjudication process a very substantial portion of the felony drug caseload of the District Court.

#### Enrollment as a Portion of Drug Court Workload Capacity

In our discussion of the Multnomah County Drug Court above, we introduced one measure of implementation progress as the proportion of estimated workload capacity of the Drug Court reached. Although in an ideal sense, a drug court would hope to enroll (or at least screen) all of its target population, few drug courts would have the resources

or capacity to handle an unlimited target population. In fact, in the planning process, drug courts try to anticipate what a reasonable workload might be from a practical perspective. Although we do not have a good, standard measure of a drug court's capacity, a useful implementation measure would be to ascertain how close the drug court has come to its workload capacity, which is determined by a variety of resource availability factors, from treatment funding and "slots," to allocation of agency and judicial personnel, to courtroom availability, etc. In setting goals for the Clark County Drug Court, Judge Lehman ambitiously sought to serve about 1,000 participants per year. The yearly enrollment figures shown in Figure 10 above suggest that as admissions have recently exceeded 700 participants (and with most participants taking longer than the minimum twelve months to graduate) that the active participant caseload has easily and early on exceeded 1,000 persons.

Figure 14 Drug Court Enrollments as a Portion of all Eligible Drug Cases in Clark County, 1993 - 1997



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## VII. Key Factors Influencing Enrollment Trends

In this section, we look at the evolution of the two drug courts in a descriptive sense and examine their growth in the context of external factors and events. Analysis of significant changes in the external environments surrounding the developing court innovations provides a frame of reference for—or partly explains—the findings produced in the “normal” analysis of impact and outcomes carried out in the larger research.

To establish an “historical” frame of reference for our empirical study, we began by recreating the developmental history of the two drug courts through review of available documentation and interviews with key site officials. This process resulted in the lists of key events or milestones in their formation and implementation portrayed in sections IV and V above. At the same time, we sought to identify outside factors or events that may have influenced the growth or functioning of the two courts. In this analysis, we attempt to measure the impact of outside events on the identification and enrollment of drug court candidates, which in both jurisdictions principally—or at least initially—involved felony drug defendants (not dealers). As the preceding analyses illustrate, measurement of enrollment is critical in the evaluation of drug courts because it represents an indication of the extent to which the courts are reaching their intended target populations (to which they are “hitting” their targets) and, as a result, implementing the drug court innovation. Understanding trends in enrollment is important also because they reflect the “lifeblood” of the Drug Court, the all-critical input that affects all later stages of program functioning.

Enrollment is measured in two stages in each site: 1) an initial stage when drug defendants are sent to the Public Defender’s Office for orientation about the workings of

the drug courts and the implications of participation; and 2) a subsequent stage when defendants have attended court and a first treatment session to formally begin the drug court process.

Analysis in this section considers this critical first stage in drug court functioning, enrolling candidates, as the dependent measure and asks whether particular outside factors or events may have explained changes in trends in enrollments and admissions using interrupted time series analysis (ARIMA).

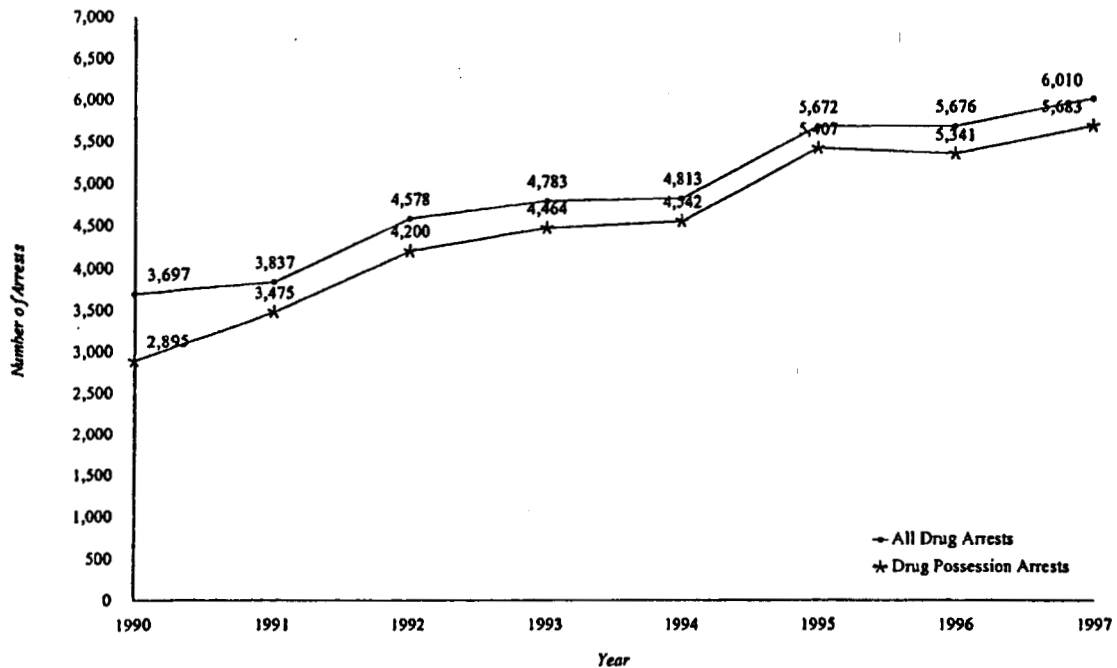
### **The Impact of Key External Events on Identification of Candidates and Enrollments in Multnomah County**

#### **Patterns in Drug Arrests in Multnomah County during the Study Period**

In setting the stage for analyzing the possible impact of external events in shaping the enrollments of the Multnomah County Drug Court, we first reviewed patterns in drug arrests in the jurisdiction during the study period. The generation of arrests by law enforcement activities, after all, provides the volume of incoming arrestees from which Drug Court candidates and enrollees will be identified. If we found, for example, that Drug Court enrollments mostly mirrored arrest trends, then there would be little reason to conclude that other events exercised much of an impact, but that, rather, trends in drug court admissions were simply law enforcement driven.

Figure 15 displays the trends in drug arrests for Multnomah County from 1990 to 1997. Drug arrests in the jurisdiction increased steadily over time, from 3,697 in 1990 to nearly 5,700 in 1995. They remained stable in 1996 before peaking at over 6,000 in 1997, reaching a 63 percent increase from 1990. Arrests for drug possession specifically followed a similar pattern, increasing from 2,895 in 1990 to nearly 5,700 in 1997, an overall increase of 96 percent.

Figure 15 Trends in Arrest for Drug Offenses in Multnomah County, Oregon, 1990 - 1997



[Note: Arrest statistics were provided by the Criminal Justice Information Services Division, Federal Bureau of Investigation (FBI).]

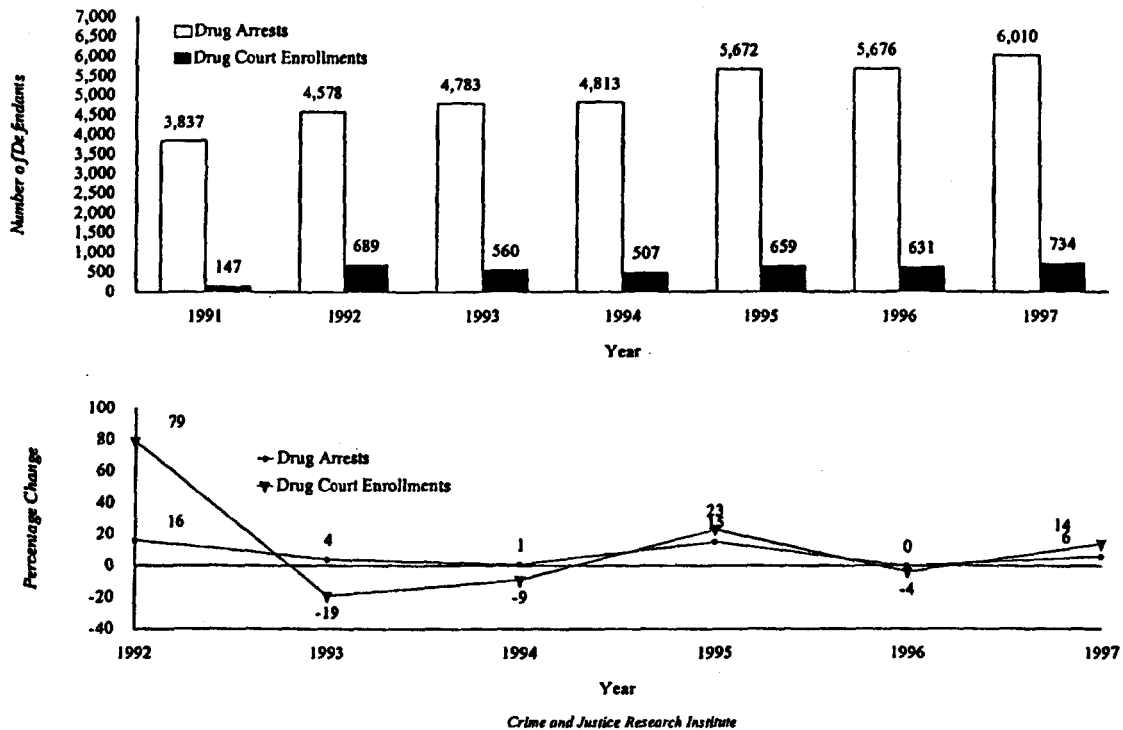
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Figure 16 juxtaposes trends in drug arrests and in Multnomah County Drug Court enrollments over time. The top section of the figure shows annual totals of both measures, while the bottom portion illustrates the percent change in numbers each year. Presumably, if drug arrest patterns exert influence on the flow of cases into the Drug Court, then similarities and changes over time in arrests would be parallel (and lead) those in Drug Court enrollments. This figure suggests a rough but loose correspondence between drug arrests and drug court enrollments, not the closely linked connection one might expect if enrollments were directly responsive to arrests. Drug arrests increased slightly each year, from zero to six percent, although 1992 and 1995 showed fairly substantial increases (16 percent and 15 percent, in the respective years).

Annual changes in Drug Court enrollments were quite different, particularly in the early 1990s. Following a substantial increase in 1992 (recall that the program did not

begin until August 1991), Drug Court enrollments dropped off in 1993 and 1994, by 19 percent and 9 percent, respectively. These sizeable decreases in Drug Court enrollments occurred at a time when drug arrests were fairly stable, increasing less than 5 percent each year. From 1995 through 1997, the changes in drug arrests and Drug Court enrollments seem more consistent, suggesting a potential correspondence during a high-volume period: 1995 saw marked increases in both drug arrests and Drug Court enrollments (23 percent and 15 percent, respectively), while in 1996 each remained relatively unchanged (no change in arrests; enrollments dropped by four percent). Finally, drug arrests and Drug Court enrollments both increased in 1997.

Figure 16 Comparison of Charges in Arrests for Drug Offenses and Enrollment of Drug Court Participants in Multnomah County, 1991 - 1997



This analysis of the relationship between arrest patterns and Drug Court enrollments in Multnomah County suggests that, except in 1996 and 1997 when the high volume of drug arrests may have exerted pressures on Drug Court enrollments, it does

not appear that patterns in Drug Court enrollments are principally driven by patterns in arrests.

### The Impact of Key Events

Figure 17 simply summarizes key events targeted for interrupted time series analysis in Multnomah County, including the creation of drug-free zones, the enactment of both state and Federal managed health care reform, change in drug court leadership, legislation mandating that inmates serving sentences of one year or less would be served locally, and introduction of the District Attorney's X-Plea program allowing probation in exchange for expedited guilty pleas for defendants who were also eligible for Drug Court. Figure 18 superimposes these chronological events on the graph of annual enrollment trends in Multnomah County from 1991 to 1998. (Note that the ARIMA analysis is actually based on monthly totals, which are not presented in graphic form here for the purposes of clarity. Refer to Appendix D.)

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**Figure 17 Key Events Targeted for Interrupted Time Series Analysis  
with the Identification and Enrollment of Drug Court Participants  
in Multnomah County**

Creation of drug-free zones (DFZ) – February 1992

Portland City Council demarcated sections of town that experience elevated rates of drug activity. Persons arrested and convicted of certain drug offenses are prohibited from entering DFZ's for set periods of time.

State and Federal Managed Health Care Reform – May 1995, August 1996

Managed care reform resulted in changes in how STOP's treatment provider could bill for services, as well as whom they could bill. InAct was forced to develop reimbursement arrangements with managed care insurance companies.

Change in Judicial Leadership / Policies – January 1996

Court leadership assigned a non-judge referee to preside over the drug court. The referee changed many of the program's rules, removing much of its leniency and tolerance and making it more restrictive.

Senate Bill 1145 – January 1997

The Oregon state legislature passed a law that stated any offender receiving state prison time of one year or less could serve that time locally.

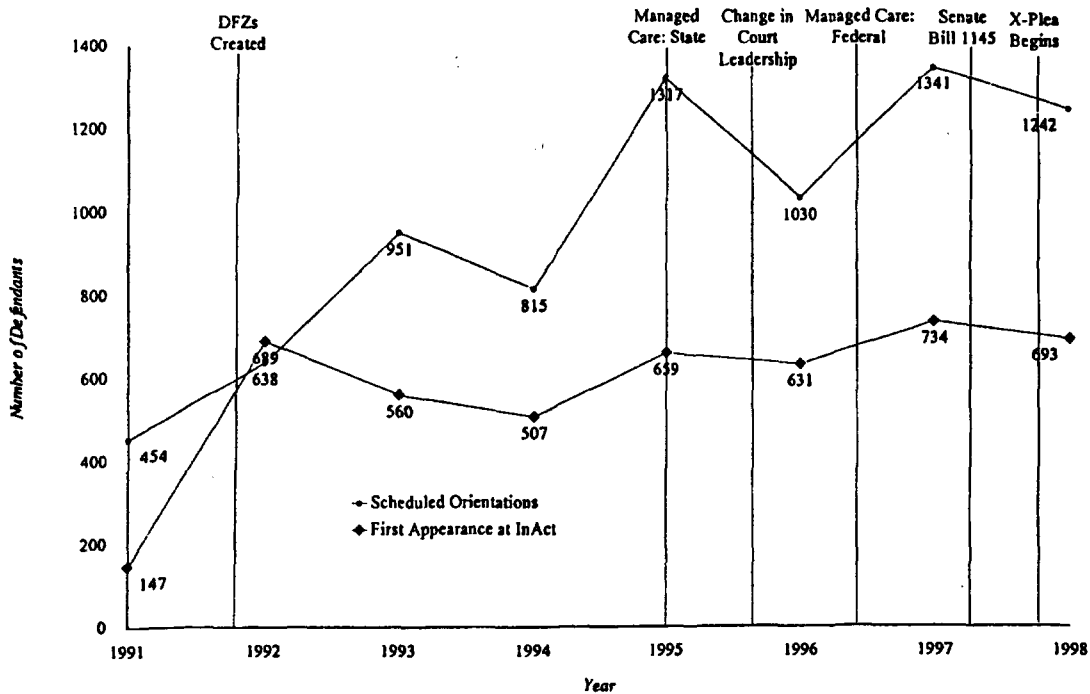
Expedited Plea Program (X-Plea) – July 1997

The X-Plea program was created by the District Attorney's office to help move the large number of drug cases through the system. X-Plea competed with STOP for the same categories of cases and offered an easier disposition.

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Figure 18 Enrolling the Target Population: Scheduled Orientations and Enrollment of Candidates in the Multnomah County Drug Court, 1991 - 1998



[Note: Vertical lines representing key events are not intended to mark exact dates but rather to illustrate the time of the intervention.]

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The first stage of interrupted time series analysis seeks to identify a descriptive statistical model that represents the trends in enrollments in the Multnomah County Drug Court (as measured by attendance of the petition hearing and at least the initial treatment appointment) from 1991 through 1998 sufficiently well. Figure D.2 shows that there was a large spike in monthly Drug Court enrollments in September 1992. This spike was explained by the shift in old cases to the new treatment provider after a brief interruption in services (thus, the new provider enrolled a backlog of nearly 300 participants, rather than showing gradual enrollments). Because this peak is so particular in its explanation and “disturbs” model identification in a misleading way, the time series analysis for Drug

Court enrollments drops that start-up (or re-startup period) and models enrollment data beginning in January 1993 (see Figure D.3).<sup>24</sup>

The second stage of ARIMA analysis tests the impact of the key events identified in the implementation history of the Drug Court on the trends in scheduled orientations and treatment enrollment as “interventions” in time series modeling. The analysis determines whether there is a plausible statistical association between the key events and changes in the enrollment trends over time, considering different types of impacts (including onset—whether gradual or abrupt) and duration (whether temporary or permanent). Because this time series amounts to a bivariate analysis linking changes in trends in enrollments to discrete key events, interpretation of apparent relationships, in particular gradual impacts, can be difficult. Thus, time series results are subject to the cautions associated with interpreting all bivariate analyses, specifically that a variety of events or influences could contribute to changes, might overlap in their influence, and that relationships may be spurious. Abrupt impacts are more easily interpretable because they appear more directly tied to the interventions examined. The following describes briefly the results of the interrupted times series testing the potential impact of each of the key events on enrollments in the Multnomah County Drug Court.

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<sup>24</sup> The same model adequately represented both types of monthly enrollment trends from 1993 to 1998 Multnomah County's Drug Court (0,1,1)(1,1,0), seasonally and regularly differenced, with moving average and seasonal auto-regressive components. Tables D.1 and D.2 show the time series output for both models. Tables D.3 through D.13 show the ARIMA output for impact assessments involving both orientation attendance and drug court enrollments examining the potential impact of the key events identified in the descriptive history, and include the probability of the intervention component, and the AIC and SBC values.

## Drug-Free Zones

In February 1992, the City Council of Portland passed legislation establishing drug-free zones. As noted earlier, the drug-free zones identified specific areas of Portland experiencing high rates of drug-related crime and drug arrests and prohibited arrested or (later) convicted persons from entering these areas. Although their designation by ordinance was modified over time, their general intent was to exclude drug offenders from the demarcated areas of town for one year. Upon entry in the Drug Court program, defendants must stipulate to the facts and sign a drug-free zone exclusion agreement that prohibits them from entering the drug-free zones. Large sections of Portland, including the downtown area, are included in one of several drug-free zones. We sought to test the hypothesis that establishment and revision of the drug-free zones might have had an impact on scheduled orientations (reflecting patterns of drug arrests) and Drug Court enrollments in the sense that, if they did reduce drug-related criminal activity in several of the highest rate drug areas in Portland, one might expect drug arrests and drug enrollments in Drug Court to either decrease (because drug crime would have been reduced) or increase (because in enforcing the drug-free zones, arrests and referrals would have increased). The impact of drug-free zones was tested by considering several related events:

- February 1992: the creation of drug-free zones;
- February 1993: possession arrests are added to the exclusion criteria;
- February 1994: one drug-free zone is eliminated, attempt and conspiracy crimes are added;
- February 1997: two residential drug-free zones are added.

Interrupted time series analysis found that the impact of drug-free zones and their modification on orientations and enrollments was mixed at best (see Tables D.3 – D.5).

The implementation of the drug-free zones in 1992 was associated with a gradual, long-term decrease in orientation attendance, starting in January 1993.<sup>25</sup> The revision of the drug-free zones in 1993 had no apparent impact on either measure of candidates' entry into the Drug Court. The 1994 and 1997 modifications of the drug-free zones are associated with impacts on orientation attendance in the form of a gradual, long-term increase starting in May 1994 and an abrupt, temporary increase starting and ending in February 1997. Neither revision of the drug-free zones appeared to influence enrollments.

In sum, although the time series analysis suggests some possible impacts associated with drug-free zone events, most were either gradual or short-lived and fail to make a convincing case for an effect of drug-free zones on orientation and enrollment of candidates in the Multnomah County Drug Court.

#### Managed Health Care

In its quest to fund treatment services, the Multnomah County Drug Court's principal treatment provider, InAct, Inc., has had to adjust to implementation of managed health care and welfare reform. Oregon's managed care reform, the Oregon Health Plan, went into effect in May 1995. InAct had been developing arrangements for reimbursement for behavioral health care with managed care insurance companies conducting Oregon Health Plan business. The Drug Court continued to expand and the County did not increase its financial support. The program was forced to supplement its budget with insurance revenue. So, as a result, InAct had to place greater emphasis on

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<sup>25</sup> Recall that Drug Court enrollments prior to January 1993 were not included in the analysis, and as a result, the impact of the creation of the DFZ's on enrollments could not be measured.

investigating participant eligibility for coverage for behavioral health care through managed care.

Because InAct staff could not turn Drug Court candidates away from treatment—the Drug Court process kept identifying new participants—they focused their efforts on getting new clients registered and covered through public health insurance. In February 1996, InAct began collecting medical information on Drug Court participants registered for the Oregon Health Plan. In July 1996, the Drug Court contacted the state Office of Alcohol and Drug Abuse Programs to seek assistance in getting major health plans to recognize InAct as an “essential community provider.” When Federal reform of welfare, the Personal Responsibility and Work Opportunity Reconciliation Act, was passed in August 1996, InAct again had to adjust to changing laws to secure reimbursement for treatment services provided.

We employed interrupted time series analysis to test the impact of both state and Federal reforms on the identification and enrollment of candidates into the Drug Court. In fact, the advent of managed health care seems to have influenced both scheduled orientation attendance and treatment enrollments. The implementation of the state managed care plan was associated with a gradual, long-term increase in orientations, starting in October 1995 (see Table D.6). Table D.7 shows, more compellingly, that the impact of state managed care on actual drug court enrollments may have resulted in an abrupt and long-term increase. Similarly, Federal welfare reform is associated with a gradual, long-term increase in orientation attendance, starting in December 1996, and an abrupt, long-term decrease in drug court enrollments, starting in August 1996 (see Tables D.8 and D.9).

Time series, then, suggest possible effects of state and Federal reforms resulting in increases in the flow of candidates to the Multnomah County Drug Court. Interpretation of such a relationship is unclear, unless the availability of increased funding encouraged candidates to enter treatment in the knowledge that coverage was available. Although the prospect of funding for treatment might encourage candidates to choose to enter Drug Court, it is hard to see how this could have had an effect on the flow of drug cases to scheduled orientations. Absent a more compelling explanation of this apparent effect, we may be more justified in concluding that the relationship is spurious or explained by other, unmeasured events or factors occurring during the same points in time.

#### Change in Judicial Leadership

Throughout most of its existence, the development and operation of the Multnomah County Drug Court has been guided by a policy board made up of the Drug Court judge, District Attorney, Metropolitan Public Defender, a representative of community corrections, and the treatment provider. This policy board addressed important issues facing the program as they surfaced and implemented changes as needed to improve the overall operation and effectiveness of the Drug Court. During its early years, the policy board functioned under strong judicial leadership (Judge Haas from inception to January 1994; Judge Robinson from January 1994 to January 1996). More recently, a series of judges and non-judge referees have presided over the Drug Court for relatively short periods of time. (See Figure 18A.) Beginning in 1996, the judicial approach to Drug Court changed in two ways: first, the practice of having one principal Drug Court judge was abandoned in favor of a referee and a rotation of short-term,

substitute judges; second, a shift in policy reflecting a more restrictive philosophy also occurred.

**Figure 18A Judges Representing the Multnomah County Drug Court, 1991 - 1998**

Year	Judge	Number of Sessions	Referee	Number of Sessions
1991 - 1993	Haas	All		
1994 - 1995	Robinson	All		
1996	<b>(6 Judges, 1 Referee)</b>			
	Beckman	3	Lawrence	86
	Freeman	4		
	Haas	1		
	Keys	24		
	Robinson	5		
	Wittmayer			
<b>Total</b>		<b>37</b>	<b>Total</b>	
1997	<b>(16 Judges, 2 Referees)</b>			
	Bergman	79	Lawrence	59
	Brown	50	Weisberg	
	Ceniceros	6		
	Fasano	2		
	Freeman	1		
	Galagher	1		
	Gernant	4		
	Haas	18		
	Hull	1		
	Kalberer	1		
	Marcus	1		
	Maurer	5		
	Moultrie	1		
	Robinson	2		
Wilson	2			
Wittmayer	5			
<b>Total</b>		<b>179</b>	<b>Total</b>	<b>60</b>
1998	<b>(5 Judges, 3 Referees)</b>			
	Amiton	4	Cinniger	6
	Haas	146	Lawrence	98
	Keys	1	Overgaard	1
	Moultrie	1		
	Robinson	4		
<b>Total</b>		<b>156</b>	<b>Total</b>	<b>105</b>

When a referee was assigned to preside over the Drug Court in January 1996, the Drug Court policy board met less often and played less of a role in shaping policy. During the referee's tenure, but beginning in February of that year, a number of policies governing participation in the Drug Court were modified to be more restrictive. A new policy, for example, required participants to finish Phase I within 6 months and to complete treatment within 18 months. Participants on methadone were required to

provide an approved six-month detoxification plan (this rule was rescinded in July 1997). More restrictive rules were also put in force regarding bench warrants and the payment of fees.

Findings from interrupted time series analysis suggest that the change in judicial approach (shift away from a dedicated Drug Court judge and the related changes in policy) <sup>were related to</sup> influenced both scheduled orientations and Drug Court enrollments, as an abrupt, long-term decrease in orientation attendance, starting in February 1996. (See Table D.10). The impact of this shift on Drug Court enrollments appears to be more gradual, starting in August 1996 (see Table D.11).

In appointing a non-judge referee to supervise the Drug Court, the Circuit Court administrative leadership was assigning a lower priority to the operation of the Drug Court, at least in allocating its judicial resources. It may be that this shift in emphasis, removing the special role of the judge, was also communicated to potential participants (as well as actors in the Drug Court) and served to discourage enrollment (and effective participation). At the same time, some of the flexibility designed into the program based on considerations of the nature of addiction was eliminated, possibly making the Drug Court option less attractive to prospective participants, as reflected in orientation attendance and enrollments. These findings are particularly important because they go to the core of one of the assumptions of the original Drug Court model, that the judge plays a central role, as an authority figure, as a symbol, and as a monitor of individual treatment progress among participants. When that role is weakened, or supplanted by stricter, more sanction-oriented procedures, some of the attractiveness and power of the Drug Court option appears lost.



### Confinement Sentences to Local Jails (Senate Bill 1145)

In January 1997 a new Oregon law (formerly Senate Bill 1145) enacted provisions that, with a variety of options for localities, basically had the effect of sending persons serving sentences of one year or less back to county jails for local confinement or supervision under community corrections (probation and parole). Although the impact would be different under different options selected by counties, an expected effect would be that a large number of state inmates would be sent to the Multnomah County Sheriff for confinement locally and/or to Community Corrections for supervision in the community after some confinement was served. This increase in pressures on local confinement and Community Corrections, thus, might have resulted in pressures to place increased numbers of persons released on probation or parole in the Drug Court than otherwise might have occurred. As the Multnomah County Drug Court expanded its eligibility criteria to include these new candidates, in a sort of a reprise of the STOP II program that attempted to enroll probationers and parolees in 1995-96, a possible impact might have been an increase in the orientations and enrollments of candidates into the Drug Court.

However, interrupted time series analysis did not find an apparent impact from the enactment of Senate Bill 1145 on Drug Court orientations or enrollments. According to interviews with program officials, the Drug Court program accepted some probationers and parolees since mid-1995, when STOP II was funded as an enhancement for the treatment provider. Although the Drug Court continued to accept a small number of candidates at post-conviction stages, the number has remained quite small. In short, the change in law relating to confinement and Community Corrections appeared to wield

little impact on the fact that probationers and parolees have never been a substantial part of the Multnomah County Drug Court's target population.

The District Attorney's Expedited Plea Program (X-PLEA)

In July 1997, the District Attorney's instituted an "Expedited Plea Program" to help move the large number of drug cases more expeditiously through the judicial process. For eligible felony drug cases, this program offered a sentence of one year's probation in exchange for a guilty plea. Because most potential Drug Court candidates would also qualify for this program, it was feared by some that prospective treatment participants would find the probation offer so attractive that they would decline to pursue the Drug Court option, which offered a long treatment process and the possibility of earning diversion and then expungement only to successful participants. This program appeared to have the potential of competing with Drug Court for the same categories of cases (and, some thought, offered an easier and more attractive disposition for defendants seeking to avoid penalties).

Time series results suggest that both scheduled orientations and Drug Court enrollments may have been affected by the start of the X-PLEA program.<sup>26</sup> Oddly, however, both appear to have increased following its inception. The impact on scheduled orientations was abrupt and long-term, starting in July 1997; the impact on enrollments was abrupt and temporary, starting and ending in July 1997. When asked for their interpretation, representatives of the Metropolitan Public Defender were not surprised by the fairly dramatic increase in orientation attendance that coincided with the start of the X-PLEA program. They noted that the start of the X-PLEA program necessarily increased the number of eligible cases for either X-PLEA or the Drug Court, because

scheduled orientation was the initial stage of processing for both options. Because attendance at the Defender orientation is scheduled routinely for all eligible cases, the flow of cases to that stage of processing predictably increased.

The X-PLEA program also appears to be associated with a significant, but short-lived increase in actual Drug Court enrollments, according to the interrupted time series results. One potential explanation, offered by the defender, is that his staff may have anticipated the implementation of the X-PLEA program and subconsciously made a concerted effort to maintain STOP enrollments at their current levels. In simpler terms, Defender staff made a "harder pitch" for the Drug Court option, and their unintentional persuasiveness may have actually resulted in the brief increase in the number of defendants choosing Drug Court. Once it became clear that the concerns regarding X-PLEA and its impact on the Drug Court were unwarranted, the extra push by Public Defenders for drug court naturally subsided, according to this interpretation.

### The Impact of Key External Events on Identification of Candidates and Enrollments in Clark County

#### Patterns in Drug Arrests in Clark County during the Study Period

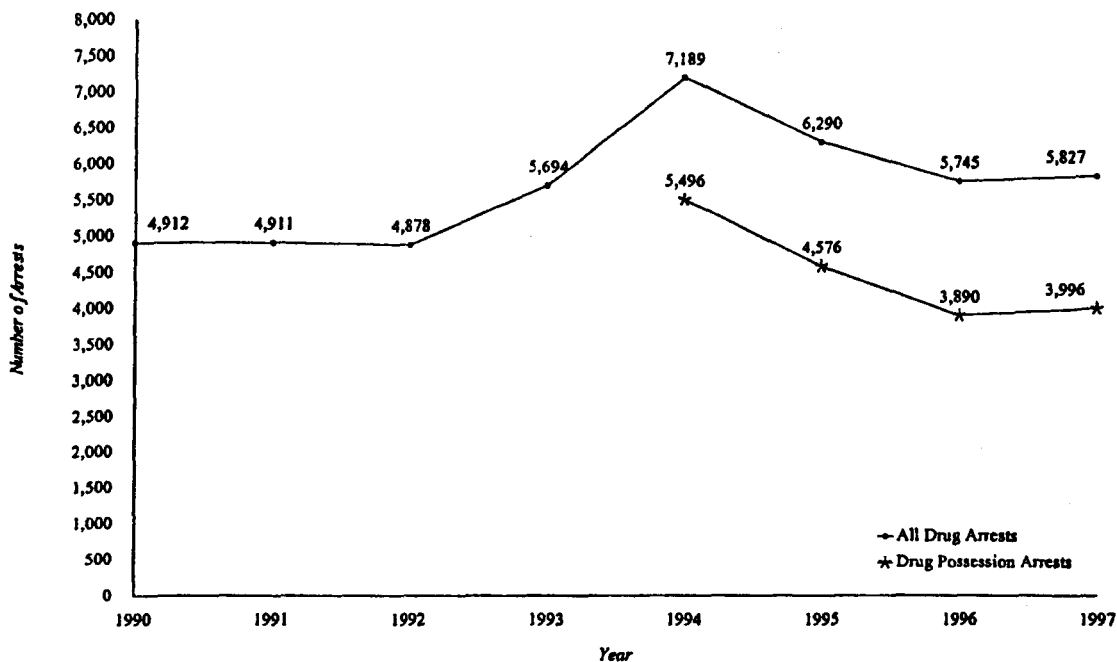
Arrests for drug offenses in Clark County, shown in Figure 19, were relatively stable from 1990 through 1992, averaging around 4,900 annually. Drug arrests increased substantially over the next two years, however, peaking at 7,189 in 1994 (a 46 percent increase from 1990), before steadily decreasing over the next three years to well under 6,000 in 1997. Drug possession arrests from 1994 through 1997 followed a similar downward trend, ranging from 5,496 in 1994 to 3,996 in 1997. (The 1997 level was

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<sup>26</sup> See Tables D.12 and D.13.

nevertheless 19 percent higher than the 1990 level of drug arrests.)<sup>27</sup> The downward trend in arrests for drug offenses coincides with the passage of legislation prohibiting jail time for drug possession convictions (first and second only) and the change in prosecutorial policy favoring guilty pleas to enter Drug Court.

Figure 19 Patterns of Arrest for Drug Offenses in Clark County, Nevada, 1990 - 1997



[Note: Arrest statistics are from the Criminal Justice Information Services Division, Federal Bureau of Investigation (FBI). Prior to 1994, arrests by the Las Vegas Metro Police Department were not recorded by type of offense and arrests for possession could not be calculated.]

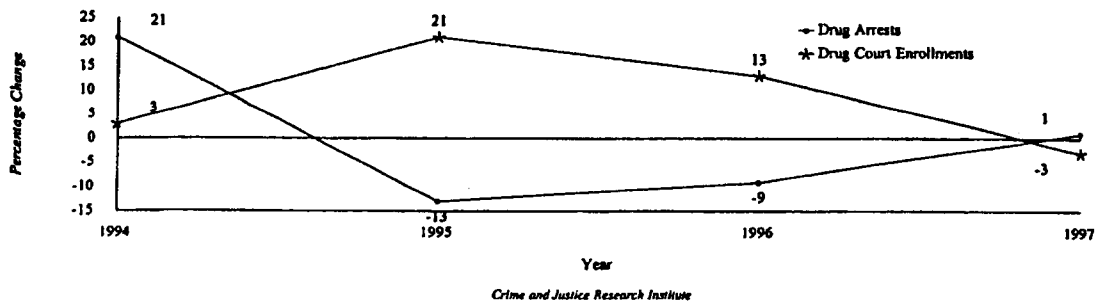
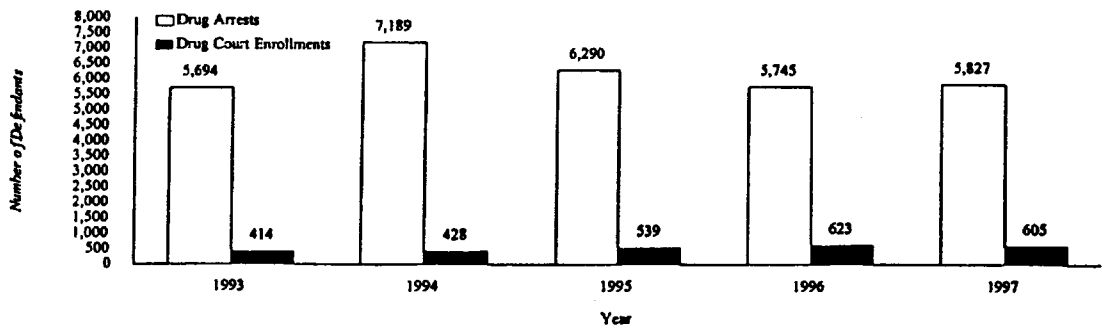
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Figure 20 contrasts trends in drug arrests and Drug Court enrollments in Clark County. Arrests for drug offenses fluctuated substantially, increasing by over 20 percent in 1994 but then dropping by 13 percent and 9 percent in subsequent years. The downward trend in drug arrests ended in 1997, as it increased by a small margin (one percent). Trends in Drug Court enrollments were nearly as variable, but in 1995 and 1996 they depart clearly from patterns in drug arrests. In those years, Drug Court

<sup>27</sup> Notably, the population of Clark County increased by over 360,000 during the study period. The decline in arrests after 1994, despite a substantial population increase, is noteworthy.

enrollments increased notably, by 21 percent and 13 percent, respectively, while drug arrests dropped markedly. Although both processes became more static in 1997, they again moved in opposite directions, with drug arrests increasing and Drug Court enrollments decreasing. This analysis does not support the notion that the Clark County Drug Court enrollments were driven principally or directly linked with trends in drug arrests.

Figure 20 Comparison of Charges in Arrests for Drug Offenses and Enrollment of Drug Court Participants in Clark County, 1993 - 1997



**Figure 21 Key Events Targeted for Interrupted Time Series Analysis with the Identification and Enrollment of Drug Court Participants in Clark County**

**Federally Imposed Prison Population Cap – April 1993**

Federal Court, (*In re the Matter of the Population of the Clark County Detention Center*) placed a capacity limit of 1,550 on the population at the Clark County Detention Center and provided a classification of inmates for early release.

**Change in District Attorney – January 1994**

A new District Attorney was elected. At the same time, eligibility criteria for the Drug Court were modified in a shift away from diversion to plea-based admissions.

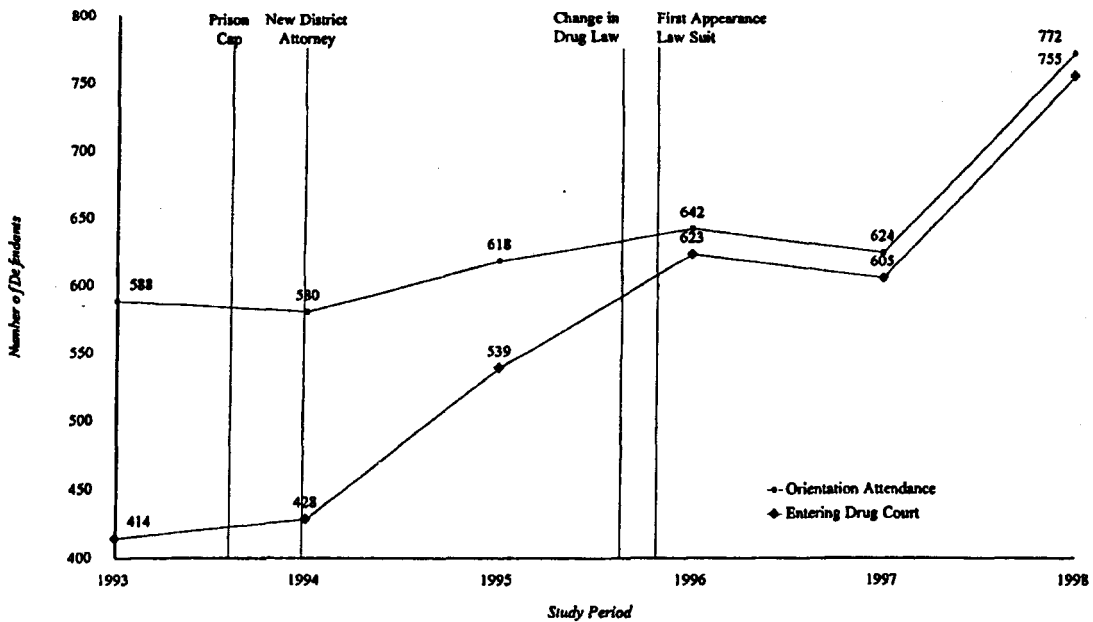
**Change in Drug Law – July 1995**

New Nevada legislation prohibited jail time for felony possession of a controlled substance (first and second convictions). Probation became the likely sentence for drug possession convictions.

**Eight-Day Kick-out Policy – August 1995**

A successful Federal lawsuit (*Rusty Havens et al. v. Jerry Keller, Sheriff, et al.*) resulted in dramatic change in the informal local policy allowing arrestees to remain incarcerated for up to one week before first appearance in court.

**Figure 22 Enrolling the Target Population: Orientation Attendance and Enrollment of Candidates in the Clark County Drug Court, 1993 - 1998**



[Note: Vertical lines representing key events are not intended to mark exact dates but rather to illustrate the time of the intervention.]

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## The Impact of Key Events

A similar analysis was carried out to examine trends in enrollments of candidates into the Clark County Drug Court and the possible impact of key events over time. The two measures employed to measure enrollments in Clark County were orientations attended and formal entry into the Drug Court. Again, the first step in time series was to develop a statistical model of enrollments over time (from 1993-1997)<sup>28</sup> and then to determine whether selected key events identified above in the implementation history of the Drug Court above appeared to have an impact on trends in monthly enrollments through interrupted times series analysis as “interventions.” The potential impact of four key events shown in Figure 21 were tested, including the effects of a jail overcrowding “cap” (1993), a change in District Attorney (1994), a change in Nevada drug law (1995), and a Federal order to accelerate the time from arrest to first appearance of defendants for bail (1995). The sequencing of these events is illustrated in Figure 22 against the background of annual enrollment trends.<sup>29</sup>

### Federal Court Jail Crowding Order

In April 1993, the Federal Court in *In re the Matter of the Population of the Clark County Detention Center* (April 27, 1993) placed a capacity limit (“cap”) of 1,550 on the population of the Clark County Detention Center, which had been the source of overcrowding litigation for some time. The Federal Court order also defined categories of inmates who would be eligible for early release when the cap was exceeded, generally

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<sup>28</sup> The analysis identified the same model for both enrollment measures: (0,1,1)(1,1,0). These models are seasonally and regularly differenced, with moving average and seasonal auto-regressive components. (See Appendix D for ARIMA output, Tables D.14 and D.15).

<sup>29</sup> Note again that this graph depicts annual trends that mask variations in monthly enrollments. The analyses are carried out on monthly enrollments.

including non-violent offenders, pretrial detainees and contempt-of-court defendants. Table D.16 shows that the timing of the Federal jail cap is associated with a gradual, long-term impact on the orientation attendance of drug court candidates beginning in January 1994. Table D.17 shows an abrupt, permanent impact on actual Drug Court enrollments beginning in April 1993. According to the analysis, the impact associated with actual enrollments is positive, but the impact on orientation attendance appears to be negative. This result suggests, perhaps oddly, that the Federally-imposed jail crowding cap may have acted to increase actual enrollments in the Drug Court, but decreased attendance of candidates at orientation. The interpretation of this finding is problematic because it suggests that crowding reduction measures may have translated to increased formal enrollments in the Drug Court without increasing the numbers of persons attending the prior screening step, Defender orientation. Possibly, while persons attending orientation did not increase, the proportion of attendees released from the jail and headed for admission to Drug Court in fact did. (i.e., The proportion of orientation attendees entering Drug Court increased.)

#### Change in District Attorney

After a local election, a new District Attorney assumed office in Clark County in January 1994. At a time when the still young Drug Court was growing and seeking to expand its clientele, the new District Attorney agreed to the expansion in eligibility but preferred increased use of guilty pleas (conviction) as the means of entry into the Drug Court. This occurred during the peak year of drug arrests for Clark County when, temporarily at least, the volume of drug defendants entering the court system was very high. From the perspective of the District Attorney's Office, this approach was



responsive to the need to expand the role of the Drug Court. From the perspective of the Defender's Office, the prosecutor's policy preference forced a shift in the focus of the court away from the front-end diversion approach toward post-conviction candidates—and not in a wholly desirable fashion. This shift toward plea-based admission of convicted offenders to Drug Court was apparently not the result of a formal agreement to make such a change but the gradual effect of prosecutor policy. As shown in other sections of this report, the composition of the Drug Court clientele changed in a number of ways because of this change in policy emphasis. Candidates were enrolled after having spent much more time in the criminal process, were on the whole more experienced in the justice system, and were no longer able to avoid a felony conviction.

Findings from time series impact assessment suggest that the change in District Attorney (and changes in policies) was associated with an abrupt, long-term decrease in both measures of enrollments, orientation attendance and Drug Court entry.<sup>30</sup> The shift in targeting to candidates willing to plead guilty and have a conviction to enter Drug Court increased the percentage of defendants attending orientation who would enroll in the program (i.e., orientation was a required first step, not an opportunity to learn about the Court and then decide upon participation), although it decreased the actual numbers of defendants appearing at orientation and entering Drug Court. Fewer eligible defendants were willing to consider the Drug Court option when pleading guilty became a prerequisite, and their reluctance to make that serious justice decision is reflected in the time series findings.<sup>31</sup>

#### Change in Drug Law

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<sup>30</sup> See Tables D.18 and D.19.

<sup>31</sup> Refer to Figures D.4 and D.5 in the Appendix, rather than Figure 22, which masks monthly trends.

In July 1995, the Nevada legislature enacted a new law that prohibited state incarceration for felony possession of a controlled substance (first and second convictions). According to interviews of site officials, the change in law made probation more likely for drug possession convictions. Apparently, this change made the Drug Court option much more attractive than before to the District Attorney's Office because the Drug Court experience was viewed as more intensive and effective than simple probation. This reported change in prosecutor perspective toward Drug Court candidacy is associated with abrupt, permanent increases in both orientation attendance and Drug Court enrollment (see Tables D.20 and D.21). Time series findings support the interpretation of site officials that the new law reducing penalties for drug possession increased the attractiveness of Drug Court for the prosecutor and increased the referral of cases to Drug Court. This change in the law increasing the attractiveness of the Drug Court option for the prosecutor came on the heels of the transition to a conviction-based admission procedure, thus making the option doubly attractive to the prosecutor who had a great deal of discretion in determining the terms that would be offered to eligible defendants in exchange for probation or convictions on lesser charges.

#### Eight-Day "Kick-out" Policy

Until the Federal Court issued an injunction in *Rusty Havens et al. vs. Jerry Keller, Sheriff, et al.*, in September 1995, arrestees in Clark County could remain incarcerated for up to one week before having a first appearance before a judge (when, according to the eight day "kick-out" policy they would have to be presented or released). As a result of the court order requiring a first appearance within 48 hours of arrest, the justice system was faced with the task of processing a large number of arrestees more

quickly. Arguably, this action, which would reduce early pretrial detention in the County Detention Center, placed pressure on the court system to make greater use of early dispositional options and/or to resolve cases of detainees more promptly. When time series analysis was employed to examine the impact of the court order to accelerate post-arrest processing and reduce pre-first appearance confinement on Drug Court enrollment, abrupt, permanent increases in both orientation attendance and drug court enrollments were found.<sup>32</sup>

These findings suggest that the court and justice system efforts to comply with the court order increased referrals to Drug Court as well as admissions. How this system change acted to increase enrollments is somewhat unclear, particularly given data showing that the time from arrest to orientation and to drug court admission increased for both diversion- and plea-based candidates over time. One explanation might be that, as post-arrest processing procedures moved to handle the first appearances of arrestees within 48 hours, a “backlog” of potentially eligible detainees was channeled to the Drug Court. One might suppose that such an effect would have been relatively short-term, however, as the justice system made adjustments to new procedures.

#### **Summary: the Impact of External Events on the Development of the Drug Courts over Time**

One of the challenges posed by the growth of drug courts is that the “model” itself has not remained static; instead, it has evolved and diversified fairly dramatically across the nation. Changes in the movement of drug courts overall parallel changes in specific sites as programs have evolved over time. Drug Courts have been forced to adapt to

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<sup>32</sup>See Tables D.22 and D.23.

changes in federal and state law, politics, general court policy and leadership, and changes in their clientele, both in terms of their drug use and needs. The environment in which a drug court functions can influence its operation and effectiveness substantially and certainly ought to be taken into consideration in understanding evaluation findings. The time series findings presented in this section suggest that both Clark County and Multnomah County courts have been affected at critical junctures by important external factors and events.

Changes in local court or justice system policies can have an impact on enrollments in drug courts and their ability to reach their target populations as well. In Clark County for example, the election of a new District Attorney was followed by a shift in policy for referring candidates to the Drug Court emphasizing guilty plea/convictions over diversion cases. This shift appeared to be associated with decreases in both the number of defendants attending Drug Court orientation and the number actually enrolling the program. In Multnomah County, the change from a single, dedicated Drug Court judge to a referee and frequent judge substitutions presented a very different judicial approach. At the same time, the new regime instituted substantive changes in Drug Court policies that were less tolerant of set-backs or "slips" by participants. This shift in judicial approach coincided with a fairly significant drop in the number of defendants attending orientation and enrolling in the program. Conceivably, the word "got out" that the Drug Court was becoming more restrictive and sanction oriented and defendants were less willing to give the program a chance. Another justice policy change in Multnomah County that did not have the anticipated harmful effect on Drug Court enrollments was the District Attorney's institution of an alternative to the Drug Court (and normal

adjudication) to expedite the processing of drug cases by offering an early plea option. This policy did not appear to draw drug defendants away from the Drug Court. Instead, orientations and enrollments increased after the introduction of the X-PLEA program.

The time series findings reported above also highlight the potential influence of changes in state and Federal law in areas of health, welfare and justice reform. In Clark County, the reduction of penalties associated with criminal possession resulted in greater referral of drug offenders to the Drug Court by the District Attorney's office. Federal Court intervention changing the "eight-day kick-out" policy and requiring arrestees to be presented for first appearance before a judge within 48 hours also appeared to increase the flow of candidates and admissions to the Drug Court.<sup>33</sup>

In Multnomah County, state managed care reform governing health care and its payment in Oregon appeared to wield an immediate and long lasting increase in the number of candidates flowing into the Drug Court. The impact on attendance at the Public Defender orientation was gradual and less clear, suggesting that managed care was less influential at this earlier stage of identifying candidates but was more influential in admitting candidates who had been identified, perhaps because defendants were encouraged to take advantage of inexpensive treatment services (and a potential dismissal of charges).

These findings illustrate the dynamic contexts within which these two drug courts have developed and functioned and provide a sense of the historical framework within

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<sup>33</sup> Recall that with ARIMA analysis, each intervention's impact on the data is tested independently. The intervention's impact is measured as any change occurring in the time series at a given point in time. Note that an intervention with a negative impact can mean that the flow of cases to Drug Court actually decreased, or that it still increased but at a slower rate than before the intervention. The latter explanation helps to clarify seemingly contradictory findings regarding interventions in a single jurisdiction.

which the evaluation findings relating to impact and performance should be viewed. Consideration of the history of a drug court, including important internal and external events or milestones, helps to address the need for a synthesis of the "lessons learned" during implementation and initial operation, particularly in these two early, pioneering courts.

## VIII. Enrolled Drug Court Populations in Multnomah and Clark Counties

### Participant Attributes in the Multnomah County Drug Court

#### Demographics

Table E.1 summarizes various attributes of the Drug Court participants and their comparison groups in Multnomah County during the period studied. The population of participants enrolling in the Multnomah County Drug Court from 1991 through 1997 fluctuated little in average age but involved older defendants generally, with median ages ranging from 32 to 33 years. Over the period studied, a majority of drug court enrollees were white; however, in 1997 the proportion jumped from between 57 to 67 percent in earlier years to 80 percent, while the proportion of African-Americans dropped by almost half, from 32 percent to 14 percent. Hispanic participants made up a small portion of the population, from 9 percent of enrollees in 1991-1992 to five percent in 1997. Although participants were predominantly male throughout the study period, the proportion of females grew from about 19 percent in 1991-1992 to 31 percent in 1997.

