

Juvenile and Family Drug Courts: An Overview

Prepared by the
Office of Justice Programs Drug Court Clearinghouse and Technical Assistance Project

The Office of Justice Programs Drug Court Clearinghouse and Technical Assistance Project (DCCTAP) at American University, sponsored by the Drug Courts Program Office of the Office of Justice Programs, U.S. Department of Justice, compiles operational and evaluative information on adult, juvenile, and family drug court programs throughout the United States. Summary reports of drug court activities are published and updated periodically by the DCCTAP, to reflect current developments, emerging issues, experiences reported by local drug court officials, and observations of staff during the course of providing technical assistance to local jurisdictions. Juvenile and Family Drug Courts: An Overview updates our Preliminary Report on juvenile drug courts published in November 1996 and reflects information provided by juvenile and family drug courts operating in 17 States as of January 1, 1998, including one tribal court.

This report was prepared by the Office of Justice Programs Drug Court Clearinghouse and Technical Assistance Project at the American University, Washington, DC. This project is supported by Grant No. 95-DC-MX-K002 awarded by the Drug Courts Program Office, Office of Justice Programs, U.S. Department of Justice. Points of view or opinions in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.

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Background

As most juvenile justice practitioners know only too well, the populations and caseloads of juvenile and family court dockets have changed dramatically during the past decade. The nature of both the delinquent acts and the dependency matters being handled has become far more complex, entailing more serious and violent criminal activity and escalating degrees of substance abuse. Practitioners in the juvenile justice system also recognize that the situations that are bringing many juveniles and parents under the court's jurisdiction are often closely linked with substance abuse and with complicated, and often multigenerational, family and personal problems. These associated problems must be addressed if the escalating pattern of youth crime and family dysfunction is to be arrested. Many justice system practitioners are also recognizing that, insofar as substance abuse problems are at issue, the "juvenile," "family," and "criminal" dockets are increasingly handling the same types of situations, and often the same litigants.

The juvenile court traditionally has been considered an institution specifically established to address the juvenile's needs holistically. However, many juvenile court practitioners have found the conventional approach to be ineffective when applied to the problems of juvenile substance-abusing offenders. During the past several years, a number of jurisdictions have looked to the experiences of adult drug courts to determine how juvenile courts might adapt to deal with the increasing population of substance-abusing juveniles more effectively. The recently enacted Adoption and Safe Families Act of 1997¹ has added impetus to the establishment of juvenile and family drug courts by calling for States to initiate termination of parental rights proceedings for children who have been in foster care for 18 of the previous 22 months. This short timeframe for dealing with issues of this magnitude increases the need for court systems to develop mechanisms to ensure judicial supervision, coordination, and accountability of the services provided to juveniles and families in crisis.

Development of juvenile and family drug courts is proving to be a much more complex task than development of the adult drug court. These drug courts require the involvement of more agencies and community representatives than adult drug courts. Among the unique challenges presented are:

- ❑ Developing strategies to motivate juvenile offenders to change. Juvenile substance abusers often lack the "hitting the bottom" motivation that adult long-term substance abusers experience and often respond to in their recovery process. Juvenile offenders also frequently present a sense of invulnerability and a lack of maturity, and are at different developmental stages. Treatment and rehabilitation plans for juveniles need to take these factors into account;
- ❑ Counteracting the negative influences of peers, gangs, and family members;
- ❑ Adequately addressing the needs of the family, especially families with substance abuse problems, some of which may have gone on for generations;
- ❑ Complying with confidentiality requirements for juvenile proceedings while at the same time, obtaining necessary information to meaningfully address the juvenile's problems and progress; and

¹Public Law 105-89. Sec. 103.111 Stat. 2115.

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- ❑ Responding to the numerous developmental changes that occur in the lives of the juveniles while they are under the court's jurisdiction.

