

**Model State Drug Court Legislation:
*Model Drug Offender Accountability and
Treatment Act***

Model State Drug Court Legislation Committee

Robert Koch, Co-chair
William Alden, Co-chair

Judge David Dolan
Judge Karen Freeman-Wilson (ret.)
Kelly Lieupo
Judge Melanie May
Representative Andrew Meisner
Kim O'Connor
Susan P. Weinstein
Professor Don Tortorice
Stuart VanMeveren

May 2004

Model State Drug Court Legislation: *Model Drug Offender Accountability and Treatment Act*

Prepared by the National Drug Court Institute, the education, research, and scholarship affiliate of the National Association of Drug Court Professionals.

Copyright © 2004, National Drug Court Institute

NATIONAL DRUG COURT INSTITUTE

Judge Karen Freeman-Wilson (Ret.), Executive Director
C. West Huddleston, III, Director
4900 Seminary Road, Suite 320
Alexandria, VA 22311
Tel. (703) 575-9400
Fax. (703) 575-9402
www.ndci.org

This document was prepared under Cooperative Agreement Number 2003-DC-BX-K009 from the Bureau of Justice Assistance, U.S. Department of Justice, with the support of the Office of National Drug Control Policy, Executive Office of the President. Points of view or opinions in this document are those of the authors and do not necessarily represent the official position of the U.S. Department of Justice or the Executive Office of the President.

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the prior written permission of the National Drug Court Institute.

Printed in the United States of America.

Drug courts perform their duties without manifestation, by word or conduct, of bias or prejudice, including, but not limited to, bias or prejudice based upon race, gender, national origin, disability, age, sexual orientation, language or socioeconomic status.

ACKNOWLEDGMENTS

The National Drug Court Institute (NDCI) is pleased to provide drug court professionals nationwide with model state drug court legislation that can be applied and modified to fit the specific needs of each state. NDCI owes its sincere gratitude to those who participated in several work groups to produce, and help to write sections for, this publication. Without their hard work and keen intellect, this legislation would not have been possible. They are:

William Alden, Consultant, Oakton, VA.

Honorable David Dolan, Presiding Circuit Court Judge, Sikeston, MO.

Robert Koch, Senior Deputy Court Administrator, Drug Court Coordinator, Miami, FL.

Honorable Melanie May, Appellate Judge, West Palm Beach, FL.

Honorable Andrew Meisner, State Representative, Lansing, MI.

Kim O'Connor, Treatment Manager, Phoenix, AZ.

Professor Don Tortorice, Saint George Tucker Adjunct Professor of Law, Williamsburg, VA.

Stuart VanMeveren, District Attorney, Fort Collins, CO.

No publication takes place without the hard work and dedication of the people who make it a reality. These people synthesize vast amounts of information, research important information and write the substantive piece of work. They also oversee and edit the publication. To that end, NDCI acknowledges and recognizes the outstanding work of the following people in producing this publication:

Kelly Lieupo, Outreach Coordinator, National Association of Drug Court Professionals, Alexandria, VA.

Aaron Roussell, Research Assistant, National Drug Court Institute, Alexandria, VA

Susan P. Weinstein, Chief Counsel, National Association of Drug Court Professionals, Alexandria, VA.

Michael P. Wilkosz, Research Manager, National Drug Court Institute, Alexandria, VA.

NADCP is grateful to the Office of National Drug Control Policy, Executive Office of the President and the Bureau of Justice Assistance, U.S. Department of Justice for the support that made this publication possible.



TABLE OF CONTENTS

| | |
|---|-----|
| INTRODUCTION | vii |
| MODEL DRUG OFFENDER ACCOUNTABILITY AND TREATMENT ACT | 1 |
| PREFACE | 19 |
| A NON-TRADITIONAL APPROACH TO HANDLING SUBSTANCE ABUSING OFFENDERS | 20 |
| JUVENILE AND FAMILY (DEPENDENCY) DRUG COURTS | 21 |
| EXCLUSIONARY RULES FOR CRIMES OF VIOLENCE AND OTHER DISQUALIFYING OFFENSES | 22 |
| COURT STRUCTURE | 22 |
| TARGETING AND ELIGIBILITY | 23 |
| DRUG TESTING | 27 |
| GOVERNANCE | 29 |
| PROGRAM INTEGRITY AND OFFENDER ACCOUNTABILITY | 31 |
| FUNDING | 31 |
| CONCLUSION | 32 |
| APPENDICES | 33 |
| APPENDIX A: NATIONAL AND STATE STATISTICS ON DRUG COURT EFFICACY | 35 |
| APPENDIX B: THE 10 KEY COMPONENTS | 45 |
| APPENDIX C: SANCTIONS AND INCENTIVES GATHERED FROM THROUGHOUT THE NATION | 49 |
| APPENDIX D: EXAMPLES OF MEMORANDA OF UNDERSTANDING, CONSENT FORMS, AND PARTICIPANT CONTRACTS | 55 |
| APPENDIX E: DIFFERENT APPROACHES TO FUNDING FROM VARIOUS STATES | 85 |
| REFERENCES | 93 |



INTRODUCTION

The concepts for this Act and monograph emanated from the National Association of Drug Court Professionals (NADCP) Board of Directors' Drug Policy Committee. This group played a significant role in the drafting of the final product.

This publication should function as a model for policy-makers, state legislators, and drug court professionals who wish to enact or enhance statewide drug court legislation. Also, it should provide useful information to judges, lawyers, policy-makers, state legislators, treatment providers and others who endeavor to design, implement, modify or improve drug courts in their jurisdictions.

Since their inception in 1989, drug courts have proliferated successfully throughout the country; as of this printing, there are now 1,781 drug courts in the operational or planning stages (Huddleston, Freeman-Wilson, & Boone 2004). Drug courts provide jurisdictions with the unique opportunity to infuse accountability into rehabilitative treatment through the use of therapeutic jurisprudence. However, while drug courts have met with much success, they still are considered by many to be boutique operations, because many states throughout the country do not currently have statewide legislation, statutorily authorizing and/or funding drug courts.

Recognizing that the need for such legislation exists, this model state drug court legislation and accompanying monograph is the product of a series of three focus groups of drug court professionals, state legislators, and academic professors convened by the National Drug Court Institute (NDCI), a division of the National Association of Drug Court Professionals (NADCP). Those who participated in the focus groups subsequently contributed to the monograph; all actively practice in drug courts, state legislatures, and universities throughout the United States.

At the end of the day, our premise is that drug courts must play a significant role in drug policy reform in order to address the challenge of drug abuse and its impact on communities in this country.

Those who work on a project such as this never really know what will come of it, if anything, but there is no doubt that if every state implements this Act as it is written, the way the justice system in America deals with substance abusing offenders will be forever changed; in short, it addresses the underlying issue that is at the root of much of their criminal behavior.

“A drug offender should not be permitted to exit the criminal justice system until he or she has undergone an assessment and an appropriate form of treatment.”

—Section 3, Model Drug Offender Accountability and Treatment Act



**Model Drug Offender Accountability
and Treatment Act**

MODEL DRUG OFFENDER ACCOUNTABILITY AND TREATMENT ACT

Section 1. Short Title.

This act shall be known and may be cited as the “Model Drug Offender Accountability and Treatment Act” (the “Act”).

Section 2. Definitions.

For the purposes of this Act:

(a) “Assessment” means a diagnostic evaluation to determine whether and to what extent a person is a drug offender under this Act and would benefit from its provisions. The assessment shall be conducted in accordance with the standards, procedures, and diagnostic criteria designed to provide effective and cost-beneficial use of available resources.

(b) “Continuum of care” means a seamless and coordinated course of substance abuse education and treatment designed to meet the needs of drug offenders as they move through the criminal justice system and beyond, maximizing self-sufficiency.

(c) “Drug” includes the following:

(1) a “controlled substance” – a drug or other substance for which a medical prescription or other legal authorization is required for purchase or possession;

(2) an “illegal drug” – a drug whose manufacture, sale, use or possession is forbidden by law; or

(3) “other harmful substance” – a misused substance otherwise legal to possess, including alcohol.

(d) “Drug court” means a judicial intervention process that incorporates the Ten Key Components (see subsection r) and may include:

(1) “pre-adjudication” where a drug offender is ordered to participate in drug court before charges are filed or before conviction;

(2) “post-adjudication” where a drug offender is ordered to participate in drug court after entering a plea of guilty or *nolo contendere* or having been found guilty;

(3) “reentry” where a drug offender is ordered to participate in drug court upon release from a sentence of incarceration; or

(4) “combination program” which may include pre-adjudication, post-adjudication, and/or reentry.

(e) “Drug court coordinator” means an individual who is responsible for coordinating the establishment, staffing, operation, evaluation, and the integrity of the drug court.

(f) “Drug court team” consists of the following members who are assigned to the drug court:

(1) the judge, which may include a magistrate, commissioner, or other hearing officer;

(2) the prosecutor;

(3) the public defender or member of the criminal defense bar;

(4) a law enforcement officer;

(5) the drug court coordinator;

(6) a representative from the department of probation or parole;

(7) substance abuse provider(s); and

(8) any other persons selected by the drug court team.

(g) “Drug offender” means a person charged with a drug-related offense or an offense in which substance abuse is determined from the evidence to have been a significant factor in the commission of the offense.

(h) “Dual Diagnosis” means a substance abuse and co-occurring mental health disorder.

(i) “Local advisory committee” may consist of the following members or their designees:

(1) chief judge, who shall serve as chair;

(2) drug court judge;

(3) prosecutor;

-
- (4) public defender;
 - (5) drug court coordinator;
 - (6) criminal defense bar;
 - (7) clerk;
 - (8) corrections;
 - (9) pretrial services;
 - (10) probation and/or parole;
 - (11) law enforcement;
 - (12) substance abuse treatment provider(s); and
 - (13) such other person(s) as the chair deems appropriate.

(j) “Memorandum of Understanding” (MOU) means a written document setting forth an agreed upon procedure.

(k) “Recidivism” means any arrest for a serious offense (carrying a sentence of at least one year) resulting in the filing of a charge.*

(l) “Relapse” means a return to substance use after a period of abstinence.

(m) “Split sentencing” means a sentence which includes a period of incarceration followed by a period of supervision.

(n) “Staffing” means the meeting before a drug offender’s appearance in drug court in which the drug court team discusses a coordinated response to the drug offender’s behavior(s).

(o) “Substance” see “Drug.”

(p) “Substance abuse” means the illegal or improper consumption of a “Drug.”

(q) “Substance abuse treatment” means a program designed to provide prevention, education, and therapy directed toward ending substance abuse and preventing a return to substance usage.

(r) “Ten Key Components” as defined by the U.S. Department of Justice, are:

-
- (1) Drug courts integrate alcohol and other drug treatment services with justice system case processing;
 - (2) Using a nonadversarial approach, prosecution and defense counsel promote public safety while protecting participants' [drug offenders'] due process rights;
 - (3) Eligible participants [drug offenders] are identified early and promptly placed in the drug court program;
 - (4) Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services;
 - (5) Abstinence is monitored by frequent alcohol and other drug testing;
 - (6) A coordinated strategy governs drug court responses to participants' [drug offenders'] compliance;
 - (7) Ongoing judicial interaction with each drug court participant [drug offender] is essential;
 - (8) Monitoring and evaluation measure the achievement of program [drug court] goals and gauge effectiveness;
 - (9) Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations; and
 - (10) Forging partnerships among drug courts, public agencies and community-based organizations generates local support and enhances drug court effectiveness.

Section 3. Policy and Goals.

(a) The legislature recognizes that a critical need exists in this state for the criminal justice system to reduce the incidence of substance abuse and the crimes resulting from it. For the criminal justice system to maintain credibility, all drug offenders must be held accountable for their actions. A growing body of research demonstrates the impact of substance abuse on public safety, personal health and health care costs, the spread of communicable disease, educational performance and attainment, work force reliability and productivity, family safety and financial stability. Requiring that accountability and rehabilitating treatment, in addition to or in place of, conventional and expensive incarceration, will promote public safety, the welfare of the individuals involved, reduce the burden upon the public treasury and benefit the common welfare of this state, the goals of the Act shall include:

-
- (1) to enhance community safety and quality of life for citizens;
 - (2) to reduce recidivism;
 - (3) to reduce substance abuse;
 - (4) to increase the personal, familial, and societal accountability of drug offenders;
 - (5) to restore drug offenders to productive, law-abiding, and taxpaying citizens;
 - (6) to promote effective interaction and use of resources among criminal justice and community agencies;
 - (7) to reduce the costs of incarceration; and
 - (8) to improve the efficiency of the criminal justice system by enacting an effective methodology.

(b) As a general proposition, a drug offender should not be permitted to exit the criminal justice system until he or she has undergone an assessment and an appropriate form of treatment. The decision whether that treatment is provided in jail, prison, or elsewhere should be made by the courts based not only upon traditional sentencing criteria but also upon the professional diagnostic assessment of each drug offender and the specific recommendations of the assessment. The criminal justice system should be used constructively to motivate drug offenders to accept treatment and engage in the treatment process.

(c) While working in drug court reshapes the traditional roles of judges and lawyers, ethical duties do not significantly differ from those in traditional courtrooms. Drug court judges and lawyers must adhere to the standards set forth in the Model Code of Judicial Conduct, the Model Rules of Professional Conduct and the American Bar Association Standards of Criminal Justice. The proper exercise of the roles of judge or lawyer in the drug court need not conflict with the professionals' ethical obligations and can enable judges and attorneys to fulfill the highest aspirations of their professional ethics while embarking on an innovative way to break the cycle of substance abuse and crime. Drug court judges and attorneys must remain continually cognizant of the due process rights guaranteed to all citizens and the state's substantial interest in maintaining effective and efficient judicial and penal systems.

Section 4. Court Structure.

(a) Each judicial district/circuit shall establish drug court(s) pursuant to the local advisory committee under which drug offenders will be processed to address

appropriately the identified substance abuse problem as a condition of pretrial release, probation, jail, prison, parole or other release from a correctional facility.

Any judicial district/circuit that does not establish drug court(s) shall be ineligible to receive state funds for community supervision through the department of corrections as well as grants administered by the governor's office for substance abuse treatment.

(b) Participation in drug court, with the consent of the prosecution and the court, shall be pursuant to a written agreement. A drug offender may participate in a pre-adjudication, post-adjudication, reentry, or combination program.

(c) If the court finds that the drug offender:

- (1) is performing satisfactorily in drug court;
- (2) is benefiting from education, treatment and rehabilitation;
- (3) has not engaged in criminal conduct; or
- (4) has not violated the terms and conditions of the agreement;

it may grant reasonable incentives under the written agreement.

(d) If the court finds that the drug offender:

- (1) is not performing satisfactorily in drug court;
- (2) is not benefiting from education, treatment or rehabilitation;
- (3) has engaged in conduct rendering him or her unsuitable for the program;
- (4) has otherwise violated the terms and conditions of the agreement; or
- (5) is for any reason unable to participate;

it may impose reasonable sanctions under the written agreement. The court also may incarcerate or expel the drug offender.

(e) Upon successful completion of drug court, a drug offender's case shall be disposed of by the judge in the manner prescribed by the agreement and by the applicable policies and procedures adopted by drug court. This may include, but is not limited to, withholding criminal charges, dismissal of charges, probation, deferred sentencing, suspended sentencing, split sentencing, or a reduced period of incarceration.

(f) Drug court(s) must include the “Ten Key Components” and the drug court team shall act to ensure compliance with them.

(g) Cases handled pursuant to this Act shall be calendared on dedicated dockets, set aside from other criminal cases.

(h) Each local jurisdiction that intends to establish drug court(s), or continue the operation of existing drug court(s), shall establish a local drug court team.

(i) The drug court team shall, when practicable, conduct a staffing prior to each drug court session to discuss and provide updated information regarding drug offenders. After determining their progress or lack thereof, the drug court team shall agree on the appropriate incentive or sanction to be applied. If the drug court team cannot agree on the appropriate action, the court shall make the decision based on information presented in the staffing.

(j) Nothing contained in this Act shall confer a right or an expectation of a right to participate in drug court(s) nor does it obligate the drug court(s) to accept every drug offender. Neither the establishment of drug court(s) nor anything herein shall be construed as limiting the discretion of the jurisdiction’s prosecutor to act on any criminal case which he or she deems advisable to prosecute. Each drug court judge may establish rules and may make special orders and rules as necessary that do not conflict with rules promulgated by the state supreme court.

(k) Each drug offender shall contribute to the cost of the substance abuse treatment in accordance with section 10(c).

(l) A drug court coordinator will be responsible for the general administration of drug court.

(m) The supervising agency shall timely forward information to the drug court concerning the drug offender’s progress and compliance with any court-imposed terms and conditions.

Section 5. Targeting and Eligibility.

(a) An offender shall be required to submit to an observed drug test within 24 hours of arrest. Any offender under this Act who posts bail shall submit to an observed drug test as a condition of pretrial release.

