

Drug Courts & Treatment Alternatives to Incarceration

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Please use the following links to access these sub-chapters concerning Drug Courts:

Data - " [Drug Courts - Data](#) " *data concerning drug courts ordered by data year and subject of the data in parentheses.*

Law and policy - " [Drug Courts - Law and Policy](#) " *information concerning the legal issues surrounding drug courts.*

Research - " [Drug Courts - Research](#) " *research studies concerning the drug court system.*

Please use the following links to access these data tables:

" [General Drug Court Statistics - 2001](#) "

" [Drug Court Treatment Programs](#) "

" [Drug Court Support Services](#) "

1.

(drug courts - definition) "Drug courts are an application of therapeutic jurisprudence theories in which the judge does not ask whether the state has proven that a crime has been committed but instead whether the court can help to heal a perceived pathology. ⁹ Drug courts adopted the disease model ¹⁰ that posits that people struggling with drugs have a chronic disease that reduces their ability to control their behavior. ¹¹ "

Source:

"Drug Courts Are Not the Answer: Toward a Health-Centered Approach to Drug Use" Drug Policy Alliance (New York, NY: March 2011), p. 5.

<http://www.drugpolicy.org/sites/default/files/Drug%20Courts%20Are%20Not%...>

2.

(drug courts - definition) "In drug court, the traditional functions and adversarial nature of the U.S. justice system are profoundly altered. The judge – rather than lawyers – drives court processes and serves not as a neutral facilitator but as the leader of a “treatment team” ¹⁴ that generally consists of the judge, prosecutor, defense attorney, probation officer and drug treatment personnel. The judge is the ultimate arbiter of treatment and punishment decisions and holds a range of discretion unprecedented in the courtroom, ¹⁵ including the type of treatment mandated, whether methadone prescription is acceptable (and at what dosage) and how to address relapse. The defense lawyer, no longer an advocate for the participant’s rights, assists the participant to comply with court rules. ¹⁶ "

Source:

"Drug Courts Are Not the Answer: Toward a Health-Centered Approach to Drug Use" Drug Policy Alliance (New York, NY: March 2011), pp. 5-6.

<http://www.drugpolicy.org/sites/default/files/Drug%20Courts%20Are%20Not%...>

3.

(drug courts - operation) "Standard drug court programs usually run between six months and one year, but many participants remain for longer because they must complete the entire program cycle in order to graduate. Program completion entails being drug and arrest-free for a specified period of time and meeting such other obligations as securing housing or employment. Participants frequently meet with the drug court judge and other judicial and clinical staff in status meetings aimed at monitoring each individual’s progress. ¹⁴ Participants are regularly drug tested and receive rewards or face sanctions based on how well they follow the rules of the court. Rewards can include verbal praise, certificates or other tokens of approval, as

well as moving to the next level of supervision, which may include less frequent visits to the court. Sanctions can include everything from verbal admonishment and writing essays to spending time in jail or being kicked out of the program and facing traditional sentencing."

Source:

Walsh, Natasha, "Addicted to Courts: How a Growing Dependence on Drug Courts Impacts People and Communities," Justice Policy Institute (Washington, DC: March 2011), p. 3.

http://www.justicepolicy.org/uploads/justicepolicy/documents/addicted_to...

4.

(drug courts - waiver of rights) "Under the traditional drug court model, an individual must waive significant rights when entering drug court, even though litigants often do not have access to discovery before being asked to waive these rights. ²³⁶ "

Source:

"America's Problem-Solving Courts: The Criminal Costs of Treatment and the Case for Reform," National Association of Criminal Defense Lawyer (Washington, DC: September 2009), p. 30.

[http://www.nacdl.org/public.nsf/2cdd02b415ea3a64852566d6000daa79/665b5fa31f96bc40852574260057a81f/\\$FILE/problem-solvingreport_110409_629%28K+PMS3145%29.pdf](http://www.nacdl.org/public.nsf/2cdd02b415ea3a64852566d6000daa79/665b5fa31f96bc40852574260057a81f/$FILE/problem-solvingreport_110409_629%28K+PMS3145%29.pdf)

5.

(drug courts - types) "There are generally two models for drug courts: deferred prosecution programs and post-adjudication programs. In a deferred prosecution or diversion setting, defendants who meet certain eligibility requirements are diverted into the drug court system prior to pleading to a charge. Defendants are not required to plead guilty and those who complete the drug court program are not prosecuted further. Failure to complete the program, however, results in prosecution.

Alternatively, in the post-adjudication model, defendants must plead guilty to their charges but their sentences are deferred or suspended while they participate in the drug court program. Successful completion of the program results in a waived sentence and sometimes an expungement of the offense. However, in cases where individuals fail to meet the requirements of the drug court (such as a habitual recurrence of drug use), they will be returned to the criminal court to face sentencing on the guilty plea."