The development of juvenile and family drug courts has, therefore, required special strategies to address these and other issues that emerged during the course of program planning and implementation. While the hallmark of juvenile drug courts operating to date has been flexibility, the following characteristics are common to their approaches:

- ❑ Much earlier and more comprehensive intake assessments for both juveniles and adults;
- ❑ Much greater focus on the functioning of the family, as well as the juvenile and/or parent, throughout the period of participation in the drug court program;
- ❑ Much closer integration of the information obtained during the intake and assessment process with subsequent decisions made in the case;
- ❑ Much greater coordination among the court, the treatment community, the school system, and other community agencies in responding to the needs of the juvenile, the family, and the court;
- ❑ Much more active and continuous judicial supervision of both the juvenile and/or family member's progress in treatment and compliance with other program conditions *and* the various treatment and other rehabilitation services being provided;
- ❑ Immediate judicial use of both sanctions applied for noncompliance and incentives to recognize progress by the juvenile and the family.

Because juvenile and family drug court programs are relatively new and are still evolving, they need to continually "retool" if they are to stay abreast of the needs of their target populations. Most programs, for example, characterize the extent of drug use among the participating juveniles as increasingly more severe. Most also report the age at first use among participants to be commonly between 10 and 14 years, although earlier use is being detected. During 1995 and 1996, when the first juvenile drug courts developed, the primary drugs used by juvenile participants were reported to be alcohol and marijuana. More recently, however, there appears to be increasing use of other substances, particularly methamphetamine, crack/cocaine, heroin, and toxic inhalants.

Defining Juvenile and Family Drug Courts

For the purpose of this report, a *juvenile* drug court is defined as a drug court that focuses on juvenile delinquency (e.g., criminal) matters and status offenses (e.g., truancy) that involve substance-abusing juveniles. A *family* drug court is defined as a drug court that deals with cases involving parental rights, in which an adult is the party litigant, which come before the court through either the criminal or civil process, and which arise out of the substance abuse of a parent. These cases can include: custody and visitation disputes; abuse, neglect, and dependency matters; petitions to terminate parental rights; guardianship proceedings; and other loss, restriction, or limitation of parental rights.

Goals of Juvenile and Family Drug Courts

Juvenile and family drug courts provide immediate *intervention* in the lives of children and parents using drugs or exposed to substance addiction through family members, as well as *structure* for the litigants through the ongoing, active involvement and oversight of the drug court judges. Common goals of juvenile drug courts therefore include providing children with an opportunity to be clean and sober, constructive support to aid them in resisting further criminal activity, support to perform well in school and develop positive relationships in the community, and skills that will aid them in leading productive, substance-free, and crime-free lives. Most programs recognize that to accomplish these goals, the court may need to have a continuing involvement with each child beyond the period traditionally required by the adversarial process. Goals of family drug courts are similar and include helping the parent to become emotionally, financially, and personally self-sufficient and to develop parenting and “coping” skills adequate for serving as an effective parent on a day-to-day basis.

Juvenile and family drug courts use a variety of strategies to achieve these goals. They are developing systems of triage applied at intake to better utilize community services, recognizing and responding to the cultural diversity of children and parents involved in court proceedings and the environments in which they live, and treating children and families holistically. For example, they have worked to overcome the dichotomy (for management purposes) between juvenile delinquency and family/dependency matters and to provide substance abuse treatment that addresses family issues.

Juvenile and Family Drug Courts vs. The Traditional Court Process

Most juvenile court professionals who are establishing juvenile drug courts are initiating these programs to provide the intensive judicial intervention and supervision of juveniles and families involved in substance abuse that is not generally available through the traditional juvenile court process. In part because of high caseloads and in part as a result of a lack of comprehensive treatment resources, the proponents of juvenile drug courts feel that the traditional juvenile court is becoming a forum focusing more on the determination of guilt than on the court's original mission of rehabilitation. With the ever-growing prevalence of substance abuse among juveniles and the complexity entailed in their treatment, which must necessarily involve both the child and his/her living environment, the traditional juvenile justice process may be unable to deal effectively with the whole problem.

The juvenile and family drug court is designed to fill this gap by providing immediate and continuous court intervention that includes requiring both the child and the family to participate in treatment, submit to frequent drug testing, appear at regular and frequent court status hearings, and comply with other court conditions geared to accountability, rehabilitation, long-term sobriety, and cessation of criminal activity. Enhancements introduced by the juvenile and family drug court to the traditional court process for handling these types of cases include:

- ❑ Immediate intervention by the court and continuous supervision of the progress of the juvenile and his/her family by the judge;
- ❑ Development of a program of treatment and rehabilitation services that addresses the *family's* needs, not simply the child's;
- ❑ Judicial oversight and coordination of treatment and rehabilitation services provided to promote accountability and reduce duplication of effort;
- ❑ Immediate response by the court to the needs of the child and his/her family and to noncompliance by either the child or the family with the court's program conditions; and
- ❑ Judicial leadership in bringing together the schools, treatment resources, and other community agencies to work together to achieve the drug court's goals.