(b) An offender shall be required to undergo an assessment if:

- (1) the results of a drug test are positive;
- (2) the offender requests an assessment;

(3) the offender admits to substance use or abuse within the year preceding the arrest for the present charge;

(4) the present charge involves a violation of the controlled substances or impaired driving statutes;

(5) the offender has, within the past five years been convicted, or received a suspended imposition of sentence in this state, or any other state, or a federal court involving a violation described above, in subsection (b)(4); or

(6) the offender refuses to undergo a drug test as required by this Act.

(c) Notwithstanding the requirements of subsection (a), the court shall order an offender to undergo an assessment if the court has reason to believe the offender is a substance abuser or would otherwise benefit from undergoing an assessment.

(d) If an offender is required to undergo an assessment and has not done so at the time of the offender's release prior to trial or on probation, submission to an assessment shall be a condition of the offender's pre-trial release or probation.

(e) Unless otherwise ordered by the court, the drug test results and assessment of an offender shall be provided within 14 days of the offender's initial appearance before the drug court team, parole board, or other appropriate authority in the case of an inmate.

(f) The assessment shall include recommendations concerning:

(1) The offender's need for substance abuse treatment; and

(2) The appropriate and available course of treatment necessary to address the offender's needs.

(g) Anyone receiving drug test results, an assessment, or other personal medical information shall maintain that information in accordance with federal and state confidentiality laws.

(h) A court shall immediately order a drug offender to participate in drug court if:

(1) an assessment reveals that an offender is a substance abuser, and the court recommends that the drug offender participate in drug court;

(2) the court has reason to believe that participation in drug court will benefit the drug offender by addressing his or her substance abuse;

(3) the prosecutor consents to the drug offender's participation in the

program;

(4) the drug offender's case is handled pursuant to Section 4(b) of this Act;

(i) Where the court determines pursuant to subsection (a) that participation in drug court will not benefit the offender, or the offender is not an appropriate candidate, notwithstanding a recommendation by the assessment that the offender participate in such treatment program, the court shall record for its determination in the confidential treatment file and make a general finding on the record that the offender is ineligible to participate in drug court.

Section 6. Treatment and Support Services.

(a) As part of the diagnostic assessment, each jurisdiction shall establish a system to ensure that drug offenders are placed into a clinically approved substance abuse treatment program. To accomplish this, the program conducting the individual assessment should make specific recommendations to the drug court team regarding the type of treatment program and duration necessary so that a drug offender's individualized needs can be addressed. These assessments and resulting recommendations should be based upon objective medical diagnostic criteria. Treatment recommendations accepted by the court, pursuant to this Act, shall be deemed to be reasonable and necessary.

(b) An adequate continuum of care for drug offenders shall be established in response to this Act.

(c) The drug court shall, when practicable, ensure that no agency provide both assessment and treatment services for drug court(s) to avoid potential conflicts of interest or the appearance that a given diagnostic assessment agency might benefit by determining that an offender is in need of the particular form of treatment that the assessor provides.

(d) A drug court making a referral for substance abuse treatment shall refer the drug offender to a program that is licensed, certified, or approved by the court.

(e) The court shall determine which treatment programs are authorized to provide the recommended treatment to drug offender(s). The relationship between the treatment program and the court should be governed by a Memorandum of Understanding, which should include the timely reporting of the drug offender's progress or lack thereof to the drug court.

(f) It is essential to provide offenders with adequate support services and aftercare.

(g) Recognizing that drug offender(s) are frequently dually diagnosed, appropriate services should be made available, where practicable.

(h) Recognizing that the longer a drug offender stays in treatment, the better the outcome, the length of stay in treatment should be determined by the drug court team based on individual needs and accepted practices.

Section 7. Drug Testing.

(a) The drug court team shall ensure fair, accurate, and reliable drug testing procedures.

(b) The drug offender shall be ordered to submit to frequent, random, and observed drug testing to monitor abstinence.

(c) The results of all drug tests shall be provided to the drug court team as soon as practicable, but in the event of a positive drug test, not later than seven days from the test.

(d) Anyone in receipt of drug test results shall maintain the information in compliance with the requirements of federal and state confidentiality laws.

(e) The drug offender shall be responsible for costs, pursuant to Section 10(c) of this Act.

Section 8. Governance.

(a) The State Drug Court Advisory Commission (the commission) shall be established to plan, implement, and develop statewide drug court(s). It shall make recommendations concerning the legal, policy, and procedural issues confronting the state's drug court(s).

(b) The commission should consist members of the executive, legislative, and judicial branches of government, representatives of the collaborative partners involved in the drug court. The chair and staffing of the commission shall be determined by the creating body.

(c) The commission shall make recommendations to the chief justice and representatives of the executive and legislative branches for developing a comprehensive, coordinated state policy concerning the extent to which drug court(s) can provide a meaningful solution to the devastating effect of substance abuse on society.

(d) The commission shall recommend criteria for eligibility, promulgate procedural rules, establish guidelines for operation, and draft standards and protocols. It shall periodically review and revise the rules, guidelines, standards

and protocols and shall take such other actions as are necessary and appropriate.

(e) The commission shall identify existing resources for assessment and treatment and make recommendations for the allocation of those resources.

(f) The commission shall explore grants and funds necessary to support drug courts.

(g) The commission shall promote training and technical assistance for criminal justice personnel and education for the public about the effectiveness of drug court.

(h) The commission shall certify that the drug court(s) is in compliance with the standards established by it and shall revoke the certification of drug court(s) that do not comply.

(i) While the commission has general statewide oversight, the chief judge in each jurisdiction shall appoint a local advisory committee for local drug court(s). The advisory committee shall ensure quality, efficiency, and fairness in planning, implementing, and operating the drug court(s) that serves the jurisdiction.

(j) The commission shall establish evaluation criteria and procedures, including tracking the status of drug offenders after concluding drug court. The critical performance measures to be collected shall include those set forth in Section 9(a) of this Act.

(k) The local advisory committee shall ensure the provision of a full continuum of care for drug offenders.

(l) The local advisory committee shall annually report to the commission by _____ of each year. The report must include:

(1) a description of the drug court(s) operating within the jurisdiction;

(2) participating judge(s);

(3) community involvement;

(4) education and training;

(5) use of existing resources;

(6) collaborative efforts; and

(7) an evaluation of the critical data elements required by section 9(a).

(m) The commission shall provide a statewide report annually to the state

supreme court, legislature, and governor regarding the need for, and implementation of, this Act. The report shall include a synopsis of such information or data necessary to determine the impact, utility and cost-effectiveness of its implementation and ongoing operation.

Section 9. Program Integrity and Offender Accountability.

(a) Drug court(s) shall collect and maintain the following information:

- (1) prior criminal history;
- (2) prior substance abuse treatment history, including information on the drug offender's success or failure in those programs;
- (3) employment, education, and income histories;
- (4) gender, race, ethnicity, marital and family status, and any child custody and support obligations;
- (5) the number of (both addicted and healthy) babies born to female drug offenders during and after participation in drug court;
- (6) (a) instances of relapse occurring before, during, and after successful completion of drug court. Relapse shall be measured at intervals of one, two and five years after successful graduation.

(b) instances of relapse occurring before, during, and after a drug offender's failed participation in drug court.
- (7) (a) instances of recidivism occurring before, during, and after successful completion of drug court. Recidivism shall be measured at intervals of one, two, and five years after successful graduation.

(b) instances of recidivism occurring before, during, and after a drug offender's failed participation in drug court.
- (8) the number of offenders screened for eligibility, the number of eligible drug offenders who were and were not admitted and their case dispositions;
- (9) the drug of choice and the estimated daily financial cost to the drug offender at the time of entry into the program;
- (10) costs of operation and sources of funding.

(b) A drug offender may be required as a condition of pretrial, probation, or parole to provide the information described in this subsection. The collection and

maintenance of information under this section shall be collected in a standardized format according to applicable guidelines set forth in Section 8.

(c) To protect drug offenders' privacy in accordance with federal and state confidentiality laws, treatment records must be kept in a secure environment, separated from the court records to which the public has access.

(d) Drug court(s) shall comply with all state and federal due process requirements.

(e) Personnel shall be trained in accordance with Section 8(a) of this Act.

(f) Evaluations shall be conducted in accordance with Section 9(a) of this Act.

(g) Avoid self-referral and conflicts of interest in accordance with Section 7(c) of this Act.

(h) The offender shall be responsible for costs in accordance with Section 10(c) of this Act.

Section 10. Funding.

(a) A dedicated funding stream and a mechanism for distribution of those funds for the operation of drug court shall be established.

(b) There shall be established in the state treasury a drug court resources fund that shall be administered by the commission. Funds available for allocation or distribution by the commission may be deposited in the drug court resources fund, which monies shall not be transferred or placed in the credit or general revenue fund of the state at the end of each year but shall remain deposited to the credit of the drug court resources fund.

(c) A drug offender shall pay a reasonable portion of the cost to participate. The costs assessed shall be compensatory and not punitive in nature and shall take into account the drug offender's ability to pay. Upon a showing of indigency, drug court may reduce or waive costs under this subsection. Any fees received by the court from an offender shall not be considered court costs, charges, or fines.

(d) Nothing in this Act shall prohibit local advisory committees or drug court teams from obtaining supplemental funds.

(e) Nothing in this Act shall be construed to supplant funds currently utilized for drug court(s).

Section 11. Immunity From Liability.

(a) Any individual who, in good faith, provides services pursuant to this Act, shall not be liable in any civil action. The grant of immunity provided for in this subsection shall extend to all employees and administrative personnel.

(b) Any qualified person who obtains, in a medically accepted manner, a specimen of breath, blood, urine, or other bodily substance pursuant to any provision of this Act shall not be liable in any civil action.

Section 12. Statutory Construction.

The provisions of this Act shall be construed to effectuate its remedial purposes.

Section 13. Severability.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 14. Enforcement.

Violations of any of the provisions herein shall be referred to the appropriate court or other responsible governing body for resolution.

Section 15. Effective Date.

This Act shall be effective on [reference to normal state method of determination of the effective date] [reference to specific date] document.

Model State Drug Court Legislation:
***Model Drug Offender Accountability and
Treatment Act***

Judge Karen Freeman-Wilson (ret.)
Kelly Lieupo
Susan P. Weinstein

PREFACE

Recently, there has been a trend of proposals throughout the country in the form of changes to state legislation or state constitutional amendments that are dubbed as drug policy reform. While these provisions address a growing sentiment among citizens that non-violent criminal offenders who suffer from the disease of addiction should be given an opportunity to address the root cause of their problems, many of these proposals exclude the judicial system in the process. After 15 years of study and evaluation, it is clear that a significant number of offenders who find themselves in the judicial system would benefit from a system based on the drug court model.

New laws often play an instrumental role in systemic change. In some states, budgets that provide funding for drug courts have indicated that “problem solving courts are responsible for handling cases involving substance-abusing nonviolent offenders through comprehensive supervision, testing, treatment, services, immediate sanctions and incentives” (Corrigan & Becker, 2003). While legislatures often recognize the efficacy of drug courts, many have yet to establish a “structural framework to ensure that constitutional rights are protected and that each court follows similar sentencing and operational guidelines” (Corrigan & Becker, 2003). To this end, a group of esteemed drug court professionals and law professors have designed the attached model drug offender legislation. If implemented, this legislation can play a significant role in addressing the challenges created by the scourge of addiction in our judicial system. But this is not solely a judicial solution. The reality is that this monograph and the accompanying model statute are worthless pieces of paper unless they are embraced by members of the legislative and executive branches of government. This statute must find its way into the legislative agendas of the governors of America. It also must be identified as a legislative priority for the lawmakers of America.

There are a number of factors that compel the cooperation described above. First, the reduction in recidivism experienced by almost every drug court in the country is a testament to the public safety implications of drug court. Additionally, the cost savings and benefits that have been evidenced through drug court evaluations show that drug courts are consistent with sound governmental policy. Finally, the transforming power of drug court programs proves that it is possible to encourage the productivity of citizens while spending tax dollars in the most effective way (see Appendix A for cost-saving and recidivism statistics). This is the most compelling argument for not allowing this legislation to sit upon a shelf or sit lifeless on legislative books like so many other unfunded mandates. That is why the National Drug Court Institute is as committed to assisting states in the passage and implementation of this model statute as it has been to drafting the law and accompanying monograph.

A NON-TRADITIONAL APPROACH TO HANDLING SUBSTANCE ABUSING OFFENDERS

Fifteen years ago, the term “drug court” was not part of the American lexicon. The criminal justice system processed drug and drug-related cases the same way that it did robbery and sexual assault cases; punishment with little or no rehabilitation. Drug offenders cycled in and out of the courts, creating a revolving door of drug abuse and crime. As a result, court dockets became overloaded, drug and drug-related offenders received probation with little supervision and there was little or no opportunity or incentive for these offenders to participate in a substance abuse treatment program. The traditional court system was not equipped to address the increasing problem of substance abuse.

Then, in 1989, the Dade County (FL) Circuit Court devised a plan to combat substance abuse and its concomitant crime; court-supervised substance abuse treatment or “drug court.” Unlike the traditional adversarial system of justice designed to resolve legal disputes, drug court inserts substance abuse treatment into the criminal justice system. The goal is simple: reduce recidivism, as well as substance abuse, court, and incarceration costs and increase public safety. With the judge as the central figure in a coordinated team effort that includes prosecutors, defense attorneys, treatment specialists, social services professionals, and law enforcement personnel, including probation and parole, drug court focuses on public safety through offender accountability and sobriety.

Saving Resources

Drug courts bring efficiency to the judicial system, as they are able to streamline the adjudication process. By offering treatment at the initial hearing (*i.e.*, first appearance or arraignment), hundreds of cases are diverted from the traditional adversary process thereby saving resources in time, money, and personnel. They eliminate discovery and motions to suppress and free up valuable court time. Depending upon whether drug courts are confined to a single, a select number of, or all judges handling drug offenders on a dedicated docket/calendar, valuable resources are conserved for those cases requiring them.

While drug offenders initially may spend longer periods of time under the court’s supervision than is traditional, the hearings for these cases are substantially shorter, and the streamlined process allows courts to handle greater numbers of offenders than could be handled under the traditional approach. Thus, if a single or designated number of judges handle drug cases, which already constitute the bulk of the criminal felony caseload, other judges are free to concentrate on more complex trials of other crimes. Alternatively, if all judges shift to a dedicated docket for these drug offenders, then the majority of their time is freed up to try their own more complex cases. Either design ensures a more successful, cost-effective handling of the cases that largely comprise a judge’s caseload while providing ample time to address other cases.

Successes in savings are multiplied when drug offenders successfully complete drug court because their rate of recidivism is greatly reduced, resulting in fewer offenders returning to the system. Thus, while a drug offender may be involved in drug court for a longer period of time to complete treatment, it is often the last time the drug offender will use valuable judicial resources.

Bi-partisan Support

Drug courts offer a non-traditional approach to handling drug and drug-related crime, and because of the success they have seen, they have received bi-partisan support. President George W. Bush commented that “Drug courts are an effective and cost efficient way to help non-violent drug offenders commit to a rigorous drug treatment program in lieu of prison. By leveraging the coercive power of the criminal justice system, drug courts can alter the behavior of non-violent, low-level drug offenders through a combination of judicial supervision, case management, mandatory drug testing and treatment to ensure abstinence from drugs and escalating sanctions.” Former President William J. Clinton also remarked that “Three quarters of the growth in the number of . . . inmates is due to drug crimes. Building new prisons will only go so far. Drug courts and mandatory testing and treatment are effective. I have seen drug courts work. I know they will make a difference. . . . The results have been remarkable. In some cities, drug court participants have recidivism . . . rates as low as four percent.”

Studies show that drug courts are effective and that coerced treatment works.¹ The benefits are astounding in saving money, reducing crime and producing recovering, tax-paying citizens. Now, with over 1,500 drug courts nationwide, states are looking to ensure that drug courts exist as a hallmark of the criminal justice system.

JUVENILE AND FAMILY (DEPENDENCY) DRUG COURTS

As a rule, a juvenile drug court is a court that focuses on substance abuse with respect to criminal (*i.e.*, delinquency) or status (*i.e.*, truancy) offenses. A family or dependency drug court is one in which parental rights of a substance abusing parent are at issue from a civil or criminal court. They both provide immediate and continuous intervention requiring the involvement of the entire family.

¹ See generally, Center for Substance Abuse Treatment. (1996, September). *National treatment improvement evaluation study: Preliminary report: Persistent effects of substance abuse treatment – One year later*. Rockville, MD: Author, Substance Abuse and Mental Health Services Administration, U.S. Department of Health and Human Services; Hubbard, R.L., Marsden, M.E., Rachal, J.V., Harwood, J.H., Cavanaugh, E.R., & Ginsburg, H.M. (1989). *Drug abuse treatment: A national study of effectiveness*. Chapel Hill, NC: University of North Carolina Press; Huddleston, C.W. (2000). *The promise of drug courts: The philosophy and history*. National Drug Court Institute Training Presentation. Published presentation; Satel, S.L. (1999). *Drug treatment: The case for coercion*. Washington, DC: American Enterprise Institute Press; Simpson, D.D., & Curry, S.J. (Eds.). Special issue: Drug abuse treatment outcome study. *Psychology of addictive behaviors, 11*; Simpson, D.D., & Sells, S.B. (1983). Effectiveness of treatment for drug abuse: An overview of the DARP research program. *Advances in alcohol and substance abuse, 2*, 7-29.