#### Criminal Charges

With rare exceptions, enrollees in Multnomah County were charged with Level I and II felony drug possession offenses—the original target population—throughout the study period.

#### Prior Criminal History

From its inception, in contrast to most other drug courts, the Multnomah County Drug Court has not disqualified candidates because of prior record. Table E.1 shows that just over half (55 percent) had records of prior arrests and just under half (40 percent) had records of prior convictions. With the exception of the 1993-1994 period when prior

arrests dropped to 43 percent and prior convictions to 30 percent of participants, the prior histories of participants varied little. Roughly one-fourth had prior drug arrests and one-fifth had prior convictions for drug crimes. Figure 23 shows that about one-fifth had prior arrests and one tenth had prior convictions for serious crimes against the person. Stated another way, nearly half of the participants had never been arrested before the arrest that initiated their Drug Court involvement.

#### Pretrial Confinement

A majority of Drug Court participants in Multnomah County were not confined after arrest and prior to admission to the court program, but were released to attend orientation at the Defender offices. Nevertheless, Figure 24 shows that a sizeable proportion, 35 percent had experienced some, presumably brief pretrial confinement between arrest and entry into Drug Court, ranging from nearly half (48 percent) in 1991-1992 to one-third or less after 1995.

#### Self-Reported Drugs of Abuse

Figure 25 displays the types of drugs participants reported abusing when they were entering the treatment program. Overall from 1991 through 1997, a majority reported using cocaine or crack cocaine, half used marijuana, and about quarter each reported using methamphetamines and heroin. This overall picture masks variations over time in patterns of drug abuse reported by participants at assessment. The use of cocaine or crack dropped from about two-thirds through 1994 to just under half in 1997, while the use of marijuana remained relatively stable and the use of methamphetamines and heroin increased. In fact, the proportions reporting methamphetamine or heroin use increased from 10 and 11 percent respectively in 1991-1992 to 32 and 38 percent among



participants entering treatment in 1997. Figure 26 summarizes the "drugs of choice" indicated by participants entering the Multnomah County Drug Court at the assessment stage, which shows that use of combinations of drugs was commonly reported by Drug Court participants. Heroin was the single drug-of-choice category showing the most growth among participants by 1997.

These general trends in reported substance abuse among participants varied by racial/ethnic group. Figure 27 shows that the proportion of whites reporting cocaine or crack use declined from 60 percent in 1991-1992 to 45 percent in 1997. Marijuana use varied little among white participants, remaining around 50 percent throughout the study period. Methamphetamine use more than doubled among whites from 16 percent in 1991-92 to 39 percent in 1997, while the proportion reporting heroin use more than tripled from 14 percent in 1991-92 to 44 percent in 1997.

Reported cocaine and crack cocaine use among African American participants dropped from 80 percent from 1991 through 1994 to 63 percent thereafter—remaining the principal drug of abuse. Marijuana use in this group dropped from around half through 1995-1996 to 21 percent in 1997. Reported methamphetamine and heroin use remained fairly low among African American participants, at around ten percent or less.

Cocaine/crack cocaine was the drug most commonly reported among Hispanic participants, increasing from 78 percent of participants in 1991-1992 to 87 percent in 1993-1994, with a drop to 56 percent in 1995-1996 and a resurgence among Hispanic participants entering the Drug Court in 1997 (71%). The proportions reporting marijuana use ranged from about one-third in 1991-1992 to 73 percent in 1993-1994 and back to one-third or less after 1994. The greatest change in substance abuse reported by Hispanic

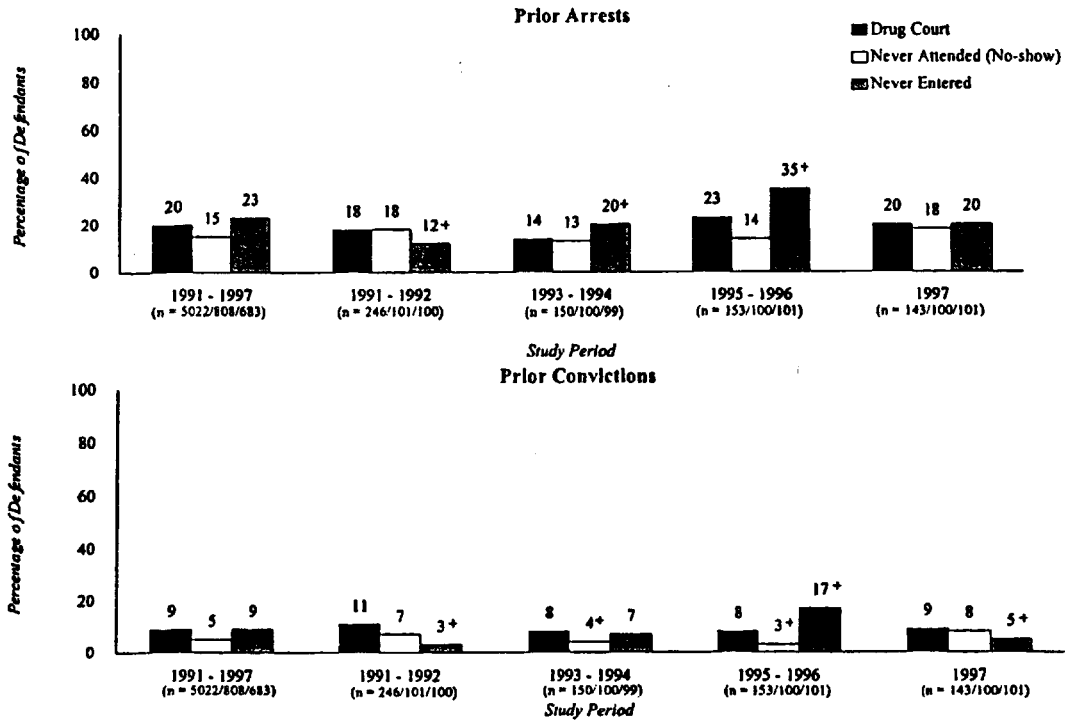
Drug Court participants was found in the heroin category (increasing from 11 percent in 1991-1992 to 29 percent in 1997).

Reported cocaine/crack cocaine use showed roughly the same and declining rates of abuse among male and female participants over time (see Figure 28). Reported marijuana use did not vary by gender either. The reported use of methamphetamines did vary by gender during the study period, with a considerably larger proportion of women using them through 1996, and lower but similar rates of use by males and females during 1997. Reported heroin use increased among male and female Drug Court participants at roughly similar rates through the study period.

#### Self Reported Frequency of Drug Abuse and Initial Drug Tests

Data relating to frequency of drug use among candidates entering Drug Court improved over time in Multnomah County. (Poor data are available for the period 1991-1992 when the Court made use of a provider that did not work out.) An apparent trend is that the proportion of participants reporting use of drugs two or more times daily has grown dramatically from less than 30 percent prior to 1995 to 59 percent in 1995-1996 and 44 percent in 1997. Figure 29 shows that results of first drug tests (within three days of the first treatment appointment) changed over time (although they may also be affected by missing data). Prior to 1995, the majority of participants showed no positive first tests. In 1995-1996 47 percent of entering participants showed only negative results; in 1997 only 31 percent showed negative results (23 percent tested positively for multiple drugs of abuse, excluding alcohol).

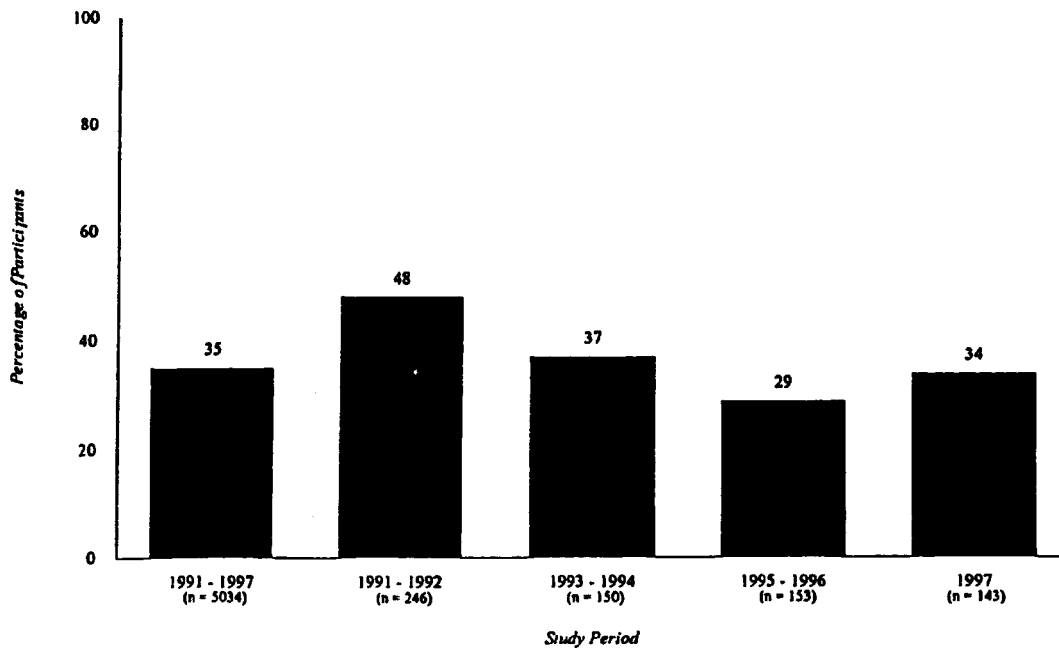
Figure 23 Prior History of Arrests and Convictions for Serious Person Offenses among Multnomah County Drug Court Participants and Comparison Group Defendants, 1991 - 1997



[Note: A + denotes a significant difference at p<.05.]

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Figure 24 Pretrial Confinement among Multnomah County Drug Court Participants, 1991 - 1997



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Figure 25 Drug Use Reported at Assessment by Multnomah County Drug Court Participants, 1991 - 1997

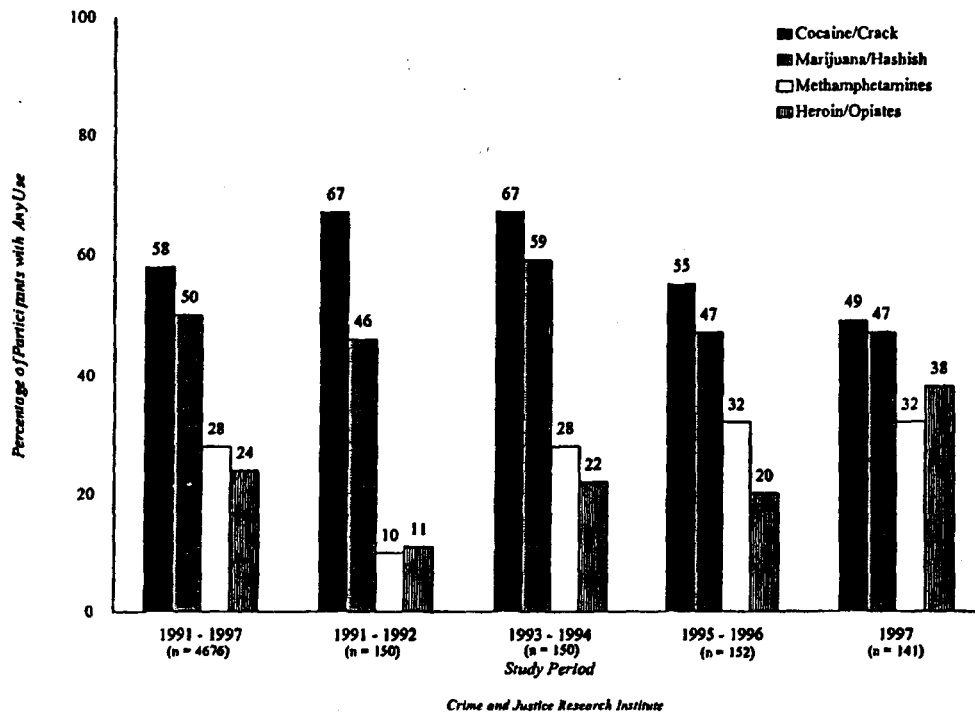


Figure 26 Primary Drugs of Choice Reported at Assessment by Multnomah County Drug Court Participants, 1991 - 1997

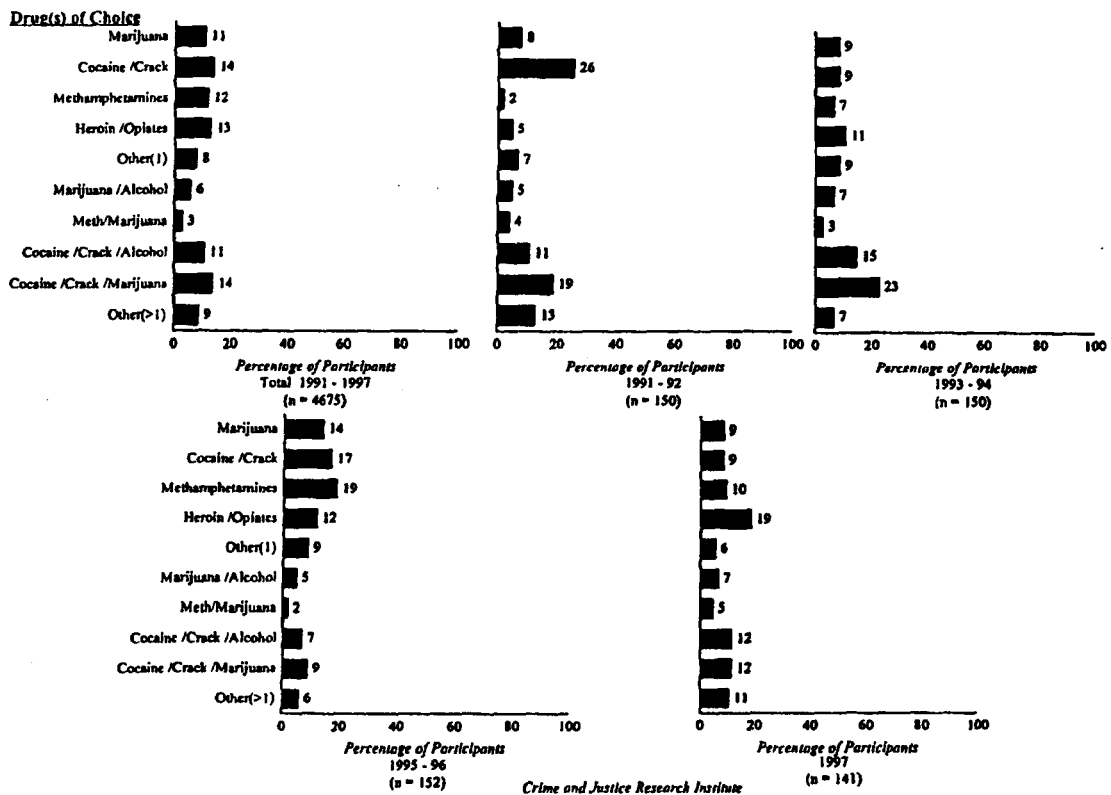


Figure 27 Drug Use Reported at Assessment by Multnomah County Drug Court Participants, 1991 - 1997, by Race

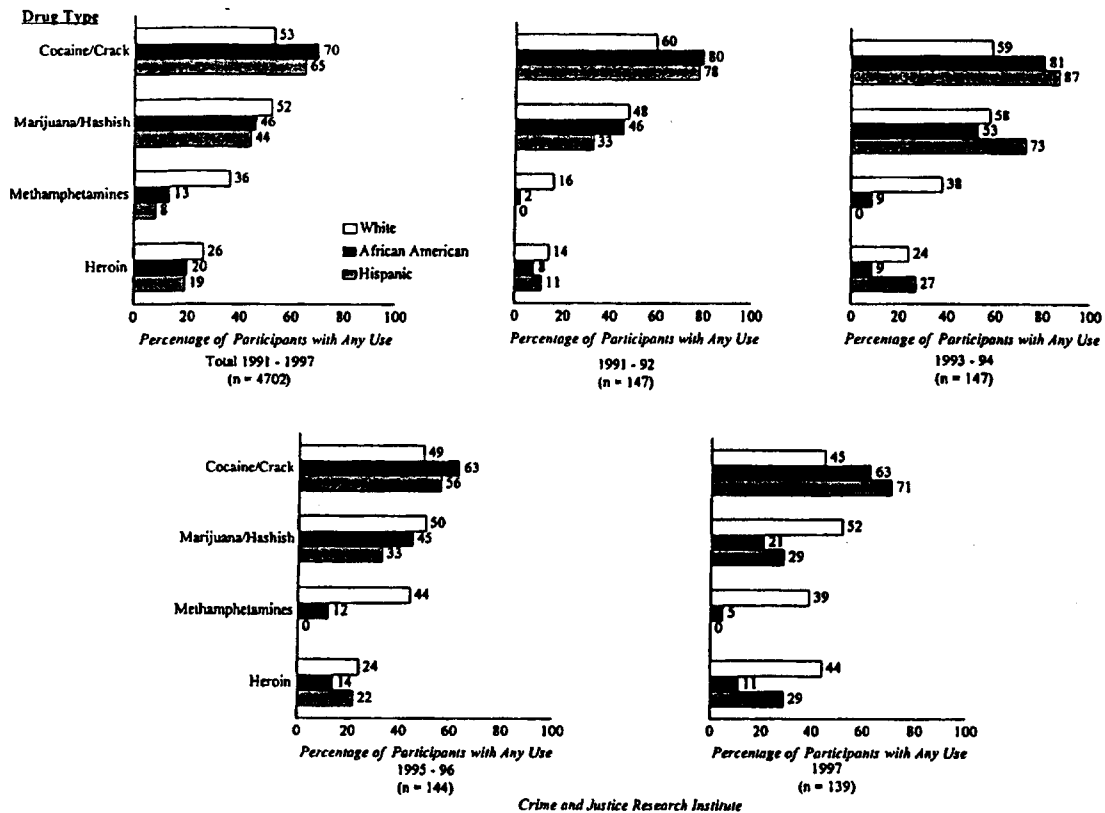
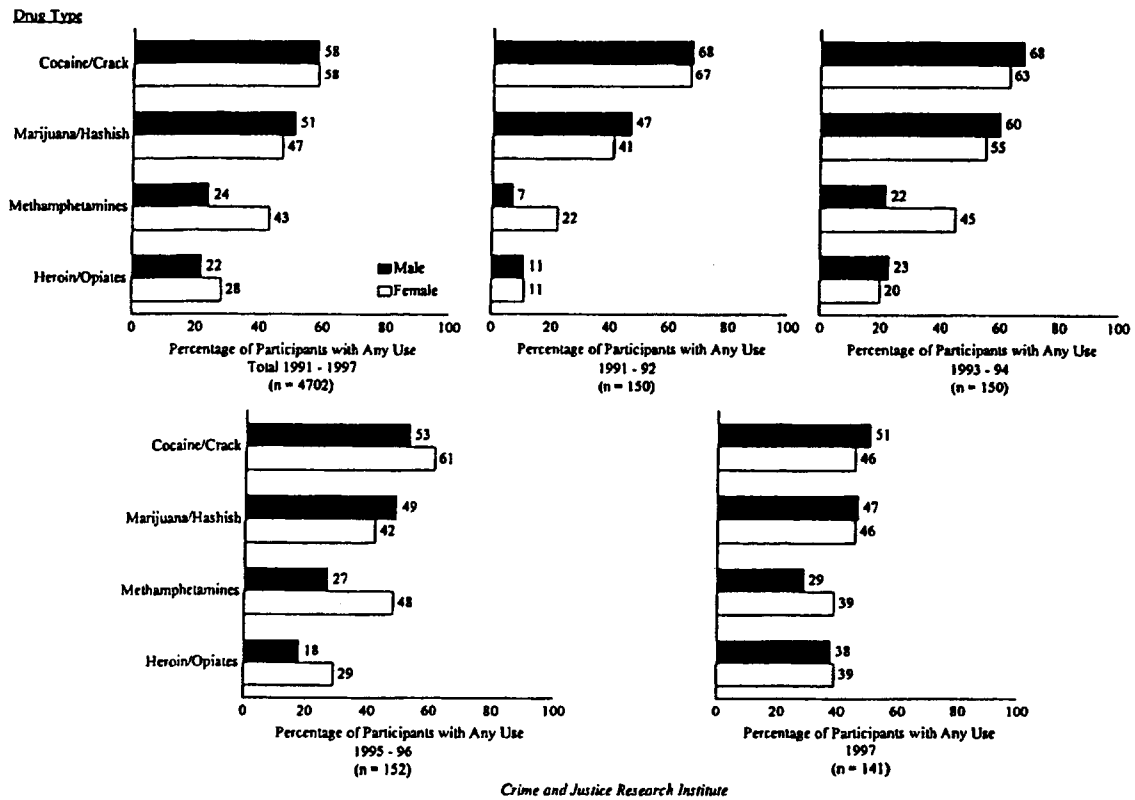


Figure 28 Drug Use Reported at Assessment by Multnomah County Drug Court Participants, 1991 - 1997, by Gender



### Prior Treatment History

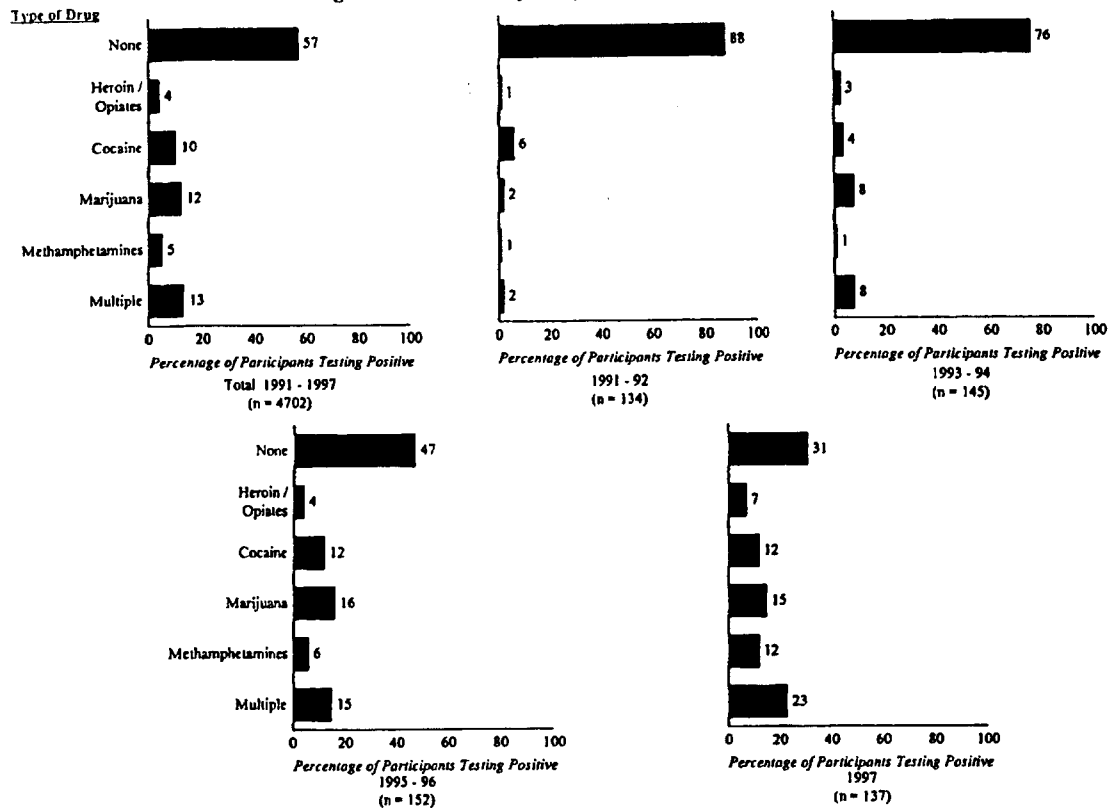
Over half of all Multnomah Drug Court participants reported having engaged in drug treatment previously (See Figure 30). The fact that this proportion grew over time, from 37 percent in 1991-1992 to 54 percent in 1997 suggests that the population of Drug Court participants was more treatment-experienced as the program grew older. This proportion did not vary significantly by race / ethnicity of participants.

### Participant Attributes in the Clark County Drug Court

#### Demographics

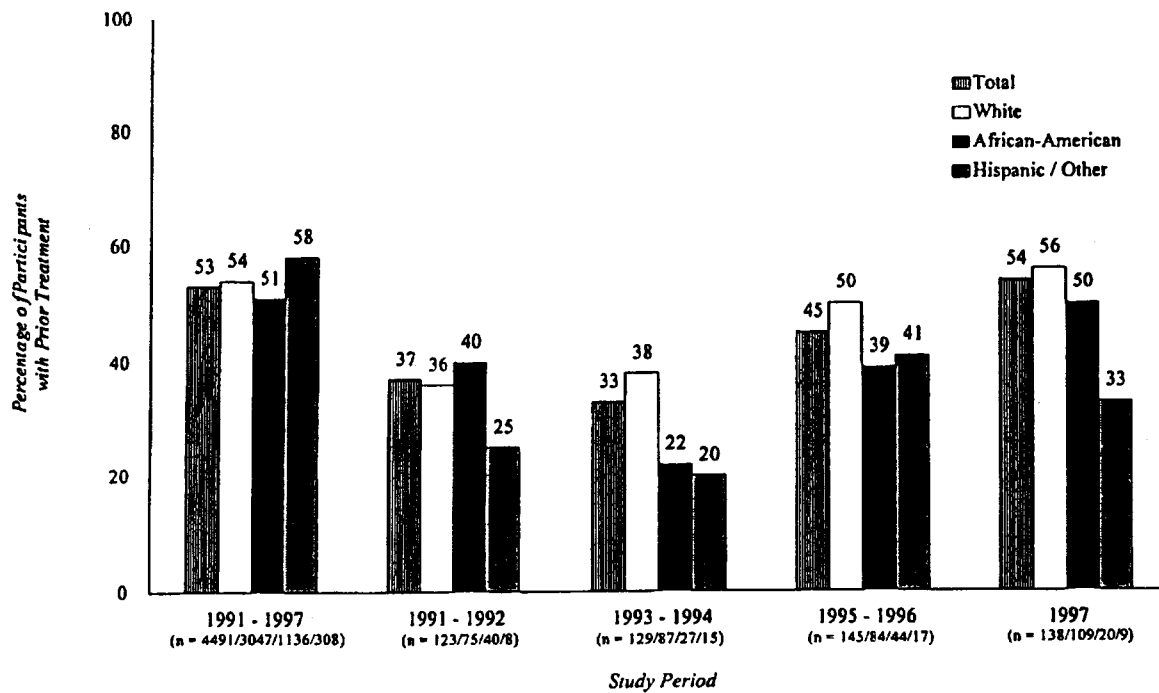
The average (median) age of Clark County Drug Court participants increased over the years from 28 years old among participants entering in 1993 and 1994 to 31 years old in 1997. In 1993 and 1994 a large majority (80 and 77 percent, respectively) of participants were white (in disproportion to the comparable court caseload). This shifted to around 60 percent of the participants in 1995, 1996 and 1997 (closer in proportion to the make-up of the court caseload). The proportion of participants who were African American grew from nine percent in 1993 to 27 percent in 1997. At the same time, the proportion of participants who were male increased from 62 percent in 1993 to 76 percent in 1997. (See Table E.4).

Figure 29 Positive Drug Tests within Three Days of First Appearance at Treatment (InAct) among Multnomah County Drug Court Participants, 1991 - 1997



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Figure 30 Prior Treatment History Among Multnomah County Drug Court Participants, 1991 - 1997, by Race



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## Criminal Charges

We noted earlier that the Clark County Drug Court initially targeted felony drug possession and under-the-influence defendants and then increasingly accepted defendants who entered as a result of plea agreements in drug-related offenses. Figure 31 summarizes the type of lead charges associated with cases of defendants entering the Drug Court during the study period. In each year from 1993 through 1997 a large proportion of drug court participants had been charged with felony possession of controlled substances; however, the proportion with possession charges fluctuated from 41 percent in 1993 to 25 percent in 1994 and 1995, and from 42 percent of all participants in 1996, to 28 percent in 1997. From 1993 through 1995, persons charged with being under the influence of a controlled substance also made up a large portion of participants, varying around one-third. Beginning in 1996, only small numbers of Drug Court defendants had entered Drug Court with those charges (9 percent in 1996 and 10 percent in 1997). Beginning in 1994, around 15 percent of participants were being processed on distribution and sales charges, and about 10 percent were facing charges involving possession with the intent to sell.

A noticeable trend in the Clark County Drug Court caseload is the increasing frequency of other types of charges (particularly burglary) during 1996 and 1997. Figure 32 represents this change more simply, showing that the proportion of cases not involving lead drug charges of any kind rose sharply from 13 percent in 1993 to 32 percent in



Figure 31 Charges in Cases of Clark County Drug Court and Comparison Group Defendants, 1993 - 1997

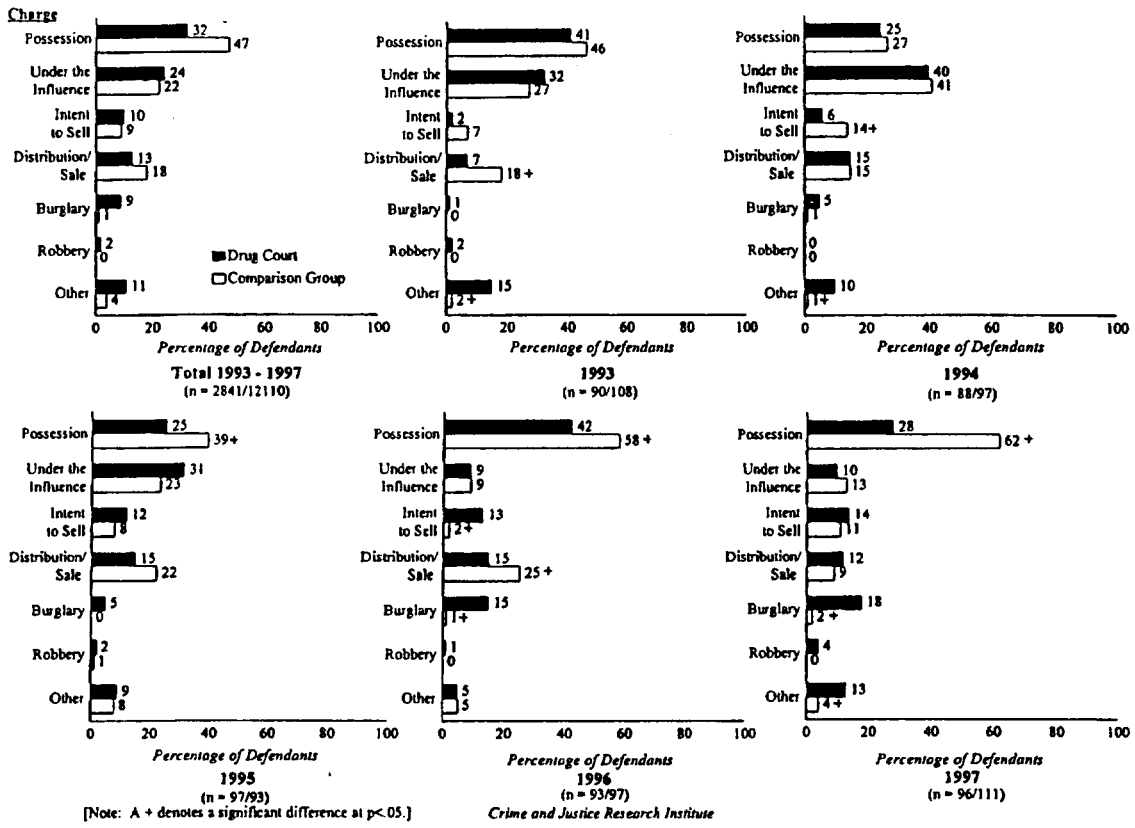
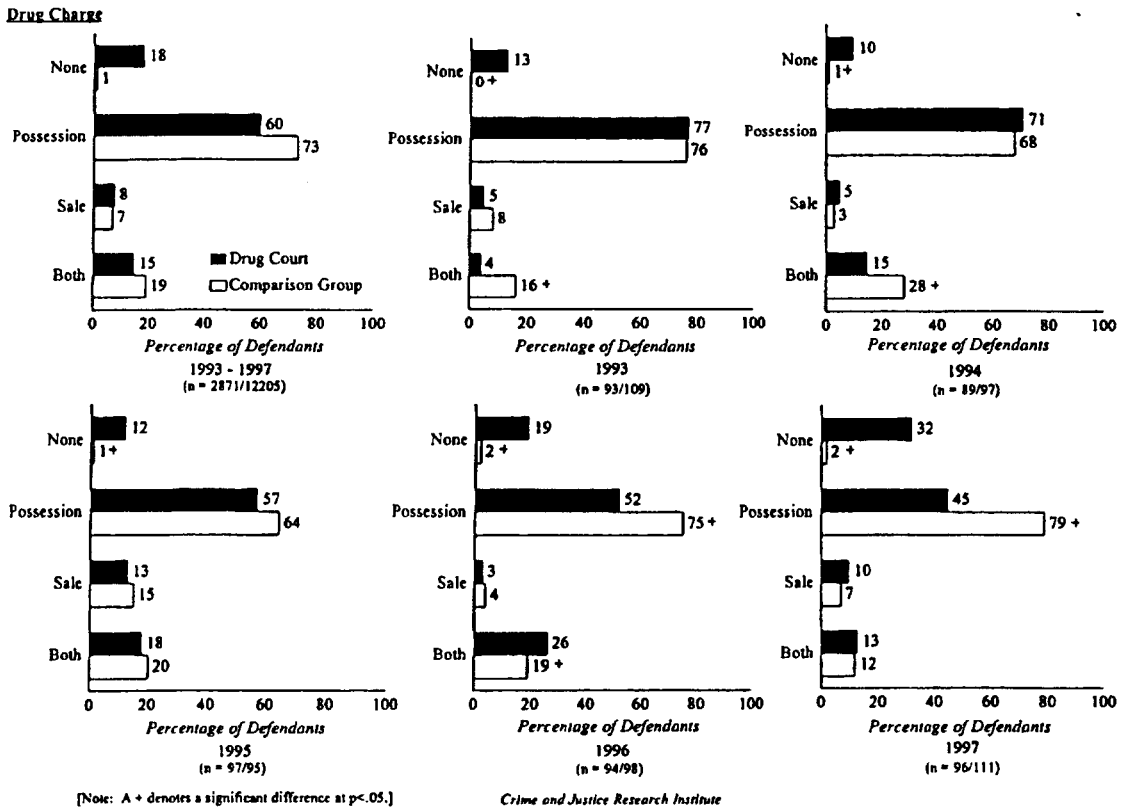


Figure 32 Drug Charges in Cases of Clark County Drug Court and Comparison Group Defendants, 1993 - 1997



1997.<sup>34</sup> In short, the kinds of offenses associated with the cases of Drug Court participants changed notably over time, as the dominant mode of entering Drug Court shifted from diversion to guilty plea.

### Prior Criminal History

A majority of Clark County Drug Court participants during each of the study years had records of prior arrests, although that proportion grew to over 70 percent from 1995 on. Figure 33 shows that roughly half of Drug Court participants had prior convictions as well. Thus, while a small minority of participants had never been arrested previously, only about half had never been convicted of crimes before in Clark County. Twenty-seven percent had prior arrests for serious crimes against the person; however, this changed from 16 percent of 1993 participants to 35 percent of 1997 participants. About ten percent had prior convictions for serious person crimes, with highs of 18 percent of 1995 and 14 percent of 1997 participants. Just under half of participants overall had prior arrests and 18 percent had prior convictions for drug offenses. The proportions of participants with both increased from a low in 1993 to highs in 1996 and 1997.

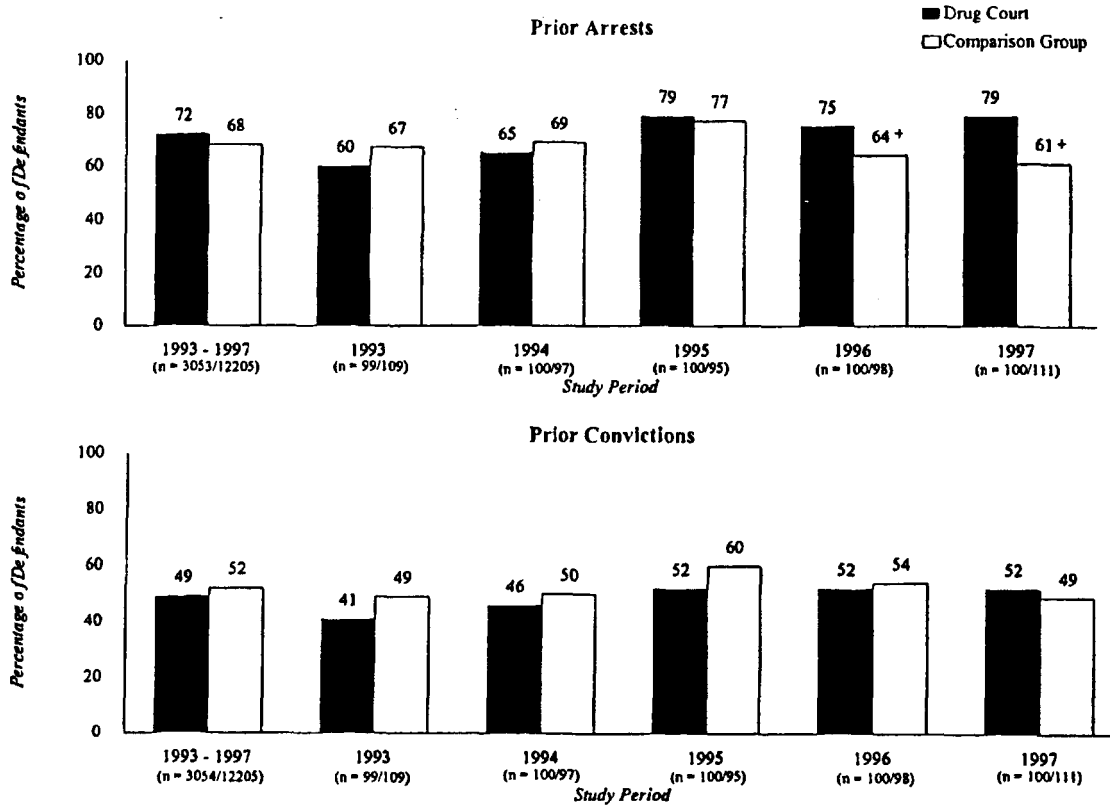
### Pretrial Confinement

Most (80 percent) of the Clark County Drug Court participants were detained pretrial for at least some period, with little variation over time (ranging from 76 percent in 1995 to 85 percent in 1996; see Figure 34). Examination of median days confined pretrial shows that, although most defendants were held pretrial, the length of

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<sup>34</sup>Note that the makeup of the comparison groups representing similar drug cases that did not go through the drug court screening process was similar through 1995, but then becomes dissimilar in 1996 and 1997. That is, the drug court enrolled proportionately fewer persons charged with possession than was characteristic of the population of drug cases in the larger court.

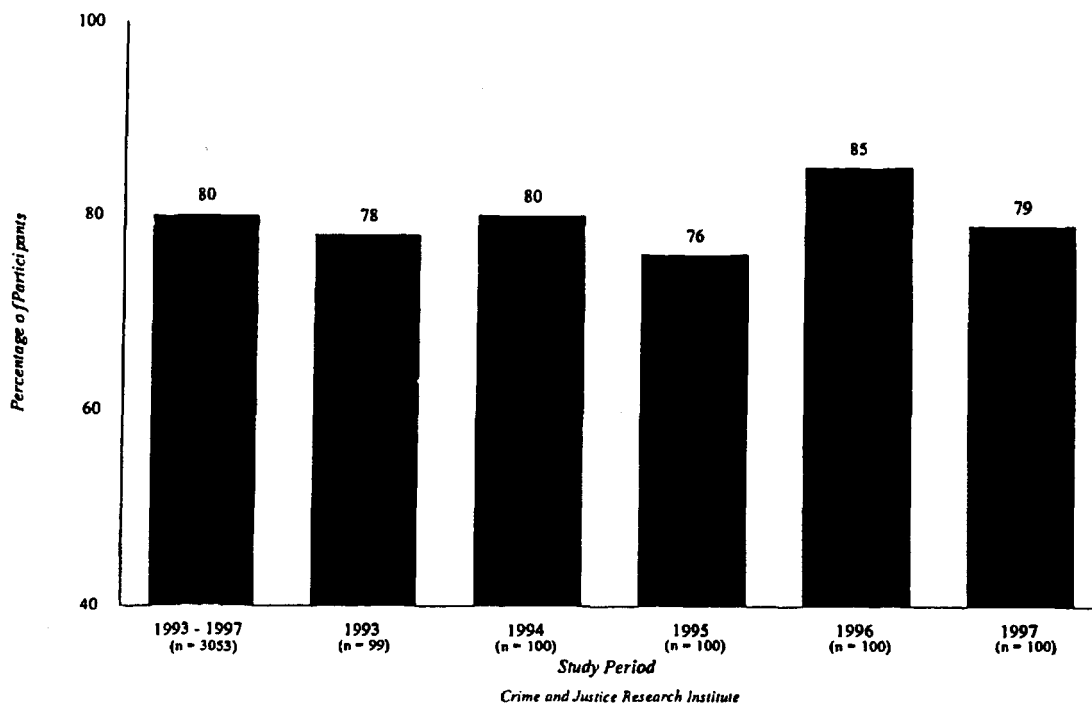
Figure 33 Prior Arrests and Convictions among Clark County Drug Court and Comparison Group Defendants, 1993 - 1997



[Note: A + denotes a significant difference at p<.05.]

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Figure 34 Pretrial Confinement among Clark County Drug Court Participants, 1993 - 1997



confinement was relatively short, ranging from one day in 1993-1995 to two days in 1996-1997. However, nearly one-fifth of Drug Court participants did not gain pretrial release (before entering guilty pleas to enter the program). These findings indicate that the Clark County Drug Court has accepted many candidates who gained release from pretrial detention by entering the Drug Court.

#### Self-Reported Drugs of Abuse

Figure 35 suggests that the drugs of abuse associated with Drug Court participants (as indicated through assessment interviews) remained fairly constant from 1993-1997. Roughly one-third mentioned recent cocaine or crack/cocaine use, slightly over half mentioned marijuana use and nearly one-half reported use of methamphetamines—with minor variation by year. Heroin use was not reported in significant numbers by Clark County Drug Court participants. Annually, Figure 36 shows that the percentage reporting heroin as the primary drug of choice ranges from 0 to four percent. Reported substances of abuse varied notably by race/ethnicity of the participant (See Figure 37). African American participants (at 66 percent) and Hispanic participants (at 44 percent) report cocaine/crack cocaine use three and two times as often as white participants, although this varied somewhat by year. Roughly similar proportions of each group reported recent marijuana use (above half). However, far larger proportions of white participants (over 50 percent) than African American and Hispanic participants reported methamphetamine use through 1995. Hispanic participants more frequently reported its use in 1996 and 1997 (39 and 20 percent) but still reported it less frequently than white participants (65 and 64 percent). Very small proportions of African American participants reported methamphetamine use throughout the study period.

## Self-Reported Frequency of Drug Abuse and Initial Drug Tests

Self-reported assessment data relating to the frequency of substance abuse among candidates entering Drug Court were not sufficiently available in Clark County. Figure 38 displays the drug test results for candidates tested at the assessment stage. Consistently in each year from 1993 through 1997, roughly forty percent of candidates tested at assessment showed only negative tests. Of those testing, positive tests for cocaine were relatively rare (around ten percent, alone or in combination with other drugs), while positive results for marijuana and methamphetamines averaged around one-third of assessed candidates. Positive tests for other combinations of drugs increased from eight percent in 1993 to 17 percent in 1997. Figure 38A demonstrates difference in drug use determined by gender.

## Treatment History

We were unable to obtain data describing the prior treatment histories of Clark County Drug Court participants.