Juvenile and Family Drug Court Structure

The Judge

The judge is the key leader for the juvenile and family drug court programs. The judge not only oversees the child's performance and progress and that of his/her family but also must bring together all parts of the program, those within the criminal justice system as well as those associated with community, educational, public health, mental health, and other resources needed to support the child and his/her family's progress.

Operational Process

Most existing juvenile drug courts are post-adjudication programs that operate after the guilt of a child has been determined, through either trial or plea. Many advocate using a post-adjudication, rather than diversion, model because of the more extensive authority available to the court and the options available if the child fails to complete the program. The case disposition process, however, can entail suspending a sentence of commitment, deferring sentencing, or striking the guilty finding and dismissing the charge, pending the child's performance in the program.

Eligibility Requirements

For each jurisdiction, the process of determining the juvenile drug court's target population has, in effect, centered upon determining how best to make use of limited available resources. As in adult drug courts, there is concern that the populations targeted for participation not be dictated by desires to achieve high "success" rates, focusing on children who present minimal risks rather than those with more serious problems who can truly benefit from the drug court program. Given this concern, most juvenile drug courts, at least initially, focus on juveniles with moderate to heavy substance abuse who are not dangerous to the community. Determining a child's potential danger to the community has presented more complex screening and assessment tasks for the juvenile drug court than its adult counterpart because little history regarding a child's propensity for violence is available for many of the children brought before the court. Confidentiality requirements further complicate this task by inhibiting exchange of information regarding a child's prior activities, including acts of violence.

Program Design

Populations and Situations Targeted

Most juvenile drug courts are targeting juveniles with nonviolent drug or drug-related offenses, although some programs include certain assault cases where substance use is involved, such as fighting at school. Many feel that children of participants in adult drug courts also should be targeted—particularly if they are involved in the juvenile justice system—because they are already exposed to drug use through their parents or other family members, even if they are not themselves before the court.

There is debate as to whether children involved in gang activity should be permitted in a juvenile drug court. Some feel, at least initially, a juvenile drug court should exclude children involved in gangs; others, however, are concerned about “labeling” children as “gang-involved” without taking into account the nature of their involvement, the role of gangs in their community, and whether any of these children might really need to be helped and could profit from the program.

Most family drug courts are targeting abuse and neglect cases, many of which enter initially as civil actions but quickly become criminal matters as the court’s criminal contempt powers are relied upon for enforcement of court orders. Most programs characterize the extent of substance addiction among the participating adults as severe and long-term.

Treatment

As with the adult drug court, juvenile and family drug court treatment services do not end with the treatment provider. All activity generated by the juvenile drug court is designed to have a therapeutic value, including the ongoing interaction between “treatment” and “court” processes. Among the special attributes of treatment services offered by juvenile drug courts are: (1) assessing the juvenile and his/her family situation early and continually (2) providing treatment programs that are developmentally based, gender specific, and culturally competent; (3) incorporating an “outreach” component to the assessment and treatment process that includes periodic visits to the home to assess the family situation; and (4) addressing the school performance, peer relationships, and self-esteem issues of each juvenile participant, in addition to his/her family situation. It is also recognized that treatment services for participants in juvenile and family drug court may need to be provided beyond the sanction period (e.g., the period of the court’s jurisdiction), so the availability of aftercare services is vital.

Sanctions and Incentives

Like adult drug courts, sanctions in the juvenile drug court must be structured to promote each juvenile’s ability to take responsibility for his/her actions. Positive rewards and incentives for compliance with program conditions are as important as negative sanctions for program noncompliance. Most drug court professionals agree that the hallmark of any sanctioning scheme must be consistency and predictability.