Neither juvenile nor family drug courts are included in the accompanying model legislation, as each requires special attention to unique issues. However, drug courts have been expanded, and continue to expand, to delinquency and dependency divisions throughout the country. The attached legislation can be adapted easily to apply to juvenile or family drug courts.

EXCLUSIONARY RULES FOR CRIMES OF VIOLENCE AND OTHER DISQUALIFYING OFFENSES

Drafters of legislation must be sure to clearly define the scope and nature of violent crimes. Drafters also should take care to make a distinction between those who are charged with a violent offense and those who have been convicted of a violent offense. Many drug courts that operate with federal monies are prohibited from allowing those who have committed a violent offense into drug court². This restriction is based on the rationale that state attorneys and the general public agree that the penalty for crimes of violence, substance abuse related or not, should be more severe.

Despite this fact, however, individual states may apply less stringent rules to the eligibility criteria as it relates to violent offenders if it does not accept federal monies. States may, for example, wish instead to include a provision that allows certain violent drug offenders to participate in drug court. Some states define violent crimes differently than the definition used by the federal government. Certain crimes traditionally not viewed as violent, per se, are sometimes classified as such under state law. For example, many states define breaking into a dwelling while the inhabitants are away as first-degree burglary, a violent offense. However, more and more drug courts in various states are targeting “burglars,” and putting them into drug court programs. Similarly, since domestic battery often results from substance use and abuse, many courts are allowing domestic batterers into their programs.

COURT STRUCTURE (SECTION 4 OF ACT)

While it is essential that the foundation of all drug courts be rooted in the *10 Key Components* as defined by the U.S. Department of Justice (see Appendix B), drug courts are designed to be inherently flexible so that they are able to meet the individual needs of the jurisdictions. Therefore, the title of the drug court judge (*i.e.*, circuit court judge, magistrate, commissioner, or hearing officer) is not as important to the success of drug courts as is the ability of that person to effectuate the role. It is, however, critical that the drug court judge be able to impose sanctions and provide incentives without the need for a higher level judicial officer to sign off on orders.

² Violent offenders are defined by the federal government as those who have used, attempted to use, or threatened the use of physical force against the person or property of another, or is a crime that by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense (Title 18 of the U.S. Code, Section 924 (c)(3)).

Drug courts, through the swift application of incentives and sanctions, provide the criminal justice system with the unique ability to substantially reduce substance abuse and its concomitant crime while increasing public safety, reducing recidivism, and supporting the fair administration of justice. “Close monitoring of attendance, substance use, and criminal activity, combined with the imposition of increasingly severe sanctions for successive infractions, are at least partly responsible for the success of drug courts, and similar probation programs and indirect evidence appears to support the theory that the severity and certainty of criminal justice sanctions are related inversely to the likelihood of criminal recidivism” (Marlowe & Kirby, 1999). Absent this swift application of incentives and sanctions, drug courts lose their coercive power and therefore, their effectiveness.

While there are a myriad of incentives and sanctions that can be applied by each drug court (see Appendix C), a prescribed list of incentives and sanctions does not exist. Instead, it is up to the discretion of each drug court to develop its own list of incentives and sanctions.

Since the goal of this legislation is to capture all substance-abusing offenders and ensure that they participate in the drug court model (as stated in Section 1 of the Act), it is imperative that the public moves beyond the notion that drug court is a special privilege and thus, that expulsion is the very last resort. If a participant continuously fails to meet program expectations, it should be viewed as a need for a higher level of care and supervision. If the person already has been through all of the non-custodial levels, then incarceration with jail-based treatment should be the next level, but always with the idea that upon completion of the jail-based program, he or she will return to drug court for continued supervision and treatment. Drug court demands more from an offender than traditional handling. It does not make sense to expel a participant from drug court and give him or her an easier road. This, in essence, would be rewarding negative behavior. If states change from their traditional approach to the drug court model, then the ultimate commitment should be not to release a person from his or her court obligations until the person’s behavior has changed.

TARGETING AND ELIGIBILITY (SECTION 5 OF ACT)

Capturing the “right” offender population (those who are addicted, substance-abusing offenders) has proven to be a difficult task. Thus, it is of particular importance to drug test all offenders at the time of their arrests so that the arresting agency can be provided with concrete data as to each offender’s use of drugs.

While drug testing is an important tool that should be used to determine an offender’s eligibility for drug court, it should not be used exclusively. It should, instead, be used in conjunction with other, established screening tools, such as the short MAST (Michigan Alcoholism Screening Test). Using a cadre of tools will enable the court to confidently conclude that a particular offender is well suited for drug court. This should

be firmly established before any additional resources, such as an assessment, are allocated to the case.

Drug Dealers

Because of the balance between public health and public safety concerns, there has been a long debate about the place of drug dealers in drug court. While it is paramount to segregate drug dealers and users from one another, this is oftentimes difficult as the two are not mutually exclusive. Many drug courts currently exclude dealers in an effort to satisfy those who suggest that the penalty for dealers should be more severe and that the dealers are not typically in need of treatment. While this may be true in most instances, this should not be applied as a rigid rule to disallow all dealers from receiving treatment. In general, legislation drafters should be encouraged to acknowledge the difference between those who deal for profit and those who deal to support drug habits. Those who deal for profit must be excluded at all costs in an effort to bar “the fox from the hen house.” Those who deal to support their habits clearly are doing so because of their addiction. Some ways to quantify the distinction between profit-seeking and addicted dealers is through the weight of drugs involved in possession and dealing offenses, substance abuse assessments, and through the input of law enforcement intelligence.

Treatment and Support Services

As a general matter of drug and alcohol counseling, it traditionally has been considered as a truism that active, committed, and *voluntary* participation of the subject of counseling is a prerequisite to successful treatment.³ However, those experienced in drug and alcohol rehabilitation unanimously conclude that initially unwilling subjects can be forced to participate in treatment, and such treatment frequently results not only in effective rehabilitation but also in a conversion of the subject from involuntary to actively committed (Cooper, 2003). Four national studies, beginning as early as 1968 and ending as recently as 1995, assessed approximately 70,000 patients, 40 to 50 percent of whom were court ordered or otherwise mandated into residential and outpatient treatment programs. Among other findings, the study found that coerced patients tended to stay in treatment longer than their “non-coerced” counterparts (Satel, 1999; Huddleston, 2000).

Constitutionality of Coercion

There are, of course, those subjects who are intransigently unwilling to participate to the point that treatment becomes counterproductive. The question thus becomes: for subjects who are initially unwilling to participate but whose prognosis is such that the courts or administrators of substance abuse treatment programs believe should be

³ See generally, Hartjen, C.A., Mitchell, S.M., & Washburne, N.F. (1982). Journal of offenders counseling services and rehabilitation. *Sentencing Therapy: Some legal, ethical and practical issues*; Platt, J.J., Buhringer, G., Kaplan, C.D., Brown, B.S., et al. (1988). Journal of drug issues, 18. *The prospects and limitations of compulsory treatment for drug addiction*.

required to participate in treatment, at least to the point of determining possible susceptibility to change, is it constitutionally permissible to force therapy?

The United States Supreme Court has held in *Sell v. United States*, 539 US 166 (2003) that the answer is: Yes. Justice Breyer stated for the court that under the framework of *Washington v. Harper*, 494 U.S. 210, and *Riggins v. Nevada*, 504 U.S. 127, the Constitution permits the government to administer involuntary treatment (even in the dramatic case of administration of psychotropic drugs) where the treatment is medically appropriate, is substantially unlikely to have side effects that may undermine the fairness of the procedure and, where less coercive alternatives are not available, is necessary to further important government related interests.

In the context of therapeutic treatment of drug or alcohol problems, where treatment and rehabilitation are alternatives to incarceration and likely recidivism with repeated jail time, the mandatory imposition of therapy seems to be a perfect example of constitutionally permissible “tough love.” The governmental interests are manifest. Drug and alcohol treatment programs have shown remarkable success in rehabilitating subjects whereas incarceration amounts to matriculation in the graduate school of crime. Results for inmates receiving therapy have been, in a large number of cases, to restore their lives while at the same time costing the public treasury significantly less than jail time. The government’s polestar interest in administering a criminal justice system is to protect the public while rehabilitating criminal offenders. Drug court treatment is calculated to, and has been remarkably successful in, drawing people back to productive lives, reducing the threat of repeated criminal behavior, and saving public money. The Supreme Court’s tests seem more than satisfied.

Immediate Intervention

As many treatment professionals attest, when an offender is arrested for a crime, drug-related or otherwise, an immediate crisis ensues and often causes the person to reevaluate his or her lifestyle. With a substance abuser, denial of the problem often is pushed aside at the arrest, leading the person to a new level of awareness and making him or her receptive to change. This moment of truth is often a small window of time before denial sets back in. Drug courts capitalize on this time of crisis by immediately intervening in the offender’s life and immediately engaging him or her in the treatment and recovery process. This intervention ideally should occur as soon as it is determined that the drug offender is eligible for, and accepts the terms of, drug court.

Defining and Selecting Treatment

In section 2(q) of the Act, substance abuse treatment is defined as “a program designed to provide prevention, education and other therapy directed toward the elimination of substance abuse and prevention of a return to substance use.” The definition of treatment is intended to include services provided by court approved faith-based organizations. However, unless the statute of any particular jurisdiction provides otherwise, treatment does not include vocational training, ongoing mental health

counseling or housing other than that provided as part of an inpatient substance abuse program.

Because treatment is a key element that distinguishes drug courts from other court procedures, it is imperative that team members are trained to be good consumers of treatment. This often is achieved by reliance on the treatment professionals who are members of the team. Team members must be careful not to allow the personal experience of one or more colleagues to adversely impact the team's status as an educated consumer or hinder the ability of the team to provide an adequate continuum of care.

The continuum of care provided by the drug court team must include a variety of services, including screening, evaluation, intake, assessment, and treatment, which encompass standard outpatient, intensive outpatient, lapse/relapse, halfway house, short term residential, long-term residential, outpatient detoxification, non-hospital detoxification, and hospitalization. Special attention should be allotted to those offenders who have been assessed as have co-occurring mental health disorders.

Length of Time in Treatment

Successful outcomes in both treatment and drug court clearly are influenced by the length of time in treatment. The duration of the drug court program should coincide with the duration of the treatment program and should, at a minimum, last for one year; even if the level of care towards the end of the program consists of nothing more than one treatment session per week and a combination of some type of self-help program. A study by researchers from the University of Chicago, Brown University, and Rhode Island Hospital, funded by the National Institute on Drug Abuse (NIDA) found that "treatment for up to 18 months in residential settings, or almost 14 months in outpatient non-methadone treatment, yielded the greatest reduction in illicit drug use" (Join Together Online, 2003).

Ancillary Programs and Financial Issues

While financial constraints should be taken into account when considering the ancillary and aftercare programs that each drug court will implement, the fact that adequate ancillary support services and aftercare are an integral part of the recovery process cannot be overlooked. As such, drug courts should make every reasonable effort to include, where appropriate, educational and vocational training programs, programs addressing employment retention skills, housing programs, health care programs, family and parenting classes, transportation, access to self-help programs, mentoring programs, and programs addressing life skills and social communication in their aftercare programs.

Model legislation should include a focus on health insurance and/or managed care treatment services available to the offender. The state drug court coordinating commission or the local drug court advisory committee should pursue funding for diagnostic assessment and treatment services available through Medicaid, social security,

or other federal programs. Language to assist state or local drug court advisory committees in dealing with health maintenance organizations, insurers, or managed care providers should be included.

Licensure and Certification

While some may use the terms licensure and certification interchangeably, there is a technical difference between the two terms. Licensure is a requirement, is provided by an agency in the state and usually is an arm of the state government. In the treatment arena, that agency may be the departments of health, human services or welfare. This agency ensures that treatment agencies and individuals are providing service and documentation at the level set out by law. They are the compliance monitoring group. Certification, on the other hand, typically is provided by practitioner groups that designate that a provider has satisfied the requirements of that group to ethically conduct a given practice.

When dealing with the issue of licensure and certification, an important distinction to make is that faith-based groups often are not required to be licensed or certified, and thus any requirement to that end may exclude potential providers. However, drug courts, where practicable, should use licensed and/or certified treatment providers.

DRUG TESTING (SECTION 7)

Under Section 5(a) of the Act, each drug offender is required to submit to an observed drug test within 24 hours of arrest, and any offender who posts bail must submit to such test as a condition of pretrial release. While mandatory drug testing is critical to ensuring that drug offenders remain drug free, the constitutionality of such tests have, at times, been called into question. However, if an offender consents to a test knowing its purpose, the test is consensual and analysis of constitutionality is obviated. Most testing procedures will utilize a basic drug urine screen, but some may involve the withdrawal of blood. A drug offender is defined, in Section 2(g) of the Act, as a person charged with a drug related offense or an offense in which substance abuse is determined from the evidence to have been a significant factor in the commission of the offense. Thus, probable cause should exist to believe that the offender has violated a drug abuse statute or has committed an offense in which drug involvement has played a significant part.

Governing precedent which authorizes the Section 5(a) testing is found in *Schmerber v. California*, 384 U.S. 757 (1966). *Schmerber* is the seminal case reviewing non-consensual body fluid extraction and testing against the constitutional right to due process, the right against self-incrimination, and the right to privacy and dignity against unwarranted intrusion by the state. In this case, the court held that where probable cause existed to believe that the subject had committed a crime (driving under the influence of alcohol), the withdrawal of blood did not deny due process of law under the Fourteenth Amendment, and the withdrawing of blood, although an incriminating product of

compulsion, was neither testimony nor evidence relating to some communicative act and thus, did not violate the Fifth Amendment privilege against self incrimination. Finally, the court held that extraction of blood samples was a reasonable test to measure the presence of alcohol in the body of the accused and did not violate his right under the Fourth Amendment to be free of unreasonable searches and seizures. Blood testing of an accused for presence of prohibited substances in an offender's body (which may attenuate with time) lies clearly within the appropriate application of *Schmerber*, and because of the less intrusive nature of requiring the submission to a urine screen, the precedent applies, presumptively.

Swift and Reliable

Drug testing, along with close monitoring and supervision and the swift application of incentives and sanctions are the hallmarks of drug court. While, ideally, all substance abusing offenders should be tested within 24 hours of arrest, as a result of local constraints and impediments, this may not be feasible in all jurisdictions. In these cases, every reasonable effort should be made to administer the drug test as soon as possible.

In order to maintain the integrity of drug court, the drug court team must ensure that the drug testing procedures it employs are fair, accurate, and reliable. Each drug court should delineate clearly both the process for administering the drug tests as well as the responsibilities of both the court and the participant as it relates to drug testing. Drug courts, when practicable, should adhere to the drug testing standards set forth by the American Parole and Probation Association (APPA) in the *APPA's Drug Testing Guidelines and Practices for Adult Probation and Parole Agencies*.

Type and Frequency

The type and frequency of drug testing should be adjusted based upon the length of time an offender has been in the drug court program. When an offender initially enters drug court, he or she should be tested frequently. Conversely, the further along the offender is in the program, the frequency with which he or she needs to be tested will decrease. To alleviate some of the costs of drug testing to the courts, where feasible, offenders should be required, based on a sliding scale, to be responsible for the costs associated with the drug tests.

A variety of drug tests exist, including but not limited to, urinalysis, sweat patches, eye scans, those which require a laboratory confirmation as well as onsite drug tests which do not require such a confirmation. Individual drug courts must determine, while taking into consideration the primary drugs of choice in their respective communities, the drug test that will be the most comprehensive and effective for their needs. Each court should, however, use drug tests that are approved by both NIDA and the Federal Drug Administration (FDA).

Drug testing services may be contracted to any reference laboratory with forensic testing capabilities. Forensic testing refers to handling specimens which have potential legal implications, such as testing individuals in the criminal justice system. In addition, drug-testing sites should become certified by state licensing authorities, when possible.

In addition to forensic testing, drug courts also have the option of testing onsite for their initial screening of offenders suspected of drug usage. There are currently two types of onsite testing options available: onsite instrument-based drug testing, which uses a more formal laboratory-like instrument to detect possible drug usage and the onsite non-instrument-based drug testing, which relies on a device to process almost immediate results. Any onsite instrument-based drug test should have the capability to test for a minimum of five illegal drug categories, which may include marijuana, cocaine, amphetamines, barbiturates, opiates, PCP, benzodiazepines or other drugs of abuse impacting the region.

Drug tests also should utilize a proper chain of custody in order to maintain control and accountability of the specimen. In addition, when practical, drug tests should be monitored or observed as part of the chain of custody.

Regardless of the drug testing system employed, drug courts must ensure that test results are maintained in conformance with state and federal confidentiality laws. In addition, because testing within the drug court is designed for diagnostic and treatment use, a Memorandum of Understanding between and among team members should be executed to prevent the results from being used for prosecutorial or other purposes.