Figure 35 Drug Use Reported at Assessment by Clark County Drug Court Participants, 1993 - 1997

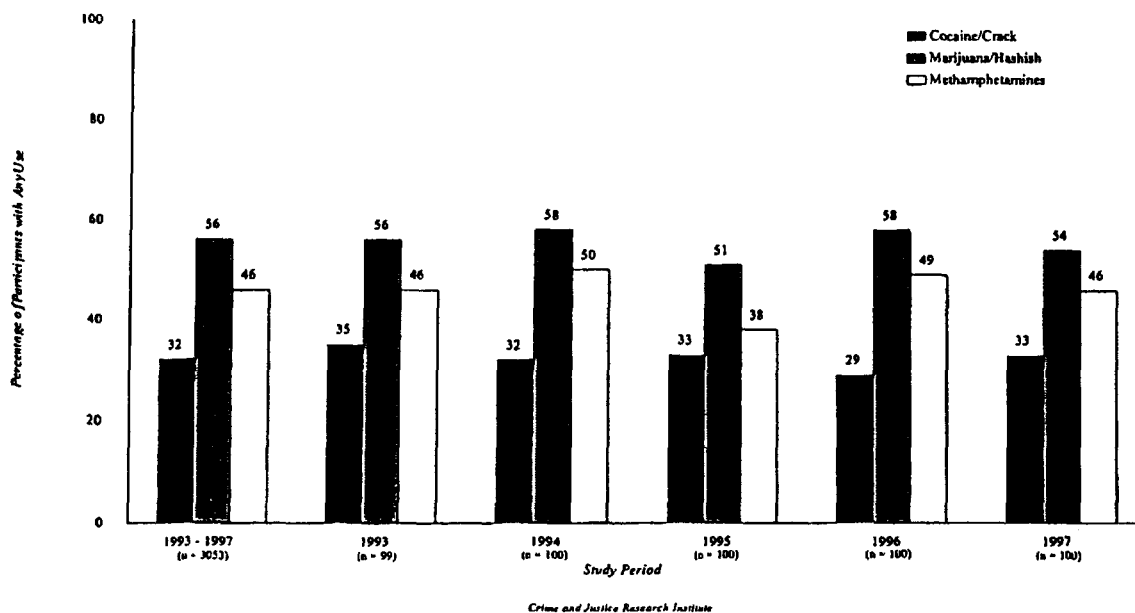


Figure 36 Primary Drugs of Choice Reported at Assessment by Clark County Drug Court Participants 1993 - 1997

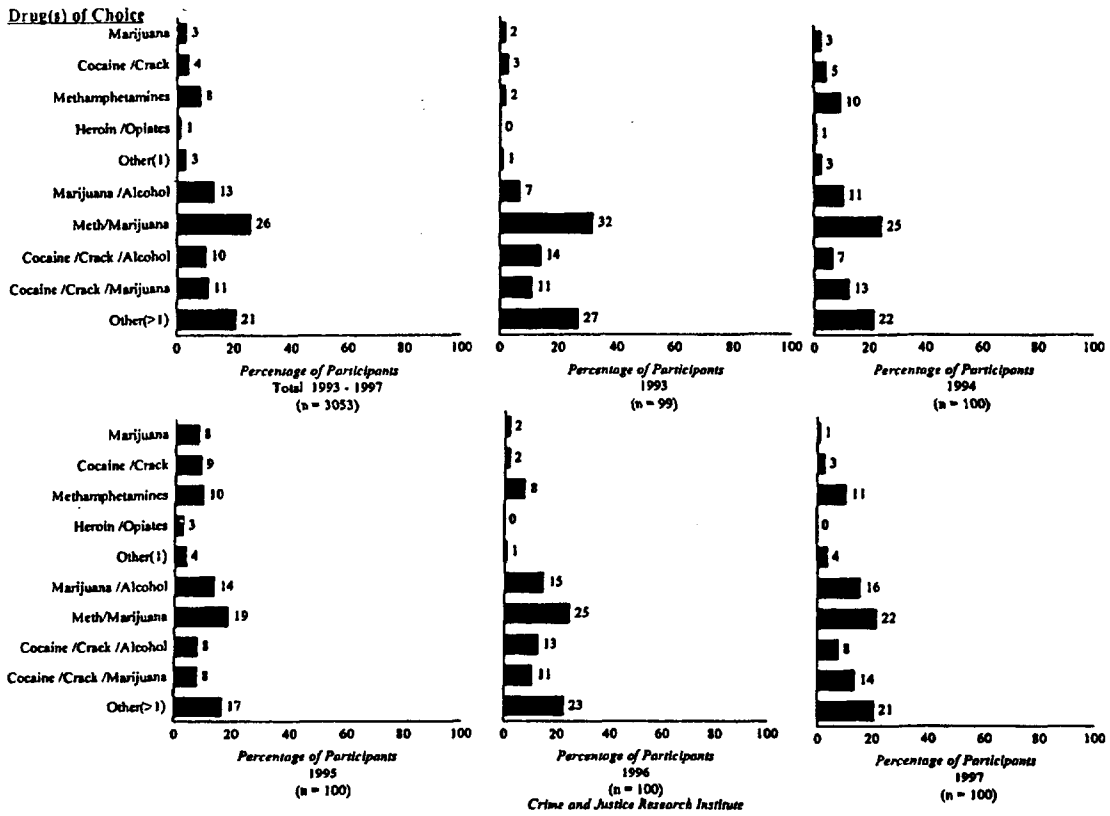


Figure 37 Drug Use Reported at Assessment by Clark County Drug Court Participants, 1993 - 1997, by Race

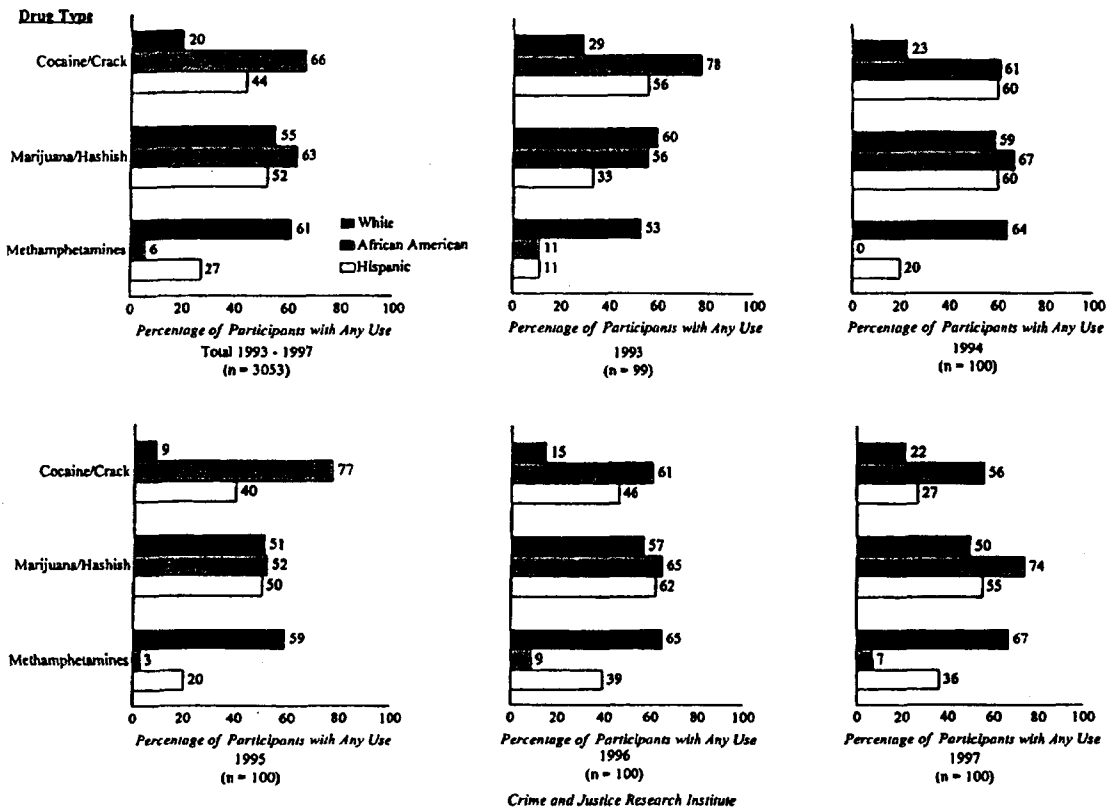


Figure 38 Positive Drug Tests at Assessment among Clark County Drug Court Participants, 1993 - 1997, by Year

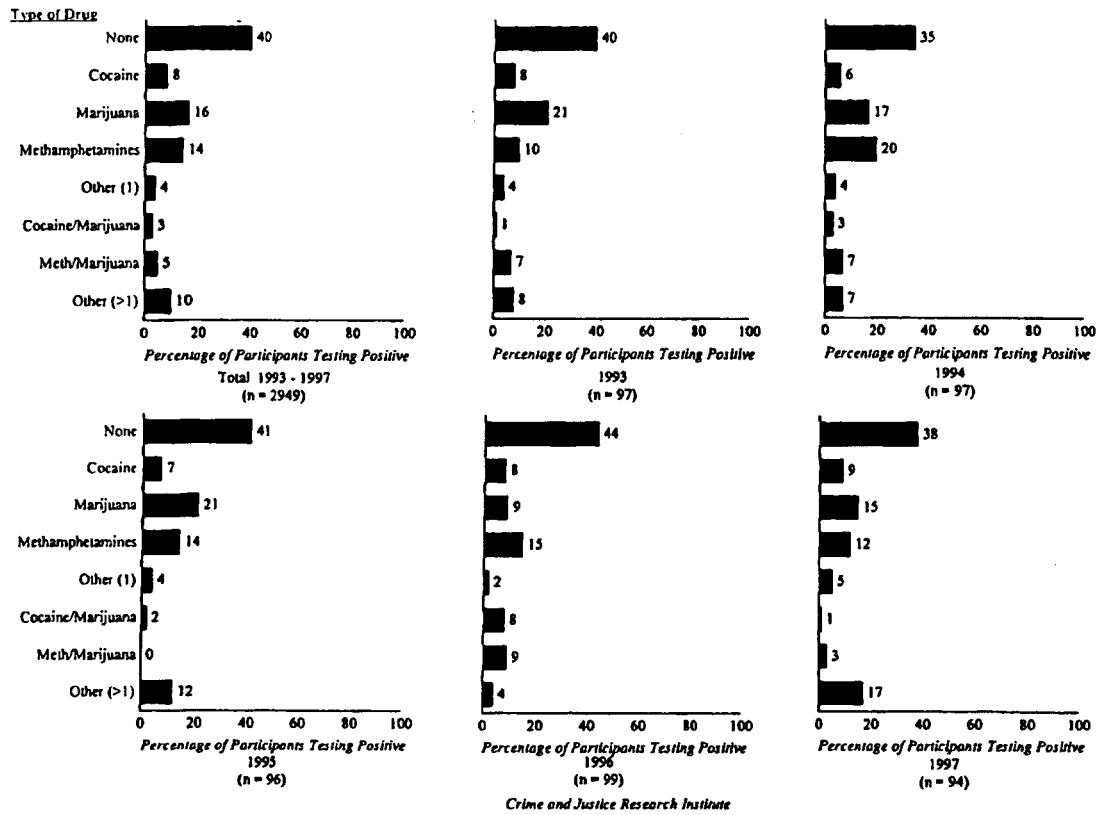
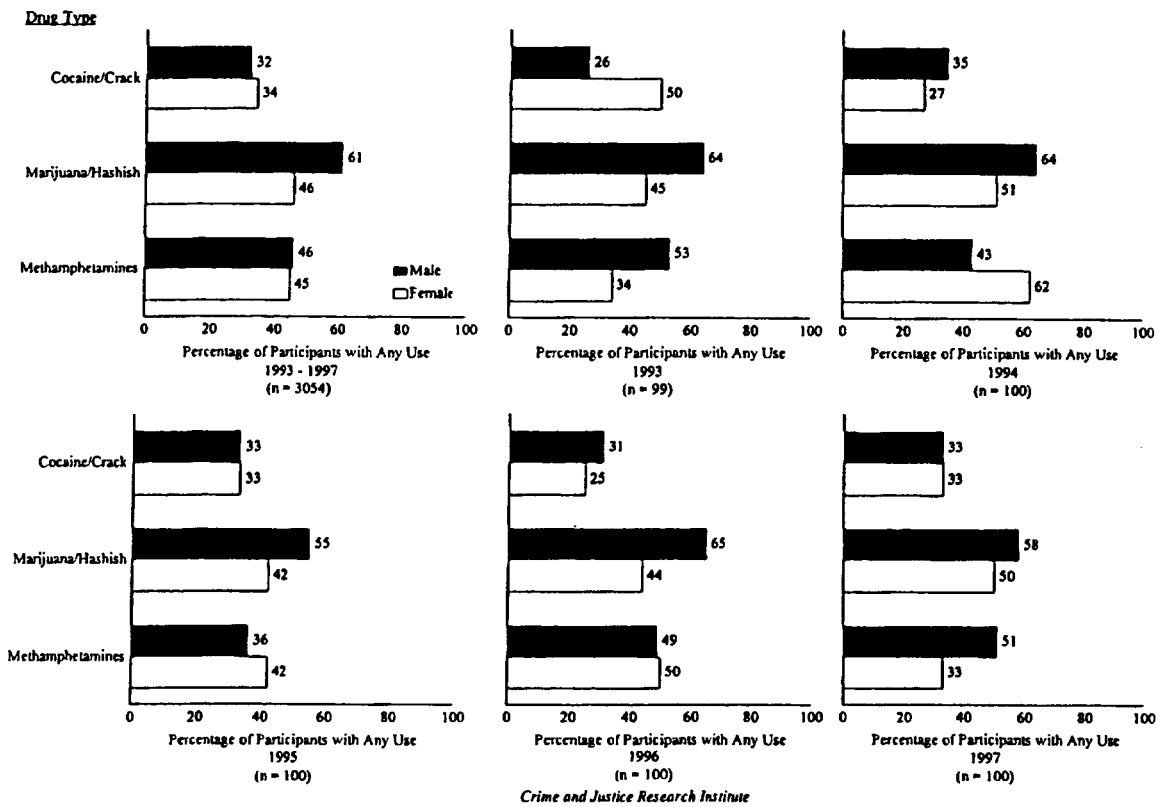


Figure 38A Drug Use Reported at Assessment by Clark County Drug Court Participants, 1991 - 1997, by Gender







## **IX. Participant Progress in the Drug Court Process During the First Year**

### **Participant Progress in the Multnomah County Drug Court**

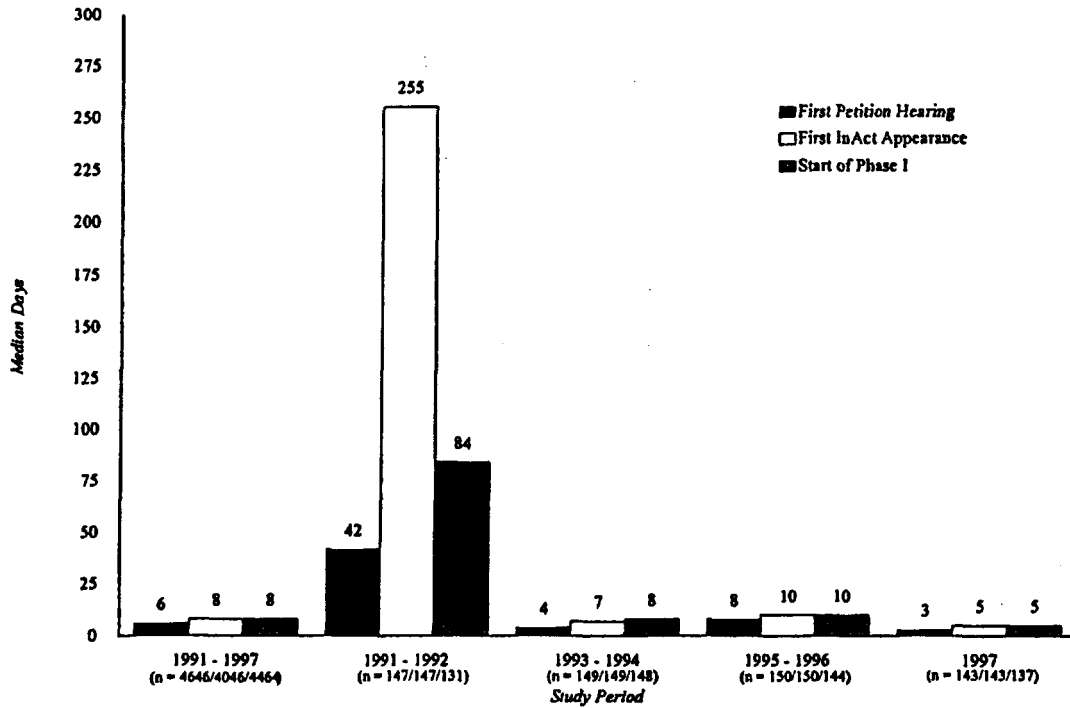
#### **Entering Drug Court**

In Multnomah County, all candidates enter Drug Court after arraignment, orientation at the Defender's office and formal petition at a petition hearing in the Drug Court. From the point of intake at InAct, Inc., the sole treatment provider for the Drug Court, the participant follows a process that combines three phases of treatment and attendance in court for progress reports on a regular basis.

#### **Time to First Treatment Appointment**

In the brief history of the evolution of the Multnomah County Drug Court, records indicating the time required for candidates to progress from the District Attorney charging stage (within one day of arrest) to the first treatment appointment were poor for participants in 1991 and 1992, who began treatment with the Court's first provider. After a brief disruption in treatment services in 1992, a new provider was put in place. The more complete data from 1993 on show that, once the new provider was operating (after a 90-day hiatus), the time from charging to first treatment appointment averaged (a median of) seven days in 1993-94, ten days in 1995-96 and five days in 1997 (see Figure 39). These data clearly show a Drug Court process in Multnomah County placing candidates in treatment in fairly short order (i.e., living up to the "early intervention" goal of the original drug court model).

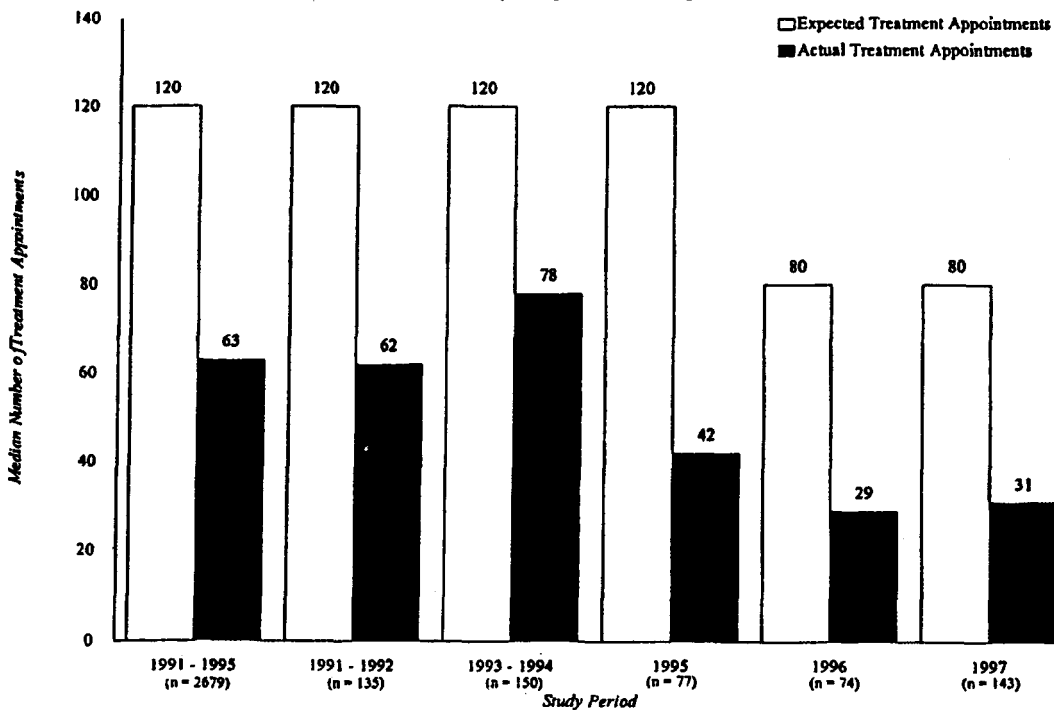
Figure 39 Time from D.A. Charging to Initial Stages of Drug Court Program Process among Multnomah County Drug Court Participants, 1991 - 1997



[Note: Data from 1991 - 1992 reflect delays associated with the disruption of changing to a new treatment provider.]

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Figure 40 Comparison of Expected and Actual Number of Treatment Appointments among Multnomah County Drug Court Participants, 1991 - 1997



[Note: For 1991 - 1995 (with four treatment phases), expected number of sessions is based on six appearances per week in Phase I, three appearances per week in Phases II and III, and one appearance per week in Phase IV (for a period of one year). For 1996 and 1997 (with three treatment phases), the expected figure is based on three appearances per week in Phase I, two per week in Phase II, and one appearance per week in Phase III (for one year).]

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### Delivery of Treatment: Actual vs. Expected Attendance

As noted earlier, the expected pattern of attendance of participants in treatment varies according to the phase of treatment attained, with generally more frequent attendance required in Phase I (three to six days per week) and less frequent attendance required in later phases (one day per week). Although adjustments are made in treatment requirements based on the progress made by defendants, one could expect that, given the minimum 12-month period for successful completion, a successful candidate would attend treatment approximately 120 times based on the four phase treatment model and 80 times for the three phase model during one relatively trouble-free year.<sup>35</sup> Figure 40 shows that, in contrast to the expected number of treatment appointments during one year, participants averaged far fewer appointments. Under the four-phase model (1991 – 1995), participants averaged 63 appointments, although this varied by year, from only 42 appearances in 1995 to 78 appearances in 1993 – 1994. Under the three-phase model in 1996 – 1997, the number of appearances dropped to approximately 30.<sup>36</sup> This measure certainly is closely tied with treatment success, given that successful participants would show better average rates of treatment attendance.

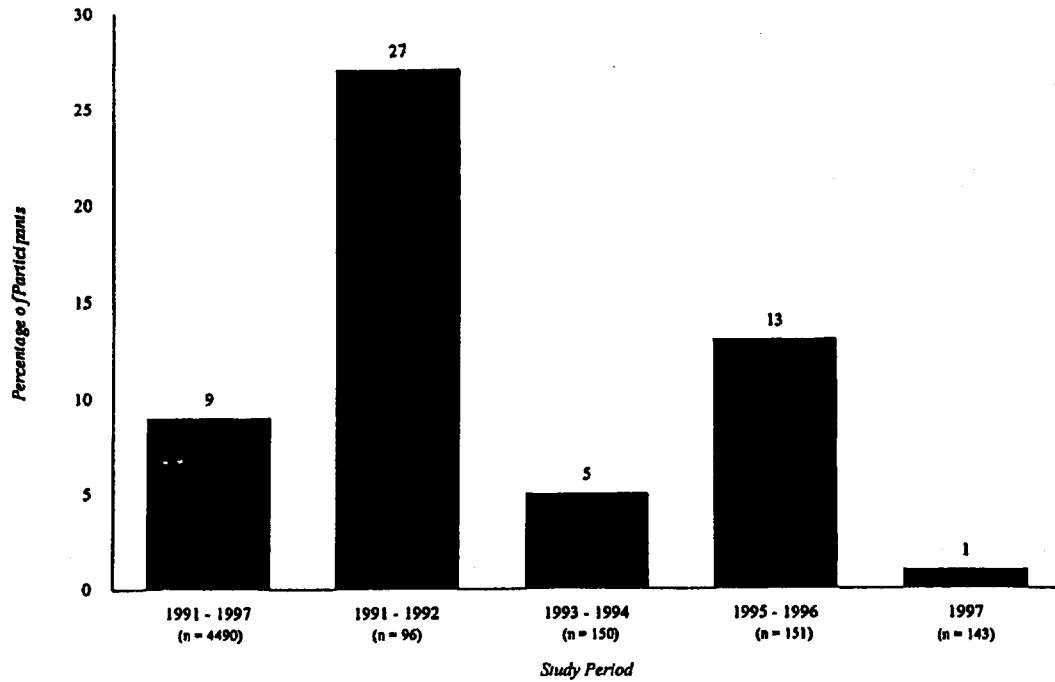
Figure 41 measures treatment attendance another way, showing the proportions of participants with perfect attendance during the first twelve months. Overall, about nine percent of participants entering the Drug Court recorded perfect attendance at treatment. The highest rate (27 percent) was recorded during the disrupted 1991-1992 study

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<sup>35</sup> Recall that in July 1996, InAct restructured its treatment program resulting in a three-phase treatment program.

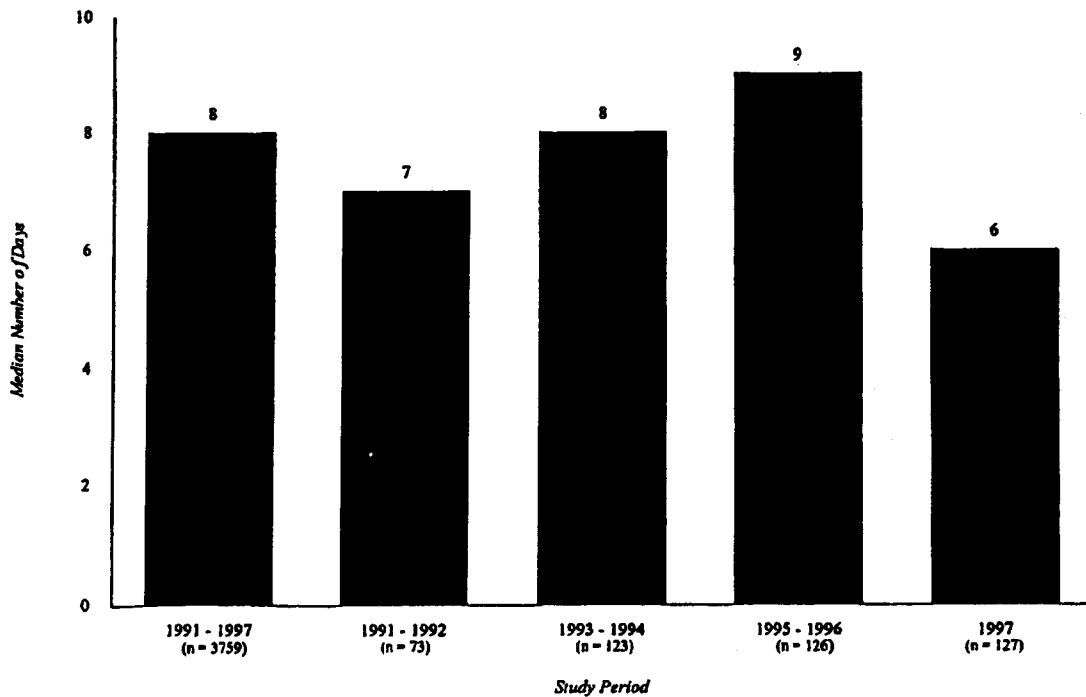
<sup>36</sup> Expected and actual appointments are counted as days and do not account for participants receiving multiple services in one day.

Figure 41 Perfect Treatment Attendance among Multnomah County Drug Court Participants during One Year Observation Period, 1991 - 1997



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Figure 42 Length of Time from First Appearance at Treatment (InAct) to First Missed Appointment among Multnomah County Drug Court Participants, 1991 - 1997



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period.<sup>37</sup> That rate dropped to five percent among 1993-1994 participants, jumped to 13 percent of 1995-1996 participants, and then plummeted to one percent of the 1997 participants. The small proportions of participants with perfect attendance aside, Figure 42 shows that defendants who did fail to attend treatment at least once recorded their first absence roughly one week after first appearing at the treatment program. This varied little over time. In short, most participants record at least one missed treatment appointment and most did so almost immediately after entering Phase I.

#### Completion of Treatment Phases

Figure 43 displays the most advanced treatment phase completed by Drug Court participants in each study cohort.<sup>38</sup> Because it is a 12-month program, one would expect a very small percentage of participants to record graduations in a 12-month follow-up. This assumption is in fact supported by the small dark sections atop each of the columns, showing, for example, that by month 12, five percent of participants from 1991-1995 completed Phase IV of treatment and were eligible for graduation (nine percent of 1995 participants graduated). Ideally under a four-phase modality, however, one might expect that many would have completed Phase III (and entered Phase IV). In fact, few had progressed to this stage in treatment by year's end (seven percent overall, ranging from a low of one percent in 1991-1992 to 13 percent in 1993-1994). In fact, the modal or largest category overall and in each year was persons failing to complete Phase I

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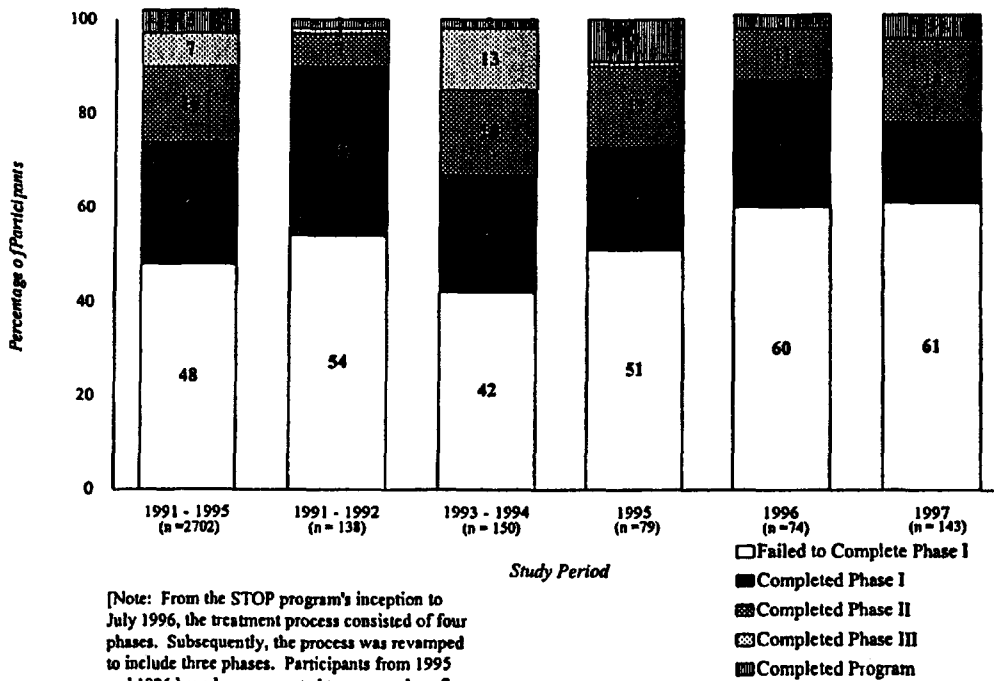
<sup>37</sup> This rate seems inordinately high and may be an artifact of record keeping as the new provider picked up the treatment backlog in the fall of 1992 without full background information from the previous provider. In short, many participants nearing completion of the program may have attended the last stages of treatment flawlessly at the new provider, in contrast with unknown attendance records under the earlier provider that did not provide complete records.

<sup>38</sup> Note that in July 1996 the STOP program revamped its treatment regimen and reduced the number of treatment phases from four to three. Figure 43 has been adjusted to accurately reflect this change.

successfully by month 12. This varied by year with 54 percent failing to complete Phase I in 1991-1992, 42 percent in 1993-1994, and 51 percent in 1995.

As the program shifted to a three-phase modality, few participants graduated from the program within one year (three percent in 1996; five percent in 1997). Although 60 percent of participants failed to complete Phase I in 1996 – 1997, the percentage completing Phase II (and entering the final treatment phase) increased from 11 percent in 1996 to 18 percent in 1997.

**Figure 43 Most Advanced Treatment Phase Completed by Multnomah County Drug Court Participants during One Year Observation Period, 1991 - 1997**



[Note: From the STOP program's inception to July 1996, the treatment process consisted of four phases. Subsequently, the process was revamped to include three phases. Participants from 1995 and 1996 have been separated to accurately reflect the shift.]

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### Length of Time in Treatment

Another way of looking at treatment progress attained during the first 12 months is by measuring the length of time participants remained in treatment in calendar days, from first treatment attended to the last date seen by the provider. Against a theoretical

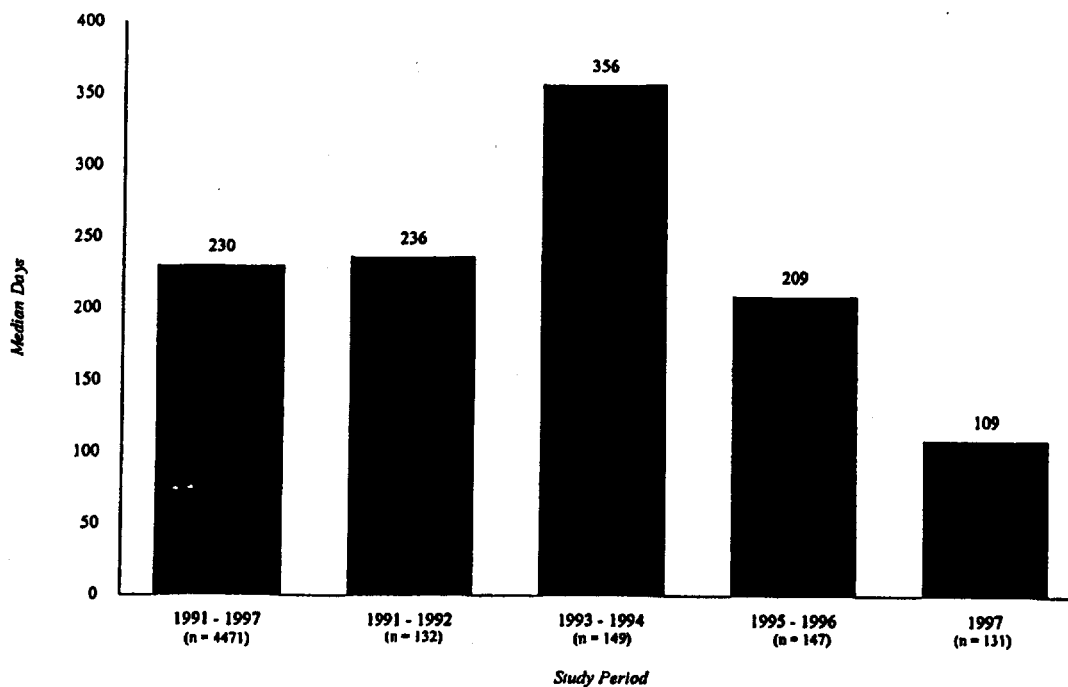
standard that most persons would be in treatment for one year to successfully complete the program, Figure 44 shows that the (median) amount of time in treatment by participants was 230 days overall, considerably less than the full expected calendar year. This finding varied notably by year. Participants entering the Drug Court during the 1991-92 sampling period (when the program was interrupted during the change in providers) were in treatment a median of 236 days or about 65 percent of the calendar year. During the 1993-94 period, the median time in treatment increased to 356 days among participants or about 98 percent of the calendar year. Time in treatment dropped notably in 1995-96 to a median of 209 days or 57 percent of the calendar year, and dropped even lower in 1997, to a median of 109 days in treatment or about 30 percent of a calendar year. Thus, after the difficult start-up period (1991-92), retention of persons in treatment increased powerfully to near the expected level in 1993-94 and then began dropping sharply in 1997 to less than one-third of a calendar year. These changes correspond roughly to (or at least are contemporaneous with) the changes in enrollment described above in section VII (Key Factors Influencing Enrollment Trends), associated with the change in judicial management and the philosophy of the Drug Court.

Figure 45 shows that, while the median length of time in treatment overall dropped to its lowest levels among 1995-1996 and 1997 participants, the length of time participants spent in Phase I grew dramatically, from a median of 50 days among 1991-1992 participants to 101 and 92 days among 1995-1996 and 1997 participants.<sup>39</sup> Long periods of time in Phase I (failing to advance to the next stages of treatment) appear related to treatment failure and low numbers of days in treatment overall.

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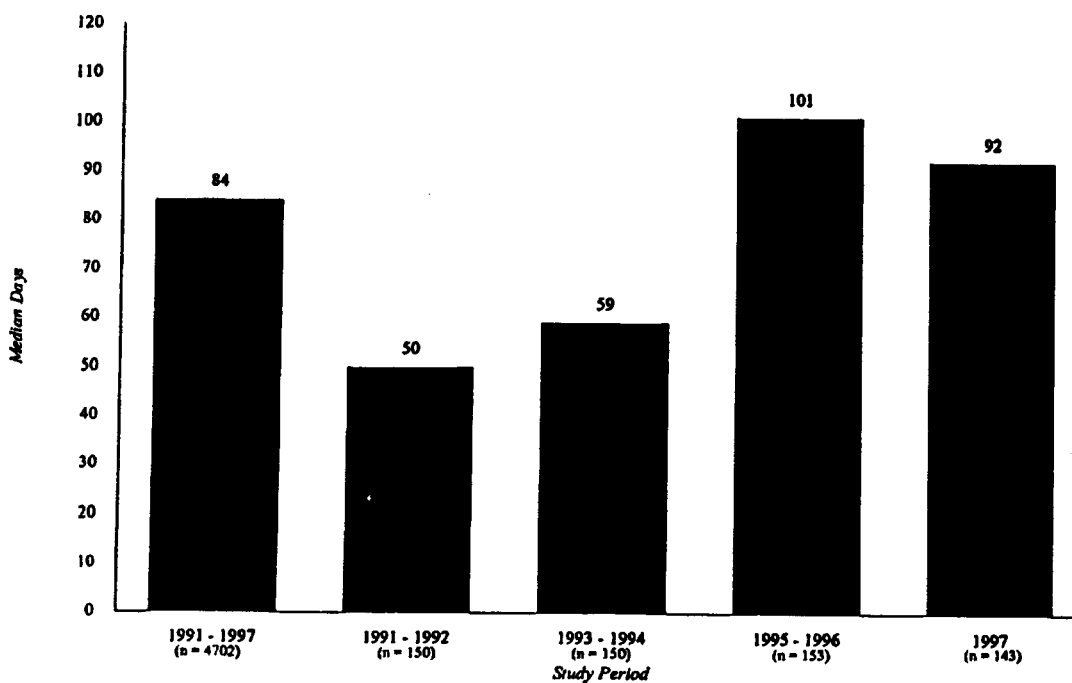
<sup>39</sup> When the STOP program revised their treatment regimen in July 1996, the length of Phase I increased slightly from approximately one month to five to six weeks.

**Figure 44 Length of Time in Treatment among Multnomah County Drug Court Participants during One Year Observation Period, 1991 - 1997**



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**Figure 45 Length of Time in Phase I among Multnomah County Drug Court Participants, 1991 - 1997**



[Note: Median days in treatment Phase I are estimates based on available information in court and treatment files. Relapses in treatment resulting in set-backs to earlier treatment phases were not consistently noted in either data source.]

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## Drug Test Results

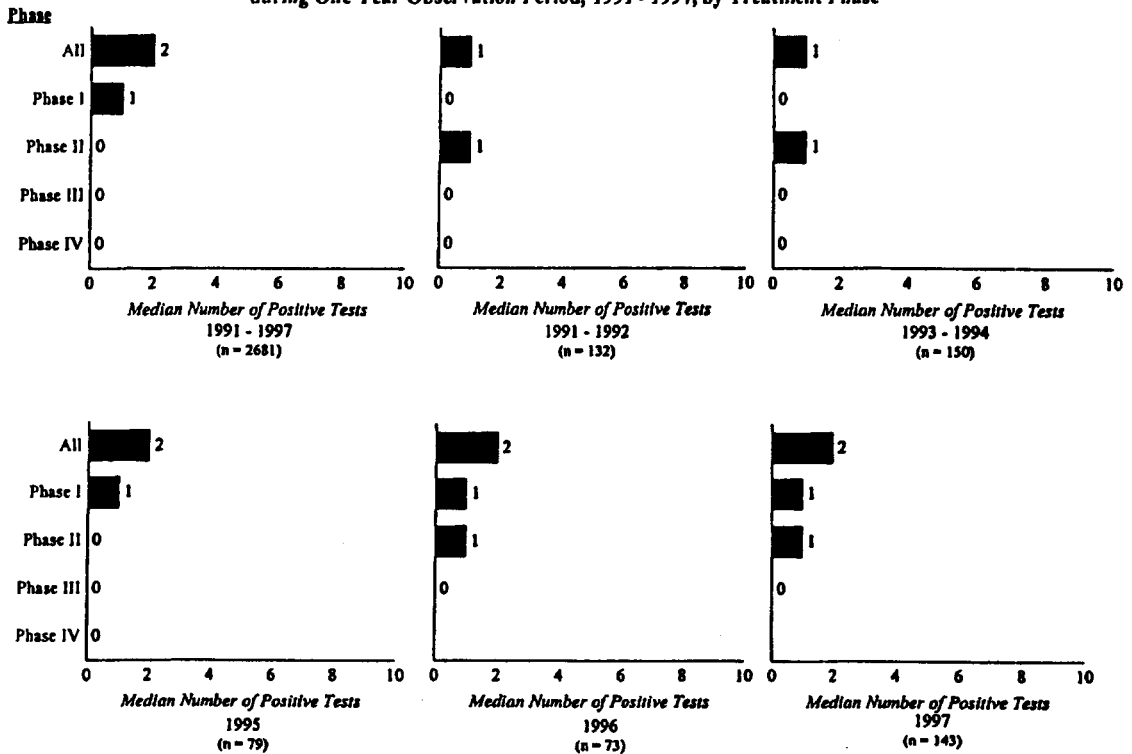
Figure 46 shows the median number of positive tests associated with Multnomah County Drug Court participants during each phase of treatment. Although more positive tests are found in the early phases of treatment as expected, the rare instances of positive tests at the later stages reflect two factors: a) persons advancing to the final phases understandably are not testing positively for drugs by definition; and b) those still using drugs are either not advancing to Phases III or IV or have already dropped out of the Drug Court and are no longer being tested.

Figure 47 looks at participant drug testing another way by asking what proportion of participants never recorded a positive test while in the Drug Court. Surprisingly high rates of participants (42 and 38 percent) recorded no positive tests in a twelve-month period among the 1991-1992 and 1993-1994 cohorts. This percentage dropped notably to 26 percent among 1995-1996 participants and to 13 percent among 1997 participants. Figure 47a narrows the focus to drug testing during the first treatment phase only. More than half of participants entering the Multnomah County Drug Court from 1991 through 1994 recorded no positive drug test during Phase I (the detox phase). From 1995 on, such "all-clean" tests were in the minority. By 1997, only 19 percent of participants tested all negative during Phase I.

These findings raise interesting questions for interpretation. One interpretation is that a large share of the Drug Court participants in the early years (through 1994) were not seriously drug involved – but that this changed subsequently as more participants tested positively. Conceivably, more seriously drug-addicted participants were being admitted to the Drug Court over time, hence explaining the smaller proportions with all-

negative test results. In addition, the rigor of testing may have been enhanced as the Drug Court grew in maturity. Finally, the finding could be a result of change in the rigor records improved, positive tests were more systematically recorded and that rates of positive tests may not have really changed much.

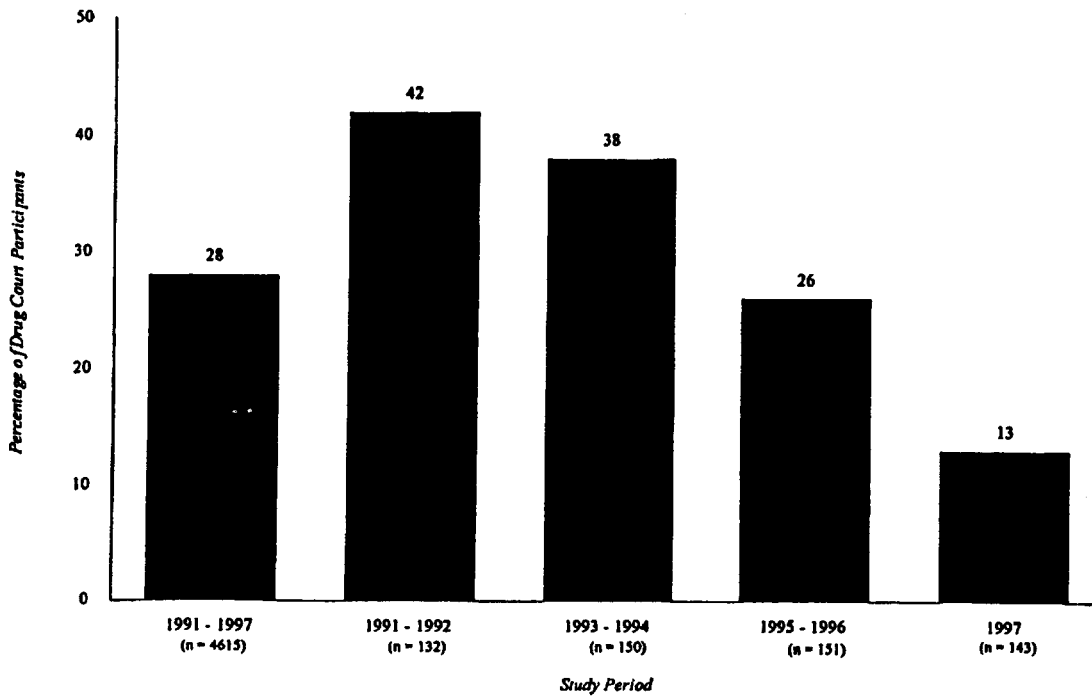
Figure 46 Positive Drug Tests among Multnomah County Drug Court Participants during One Year Observation Period, 1991 - 1997, by Treatment Phase



[Note: This figure includes the results of drug tests at assessment. Also recall that in July 1996 the STOP program was revised to include three phases.]

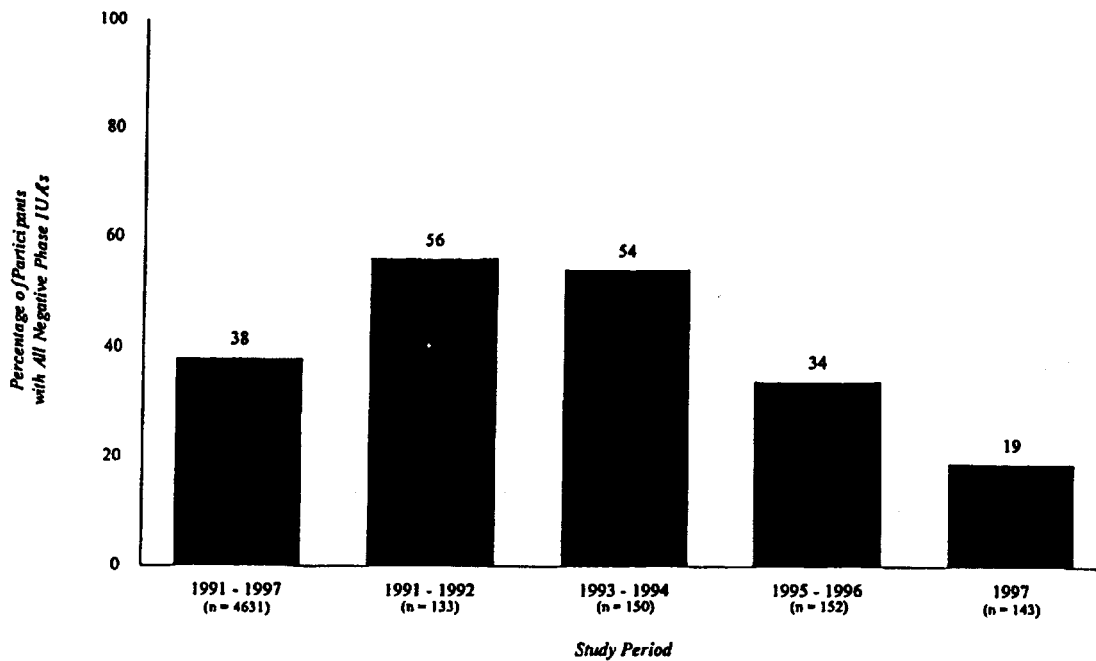
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**Figure 47 Multnomah County Drug Court Participants Never Testing Positively during One Year Observation Period, 1991 - 1997, by Year**



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**Figure 47A Multnomah County Drug Court Participants with no Positive Drug Tests (UAs) in Phase I during One Year Observation Period, 1991 - 1997**

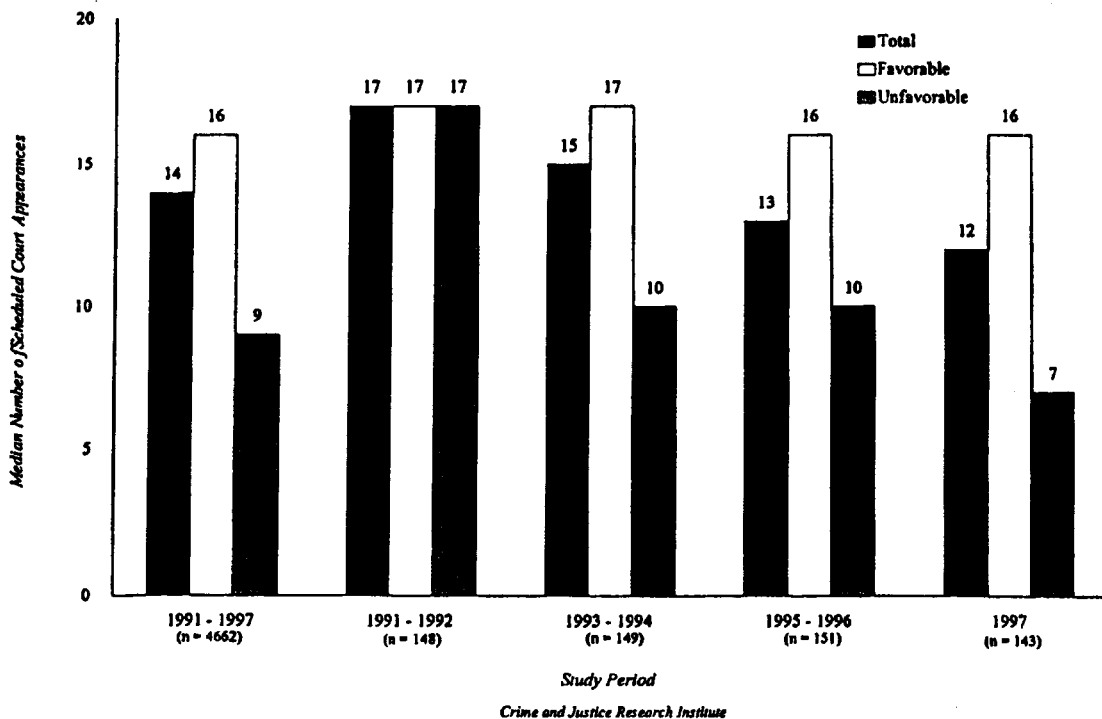


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## Attendance in Drug Court During the First Year

Multnomah County Drug Court participants averaged 14 appearances during the first 12-month period, or more than one per month. This varied somewhat by year and by status of the participant. (Persons eventually dropping out of Drug Court attended court less during the first year.) Figure 48 shows that persons in an “unfavorable status”<sup>40</sup> at the end of the first year made fewer court appearances than those who were in a favorable status. This is logical if “unfavorable” status participants disproportionately include those who have absconded or who were terminated from the Drug Court program.

**Figure 48 Number of Scheduled Court Appearances among Multnomah County Drug Court Participants during One Year Observation Period, 1991 - 1997, by Treatment Outcome**



<sup>40</sup> Unfavorable statuses include being in jail, being a fugitive, or having been terminated from Drug Court. Favorable statuses include being an active participant in treatment or a graduate and not being in an unfavorable status.

### Number of Judges/Referees Seen by Drug Court Participants

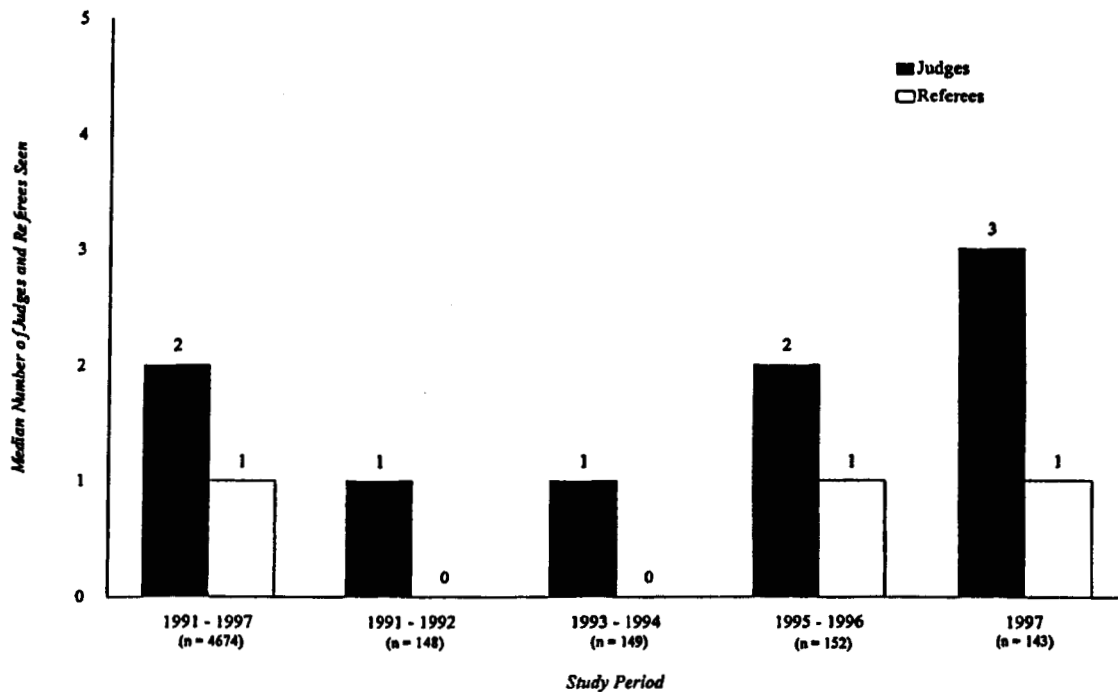
In section VII, we described the changes in judicial assignments to the Drug Court from two single and dedicated Drug Court judges in succession through January 1996 to a referee and more frequent substitute judges for short periods of time through 1997. Figure 49 shows the median number of judges (or judicial officers) participants saw in Drug Court during the first twelve months of the program. Participants entering Drug Court during 1991-1992 and 1993-1994 generally appeared before a single judge when attending Drug Court. (During that time, the principal judges would be temporarily replaced by substitutes for vacations, etc.) The 1995-1996 participants averaged two judges and one referee (by definition, half saw more than those numbers) during the first twelve months. This median increased to three judges and one referee during 1997 (with half seeing more than this number). This measure reflects the change to more than one judicial official presiding over the matters of Drug Court participants, particularly beginning in 1996. This finding corresponds to the findings showing shorter overall times in treatment among 1995-1996 and 1997 participants as well as longer times in Phase I. We conclude that there is at least a strong association between treatment outcomes (as variously measured in this section) and the shift away from a single Drug Court judge.

### Use of Sanctions, Including Jail

Figure 50 summarizes data relating to the use of sanctions by the Drug Court judge on participants during their first 12 months. Overall, the Drug Court assigned an average of .31 sanctions per person from 1991-1997 (or 31 per every 100 participants entering the Court). This overall rate masks an increase in the average use of sanctions

from .14 per participant in 1991-1992 to .5 among 1997 participants. (This is a change from about one in seven participants to about one in two over that period of time.) The bottom part of the same figure shows that about 25 percent of participants received at least one sanction during the first 12 months of Drug Court. This rate fluctuated over time from 14 percent among 1991-1992 participants to 27 percent among 1993-1994 participants, dropping again among 1995-1996 participants to 19 percent, before increasing again to 28 percent of 1997 participants, or nearly twice the proportion of the 1991-1992 participants.

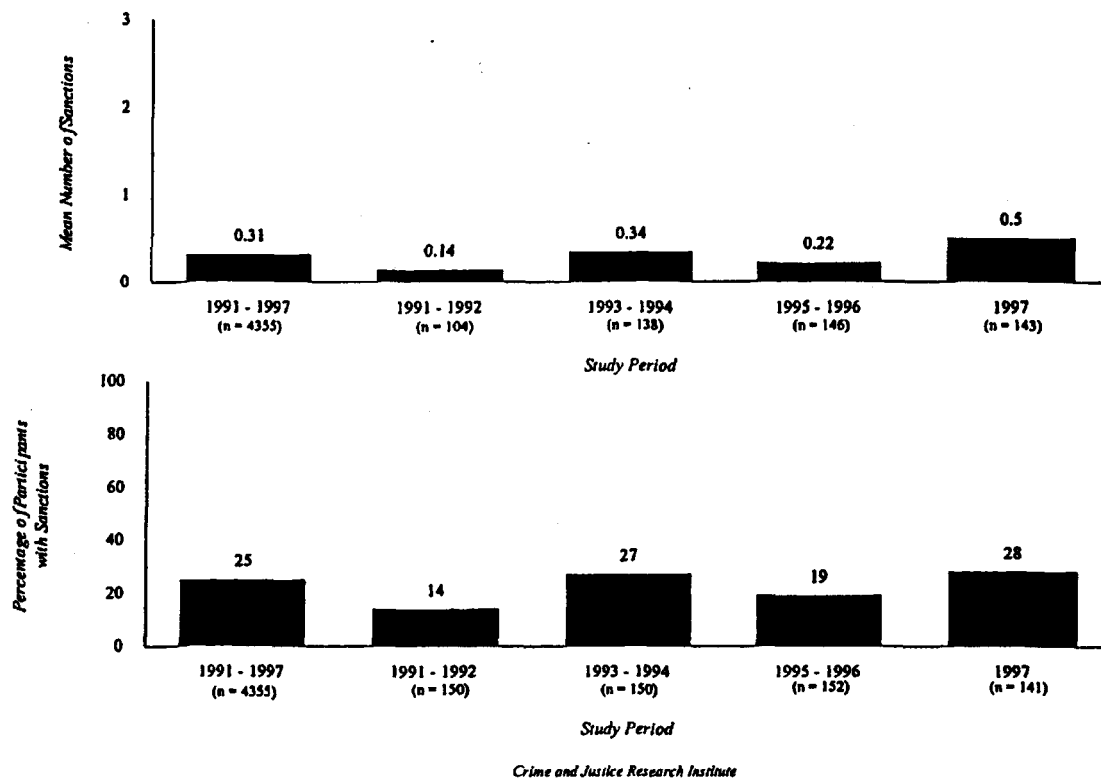
**Figure 49 Number of Judges and Referees Seen by Multnomah County Drug Court Participants, 1991 - 1997**



[Note: Ten defendants did not appear before a judge but appeared before one or more referees.]