As noted above, juvenile drug courts commonly impose sentences of detention that can be stayed pending participation in the drug court but can still be maintained for leverage with a noncompliant drug court participant. There is some concern about the use of detention in cases before the determination of

guilt; in these instances the nature of the detention facility must be considered. Short-term incarceration is generally viewed as much more effective than long-term.

The positive incentives valued most highly by drug court participants, both juvenile and adult, seem to be the handshake and words of encouragement from the judge and the accolades of the other drug court participants. Specially designed point systems and contracts between the drug court and the participant provide both positive and negative reinforcement and help to develop the participant's internal sense of accountability. Some juvenile drug court programs require participants to keep a daily journal or maintain a "thinking log," as a key requirement for program participation. One judge maintains a drug court library from which all participants must read and has designated a portion of the courtroom wall to display artwork produced by the participating juveniles.

Management and Evaluation

The need to maintain adequate information on both participants and the overall operation of the juvenile drug court is critical. Like their adult counterparts, most juvenile drug courts are encountering difficulties in integrating the various databases that contain essential information (e.g., court, school, public health, social services, law enforcement, treatment provider) but are frequently incompatible with one another. In addition, jurisdictions that are integrating existing systems for juvenile and family drug court purposes must comply with Federal and State confidentiality requirements. All agree that juvenile and family drug courts must produce objective and measurable outcome data that can serve as a guideline for monitoring program operations and against which the effectiveness of the program can be assessed. The first step in developing useful information systems for juvenile and family drug courts, however, requires that representatives of the key agencies involved identify the critical data elements needed to make decisions and measure outcome, and then determine how this data can be compiled, maintained, and accessed on a regular basis.

Critical Issues Unique to Juvenile and Family Drug Court Programs

Adequately Assessing Family Needs and Problems

Most juvenile and family drug court practitioners observe a high correlation between a juvenile's drug abuse and that of a parent or other family member and feel it important to address the family's problems to deal effectively with the child's. It is unlikely, therefore, that the court can deal with the "delinquency" issue and not get involved with "dependency" issues as well, even if no formal dependency action is pending. Conversely, it is considered likely that if family issues are not addressed, the child will continue to come back to court with the same problems. Recognizing that it is counterproductive to draw a line between what is needed for the child and what's needed for the family, the juvenile drug courts' challenge is to assess family needs fully and to engage the family in the child's recovery.

Compelling Involvement of Parents of Juvenile Drug Court Participants

A key issue for juvenile drug court judges in particular is how to constructively respond to noncompliance by parents of juvenile drug court participants. Even if incarceration or other sanctions are within the power of the court to impose on noncomplying parents, the question remains whether such action will actually help or harm the relationships between the parent and the child or the court and the child. Incarceration of parents or removal of a child from the home are certainly viewed as last resorts. A number of juvenile drug court programs require parents to participate in special parent groups that provide both support and the opportunity to develop parenting skills. Most juvenile and family drug court judges are coming to realize that their ultimate effectiveness, in the long term, will depend upon their achieving parental compliance with drug court program requirements through *persuasion* rather than coercion.

In some States, families are required to participate in court proceedings involving their children, and in some (Indiana, for example) this requirement extends to anyone living in the child's household. In others, however, there does not appear to be clear authority to compel the participation of parents in a juvenile drug court program. Although the privilege of confidentiality is usually considered to be the child's, it is generally the parent or guardian who must waive it. While most juvenile drug courts are using existing legal authority to compel parental participation, strategies for dealing with a truly noncompliant parent, such as appointment of a guardian *ad litem*, need to be further explored.

Addressing the Ramifications of Adults' Substance Abuse for Children

Most agree that drug use by adults has a direct effect on children with whom they are in contact, either by example, by involvement, or in utero. (See also "Populations and Situations Targeted" above.) In jurisdictions where both adult and juvenile drug courts operate, it has been suggested that the adult drug court refer children of participants to the juvenile drug court for special educational and prevention services. Even jurisdictions that do not have an adult drug court can be alert to the potential

ramifications of parents' substance addiction for children, whether the parents come before the court through criminal, domestic, or other civil proceedings.