GOVERNANCE (SECTION 8)

Drug court judges and attorneys must continually remain cognizant of the due process rights of offenders. The proper exercise of the role of judge or lawyer in the drug court need not conflict with the strict standards of the Model Code of Judicial Conduct, the Model Rules of Professional Conduct, and the American Bar Association Standards of Criminal Justice.

Care must be taken to protect the Constitutional rights of offenders. Statutes should be drafted so that the Constitutional rights enjoyed by individuals after admission are governed by the letters of the drug court contract and consent forms executed at the time of admission. In order to ensure the fulfillment of the goals and objectives of the drug court, participating offenders must knowingly and voluntarily execute written consent forms, waiving rights or privileges that can legally be waived and are legally appropriate in order to enter into a drug court contract (see Appendix D for examples of consent forms). Offenders, in many cases, also must sign contingency contracts, prior to entering the drug court, which outline the rules of the drug court and make him or her aware of the consequences of non-compliance.

Collaboration

Since their inception, drug courts have recognized the inherent need for collaboration among a broad array of agencies within both the community and the state. In an effort to continue to promote this type of collaboration, and because drug courts need to conform to the culture of the local jurisdiction, local advisory committees should be established. The persons participating on the local advisory committee should be the policy makers (and reflect the composition of the drug court team) and other important local community leaders, including, but not limited to, members of the faith-based community, representatives from the departments of health or social services, Kiwanis members, and the like. The local advisory committees should take an active role in planning, implementing, and setting policy for the drug courts within their jurisdictions. The actual establishment of these committees should be controlled by the local drug court partners and should not be dictated by the state. Nevertheless, the local advisory committees should work in conjunction with the state drug court advisory commission to capture standardized data and ensure that the local drug court(s) comply with delineated standards.

The state drug court advisory commission (the commission) may be established statutorily or by an administrative order of the state supreme court. The culture of the state and the roles that each branch of government play with regard to drug courts should determine how the commission is established and what title it is given (*e.g.*, commission, committee, or board).

Some states may prefer to create the state governing body through the court system to ensure that the rules regulating drug courts are in compliance with, and under the auspices of, the state's supreme court. Other states may find that enlisting the power of the legislature to establish a statewide governing body is more suitable. This will have to be determined on a state-by-state basis. Thus, if necessary, the governance provisions of this Act may be deleted and referred to the state supreme court for an administrative order.

How the commission is established may ultimately affect its ability to function. What branch of government will determine its composition and leadership? If the commission is established by the court system, will it have the ability to control funding for drug courts? If so, how would that control be exerted? Would such control infringe upon the separation of powers? What is the best vehicle to allow the commission to function (*e.g.*, 501(c)(3) corporation or advisory committee to the legislature or court)? Once again, this may differ from state to state.

The chief purpose of the commission is to provide a comprehensive strategy for the drug court(s) in the state. It should provide a structure or framework for the institutionalization of drug court(s) and guidelines to ensure minimum standards and a means for statewide data collection, which will in turn support funding efforts.

PROGRAM INTEGRITY AND OFFENDER ACCOUNTABILITY (SECTION 9 OF ACT)

The continuing existence of drug courts is dependent upon proof of their successes. Data collection through systematic and uniform reporting is crucial to transition drug courts into mainstream judicial processing. A standardized system of data collection and reporting will allow for improved and broader understanding of drug court operations on a national basis.

Recidivism statistics are critical elements of data collection, and recidivism has been defined in a variety of ways. However, in 2003, the National Institute of Justice (NIJ) published a national survey on drug courts, defining recidivism as the arrest for a serious crime resulting in the filing of a charge. The term, “serious crime,” means a charge for which the sentence was at least one year. Most states refer to this level of charge as a felony.

States often differ in their statutory classifications and this should be taken into account when defining recidivism. For example, driving under the influence and possession of marijuana often are classified as misdemeanors and would not be captured under the NIJ definition of recidivism. However, arrests for these charges may be an important indicator of relapse and recidivism. In addition, states may decide to capture all arrests or only convictions or recommitments resulting from technical violations of supervision. Each state should consider how to define the term recidivism to capture information it deems important and continue to use the definition uniformly.

FUNDING (SECTION 10 OF ACT)

Funding sources and mechanisms are extremely varied and are of the utmost importance to drug courts (see Appendix E for examples of various state funding methods). According to the Focus Group on Institutionalizing Drug Courts, of the National Association of Drug Court Professionals (NADCP), “Funding patterns are often in flux as appropriation levels change and responsibilities for funding some types of government functions shift from local to state level or vice versa. The funding of drug court operations is particularly complex because so many different agencies are involved in the operation of successful drug courts. Funding may come from the local (county or municipal) funding authorities for some functions and from some state legislatures (directly or through state agencies) for other functions. Funding of treatment services and drug testing equipment and services, which are especially important components of the budgets of drug courts, is difficult” (National Criminal Justice Reference Service Website).

Some states by statute have impaneled commissions, committees, or boards consisting of members from the judiciary, prosecutor’s and public defender’s offices, departments of public health, mental health and substance abuse, corrections, probation and parole, and, in many cases, members from a state association of drug court

professionals to oversee, and make recommendations for, funding to local drug courts or local drug court management committees. This type of panel or commission allows for the marshalling of resources that previously were allocated to the various departments from general revenue. This reallocation of existing resources in many instances provides a mechanism for these various funding resources to “get all the money into one pot” and allow better management for drug court funding needs.

The majority of states implementing funding mechanisms for state drug courts have designated the funds as non-reverting. This is important, as in most states, general revenue over the last few years has been insufficient to meet the demands of the state, and unused funds are being reapplied. Many state general appropriations’ statutes provide that unused funds in the hands of specific departments or agencies revert to the general revenue fund if the same is unused at the end of the fiscal year. Language providing that monies in any drug court resource fund should not be transferred or placed to the credit of the general revenue fund of the state at the end of each fiscal year but shall remain deposited to the credit of the drug resource fund should circumvent any reversionary statutory language.

Offender payments of fees and costs should be a requirement of any statutory language. It is of the general opinion that an economic buy-in by the offender is necessary for the offender’s participation and success in any drug court program. Fee payment alone, however, by offenders is not sufficient to sustain drug court programs. Fee repayment or community service in lieu of payment is a necessary element of accountability for the offender. The court should be allowed great flexibility in the collection of fees assessed for drug court participation and should give consideration to the economic circumstances of each offender. At no time should the offender’s ability or inability to pay fees assessed by the court be a condition of offender’s acceptance into the drug court program.

CONCLUSION

The attached legislation is by no means comprehensive enough to address all issues in each state. Therefore, it should be used by potential drafters as a tool, and those who want to alter, edit or amend it should do so. Ensuring that the statute reflects state and local needs is critical to the passage of the legislation.

By drafting drug court legislation, each state’s drug court professionals effectively will be telling their lawmakers that drug courts are true and effective drug policy reform and are here to stay. They are valuable on many levels, all of which will benefit every member of the public; they save lives, they save money, and they “save” public safety. We are at a critical juncture in the war on drugs and crime, and it is imperative that drug court professionals in each state make this legislation a priority. There is no better time to enact this legislation, and the National Drug Court Institute is committed to assisting each state in its endeavors.

APPENDICES

APPENDIX A

NATIONAL AND STATE STATISTICS ON DRUG COURT EFFICACY

National Statistics

- A recently released National Institute of Justice report entitled “Recidivism Rates For Drug Court Graduates: National Based Estimates,” is representative of 17,000 annual graduates nationwide and found that recidivism rates for drug court participants one year after graduation were a mere 16.5 percent and only 27.5 percent after two years. These numbers are particularly impressive when compared to the recidivism rates of 60 – 80 percent that are typically experienced by those who do not participate in the drug court program.
- Approximately two-thirds of drug using offenders, nationally, are re-arrested for a new crime within three years of release from prison and roughly one-half are convicted of a subsequent crime or re-incarcerated (Langan & Levin, 2002).
- Between 50 percent and 70 percent of probationers fail to comply adequately with applicable conditions for drug testing and attendance in drug treatment (Taxman, 1999).
- Approximately 50 percent of clients who complete 12 months or more of drug abuse treatment remain abstinent for an additional year following completion of treatment (McLellan, et al., 2000).
- Reviews of nearly 100 drug court evaluations concluded that an average of 60 percent of drug court clients attended 12 months or more of drug treatment and roughly one-half graduated from the program. This represents a six-fold increase in treatment retention over most previous efforts (Belenko, 2001).

State Statistics*

Alaska

- In 2003, the Anchorage Felony DUI-Drug Court reported that 96 percent of defendants associated with the court had not been convicted of a new offense (Alaska Court System, 2003).
- In fiscal years (FY) 2002 and 2003, there were only 4 reoffenders; all had exited the program prior to graduation (Alaska Court System, 2003).
- The Bethel DUI/Therapeutic Court reported that 89 percent of its participants had no new offenses on their records in FY 2003 (Alaska Court System, 2003).
- In FY 2003, the Anchorage Felony DUI-Drug Court did not have any reoffenders (Alaska Court System, 2003).

* Unless otherwise noted, all state statistics were provided by drug court coordinators or judges within the respective states. Contact information for these sources will be provided upon request.

Arizona

- One study found that rearrest rates for any crime were lower among drug court participants than the general population. Similarly, another study found that the Coconino County DUI/Drug Court saves the state a tremendous amount of money as the cost per year, per participant is \$6,408 compared with a cost of \$22,740 for those offenders who cycle through the traditional criminal justice system.
- Within three years of completion of the program, the rearrest rate for participants of the Maricopa County Drug Court was 33 percent, compared to 47 percent of the drug using offenders who cycled through the traditional criminal justice system.

Arkansas

- Of the defendants who had completed the drug court treatment portion of the combined drug court/probation program, as of September 30, 2000, only 6.5 percent had court actions pending for violations of the terms of probation (Hansen, 2000).

California

- In Los Angeles County, 24 percent of drug court participants were rearrested up to 12 months post-drug court, compared with 37 percent of defendants in standard diversion and 51 percent of felony drug defendants not diverted (Belenko, 2001). Similarly, the cost savings were minimally estimated to be \$18 million per year (Judicial Council of California and California Department of Alcohol and Drug Programs, 2002).
- The Superior Court, County of Orange implemented its first drug court nine years ago. To date, there have been over 800 graduates with only a 22 percent recidivism rate. Since the beginning of the program, 50 drug free babies have been born to participants. According to the court's evaluation, released in October 2001, findings revealed that recidivism doubled for probationers who did not participate in the drug court program (38% vs. 19%) (Belenko, 2001).

Colorado

- Due to quicker sentencing as a result of the drug court program, the Denver Drug Court saved \$360-840 per offender for a yearly savings of \$1.8 – 2.5 million (Granfield & Ebyrma, 1997).

Delaware

- An evaluation of the juvenile drug court diversion program in Delaware found that only 47.7 percent of juvenile drug court graduates recidivated over a period of 18 months, as opposed to 66 percent of the comparison group (Delaware Criminal Justice Council, 1999). Similarly, another study found that only 26 percent of rearrests for adult drug court graduates were for felonies, compared with 56 percent for non-completers (Whillhite and O’Connell, 1998).

Florida

- After a 30-month follow up period from the date of program admission, there was a 48 percent recidivism rate for graduates, 86 percent for non-graduates, 63 percent for the comparison sample of offenders sentenced to probation and matched to the graduates, and 71 percent for the comparison sample matched to the non-graduates in Escambia, Florida (Belenko, 2001).

Georgia

- Seventy percent of the participants in the Hall County Drug Court have graduated from, or are still actively involved in, the drug court program. Additionally, of 40 graduates, only two have been rearrested.
- Eighty-eight percent of the offenders who graduated from the Fulton County Drug Court have not been convicted of a subsequent offense. This compares with a recidivism rate of more than 50 percent for eligible offenders who did not participate in the program. These statistics are reflective of recidivism rates since the court’s inception in 1998.

Hawaii

- The rearrest rate for the Oahu Drug Court is 28 percent. This number is particularly impressive when compared to the rearrest rate of 53 percent for those offenders who are on traditional probation (The HawaiiChannel, 2004).

Idaho

- A report issued to the governor of Idaho in 2002 stated that “long-term, closely supervised substance-abuse treatment . . . reduces costs associated with criminal processing, incarceration, and recidivism (Idaho Supreme Court, 2002).”

Illinois

- The average number of arrests 12-months after drug court entry decreased in Madison County, Illinois by 69 percent for drug court participants (from 1.3

arrests to 0.4), compared with a 50 percent reduction for the comparison group (1.0 arrests prior to drug court screening to 0.5 after) (Belenko, 2001).

Indiana

- Since its inception, the recidivism rate for the Vigo County Drug Court is 18 percent. This is particularly impressive when compared to the recidivism rates of 60 – 80 percent that are typically experienced by those who do not participate in the drug court program.

Iowa

- The rearrest rate for drug court participants in the Polk County Drug Court was 33 percent; whereas the number of control group rearrests was 74.6 percent. Similarly, each felony drug court participant in the program saved the state almost \$25,000 (Stageberg, 2001).

Kentucky

- The cost savings to the Commonwealth for the first 1,000 drug court graduates is \$14,113,940.

Maine

- Only 21 percent of drug court graduates who participated in the State of Maine Juvenile Corrections Substance Abuse Treatment Network and Juvenile Drug Treatment Court had a relapse of drug use and a re-arrest while in the program. Additionally, 65.7 percent of participants (active, graduated, or terminated) were both attending school and working while only 5.3 percent of participants were neither attending school nor working (Anspach & Ferguson, 2002).

Maryland

- Seventy-five percent of drug court participants in the state avoided rearrest during a six-month tracking period. Similarly, the reconviction rate for a new crime for drug court participants three months after graduation was only seven percent (McGee, 1998).

Minnesota

- Seventy-eight and one half percent of Hennepin County drug court graduates had no new offenses on their record nine months after graduation. Additionally, 91.8 percent had no new drug offenses (Ericson, Welter, & Johnson, 1999).

Mississippi

- The estimated annual cost to operate the Fourteenth Circuit Court is less than \$5,000 per drug court participant as compared to \$16,757 per inmate at the Mississippi Department of Corrections.
- According to the Associated Press State and Local Wire, Mississippi could save \$5.4 million annually if 500 people a year successfully complete drug court programs instead of going to prison.

Missouri

- Recidivism rates for felonies in the Jackson County Drug Court were reduced from 50 percent to 35 percent and for any type of rearrest from 65 percent to 45 percent (Belenko, 2001).

Nebraska

- The recidivism rate for the three juvenile drug courts was 28 percent. The recidivism rate for the state's adult drug court was 18 percent.

New Jersey

- The rearrest rate for drug court participants for indictable crimes in New Jersey was only eight percent.
- The cost savings realized for each drug court participant in New Jersey is approximately \$16,000, as it costs \$28,000 to incarcerate non-drug court participants and a maximum of \$12,000 to treat those in the drug court program.

New Mexico

- Drug courts in New Mexico have recidivism rates between six and 14 percent, while the recidivism rate of parolees who return to New Mexico prisons exceeds 60 percent.
- Drug courts save the state approximately \$23,700 per inmate as it costs \$3,300 for each drug court participant per year versus \$27,000 to incarcerate an offender.

New York

- The rearrest rate among 18,000 drug offenders who had completed drug court in the New York State drug court system was, on average, 29 percent lower (13% to 47%) over three years than the rate for the same type of drug offenders who opted for prison time without treatment (Rempel, et al., 2003).

-
- The cost savings were tremendous, as the New York State drug court system saved \$254 million in prison-related expenses by diverting 18,000 non-violent drug offenders into drug courts in lieu of incarceration (Rempel, et al., 2003).

North Carolina

- Twenty-six percent of drug court participants were rearrested for a new offense while in the drug court program, and only 17.9 percent of drug court graduates were rearrested one year after graduating from the drug court program.

North Dakota

- Of those youths who had been in the juvenile drug court program for more than two months, the recidivism rate was 16 percent, compared with a rate of 57 percent over the same period for the comparison group (Thompson, 2001).
- The daily cost of keeping a youth in juvenile drug court is \$14.73; estimates of keeping the same youth in jail or a group residential treatment facility are \$120 and \$100, respectively (Thompson, 2002).

Ohio

- With regard to arrest, there is a statistically significant difference between the drug court group and the comparison group of offenders that went through the traditional criminal justice system. Nearly half (46%) of the comparison group were rearrested during the follow-up period as compared to 34 percent of the drug court group.

Oklahoma

- An evaluation of the Beckham County Juvenile Drug Court found that of the youths in the drug court, 78 percent of them remained in, and successfully completed, the program. In addition, 78 percent of the youths that successfully completed the drug court program remained in school (Oklahoma Criminal Justice Resource Center, 1999).

Oregon

- Rearrest rates were lower for drug court participants at 37 percent versus 53 percent for those offenders who did not participate in drug court (Belenko, 2001).

Pennsylvania

- A recent evaluation in Chester County, Pennsylvania found that 5.4 percent of the drug court participants were rearrested for any offense as compared to 21.5

percent of matched offenders sentenced to probation prior to the drug court implementation (Belenko, 2001).

Rhode Island

- The recidivism rate for juvenile drug court participants was 5.03 percent. The cost savings were between \$90,000 and \$94,000 per juvenile.