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Figure 50 Sanctions Imposed on Multnomah County Drug Court Participants during One Year Observation Period, 1991 - 1997



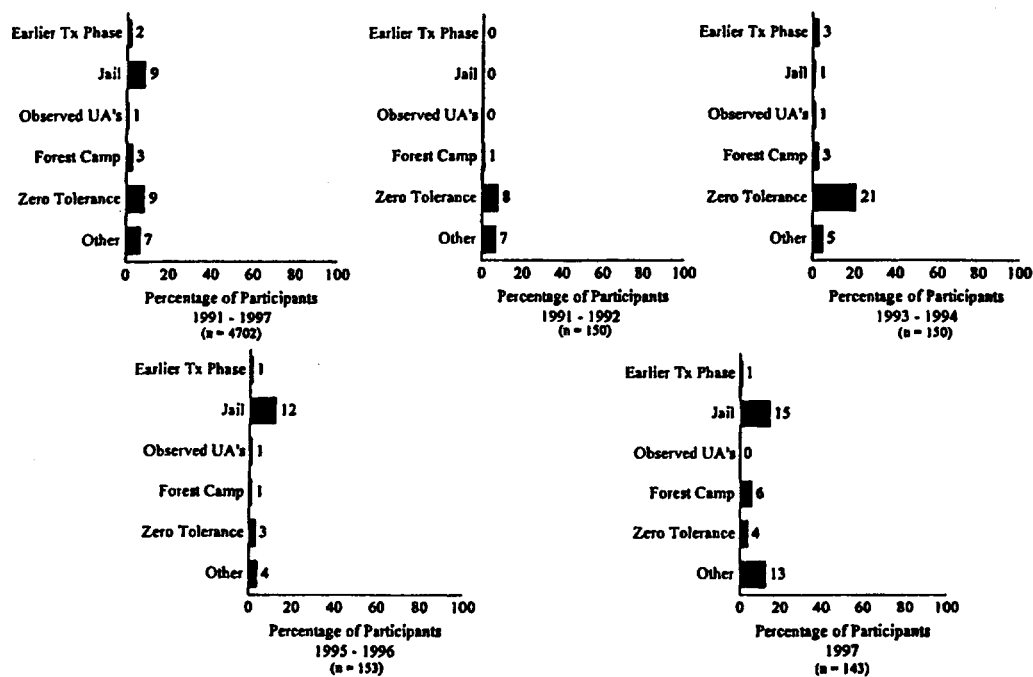
The Multnomah County Drug Court made use of a variety of sanctions to respond to participants who were out of compliance with the Drug Court program, including returning the participant to an earlier phase of treatment, requiring observed drug tests, spending time in the forestry camp, assignment to Zero Tolerance and jailing.<sup>41</sup> Figure 51 summarizes the use of these sanctions by the Drug Court judge.<sup>42</sup> During 1991-1992, returning to earlier treatment phases,<sup>43</sup> jailing, and observed drug tests were fairly rare sanctions received by Drug Court participants. Assignment of zero-tolerance

<sup>41</sup> The Zero Tolerance program was started by Judge Robinson as an effort to improve compliance among struggling participants. Rather than terminate them from the program, non-compliant participants are given a "last chance" in Zero Tolerance where there is no room for error. Female participants who are pregnant are typically placed in Zero Tolerance.

<sup>42</sup> Percentages in Figure 51 do not total to 100 percent because sanctions are not mutually exclusive. For example, some defendants could have received more than one sanction, including jail time, observed UA's, and zero tolerance.

requirements increased dramatically in 1993 – 1994, but dropped to low levels from 1995 on. The use of jail as a sanction against non-compliant participants in their first twelve months of the Drug Court program increased sharply among 1995–1996 participants to 12 percent and increased again among 1997 participants to 15 percent. Figure 52 shows that non-compliant Drug Court participants were jailed a median of two days in the first 12 months, with slight variation by year.

Figure 51 Types of Sanctions Imposed on Multnomah County Drug Court Participants during One Year Observation Period, 1991 - 1997



[Note: Although the Zero Tolerance program was not created until January 1994 under Judge Robinson, treatment provider records indicate its use in 1991 and 1992.]

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### Participant Status in Drug Court at the End of One Year

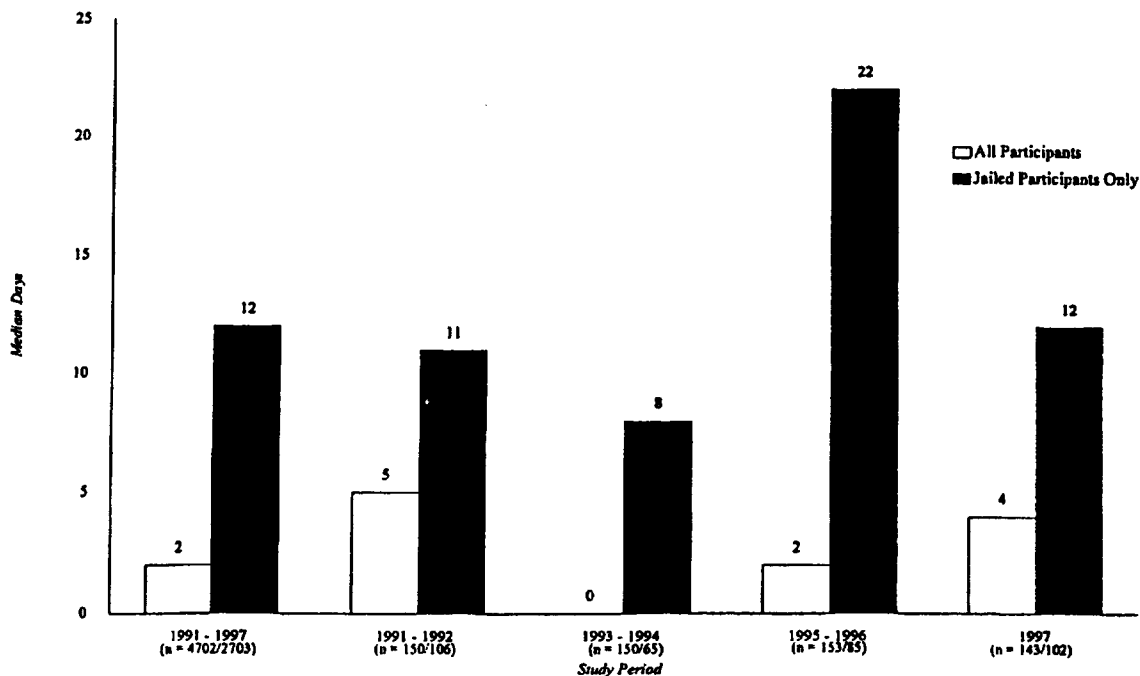
Progress in Drug Court is measured by successful compliance with the requirements of treatment as well as requirements of the Court, such as regular attendance, performance of sanction-related tasks, lack of rearrests for offenses that

<sup>43</sup> This is predictable because of the disruption in treatment services and the introduction of a new provider at the end of this period after several months with no provider.



would be excluded from Drug Court and of other involvements with criminal justice that would not be acceptable for participation in the program. Although the treatment provider did not have the authority to “terminate” the participant from the Drug Court program—rather only the judge could decide this—the provider has recommended participants for termination who are no longer active in the process and the Court may have agreed or disagreed. (The Drug Court judge may from time to time require the provider to continue working with the participant despite the provider’s view that there is lack of treatment progress.) Figure 53 characterizes participant status in treatment at the end of the first year from the perspective of provider records. Overall (1991-97), the provider data show that 42 percent of participants entering the Drug Court were “terminated” from treatment at the end of twelve months, 54 percent were active and 4 percent had graduated.

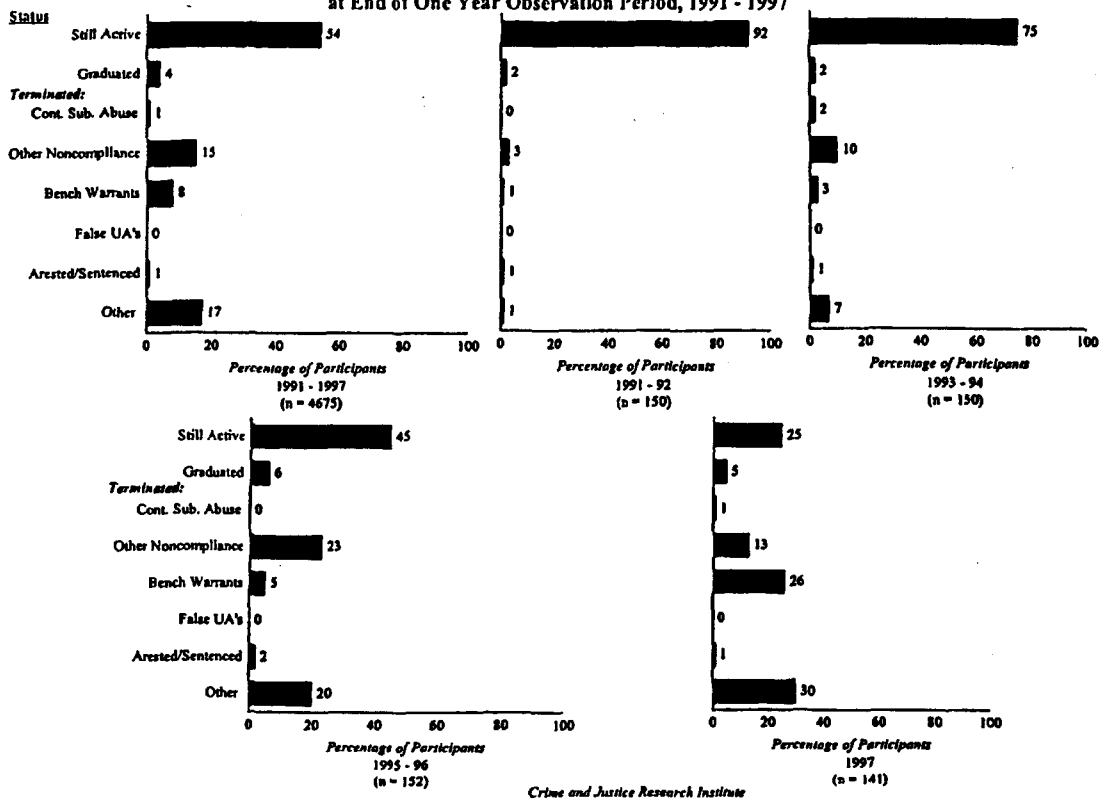
Figure 52 Confinement Directly Attributable to the Drug Court among Multnomah County Drug Court Participants during One Year Observation Period, 1991 - 1997



[Note: In this figure, we rely on median, rather than mean, as our measure of central tendency because the median is less affected by extreme values. For example, the median number of days confined for the entire study period is 3; the mean is 17, ranging over time from 10 in 1993 - 1994 to 20 in 1995 - 1996. In addition, confinement includes both Drug Court sanctions and Drug Court bench warrant confinement.]

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Figure 53 Status in Treatment among Multnomah County Drug Court Participants at End of One Year Observation Period, 1991 - 1997



This overall picture masks notable variation by year. Among 1991-92 participants, 92 percent were active at the end of the first year. (This extraordinarily high proportion is almost certainly explained by the second provider's inheritance of a large number of active cases not completed by the first Drug Court provider.) That proportion dropped to 75 percent active in treatment at year's end among 1993-94 participants, dropped sharply again to 45 percent among 1995-96 participants, and plummeted farther to 25 percent active at year's end among 1997 participants. The sharp drop in active cases in 1995-96 seems mostly explained by persons terminated for "other non-compliance" (23 percent). Among 1997 participants, the additional drop in active status participants appears to be explained by terminations for "other noncompliance" (13

percent), a great increase in termination for bench warrants (26 percent), and a large proportion of "other" terminations (30 percent).<sup>44</sup>

#### Status of Criminal Cases at the End of One Year

Another way to examine the status of participants one year from entry into Drug Court is by the status of their criminal cases. Figure 54 shows that overall (1991-1997) 67 percent of participants still had their cases open or active (unadjudicated) at the end of the first 12 months. Two percent of these were confined at year's end and 18 percent were in fugitive status (had bench warrants issued but had not been apprehended). In other words, 45 percent still had active cases and were on release and participating in the Drug Court. Two percent overall had charges dismissed and had completed their involvement with Drug Court, and two percent had graduated by year's end. More than one-fourth of participants had been found guilty on their drug court cases, indicating unfavorable termination from the program.

These patterns varied by study period. Forty-eight percent of 1991-92 participants had open cases and were on release (in the program) at year's end. This jumped to 62 percent among 1993-1994 participants and then dropped sharply to 40 percent among 1995-96 participants and 38 percent of 1997 participants. Compared to 19 percent of 1991-92 participants and 17 percent of the 1993-94 participants, 35 percent of the 1995-96 and 38 percent of the 1997 participants had been found guilty by year's end. These findings also appear to correspond to the more restrictive changes in judicial policy governing the Drug Court discussed earlier in interpreting enrollment trends.

Figure 55 simplifies the discussion of case statuses to reflect "favorable" and "unfavorable" statuses at the end of the first year of Drug Court. In considering the

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<sup>44</sup> Other terminations include D.A. rejections, client withdrawals, and deaths.

options described above, we combined active cases in which participants were either in fugitive status or confined and participants whose cases had resulted in conviction by year's end as being in an "unfavorable" Drug Court status.<sup>45</sup> Overall 49 percent of participants entering the Multnomah County Drug Court from 1991 through 1997 were in an unfavorable status at the end of 12 months. However, this varied by year: 48 percent of 1991-92, and 35 percent of 1993-94 participants were in an unfavorable status at year's end. This amount rose sharply to 54 percent of participants entering the Drug Court in 1995-96 and 57 percent of 1997. Overall, the data portrayed in Figure 55 point to a reversal in the formal statuses of participants at the 12-month mark over the time periods studied. The proportion in a favorable status at year-end drop from 52 percent of the 1991-1992 participants to 43 percent of the 1997 participants.

Figure 56 documents that 27 percent of participants entering in all years were terminated from the Multnomah County Drug Court and convicted and that the rate of termination appeared to be gradual and steady throughout the 12-month period, starting with very few in the first 90 days (three percent), increasing to 10 percent by 180 days, 19 percent by 270 days and 27 percent convicted by 365 days. There was fairly substantial variation in the rate of termination over time, however, from 19 percent in 1991-1992 and 17 percent in 1993-1994, to 35 percent in 1995-1996 and 38 percent in 1997. The cohorts of participants entering during the 1995-1996 and 1997 study periods

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<sup>45</sup> Participants whose cases had resulted in conviction by year's end are in "unfavorable" status with no opportunity for their case status to change. Participants who are fugitive or confined at year's end could conceivably achieve a favorable case status with an extended follow-up (including graduation).

Figure 54 Status of Cases among Multnomah County Drug Court Participants at End of One Year Observation Period, 1991 - 1997

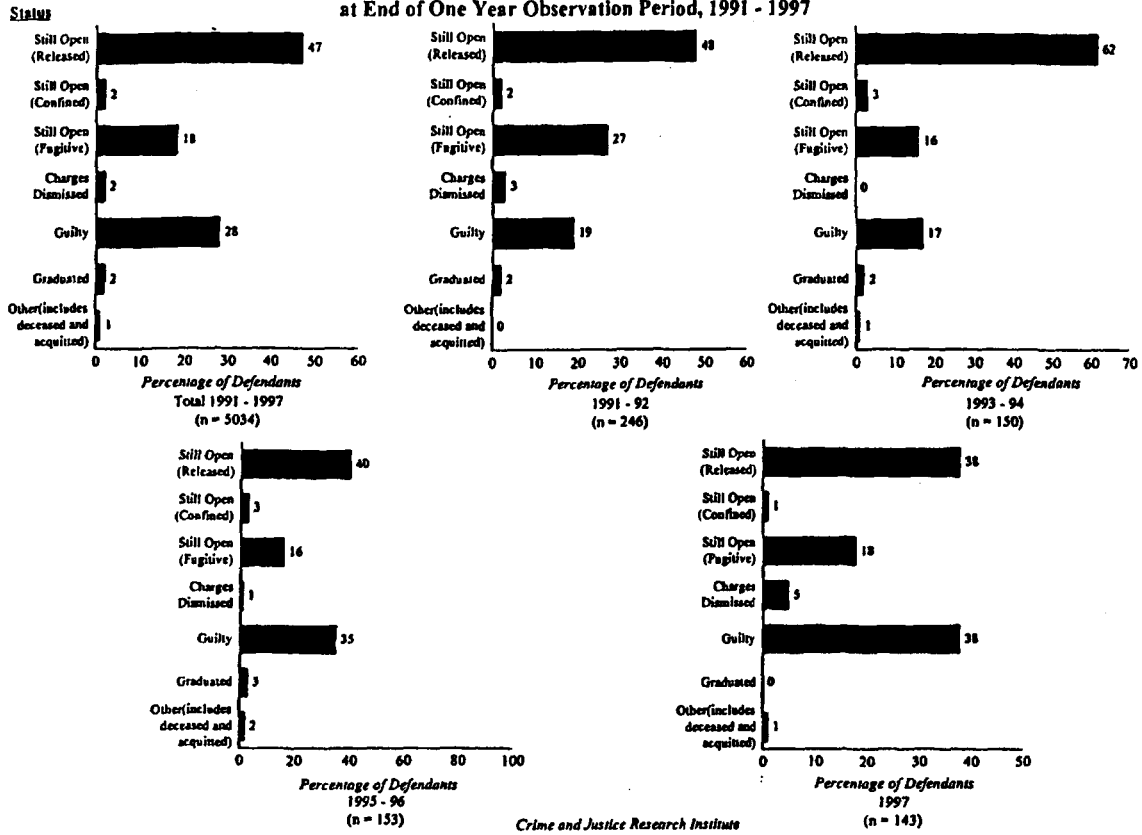
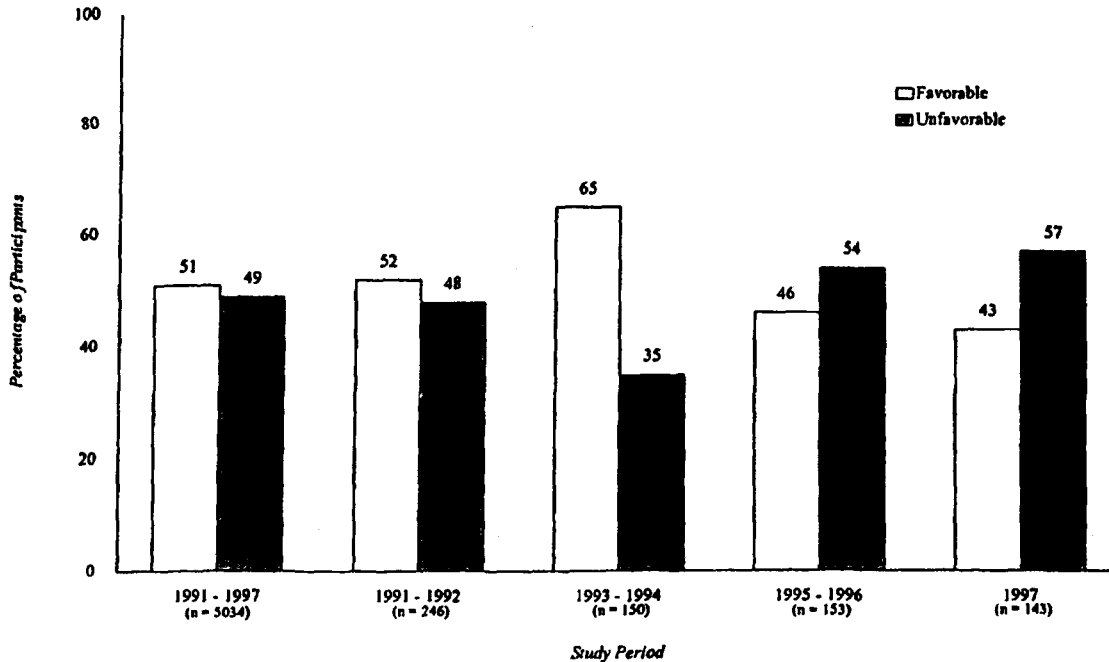


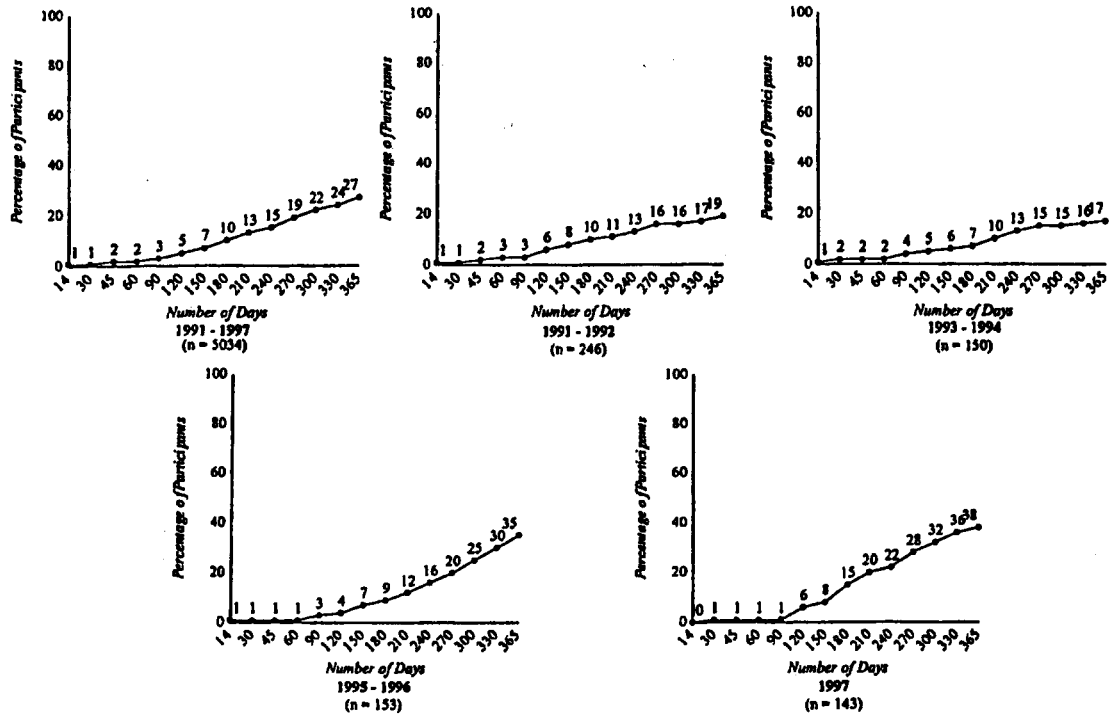
Figure 55 Case Status (Favorable / Unfavorable) at End of One Year Observation Period among Multnomah County Drug Court Participants, 1991 - 1997



[Note: "Favorable" status at 12 months includes defendants in active treatment and those who graduated. "Unfavorable" status includes defendants who have been terminated by the judge and convicted, those who are fugitives, and those confined.]

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Figure 56 Time to Unfavorable Termination of Multnomah County Drug Court Participants during One Year Observation Period, 1991 - 1997



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showed the sharpest differences in terminations. Not only did they produce roughly twice the failure rates of participants entering during the earlier years, but their terminations were not gradual throughout the year, increasing sharply after 90 days.

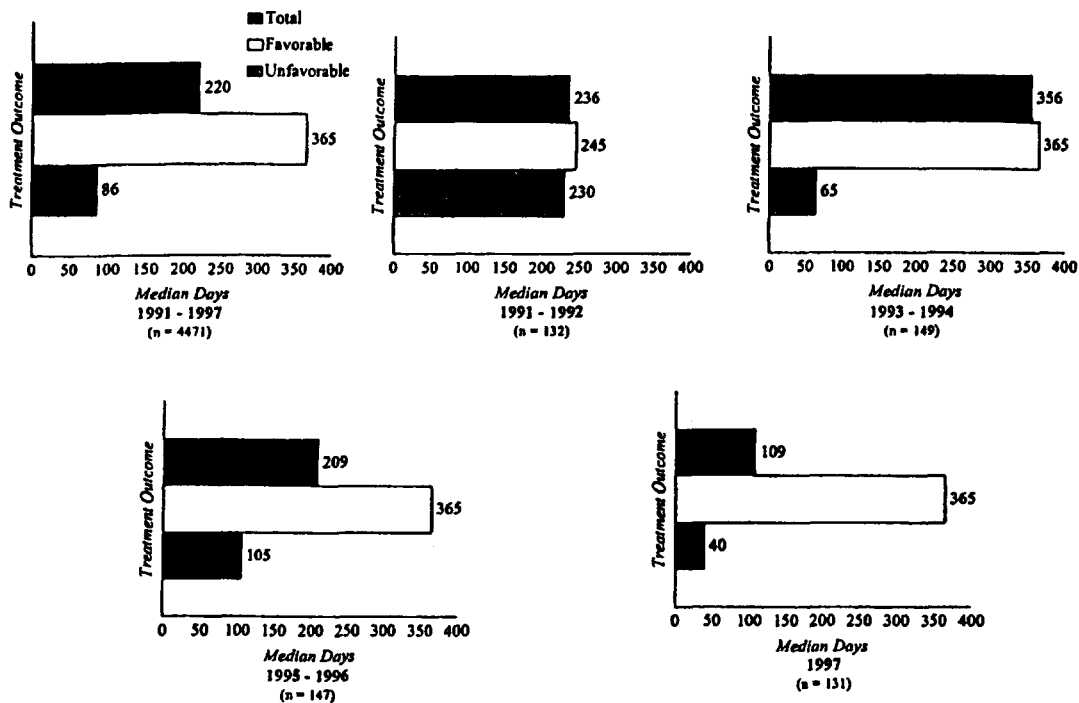
Length of Time in Treatment and Favorable/Unfavorable Outcomes

Figure 57 displays the median length of time spent in treatment by Multnomah County Drug Court participants overall and by treatment status at the end of one year. Overall, Drug Court participants entering the program from 1991 through 1997 spent a median of 230 days in treatment. The median time in treatment by the participant cohorts increased initially from 236 days among 1991-1992 participants, to 356 days among the 1993-1994 participants, but then dropped sharply to 209 days among 1995-1996 participants and then sharply again to 109 days among 1997 participants. The initial

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success shown by the Drug Court in lengthening the period of time spent in treatment by 1993-1994 reversed course in 1995-1996 and then plummeted in 1997. In all years, logically, defendants in favorable case status at the end of one year had compiled much longer periods in treatment (a median of 365 days) than those in an unfavorable Drug Court status (a median of 86 days in treatment).

Figure 57 Length of Time in Treatment among Multnomah County Drug Court Participants during One Year Observation Period, 1991 - 1997, by Treatment Outcome



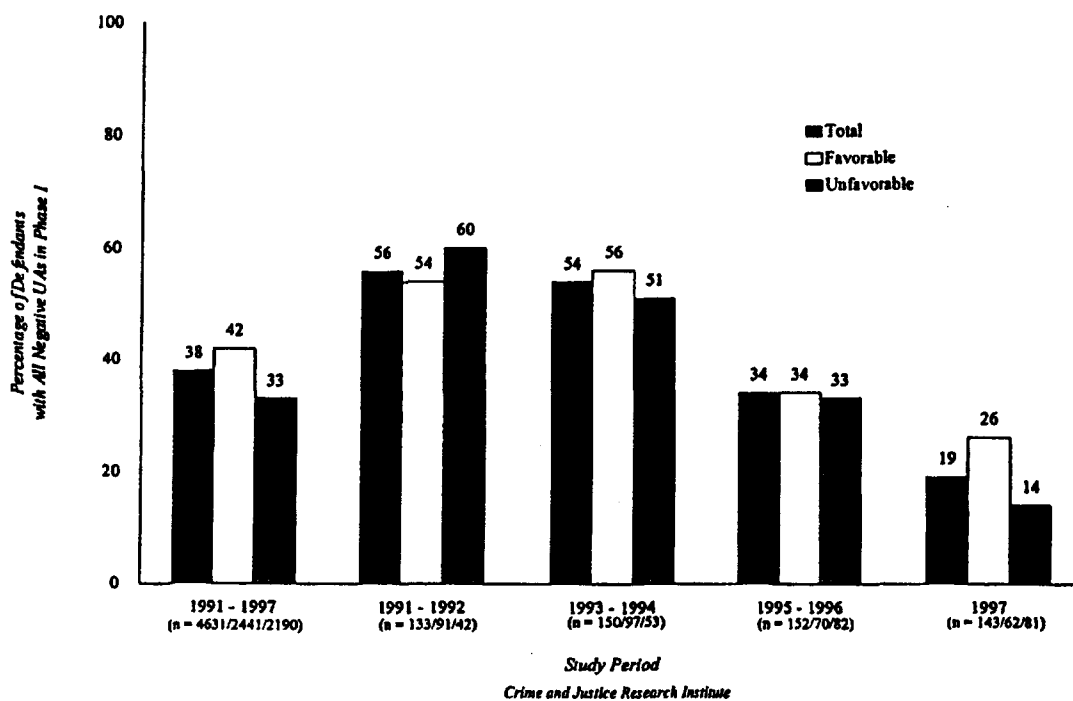
[Note: Treatment time is calculated from InAct records from first appearance at InAct to last date seen.]

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The drop in median days in Drug Court associated with the 1995-1996 cohort of participants and continuing farther in the 1997 cohort corresponds to the trends seen in enrollments described earlier that were linked to major change in judicial approach (coverage) and policy at that time. If more restrictive compliance policies were being enforced during that shift in emphasis, one result would be that participants having difficulty in the treatment process (missing court, missing treatment, etc.) would have been terminated more promptly from the program. Early expulsion of apparently poor

performers would, because of the resulting very short periods of time spent in treatment, affect the calculation of the entire participant group by lowering the overall cohort's time in treatment. Note that participants with a favorable status at the 12-month mark had spent nearly the entire year in Drug Court treatment—as one would expect successful participants to do. Yet the large numbers of others in unfavorable statuses produced such short average periods of time in treatment that the overall group rate is quite low.

Figure 58 Multnomah County Drug Court Participants with no Positive Drug Tests (UAs) in Phase I during One Year Observation Period, 1991 - 1997, by Treatment Outcome



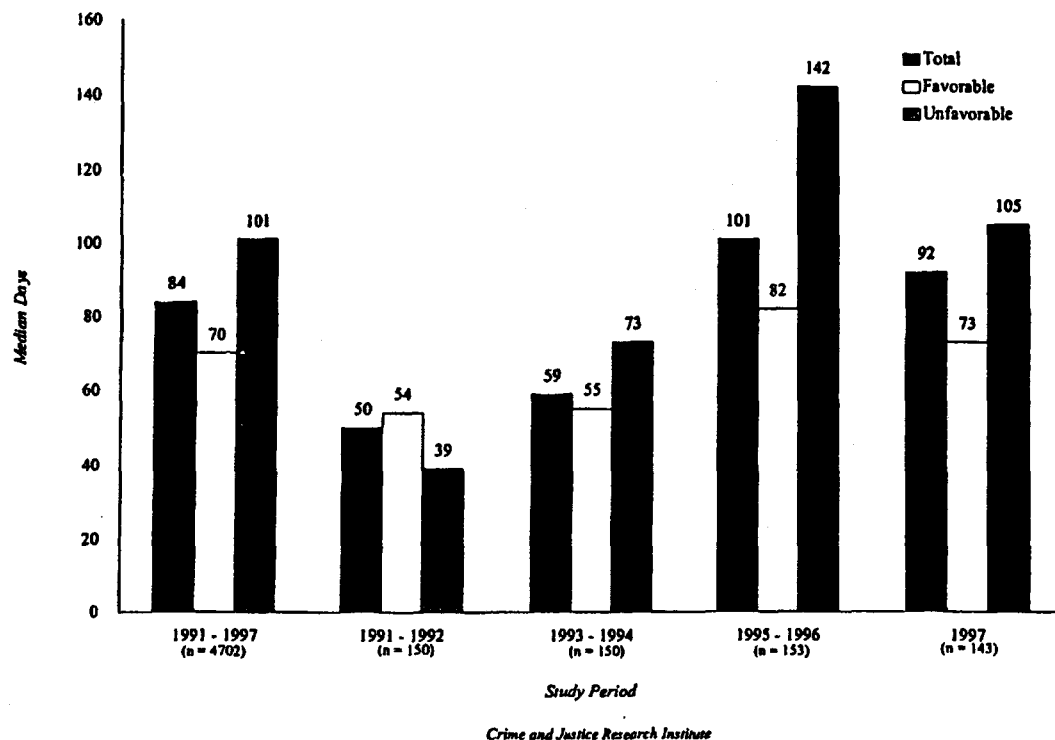
### Length of Time in Phase I of Treatment and Favorable/Unfavorable Outcomes

Figure 59 suggests a relationship between year-end Drug Court status and length of time spent by participants in Phase I. With the exception of 1991-1992 participants, those in an unfavorable status had spent notably longer periods in Phase I than those in favorable year-end statuses had. Among 1991-1992 participants, for some reason, this



expected relationship is not found. Among 1997 participants, those in favorable year-end statuses spent more time in Phase I than those in unfavorable year-end statuses.

Figure 59 Length of Time in Phase I among Multnomah County Drug Court Participants, 1991 - 1997, by Treatment Outcome

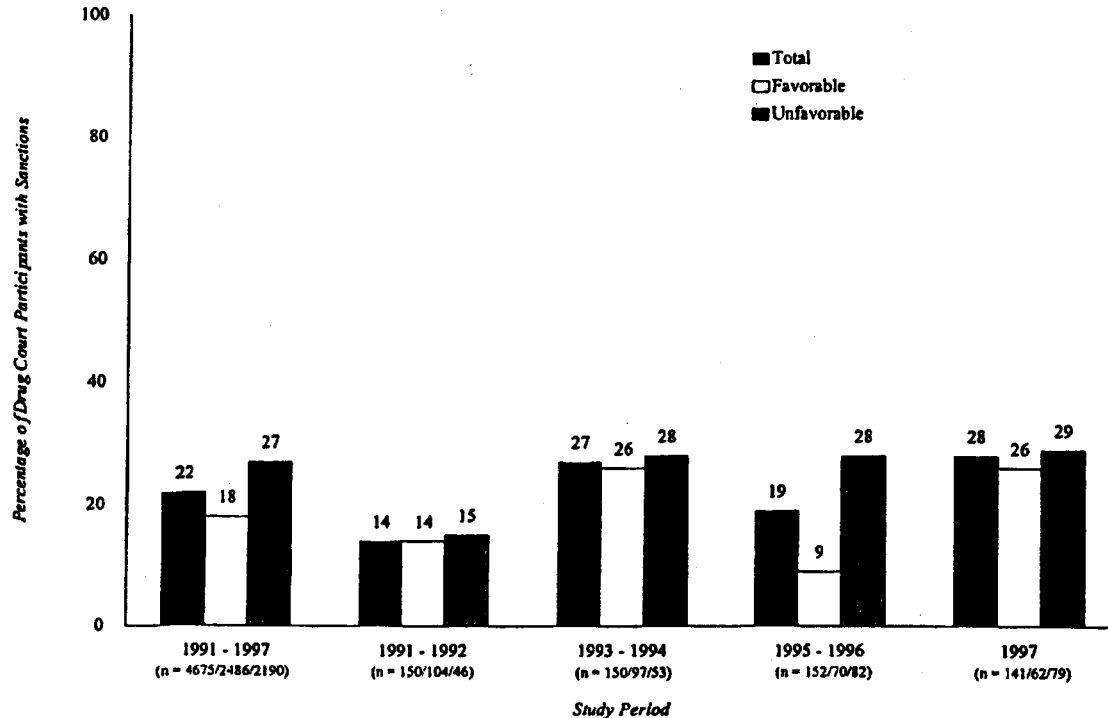


### Sanctions Received and Favorable/Unfavorable Outcomes

Figure 60 suggests that, all years taken together, there was an association between receiving sanctions from the Drug Court judge for non-compliance and Drug Court status (favorable, unfavorable) at the 12-month mark: 22 percent of all participants received sanctions, 18 percent of those in favorable status and 27 percent of those in unfavorable status. However, the strength of the association between sanctions and Drug Court status varied over time. Among 1991-1992 participants, it appears that there was little difference in the percentage of participants receiving a sanction based on year-end case status. In the 1993-1994 period, approximately the same percentage (26 percent) of favorable status participants had received sanctions as unfavorable participants (28

percent). During the 1995–1996 time period, the relationship increased, so that a smaller percentage of favorable (nine percent) than unfavorable (28 percent) participants had been sanctioned. Among 1997 participants, the association appeared to weaken again so that the difference in percentage of participants receiving a sanction varied only slightly by case status. The supposition that application of sanctions is related to later Drug Court outcomes is weakly supported in these findings. In most years, the differences in sanction rates between percentages of participants in favorable and unfavorable statuses were less than five percent. Only in 1995–1996 was the difference substantial. The unexpected weakness in the relationship between sanctions and case status may be explained, at least partly, by the number of days in treatment among participants in favorable case status. Simply, the longer a participant is in treatment, the greater the likelihood he or she will be sanctioned.

Figure 60 Multnomah County Drug Court Participants with Sanctions, 1991 - 1997, by Treatment Outcome



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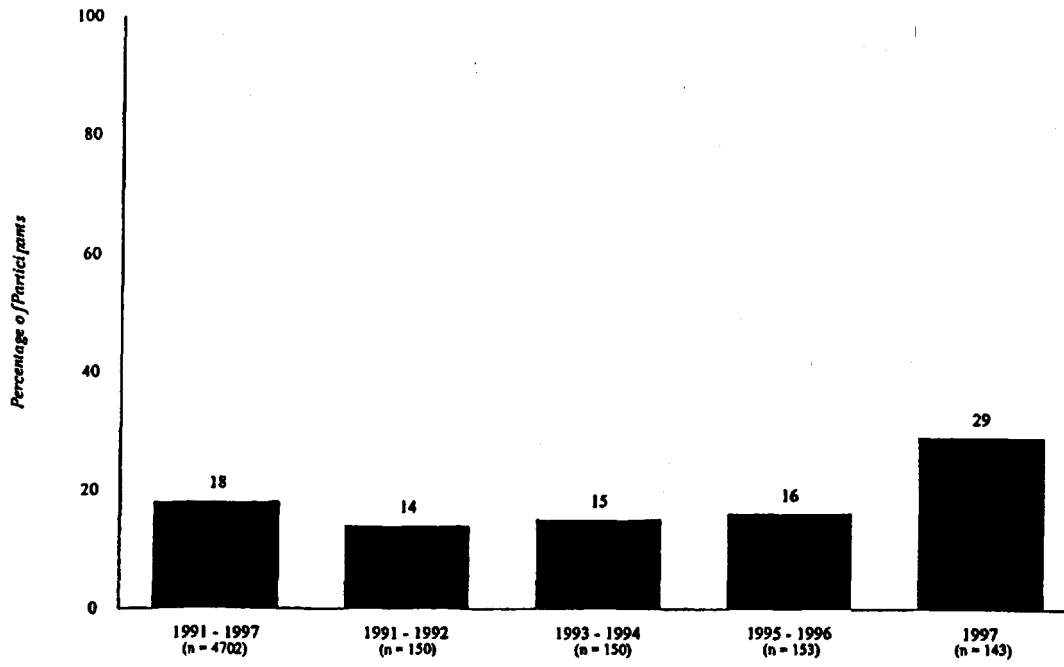
### Early Dropout

It is not unusual for treatment programs to lose part of the intended target population at the very earliest stages of contact. We measured "early dropout" in this study as participants who began the treatment process but who were last seen by the treatment program less than 30 days after their first treatment visit. Figure 61 documents the extent to which "early dropout" was a phenomenon among participants entering the Multnomah County Drug Court. Overall, when all years are considered together, just under one-fifth (18 percent) of participants entering the Drug Court treatment process dropped out (were last seen in treatment) less than 30 days later. Through 1996, the early drop out rate varied little from the overall rate. Among 1997 participants, however, the

proportion of participants dropping out in less than 30 days after beginning treatment nearly doubled to 29 percent. When taken in conjunction with the finding that the average length of time in treatment among 1997 participants was only about 110 days, this finding suggests some difficulties with the treatment process during that time.

Part of the early drop out phenomenon in Multnomah County may be explained by the special provision that drug court allows defendants to reconsider their decisions to stay in treatment or to "opt out" within 14 days of the petition hearing. They might do so because some favorable development in their cases convinced them to choose to have the charges adjudicated in the normal fashion, or merely because they changed their minds about entering treatment. Figure 62 shows that the 14-day "opt-out" decision occurred very infrequently, in four percent of cases entering the Drug Court from 1991-1997. The proportion of entering participants choosing this option grew from 0 percent among 1991-1992 participants, to two percent of the 1993-1994 group, to five percent of the 1995-1996 group, to ten percent of the 1997 participants entering Drug Court. So, in fact, early "opt-outs" did account for about one-third of early "drop-outs" in the last two time periods, 1995-1996 and 1997.

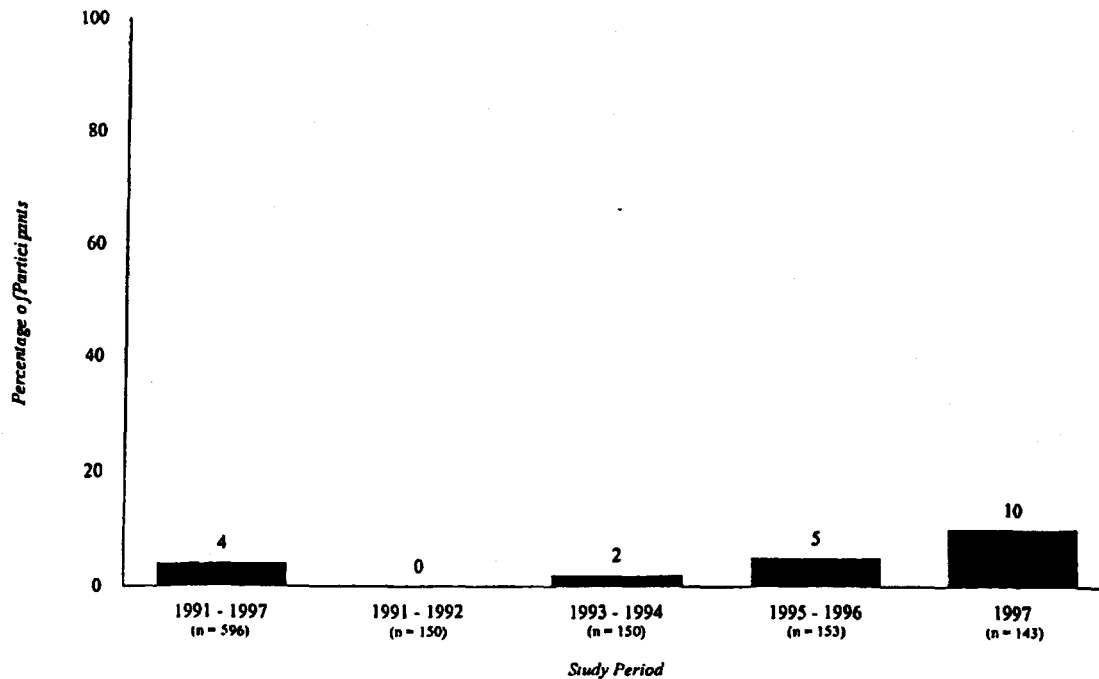
Figure 61 Early Drop-out among Multnomah County Drug Court Participants during One Year Observation Period, 1991 - 1997



[Note: 'Early Drop-outs' are defendants who entered treatment (attended at least once) and then were never again seen after 30 days. This measure includes defendants who "opted out" within two weeks.]

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Figure 62 Drug Court Participants Choosing to Withdraw (Opt-Out) from Multnomah County Drug Court within 14 Days, 1991 - 1997



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## Participant Progress in the Clark County Drug Court

### Entering Drug Court

In Clark County, whether referred from pretrial release or detention shortly after arrest or sent after reaching a plea agreement sometime later in the criminal process, all candidates for Drug Court must attend orientation at the Defender's office before proceeding to court to begin participation on a formal basis. From orientation, the staff of the Drug Court treatment provider, Choices Unlimited, assesses candidates to determine their need for substance abuse treatment. Once assessed to be in need of treatment, candidates begin the treatment process and receive services for approximately two weeks before making their initial appearance in Drug Court. Defendants move through four phases of treatment, with periodic status reviews before the judge, to graduation after a minimum of 12 months of successful participation.

Figure 63 summarizes the methods of entry into the Clark County Drug Court associated with participants from 1993 through 1997. In the aggregate, one half (50 percent) of participants entered the Drug Court through diversion during that period, 25 percent began through a guilty plea, and six percent entered Drug Court as a condition of probation. The overall picture, however, masks significant changes in means of entry over time. Nearly all (95 percent) of 1993 participants entered Drug Court as part of diversion. This proportion dropped steadily in each successive cohort to 87 percent in 1994, 76 percent in 1995, 51 percent in 1996 and 39 percent of participants in 1997. At the same time, the proportion of participants entering Drug Court as part of a guilty plea increased tenfold from five percent in 1993 to 51 percent in 1997. Entry to Drug Court as a condition of probation increased from 0 percent in 1993 to 12 percent in 1997. As of

1997, a majority of Clark County Drug Court participants were in a post-conviction status, signaling a major change from its original emphasis. Figure 64 depicts this transition more simply. This change in predominant means of entry corresponds with (i.e., may explain) many of the other important changes noted from 1996 on.

#### Time to First Treatment Appointment

Figure 64 presented below clearly showed that the length of time between arrest, defender orientation and treatment assessment increased dramatically from 1993 (with a median of 12 days to orientation and 24 days to assessment) to 1997 (with a median of 157 days from arrest to orientation and 170 days to assessment.) These increases in the lengths of time from arrest to the entry stages of the Drug Court process are principally associated with, but not totally explained by, the shift from diversion to plea as the main means of admission to the program. Figure 63 also showed that there was a net increase in screening times due to moving to plea cases.

#### Delivery of Treatment: Actual versus Expected Attendance

As noted earlier in describing processing in Multnomah County, the expected pattern of attendance of participants in treatment varies according to the phase of treatment attained, with generally more frequent attendance in Phase I (6 days per week) and less frequent attendance required in Phase IV (4 days per month). Using the logic applied in the analysis of the Multnomah County Court, one could expect that, given the minimum 12-month period for successful completion, a successful Clark County Drug Court participant would attend treatment approximately 24 times during Phase I, 24 times during Phase II, 24 times during Phase III and 24 times during Phase IV. This would produce a theoretical total of 96 treatment visits in one relatively trouble-free year.