Source:

King, Ryan S. and Pasquarella, Jill, "Drug Courts: A Review of the Evidence" (Washington, DC: Sentencing Project, April 2009), p. 3.

http://www.sentencingproject.org/doc/dp_drugcourts.pdf

6.

(drug courts - substitute for probation) "Another reason for the proliferation of drug courts is the failure of probation departments to adequately address the needs of clients with addictions. Some of the same mechanisms drug courts use (treatment services, supervision, and case management) have traditionally been part of probation. But as the number of people on probation continues to grow and caseloads increase, probation departments complain that they do not have the resources or time to dedicate to their clients and provide the services their clients need to be successful and stay away from the criminal justice system. ²³ Drug courts can be more resource intensive, but do basically the same thing as probation departments are tasked with doing—provide case management and treatment resources while under criminal justice supervision. And often, probation and parole officers are more limited in the options they have to respond to either positive achievements or relapses than drug court judges."

Source:

Walsh, Natasha, "Addicted to Courts: How a Growing Dependence on Drug Courts Impacts People and Communities," Justice Policy Institute (Washington, DC: March 2011), p. 5.

http://www.justicepolicy.org/uploads/justicepolicy/documents/addicted_to...

7.

(drug courts - treatment) "The Drug Court model includes a higher level of supervision, particularly by the Court and (generally) a standardized treatment program for all the participants within a particular court (including phases that each participant must pass through by meeting certain goals). There is also regular and frequent drug testing. In contrast, most of the state-mandated program models for drug offenders have less criminal justice supervision (particularly less court involvement) and a less standardized, sometimes more individualized, treatment regimen. In addition, the non-Drug Court treatment model uses drug testing less frequently."

Source:

Carey, Shannon M., Ph.D.; Pukstas, Kimberly Ph.D.; Waller, Mark S.; Mackin, Richard J.; Finigan, Michael W. Ph.D. "Drug Courts and State Mandated Drug Treatment Programs: Outcomes, Costs and Consequences," NPC Research (Portland, OR: March 2008), p. I.

<http://www.ncjrs.gov/pdffiles1/nij/grants/223975.pdf>

8. **Drug Court - Data**

(2011 - *drug courts - number by state*) As of February 2011, there were 1,829 drug courts that have been operating over two years, with 364 recently implemented and 208 planned, bring the total operating drug courts to 2,193 and ones being planned to 208.

Editor's Note: The source table for these data lists them by state.

Source:

BJA Drug Court Clearinghouse Project, "Summary of Drug Court Activity by State and County," (Washington, DC: American University, Justice Programs Office, February 2, 2011), p. 120.

<http://www1.spa.american.edu/justice/documents/2812.pdf>

9.

(2009 - *drug courts - prevalence*) "Since 1989, drug courts have spread throughout the country; there are now over 1,600 such courts operating in all 50 states. The drug court movement reflects a desire to shift the emphasis from attempting to combat drug crimes by reducing the supply of drugs to addressing the demand for drugs through the treatment of addiction. Drug courts use the criminal justice system to address addiction through an integrated set of social and legal services instead of solely relying upon sanctions through incarceration or probation."

Source:

King, Ryan S. and Pasquarella, Jill, "Drug Courts: A Review of the Evidence" (Washington, DC: Sentencing Project, April 2009), p. 1.

http://www.sentencingproject.org/doc/dp_drugcourts.pdf

10.

(2008 - drug courts - prevalence) "The first Drug Court was implemented in Florida in 1989. As of March 2008, there were 1,853 adult and juvenile drug courts active in all 50 states, the District of Columbia, Northern Mariana Islands, Puerto Rico, and Guam (BJA, 2008)."

Source:

Carey, Shannon M., Ph.D.; Pukstas, Kimberly Ph.D.; Waller, Mark S.; Mackin, Richard J.; Finigan, Michael W. Ph.D. "Drug Courts and State Mandated Drug Treatment Programs: Outcomes, Costs and Consequences," NPC Research (Portland, OR: March 2008), p.2.

<http://www.ncjrs.gov/pdffiles1/nij/grants/223975.pdf>

11.

(2008 - drug courts - number of participants) "The country's more than 2,100 drug courts were estimated to have roughly 55,000 participants in 2008, ³⁷ representing a tiny fraction of the more than 1.6 million people arrested on drug charges every year. ³⁸ That is, there is one drug court for every 26 drug court participants – and, for every one drug court participant, there are 29 other people arrested for a drug law violation who are not in a drug court."

Source:

"Drug Courts Are Not the Answer: Toward a Health-Centered Approach to Drug Use" Drug Policy Alliance (New York, NY: March 2011), p. 7.

<http://www.drugpolicy.org/sites/default/files/Drug%20Courts%20Are%20Not%...>

12.