Tennessee

- From October 1998 to July 2003 only 30 percent of program graduates were rearrested; only 17 percent of program graduates were reincarcerated (Tennessee Office of Criminal Justice Programs, 2003).

Texas

- Over a 27-month period, recidivism rates for participants in the Dallas County Drug Court (DIVERT program) had a 15.6 percent rearrest rate, as compared to 39.5 percent of those who dropped out of the program and 48.7 percent of those in the traditional court system. Similarly, the cost savings were large; for every dollar spent on drug court, \$9.43 in tax dollar savings was realized over a 40-month period (Turley, 2002).

Utah

- The recidivism rate for alcohol and drug offenses for participants in the Third District Juvenile Drug Court was 16.2 percent (Harrison, Parsons, & Byrnes, 1998).

Virginia

- Only 3.2 percent of those graduating from the Roanoke Drug Court subsequently were convicted of another felony offense. This compares with a 50 percent recidivism rate for Virginia's convicted drug offenders who were given alternate sentences such as probation or incarceration.
- The cost of drug court participation is approximately \$3,000 per year, per participant, compared with over \$39,000 to incarcerate an adult drug offender in Virginia's prisons and approximately \$58,000 to incarcerate a juvenile.

Washington

- The average drug court participant produces \$6,779 in benefits that stem from the estimated 13 percent reduction in recidivism. Those benefits are made up of \$3,759 in avoided criminal justice system costs paid by taxpayers and \$3,020 in avoided costs to victims.

-
- The estimated annual cost of incarcerating people convicted of drug crimes in 2001 was about \$80 million. It cost Washington taxpayers \$54.82 million just to house the 2,180 individuals imprisoned in 2001 for drug delivery crimes, while the estimated cost for housing the 5,043 individuals convicted of drug possession was \$25.18 million. These figures do not include the costs to incarcerate addicts who committed other crimes in 2001 such as burglaries, car thefts, and forgeries to obtain money for drugs.

Wisconsin

- There has been a 70 percent successful completion rate since the program's inception in June 1996 (Dane County Drug Court Treatment Program, 2003).
- Of program graduates, 76 percent have not been rearrested; in contrast, only 45 percent of comparison group individuals have not been rearrested (Dane County Drug Court Treatment Program, 2003).
- The average number of new criminal arrests is 67 percent lower for graduates than non-graduates; the average number of new criminal arrests is 60 percent lower for graduates than for the comparison group (Dane County Drug Court Treatment Program, 2003).
- The estimated per diem cost per drug court participant for 2003 was \$17.78, while the comparative cost per diem for jail stays was estimated at \$60.41 (Dane County Drug Court Treatment Program, 2003).

Wyoming

- The average cost per participant in drug court was \$4,800 per participant, per year, compared to \$25,000 per offender, per year, for incarceration.

APPENDIX B

THE 10 KEY COMPONENTS

Adapted from *Defining Drug Courts: The Key Components*
(NADCP, 1997)

Key Component #1

Drug courts integrate alcohol and other drug treatment (substance abuse) services with justice system case processing. The mission of drug courts is to stop the abuse of alcohol and other drugs and related criminal activity. Drug courts promote recovery through a coordinated response to offenders dependent on alcohol and other drugs. Realization of these goals requires a team approach, including cooperation and collaboration of the judges, prosecutors, defense counsel, probation authorities, other corrections personnel, law enforcement, pretrial services agencies, evaluators, an array of local service providers, and the greater community.

Key Component #2

Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights. To facilitate an offender's progress in treatment, the prosecutor and defense counsel must shed their traditional adversarial courtroom relationship and work together as a team. Once an offender is accepted into the drug court program, the team's focus is on the offender's recovery and law-abiding behavior—not on the merits of the pending case.

Key Component #3

Eligible participants are identified early and promptly placed in the drug court program. Judicial action, taken promptly after arrest, capitalizes on the crisis nature of the arrest and booking process. Rapid and effective action also increases public confidence in the criminal justice system.

Key Component #4

Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services. While primarily concerned with criminal activity and alcohol and drug use, the drug court team also needs to consider co-occurring problems such as mental illness, primary medical problems, unemployment, domestic problems, and educational deficits. The origins and patterns of alcohol and drug problems are complex and unique to each individual. They are influenced by a variety of accumulated social and cultural experiences. If treatment is to be effective, it must also call on the resources of primary health and mental health care and make use of social and other support services.

Key Component #5

Abstinence is monitored by frequent alcohol and other drug testing. Frequent court-ordered alcohol and drug testing is essential. An accurate testing program is the most objective and efficient way to establish a framework for accountability and to gauge each offender's progress. Alcohol and drug testing is central to the drug court's monitoring of offender compliance.

Key Component #6

A coordinated strategy governs drug court responses to participant's compliance. A coordinated strategy can provide a common operating plan for treatment providers and other drug court personnel. Drug courts must reward cooperation as well as respond to noncompliance. An offender's progress through the drug court experience is measured by his or her compliance with the treatment regimen. Cessation of drug use is the ultimate goal of drug court treatment. There is value in recognizing incremental progress toward the goal, such as showing up at all required court appearances, regularly arriving at the treatment program on time, attending and fully participating in the treatment sessions, cooperating with treatment staff and submitting to regular testing.

Key Component #7

Ongoing judicial interaction with each drug court participant is essential. The judge is the leader of the drug court team. The structure of the drug court allows for early and frequent judicial intervention. A drug court judge must be prepared to encourage appropriate behavior and to discourage and address inappropriate behavior. The drug court judge needs to be knowledgeable about treatment methods and their limitations while also recognizing that he is not the expert and deferring to the treatment professional where appropriate. Regular status hearings are used to monitor offender performance.

Key Component #8

Monitoring and evaluation measure the achievement of program goals and gauge effectiveness. Fundamental to the effective operation of drug courts are coordinated management, monitoring, and evaluation systems. The design and operation of an effective drug court program result from thorough initial planning, clearly defined program goals, and inherent flexibility to make modifications as necessary. Management and monitoring systems provide timely and accurate information about program operations to the drug court's managers, enabling them to keep the program on course, identify developing problems, and make appropriate procedural changes.

Key Component #9

Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations. All drug court staff and leaders should be involved in education and training. Education and training programs help maintain a high level of professionalism, provide a forum for solidifying relationships among criminal justice and alcohol and drug treatment personnel, and promote a spirit of commitment and collaboration. Periodic education and training ensures the drug court's goals and objectives, as well as policies and procedures, are understood not only by the drug court leaders but also by those indirectly involved in the program.

Key Component #10

Forging partnerships among drug courts, public agencies, and community-based organizations generate local support and enhances drug court effectiveness. The drug court is a partnership among organizations. Because of its unique position in the criminal justice system, a drug court is especially well suited to develop coalitions among private community-based organizations, public criminal justice agencies, and alcohol and drug treatment delivery systems. Forming such coalitions expands the continuum of services available to drug court participants and informs the community about drug court concepts.

APPENDIX C

SANCTIONS AND INCENTIVES GATHERED FROM THROUGHOUT THE NATION



THE NATIONAL ASSOCIATION OF DRUG COURT PROFESSIONALS d.b.a. NATIONAL DRUG COURT INSTITUTE

Sanctions and Incentives

The following list of court responses are actual sanctions and incentives from operational drug courts throughout the nation and are compiled by NDCI to encourage broader responses in drug court

| SANCTIONS | INCENTIVES |
|--|--|
| Day in jury box | Video rental coupons |
| Penalty box | Court: All-Star list, early call (“100% Club”) |
| Observe other court proceedings | Day trip |
| ½ day in court | Praise, compliments from the Judge |
| Court: Stay to end of court | Fishbowl drawings |
| Team round-table with client | Community recognition for drug-free baby |
| Increase UA | Hugs |
| Weekend jail (work detail) | Grocery store donations |
| Short-term jail sentence | Resume writing assistance |
| Increase time in phase or track | Clothes |
| Verbal and or written apologies to judge and group | Dental assistance |
| Speak to public (church/school groups) | Medical assistance |
| Essays – what were triggers, how to avoid | Haircuts |
| Return to lower phase | Makeup sessions |
| More frequent testing | Excused early |
| Fines | Car repairs (brakes/tires) |
| Curfew/check-in time | Restaurant gift certificates |
| Return/forfeit coupons/certificates | Interview/counseling |
| Lengthen time in program | Cards redeemable/points (DVDs/CDs) |
| Take away driving privileges | Candy |
| Admonishment from Judge | Applause/special recognition |
| Tough physical labor | Graduation certificates |

Sanctions and Incentives

| SANCTIONS | INCENTIVES |
|---|---|
| Wash police cars | Wave fees |
| Clean jail | Plaque |
| Pick up trash on roadside | Less UA |
| Sweep gym | Flowers |
| Cleaning graveyard | Lunch with judge |
| Clean animal shelter/police stables | Tattoo removal |
| Work on habitat for humanity house | Autographs (coaches, musicians, actors) |
| Unpaid clean-up detail | Concert tickets |
| Work crew | Free daycare |
| Community service, 5-6 hours per day if unemployed | Point Prize System |
| Arts/crafts project | Babysitting services, diapers, baby clothes, food |
| Electronic surveillance | Baby food |
| Electronic monitoring | Picnics/parties |
| GPS monitoring | Invite community leaders to graduation |
| Ankle bracelet | Less court appearances |
| Write/recite serenity prayer (anti-drug poems/essays) | Graduation |
| Place in geographically remote residential treatment | Movie passes |
| Restorative justice (face-to-face mtg., offender/victims) | Removing money owed |
| Increased court appearances | Fee reduction |
| Observations of sentencing | Phase acceleration |
| Geographical restrictions | Kudos |
| Detox (also used as volunteer work) | Certificates |
| Assist at UA | T-Shirts (Phase I, Phase II) |
| Chew outs (AC) | Bookmarks |
| Warnings | Tokens |
| One-on-one with counselor | Bowling tournament |
| Peer Review | Key chains |
| Round table w/ team | Recovery Games (Olympics for Recovering Addicts) |
| Back phasing | Drug Court Intermural |
| Role reversal or self imposed sanctions | Co-ed Softball |
| FUBU | Coffee cups |
| Journaling | Watches |
| Enforced relocation of home | Gift cards |
| Pagers For All | Birthday cards |
| Home visits | Tuition or stipend |

Sanctions and Incentives

| SANCTIONS | INCENTIVES |
|--|-------------------------------------|
| Termination | Cookies/cake |
| Civil Contempt | Pizza |
| Limitation of privileges | Gift Certificates |
| Suspension of privileges | Turkeys |
| Admonishment from bench/team | Books |
| Ride along with law enforcement | Sober Dances |
| Keep, write, complete calendar and return calendar to court | Happy Meals |
| Anger management classes | Eye care |
| Half-way house placement | Family praise |
| Essays for court | Graduation |
| Extra drug screens | Stars in court chart |
| Open apology to group | Grant or increase travel privileges |
| Custody for the session | Gifts to children |
| Increase AA/NA | Podiatry services |
| Restriction to Program – No time out | Sports tickets |
| House arrest w/ breathalyzer | Stars |
| Increased fees | Scholarships/donated courses |
| Increase homework | Group positive feedback |
| Relapse group | Coupons to local establishments |
| Weekly one-on-ones | Care package |
| Add time to probation | Early termination from probation |
| Reading list-complete | Passes for special events |
| Tour state prison | Acknowledgement of clean time |
| Increased supervision | Afternoon session |
| Tour morgue | Monthly sessions |
| Increase status | Job placement |
| Life skills program – how to: <ul style="list-style-type: none"> ✓ open a bank account ✓ balance a check-book ✓ develop a resume ✓ dress for a job interview | Health Club memberships |
| | Bus passes |
| | Out of state travel |
| | Free legal advice |
| | Pictures that document progress |

Sanctions and Incentives

| SANCTIONS | INCENTIVES |
|------------------|--|
| | Recognize former graduates |
| | Earned chips |
| | Gym passes |
| | Report cards |
| | Opportunity to mentor neophyte |
| | Visitation with child |
| | Dermatologist assist with skin care |
| | Amusement parks |
| | Books |
| | Sneakers |
| | Early graduation |
| | Gift certificate to clothing store |
| | Expunge record |
| | Home improvement assistance or gift |
| | Massage |
| | Group leader for night/ choose group nights |
| | Calling cards |
| | Lift curfew |
| | Less PO contact |
| | Get to miss group |
| | Big Book |
| | Transportation vouchers to treatment, probation, and court |

APPENDIX D

EXAMPLES OF MEMORANDA OF UNDERSTANDING, CONSENT FORMS, AND PARTICIPANT CONTRACTS

Appendix D-1

Memorandum of Understanding

Between
County of San Diego, Health and Human Services Agency,
Alcohol and Drug Services
And
County of San Diego, Probation Department
And
County of San Diego, Office of the District Attorney
And
San Diego City Attorney's Office
And
County of San Diego, Office of the Public Defender
And
San Diego Police Department
And
San Diego Superior Court

A. Program Description / Introduction

This agreement is entered into between Alcohol and Drug Services, hereafter referred to as ADS; the Probation Department, hereafter referred to as Probation; Office of the District Attorney, hereafter referred to as District Attorney; San Diego City Attorney's Office, hereafter referred to as City Attorney; the Office of the Public Defender, hereafter referred to as Public Defender; the San Diego Police Department, hereafter referred to as SDPD and San Diego Superior Court, hereafter referred to as Superior Court, to document the roles and responsibilities of each agency as members of the Adult Drug Court Teams. For purposes of brevity, other Law Enforcement Agencies represented on the Drug Court teams are not included in this MOU, as they are represented on an ad hoc basis, based on availability of officers.

B. Mission Statement

The San Diego Superior Court Adult Drug Court Program's Mission Statement, as previously approved on July 30, 2002 by the Judges' Substance Abuse Policy Advisory Committee, reads as follows:

The mission of the Adult Drug Court Program is twofold: to improve lives that have been impacted by drug addiction, and to increase public safety by reducing the amount and frequency of drug related crimes. These goals are accomplished by assisting the participants in leading clean, sober, independent and productive lives. The tools used to provide this assistance are mandated treatment, rigorous court supervision, sanctions and the dedication of caring and knowledgeable collaborative team members.

C. Provisions

To this end, each agency agrees to participate by coordinating and/or providing the following:

Alcohol and Drug Services (ADS) agrees to:

- Serve as the lead agency for applying for and administering the grants that support case management, treatment and testing for the Adult Drug Court Programs. Responsibilities shall include the following:
 1. Through a competitive procurement process, contract with qualified Case Managers and Treatment Providers to provide treatment and testing services to Adult Drug Court participants;
 2. Oversee all data collection on Drug Court participants that is performed by contracted Treatment Providers and Case Managers, using the Phasestm database.
 3. Monitor Case Management and Treatment Provider programs for contract compliance;
 4. Compile and provide Drug Court reports to grantors and Drug Court stakeholders as requested or mandated;
 5. Designate, through the Case Management or Treatment Provider Managers, one or more representatives to participate as co-equal members of the Drug Court teams in each of the court divisions;
 6. Comply with all Drug Court policies and procedures that have been previously agreed upon by all parties.
 7. Send representatives to Drug Court conferences and training seminars, based on availability of funding;
- Alcohol and Drug Services will serve as the liaison to the State of California Department of Alcohol and Drug Programs and other grantors for matters relating to all grants supporting the Adult Drug Court Programs.

The Probation Department agrees to:

- Identify and recommend referrals of felony probationers to the Adult Drug Court Programs, based on agreed-upon eligibility criteria in the policies and procedures established pursuant to AB444;
- Supervise Drug Court Partnership (DCP) Felony Drug Court participants' compliance with court-ordered probation conditions;
- Designate Probation Officers to participate in the DCP Felony Drug Court in each of the court divisions as co-equal members of the DCP Felony Drug Court Team;

-
- Conduct criminogenic assessments using LSI tools, and sharing results with DCP Felony Drug Court Team for purposes of formulating individual case plans;
 - Compile DCP-mandated data and forward to ADS, on a monthly basis, regarding participants of the DCP Felony Drug Court program in each of the court divisions;
 - Send representatives to Drug Court conferences and training seminars, based on availability of funding;
 - Comply with all Drug Court policies and procedures that have been previously agreed upon by all parties.

The District Attorney and City Attorney agree to:

- Screen eligible participants, based on established criteria, for placement into the Adult Drug Court Programs in each of the court divisions;
- Designate representatives to participate as co-equal members of the Drug Court Team in each of the court divisions. (Note: City Attorney representation is limited to the Central Division);
- Research recidivism information on all participants that have successfully completed the Drug Court programs;
- Provide recidivism information to ADS and the Superior Court, based on mutually agreed upon formats and reporting frequency;
- Send representatives to Drug Court conferences and training seminars, based on availability of funding;
- Comply with all Drug Court policies and procedures that have been previously agreed upon by all parties.

The Public Defender agrees to:

- Identify and recommend referrals of eligible Public Defender clients to the Adult Drug Court;
- Represent Adult Drug Court participants in all court divisions, unless otherwise ordered by the court;
- Review Drug Court Contract with defendant prior to placement into the Drug Court program;
- Designate representatives to participate as co-equal members of the Drug Court Team in each of the court divisions;
- Send representatives to Drug Court conferences and training seminars, based on availability of funding;
- Comply with all Drug Court policies and procedures that have been previously agreed upon by all parties.