Figure 63 Method of Entry (Case Status) for Clark County Drug Court Participants, 1993 - 1997

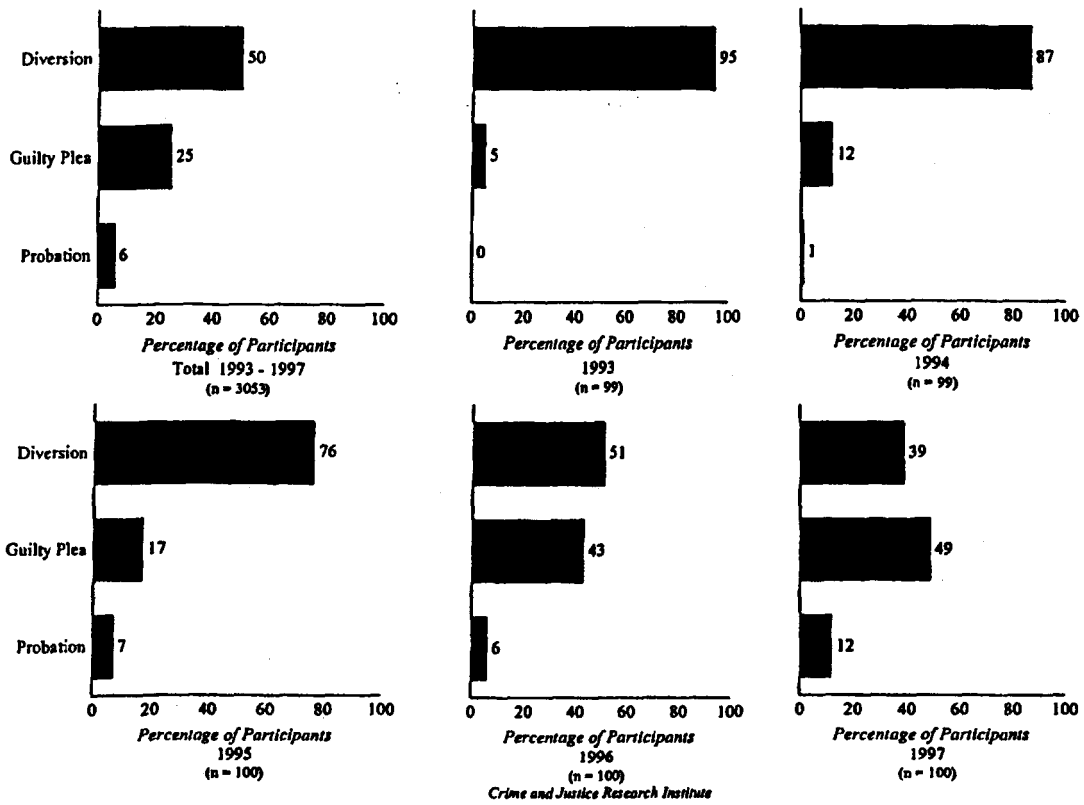
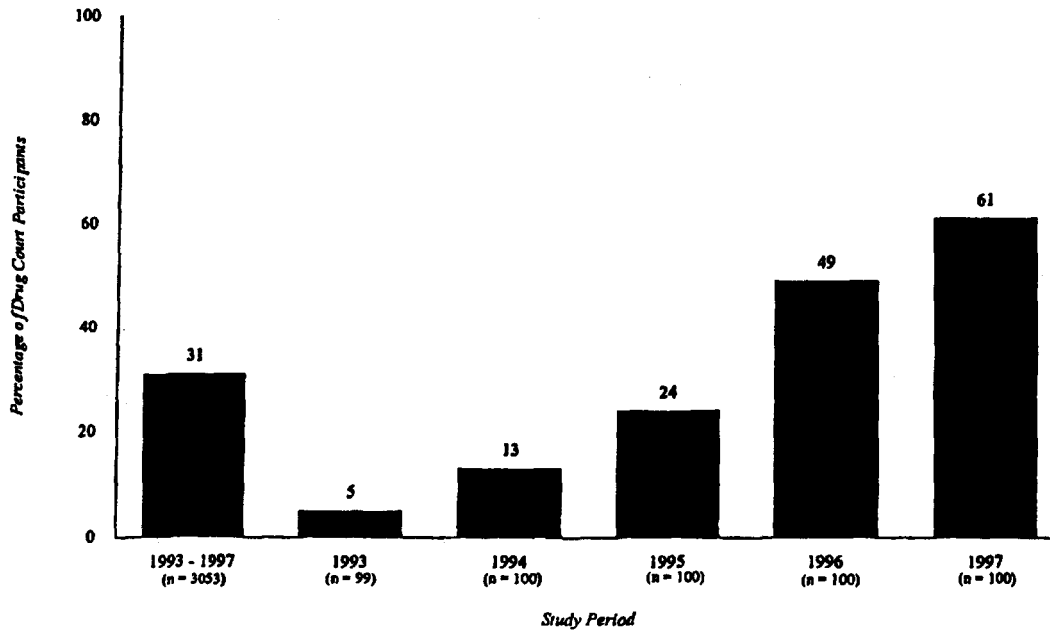


Figure 64 Clark County Drug Court Participants Entering Drug Court in Post-Conviction Status, 1993 - 1997



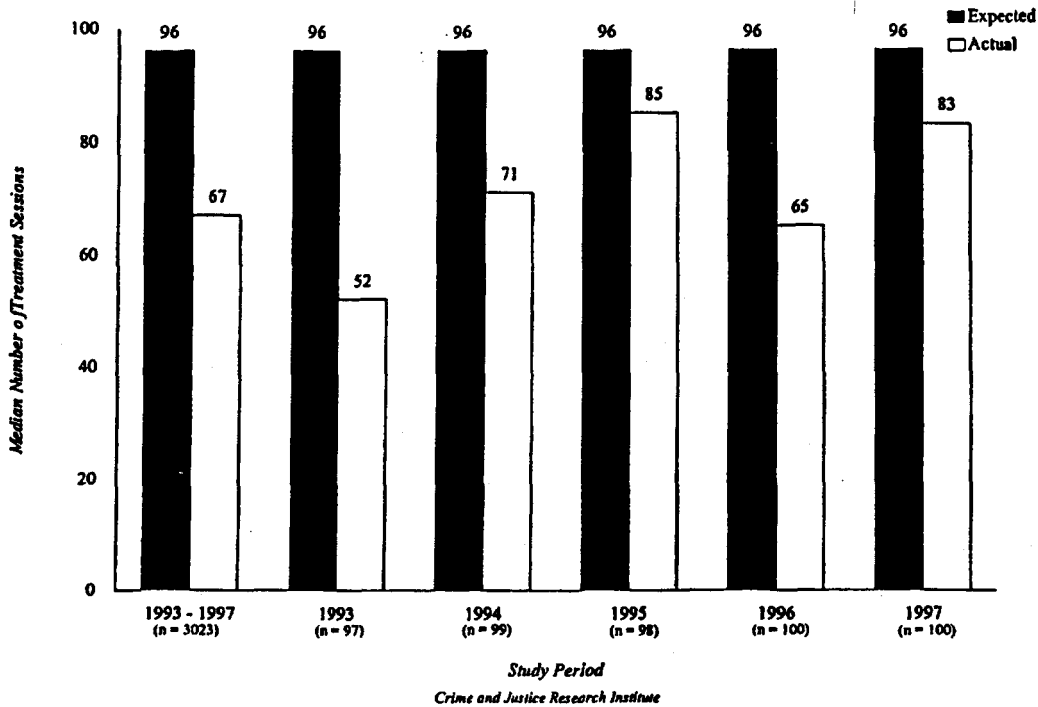
[Note: Guilty pleas also include cases where participation is a condition of probation.]

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Figure 65 contrasts the median number of actual treatment appointments kept with this theoretical expected total and shows that, from 1993 through 1997, participants averaged 67 appointments or about two-thirds of the number expected. This ratio varied by year, with the start-up year 1993 showing the lowest median number of appointments (52) and 1995 and 1997 showing much higher numbers (85 and 83) with high ratios of about 89 percent of the expected ideal attendance. These measures of treatment delivered are quite remarkable considering that they take into account the entire cohort of participants during each period, both successful and unsuccessful participants. This relatively high rate of compliance with the treatment process may be explained by effective management of participants by the Drug Court, by effective use of sanctions and rewards, or by the large proportion of participants in a post-conviction status who would face sentences to incarceration if they violated the terms of the plea negotiation or conditions of probation.

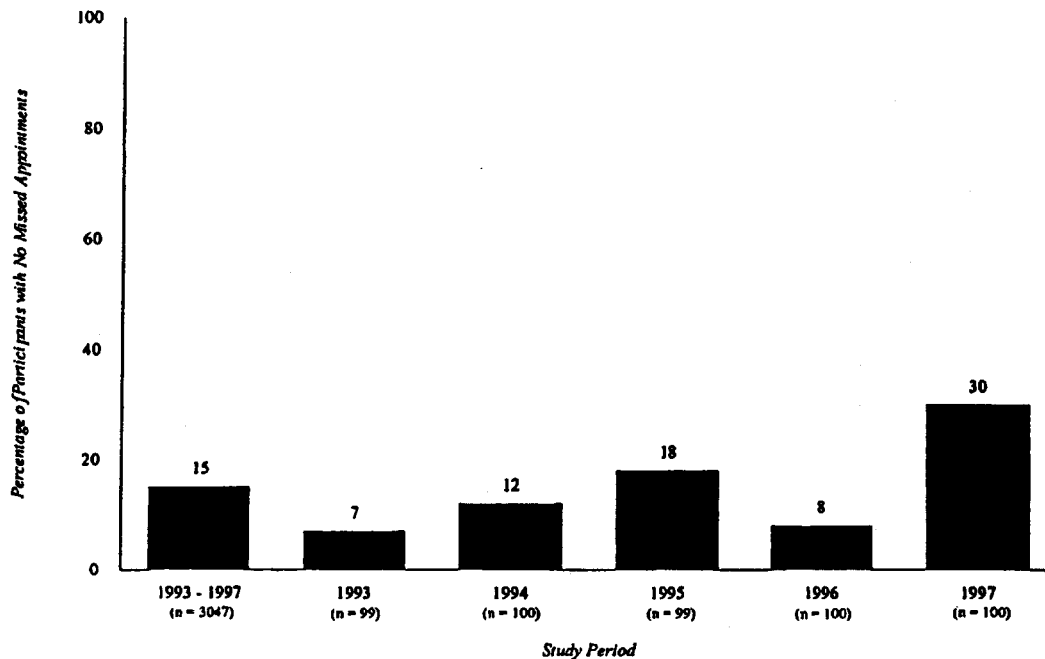
Figure 65 Comparison of Expected and Actual Number of Treatment Appointments among Clark County Drug Court Participants, 1993 - 1997



Although Figure 65 suggests a high attendance rate and effective delivery of treatment services in Clark County, Figure 66 indicates, nevertheless, that relatively few participants (15 percent) “sailed through” the program never missing a treatment appointment. This overall rate varied by year, however, with the lowest rates of “perfect attendance” coming among 1993 and 1996 participants (at 7 and 8 percent, respectively), and the highest rates among 1995 and 1997 participants (18 and 30 percent, respectively). The large proportion of 1997 participants recording perfect attendance at treatment again raises some questions for interpretation. An obvious explanation could be that the Drug Court process had, by 1997, evolved into a highly effective supervisory mechanism that successfully encouraged attendance at treatment. In addition, the participation of many in a post-conviction status may have helped enforce performance more strictly. Finally, although a larger share of lower risk participants could explain the 30 percent with

perfect attendance among the 1997 participants, such an explanation is unlikely to find support in our data.

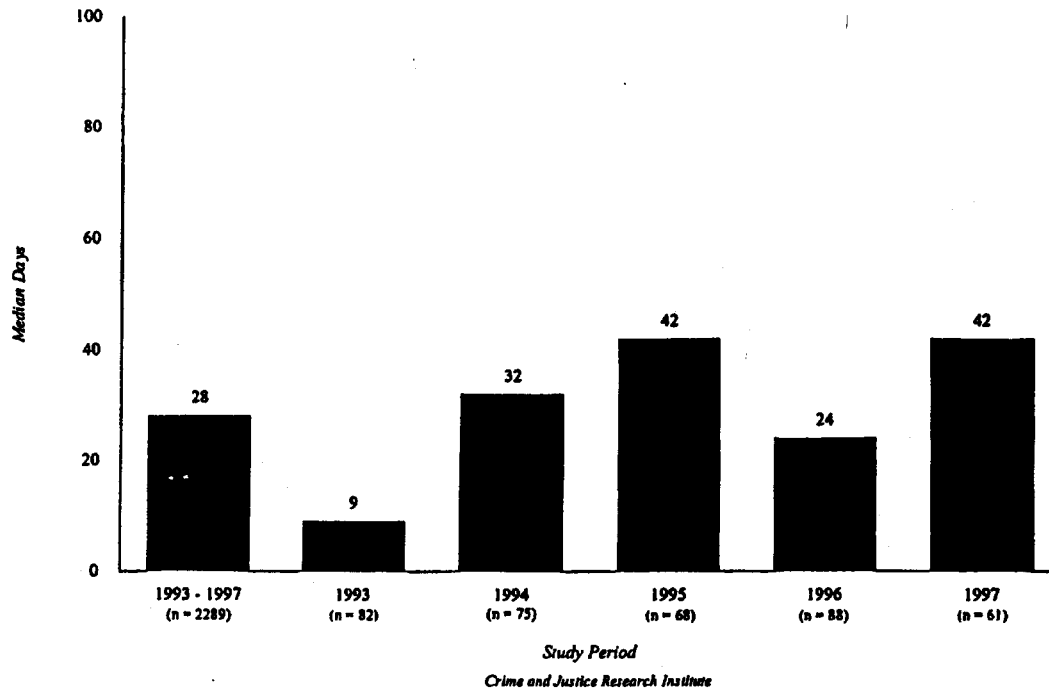
Figure 66 Perfect Treatment Attendance among Clark County Drug Court Participants during One Year Observation Period, 1993 - 1997



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Given that most participants in all cohorts missed at least some treatment appointments during the year, Figure 67 charts the median number of days from assessment until the first missed treatment appointment. With the exception of the 1993 participants during the Court's startup phase who averaged (a median of) nine days to the first missed appointment, Clark County participants took fairly long periods of time to record a first missed appointment, about a month (median, 32 days) among 1994 participants, 42 days among 1995 participants, 24 days among 1996 participants, and 42 days among 1997 participants. In short, not only did the Clark County Drug Court appear to encourage a high rate of treatment attendance, but, when appointments were missed, the time to first absence was fairly long on average.

Figure 67 Time to First Missed Treatment Appointment (from Assessment) among Clark County Drug Court Participants, 1993 - 1997



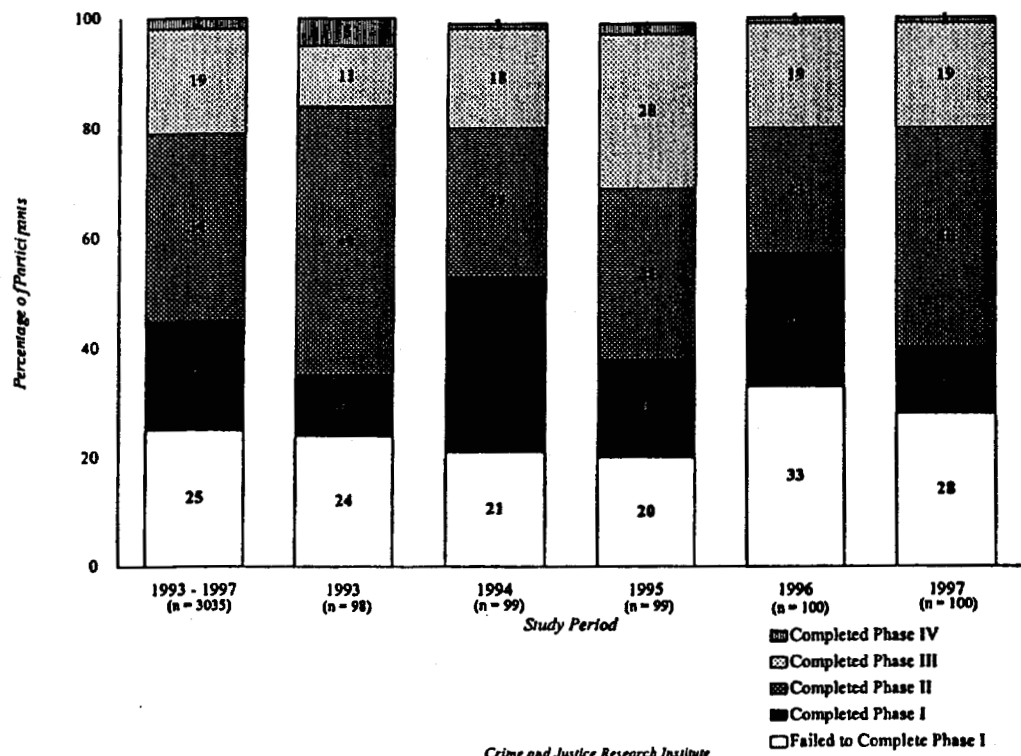
### Completion of Treatment Phases

Figure 68 measures treatment progress of Clark County Drug Court participants by profiling the most advanced treatment phase completed in each cohort. Because, like Multnomah County, it is a 12-month program for graduation, one would expect a very small percentage of participants to graduate in the first year follow-up. In fact, only two percent overall were eligible to graduate within 12 months, with little variation by year. Overall, 19 percent had completed Phase III (and were in Phase IV) at year's end; 34 percent had completed Phase II (and were in Phase III); 20 percent had completed only Phase I (and were in Phase II), and 25 percent had not completed Phase I by the end of the first year.<sup>46</sup> These relative levels of progress varied by year. Participants in the 1995

<sup>46</sup> Figure 68 does not take into account that during much of the study period, it was easier for clients to graduate (with the required three months clean) than to advance to Phase IV (six months clean required) and that most clients graduated from Phase II. Regardless, few participants graduated with a year during the study period.

cohort showed the largest proportion advancing beyond Phase III (to Phase IV and/or graduation) at 30 percent of all participants. The 1996 participants recorded the largest share (33 percent) who had not completed Phase I at the 12-month mark. The 1993 and 1997 cohorts were distinguished from the others in that very large proportions completed Phase II (49 and 40 percent in the respective years).

Figure 68 Most Advanced Treatment Phase Completed by Clark County Drug Court Participants, 1993 - 1997, by Year



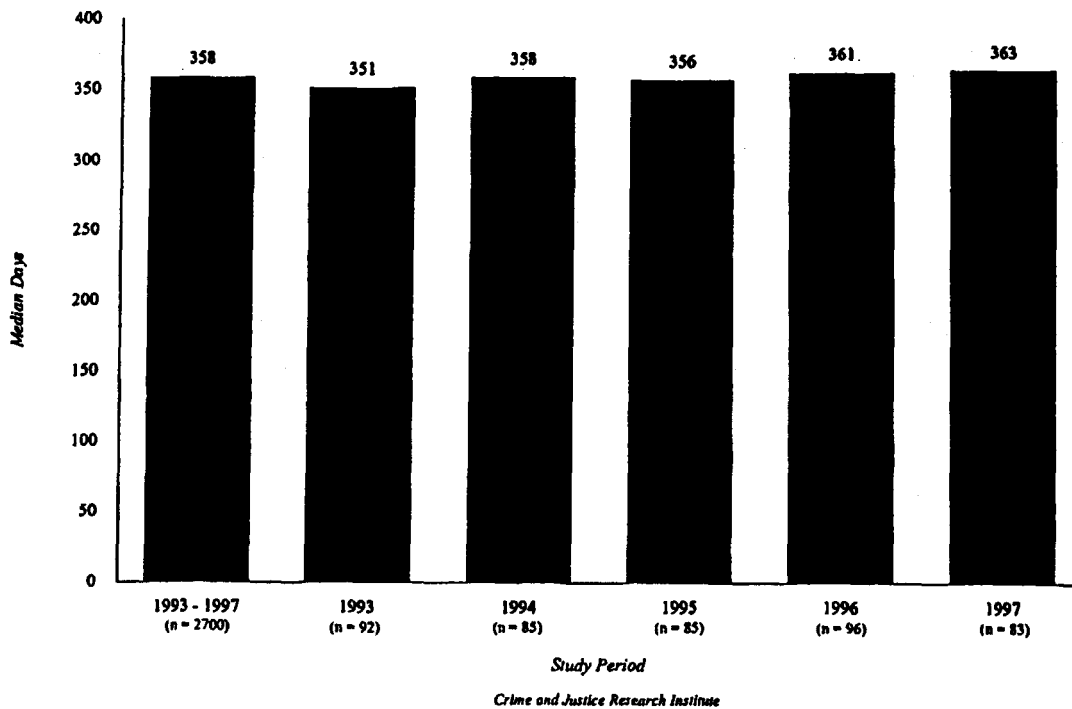
Length of Time in Treatment

As we have noted, like the Multnomah County Drug Court, the Clark County Drug Court employed a minimum treatment period of one year for successful completion. Figure 69 shows that, using the last date seen in treatment, the (median) amount of time in treatment<sup>47</sup> recorded in the provider's records (358 days overall) was in fact very close

<sup>47</sup> Length of time in treatment is measured from the first treatment appointment attended to the date last seen by the treatment provider during the first year after entering Drug Court.

to the one-year expectation. There was little variation over time (ranging from a median of 351 days among 1993 participants to 363 days among 1997 participants). These median treatment lengths of close to one year complement the earlier findings showing that Clark County Drug Court participants attended treatment at nearly the ideal level expected and took fairly long periods to record their first missed appointment when they did miss one. In short, the Clark County Drug Court appears to have been highly effective in delivering treatment to its drug-involved participants.

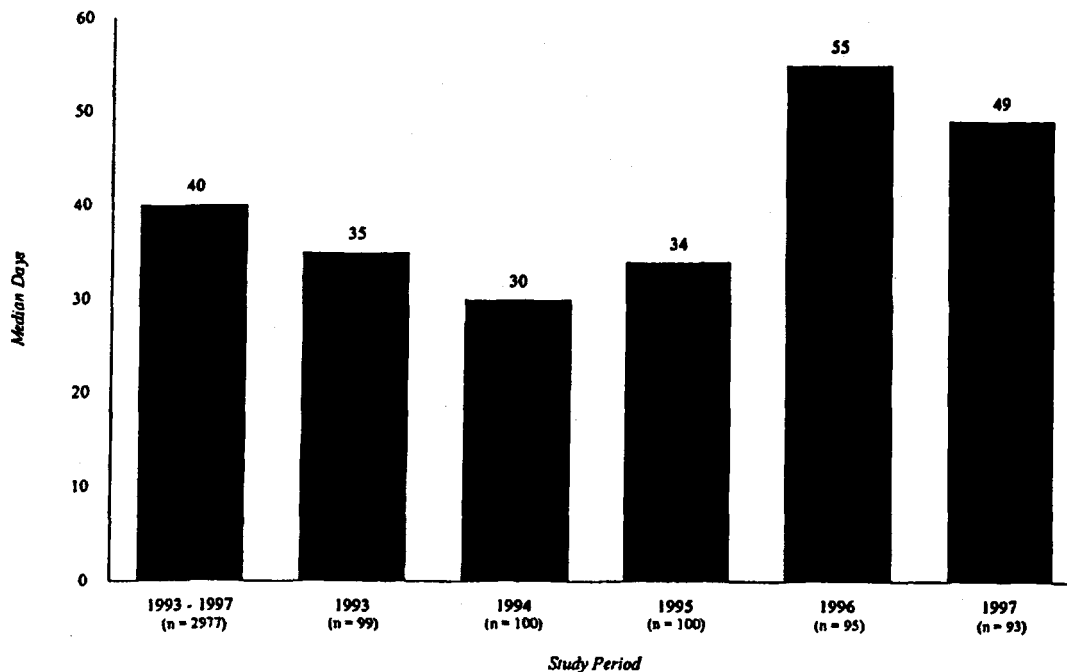
**Figure 69 Length of Time in Treatment (Median Days) among Clark County Drug Court Participants during One Year Observation Period, 1993 - 1997**



According to the planned treatment regimen for Clark County's Drug Court, participants are expected to participate in the first phase of treatment for a period of about one month (or until they record six successive clean urines), during which time the emphasis is on drug testing, acupuncture, abstinence, and treatment education and groups. Figure 70 indicates that overall, Clark County Drug Court participants averaged

slightly over one month in Phase I (median, 40 days). This average of about one month in treatment was maintained in the 1993, 1994, and 1995 cohorts (with medians of 35, 30, and 34 days, respectively). However, the average length of time spent in Phase I increased notably among 1996 and 1997 participants, to 55 and 49 days respectively. This longer average time in the first phase of treatment appears to coincide with the Court's shift from predominantly diversion to predominantly plea cases and may reflect a more challenging and resource-intensive population entering the program beginning in 1996.

Figure 70 Length of Time in Phase I among Clark County Drug Court Participants, 1993 - 1997



[Note: Median days in treatment Phase I are estimates based on available information in court and treatment files. Relapses in treatment resulting in set-backs to earlier treatment phases were not consistently noted in either data source.]

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### Drug Test Results

Figure 71 shows that Clark County Drug Court participants overall and in each year's cohort averaged more positive drug tests during the first phase of treatment than in subsequent phases. Figure 72 shows further, however, that relatively few participants—

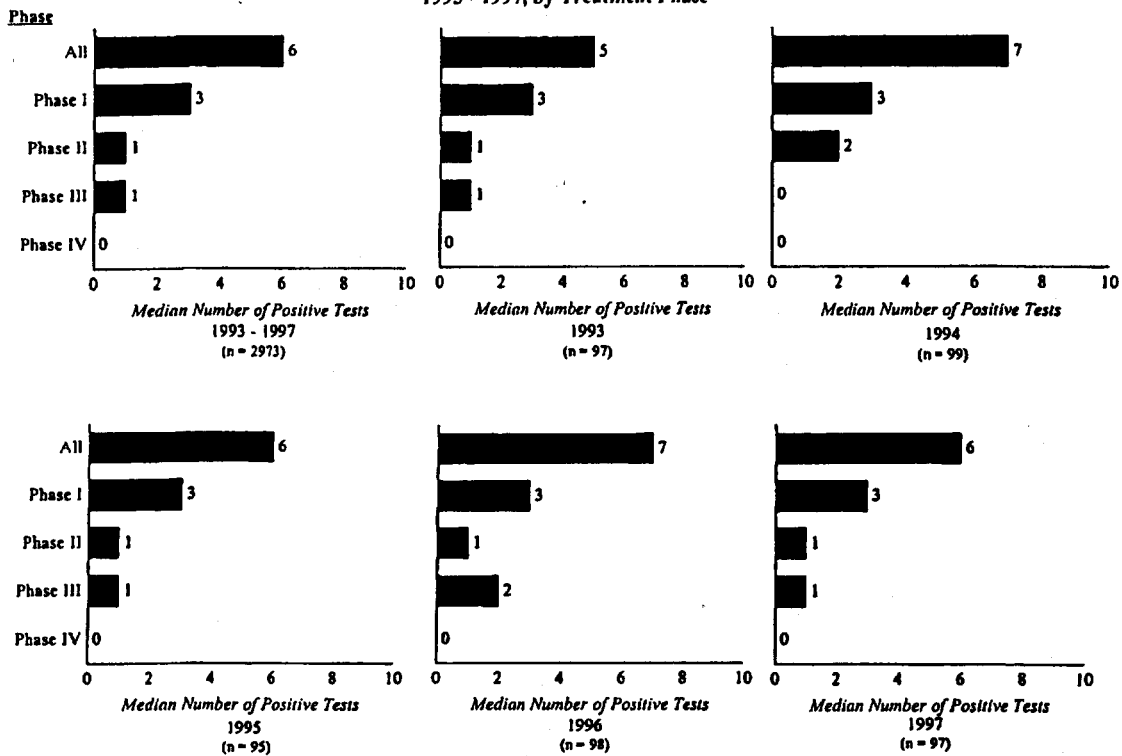
about ten percent overall with only slight variation by cohort—never recorded a positive drug test. This finding confirms the fact that the Clark County Drug Court enrolled few participants who were only occasional or “recreational” drug abusers. Figure 73 focuses on drug test results for Phase I more specifically. About one-fourth (24 percent) of participants were able to complete Phase I without recording a positive drug test; this varied little over time. Given the results presented in Figure 72 that ten percent never recorded a positive test in 12 months, this finding suggests that some participants who managed to test negatively in Phase I, later recorded a positive test.

#### Attendance in Drug Court During the First Year

Clark County Drug Court participants averaged 15 appearances in Drug Court during the first year of participation (see Figure 74). This varied by year, ranging from 12 in 1993 to 17 in 1994. Persons in unfavorable case status at year’s end attended court less often, from five status reviews in 1993 to 14 in 1994 and 1997. The differences in court appearances by case status are likely explained by length of time in the program (e.g., participants in unfavorable statuses spend less time in treatment with fewer opportunities to attend court).



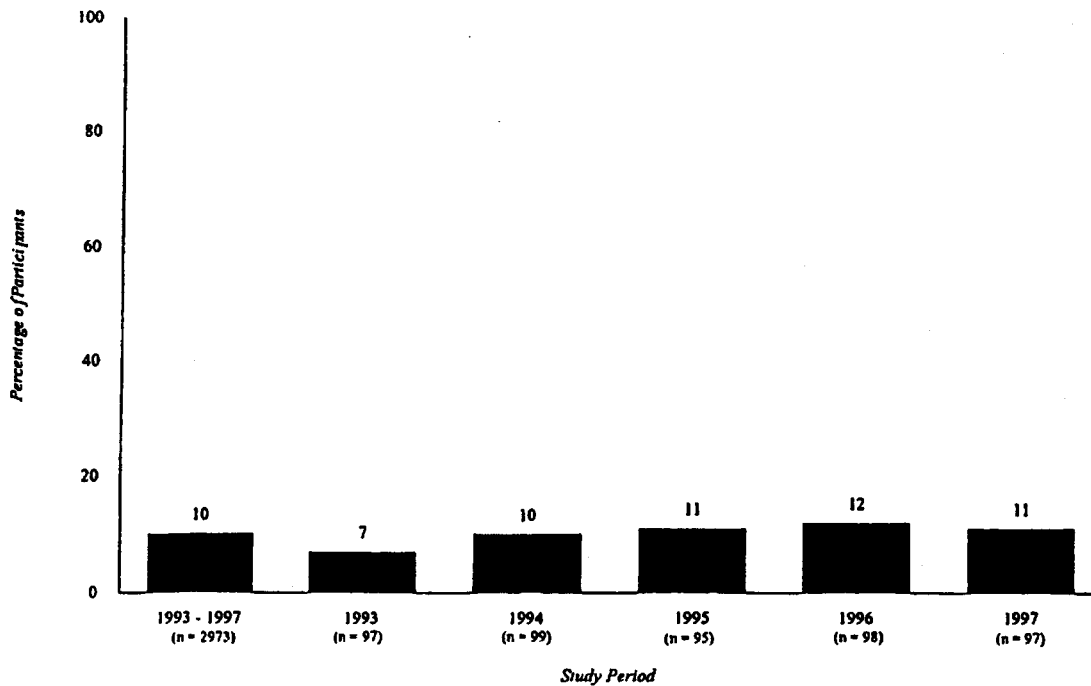
**Figure 71 Positive Drug Tests among Clark County Drug Court Participants during One Year Observation Period, 1993 - 1997, by Treatment Phase**



[Note: This figure includes the results of drug tests at assessment.]

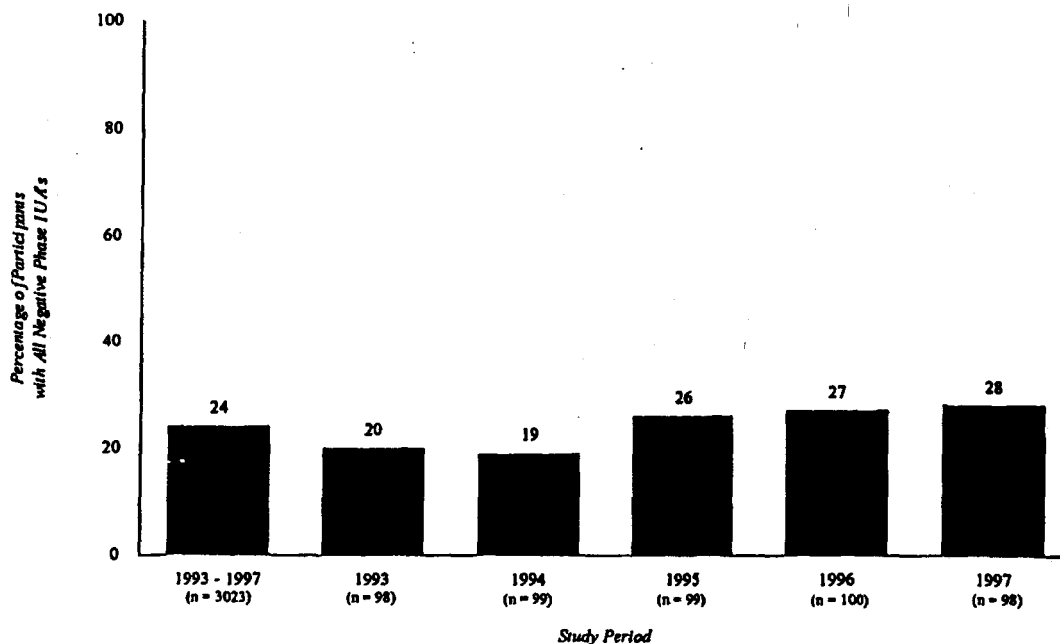
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**Figure 72 Clark County Drug Court Participants Never Testing Positively during One Year Observation Period, 1993 - 1997**



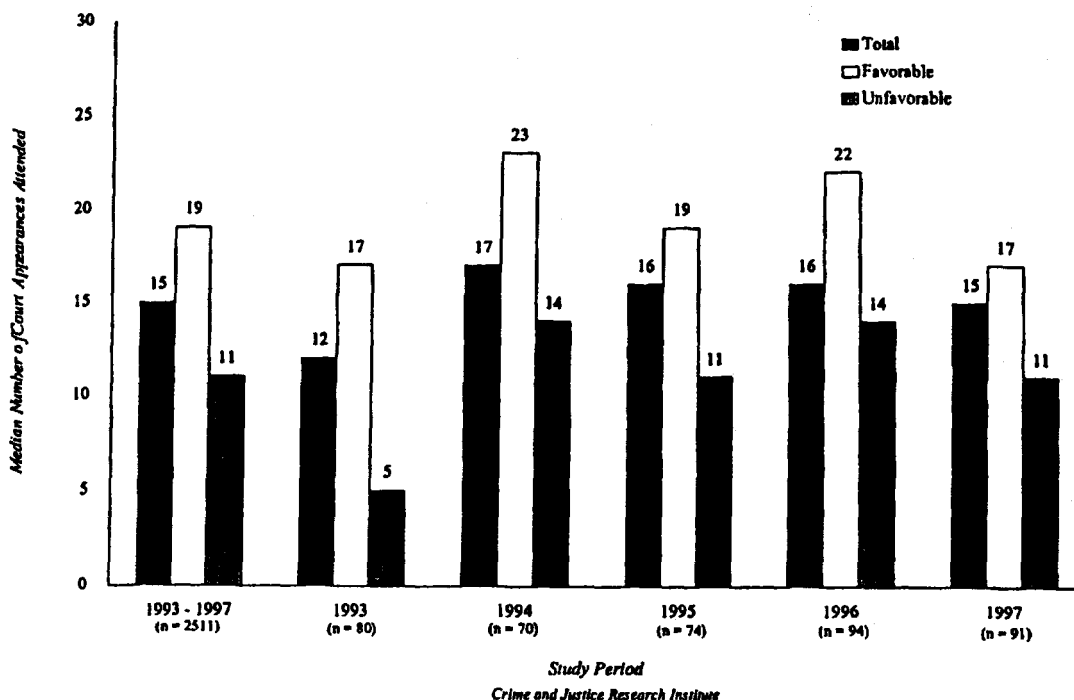
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Figure 73 Clark County Drug Court Participants with no Positive Drug Tests (UAs) in Phase I during One Year Observation Period, 1993 - 1997



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Figure 74 Number of Court Appearances Attended among Clark County Drug Court Participants during One Year Observation Period, 1993 - 1997, by Treatment Outcome



### Number of Judges Seen by Drug Court Participants

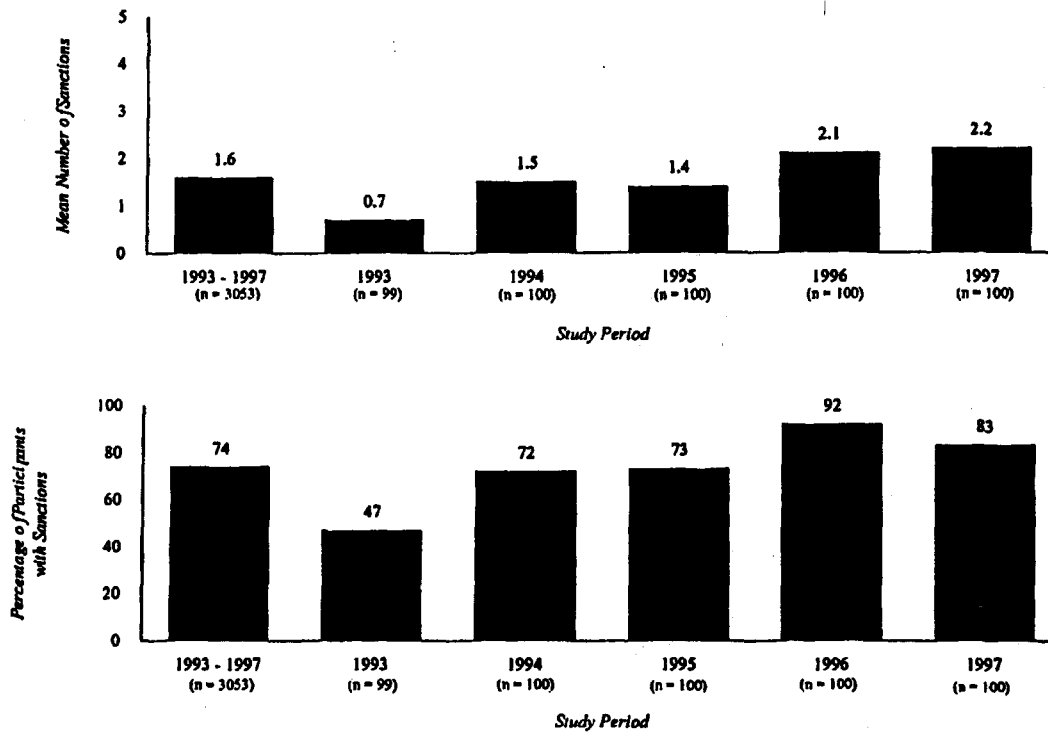
With the exception of vacations and other occasional substitutions, one judge, the Honorable Jack Lehman who founded the Clark County Drug Court, presided over Drug Court during the study period (and continues through the time of this report). Judge Lehman has done this while handling a criminal calendar and other special assignments throughout the time the Drug Court has operated. The result, as reflected in our focus groups, is that participants very clearly identify Drug Court with Judge Jack Lehman.

### Use of Sanctions, Including Jail

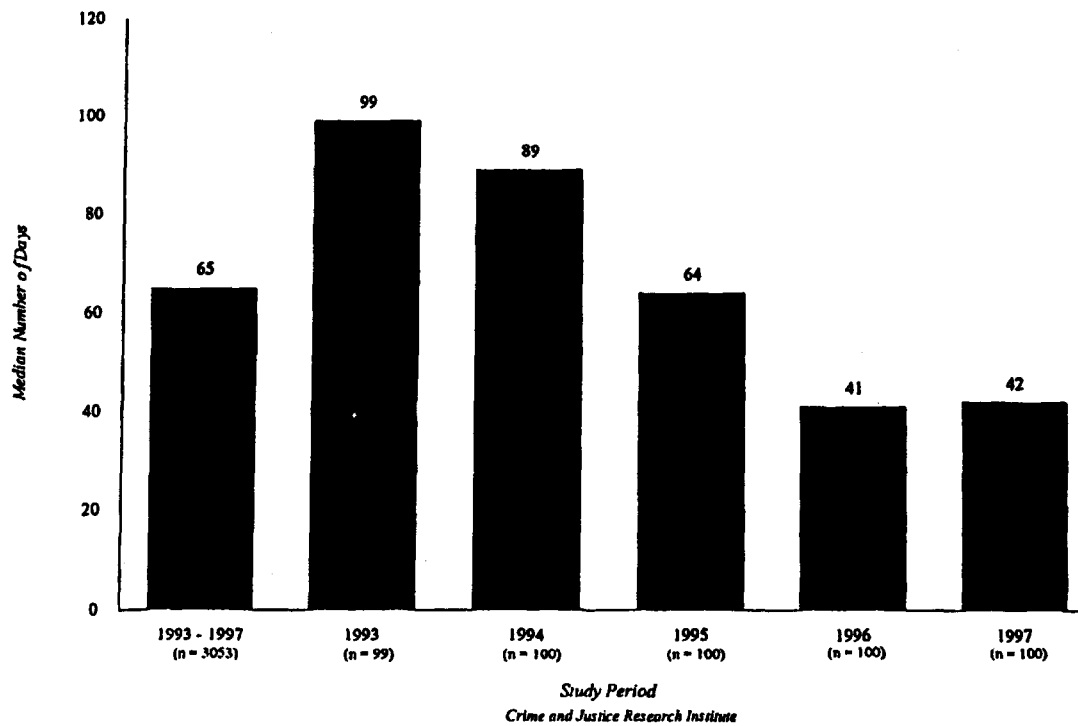
Figure 75 demonstrates that, with the exception of the startup 1993 cohort, the majority of Clark County Drug Court participants were assessed a sanction of some sort by Judge Lehman at least once during the first 12 months of the process. During the period the Court was shifting to predominantly post-conviction participants, the proportion receiving sanctions grew to 92 percent or nearly all of the 1996 participants and 83 percent of the 1997 participants. Overall, half of the participants had one or fewer sanctions. The average use of sanctions increased, however, in the 1996 and 1997 cohorts to a median of two per participant.

Figure 76 indicates that the median time to a first Drug Court sanction during the study period was 65 days or about two months after the assessment stage. This overall measure of the median number of days to the first sanction of Drug Court participants masks a steady drop over time from about three months (99 and 89 days) among 1993 and 1994 participants—quite a long period to first sanction—then to two months (64 days) among 1995 defendants, and then finally to just over one month (41 and 42 days) among 1996 and 1997 participants. Thus, not only did the use of sanctions increase

**Figure 75 Sanctions Imposed on Clark County Drug Court Participants during One Year Observation Period, 1993 - 1997**



**Figure 76 Length of Time (Median Days) from Assessment to First Sanction among Clark County Drug Court Participants, 1993 - 1997**



among the 1996 and 1997 cohorts, the median time to first sanction shortened considerably.

The Clark County Drug Court made use of three principal sanctions for non-complying participants: increased or observed drug tests, reassignment to an earlier phase of treatment, and days in jail. Figure 77 suggests that observed drug tests were rarely employed as a sanction, but appeared to be recorded most among 1996 participants. The percentage of participants ordered back to earlier treatment phases was small in all years, but was highest among 1994 and 1995 participants. Overall, 32 percent of Clark County Drug Court participants were jailed for noncompliance by the Drug Court judge at some point during the first 12 months. The relative proportion of participants confined at least once by the Court more than doubled from a low of 18 percent among 1993 participants to a high of 48 percent of 1997 participants.

Figure 77 Types of Sanctions Imposed on Clark County Drug Court Participants during One Year Observation Period, 1993 - 1997

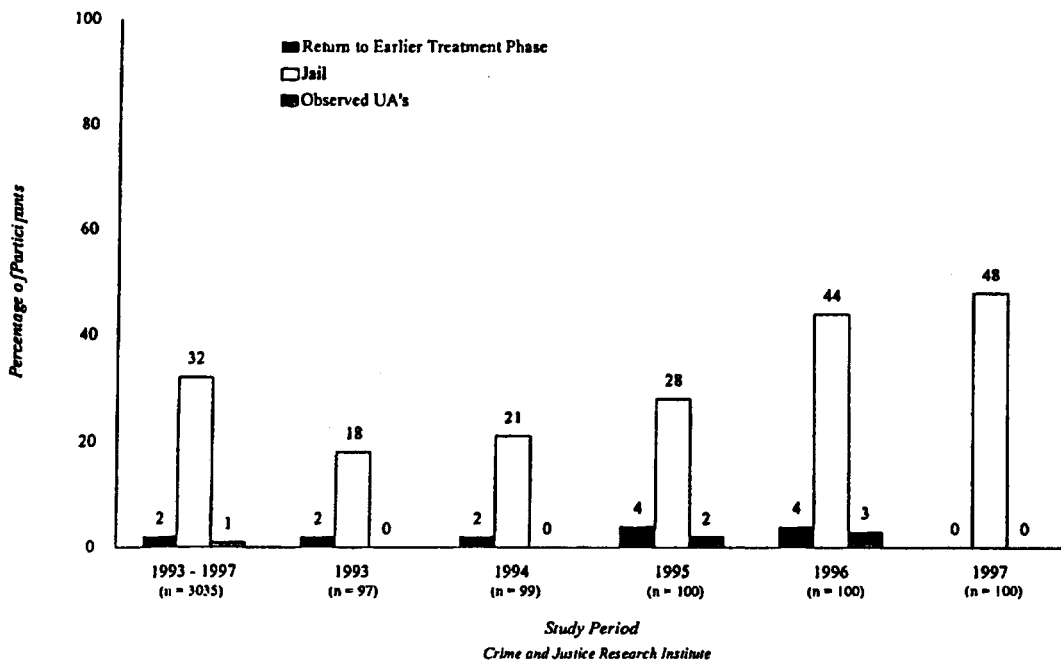
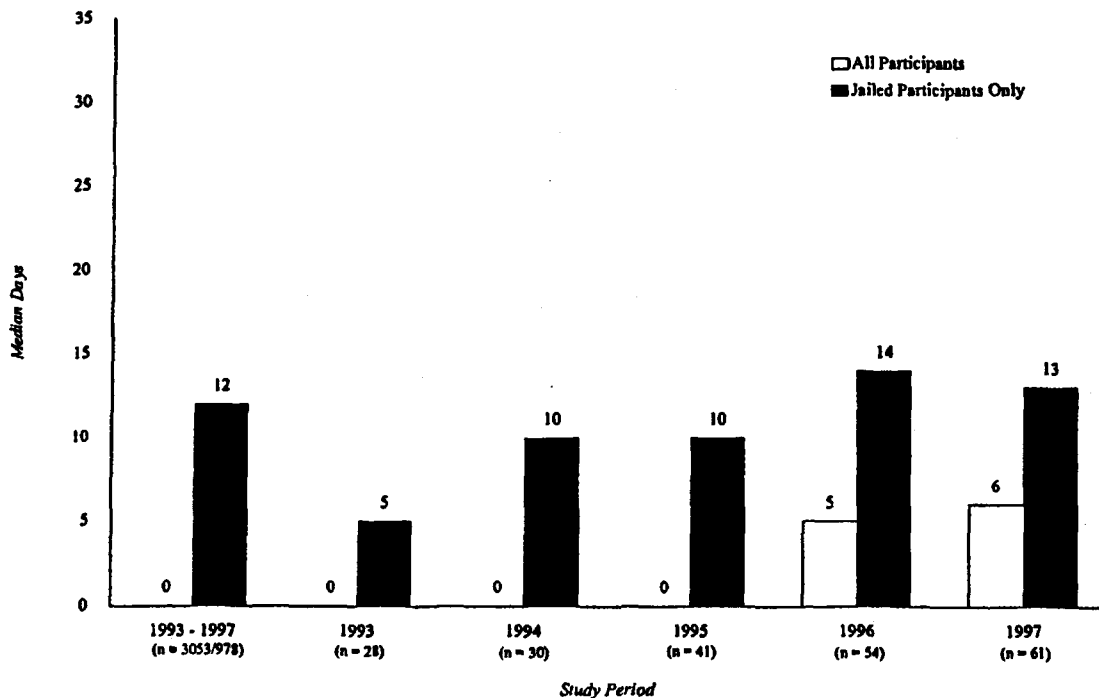


Figure 78 shows that, from 1993 – 1997, Clark County Drug Court participants averaged<sup>48</sup> zero days (median) in jail as a sanction for noncompliance with Drug Court requirements (and for being picked up on Drug Court bench warrants) during the first twelve months. However, in 1996 and 1997 participants averaged five to six days in jail overall. For those who received jail as a sanction only, the use of jail varied by year, however, from a low of five days among 1993 participants, to ten days median among 1994 and 1995 participants, to a high of 13–14 days median among 1996 and 1997 participants.

Figure 78 Confinement of Clark County Drug Court Participants Directly Attributable to the Drug Court during One Year Observation Period, 1993 - 1997



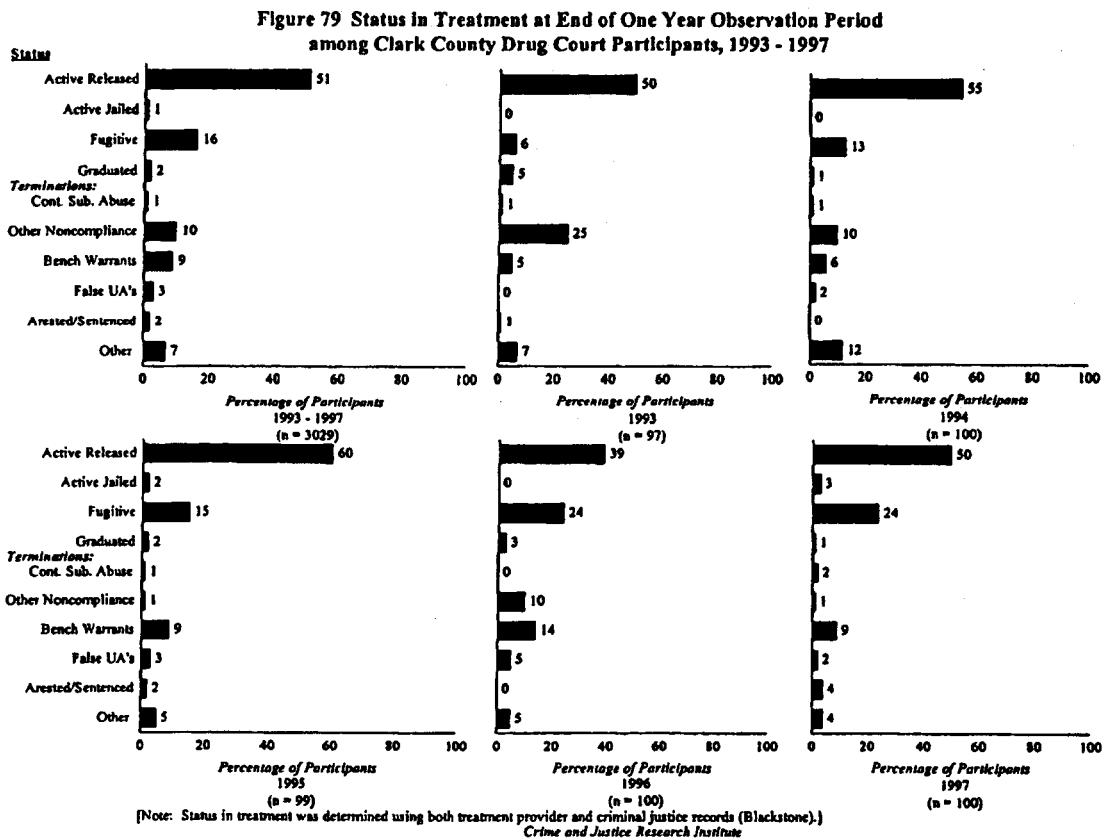
[Note: In this figure, we rely on median, rather than mean, as our measure of central tendency because the median is less affected by extreme values. For example, the median number of days confined for the entire study period is 0; the mean is 6, ranging over time from 1 in 1993 to 11 in 1996. In addition, confinement includes both Drug Court sanctions and Drug Court bench warrant confinement.]

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<sup>48</sup> Note that use of means is affected by a few extreme values, that is, a few participants with many jail days will disproportionately affect the average.

## Participant Status in Drug Court at the End of One Year

In Clark County, we were able to chart the status of Drug Court participants at the end of their first year by considering treatment and court data together. Figure 79 shows that overall (1993-1997), 51 percent of participants still had their cases open or active at the end of the first 12 months. Two percent had graduated in twelve months. Thirty percent had been terminated from the Drug Court, ten percent for noncompliance with program requirements, 9 percent for bench warrants (still fugitive), three percent for giving false drug tests, two percent terminated after new arrests, and seven percent for other reasons.



This overall one year picture held roughly true for all cohorts except the 1995 and 1996 participants. Among 1995 participants, however, a high of 60 percent were still

active (on release) at year's end. In 1996, a low of 39 percent were active at year's end. The proportions of participants in fugitive status at year's end increased from six percent among 1993 participants to 24 percent of the 1996 and 1997 cohorts. This high fugitive rate occurs in the period when plea-based admissions to Drug Court were more common and sanctions were more frequently employed.

When these statuses are combined more simply into favorable (still active and participating or graduated) and unfavorable (fugitive, in jail or terminated), Figure 80 indicates that overall at the end of their first year of Drug Court, over half (53 percent) of participants were in a favorable status. This proportion increased from 53 percent among 1993 participants to 57 percent among 1994 participants and 62 percent among 1995 participants, but then dropped noticeably to 42 percent and 49 percent among 1996 and 1997 participants.<sup>49</sup> Once again, the significant change is associated with the period during which the greatest number of post-conviction cases were admitted to Drug Court.