Defining the “Family” of Juvenile and Family Drug Court Participants

One special issue many juvenile courts must address is how to define the child’s “family.” The immediate “family” of a child may not be nuclear; it may be godparents, step-parents, other relatives, live-in friends of parents, neighbors, or other caretakers. Juvenile drug court programs are therefore finding it necessary to identify an adult figure in the child’s life to work with him or her, recognizing that this adult figure may change during the period of the court’s jurisdiction. Another family dynamic that must be addressed is the juvenile who either is or becomes a parent during the period of program participation.

Some programs are using peer groups composed of juveniles who are further along in the juvenile drug court process to reinforce positive family influences and overcome negative ones. The dynamics of drug courts, both juvenile and adult, frequently take on the characteristics of an extended family. Drug court programs, while focusing on family issues, also operate with the recognition that some families involved with the program are dysfunctional and, despite the program’s best efforts, will not change sufficiently to support the juvenile’s needs. Juvenile drug courts, therefore, must equip participants with life and coping skills and, if necessary, strive to find alternative adult role models.

The School System Connection

Most juvenile drug courts make a special effort to develop a close relationship with the schools because it is in everyone’s best interest that the children involved in juvenile and family drug courts succeed in school. In a number of jurisdictions, school systems, which previously expelled children arrested for substance offenses, have begun working with the court to keep these children in school. They also have provided support services for the juvenile drug court, such as making available basketball courts after school hours. Jurisdictions are finding that the juvenile drug court benefits the school system in that the rigid supervision elements of the programs can reinforce school policies, and provide an immediate mechanism for addressing school-related problems as they occur. Because a number of juvenile drug court participants are often not in traditional schools at time of program entry, special efforts are also being made to develop relationships with alternative schools as well. Most recent information from juvenile drug courts indicates that more than 80 percent of participants have returned, or remained, in school full-time as a result of program participation—a significantly higher rate than would have been expected if the juvenile drug court had not been established.

Important Collaborations

Community Organizations

All of the juvenile and family drug courts are making concerted efforts to actively involve the schools, faith communities, business community, recreation services, and a diversity of additional resources, including public health agencies, community anti-drug coalitions, local universities, and retired citizens. Many judges are personally seeking the support and involvement of these local organizations.

Public Health

Critical to the juvenile and family drug court process is addressing the public health needs of the participating children, including assessment, treatment, prevention, and other components. Among the most frequent public health problems being addressed are HIV infection, sexually transmitted diseases, and the presence of mental disorders, such as attention deficit disorders.

Local Bar

Significant efforts are being made to educate the local bar regarding juvenile court processes, school procedures, and the needs of children to be addressed, as envisioned by the juvenile and family drug courts. Some jurisdictions are seeking to attract members of the young lawyers divisions of local bar associations to participate in the local juvenile or family drug court process, which can also provide these attorneys with courtroom experience.

Law Enforcement

The relationship between the juvenile and family drug courts and local law enforcement agencies is vital, and their involvement in the planning and implementation of these programs has been considered critical. In some jurisdictions, the police officer assigned to the juvenile drug court knows the participants and can also explain the drug court process to other officers. The liaison officers also “keep an eye on” the participants, particularly if they are seen in a drug area. If the participant fails to appear at treatment or in court, police officers familiar with the program and the participant can also execute an immediate bench warrant. Community policing can also be a very important component of juvenile drug court programs. In at least one jurisdiction, a local sheriff’s department has provided direct support for the juvenile drug court initiative by contributing funds for treatment.

Conclusion

Because juvenile and family drug courts are relatively new, there has not been a sufficient period of operation to document significant results over the long term. Juvenile and family drug court judges are reporting, however, that their initial experience confirms remarkable sustained turnaround by juveniles and adults in the program who were otherwise at high risk for continued, escalating criminal involvement and illegal substance use. Such indicators as recidivism, drug usage, educational achievement, and family preservation, either through retention or regaining of custody, indicate that juvenile and family drug courts hold significant potential. All involved with these programs also agree that the juvenile and family drug courts are exercising much more aggressive supervision over the juvenile offender and adult litigant than would be provided in the traditional court process. They also believe that the rigorous monitoring of participants, along with the treatment and rehabilitation requirements imposed, promotes a far greater likelihood of success in reducing drug use and criminal activity than can be achieved through the traditional court process.

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