The San Diego Police Department agrees to:

- Provide a full-time Law Enforcement Liaison Officer to the South County Division's and Central Division's Drug Court program;
- Designate representatives to participate as co-equal members of the Drug Court Team in the South County and Central Divisions;
- Compliance monitoring of Drug Court participants in the South County and Central Divisions, including periodic house checks;
- Entry of Central and South County Drug Court participant information into the County-wide Officer Notification System (ONS);
- Send officers to Drug Court conferences and training seminars, based on availability of funding;
- Comply with all Drug Court policies and procedures that have been previously agreed upon by all parties.

The Superior Court agrees to:

- Designate a Drug Court Judge, Courtroom clerk and Courtroom for all Drug Court Team meetings and Drug Court proceedings in each of the court divisions;
- Comply with all Drug Court policies and procedures that have been previously agreed upon by all parties.
- Send representatives to Drug Court conferences and training seminars, based on availability of funding;
- The Drug Court Judge will participate as a Drug Court team member. The Drug Court Judge will make the final decision when consensus cannot be reached by all team members or as otherwise appropriate.

D. Mutual Indemnification

The participating agencies agree to indemnify, defend and hold harmless each other and their officers, agents and employees from any and all claims, actions or proceedings arising solely out of the acts or omissions of the indemnifying agency in the performance of this Memorandum of Understanding.

The participating agencies agree that each is acting in an independent capacity and not as officers, employees or agents of the other agencies.

E. Term of Agreement

This Agreement is effective on February 3, 2003, and may be renewed each year upon mutual agreement of all parties.

F. Fiscal Terms

This Memorandum of Understanding does not involve an exchange of funds. The parties, instead, agree to participate in an exchange of services as specified in Item C, Provisions.

G. Terms And Conditions

All terms and conditions of the Agreement are subject to the continuation of Drug Court funding for treatment and testing of Adult Drug Court participants.

H. Termination of Memorandum of Understanding

Upon mutual consent of all parties, this Memorandum of Understanding is subject to further negotiation and revision as required to support the needs of the Adult Drug Court programs. Any changes shall be in writing and signed by all parties herein or their duly appointed representatives authorized to act on their behalf.

This Memorandum of Understanding may be terminated by any party for any reason by giving a thirty calendar day written notice.

I. This Memorandum of Understanding will be reviewed on a yearly basis by the San Diego County Drug Court Planning Committee and revised as necessary upon mutual agreement of all parties.

Signatures of Authorized Representatives:

Al Medina
Alcohol and Drug Program Administrator

Date

Alan Crogan
Chief Probation Officer, County of San Diego

Date

Bonnie M. Dumanis
District Attorney, County of San Diego

Date

Casey Gwinn
San Diego City Attorney

Date

Steven Carroll
Public Defender, County of San Diego

Date

David Bejarano, Chief
San Diego Police Department

Date

Richard E. L. Strauss, Presiding Judge
San Diego Superior Court

Date

CONTACTS

HHS, Alcohol and Drug Services:

- NAME: Sharon Cornish
- TITLE: Justice Programs Coordinator
- PHONE: (619) 692-5695
- MAIL STOP: P-571
- E-MAIL: Sharon.Cornish@sdcounty.ca.gov

Probation Department:

- NAME: Jeannie Emigh
- TITLE: Probation Director
- PHONE: (619) 515-8331
- MAIL STOP: S-236
- E-MAIL: Jeanie.Emigh@sdcounty.ca.gov

District Attorney:

- NAME: Lori Koster-Temko
- TITLE: Deputy District Attorney
- PHONE: (619) 515-8410
- MAIL STOP: D-421
- E-MAIL: lkoster@sdca.org

City Attorney:

- NAME: Joan Dawson
- TITLE: Deputy City Attorney
- PHONE: (619) 533-5563
- MAIL STOP: City-61
- E-MAIL: Jdawson@sandiego.gov

Public Defender:

- NAME: Carl Arnesen
- TITLE: Special Assistant for Support Services
- PHONE: (619) 338-4638
- MAIL STOP: C-277
- E-MAIL: carnesen@sdcounty.ca.gov

San Diego Police Department:

- NAME: Terry McClain
- TITLE: Sergeant
- PHONE: (619) 531-2918
- MAIL STOP: City-756
- E-MAIL: tmclain@pd.sandiego.gov

Superior Court:

- NAME: Janice Dame
- TITLE: Collaborative Courts Coordinator
- PHONE: (619) 615-6359
- MAIL STOP: C-44
- E-MAIL: Janice.Dame@sdcourt.ca.gov

MOU – Adult Drug Court

February 3, 2003

Appendix D-2

MEMORANDUM OF UNDERSTANDING

The Seventh Judicial District having united in purpose with The Oklahoma County District Attorney's Office, The Oklahoma County Public Defender's Office, The Oklahoma County Sheriff's Office, The Oklahoma City Police Department, Department of Corrections Office of Probation and Parole, and designated substance abuse treatment providers (being Drug Recovery Incorporated and Turning Point) agree to collaborate in an effort to address substance abuse and drug related criminal activity in Oklahoma County.

In and effort to support a comprehensive program of services to meet the needs of qualified participants we, the team members, commit to the following:

DRUG COURT JUDGE: The Oklahoma County District Court agrees to provide a Judge which will preside over the Drug Court. The Drug Court Judge is responsible for adhering to the Oklahoma Drug Court Act and all revisions to the act with special consideration being given to the promulgation of any community-based rules deemed necessary for the success of the Drug Court. As a member of the Oklahoma County Drug Court Team the assigned judge will preside over the court proceedings and monitor appropriate application of disciplines, sanctions and incentives while maintaining the integrity of the court.

DRUG COURT COORDINATOR: As a member of the Oklahoma County Drug Court Team the assigned coordinator will be responsible for grant writing, maintaining individual files on participants, compiling statistical data, preparation and management of Drug Court dockets, soliciting community support through education and linkages in an effort to enhance services available to the participant.

ASSISTANT DISTRICT ATTORNEY: As a member of the Oklahoma County Drug Court Team the assigned Assistant District Attorney will review all potential participants for eligibility, actively participate in staffing of cases, and interact in a non-adversarial manner to address revocations, pleas and application of sanctions and incentives as they apply to the participant.

ASSISTANT PUBLIC DEFENDER: As a member of the Oklahoma County Drug Court Team the assigned Assistant Public Defender will actively participate as defense counsel by advocating for the participant during staffing and court proceedings in a non-adversarial manner, assist with the negotiation of plea agreements, completion of necessary documents to facilitate the treatment process for the participant.

DESIGNATED SUBSTANCE ABUSE TREATMENT PROVIDER: As a member of the Oklahoma County Drug Court Team the designated Treatment Providers (being Drug Recovery Inc and Turning Point) will participate in weekly staffing and make treatment recommendations to the Court. In addition, the treatment provider will identify and

provide a continuum of care for participants while advocating on behalf of the client and for the integrity of the Court.

DEPARTMENT OF CORRECTIONS – OFFICE OF PROBATION AND PAROLE: As a member of the Oklahoma County Drug Court Team the assigned Probation Officer will be responsible for implementing the appropriate supervision level based on established measures, provide community linkages and referrals to appropriate agencies, monitor accountability of social activities and home environment of the participant.

OKLAHOMA COUNTY SHERIFF’S OFFICE: As a member of the Oklahoma County Drug Court Team the assigned Deputy Sheriff will be responsible for assisting with background investigations of potential participants, provide inter-county transports to treatment facilities, follow-up on warrants issued through the Court, monitor sanctions and compliance of participants.

OKLAHOMA CITY POLICE DEPARTMENT: As a member of the Oklahoma County Drug Court Team the assigned Oklahoma City Police Officer will act as a liaison between the program and The Oklahoma City Police Department. The police officer will be responsible for dissemination of information to officers that come in contact with or might come in contact with Drug Court participants to assure reasonable and appropriate measures are used when checking the participants for compliance. In addition, the police officer will be responsible for assisting with background investigations of potential participants, provide inter-county transports to treatment facilities, follow-up on warrants issued through the Court, monitor sanctions and compliance of participants.

NOTE: Each team member will be responsible for dissemination of information to their respective agency with regard to changes in state law that apply specifically to Drug Court participants, education of peer professionals on the program and develop community linkages which enhance the effectiveness of the program.

In creating this partnership and uniting around a single goal of addressing an underlying problem affecting our community, we are pledged to enhance communication between the courts, law enforcement and treatment programs. Through this linkage of services, we expect greater participation and effectiveness in addressing drug offenders involved in the criminal justice system.

Oklahoma City Drug Court, OK
Memorandum of Understanding
Team Member Roles

Appendix D-3

CONFIDENTIALITY STATEMENT FORM

SAN DIEGO SUPERIOR COURT

I, _____, as a participating member or guest of the Drug Court, duly recognize my responsibility to the confidentiality of the Drug Court Program, and hereby agree:

1. Any information discussed at a team meeting shall remain confidential and will not be revealed to anyone.
2. Names of program participants will be disseminated to team members* only.
3. Any information gathered during a 4th waiver search will be shared with team members* only unless it relates to evidence of a new crime.
4. Photos, Drug Court files and addresses of Drug Court participants will remain confidential, to be used by Drug Court Team members* only.
5. Warrants of arrest are not confidential.
6. Information in ARJIS/ONS system is not confidential.

Signed: _____ Date: _____

Note: This form is necessary in order to comply with Title 42 of the code of Federal Regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records.

* Team members include law enforcement liaison officers and all team back-up members.

TREATMENT PROVIDER PROCEDURES

1. Treatment providers are required to fax weekly progress reports on participants to the CCRC Drug Court Office by noon on Thursday each week. These reports are for the information of the Drug Court Team and Presiding Judge at the following Monday and Tuesday court sessions.
2. Treatment providers are to provide any and all requested information or updates on participants requested by CCRC Assessor/Case Managers.
3. CCRC Drug Court Assessor/Case Managers will make periodic site visits to treatment providers. Treatment providers are required to provide, if requested, certifications of staff and counselors, and tours of the facilities for monitoring of compliance with treatment standards.
4. Treatment providers are to report immediately to the CCRC Drug Court “Hot Phone” any of the following occurrences:
 - **All positive drug test results.**
 - A participant leaving the program or being removed from the program.
 - A participant not abiding by the Drug Court contract or treatment program’s rules/contract in any other way.
5. **The following procedures are mandated per the Drug Court Presiding Judge:**
 - **Treatment providers are directed to call CCRC at any time to report problems (Hot Phone)**
 - **CCRC will call the courtroom clerk and police officer liaison. The clerk will pull the file for the Judge’s review during work hours.**
 - **The Judge will indicate if the defendant is to be picked-up and notify the Drug Court police liaison officer.**
 - **After hours, CCRC is to call the police officer liaison. The officer will call the Judge for further directions.**
 - **The police officer liaison or other SDPD representative will call the Judge before arresting the participant.**

TREATMENT PROVIDER MEETINGS

1. CCRC Drug Court Office shall hold a minimum of semi-annual Provider Meetings at the CCRC Office. Additional meetings may be set and noticed as deemed necessary for up-dating providers as to procedures or changes.
2. CCRC staff shall notice Providers by fax and phone call at least one week prior to any meeting date.
3. CCRC shall likewise notice the San Diego County AODS representative Sharon Cornish of any Provider meetings set.
4. Likewise, CCRC shall notify the Drug Court Presiding Judge with at least one weeks' notice of all Provider Meetings.

Appendix D-4

**15th JUDICIAL CIRCUIT/PALM BEACH COUNTY DRUG COURT
STANDARD OPERATING PROCEDURES**

SECTION C NUMBER 04a DATE ISSUED 7/21/00

TITLE Consent For Disclosure of Confidential Drug Court Substance Abuse Information

(x) This is a new procedure.

() This procedure: () Supersedes () Rescinds () Amends

SOP# _____, Dated

PURPOSE/SCOPE:

The Consent For Disclosure of Confidential Drug Court Substance Abuse Information form will be used any time in which confidential information is requested. This procedure explains how the form is to be completed.

PROCEDURES:

- List the participant's Name on the line provided.
- List the Date on which the form is being completed on the line provided.
- List the participant's Date of Birth on the line provided.
- List the participant's Drug Court Case Number on the line provided.
- List the participant's Drug Court Identification Number on the line provided.
- Next to "I..." list the name of the participant.
- Check the appropriate box(es) denoting the entity from which you are requesting the information.
- Have the participant sign and date the form on the lines provided.
- If the services of an interpreter are utilized, have the interpreter sign on the line provided.

-
- The white (original) copy of the form is to be forwarded to the agency from which the information is being requested.
 - The yellow copy is to be placed into the Drug Court Program Office case file.

(Attachment: Consent For Disclosure of Confidential Drug Court Substance Abuse Information form)

15th Judicial Circuit
Palm Beach County Drug Court Office
3228 Gun Club Road, Rm. B-126
West Palm Beach, FL 33406

**CONSENT FOR DISCLOSURE
OF CONFIDENTIAL DRUG COURT
SUBSTANCE ABUSE INFORMATION**
*(Disclosure with client's consent as per Title 42, Chapter 1, Part 2
Federal Register)*

Participant's Name: _____ Date: ____/____/____

D.O.B. _____ Drug Court Case #: _____ Drug Court I.D.#: _____

I _____ have read or had explained to me the Notice to Patients pursuant to 42 C.F.R. § 2.22 regarding the disclosure of my substance abuse treatment information and hereby consent to the release of the approved substance abuse treatment information between:

PRIDE Drug Abuse Foundation Carp Other (specify):
and

the Presiding Drug Court Judge, Drug Court Assistant State Attorney, Drug Court Public Defender, Supervising DOC Probation Officer, PBSO Treatment Liaison, and Drug Court Program Office staff.

The purpose of, and need for, this disclosure is to inform the court and all other named parties of my **eligibility** and/or acceptability for substance abuse treatment services and my treatment **attendance, prognosis, compliance and progress** in accordance with the Drug Court program's monitoring criteria. This information may be released through verbal, written or electronic communication.

I understand that this consent will remain in effect and cannot be revoked by me until there has been a formal and effective termination of my involvement with the Drug Court program for the above-referenced case, such as the discontinuation of all court supervision and/or, where relevant, dismissal of the charges and/or, where relevant, the assignment of this case to a division other than Drug Court.

I understand that any disclosure made is bound by Part 2 of Title 42 of the Code of Federal Regulations, which governs the confidentiality of substance abuse patient records and that recipients of the information may re-disclose it only in connection with their official duties.

Signature of Participant

Signature of Interpreter (where applicable)

Date

Notice to patients pursuant to 42 C.F.R. § 2.22

The confidentiality of alcohol and drug abuse patient records maintained by this program is protected by federal law and regulations. Generally, the program may not say to a person outside the program that a patient attends the program, or disclose any information identifying a patient as an alcohol or drug abuser
Unless:

- (1) The patient consents in writing;
- (2) The disclosure is allowed by a court order; or

(3) The disclosure is made to medical personnel in a medical emergency or to qualified personnel for research, audit, or program evaluation.

Violation of federal law and regulations by a program is a crime. Suspected violations may be reported to appropriate authorities in accordance with federal regulations. Federal law and regulations do not protect any information about a crime committed by a patient either at the program or against any person who works for the program or about any threat to commit such a crime. Federal laws and regulations do not protect any information about suspected child abuse or neglect from being reported under state law to appropriate state or local authorities.

See 42 U.S.C. § 290DD-3 for federal law and 42 C.F.R. Part 2 for federal regulations.

white - agency

yellow- Drug Court Program Office

Drug Court Office form dert0006

Appendix D-5

**15th JUDICIAL CIRCUIT/PALM BEACH COUNTY DRUG COURT
STANDARD OPERATING PROCEDURES**

SECTION C NUMBER 04b DATE ISSUED 7/21/00

TITLE Drug Court Referral Sheet

This is a new procedure.

This procedure: Supersedes Rescinds Amends

SOP# _____, Dated

PURPOSE/SCOPE:

The Drug Court Referral Sheet will be used any time in which a participant is referred from the Drug Court to a service provider. It will be completed by a Drug Court representative. This procedure explains how the Drug Court Referral Sheet is to be completed.

PROCEDURES:

- List the participant's Name on the line provided.
- List the Date on which the form is being completed on the line provided.
- List the Court Case Number on the line provided.
- List the Name of the Program/Service to which the participant is being referred on the line provided **(A)**.
- Check all reasons that apply for the referral of this individual **(B)**.
- Check the box which indicates the time frame in which the status reports are to be received at the Drug Court Program Office **(C)**.
- List any other agencies with which the participant is involved on the line(s) provided **(D)**.
- Any comments may be noted on the respective line **(G)**.
- Note the date upon which the form must be received in the Drug Court Program Office to ensure timely receipt prior to the participant's next

scheduled court appearance **(H)**.