Figure 81 shows that terminations from the Clark County Drug Court occurred at a gradual but fairly steady rate throughout the first 12 months of Drug Court participation, with 30 percent of entering cohorts terminated by year's end. However, rates of unfavorable termination varied substantially by year, generally decreasing over time, from nearly half in 1993 and 33 percent in 1994 to just over 20 percent in 1995 and 1997. The decline in rates of unfavorable termination coincides with increases in lengths of time to unfavorable termination, from an average of 157 days in 1993 to 194 days in 1995 and 1996 and 292 days in 1997.<sup>50</sup>

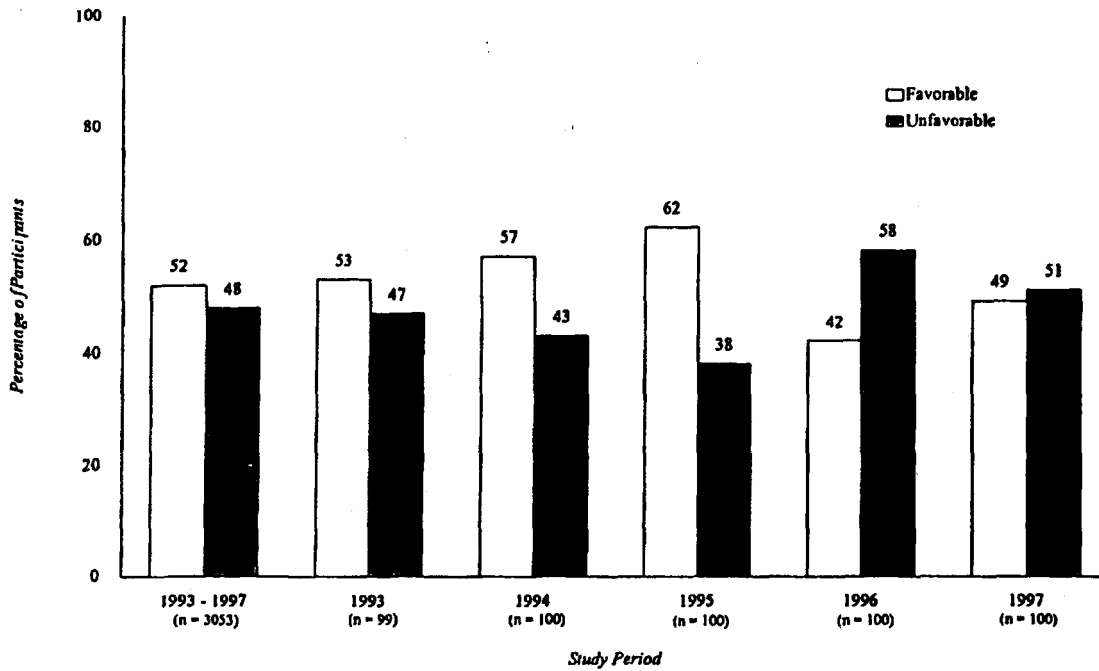
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<sup>49</sup> Differences between Figures 79 and 80 can be attributed to rounding errors and missing cases.

<sup>50</sup> Differences between Figures 79 and 81 in rates of termination can be attributed to discrepancies between treatment and criminal justice sources (i.e., participants who appear "still active, fugitive" in treatment records but are terminated according to criminal justice sources.



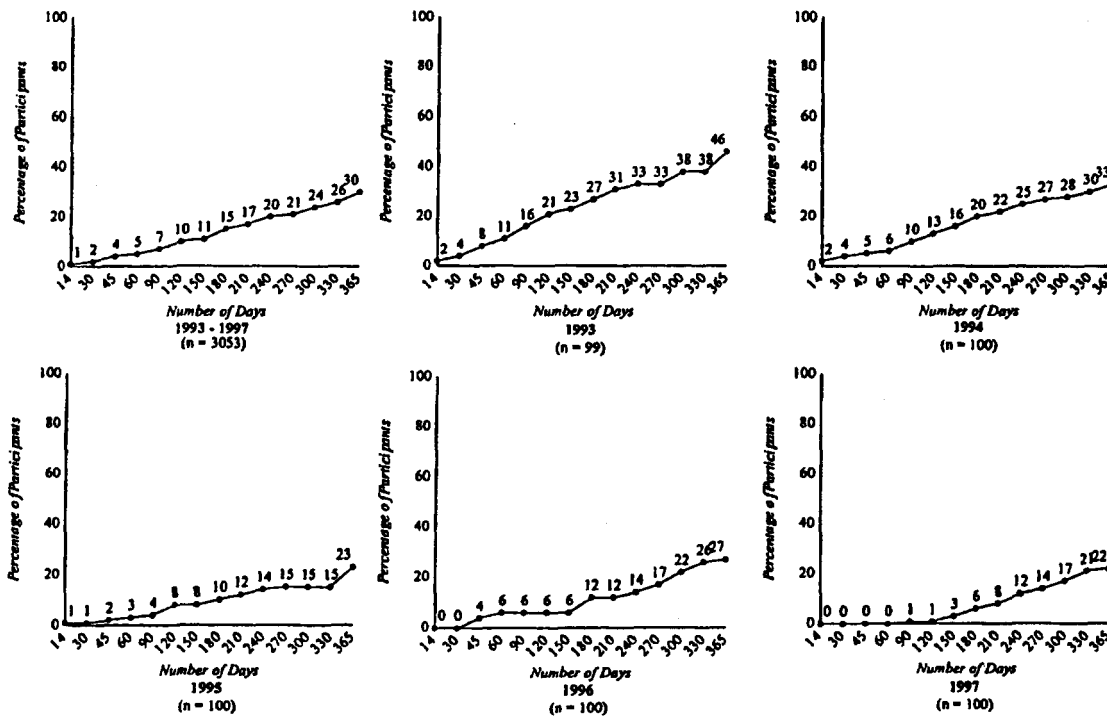
Figure 80 Status in Treatment (Favorable / Unfavorable) at End of One Year Observation Period among Clark County Drug Court Participants, 1993 - 1997



[Note: Favorable outcomes include graduations (11) and cases that are still open and in good standing. Unfavorable outcomes include terminations and cases that are still open and fugitive / incarcerated. Status in treatment was determined using both treatment provider and criminal justice records (Blackstone)]

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Figure 81 Time to Unfavorable Termination of Clark County Drug Court Participants during One Year Observation Period, 1993 - 1997



[Note: Unfavorable termination is defined as being discharged from the program by the Drug Court judge.]

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Changes in rates of unfavorable termination coincide with the shift to plea-based cases and may be a consequence of greater reluctance by the program to terminate participants who have much more at stake than traditional diversion participants. More specifically, participants in the later years were more likely to be on probation or have pled guilty to enter the program and risked revocation and/or jail time if terminated from the program. Other possible explanations for the slowing of unfavorable terminations include better overall performance by participants after 1994 and the provision of more intensive treatment services.

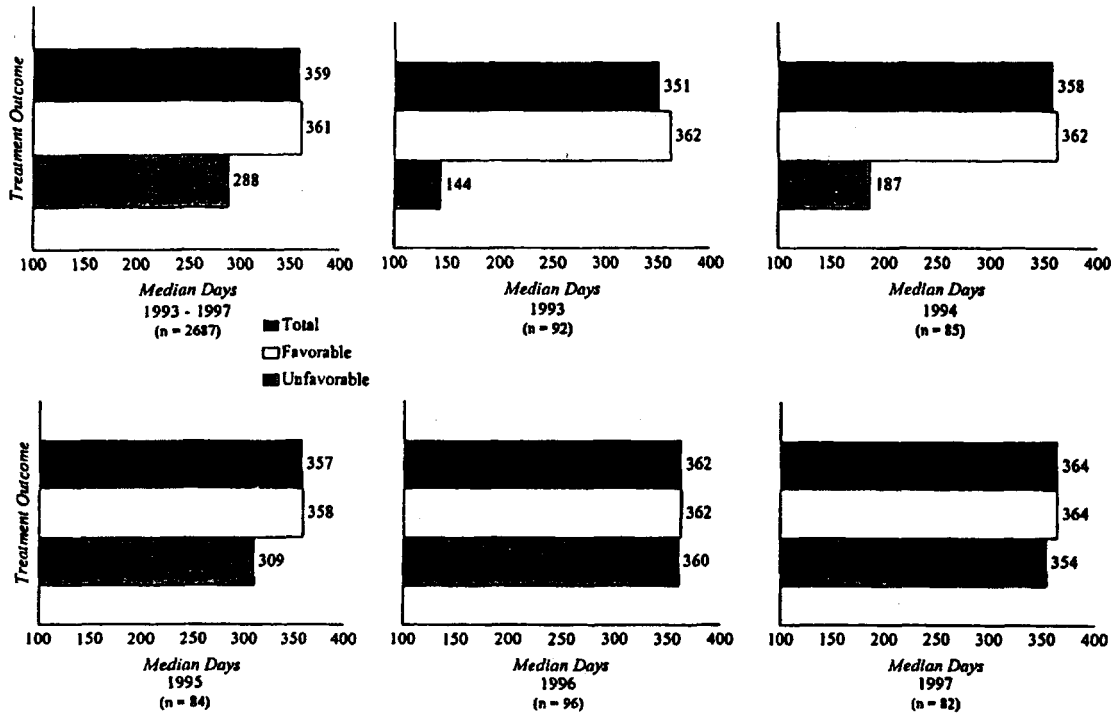
#### Time in Treatment and Favorable/Unfavorable Outcomes

Figure 82 does not show a consistent relationship between length of time in treatment in the Clark County Drug Court and the probability of favorable or unfavorable status at the 12-month mark. The expected relationship is found for the 1993 and 1994 cohorts (favorable status participants had longer times in treatment than unfavorable status participants), but begins to disappear in the 1995 cohort and disappears altogether in the 1996 and 1997 cohorts.

#### Negative Drug Tests in Phase I and Favorable/Unfavorable Outcomes

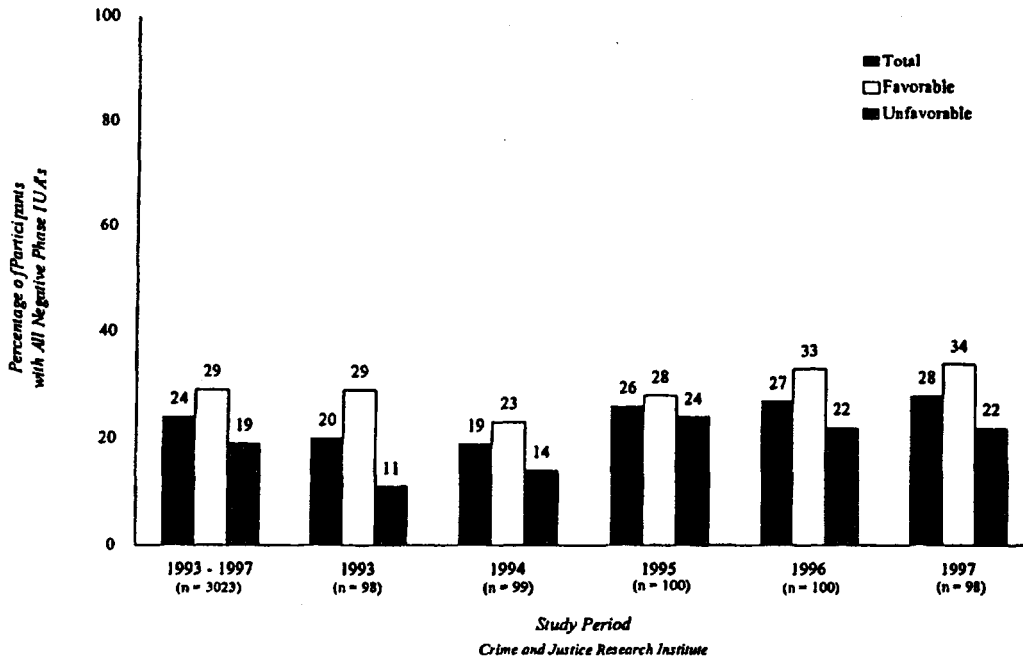
Figure 83 displays an apparent relationship between negative drug tests during Phase I and having Drug Court status at the end of the first 12 months. In every year's cohort, lower proportions of participants with unfavorable status at the year's end recorded all negative drug test results in Phase I.

Figure 82 Length of Time in Treatment among Clark County Drug Court Participants during One Year Observation Period, 1993 - 1997, by Treatment Outcome



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Figure 83 Clark County Drug Court Participants with no Positive Drug Tests (UAs) in Phase I during One Year Observation Period, 1993 - 1997, by Treatment Outcome



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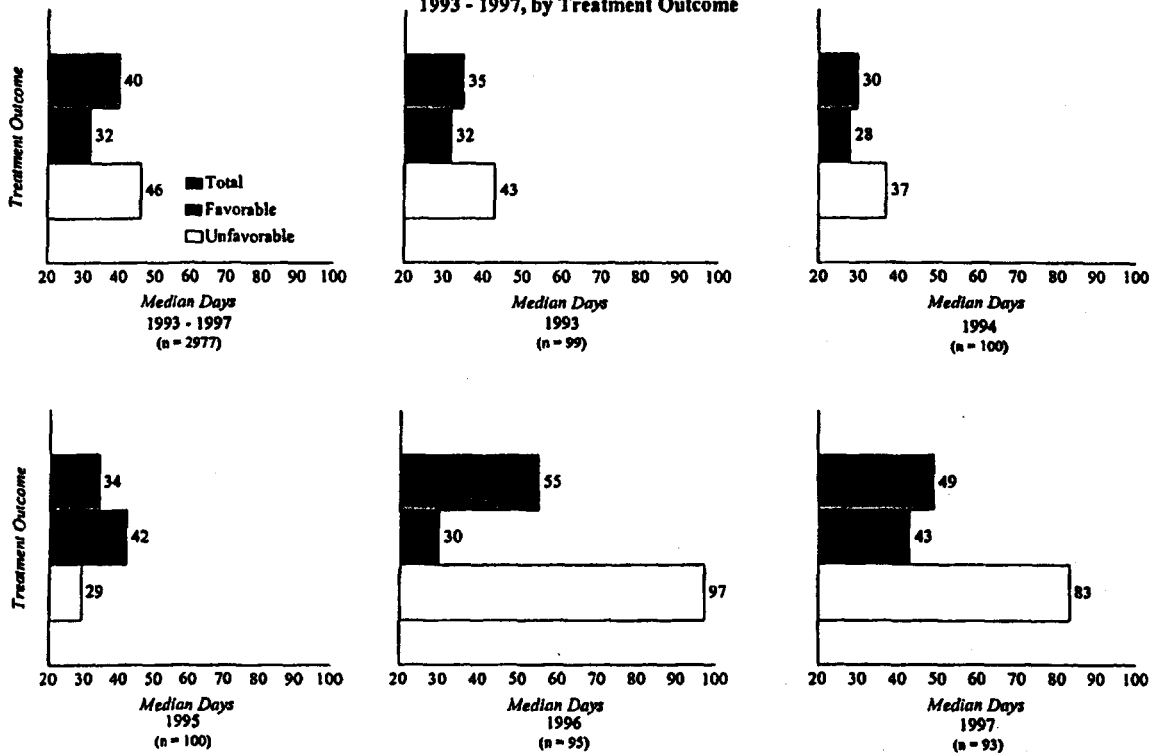
Length of Time in Phase I of Treatment and Favorable/Unfavorable Outcomes

Figure 84 suggests that overall and in each cohort except 1995, defendants in unfavorable status at the end of the 12 months had longer periods of time in Phase I of treatment than those in favorable statuses. The differences in length of time in Phase I were most pronounced among the 1996 and 1997 Clark County Drug Court participants.

Sanctions Received and Favorable/Unfavorable Outcomes

Figures 85 and 86 also show that participants with unfavorable outcomes at the end of the observation period had more sanctions on average and more often had jail imposed as a sanction than their counterparts with favorable year-end statuses.

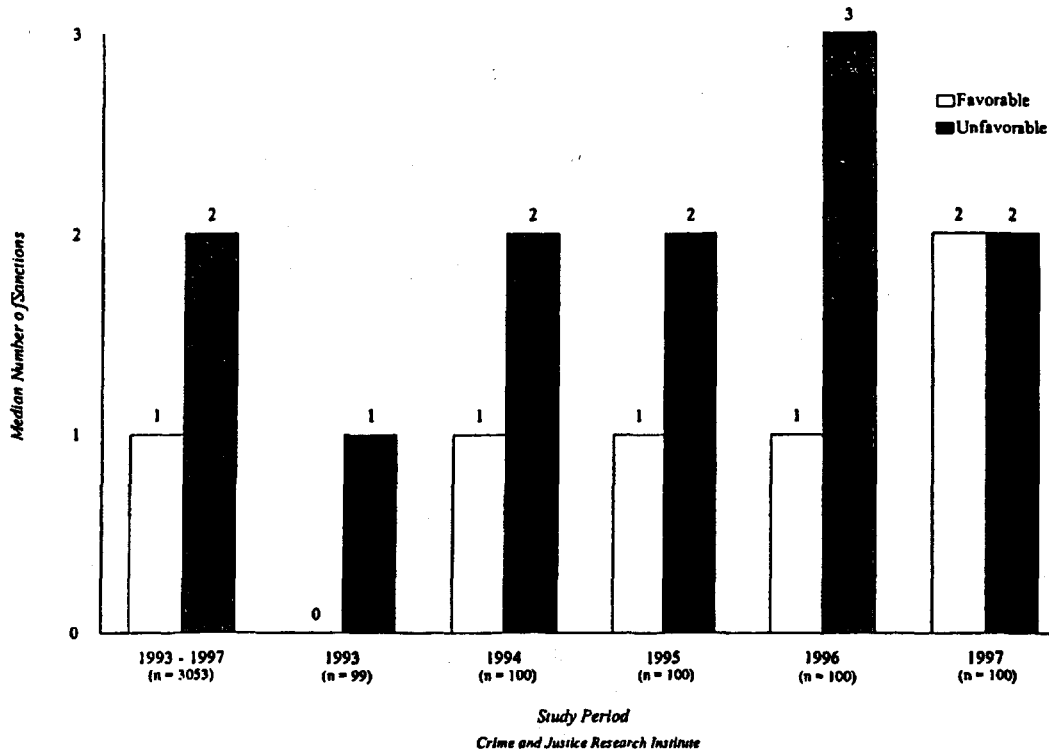
Figure 84 Length of Time (Median Days) in Phase I among Clark County Drug Court Participants, 1993 - 1997, by Treatment Outcome



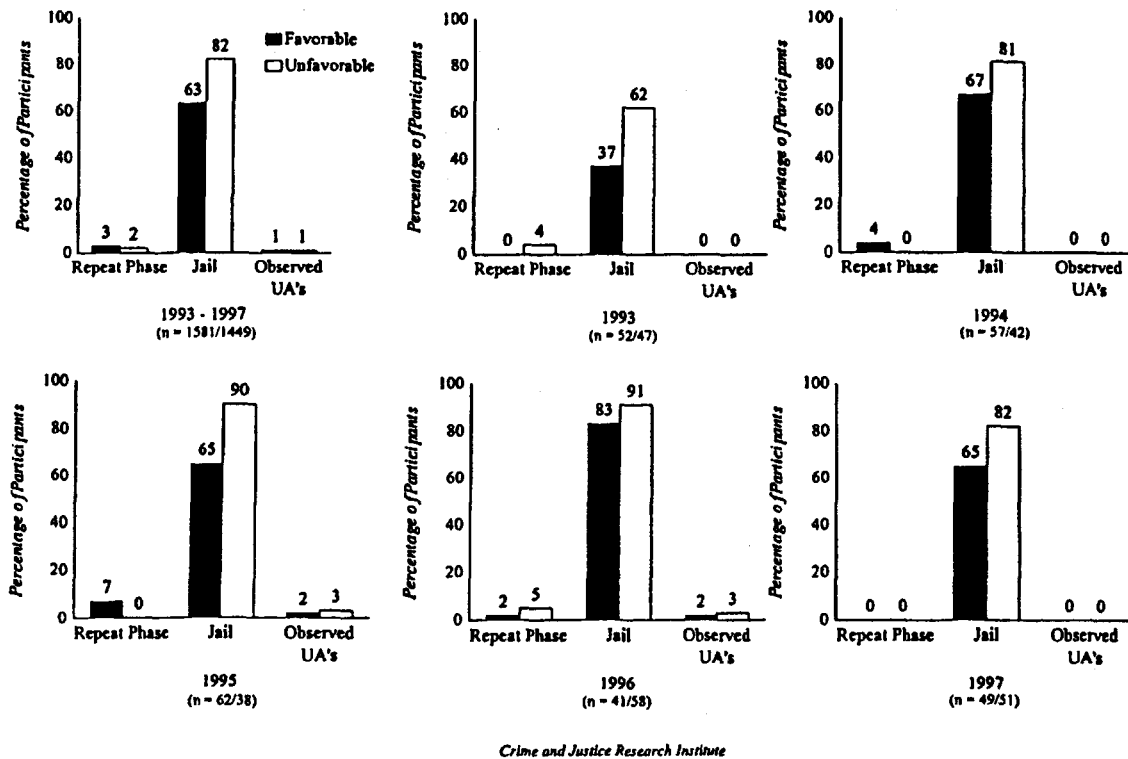
[Note: Median times in Treatment Phase I are estimates based on available information in court and treatment files. Relapses in treatment resulting in set-backs to earlier treatment phases were not consistently noted in either data source.]

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**Figure 85 Number of Sanctions Imposed on Clark County Drug Court Participants during One Year Observation Period, 1993 - 1997, by Treatment Outcome**



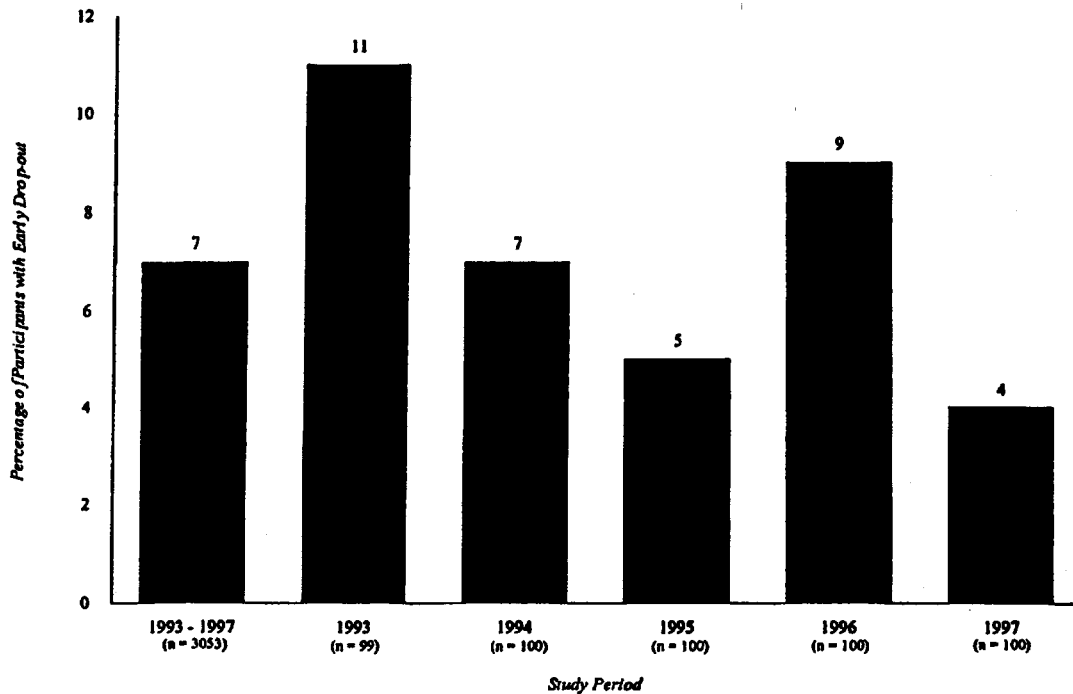
**Figure 86 Types of Sanctions Imposed on Clark County Drug Court Participants during One Year Observation Period, 1993 - 1997, by Treatment Outcome**



## Early Dropout

The Clark County Drug Court has maintained a very low rate—7 percent—of “early dropout” (persons leaving treatment within 30 days of beginning the program) overall, with only slight variation by year (see Figure 87).

**Figure 87 Early Drop-out among Clark County Drug Court Participants during One Year Observation Period, 1993 - 1997, by Year**



[Note: 'Early Drop-out' refers to Drug Court participants who attended treatment at least once but whose last appearance was within 30 days of assessment.]

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## X. Public Safety and Re-involvement with the Justice System during the First Twelve Months

### Crafting Reasonable Comparison Groups for Assessing Public Safety Outcomes of Drug Court Participants

In this section of the Phase I report, we present findings from comparative analyses of public safety outcomes associated with drug court participants and comparison groups one year from entry into the drug courts in Multnomah County and Clark County.<sup>51</sup> In each jurisdiction, the analysis of criminal justice outcomes focuses on four principal measures: case outcomes, failures-to-appear in court (issuance of bench warrants), days in jail, and rearrests for new offenses during an initial 12-month observation period. Findings analyzing outcomes for two and three year follow-up periods will be presented in a subsequent report describing Phase II research.

In section III of this report, we outlined the sampling strategies employed in the study of the Multnomah and Clark County Drug Courts designed to offer reasonable comparisons of the outcomes of drug court participants with those of other, similar defendants who did not participate in the drug courts.<sup>52</sup> In Multnomah County, target category drug defendants were all processed through a central charging and screening mechanism. (No eligible defendants were unidentified at the initial stages of Drug Court processing.) As a result, the criminal justice outcomes of Multnomah County Drug Court participants (those attending Defender orientation, first Drug Court hearing and an initial

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<sup>51</sup> In Multnomah County, the follow-up period for both Drug Court participants and the never attended and never entered comparison groups starts from the time of post-arrest charging by the prosecution and ends one year from that date. In Clark County, the follow-up period for Drug Court participants starts from the time of the Public Defender Orientation and ends one year later. For Comparison group defendants in Clark County, the one-year follow-up starts from the time of arrest on the current case.

<sup>52</sup> Obviously, because of the retrospective nature of the evaluations of, an experimental design was precluded and comparison samples had to be drawn from available criminal caseload data.

treatment appointment) were compared to those of two groups of similar Drug Court-eligible felony defendants:

- a) those who failed to attend Defender orientation and the first (petition) hearing in the Drug Court as required (the "never attended" or "no-show" group); and
- b) those who attended orientation but did not enter the court and attend any treatment (i.e., the "never entered" Drug Court group).

In Clark County, we were able to draw samples of felony drug defendants who were similar to those enrolling in the drug court but who did not enter the Drug Court screening process. (This was because the enrollment mechanism was voluntary, not as central, and did not screen all possible felony drug defendants in the large volume court.) Thus, comparison group defendants were quite similar to Clark County Drug Court participants but entered criminal processing without passing through Drug Court screening.

Given the retrospective and non-experimental nature of the comparison groups, a first concern in framing comparisons between Drug Court participants and their non-Drug Court counterparts is to determine whether the comparison samples were indeed similar (so that we can have some assurance that differences in outcomes are not due to differences in group composition). Table E.2 contrasts the attributes of the three Multnomah County samples whose outcomes were compared over 12 months (Drug Court, never attended, never enrolled). Bivariate comparisons suggest that, while the samples overall appear quite similar, they differed in several specific ways. Multivariate analysis indicated that compared to the "never-attended" comparison group, Multnomah County Drug Court participants were likely to be older, less likely to have pending arrests, less likely to have prior drug arrests, and more likely to have prior weapons



convictions. Multnomah County Drug Court participants differed from those attending orientation but not entering treatment (the "never-attended" comparison group) in being less likely to have pending arrests and less likely to have prior arrests for drugs.

Table E.5 shows that Clark County Drug Court participants differed little from their comparison group counterparts, with only gender, having a telephone, prior failures-to-appear in court, and prior drug convictions being identified as significant differences in multivariate analysis. In short, Drug Court participants were more likely to be male, have telephones, and have prior FTAs, and less likely to have prior drug convictions than the comparison group defendants. During the analysis of the Clark County data, we determined that beginning in 1995, the Drug Court and comparison group samples differed in an important way—one that, had it been known, would still have been difficult to correct for in advance. Specifically, at that time, the Drug Court began a shift toward admission of greater proportions of participants who pled guilty and away from defendants entering on diversion. The comparison sample includes a random sample of all entering similar drug defendants and is not pre-screened or otherwise stratified to build in guilty plea defendants. In any event, the samples do not differ so much in the proportions ultimately pleading guilty, as in the time and method of guilty plea. (The possible importance of this difference in sample composition is addressed below in the discussion of Clark County results.)

Overall, the construction of comparison groups in both sites produced reasonably similar groups. Because we could nevertheless identify some dissimilarities in composition between drug court and comparison groups, we employ multivariate analysis to determine whether the differences in outcomes between groups are significant, after

controlling for the effects of possible differences in sample composition (i.e., the variables noted above).

## Criminal Justice Outcomes of Drug Court Participants in Multnomah County

### Case Outcomes

The Multnomah County Drug Court modified the Miami diversion-based drug court model by requiring defendants who wished to participate to stipulate to the facts of the police complaint in order to gain admission. Although stipulating to the facts is not the same as pleading guilty to an offense, it is fairly similar in effect. In most cases, defendants who are terminated from the Drug Court for poor compliance are adjudicated at a very short hearing and scheduled for sentencing in short order. In rare instances, defendants may find other grounds for contesting the charges not related to the stipulated facts. Nevertheless, like defendants participating in a diversion-based drug court, Multnomah participants would not be expected to record convictions in their Drug Court cases if they were successful or at least in good standing at the end of the observation period. Even defendants who were not successful in Drug Court should show longer times from arrest to adjudication because the periods of time spent in the Drug Court treatment process would delay adjudication compared to normal cases. Given these circumstances, one would expect Multnomah Drug Court participants a) to show fewer convictions in their current cases than their comparison group counterparts, and/or b) show longer periods from arrest to conviction, in the event of conviction as measured 12 months from the beginning of the process.

Figure 88 suggests that, in fact, notably fewer Multnomah County Drug Court cases resulted in conviction within the first 12 months than comparison group cases: 29

percent overall, compared to 43 percent of those never attending the required preliminary proceedings and 58 percent of those not entering Drug Court. This finding that proportionately fewer convictions were produced among Drug Court participants was particularly striking in the 1991 through 1994 time periods, but changed dramatically in 1995-1996, when the difference between Drug Court participants and those never attending dropped to four percent, and nine percent in 1997. The difference in conviction rates between Drug Court participants and those who were oriented but did not enter the Drug Court was large in all time periods. These findings support the expectation that participation in the Drug Court reduces the likelihood of conviction, quite significantly when contrasted to the most similar of the two comparison groups (those not entering the program). The similarity in conviction rates between the Drug Court participants and the no-show group can probably be explained because of its high rate of fugitivity. (Fugitives do not get convicted until they are apprehended; thus, the group as a whole will have longer times to adjudication and fewer convictions—at least within 12 months.)

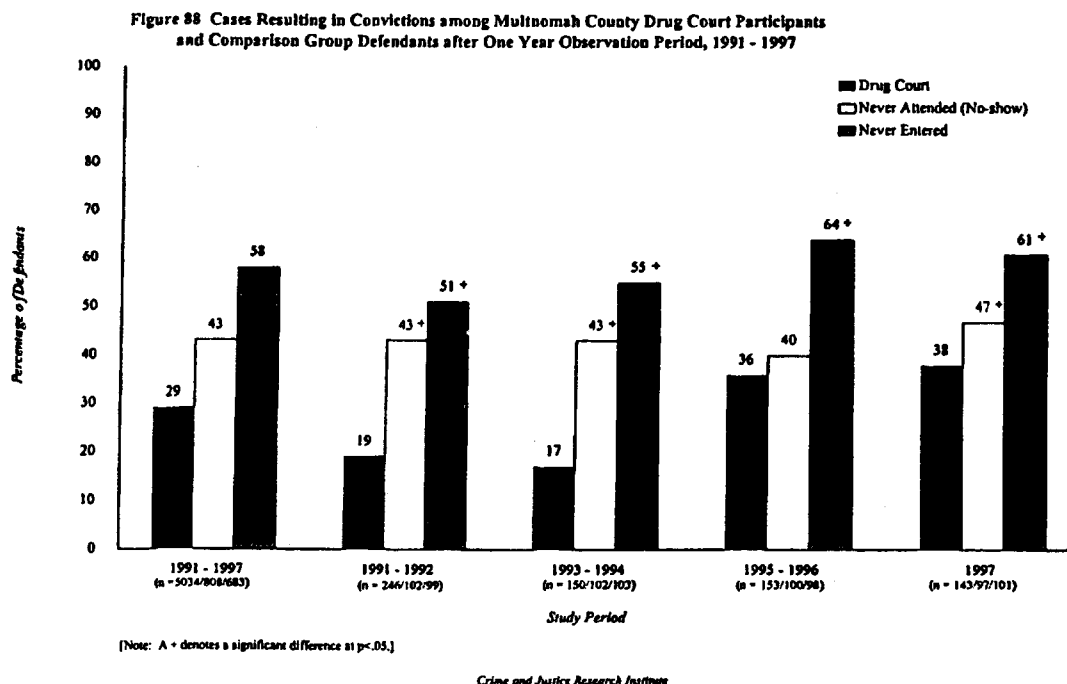
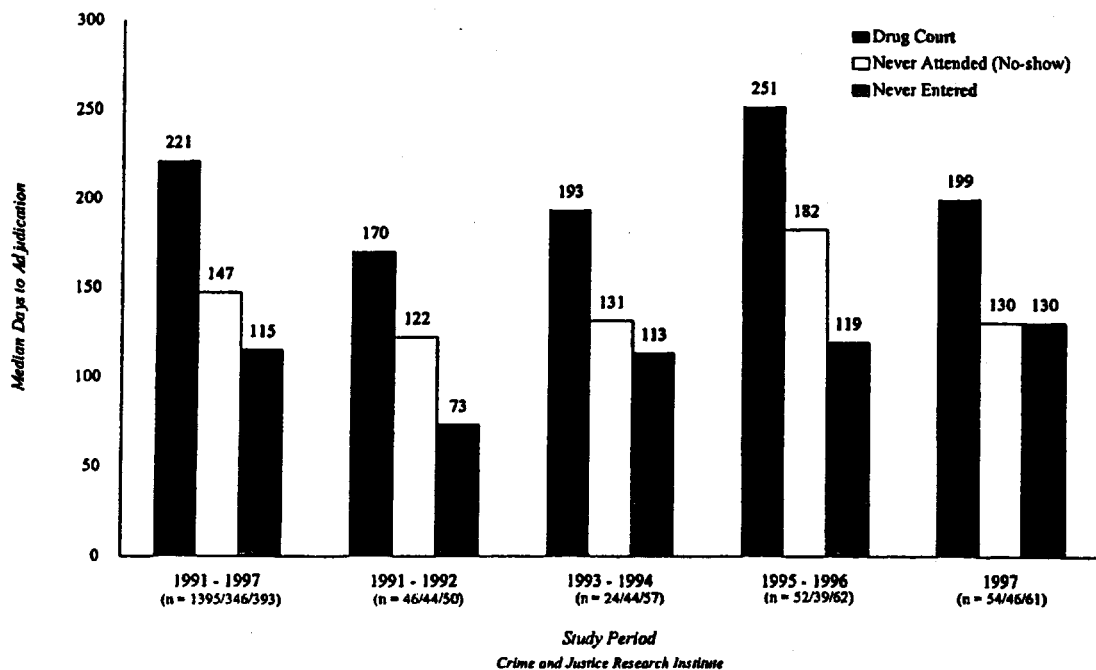


Figure 89 shows that when Drug Court participants were convicted (implying termination from Drug Court), the time from arrest to adjudication was considerably longer than the times shown from the two comparison groups: with medians of 221 days for Drug Court participants, 147 days for those never attending initial proceedings, and 115 for those never entering the Drug Court. Together, the findings of lower conviction rates and longer times to conviction suggest differences in the direction hypothesized by the Drug Court model which seeks to reduce convictions and take some period of time in the treatment process before terminating and convicting participants.

Figure 89 Length of Time (Median Days) from Arrest to Conviction in Cases of Multnomah County Drug Court Participants and Comparison Group Defendants after One Year Observation Period, 1991 - 1997



### Failure to Appear in Court

A basic requirement of drug court participation across the nation is frequent attendance at court hearings at which the participant's progress in treatment is reviewed by the judge. The number of appearances scheduled over a 12-month period for Drug

Court would, by design, far exceed the number of times an average defendant would attend court during the normal adjudication process. It follows, then, that the drug court model would suggest two outcomes related to court appearance: first, successful participation would mean excellent attendance and few absences in court over the year's period; second, given the many more required court appearances, Drug Court participants could be expected to show higher percentages of absences for at least one court hearing (and earning at least one bench warrant) than normally processed defendants just because of the increased opportunity to miss a hearing.

Figure 90 shows that the Multnomah County Drug Court participants differed little from comparison group defendants in the (median) number of bench warrants generated during the 12 months since charging.<sup>53</sup> Proportionately, Drug Court participants recorded fewer bench warrants than the never-attended (no-show) group of defendants and more bench warrants than the never-entered comparison group defendants. Given the nature of the comparison groups, these findings seem to comport with expectations of the drug court model. Drug Court participants earned bench warrants less often than defendants who skipped appointments right from the start of criminal proceedings (thus immediately earning bench warrants by definition) and more often than their normally processed counterparts, those attending orientation but then not entering the Drug Court.

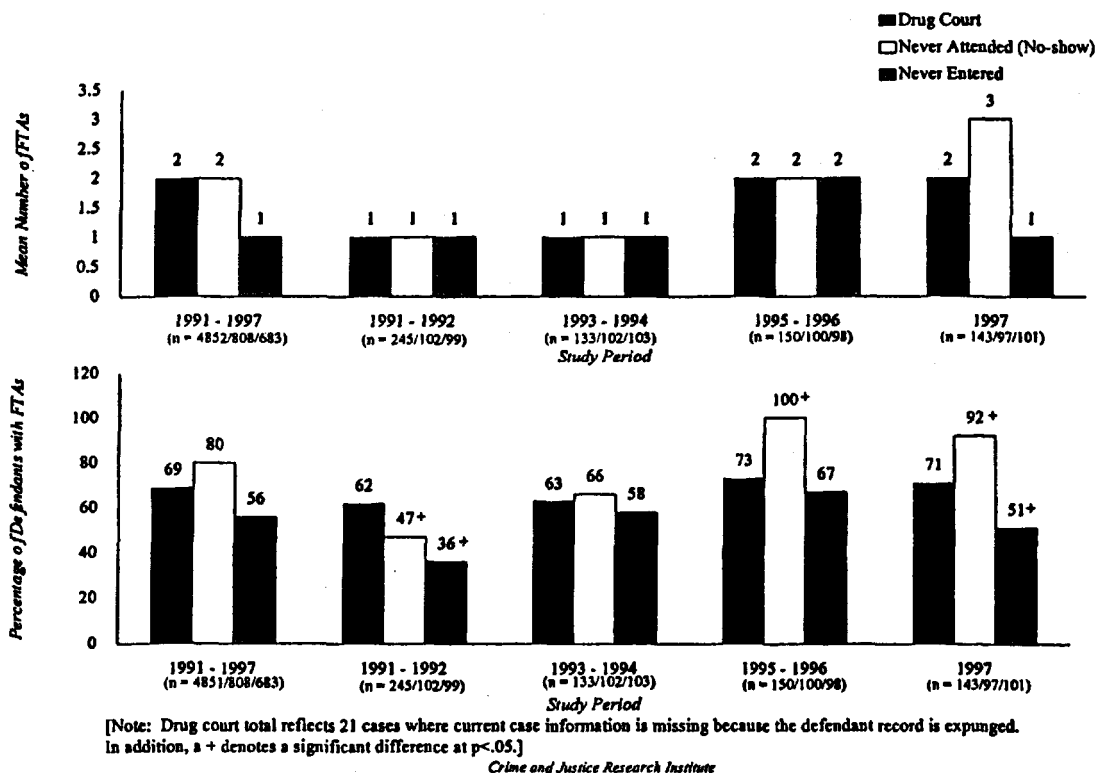
This finding varied by study period: bench warrants were more common among Drug Court participants than the other two groups of defendants during 1991-1992

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<sup>53</sup> This figure does not differentiate between Drug Court issued bench warrants and bench warrants issued by other courts when counting bench warrants of Drug Court participants for the purposes of comparability. However, approximately 96 percent of all Drug Court participant bench warrants were issued by the Drug Court.

(program start-up), about as common as in the other groups during 1993-1994, and less common than among never-attended defendants and more common than among never-entered comparison group defendants in 1995-96 and in 1997. In fact, failure-to-appear rates rose among all groups during 1993-1994 and 1995-1996, but dropped again slightly in 1997 from very high rates.

Figure 90 Failures to Appear in Court among Multnomah County Drug Court Participants and Comparison Group Defendants during One Year Observation Period, 1991 - 1997

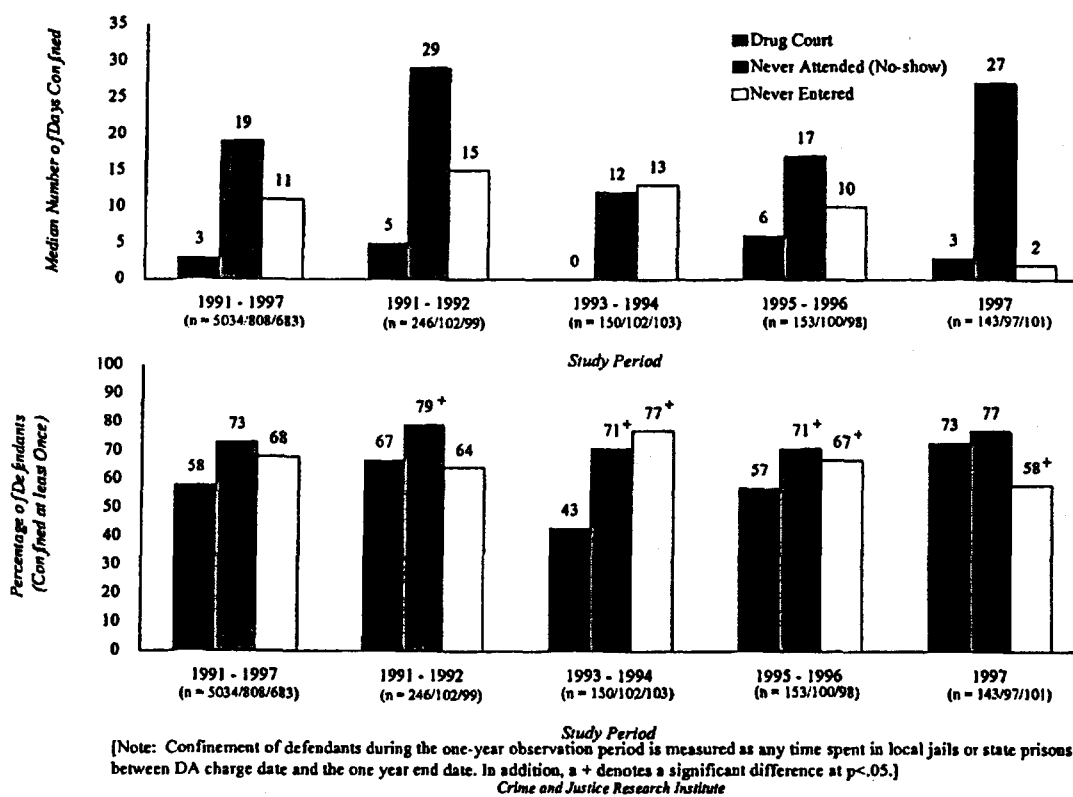


### Days in Jail

One of the original goals of drug courts was to place defendants/participants in treatment in the community rather than merely confining them without addressing the underlying problems of substance abuse. This aim would posit that, to some extent, drug courts would reduce the amount of time spent in confinement by target population candidates, when compared with what would have happened absent the drug court option.

Figure 91 suggests that overall proportionately fewer Multnomah County Drug Court participants were confined and, when confined, were confined for fewer days per year than their comparison group counterparts. While 58 percent of Drug Court participants were confined during the 12 months after commencing Drug Court from 1991-97, 73 percent of the never-attended and 68 percent of the never-entered comparisons groups were confined.

Figure 91 Follow-up Confinement among Multnomah County Drug Court Participants and Comparison Group Defendants during One Year Observation Period, 1991 - 1997



The relative use of confinement among groups of defendants, however, varied sharply by study period: smaller proportions of Drug Court participants were confined during the first 12 months than never-attended defendants in every period from 1991 through 1997, although the difference is not significant in 1997 (73 percent of Drug Court participants versus 77 percent of never-attended participants). In the start-up 1991-

1992 study period a larger proportion (67 percent) of Drug Court participants were confined during the first 12 months, compared to 64 percent of the very similar never-entered comparison group. This proportion dropped to 43 percent of Drug Court participants during 1993-1994 (compared to 77 percent of the never-entered defendants), but began shifting upwards in 1995-96 (to 57 percent compared to 67 percent of the never-entered group). By 1997, the confinement trend had reversed. During that year, not only were Drug Court participants confined almost as much as the never-attended defendants (73 versus 77 percent), but proportionately they were confined more often than the never-entered counterparts (73 percent versus 58 percent). In short, by the end of the seven year study, the proportion of Drug Court participants confined was at its highest and was nearly equaling the rate of the group that would be expected to have a high rate (because they were "no-shows" in the judicial process from the start). Remarkably, at the end of the study period, the proportion of Drug Court participants confined during the first twelve months notably exceeded the rate of the most comparable group of defendants, those who attended the required proceedings but who did not enter the Drug Court program.

The same figure shows the median number of days spent in confinement in the year following the post-arrest charging date for the three groups. Overall, Multnomah County Drug Court participants produced the lowest average numbers of days confined during the 12-month observation period (3 days versus 19 for the never-attended and 11 for the never-entered comparison groups). The differences in numbers of days confined remain great between Drug Court participants and defendants who never attended, but begin to disappear between Drug Court participants and defendants who did not enter the



treatment process during 1995-96, until, in 1997, Drug Court participants average more days in confinement than their never-entered counterparts.<sup>54</sup>

In short, after the difficult 1991-1992 start-up period, the Drug Court clearly used confinement less often and for shorter average periods than was the case among the two comparisons groups. This began to change in the 1995-1996 study period and dramatically changed during 1997, when it could not be said that the Drug Court served as an alternative to local incarceration in comparison to the other study groups.

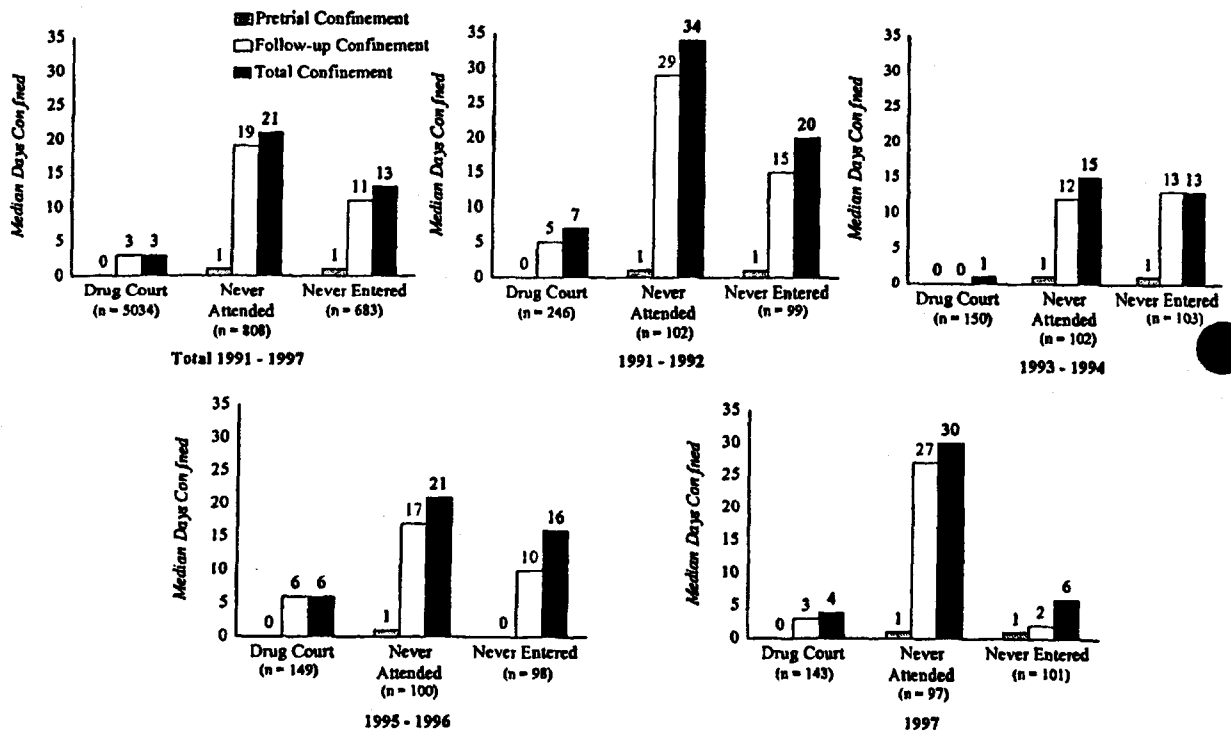
Figure 92 breaks down the overall confinement experienced during the 12-month observation period by defendants in each group into pretrial detention and follow-up confinement. From this figure, it appears that from 1991-97 Drug Court participants showed lower median days in confinement overall, pretrial and follow-up confinement, although the differences began narrowing in 1995 and remained narrow through 1997. The overall difference in the (median) number of jail days associated with Drug Court defendants is explained principally by reductions in follow-up confinement during the first twelve months.<sup>55</sup> This may be accounted for by the greater conviction rate shown among comparison group defendants (and thus sentences to confinement) and, as will be shown below, the lower rearrest rate among Multnomah County Drug Court defendants. The total number of jail days confined (including both pretrial days and days confined

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<sup>54</sup> With number of days in confinement during the first 12 months as the dependent variable, multiple regression was employed to control for differences in group composition. In the comparison of Drug Court participants with the "never-attended" group, the difference between sample groups remained significant at  $p < .000$ . When cohorts were examined separately, it was not significant among 1991-1992 participants, but was significant for the other cohorts studied. Differences between Drug Court participant confinement during 12 months and the "never-entered" comparison group were significant overall at  $p < .000$ . When cohorts were examined separately, differences between groups were not significant between the 1991-1992 and 1997 participant cohorts and their Never Entered comparisons. They were for the other time periods.

after pretrial release during the one-year follow-up period) for the never-attended group was significantly higher than the Drug Court group overall, in the 1993–1994 study period, the 1995–1996 study period and the 1997 study period. The never-entered group generated higher total jail days than the Drug Court group in the 1993–1994 and 1995–1996 study periods. There were no significant differences in the number of days spent confined pretrial between any of the groups.

Figure 92 Pretrial and Follow-up Confinement among Multnomah County Drug Court Participants and Comparison Group Defendants during One Year Observation Period, 1991 - 1997



[Note: Thirty-five defendants were not released pretrial: 25 Drug Court participants, eight "Never Attended" defendants, and two "Never Entered" defendants.]

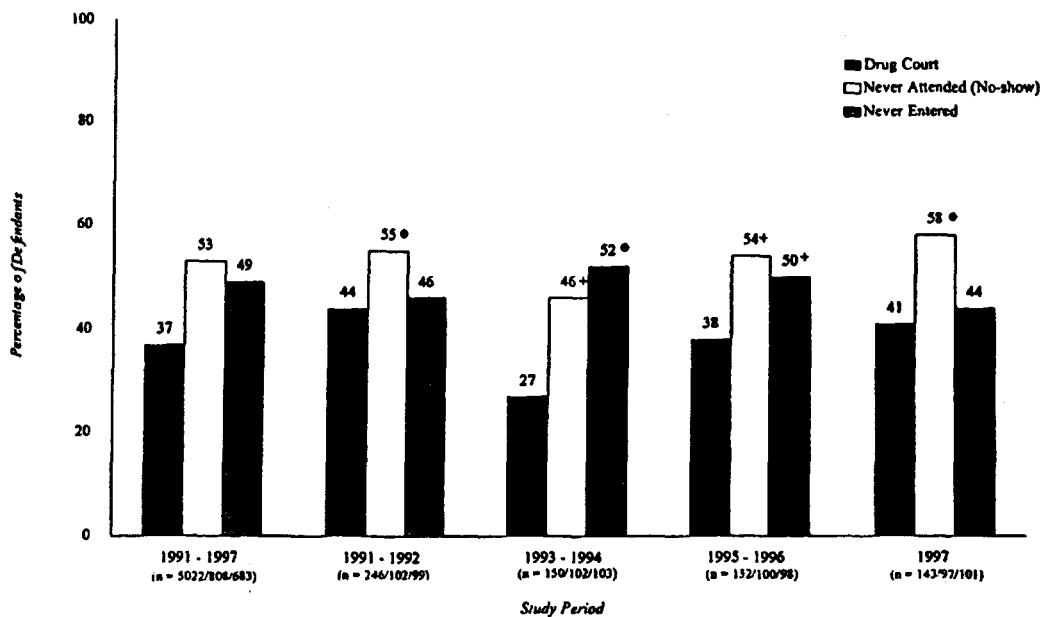
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<sup>55</sup> When number of post-conviction days in confinement is entering as a dependent variable in multiple regression, and group differences are entered as controls, differences between Drug Court participant confinement and Never Attended confinement remained significant at  $p < .000$  and Drug Court and Never entered confinement remained significant at  $p < .001$ .

## Rearrests for New Offenses

A clear aspiration of the drug court approach from its earliest conceptualization was, not only that participants should be jailed less frequently, but also that participants who were placed in treatment should become re-involved in crime less frequently than those who were not. At least the drug court model would posit that drug court participants, released more often to the community, should reoffend at no greater rate than their counterparts who did not participate in the treatment process. Table E.2 displays the proportions of Multnomah County felony drug defendants in each group arrested for new offenses. Figure 93 shows that overall (1991-1997) a smaller percentage of Drug Court defendants were rearrested for any offense during the initial observation period of 12 months (37 percent compared to 53 percent of the never-attended and 49 percent of the never-entered comparison groups).<sup>56</sup>

Figure 93 Arrests for New Offenses among Multnomah County Drug Court Participants and Comparison Group Defendants during One Year Observation Period, 1991 - 1997



[Note: A + denotes a significant difference at  $p < .05$ .]

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The difference in rearrest rates between Drug Court participants and their comparison group counterparts varied by study period, however. In each period, Drug Court participants were rearrested at rates notably and significantly below the never-attended comparison group. However, the slight differences in 12-month rearrest rates between Drug Court participants and the never-entered comparison group were not significant during the start-up (1991-1992) period and during 1997. The greatest differences in rearrests between these two groups occurred in 1993-1994 (27 versus 52 percent) and in 1995-1996 (when it nevertheless decreased to 38 versus 50 percent).

When rearrest for specific types of offenses was examined, significant differences were not found among groups for serious crimes against the person<sup>57</sup> or for serious property crimes.<sup>58</sup> (See Table E.2) More notable but not always large differences were found in the category of drug arrests: Only 22 percent of Drug Court participants were rearrested for drug offenses in the first 12-months over the eight-year study period, compared to 37 percent of the never-attended and 32 percent of the never-entered comparison groups of felony drug defendants. (See Figure 94) The size of the differences in drug rearrests varied by year and was statistically significant only in 1993 – 1994 (for both comparison groups) and 1997 (for the ‘never-attended’ group).

Figure 95 examines the effect of drug rearrests on the overall differences between Drug Court participants and the two comparisons groups by calculating rearrest excluding rearrests for drug offenses. (Thus, any arrests for which the lead or sole

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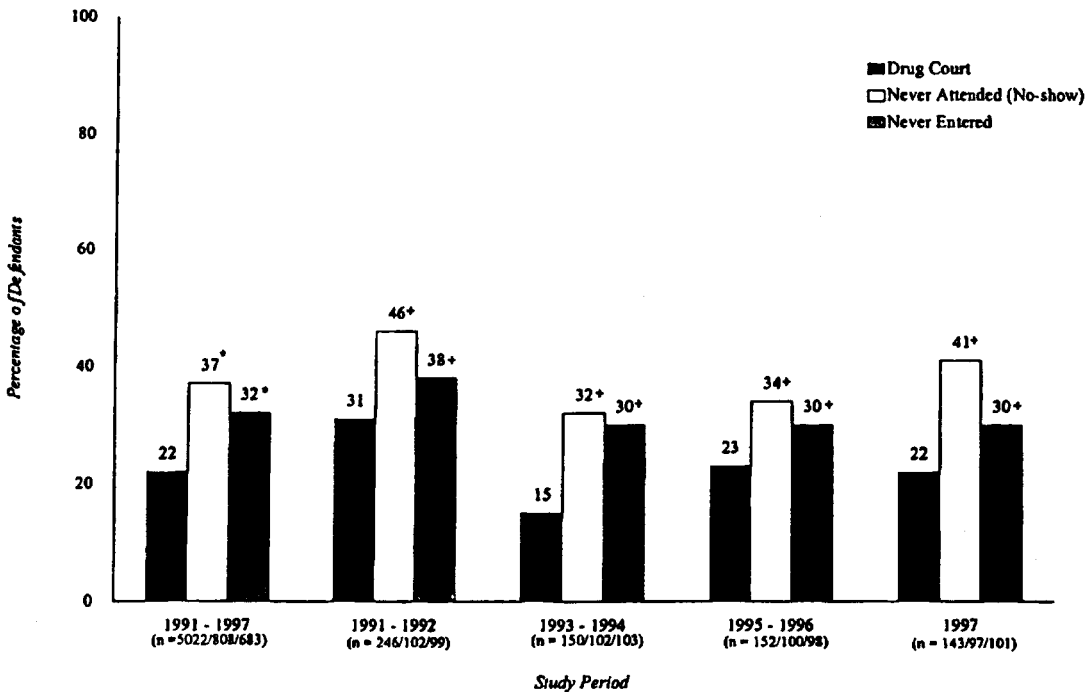
<sup>56</sup> When differences in sample composition are taken into account in logit analysis, the differences between Drug Court participant and comparison group rearrest rates were significant at  $p < .05$ .

<sup>57</sup> These offenses include murder, manslaughter, rape, robbery, aggravated assault, kidnapping, sexual assault, kidnapping, carjacking, assault and battery, statutory rape, child abuse, involuntary deviant sexual intercourse, and domestic violence.

<sup>58</sup> These offenses include arson, burglary, invasion of home, and causing or risking a catastrophe.

offense was a drug offense are excluded from the analysis.) When this “non-drug offense rearrest” rate is considered, Drug Court participants overall (1991-1997) still show slightly lower rearrest rates than the never-attended comparison group during the first 12 months (25 versus 35 percent) and the never-entered comparison group (25 versus 34 percent). (These differences were not statistically significant). This finding varies by year as well: rearrest rates for non-drug offenses were higher among Drug Court participants than among the other groups during the 1991-92 start-up period, but were lower in all subsequent periods. The only time period producing lower non-drug rearrest rates among Drug Court participants that were statistically significant was 1993-1994.

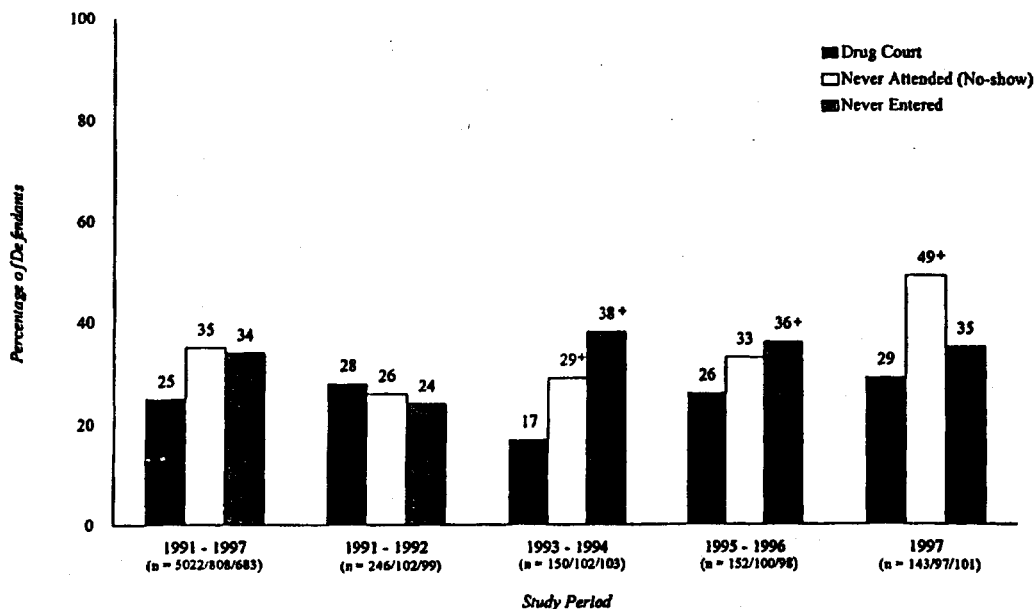
Figure 94 Rearrest for Drug Offenses within One Year of D.A. Charging among Multnomah County Drug Court Participants and Comparison Group Defendants during One Year Observation Period, 1991 - 1997



[Note: A \* denotes significant difference at p<.05 while controlling for sample differences using non-weighted data. A + denotes a significant difference at p<.05.]

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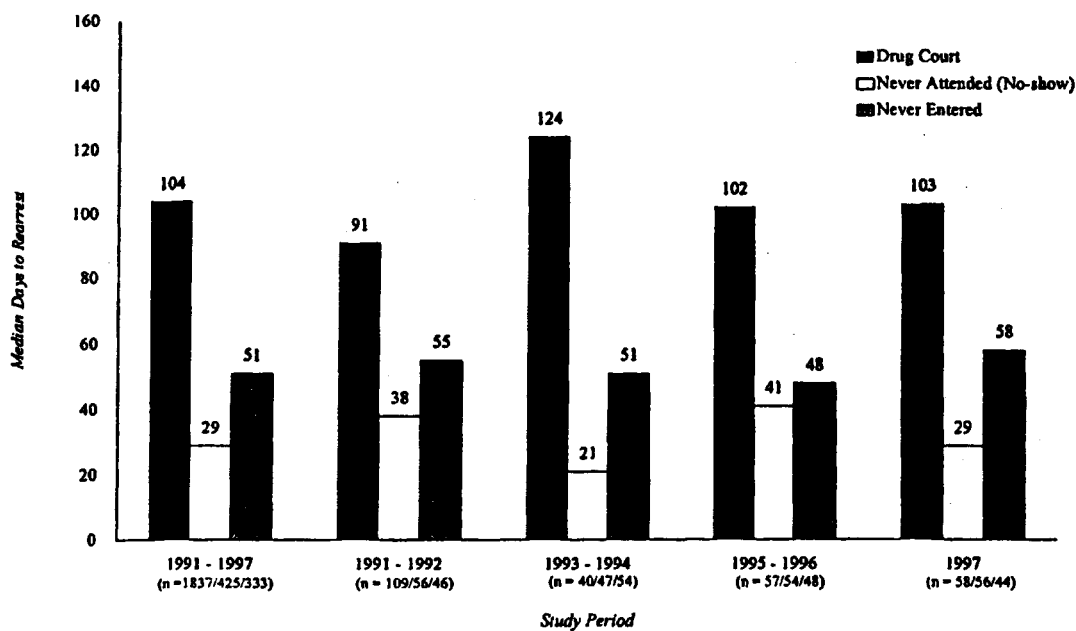
Figure 95 Arrests for New Offenses (excluding Drug Offenses) among Multnomah County Drug Court Participants and Comparison Group Defendants, 1991 - 1997



[Note: A + denotes a significant difference at  $p < .05$ .]

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Figure 96 Length of Time (Median Days) to Rearrest among Multnomah County Drug Court Participants and Comparison Group Defendants during One Year Observation Period, 1991 - 1997



[Note: Figure is based on defendants who were rearrested within one year.]

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### Number of Rearrests during the First 12 Months

Overall and for each study period, Drug Court participants generated lower average numbers of rearrests than their comparison group counterparts (with a mean of .8 compared to 1.5 per year for the never-attended defendants and 1.2 for the never-entered defendants). Overall, when controlling for differences in sample composition, the differences between the lower number of rearrests generated by Drug Court participants and the higher numbers by the two comparison groups were significant.<sup>59</sup>

### Time to Rearrest

Figure 96 shows that, when Drug Court participants were rearrested, they took several times longer to be rearrested (median, 104 days) than their comparison group counterparts (29 days for the never-attended and 51 days for never-entered defendants). These large differences were maintained throughout the study period and represent one of the clearest findings from the evaluation. Figure 97 displays the rate at which Multnomah County Drug Court participants and defendants in the comparison groups were rearrested over the 12-month period in a cumulative graph. That figure shows that the rearrest differences among the three study groups are in evidence from the very beginning of the 12-month observation period. Thus, the ultimate difference in rearrest rates is presaged within the first month when the comparison groups already show rates two to three times greater than Drug Court participants. Once the initial differences are cast in the very early going, all groups show gradually increasing and parallel rates of

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<sup>59</sup> The difference between Drug Court participants and the never-attended comparison group was significant at  $p < .000$ . When taken separately, the difference was not significant in the 1991-1992, and 1995-1996 cohorts. The difference in number of rearrests in 12 months between Drug Court participants and the never-entered group was significant at  $p < .01$ . In separate analyses, differences were not significant for the 1991-1992, 1995-1996 and 1997 cohorts.

rearrests over the 12 months with some narrowing toward the end of the observation period.

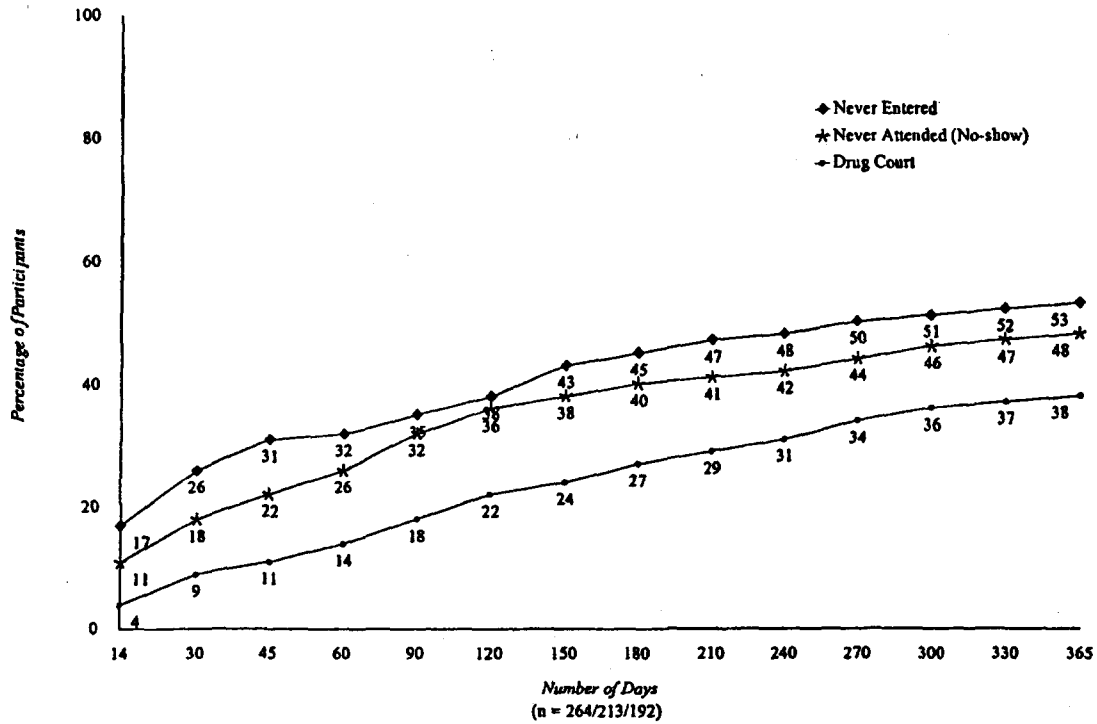
The significance of the initial period of the follow-up in establishing the differences among groups in rates of rearrest is also highlighted from another perspective using survival analysis. Survival analysis plots the extent to which members of each of the groups (Drug Court, never-attended, never-entered) are not rearrested over the observed 12-month period, dropping out persons arrested at each successive time period. Figure 98 shows that the differences in "not being rearrested" (surviving) are set within the first two months. Survival rates then follow a roughly parallel course from that point on, with some narrowing of differences beginning around month nine.<sup>60</sup>

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<sup>60</sup> The survival analysis showed that the models for the survival rates of each group over time were significantly different (log rank=34.38; DF=2; p<.000).

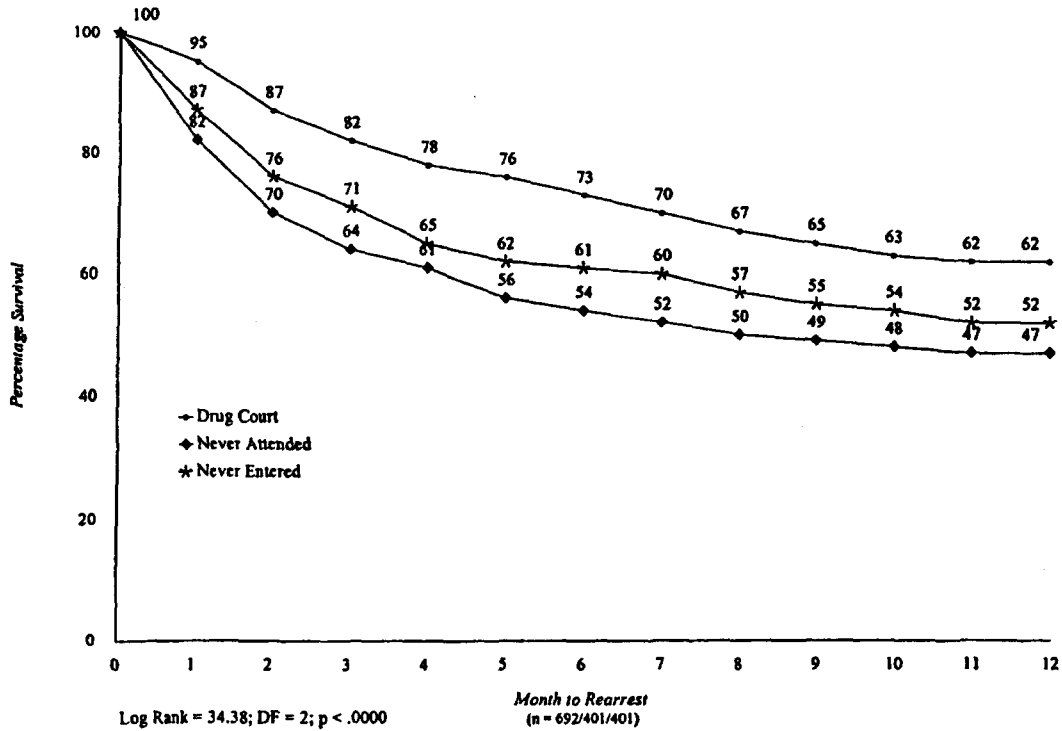


Figure 97 Cumulative Percentage of Multnomah County Drug Court Participants and Comparison Group Defendants Rearrested during One Year Observation Period, 1991 - 1997, by Number of Days to Rearrest



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Figure 98 Survival Analysis for Drug Court Participants and Comparison Group Defendants (Not Being Rearrested) in Multnomah County, 1993 - 1997



Log Rank = 34.38; DF = 2; p < .0000

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## Criminal Justice Outcomes of Drug Court Participants in Clark County

### Case Outcomes

Initially, the Clark County Drug Court more closely resembled the original Miami diversion-based drug court model that allowed successful felony defendants to have their charges dismissed, or rather never filed (and arrests later expunged). The shift toward requiring guilty pleas to enter the Clark County Drug Court that began around 1994 signaled a significant departure from its original diversion emphasis to one in which an increasingly large portion of participants entered with convictions that would not be removed no matter how successful they were. The incentive for achieving a successful treatment outcome was not, in a sense, held out "in front" of the plea-based participant, to overuse Janet Reno's "carrot" analogy. Rather, the incentive was "spent up front" at the time of the plea negotiation when, in exchange for probation and/or a conviction on a reduced charge (dropping, for example, from felony to misdemeanor), the defendant agreed to participate in the treatment regimen of the Drug Court. Once agreed to and carried out, the motivation for participation in post-conviction type cases includes "getting better," for those sincerely driven by this aim, and avoiding further problems (e.g., incarceration) that could result from being out of compliance with the Drug Court rules.

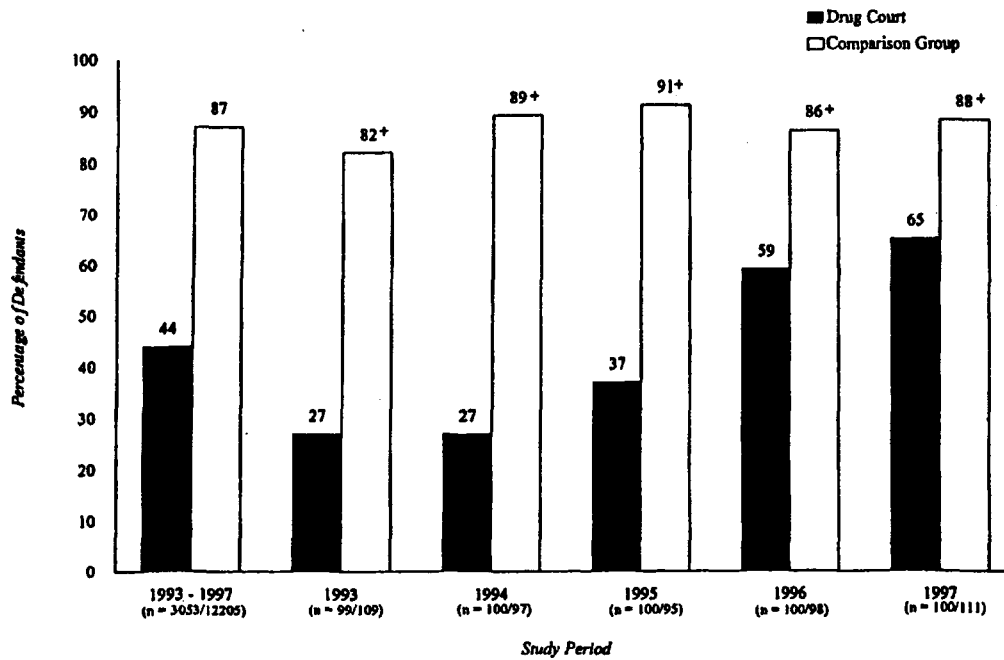
The shift in the Clark County Drug Court caseload to the plea means of entry, thus, raises interesting questions about participant motivation and performance under this approach. It also raises some difficult issues of interpretation when comparing the 12-month outcomes of Drug Court participants from 1993 through 1997, as the transition really takes force in 1996 and 1997. In the introduction to this section, we described how

it was difficult to shape a comparison group that could mirror this change in the Drug Court group. It also raises problems for the comparison of current-case convictions among the Drug Court and control groups, the first focus of criminal justice outcomes—at least after 1994. Clearly, because so many cases entered Drug Court upon conviction, the interpretation of conviction in Clark County is different from that employed in the analysis of case outcomes for Multnomah County (where each conviction was a failure or termination from the Drug Court).

Figure 99 shows that nearly all of the cases (87 percent overall) of the comparison group drug defendants in Clark County who did not go to Drug Court were convicted of some charges in each of the five yearly cohorts studied, with minor variation year to year (ranging from a low of 82 percent in 1993 to a high of 91 percent in 1995). Because the samples of Drug Court participants and the non-Drug Court comparison groups were both drawn from defendants entering the criminal process during each time period, differences between the proportions of each group with current-case convictions has important implications, particularly in the early stages of the program when it was primarily diversion-oriented. In the 1993 and 1994 cohorts, for example, the very large differences in the proportions of defendants convicted 12 months from the post-arrest stage (27 percent of Drug Court versus 82 and 89 percent of comparison group defendants) suggest that the Clark County Drug Court was having a dramatic impact in avoiding felony convictions for a large number of its participants, at least during the initial 12-month period. Even in the 1995 cohort of participants, the proportion (37 percent) of participants receiving current-case convictions in the initial 12-month period was dramatically lower than the proportion (91 percent) of comparison group felony

defendants getting convicted. These findings show that the Clark County Drug Court had great success in realizing the diversion-related benefit of the original drug court model, as far as avoiding convictions and preventing related confinement.

**Figure 99 Cases Resulting in Convictions among Clark County Drug Court Participants and Comparison Group Defendants after One Year Observation Period, 1993 - 1997**



[Note: A + denotes a significant difference at  $p < .05$ .]

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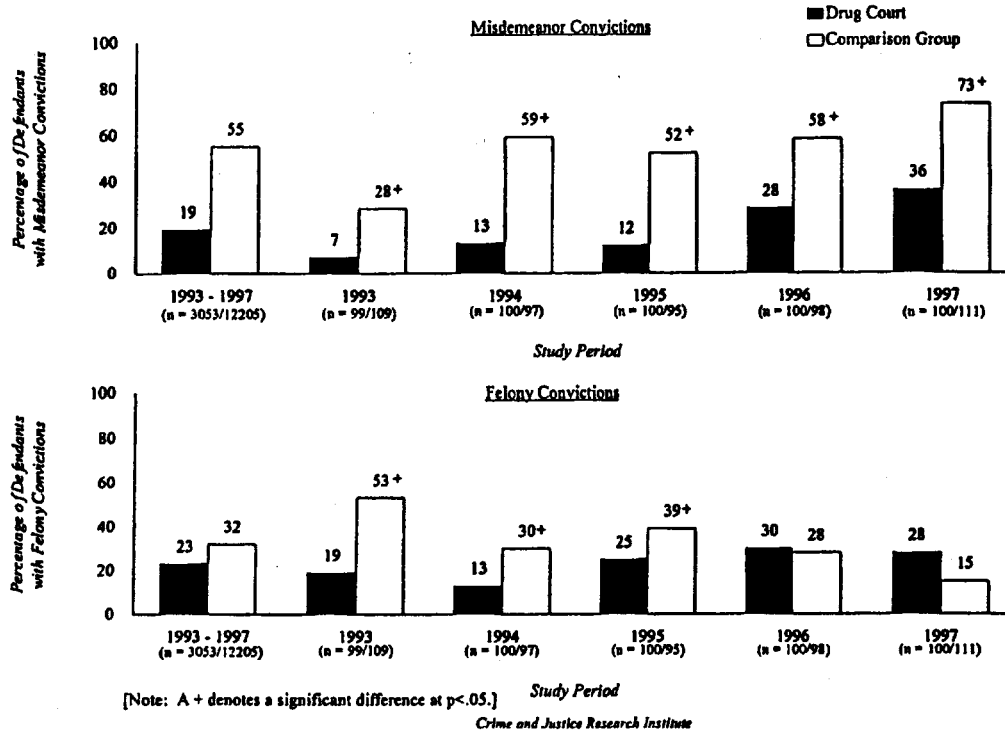
Figure 99 shows that in the 1996 and 1997 cohorts this picture changes considerably, although it may still appear that (at 59 percent and 65 percent, respectively) Drug Court participants are being convicted at substantially lower rates than their comparison group counterparts (at 86 and 88 percent in those periods)—and, one might add, for lesser offenses when they are convicted. Interpretation of the conviction rate at this stage, however, becomes difficult because guilty pleas cases are increasingly accounting for the bulk of the admissions to Drug Court. Convictions, then, stop being

an outcome measure and start being an attribute of entering cases, a pre-requisite.<sup>61</sup> Thus, one might still want to make the claim that, per 100 eligible drug defendants, even taking into account their guilty pleas, Clark County Drug Court participants still are convicted less often (and of lesser offenses) than their comparison group cohorts of entering felony drug defendants. Figure 100 shows the percentage of Drug Court participants and Comparison group defendants that were convicted of both misdemeanor and felony offenses. Over the entire study period, fewer drug court participants than comparison defendants were convicted of both misdemeanor and felony offenses (19 percent versus 55 percent and 23 percent versus 32 percent). There has been substantial variation over time however. For Drug Court participants, convictions for both types of offenses have increased over time, misdemeanors from seven percent in 1993 to 36 percent in 1997 and felonies from 19 percent in 1993 to 28 percent in 1997. For comparison defendants, misdemeanor convictions rose sharply, from 28 percent in 1993 to 73 percent in 1997 but felony convictions have dropped dramatically from 53 percent in 1993 to 28 percent in 1996 and 15 percent in 1997. Even with the shift to plea-based cases, the Drug Court results in fewer defendants being convicted of misdemeanor offenses. However, the same cannot be said for felony offenses, particularly in 1997 when Drug Court participants had a felony conviction rate nearly double that of comparison defendants.

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<sup>61</sup> The Drug Court's shift to a plea-based caseload also makes it difficult to interpret time from arrest to conviction. During the periods when diversion was the dominant mode of entry, one would expect that a) for fewer cases would result in conviction at all, and that b) when, as a result of being terminated, cases did proceed to adjudication, the average time to conviction would be longer (having been delayed by Drug Court participation). As participants began pleading guilty before entering drug court, the testing of the longer-times-to-conviction and fewer-convictions assumptions of the diversion-based drug court model became less applicable in Clark County.

Figure 100 Type of Conviction Offense for Clark County Drug Court Participants and Comparison Group Defendants during One Year Observation Period, 1993-1997



### Failure to Appear in Court

Frequent court appearances were also required of participants in the Clark County Drug Court. The same assumptions as made for the Multnomah County Drug Court relating to the generation of bench warrants for failure to appear would therefore also apply. First, successful participation would mean excellent attendance and few absences in court over the year; second, given the many more required court appearances, Drug Court participants could be expected to show higher percentages missing at least one court hearing (and earning at least one bench warrant) because of the increased opportunity for missing a court appearance in a 12-month period. (The theory is that a defendant who, under normal circumstances might successfully attend two court hearings in a 12-month period, would likely miss at least one if eight or more were required in the same period because of the Drug Court reporting requirements.)

Figure 101 Failures to Appear in Court among Clark County Drug Court Participants and Comparison Group Defendants during One Year Observation Period, 1993 - 1997

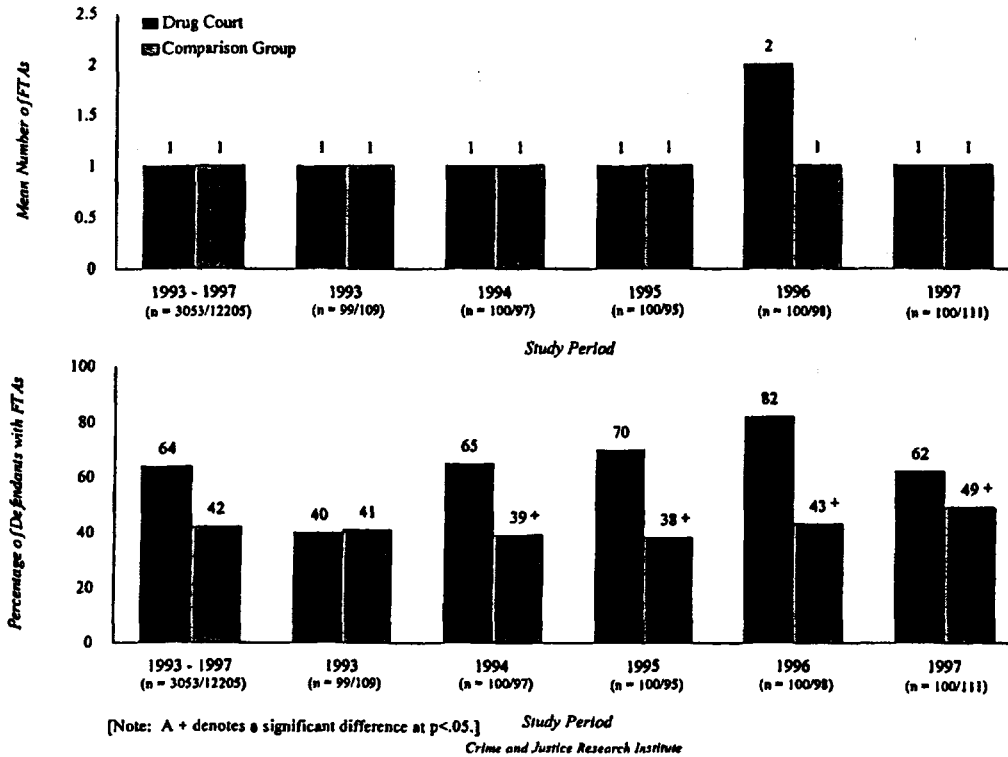


Figure 101 (bottom) shows that, overall, a much larger proportion (64 percent) of Clark County Drug Court participants than comparison group drug defendants (42 percent) recorded at least one bench warrant during the first 12 months. This varied by year. In the first full year of program operation, Drug Court participants did not differ from their comparison group counterparts in the proportion recording failures-to-appear (40 versus 41 percent). But, beginning in 1994, in each of the succeeding years, Drug Court defendants much more frequently had bench warrants issued for failure to attend court than their non-Drug Court counterparts. The largest difference occurred in 1996, when 82 percent of Drug Court participants had at least one failure to appear, compared to 43 percent of non-Drug Court defendants. This large difference narrowed in 1997, however. The average (mean) number of bench warrants issued during the first 12

months after arrest did not differ between study groups in the years 1993 through 1995. Slight differences were noted in 1996, but none were noted in 1997.

### Days in Jail

Overall, for the five year study period shown in Figure 102, there was a slight difference between Drug Court and non-Drug Court defendants in the proportions (54 and 57 percent, respectively) confined during their first 12 months of program participation.<sup>62</sup> This small overall difference does not appear to support the view that the Clark County Drug Court served as a notable alternative to incarceration, when compared to the processing of non-Drug Court drug defendants. However, these overall findings mask fairly dramatic changes in trends associated with the two groups over time.<sup>63</sup>

In 1993, 39 percent of Clark County Drug Court participants were confined compared to 60 percent of the comparison group defendants. In 1994 and 1995, the differences were still large, 18 and 17 percent higher for comparison group defendants. Thus, during the Drug Court's first three years of operation, Drug Court defendants indeed experienced far lower rates of confinement than their normally adjudicated counterparts. In 1996 and 1997, there was a dramatic reversal in the relative use of confinement during their first 12 months: two-thirds of Drug Court participants (66 percent in each year) were confined compared to 49 and 48 percent of the comparison group defendants respectively. These findings suggest that, beginning in 1996, the Drug

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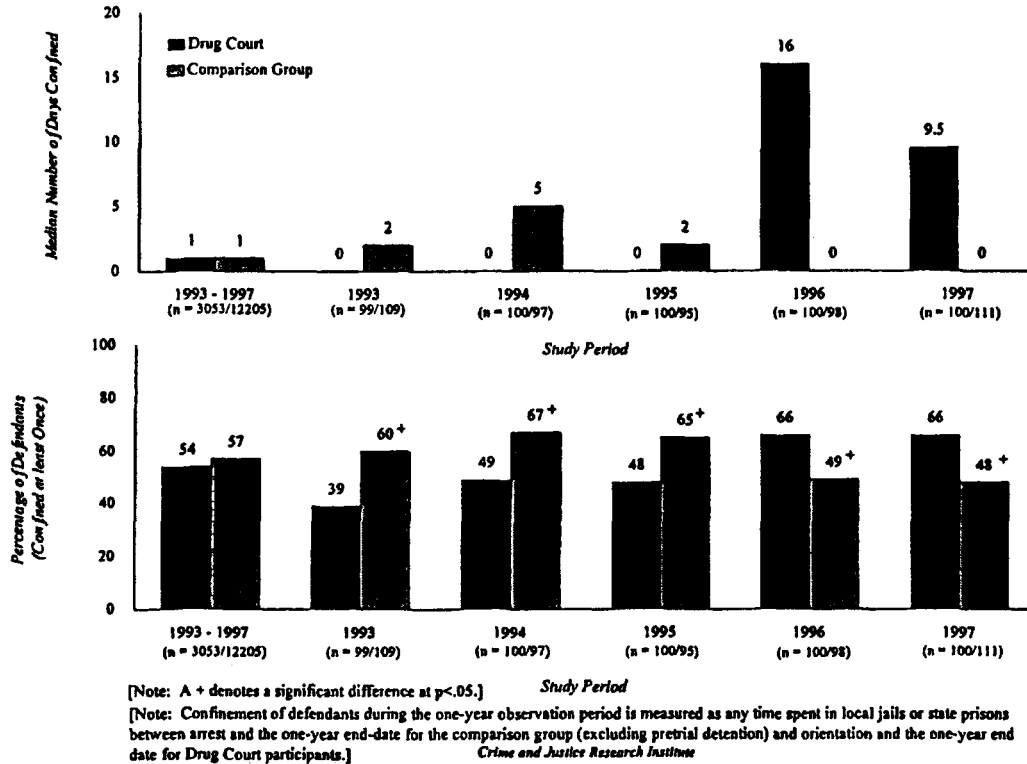
<sup>62</sup> Definitions of the follow-up period differ for drug court participants and comparison group defendants, based on the start date. The start date for the comparison group is the arrest date and the drug court group's start date is orientation. However, to insure comparability of follow-up confinement, pretrial detention for comparison group defendants was not treated as follow-up confinement.

<sup>63</sup> The shift to plea cases presents problems for follow-up period definition because diversion cases and plea cases come from different stages of the criminal process. Both types of cases have a follow-up that starts with Drug Court Orientation and ends a year later, but for plea cases this is post-conviction time. For diversion cases, participants are in a much earlier stage of processing.



Court no longer served to reduce the use of confinement, but instead increased its use in the target population.

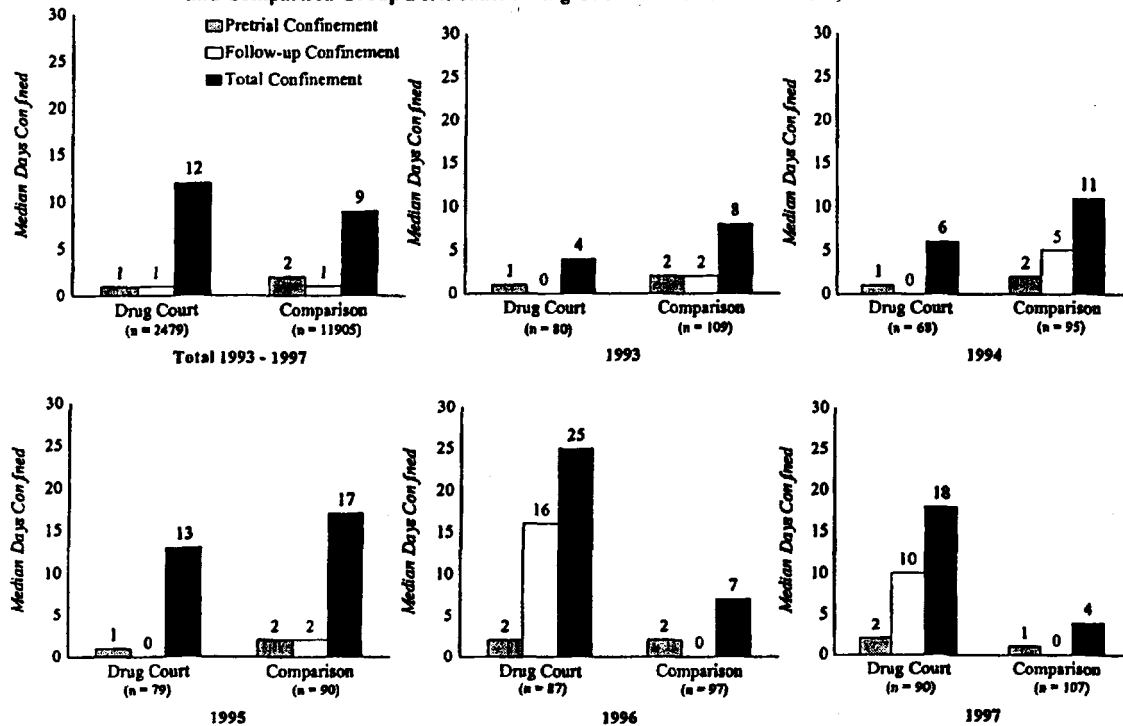
Figure 102 Confinement among Clark County Drug Court Participants and Comparison Group Defendants during One Year Observation Period, 1993 - 1997



At the same time, Figures 102 and 103 show that Drug Court and non-Drug Court defendants differed little in the average days spent in confinement during the first 12 months of observation, with the exception of 1996 and 1997 when participants averaged 16 and 10 days per year in jail compared to none for non-participants. Figure 103 breaks down the overall confinement experienced during the 12-month observation period by defendants in each group into pretrial detention and follow-up confinement. From this figure, it appears that from 1993-1995 Drug Court participants showed lower median days in confinement overall, pretrial and follow-up confinement. However, from 1996-1997, there is a dramatic reversal as drug court participants average approximately four times as many days in jail as comparison defendants. The overall difference in the

(median) number of jail days associated with Drug Court defendants is explained principally by increases in follow-up confinement during the first twelve months.

**Figure 103 Pretrial and Follow-up Confinement among Clark County Drug Court Participants and Comparison Group Defendants during One Year Observation Period, 1993 - 1997**



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There are two possible explanations for this change that are not linked to differential use of confinement by the Drug Court judge at all. First, recall that our comparison groups were composed of defendants entering the judicial process on felony drug charges during each year. Beginning around 1995 and 1996, the Drug Court groups studied are no longer predominantly diversion cases but shift to cases in which guilty pleas were entered as a precondition to program entry. Because of the design of the comparison group samples, as the nature of the Drug Court group changed, the comparison groups for 1996 and 1997 did not. (Indeed, because the nature of this change was only discovered through study of the court, it would have been hard to anticipate this change so that it could be addressed in the design in advance.) That is, because the

comparison groups for each year were designed to be representative of all entering felony drug defendants who were not in Drug Court, they were not adapted to focus on felony drug defendants pleading guilty, which, if it were possible, might have been more appropriate.

We expect that the higher rate of confinement is associated with a quicker recourse to jailing for convicted persons who are placed in the Court as a condition of probation or suspended sentence and, in fact, that these defendants represent higher risks of reoffending (and, therefore, of subsequent jailing at arrest and on probation detainers). Secondly, while the Drug Court had an arrangement with the jail that persons sent to jail by the judge would in fact be held; non-Drug Court felony drug cases were subject to emergency population management procedures due to crowding litigation in Federal court that sought to avoid the use of confinement for non-violent offenses. In short, we do not believe that the differences in the use of confinement are in fact explained by changes in policies or practices of the Drug Court but, instead, reflect changes in the Drug Court population. The number of days spent in confinement, not including days in pretrial confinement, during the one-year follow-up period is not significantly different (at  $p < .05$ ) between the drug court sample and comparison groups, except in 1996. For time spent in pretrial confinement, differences between the two groups are significant overall (from 1993 to 1997) as well as in 1995 (at  $p < .05$ ).

These findings are also confounded by the change in the mix of diversion and plea cases beginning in 1994. During the pretrial or pre-conviction period, Drug Court participants show more days of confinement on average than comparison group defendants in each of the years studied except 1996 (when both groups showed medians

of two days in pretrial confinement). The large differences are noted in the area of follow-up confinement, when in 1996 and 1997 Drug Court participants average substantially more confinement than their counterparts (medians of 16 days in post-conviction confinement in 1996 and 10 days in 1997, compared to 0 days for comparison group defendants in each of those years). Again, we interpret these findings to reflect a greater use of confinement among increasing numbers of Drug Court participants who are in post-conviction status for participation in Drug Court to begin with.<sup>64</sup>

### Rearrests for New Offenses

As we noted in the Multnomah County Drug Court analysis above, an inescapable aim of the drug court model is to reduce drug-related reoffending: participants, released more often to the community than their counterparts, should reoffend less or, at least, at no greater a rate. Table E.5 displays the proportions of Clark County felony drug defendants in each group arrested for new offenses.<sup>65</sup> Figure 104 contrasts the rearrest rates of the Clark County Drug Court participants and control group defendants rearrested during the initial 12-month observation period over time. Overall, Drug Court defendants entering the Clark County Drug Court from 1993 to 1997 were rearrested less often (53 percent) than their comparison group counterparts (65 percent).<sup>66</sup> Like the use of confinement, rearrest rates among the two groups of defendants varied by year. The initial difference in 1993 between Drug Court and non-Drug Court defendants was huge (with 39 percent of participants being rearrested compared to 66 percent of the

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<sup>64</sup> In fact, when we examined the use of confinement among 1996-97 Drug Court participants by method of entry (diversion/plea), we found that 71 percent of the guilty plea participants were jailed during their first 12 months compared to 60 percent of diversion participants.

<sup>65</sup> Rearrests for bench warrants only were excluded from analysis of the Drug Court and comparison group based on the rationale that reoffending for new offenses is the focus of the analysis (not for failing to attend court).

comparison group). In 1994 and 1995, the differences were still large: with Drug Court participants being rearrested at a rate about 20 percent lower than their comparison group counterparts. But in 1996, the trend reversed, with 65 percent of participants being rearrested in the first 12 months compared to 56 percent of the comparison defendants. In 1997, the rearrest rate among both groups was at a similar level (56 percent of participants, 59 percent of comparison group defendants). (The difference was not significantly different.)

Again, as we found in the measurement of confinement, we believe that the higher arrest rates among 1996–1997 drug court participants is explained by the larger proportion who entered as a result of a guilty plea. This may account for the changes in the rearrest picture—to one less compatible with Drug Court aims of reducing reoffending—for two reasons. A first reason is methodological, the shift in the Drug Court population was not matched by a shift in the comparison group, thus offering a comparison that favors the non-drug court group. The second reason is related to the first, plea-based enrollees may have been higher risk (more likely to be rearrested) than the diversion-based enrollees. In fact, a predictive classification created using criminal justice and assessment information shows participants in 1995–1997 to be higher risk than those from earlier years, when diversion was more common. Thus, as the Drug Court population became higher risk, the comparison group did not, affecting the likely results. These concerns also receive some support from the fact that 53 percent of diversion participants were rearrested in their first 12 months, compared to 64 percent of

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<sup>66</sup> When differences in sample composition are taken into account in logit analysis, the differences between Drug Court participant and comparison group rearrest rates were significant at  $<.05$ .

guilty plea participants, suggesting that the plea-based participants were higher risk generally.<sup>67</sup>

When rearrest for specific types of offenses was examined, significant differences were not found among groups for serious crimes against the person<sup>68</sup> or for serious property crimes.<sup>69</sup> (See Table E.5) In contrast, Figure 105 shows that Clark County Drug Court participants were generally rearrested much less often for drug offenses than their comparison group counterparts: 26 percent of Drug Court participants compared to 52 percent of the comparison group were rearrested for drug offenses in the first 12-months over the five-year period. The size of the differences in drug rearrests narrowed considerably in 1996, when the shift to guilty plea participants became noticeable, but grew larger again in 1997 when 24 percent of participants were rearrested for drug offenses compared to 41 percent of the comparison group.

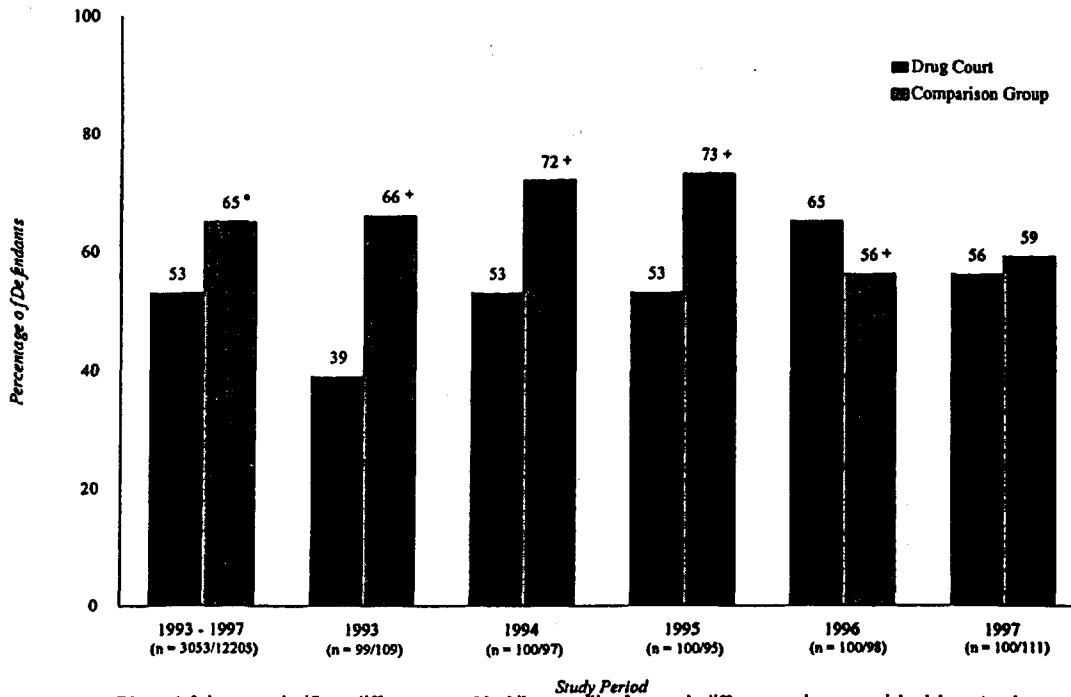
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<sup>67</sup> The issue of whether the risk attributes of Drug Court enrollees changed over time (became higher risk) will be addressed in the Phase II report when the expanded follow-up results will be analyzed.