- Sign the form on the line provided.
- The white (original) copy of this form shall be furnished to the agency to which the participant is being referred, along with a primarily completed (see S.O.P C04c) 2-part “Agency Acceptance/Rejection Form”.
- The yellow copy is to be placed into the Drug Court Program Office case file.

(Attachment: Drug Court Referral Sheet)

15th Judicial Circuit
Palm Beach County Drug Court Office
3228 Gun Club Road, Rm. B-126
West Palm Beach, FL 33406

DRUG COURT REFERRAL SHEET

Participant's Name: _____ Date of Referral: ____/____/____

Court Case #: _____ Drug Court I.D.#: _____

A) Name of Program/Service to which referred: _____

B) Reason for Referral (check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> 1) Initial Assessment/Evaluation | <input type="checkbox"/> 7) Employment Assistance |
| <input type="checkbox"/> 2) Drug Abuse/Treatment | <input type="checkbox"/> 8) Vocational Training |
| <input type="checkbox"/> 3) Alcohol Abuse/Treatment | <input type="checkbox"/> 9) Community Service |
| <input type="checkbox"/> 4) Residential Treatment | <input type="checkbox"/> 10) Psychiatric/Psychosocial Evaluation |
| <input type="checkbox"/> 5) Mental Health Counseling | <input type="checkbox"/> 11) History, Physical, Lab |
| <input type="checkbox"/> 6) Family Counseling | <input type="checkbox"/> 12) Other (specify): _____ |

C) A status report on this referral must be received in the Drug Court Program Office:

- 1) Weekly 1) Bi-Weekly 2) Monthly 3) Other
(specify): _____

D) Other agencies involved with this participant:

- 1) _____
2) _____
3) _____

CONDITIONS OF REFERRAL

E) Should the client fail to strive towards successful completion of the conditions of the program, a series of progressive sanctions will be applied by the Drug Court Team in an effort to encourage compliance.

F) The Drug Court Program Office, acting as an agent for the 15th Judicial Circuit Court as well as the Palm Beach County Court grants authority to this program to accept this client as a participant in its program for the reasons listed above.

G) Comments: _____

**H) The attached Agency Acceptance/Rejection Form must be received back in this office
by: ____ / ____ /**

Drug Court Representative

white -agency yellow- Drug Court Program Office file

Drug Court Office form dcert0001

Appendix D-6

**Ninth Circuit Drug Court Treatment Program
Basic Understanding, Waivers and Agreements**

Defendant Name _____

Address _____

SSN: _____ Date of Birth: _____

Phone #: (H) _____ (W) _____

In Case of Emergency Contact: _____ Phone # _____
Address: _____

| Ninth | Circuit | Warrant | Number(s) | and/or | Charge(s): |
|-------|---------|---------|-----------|--------|------------|
| _____ | _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ | _____ |

I UNDERSTAND:

Before I can be accepted into the Drug Court Treatment Program, I must give up certain statutory and/or constitutional rights. I hereby voluntarily agree and consent to give up the following statutory and/or constitutional rights upon my acceptance into the Drug Court Treatment Program as enumerated below:

- 1. LEGAL WAIVER:** I do hereby release and forever discharge the complaining witnesses, victim(s), the Drug Court Judge, the Solicitor's Office, Police Department, the Drug Court Staff, and their respective heirs, successors, executors, administrators, and assigns from any and all claims of any kind or nature whatsoever, either in law or in equity, arising out of my arrest, participation in, or termination from, the Drug Court Program, and do expressly release and forever hold them harmless from any criminal or civil action which I may have a right to bring as a result of my arrest or participation in the Drug Court Program; ()
- 2. RELEASE OF INFORMATION:** I agree to complete a diagnostic evaluation for the development of my drug treatment program as ordered by the Court. I hereby authorize release of all treatment information by the provider to the Court and the Drug Court Director. Any such information shall not be utilized by the State for any prosecution but may be considered by the Court in deciding whether I remain in the Drug Court Treatment Program: ()

-
3. **STATUS OF PROGRAM:** The Drug Court Treatment Program (the Program) is experimental. I have no legal right to participate in the Program. At any time, the Program may be ended or reduced, or I may be excluded from it. ()
 4. **PROGRAM LENGTH:** The Program is expected to last at least one year and could last 18 months or longer. ()
 5. **GENERAL REQUIREMENTS:** I must attend all Drug Court sessions and treatment sessions, pass repeated drug screens, and remove problems contributing to my addiction. I must reduce risk factors which may include improving my family situation, bettering my employment status, increasing my educational level, moving from known drug distribution areas, etc. I may be required to pay restitution. I must make suitable progress towards controlling my addiction, and the Program will set individual requirements that I must meet. ()
 6. **INDIVIDUALIZED TREATMENT PLANS:** The Program officials will set my individual treatment requirements, and then the Judge will review them. Ultimately, the Drug Court team will decide if specific requirements must be met or modified and whether I have made acceptable progress. The final decisions about my progress and my continued participation are in the Court's sole discretion. I have no right to appeal the Court's decisions. ()
 7. **SELF-TERMINATION:** I can quit the Program at any time, but the Judge may insist that I discuss this decision with him, and he may delay my withdrawal from the Program for up to one week to make sure my decision is firm. If I quit the Program, I will be sentenced immediately in Circuit Court on my above-listed charges. ()
 8. **FEES:** I must pay for my treatment and testing. The routine charges are expected to be \$20.00 per week, but could be higher or lower depending on my particular case. I may also have to pay for other things in the Program. Money that I pay into the Program is not refundable. If I quit, if I am terminated from the Program, or if the program ends for any reason, I will not get my money back; plus, I may still be obligated to pay any unpaid bills for my treatment. ()
 9. **SANCTIONS:** If I do not fully comply with the Program, the Judge may impose sanctions in his sole discretion. I will have to complete the sanctions to continue in the Program. The sanctions could include community service, a return to jail, additional drug treatment, or anything deemed appropriate by the Judge. The Judge may also terminate me from the Program. ()
 10. **NO CREDIT FOR JAIL SANCTION:** If I do not complete the Program, I may not get credit for any time that I served for Drug Court sanctions. ()
 11. **COURT PROCEEDINGS:** The Drug Court proceedings will be informal. Often, there will be no court reporter in Court. If I do not complete the Program, the Judge

who supervised me in the Program will not preside when I am sentenced on the charges listed above. ()

- 12. DUTY TO BE TRUTHFUL:** For the Program to work, I must be truthful about my drug usage. To promote this truthfulness, some **limited** protection is given to me AS TO DRUG OFFENSES ONLY what I say about my own drug use in open Drug Court sessions or otherwise in the Program will not be used against me in the prosecution of the charges listed above or any other drug charge in the 9th Judicial Circuit of South Carolina (Charleston and Berkeley Counties). BUT: (a) statements I make outside the Program are not protected; (b) statements about the activities of other persons are not protected; and, (c) statements about my participation in crimes other than drug use are not protected. ()
- 13. RIGHT TO COUNSEL:** I can talk to my lawyer at any time. If counsel is appointed for me, I may have to pay for those legal services. If it is determined that I am not indigent, I may lose appointed counsel. ()
- 14. WAIVER OF PRIVACY:** Program officials may require me to provide very personal information. This may include, but will not be limited to: my criminal record, education and work history, family history and medical and psychiatric information. While Program officials will try to avoid unnecessary embarrassment to me, I understand and agree that these things may be discussed in open Drug Court sessions, in treatment sessions, or in other settings related to participation in the Program. If requested, I agree to sign specific releases promptly to allow the gathering of this information. ()
- 15. DUTY TO NOTIFY:** I must notify my treatment providers and the Drug Court Coordinator within 48 hours of any change in my residence or mailing address, any change or disconnection of my phone number, or any change in employment. ()
- 16. RE-ARRESTS:** I must obey all laws and notify the Drug Court Director of any criminal charges that are made against me, including any driving violations or minor offenses. My arrest or conviction on other charges, or *my failure to report other charges*, may result in termination from the Program. The Solicitor's Office has absolute power to terminate me from the Program if I am re-arrested. ()
- 17. NO VIOLENCE:** This Program cannot accept persons who have violent offenses, and federal requirements may exclude persons from entering the program who have ever been arrested for a violent offense. Violent offenses may include charges that are not classified as violent under South Carolina law. I have disclosed to the Program officials all my previous arrests and all my convictions. ()
- 18. NO ALCOHOL:** I understand that I cannot drink, or otherwise ingest alcohol while I am a participant in the Drug Court program. ()

-
- 19. WAIVER OF RIGHT TO REMAIN SILENT:** I give up my right to remain silent. I agree to fully and HONESTLY participate in all Drug Court meetings. ()
- 20. PHOTOGRAPH:** I agree to have my photograph made for Drug Court files and use. ()
- 21. ATTORNEY PRESENCE IN COURT:** I understand that my attorney may come to Drug Court but does not have to come. I understand it is my responsibility to ask my attorney to come to Drug Court should his/her services seem necessary. ()
- 22. FREE, VOLUNTARY, KNOWING AGREEMENT:** My participation in the Program requires that I waive very important rights. I have fully discussed my rights with my lawyer before agreeing to enter the Program. I am satisfied that I understand how the program will affect my rights. At the time of executing this document, my thinking is clear and I am not under the influence of any substance. The decision to waive my rights and enter the Program is mine alone and made of my own free will. I expressly agree to accept and abide by all the terms and conditions of the Drug Court Treatment Program as established by the Court and the Treatment Provider. ()
- 23. SUCCESSFUL COMPLETION:** If I successfully complete Drug Court, I will be allowed to withdraw my plea and have my record expunged. ()

SIGNATURE OF DEFENDANT

Date

I HAVE REVIEWED THIS WITH THE DEFENDANT. (S)HE UNDERSTANDS IT AND VOLUNTARILY AGREES TO PARTICIPATE:

SIGNATURE OF WITNESS (DRUG COURT STAFF)

STATE OF SOUTH CAROLINA) NINTH JUDICIAL CIRCUIT
))
COUNTY OF CHARLESTON) DRUG COURT
))
STATE OF SOUTH CAROLINA) RESTITUTION CONTRACT
))
- versus-) Warrant # (s): _____
))
_____) Charges: _____
))
Defendant) _____

AS A REQUIREMENT OF MY BEING ACCEPTED INTO THE DRUG COURT PROGRAM:

I, _____, the Defendant having been charged with the above-mentioned criminal offense(s), do hereby enter into a contract with the Charleston County Drug Court to pay restitution in the amount of \$_____. My victim, or the person who directly suffered a monetary loss as a result of my offense, will receive full reimbursement.

I agree to waive any and all rights to dispute the amount of restitution in question, and do agree that the amount of restitution established by the Solicitor for the Ninth Judicial Circuit is a fair and equitable determination of the value of the loss suffered in this incident.

I agree to bring a money order for \$ to each required Drug Court appearance. The money order will be made out to _____ dated and signed by me. I will be given a receipt for the money order for my records. The total restitution will be paid in approximately _____ Drug Court appearances.

I understand that my first payment is due on _____ and if these payments are not made consistently, **the Court will issue sanctions.**

This contract is entered into this _____ day of _____, 2000, in the County of Charleston, State of South Carolina.

Defendant

Drug Court Staff

Appendix D-7

San Diego Superior Court Adult Drug Court Program

PARTICIPANT CONTRACT

Name: _____

Case No.: _____

1) I understand that the validity of this contract is conditioned upon my eligibility for the Drug Court Program. If at any time after the execution of this agreement and in any phase of the Drug Court Program, it is discovered that I am, in fact, ineligible to participate in the program, I may be immediately terminated from the program and criminal proceedings will be reinstated or sentence will be modified. I will not be allowed to withdraw my previously entered plea of guilty unless my ineligibility is based on facts or information which should have been known to the prosecutor prior to Drug Court admission, or upon Constitutional grounds. _____

2) I understand that participation in Drug Court involves a minimum time commitment of eighteen months, which includes a Continuing Care component consisting of six months. _____

3) I understand that during the entire course of the Drug Court program, I will be required to attend court sessions, treatment sessions, submit to random drug testing, remain clean and sober, and law-abiding. I agree to abide by the rules and regulations imposed by the Drug Court Team or Judge. I understand that if I do not abide by these rules and regulations, I may be sanctioned or terminated from the program. _____

4) I understand that sanctions may include time in custody, increased treatment episodes, increased testing, community service and such other sanctions as may be deemed appropriate by the Drug Court Team. _____

5) I understand that I will be tested for the presence of drugs and alcohol in my system on a random basis according to procedures established by the Drug Court Team and/or treatment provider or case manager. I understand that I will be given a location and time to report for my drug test. I understand that it is my responsibility to report to the assigned location at the time given for the test. I understand that if I am late for a test, or miss a test, it will be considered positive and I may be sanctioned. _____

6) I understand that substituting, altering or trying in any way to change my body fluids for purposes of testing will be grounds for immediate termination from Drug Court. _____

7) I will not possess drugs (including marijuana) or alcohol, or drug or alcohol paraphernalia. I will not associate with people who use or possess drugs, nor will I be present while drugs or alcohol are being used by others. _____

8) I agree to be drug/alcohol tested at any time by a police officer, probation officer, treatment provider, or at the request of the court by any agency designated by the court. _____

9) I understand that I may not possess any weapons while I am participating in the Drug Court program. I will dispose of any and all weapons in my possession, and disclose the presence of any weapons possessed by anyone else in my household. Failure to dispose and/or disclose may result in termination from Drug Court and possible prosecution for illegal possession of any weapon. _____

10) I agree to inform any law enforcement officer who contacts me that I am a Drug Court participant. _____

11) I understand that I may not work as a confidential informant with any law enforcement agency while I am a Drug Court participant, nor may I be made or encouraged to work as a confidential informant as a condition of my full participation in the Drug Court program. _____

12) I may not participate in Drug Court if I am currently an affiliated gang member. _____

13) I will inform all treating physicians that I am a recovering addict, and may not take narcotic or addictive medications or drugs. If a treating physician wishes to treat me with narcotic or addictive medications or drugs, I must disclose this to my treatment provider and get specific permission from the Drug Court Team to take such medication. _____

14) I agree that I will not leave any treatment program without prior approval of my treatment provider or case manager and the Drug Court Team. _____

15) For the purposes of regular Drug Court review hearings, the Deputy Public Defender assigned to the Drug Court may represent me instead of my attorney of record. However, I may have my attorney of record appear for me at my request. _____

16) I waive my right to have a court reporter present during regular Drug Court review hearings. _____

17) I understand that my individual course of treatment may include residential treatment, education, and/or self-improvement courses such as anger management, parenting or relationship counseling. _____

18) I understand that during the early phases of treatment and recovery, I may be precluded from working or from gaining employment. I further understand that within the time directed by the Drug Court Team, I will seek employment, job training and/or further education as approved by the Drug Court Team, and that failure to do so may result in sanctions or termination. _____

19) I agree to keep the Drug Court Team, treatment provider or case manager and law enforcement liaison, if any, advised of my current address and phone number at all times and whenever changed. My place of residence is subject to Drug Court approval, and I will not leave San Diego County without prior approval from the Drug Court Team. _____

20) As a condition of participation in this program, I agree to the search of my person, property, place of residence, vehicle or personal effects at any time with or without a warrant, and with or without reasonable cause, when required by a probation officer or other law enforcement officer. _____

21) I agree to execute the Consent for Disclosure of Confidential Substance Abuse Information. I understand that any information obtained from this release will be kept apart from the Court file. _____

22) I understand that my failure to successfully complete and graduate from the Drug Court program will result in re-instatement of criminal proceedings against me. I understand that my failure to complete Drug Court cannot be a basis for withdrawing my previously entered guilty plea. _____

For those participants given a deferred entry of judgment:

23) Upon my successful completion of the Drug Court program, the City Attorney or District Attorney's office will make a motion to dismiss the Drug Court case, or the pertinent charges as previously agreed unless there is objection from the court. _____

For those participants convicted of a felony charge and placed on formal probation:

24) Because I am on probation, upon my successful completion of the Drug Court program, I may be continued on formal probation (terms and conditions attached to this contract) until expiration of the term unless otherwise ordered by the court. _____

For those participants convicted of a felony charge and placed on formal probation with an indicated prison or jail sentence:

25) I understand that if I do not successfully complete the Drug Court program, I may be sentenced to prison or jail for the term indicated on the court record. _____

I have read the above contract and I understand what I have read. I am willing to enter into this agreement with the San Diego Superior Court Adult Drug Court Program.

Participant's Signature

Date

Attorney for Participant

Date

Deputy Prosecuting Attorney

Date

Drug Court Judge

Date

Original to Court File; Copy to Case Manager

Standard Participant Contract 10/10/2000
Modified 01/17/2001 (as to format only)
Revision 11/16/2002

APPENDIX E

**DIFFERENT APPROACHES
TO FUNDING FROM VARIOUS STATES**

Arizona

Section 13-901.02 of the Arizona Revised Statutes created the Drug Treatment and Education Fund. This fund was established in the Administration Office of the Supreme Court.

Proposition 200 established the Drug Treatment and Education Fund. The monies for the fund come from a percentage of the luxury tax on alcohol, cigarettes and other tobacco products. Fifty percent of the monies are transferred to superior court probation departments to cover the costs of placing persons in drug education and treatment programs. The remaining 50 percent of the monies are transferred to the Arizona Parents Commission on Drug Education and Prevention.