<sup>68</sup> These offenses include murder, rape, robbery, aggravated assault, kidnapping, sexual assault, child abuse, and domestic violence.

<sup>69</sup> These offenses include burglary, arson, and risking catastrophe.

**Figure 104 Rearrests among Clark County Drug Court Participants and Comparison Group Defendants during One Year Observation Period, 1993 - 1997**

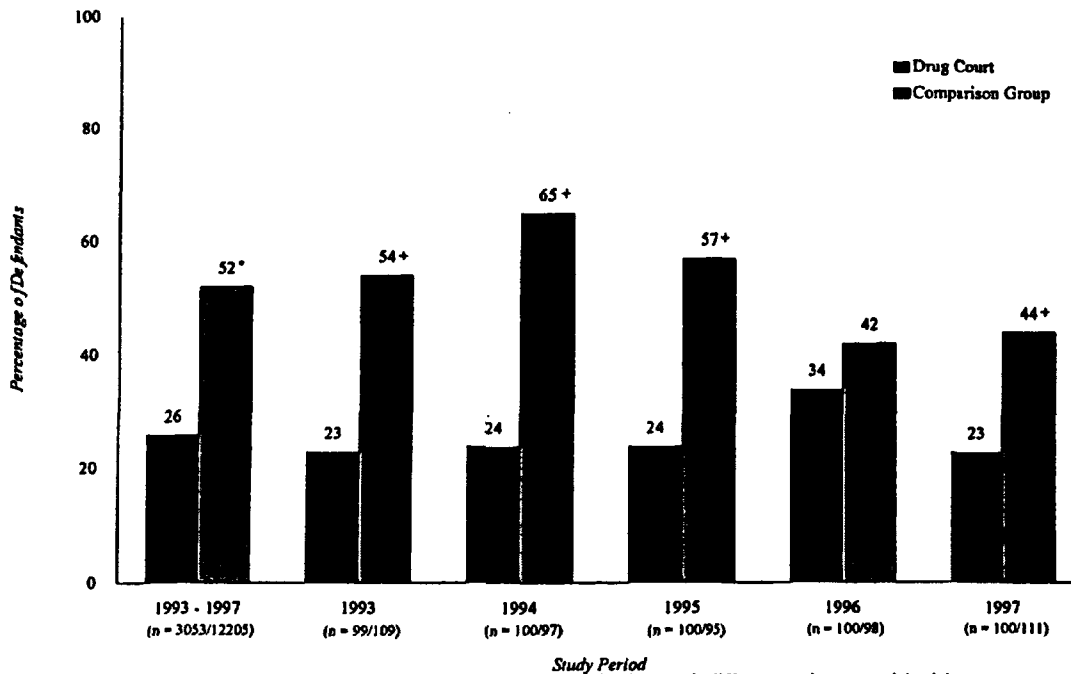


[Note: A \* denotes a significant difference at  $p < .05$  while controlling for sample differences using non-weighted data. A + denotes a significant difference at  $p < .05$ .]

[Note: In comparisons of arrests, arrests for bench warrants only (criminal contempt) are excluded.]

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**Figure 105 Arrests for Drug Offenses among Clark County Drug Court Participants and Comparison Group Defendants during One Year Observation Period, 1993 - 1997**



[Note: A \* denotes a significant difference at  $p < .05$  while controlling for sample differences using non-weighted data. A + denotes a significant difference at  $p < .05$ .]

[Note: Drug offenses include possession of a controlled substance, under the influence of a controlled substance, possession of a controlled substance with intent to sell, possession of a dangerous drug without a prescription, sale of a controlled substance, and trafficking of a controlled substance.]

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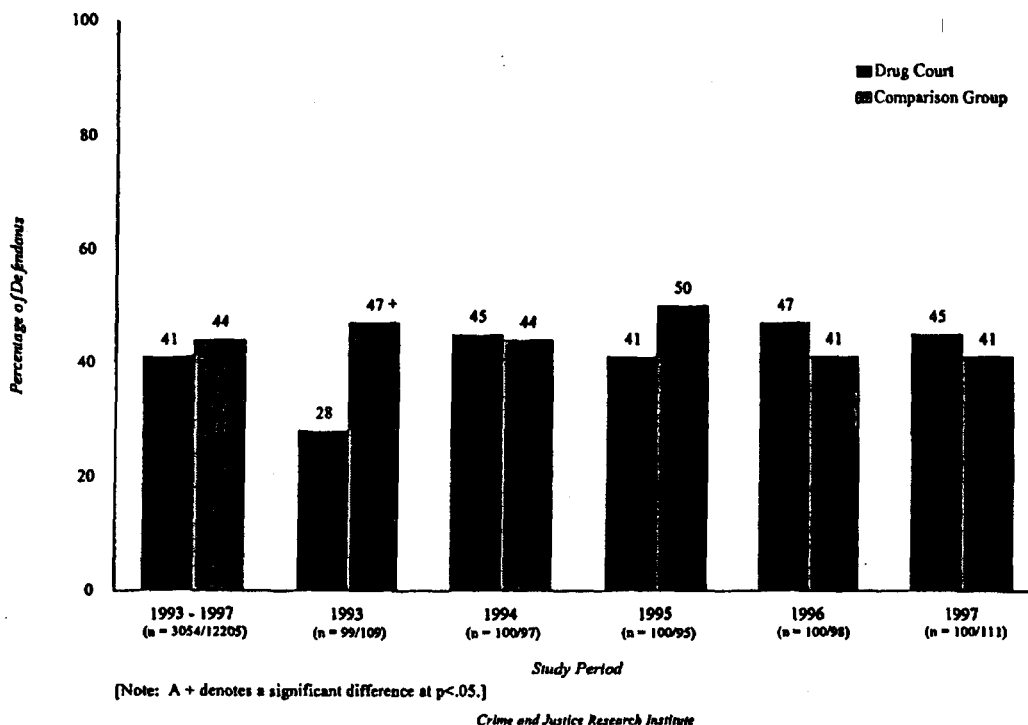
Figure 106 examines the effect of drug rearrests on the overall differences between Drug Court participants and the comparison group by measuring rearrest excluding drug rearrests. (Thus, any arrests for which the lead or sole offense was a drug offense are excluded from the measure of rearrest for this analysis.) When rearrests for non-drug offenses are considered, the difference between Drug Court participants and comparison group defendants nearly disappears. Overall (taking all cohorts together), 41 percent of Drug Court participants were rearrested for non-drug offenses, compared to 44 percent of their non-Drug Court counterparts.<sup>70</sup> The only year in which Drug Court participants outperformed their comparison group was in 1993, when they recorded a notably lower non-drug rearrest rate (28 percent, compared to 47 percent). In the 1994, 1996, and 1997 cohorts, Clark County Drug Court participants were rearrested more often than the comparison group defendants for non-drug offenses in the 12-month observation period. In 1995, they were rearrested slightly less often (41 versus 50 percent), but the difference was not significant. These findings suggest that the principal advantage shown by the Drug Court in the area of public safety is to reduce reoffending for drug offenses.

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<sup>70</sup> The difference is not significant.



Figure 106 Arrests for New Offenses (Excluding Drug Offenses) among Clark County Drug Court and Comparison Group Defendants during One Year Observation Period, 1993 - 1997



### Number of Rearrests during the First 12 Months

Overall and for each study period, Clark County Drug Court participants generated slightly lower average numbers of rearrests than their comparison group counterparts (a mean of 1.8 compared to 2.2 per year for the comparison group). The difference in the number of rearrests recorded by Clark County Drug Court participants as compared to comparison group defendants overall (taking the 1993 through 1997 cohorts together) is significant;<sup>71</sup> however, when the differences for each individual cohort are examined, none are found to be statistically significant.

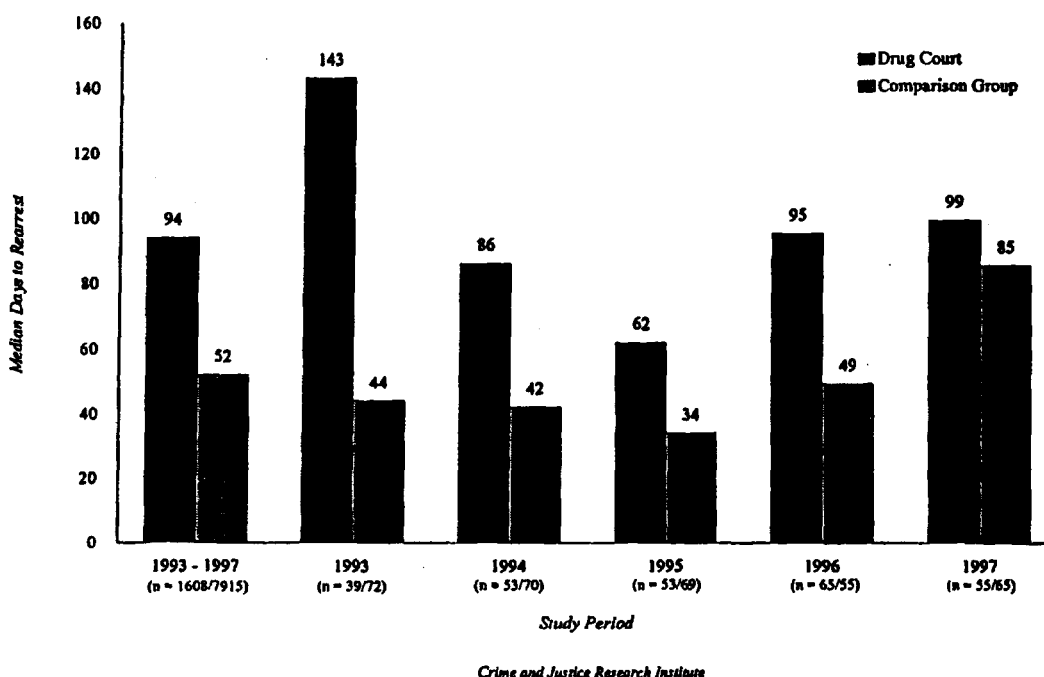
### Time to Rearrest

Figure 107 shows overall that, like the Multnomah County findings, when Drug Court participants were rearrested in Clark County, they took notably longer (median, 94

<sup>71</sup> The difference is significant at p<.03 when controlling for differences in sample composition.

days) to get rearrested than their comparison group counterparts (52 days). These differences were greatest in 1993 (99 days), narrowing somewhat thereafter (to 44 days in 1994, 28 days in 1995, 46 days in 1996). The margin was smallest among the 1997 defendant groups, with Drug Court rearrestees taking 99 days and comparison group defendants 85 days to be rearrested, a difference not of a meaningful magnitude.

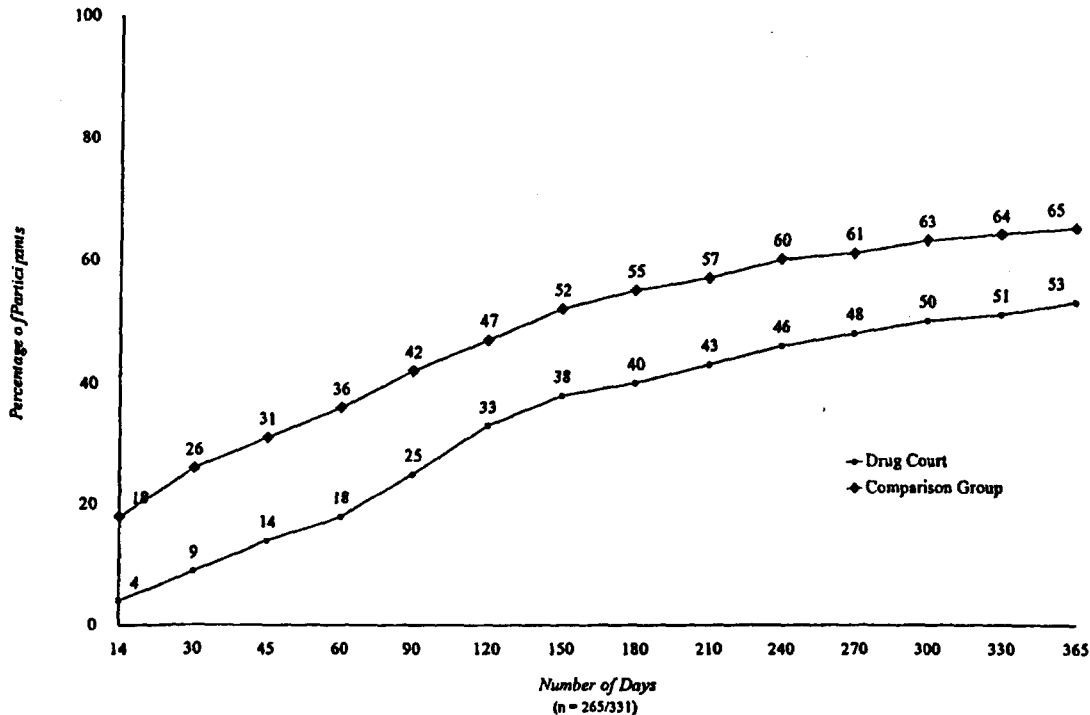
Figure 107 Length of Time (Median Days) to Rearrest among Clark County Drug Court Participants and Comparison Group Defendants during One Year Observation Period, 1993 - 1997



Figures 108 and 109 portray the occurrence of rearrests among Clark County Drug Court and comparison group defendants over the 12-month period employed in this follow-up analysis. Figure 108 is a cumulative line graph highlighting the addition of rearrests over time until the two groups reach their final 12<sup>th</sup> month. Two features of this graph are striking. First, the pace or rate of rearrests occurring over time in the two study groups is closely parallel. Second, the difference in the ultimate rearrest rates for the two groups is cast from the outset. That is, within two weeks from the beginning of the

follow-up the comparison group has already had 18 percent of its members rearrested compared to only four percent of Drug Court participants. After that, the courses of the two groups are roughly parallel, except that they begin to narrow slightly in the last several months.

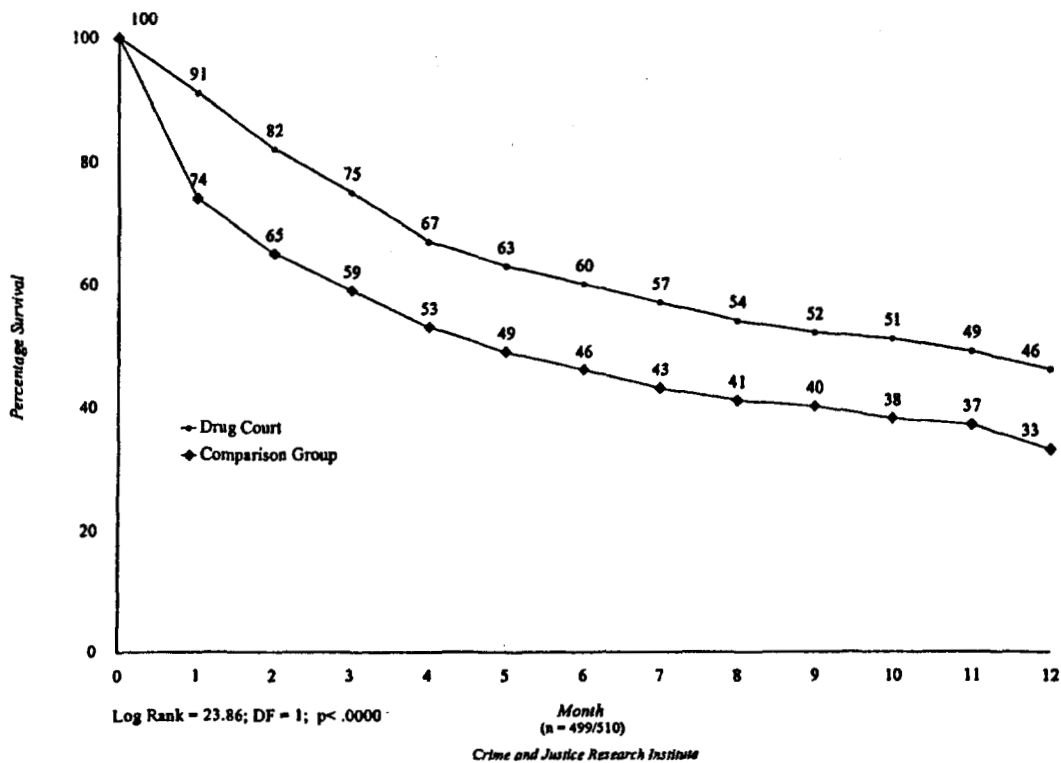
Figure 108 Cumulative Percentage of Clark County Drug Court Participants and Comparison Group Defendants Rearrested during One Year Observation Period, 1993 - 1997, by Number of Days to Rearrest



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Figure 109 displays the results of survival analysis that, in a sense, inverts the question addressed in the previous figure to chart the rate of those not getting rearrested (those surviving without rearrest) over the 12-month period. Once again, the curves portrayed by the survival analysis suggest that the biggest impact on the courses of the two groups—here in “not getting rearrested”—occurs in the first month, when notably fewer of the comparison group defendants survive arrest free than Drug Court participants. Thereafter, the rate of survival appears roughly parallel during the remaining months of the follow-up, until the final rates of non-rearrest are recorded.

Figure 109 Survival Analysis for Drug Court Participants and Comparison Group Defendants (Not Being Rearrested) in Clark County, 1993 - 1997



### A Note about Time at Risk

One of the difficulties associated with comparing the reoffending of Drug Court participants in Clark County and Multnomah County with that of comparison group members during the initial follow-up period is that, despite the common 12-month framework employed for the observation period, defendants may not have had similar periods "at risk" during that time. In fact, the different rearrest and jailing rates described above suggest that the number of actual days defendants were "free" to be rearrested for new offenses may have varied. The possible different exposure to rearrest opportunities should be taken into account in a comparative analysis of reoffending. One way to adjust for different time at risk is to control for time at risk in a multivariate analysis of reoffending (with reoffending as the dependent variable). While often recommended, we believe that this is an unsatisfactory method of taking time at risk into account, because

time at risk is closely tied to (partly defined by) rearrest, the dependent variable, and might more appropriately be considered a dependent variable itself. (When one is rearrested, time at risk ends. In such a case, time at risk is function of being rearrested, not the other way around.)

A more satisfactory way to control for time at risk in comparative analysis of reoffending among study groups is to calculate "days free" (days not confined during the follow-up) and to follow all defendants (in each study group) until they had compiled a similar number of days free (e.g., 365 days). In our Phase II report, which will expand the follow-up periods for each of the study groups, we will include an analysis that examines rearrest in both sites while standardizing the period at-risk.



## **XI. Common Themes in the Phase I Retrospective Findings from Multnomah County and Clark County: Summary and Conclusion**

This report has presented findings from the first phase of a retrospective evaluation of two of the nation's pioneering drug courts, beginning operation in Multnomah County in 1991 and in Clark County in 1992. The aims of the study were descriptive, implementation focused, and impact oriented. Using a variety of methods and perspectives, the research traced the development of the courts in Multnomah County and Clark County over time as a part of a dynamic process of growth and change, characterized their early performance, and—in this phase—analyzed short-term outcomes of their participants. The study was not designed to measure the performance of the two drug courts one against one another. Instead it was conceived to present two case studies of two of the founding courts of the drug court movement using the drug court typology as a common frame of reference. The drug court typology focuses on key structural (differentiating) elements of the drug court model and helps to define appropriate questions for evaluation and to organize findings in a way that avoids illogical comparisons, while building a useful knowledge base. In this section, we review some of the common themes in the Phase I findings with reference to selected critical dimensions of the drug court typology.

### **Target Problem**

#### **Multnomah County**

The Multnomah County Drug Court was formed in response to the rapid growth in the drug caseload in Circuit Court in Oregon's Fourth Judicial District toward the end of the 1980's and beginning of the 1990's. The development of Drug Court was a collaborative response by the court, prosecutor and defender designed to cope with the

strains placed on the justice system by the burgeoning and frequently recycling drug caseload. Prior to implementing the Drug Court (S.T.O.P.) in 1991, the Circuit Court had adopted reforms in caseload management aimed at better managing the drug cases of the 1980's. Although the locus of the drug caseload problem was in the court and justice system, it had its roots in the community where the drug problem and law enforcement responses generated the high volume justice caseload. The formation and adoption of the Multnomah County Drug Court occurred in the context of other initiatives focusing on the impact of drugs on the community, principally the District Attorney's Community Prosecution initiative based on neighborhood-specific problem solving and enforcement, and the related establishment of "drug-free zones" to remove drug activity from key neighborhoods and business districts in Portland.

#### Clark County

The motivation for the development of the Clark County Drug Court was similar. Led by the chief judge (then Drug Court judge) with the collaboration and support of the District Attorney and Public Defender, the Eighth Judicial District adapted the Miami approach to the special drug-crime problems of Las Vegas and its environs. Like its counterpart in Multnomah County, the Clark County Drug Court was designed to respond to the increasing system strains on the court and local justice system caused by the felony drug caseload, particularly on the local jail facilities. Partly because Clark County was located at the cross-roads of drug trafficking routes to the southwestern and western United States, Las Vegas was dramatically affected by the drug epidemic of the 1980's. After having made efforts to process the mounting drug-caseload as efficiently as possible, the chief judge was inspired by the Miami example to turn to the drug court



model in the hopes that dealing with defendants' addiction in a rigorous program of treatment would serve as a more productive alternative. The court-based approach was therefore, first, meant to deal with the causes of a problem of major system strain, but was also embraced because of its potential implications for affecting drug-related crime around Las Vegas.

### **Target Population**

#### **Multnomah County**

The Multnomah County Drug Court targeted felony drug defendants charged with Level I or II drug possession offenses, many of whom would face some prison time if convicted. The rationale for focusing on this category, like the reasoning for the original Miami Drug Court's targeting of felony drug defendants, was twofold: these cases accounted for a rapidly growing portion of the criminal caseload, and a majority were substance-abusers. From its earliest days, the Multnomah County court has not excluded appropriate candidates on the basis of their prior criminal records. Over time, more than half had prior arrests, nearly half had prior convictions, and a small proportion (about one-tenth) had prior convictions for serious crimes against the person. This policy did not change, even with the advent of Federal funding and its restrictions against using funds to pay for the treatment of persons with prior convictions for violent crimes. (The Drug Court developed procedures for separating funding of persons with prior convictions for violent offenses from the rest of its enrolled participants.) For a short period of time (1995-1996), the Multnomah County Drug Court sought to expand its target population to include persons on probation and/or parole. Although a small proportion of its clientele (less than ten percent) over time has included participants in

this category, the Drug Court's target population never changed significantly from its original emphasis.

In other ways, however, the target population served by the Multnomah County Drug Court did change. From 1991 through 1997, most Multnomah County Drug Court participants were older than other criminal justice populations, averaging in their early 30's, and mostly white. Proportionately fewer participants were African Americans or Hispanic in the late 1990's than at the program's outset, dropping to 20 percent from about 40 percent in the first years of operation. The proportion of participants who were women increased from about 20 percent to 30 percent over the study period.

The population targeted by the Drug Court changed over time in the kinds of substances most frequently abused. The majority of targeted participants reported using cocaine or crack cocaine, half used marijuana, about one-fourth used heroin and one-fourth methamphetamines over the period of the study. However, the prevalence of self-reported cocaine use dropped from over two-thirds when the Drug Court began operation, to less than half of participants toward the end of our study period. Self-reported methamphetamine and heroin use each roughly tripled proportionately over the study period. Principal substances of abuse varied among participants based on race/ethnicity. As use of cocaine and crack cocaine dropped 25 percent among white participants over the study period, their use of methamphetamines doubled and of heroin tripled from the beginning to the end of the study period. Cocaine/crack cocaine use dropped among African-American participants, but still was reported by nearly two-thirds in 1997; marijuana use dropped notably and methamphetamine and heroin were not ever self-reported as major substances of abuse among African American participants. The great

majority of Hispanic participants reported cocaine/crack cocaine use (reaching about 87 percent in 1994-1995, but declining thereafter) and marijuana.

### Clark County

The Clark County Drug Court initially targeted a similar population of felony drug defendants, focusing on felony possession and "under-the-influence" offenses. Many of these defendants would face state prison terms, if convicted. The target population did not remain static in Clark County, however. Due to a change in Nevada drug law making many felony possession offenses eligible for probation rather than prison and a change in prosecutorial policy regarding Drug Court candidacy beginning in 1994, the Drug Court began a shift from diversion of felony drug defendants to enrollment of convicted offenders who pled guilty to participate in Drug Court in exchange for reduced charges (going from felony to misdemeanor convictions) and/or probation. From 1993 to 1997, the principal emphasis had been nearly reversed from diversion (an adoption of the Miami model) to post-conviction participants.

With this shift in the type of cases enrolled came other significant changes in the attributes of Clark County's target population. Participants no longer were exclusively those charged with felony drug offenses, but increasingly included persons convicted of drug-related crime, such as burglary. Participants were older on average (over 30) at the end of the study period than at the beginning. Female participants dropped from 38 percent initially to 24 percent in 1997. The proportion of participants who were African American grew from nine percent in 1993 to 27 percent in 1997. The drugs of abuse self-reported by participants did not change notably over the study period, with about one-third using cocaine/crack cocaine, over half using marijuana, half using

methamphetamines and very few reporting heroin use. Although reported drug use patterns did not vary notably over the five years of study, they did differ markedly by the race/ethnicity of participants. African American and Hispanic participants reported two to three times the use of cocaine/crack cocaine as white participants. White participants much more frequently reported methamphetamine abuse (half to two-thirds, depending on the year). Methamphetamine use was much less common among Hispanic participants, and nearly non-existent among African American participants.

### **Modification/Adaptation of Court Processing and Procedures**

Although both drug courts began with what seemed to be very similar approaches, they differed considerably in the ways in which their drug courts were incorporated into the judicial process. In Multnomah County, felony drug defendants who could be possible candidates for Drug Court were identified at post-arrest charging stage by the prosecutor and were instructed to attend orientation within the day, to be followed by an appearance at the Drug Court petition hearing on the same day or the next day. Thus, identification and enrollment of candidates was designed to occur in a centralized fashion at the earliest stages of processing and to facilitate reasonably prompt placement in Drug Court and treatment.

Two features have distinguished the Multnomah County Drug Court (the "Portland model") procedurally: the requirement to stipulate to the facts in the police complaint to enter the program, and the 14-day "opt-out" provision. In adapting the original Miami diversion model to its own local needs, the Multnomah Court Drug Court planning team decided that more of a stake in the treatment process would be required of participants. By being required to stipulate to the facts of the complaint, the defendant would be admitting to facts that, if he or she failed to complete the program, would

almost certainly lead to prompt adjudication and conviction. If successful in the program, however, the charges would be withdrawn and no conviction would result, with expungement of the defendant's arrest later possible.

The 14-day opt-out provision allowed the defendant to consult with counsel and "opt-out" of the program within 14 days of the petition hearing (at which Drug Court participation officially begins). Defendants might do this for legal reasons (believing there are reasonable grounds for dismissal or acquittal) or because they decide that treatment is not what they really want. At the same time, the District Attorney may use that same 14-day period to disqualify a defendant from the program upon discovering new evidence or additional information leading him to believe the person would not be an appropriate participant in Drug Court. The opt-out option was employed infrequently by defendants entering the Multnomah Drug Court. However, its relative use increased over time from 0 percent of 1991-1992 to ten percent of 1997 of entering candidates. Both of these features of the Portland model, adopted by other jurisdictions around the country, were thought to have the possible effect of discouraging enrollment of candidates. (Many would not be willing to "stipulate" and gamble on their ability to perform in treatment and many would "opt out" when, during the early rough going, they decided treatment was simply too difficult.) We found no evidence of such an effect in the years studied.

#### Clark County

The mechanism for identifying candidates for the Clark County Drug Court was less centralized than in Multnomah County in that it did not occur as arrests were processed through a single gateway for drug offenses. Instead, candidates were identified on a voluntary basis shortly after arrest (at first appearance) or at the Detention Center

among detainees who indicated interest upon learning of the program. In other words, all possible felony drug arrestees were not ordered through a central mechanism for screening to determine candidacy. Once voluntarily identified, however, all candidates had to attend the Defender orientation and report to the treatment provider for assessment pending an appearance in the Drug Court. Thus, some candidates would be identified shortly after arrest and very early in the criminal process, while others—pretrial detainees—could have been awaiting processing for some time (before or after first appearance) before attending orientation and assessment.

As the Clark County Drug Court shifted from focusing primarily on diversion (when charges would not be filed unless a defendant was terminated from the Drug Court), candidates were identified at later stages of processing, at the point of plea negotiation. Defendants pleading guilty typically were held longer in pretrial detention and were referred to orientation and assessment much longer after arrest than their diversion-based counterparts. By the end of the study period, although the Clark County Drug Court still permitted diversion cases, the locus of its intervention had moved to conviction and post-conviction stages of the criminal process.

When the Clark County Drug Court is considered in its larger geographical context (i.e., not as the “Las Vegas” Drug Court, but as the central county drug court), it has played a special role in modifying court procedure by encouraging a constellation of related drug court efforts in juvenile court, family court (for dependency and neglect cases), justice court and two rural county justice courts in locations remote from Las Vegas. From the point of view of court processing and system adaptations, the Clark

County ("Las Vegas") Court indirectly promoted intervention in the court process at a variety of stages from a regional perspective.

### Reaching the Target Population: Identifying and Enrolling Candidates

In setting the stage for outcome-oriented analyses and assessing implementation progress over time, we considered analysis of the identification and enrollment of candidates in the two court systems to be fundamentally informative. The most basic interest in measuring this aspect of drug court functioning is as a rough gauge of the jurisdiction's success in establishing a program that reaches its target population. (Certainly, results of "outcomes analysis" would be of little interest in a drug court that was able to enroll very little of its target population. In such cases, the more important implication would be that the drug court was never effectively implemented.) Trends in enrollments and volume of participants admitted over time provide useful information about the growth of the program.

Analysis of trends in defender orientations (the first candidate screening step in both court systems) and enrollments revealed rapid growth in two relatively high-volume drug courts reaching similar numbers of candidates over the periods studied. Enrollments into the Multnomah County Drug Court grew from 147 in its first half-year (1991) to over 638 new participants in its first full year (1992). By 1997 and 1998, admissions hovered around 700 new candidates. The Clark County Drug Court enrolled 414 participants in its first full year (1993), reached 623 in its fourth year (1996), and exceeded 700 new participants in 1998. At the simplest level, these findings show stable, large volume and growing drug courts, one in its ninth and the other in its seventh year of operation.

To serve as a rough estimate of the extent to which the site courts reached their targeted populations, we constructed a "target-population-reached" ratio by contrasting the numbers of candidates identified through the screening process (scheduled orientations in Multnomah County and actual orientations in Clark County) with the number entering and beginning the drug court process. Ratios of enrolled participants to screened candidates were relatively high in both drug courts, fluctuating around .6 (six enrolled for every ten oriented) in Multnomah County and between .7 and 1.0 in Clark County.<sup>72</sup> Analysis of these ratios over time in the two sites showed great consistency in Multnomah County, once the program was under way (after initial treatment provider difficulties were addressed during program start-up). In Clark County, the ratio of enrollment to orientations improved steadily from .7 in 1993 to .98 in 1998.

Because a drug court's ability to "reach" its target population is a function of both the extent to which that population is enrolled and the speed with which that screening and enrollment occurs, we also analyzed the time it takes first to identify and then to start candidates in the treatment process. Such an analysis of processing time provides an indicator of the timeliness of treatment delivery over the study periods—testing assumptions about the ability of the drug courts to achieve "early intervention," an important component of the early drug court model. From arrest, candidates averaged a median of seven days to entry into treatment in Multnomah County from 1993-1997 with some fluctuation, once the disruption of treatment services in the start-up period is set aside. In Clark County, the timeliness of intervention through the voluntary screening

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<sup>72</sup> Note that the ratios are based on slightly different data in the two jurisdictions and are not directly comparable. The Clark County ratio is higher because "orientations" are actual orientations attended after defendants had indicated a preliminary interest in Drug Court. In Multnomah County, the orientation measure is based on "scheduled" orientations, many of which do not result in attendance.



process was shortest in the early stage of implementation when diversion was the primary emphasis of the Drug Court, averaging (median) 40 days from arrest to Drug Court entry during 1993-1994, and<sup>73</sup> 155 days from 1995-1996. The differences in time to Drug Court entry in Clark County are partly explained by the shift to plea cases as the dominant type of drug court participant—in which time from arrest to guilty plea would precede entry into the Drug Court. However, the enrollment times increased in both pre-plea (diversion) and plea categories over time. It took diversion cases a median time of nine days to enter Drug Court in 1993 and 168 days in 1997. Plea cases averaged 113 days from arrest to Drug Court entry in 1993 and 178 in 1997.

Because the nature and volume of enrollments (governed by the screening process) form the “lifeblood” of drug court operation, we viewed this gatekeeping function as a critical gauge of implementation with significant implications for program performance and vitality in other areas. An important part of our analysis in the Phase I research sought to understand the patterns in enrollment over time in each of the court systems by placing them in the context of influential external events. In both sites, we developed a chronology of historical milestones in the implementation of the drug courts and selectively tested the impact of key events or external factors identified in that process. The examination of contextual factors influencing the enrollment of candidates in the two courts began with an analysis of trends in drug arrests during the periods studied. In neither site was there a direct concordance between arrest trends and enrollments in the drug courts, with the possible exception of the 1996-1997 period in Multnomah County when the large volume of drug arrests may have exercised upward

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<sup>73</sup> Recall that in Clark County, treatment begins immediately after assessment and does not wait until the first appearance in Drug Court.

pressure on enrollments. In other words, Drug Court screening and enrollment was not merely a function of drug arrests produced through local enforcement activities.

Using interrupted time series analysis, we tested the impact of six potentially influential external events on enrollments in the Multnomah County Drug Court: the creation of drug-free zones in Portland (1992), the enactment of state managed health care (1995) and Federal welfare reform (1996), changes in judicial supervision and policies of the Drug Court (1996), a new law moving sentenced offenders from state prison to local jails (1997), and the implementation of the District Attorney's expedited plea program (X-PLEA) to accelerate the adjudication of the large volume of felony drug cases including many eligible for Drug Court (1997). The greatest—but far from only—impact appeared to be associated with changes in the judicial leadership in Circuit Court, the move to replace the dedicated drug court judge with a quasi-judicial referee (and subsequent rotation of many judges into Drug Court for very short periods), and the simultaneous shift to more restrictive policies regarding participation and performance in the Drug Court. The shift in judicial approach, getting at core assumptions about the judge's role in the drug court process, had a strong negative effect on Drug Court enrollments (i.e. produced a notable decrease). Surprisingly, the implementation of the expedited plea program, allowing would-be Drug Court candidates to enter an early plea and receive probation, did not discourage enrollments; rather they increased during the same period.

In Clark County the times series analysis considered the potential impact of four key events: the imposition of a population "cap" on the local jail facility by the Federal court (1993), a change in District Attorney and prosecutor policies regarding eligibility

for Drug Court (1994), a change in Nevada drug law allowing probation for drug felonies when prison had been the norm (1995), and a Federal injunction against the "eight-day kick-out" policy that allowed defendants to be jailed up to eight days in Las Vegas prior to first appearance before a judge (1995). We found a strong negative impact on enrollments associated with the change in prosecutor and prosecutorial policy favoring guilty pleas as a requirement for entering Drug Court. Increases in enrollments were associated with the enactment of the law permitting probation in felony possession cases previously receiving prison sentences. Increases in screening and enrollment also appeared associated with the Federal court order requiring the local justice system to produce arrestees before a judge for arraignment within 48 hours (instead of eight days).

In short, the analyses of screening and enrollment as indicators of drug court implementation over time not only revealed relative efficiency in enrolling the target populations in the two sites, but identified patterns in enrollments that were not simply explained by fluctuations in drug arrests by local police. Key events in the larger environment, in fact, appeared to have important influences on the enrollment of candidates and may have resulted in changes in the nature of the target population and the capacity of the courts to deal with them effectively. Two examples appeared to be influential in affecting enrollment—and other aspects of drug court functioning—the temporary abandonment of the dedicated judge approach in the Multnomah County Drug Court and the shift in prosecutorial policy leading to plea-based entry to Drug Court in Clark County.

Finally, we considered Drug Court enrollments not only as a measure of how well the site courts reached their target populations ("hit" their targets), but also how close

they came to reaching their operating capacity. From this perspective, Drug Court implementation can be measured against an estimated workload capacity that may be defined as a planning goal (in the early stages of implementation) or an agreed upon capacity determined by staff and treatment resources. Officials in the two jurisdictions had taken different, informal approaches to estimating workload capacity. In Clark County, the Drug Court judge aimed to provide services for about 1,000 participants at a given time. In Multnomah County, the concept of workload capacity was more experientially based. With only one other drug court in the country (Miami) to serve as a point of reference, Multnomah County officials defined a workload capacity tied to the availability of resources, assessing the ability to handle the volume on an ongoing basis. However differently the notion of workload capacity evolved in these two courts, the result was similar: both quickly reached and exceeded their workload expectations at an early stage. Instead of having difficulties in enrolling sufficient numbers of participants to make full use of available resources—a problem in other developing drug courts—the Clark County and Multnomah County Drug Courts soon found that they needed to expand and to develop additional resources to serve the workload tapped.

#### **Responses to Performance in Treatment: Participant Accountability**

The influence of rehabilitative aims on the design and operation of drug courts is fundamental and evident to the observer. Many participants appear to derive encouragement and affirmation from their interactions with the judge and their experiences in the courtroom. The drug court model's heavy reliance on rehabilitative values notwithstanding, there is a clear, often explicit structural emphasis on deterrence as an operating philosophy. Janet Reno's reference to the drug court approach as the

"carrot and the stick," for example, is shorthand for assumptions of classical deterrence theory that human behavior may be shaped by rewards and punishments or, at least, avoidance of pain and pursuit of pleasure. Although it may be difficult to sort out the general and specific deterrent aspects of the court process from its treatment elements, the clear policy emphasis of holding participants accountable for their behavior, rewarding them for good progress and imposing "sanctions" for noncompliant behavior, reflects a strong emphasis on deterrence.

Drug courts vary in the extent to which they make use of jail ("motivational jail" in the parlance of the Miami Drug Court) as a central sanction. (Theoretically, participants could spend considerable time in jail in the drug court program in the name of treatment, in order to avoid jail imposed in connection with a sentence that was probably not rehabilitative in intent.) The drug court is an arena of general deterrence when participants are sanctioned or rewarded in front of a packed courtroom of other participants, with the express purpose of "teaching a lesson." Specific deterrence is achieved when individual participants are sanctioned by judicial reprimand, sitting in the jury box, or jailing until fearful enough of the further consequences, they begin to comply with program requirements. Termination from the program and being left to face the consequences (of jail or prison terms) of the original charges is a publicly imposed deterrent of last resort.

This research was not designed to test the effectiveness of the deterrent ingredients of the drug court process in the two sites; nor were we able to fully assess the relative impact of incentives compared to sanctions. On a more basic level, however, we

were able to document the imposition of sanctions for participant noncompliance in the Multnomah and Clark County Drug Courts and chart the use of jail.

The Multnomah County Drug Court made use of a variety of less restrictive sanctions (such as ordering observed drug tests or returning a participant to an earlier phase in treatment) and more restrictive sanctions (such as attending forestry camp run by the Department of Corrections for short periods) short of jail. The use of sanctions generally increased in that court over the study period from about one imposed per every eight participants to one imposed per every two participants entering the program. The use of jail as a sanction increased from about 14 percent in 1991-1992 to 28 percent among 1997 participants. Participants entering the Drug Court from 1991-1997 spent a median of three days in jail in Multnomah County, but with minor fluctuation over time. Over the entire study period, participants averaged three days in jail directly attributable to Drug Court sanctioning. The average days jailed remained fairly constant over time, ranging from two to five days, with the exception of a notable drop in 1993 – 1994 (zero days).

In Clark County, less restrictive sanctions included returning participants to an earlier treatment phase, requiring them to make up missed treatment appointments, ordering them to undergo observed drug testing, not to mention the very stern reprimands delivered by the judge in court. Jail was imposed somewhat more frequently as a sanction in the Clark County Drug Court, however, with about 32 percent of participants entering from 1993 through 1997 sent to jail at least once in their first 12 months. The rate of jailing increased over time from 18 percent of 1993 participants to 44 of 1996 participants and 48 percent of 1997 participants. Over the entire study period,

participants averaged (median) no days in jail directly attributable to Drug Court sanctioning during the first year of participation. For those participants who were jailed, the use of jail in the Clark County Drug Court increased fairly sharply over time, however, from about five days per participant in 1993 to ten days in 1994 and 1995, 14 days per participant in 1996 and 13 days in 1997.

The two courts differed fairly sharply in the frequency of use of jailing and, ultimately, in the days that defendants spent in jail during the first 12 months of participation in drug courts. The increase in the use of jailing in Clark County corresponded to the shift in the make-up of its entering caseload, as diversion became the less common and guilty pleas the more common method of entry. We interpret this increased use of jail as a sanction over time as a reflection of the nature of the changed Drug Court caseload and the higher risk of noncompliance and reoffending it represented, rather than a change in the sanctioning philosophy of the Drug Court judge. If this interpretation is correct, however, and the utilization of jail is to provide the appropriate level of deterrence for participants at increasingly higher risk of non-compliance and reoffending, there are jail capacity implications.

### Productivity of the Drug Court

The productivity of a drug court can be conceived as a function of the available target population, the proportion the drug court enrolls, its retention of participants in treatment, and crime-free behavior among its participants during and subsequent to the drug court process. In the Phase I research we employed a variety of measures focusing on participant performance related to treatment progress and reoffending, two

important—but not exclusive—measures of productivity. These findings are highlighted and contrasted briefly.

### Participation in Treatment

- Length of Time in Treatment: The treatment literature argues reasonably that retention in treatment is an important factor in successful treatment outcome. In both of these drug courts, an important goal is to provide treatment over at least a 12-month period (before graduation would be possible). Time in treatment is both a product of the drug court process and an outcome: it is something the court seeks to provide and it is a function of participant performance. Measuring time in treatment from the first treatment appointment to the last date seen in treatment, Multnomah County Drug Court participants averaged (a median of) 230 days active in treatment during the overall study period from 1991 through 1997, notably less than the 365-day ideal. This outcome varied by year, with a median of 356 days for 1993-1994 participants during their first 12 months in Drug Court, but dropping to 209 days in 1995-1996 and 109 days among 1997 participants. Clark County Drug Court participants recorded a median of 358 days in active treatment status over the full study period, with only minor variation by year.
- Actual versus Expected Attendance in Treatment: Another way to measure delivery of treatment (and attendance at treatment) among drug court participants is to compare the actual number of days participants attended treatment with the expected number of days that treatment would be provided. (The actual attendance in treatment includes all participants starting the process; thus, some would attend the full number of appointments required and some would drop out early in the process,



recording few attended treatment appointments.) The expected values were derived from adding the requirements for attendance during each of the phases in each site and represent the number that each participant should attend if he or she stayed in Drug Court for 12 months. In Multnomah County, participants would be expected to attend treatment about 120 times during a relatively trouble-free 12-month period. Under the four-phase treatment model, Multnomah participants actually attended treatment a median of 65 times during the first 12 months of Drug Court, or about 54 percent of the expected level (with a high of 78 actual days attended among 1993-1994 participants and a low of 42 days in 1995). Under the three-phase model, the actual days attended dropped to 30, or less than 40 percent of the expected level. Based on the attendance requirements in Clark County, Drug Court participants would be expected to attend treatment about 96 times during the first 12 months. In fact, during the full study period, participants attended a median of 67 appointments, or about 70 percent of the expected level.

- Attendance in Court: One of the basic assumptions of the drug court model is that progress in treatment is greatly enhanced by the central, in-person, supervisory role of the drug court judge. From 1991 through 1997 Multnomah County Drug Court participants averaged 14 in-court appearances during the first year (including successful participants who attended regularly all year and unsuccessful participants who made few appearances). The average number of appearances per defendant varied somewhat by study period. In Clark County, Drug Court participants averaged 15 court appearances during the first year, with only minor year-to-year variation (from 12 in 1993 to 17 in 1994).

- Graduation from the Drug Court: Because both drug courts require 12 months as a minimum period of treatment through four phases before graduation, we would expect few participants to complete drug court successfully and graduate within the one-year observation period we employ in this report. In fact, about four percent of Multnomah County Drug Court participants and two percent of Clark County Drug Court participants graduated within 12 months of beginning the program.
- Completion of Treatment Phases: A more practical measure of treatment progress is to examine the most advanced phase in treatment achieved by participants by the end of 12 months in the Drug Court. From 1991 – 1995, few participants (six percent) in Multnomah County had completed Phase III and were nearly ready to graduate at year's end; 49 percent of participants failed to complete Phase I successfully by 12 months. In 1995 – 1996 (when the program was based on a three-phase treatment process), larger percentages of participants entered the last phase of treatment, 11 percent in 1996 and 18 percent in 1997. In Clark County, 19 percent had completed Phase III and 25 percent had not completed Phase I in the first 12 months. The statistics changed notably year by year.
- Participant Status at the End of the Year: In Multnomah County during the period 1991-1997, 51 percent of participants were in a favorable treatment status (were still active or had graduated), and 49 percent were in an unfavorable status (had been "terminated," were in jail, or were fugitives). The proportion of each Multnomah County study cohort in a favorable drug court status at the end of 12 months declined dramatically over time, however, from 94 percent of the 1991-1992 participants to 30 percent of the 1997 participants. Approximately 52 percent of Clark County

participants from 1993-1997 were in a favorable treatment status at the end of the first year. The proportion in a favorable status, however, increased from 53 percent in 1993 to 62 percent in 1995, but then dropped to 42 percent and 49 percent in 1996 and 1997, respectively.

- Unfavorable Terminations in the First 12 Months: Approximately 29 percent of Multnomah County Drug Court participants entering from 1991 through 1997 were terminated from the program within 12 months. That overall termination rate masks a clear trend in the Multnomah County Drug Court of steadily increasing rates of termination over time, ranging from a low of 17 percent of 1993-1994 participants to 35 percent of 1995-1996 participants and 38 percent of 1997 participants. Thirty percent of Clark County Drug Court participants entering the program between 1993 and 1997 were terminated in their first year. This overall termination rate hides a clear trend in the opposite direction, however. The Clark County Drug Court began with a relatively high termination rate (46 percent of 1993 participants) and moved to lower termination rates (27 percent in 1996, 22 percent in 1997).

### Reinvolvement in the Criminal Justice System

In Phase I, the research contrasted the criminal justice outcomes of drug court participants and comparison group defendants for a period of 12 months from entry into the Drug Court. In Clark County, the contemporaneous comparison group was sampled from similar felony drug defendants who were not processed through Drug Court. In Multnomah County, two comparison groups were employed consisting of felony drug defendants ordered to the Defender orientation but not entering Drug Court. One group

included Drug Court eligible defendants who never attended orientation or Drug Court (the "never attended" group), the second attended orientation but never entered the program (the "never entered" group).

- Failure to Appear in Court: With many more required appearances in court, the opportunity for failures-to-appear in court should be greater among drug court participants. In Multnomah County, Drug Court participants recorded proportionately fewer (67 percent) bench warrants than the "never attended" comparison group (76 percent) and proportionately more than the "never entered" comparison group (42 percent). In Clark County a much larger proportion of Drug Court defendants (64 percent) than comparison group defendants (42 percent) recorded bench warrants for missed court appearances.
- Days in Jail after Entry into the Drug Court: Proportionately fewer Multnomah County Drug Court participants entering the court from 1991 through 1997 were confined during the first 12 months of the program than their comparison group counterparts and when they were confined, they averaged fewer days in confinement than both comparison groups. This finding varied over time. By 1997, Multnomah County Drug Court participants were confined proportionately more often than their comparison group counterparts. A slightly smaller proportion of Clark County Drug Court participants entering from 1993 through 1997 were confined during the 12-month follow-up than comparison group defendants. This overall rate masks a change over time. At the early stages of Drug Court in Clark County, participants were confined less than the comparison group defendants (39 percent compared to 60 percent of comparison group

defendants in 1993). However, by 1997 Drug Court participants were being confined proportionately more often than their counterparts (66 percent of participants versus 48 percent of comparison group defendants in 1997).

- Rearrest for New Offenses: A clear aim of the drug court innovation is to reduce offending by providing drug treatment. For the 1991-1997 study period in Multnomah County, Drug Court participants were rearrested less frequently (37 percent) than defendants in both comparison groups (53 percent of the “never attended and 49 percent of the “never entered”), both notable and significant differences. Clark County Drug Court participants from 1993 through 1997 were rearrested less often (53 percent) than their comparison group counterparts (65 percent). That overall rate masks changes in rearrest trends over time. Among 1993 defendants, the difference between Drug Court participants (39 percent) and the comparison group (66 percent) was huge. The difference between the groups grew smaller until, in 1996, Drug Court participants recorded a higher rearrest rate (65 percent) than comparison group defendants (56 percent) and recorded only a slightly lower rate (56 percent) than the comparison group (59 percent) in 1997.
- Time to Rearrest: When rearrested, Drug Court participants in both locations took much longer to be rearrested than their comparison group counterparts. In Multnomah County, the median time to rearrest for Drug Court participants was 104 days, compared to 29 days for the “never attended” and 51 days for the “never entered” comparison groups. In Clark County, the median time to rearrest for Drug Court participants was 94 days, compared to 52 days for their

counterparts. Analysis of the timing of rearrests over the 12-month period showed that in both jurisdictions, the lower rearrest rates among Drug Court participants is defined very early on, within the first month, when more comparison group defendants are rearrested.

### Conclusion

One of the most important contributions of this research is the finding that the dynamics, operation and impact of drug courts may change considerably over time. This retrospective examination of the two courts over a period of five years in Clark County and seven years in Multnomah County has permitted examination of changes in key aspects of the courts (from enrollments to termination to rearrest) in the context of external events or factors. In Clark County, the impact of the shift beginning in 1994 to accepting mostly persons who pled guilty to enter the Drug Court appeared to have a notable impact on enrollments, the types of persons in the program (high risk), the use of sanctions (more frequent), and on treatment and criminal justice outcomes (less favorable). In Multnomah County, the move away from a dedicated judge to a referee and to rapid rotation of judges for very short periods in Drug Court along with changes toward more restrictive policies affected enrollments and outcomes as well: terminations increased and occurred earlier, follow-up jail confinement increased, treatment retention dropped, and rearrests exceeded or equaled those of comparison groups. The relationship between important changes in the larger environment and the day-to-day outcomes and operation of the drug courts over time is one of the most basic findings from the research so far. In the Phase II report, we will extend the analyses of treatment and criminal justice outcomes to two and three years, illustrate other measures focusing on specific

aspects of dimensions of the drug court typology, and present investigations of some of the special aspects of these two courts that reflect their local adaptation of the drug court model and their relationship with the larger urban environment.





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