Arizona Revised Statutes Section 13-3422 establishing the drug court program in Arizona, further provided that if a defendant who is assigned to drug court is subsequently found guilty of the offense and probation is otherwise available, the court, without entering a judgment of guilty and with the concurrence of the defendant, may defer further proceedings and place the defendant on probation. Terms and conditions of probation provide for the treatment of the drug dependent person and include any other conditions and requirements that the court deems appropriate, including the imposition of a fine, payment of fees, and any other terms and conditions as provided by law.

Further, Arizona has adopted Section 42-6109 designated as a jail facility's excise tax in counties with a population of at least 1,500,000 persons. The levy of a transaction privilege tax and a use tax on consumption of electricity or natural gas is subject to approval by election. The funds paid to the county treasurer may be distributed for the purpose of financing the construction, maintenance and operation of new adult and juvenile jail facilities. To reduce the expense of adult and juvenile jail facilities, increased drug court funding shall be provided to increase drug court admissions to include pre-adjudicated defendants and expand drug court jurisdiction.

Arkansas

Arkansas has created through Section 5-64-505, a special State Assets Forfeiture Fund. The fund consists of revenues obtained under drug forfeiture legislation and any other revenues as provided by law. The Arkansas Drug Director establishes the rules and regulations for procedure for investment use and disposition of those monies. The monies in the fund are distributed by the Arkansas Alcohol and Drug Abuse Coordinating Counsel and shall be distributed for drug interdiction, eradication, education, rehabilitation, and the state crime laboratory and drug courts. Also, Section 16-98-304 of the Arkansas Code allows the drug court judge to order the offender to pay court costs, treatment costs, drug testing costs, a program user fee not to exceed \$20.00 per month, and necessary supervision fees. The legislation authorizes the drug court judge to establish a schedule for the payment of costs and fees. The cost for treatment drug testing and supervision is set by the treatment and supervision providers and made part of the court's order. The user fees set by the drug court judge within the maximum limit is

payable to the court clerk for the benefit and administration of the drug court program. The clerk returns any excess fees to a MAGNUM Drug Court Fund within the state treasury.

Colorado

Colorado's Legislature initially established demonstration drug courts. Legislation at Section 16-11-214 authorized the general assembly to make annual appropriations from the offender services fund to continue the demonstration drug court program in accordance with the provisions of Section 18-1.3-103 (5) C.R.S.

Florida

Florida has enacted Section 397.334 dealing with treatment based drug court programs. That act is in two sections, one effective until July 1, 2004, and the other effective from July 1, 2004. The act effective from July 1, 2004, designates that if a county chooses to fund a treatment-based drug court program, the county must secure funding from sources other than the state for those costs not otherwise assumed by the state pursuant to Section 29.004. This section also provides that counties may provide, by local agreement, for the collective funding of these programs.

Florida also has enacted Section 796.07 which provides that a person who violates paragraph (2)(f) (which applies to persons who solicit, induce, entice, or procure another to commit prostitution, lewdness, or assignation) shall be assessed a civil penalty of \$500.00 if the violation results in any judicial disposition other than acquittal or dismissal. Proceeds from penalties assessed under this section shall be paid to the circuit court administrator for the sole purpose of paying the administrative costs of mandatory treatment-based drug court programs provided under Section 397.334.

Florida also has proposed legislation in House Bill 0133 and Senate Bill 104 providing that a county in which a drug court program has been established may require, by ordinance, the assessment of mandatory costs in the sum of \$6.00, which shall be assessed as a court cost by both the circuit court and the county court against persons in violation of a state criminal statute, a municipal ordinance, or a county ordinance other than parking tickets with the exception of handicap parking tickets.

Idaho

Section 31-3201E of the Idaho Code provides that each person admitted into a drug court shall pay a drug court fee in an amount not to exceed \$300.00 per month or a lesser amount as set by the administrative district judge. That section further creates a county drug court fund in each county that has a drug court. The fees appropriated may accumulate from year to year and are to be expended exclusively in connection with the drug court.

Illinois

Illinois enabling drug court legislation allows the court to impose fines or costs, including juvenile drug court matters.

Indiana

Section 12-23-14.5-12 of the Indiana Code provides that a court that has established a drug court may require an eligible individual to pay a fee for drug court services. If a fee is required, the court shall adopt by court rule a schedule of fees to be assessed for the drug court services. The fee for drug court services may not exceed \$500.00 per referral to the drug court. Section 33-19-8-5 of the Indiana Code provides for the establishment of a county user fee account to which the drug court fees are deposited.

Iowa

Iowa's General Assembly provided specific appropriations from the Tobacco Settlement Endowment Fund and the Healthy Iowan's Tobacco Trust to the Iowa Department of Corrections. The funds appropriated to the Iowa Department of Corrections included specific amounts for the third, fourth, and fifth judicial district department of correctional services for drug court programs. One specific authorization was to replace expired federal funding.

Louisiana

Louisiana Statute Section 5304 created the Drug Division of Probation Program. That section provides that a defendant who is placed under supervision of that program shall pay the costs of the treatment program to which he or she is assigned and the cost of any additional supervision that may be required to the extent that his or her financial resources allow, as determined by the drug division. That defendant also may be required to pay a probation supervision fee.

Mississippi

Mississippi Code Annotated Section 9-23-11 provides for the establishment of drug courts. The cost of participation of an individual in an alcohol and drug services component required by the drug court established pursuant to that chapter may be paid by the participant or out of the user fees or other such state, federal, or private funds that may, from time to time be made available. The court may assess such reasonable fees for participation and may impose sanctions that it deems appropriate pursuant to the statute.

Missouri

Section 478.011 of the Missouri Code provides that drug courts may be established in any circuit within the state. Any fees received by the court from a

defendant as payment for a substance treatment program shall not be considered court costs, charges, or fines. Section 478.009 further established a drug court coordinating commission in the state judicial department. The commission was established to evaluate resources available for assessment and treatment of persons assigned to drug courts or for operation of drug courts; to secure grants, funds, and other property and services necessary or desirable to facilitate drug court operations; and to allocate such resources among the various drug courts operating within the state. That Section further established in the state treasury a Drug Court Resources Fund administered by the coordinating commission the monies received by the commission and placed into that fund are non-reversionary funds for state general appropriations funds.

New Jersey

Section 2c:35-14 refers to rehabilitation programs for drug and alcohol dependent persons, and the New Jersey Legislature has provided that the court, as a condition of its order and after considering the person's resources, shall require the person to pay that portion of the cost associated with his or her participation in any rehabilitation program and the opinion of the court is consistent with the person's ability to pay taking in to account the court's authority to order payment or reimbursements to be made over time and in installments.

New Mexico

Section 11-6a-3 of the New Mexico Statutes created a local DWI Grant Program. A local DWI grant fund was created in the state treasury to be administered by the division and funded from \$2,500,000.00 of liquor excise tax revenue distributed to that fund. Money in the fund may be used for drug courts. Section 34-6-47 created the Drug Court Fee Fund. Any district court that has established a drug court may assess and collect from participants a fee of \$50.00 a month. The fee requirement may be satisfied by community service at the federal minimum wage level. The monies collected shall be deposited in a drug court fund of a specific judicial district in the state treasury. The district shall administer the funds to offset client services costs of the drug court program. Those funds do not revert to the general fund of the state at the end of a fiscal year.

Oklahoma

22 Oklahoma Statute Section 471.1, the Oklahoma Drug Court Act established drug courts in the state and provides for payment of court costs, treatment costs, supervision fees and program user fees by the offender. Section 471.6 provides that the drug court judge shall order the offender to pay all costs, including treatment costs, drug testing costs, program user fees not to exceed \$20.00 per month and necessary supervision fees unless the offender is indigent. User fees shall be set by the drug court judge within the maximum amount authorized by the statute payable directly to the court clerk for the benefit and administration of the drug court program. Remaining user fees shall be paid to the state treasurer for the Department of Mental Health and Substance Abuse Services Drug Abuse, Education and Treatment Revolving Fund. Court orders for

costs and fees remain an obligation of the offender with the court monitoring until fully paid.

Oregon

Oregon's House Bill 3363 approved by the governor on June 16, 2003, provided that the governing body of a county or a treatment provider may establish fees, that individuals participating in a drug court program may be required to pay for treatment and other services provided as part of the drug court program. The court may order an individual participating in a drug court program to pay fees to participate in the program. Fees imposed under this subsection of the law cannot be paid to the court.

Tennessee

The Drug Court Treatment Act of 2003, Section 16-22-101 particularly Section 16-22-109, provides that the clerks of the courts shall collect the sum of \$75.00 from any person who enters a plea of guilty, enters a plea of nolle contendere or is adjudicated at trial or enters a plea pursuant to any diversionary sentencing statute. The fee applies to any offense under the Tennessee Drug Control Act. The first \$5.00 of each such assessment is paid to the clerk of the court imposing the assessment. Those funds are then transferred to the state treasurer for credit in the general fund earmarked for the Office of Criminal Justice Programs for funding drug court treatment programs, administration and funding of grants awarded through that department. The remainder of the assessment is deposited by the clerk of the collecting court into a dedicated county fund. The funds do not revert to the county general fund at the end of the fiscal year but remain for the purpose set out. The money shall be used by the county exclusively for the creation and maintenance of state drug court treatment programs.

Individual courts may apply to the State Office of Criminal Justice Programs for grants for drug court operations. This further creates an advisory committee established for advising the commissioner of finance and administration on the allocation of funds received from the assessments.

Texas

Section 469.004 of the Texas Health and Safety Code allows a drug court program to collect from a participant in the program a reasonable program fee not to exceed \$1,000.00. The drug court program also can require the participant to pay for all the treatment costs, urinalysis testing and counseling fees incurred while participating in the program, based on a participant's ability to pay.

Utah

Utah Code Section 63-97-201 created the Tobacco Settlement Restricted Account from which \$193,700.00 was appropriated to the Administrative Office of the Courts and

\$1,296,300.00 to the Department of Human Services for the state-wide expansion of drug court programs.

Washington

Section 2.28.170 establishing drug courts provided that any jurisdiction that seeks a state appropriation to fund a drug court must first exhaust all federal funding received from the Office of National Drug Control Policy, Executive Office of the President, that is available to support the operations of drug courts and associated services. Secondly, it must match, on a dollar for dollar basis, state monies allocated for drug court programs with local cash or in kind resources. Money allocated by the state must be used to supplement not supplant, other federal, state and local funds for drug court operations and associated services. Washington State further established the criminal justice treatment account in the state treasury. Money from those accounts could be used for the provision of drug and alcohol treatment services and treatment support services for non-violent offenders within a drug court program. Revenues to the criminal justice treatment account consist of savings to the state general fund resulting from implementation of Chapter 290 relating to drug courts and savings to the state general fund from reductions in drug offenders' sentencing as a result of drug court implementation.

Wyoming

Section 5-10-102 of the Wyoming Statutes established the drug court system. That law also created a drug court account within the special revenue fund with interest accruing to be deposited into that account. Any drug courts in the state which met the requirements and qualifications of the drug court statute and rules and regulations promulgated by a drug court panel will be eligible for funding from the drug court account in an amount not to exceed \$200,000.00 for each fiscal year. The Department of Health in the State of Wyoming oversees, and provides funding for, the drug courts from the drug court account.

REFERENCES

- 2003 Mission and measures report [Draft report]. (2003). Anchorage and Bethel Courts, Alaska Court System.
- Anspach, D.F., & Ferguson, A.S. (2002, January). *State of Maine juvenile corrections substance abuse treatment network and juvenile drug treatment court: Third year evaluation report*. Social and Behavioral Research, the College of Arts and Sciences, University of Southern Maine.
- Belenko, S. (1998). *Research on drug courts: A critical review*. The National Center on Addiction and Substance Abuse. Columbia University.
- Cooper, S.C. (2003). The carrot and the stick, how effective sanctions and incentives succeed in overcoming addiction. *The Michigan bar association journal*, (82)20.
- Corrigan, M.D., & Becker, D. (2003). Moving problem-solving courts into the mainstream: A report card from CJ-COSCA problem solving committee. *The Michigan bar association journal*, (January)15-17.
- Criminal Justice Council of the State of Delaware. (1999, October). *The evaluation of the Delaware juvenile drug court diversion program*. Statistical Analysis Center.
- Ericson, R., Welter, S., & Johnson, T.L. (1999, May). *Evaluation of the Hennepin County drug court*. Minnesota Citizens Council on Crime and Justice.
- Glaze, L.A. (2002). *Probation and parole in the United States. 2001*. Washington, DC: Bureau of Justice Statistics, U.S. Department of Justice.
- Granfield, R., & Ebyrma, C. (1997, January). *An evaluation of the Denver drug court: The impact of a treatment-oriented drug offender system*. Department of Sociology, University of Denver.
- Hansen, M.H. (2000, December). *Description and process evaluation of the Pulaski County, Arkansas drug court program sixth judicial district post-adjudication drug court*.
- Harrison, R.S., Parsons, B.V., & Byrnes, E.I. (1998). *The Utah Byrne partnership evaluation project: 1998 progress report*. University of Utah Social Research Institute, Graduate School of Social Work.
- Huddleston, C.W. (2000). *The promise of drug courts: The philosophy and history*. National Drug Court Institute Training Presentation. Published presentation.

-
- Huddleston, C.W., Freeman-Wilson, K., & Boone, D.L. (2004, May). *Painting the current picture: A national report card on drug courts and other problem solving court programs in the United States*. Alexandria, VA: National Drug Court Institute.
- Idaho Supreme Court. (2002, January). *Evaluating the effectiveness of drug courts in Idaho (SB 1171) report to Governor Dirk Kempthorne and the 2nd Regular Session of the 56th Idaho Legislature*.
- Join Together Online. *Long-term treatment yields greatest drug-use reductions* (online). Available:
<http://www.jointogether.org/sa/news/summaries/print/0,1856,568327,00.html>
- Judicial Council of California, & the California Department of Alcohol and Drug Programs. (2002, March). *Drug court partnership: Final report*. San Francisco, CA: Authors.
- Langan, P., & Levin, D. (2002). *Bureau of justice statistics special report: Recidivism of prisoners released in 1994*. Washington, DC: Office of Justice Programs, U.S. Department of Justice.
- Marlowe, D.B., & Kirby, K. (1999). Effective use of sanctions in drug courts: Lessons from behavioral research. *National drug court institute review, (II)*1, 1-31.
- McGee, P. (1998, April). *Application for federal assistance*. Maryland Department of Public Safety and Correction Services, Division of Parole and Probation.
- McLellan, T. (2000). Drug dependency, a chronic medical illness: Implications for treatment, insurance and outcome evaluation. *The journal of the American medical association, (284)*5, 689.
- National Association of Drug Court Professionals. (1997, January). *Defining drug courts: The key components*. Washington, DC: Bureau of Justice Assistance, U.S. Department of Justice.
- National Criminal Justice Reference Service. *Strategies for overcoming obstacles to achieving stable funding* (online). Available:
<http://www.ncjrs.org/html/bja/idc/chp4.html>
- Office of Criminal Justice Programs. (2003, July). *Residential substance abuse treatment for state prisoners grant: Semi-annual progress report*. RSAT Substance Abuse Treatment Projects.
- Oklahoma Criminal Justice Resource Center. (1999, March). *Preliminary analysis of the Beckham County juvenile drug court*.

-
- Rempel, M., Fox-Kralstein, D., Cissner, A., Cohen, R., Labriola, M., Farole, D., Bader, A., & Magnani, M. (2003). *The New York State adult drug court evaluation: Policies, participants and impacts*. New York, NY: Center for Court Innovation.
- Roman, J., Townsend, W., & Bhati, A.S. (2003, July). *Recidivism rates for drug court graduates: Nationally based estimates*. Washington, DC: The Urban Institute.
- Satel, S.L. (1999). *Drug treatment: The case for coercion*. Washington, DC: American Enterprise Institute Press.
- Stageberg, P. (2001, January). *Final report on the Polk County adult drug court*. Iowa Department of Human Rights, Division of Criminal and Juvenile Justice Planning, Statistical Analysis Center.
- Statistics, Dane County drug court treatment program [Wisconsin]*. (June 2003).
- Taxman, F. (1999). Graduated sanctions: Stepping into accountable systems and offenders. *Prison journal*, (79)2, 182.
- The HawaiiChannel. (2004, February 17). *Fewer defendants try drug court: Prosecutors, defense attorneys say court best weapon in drug addiction*. The HawaiiChannel.com.
- Thompson, K. (2001, June). *A preliminary outcome evaluation of North Dakota's juvenile drug court—Recidivism analysis*. Department of Sociology, North Dakota State University.
- _____. (2002, December). *A cost-benefit analysis of North Dakota's juvenile drug court: Youth correctional center, group residential facility, and community supervision cost savings*. Department of Sociology, North Dakota State University.
- Whillhite, S.A., & O'Connell, J.P. (1998, May). *The Delaware drug court: A baseline evaluation*. State of Delaware, Executive Department, Statistical Analysis Center.