(2007 - drug courts - prevalence) According to the Bureau of Justice Assistance (BJS) Drug Court Clearinghouse at the American University in Washington, DC, in 2007 there were 1,767 drug courts in operation (including 66 tribal courts). Of these, 1039 are adult drug courts; 444 juvenile drug courts; 199 family drug courts; and 17 are combination adult/juvenile/family drug courts.

Source:

BJA Drug Court Clearinghouse, "Drug Court Activity Update," Justice Programs Office, School of Public Affairs (Washington, DC: American University, April 12, 2007), p. 1.

<http://www1.spa.american.edu/justice/documents/1966.pdf>

13.

(2005 - drug courts - effectiveness of Drug Treatment Alternatives to Prison) "Importantly, Belenko et al. (2005) have shown just the opposite result for DTAP [Drug Treatment Alternative to Prison]: 57% of DTAP participants were rearrested for any offense at least once in the follow-up period compared with 75% of the comparison group. Similarly, only 42% of DTAP participants were reconvicted of any offense compared with 65% of the prison comparison group. Finally, only 30% of the DTAP participants had a new jail sentence (compared with 51% of prison comparisons) and only 7% had a new prison sentence (compared with 18% of prison comparisons).

"When these outcomes are monetized, our study shows that the DTAP program is cost beneficial from the CJS [criminal justice system] perspective; it is less costly to divert drug abusing offenders to treatment instead of prison. In addition, the findings suggest that a long-term perspective is important in evaluating treatment diversion or other criminal justice-based treatment programs. We find that benefits increase in each subsequent year of analysis. Findings from this analysis provide an economic justification for the DTAP program. In addition, our unit cost estimates for the CJS and diversion expenses for New York City may be used by policymakers and researchers to evaluate other diversion programs."

Source:

Zarkin, Gary A., Laura J. Dunlap, Steven Belenko & Paul A. Dynia, "A Benefit-Cost Analysis of the Kings County District Attorney's Office Drug Treatment Alternative to Prison (DTAP) Program," Justice Research and Policy, Vol. 7, No. 1 (Washington, DC: Justice Research and Statistics Association, 2005),

p. 20.

<http://jrso.metapress.com/content/964531204u7725u5/fulltext.pdf>

14.

(2004 - drug courts - cost/benefit ratios) "Carey and Finigan (2004) estimated the benefits and costs of the Multnomah County Drug Court in Portland, Oregon. They evaluated a sample of 1,173 individuals to determine the cost and criminal justice outcome differences between the drug court and the business-as-usual process over a 30-month period following the initial court appearance. Based on their cost and benefit estimates, the benefit-cost ratio associated with Multnomah County Drug Court was 2.5.

"In an unpublished report, Harrell, Cavanaugh, & Roman (1999) estimated benefit-cost ratio of about 2 for the sanctions docket program that was part of the D.C. Superior Court Drug Intervention Program. Similarly, in an evaluation the Multnomah County, Oregon, S.T.O.P. (Sanction Treatment Opportunity Progress) Drug Court Diversion Program, Finigan (1998) estimated a benefit-cost ratio of 2.5 from the taxpayer perspective. In these studies, benefits were calculated as the dollar value of averted crime costs (Harrell et al.) or averted CJS [criminal justice system] costs (Finigan) due to decreased criminal activity."

Source:

Zarkin, Gary A., Laura J. Dunlap, Steven Belenko & Paul A. Dynia, "A Benefit-Cost Analysis of the Kings County District Attorney's Office Drug Treatment Alternative to Prison (DTAP) Program," Justice Research and Policy, Vol. 7, No. 1 (Washington, DC: Justice Research and Statistics Association, 2005), p. 3.

<http://jrso.metapress.com/content/964531204u7725u5/fulltext.pdf>

15.

(2004 - drug courts - number and definition) "Of the 1,700 drug court programs operating or planned as of September 2004, about 1,040—nearly 770 operating and about 270 being planned— were adult drug court programs, according to data collected by the Office of Justice Programs' Drug Court Clearinghouse

and Technical Assistance Project. The primary purpose of these programs is to use a court's authority to reduce crime by changing defendants' substance abuse behavior. In exchange for the possibility of dismissed charges or reduced sentences, eligible defendants who agree to participate are diverted to drug court programs in various ways and at various stages in the judicial process. These programs are typically offered to defendants as an alternative to probation or short-term incarceration."

Source:

"Adult Drug Courts: Evidence Indicates Recidivism Reductions and Mixed Results for Other Outcomes," Government Accountability Office, GAO-05-219, Feb. 2005, p. 3.

<http://www.gao.gov/new.items/d05219.pdf>

16.

(2002 - *drug courts - inadequate data*) "In 1998, DCPO required its implementation and enhancement grantees to collect and provide performance and outcome data on program participants, including data on participants' criminal recidivism and substance abuse relapse after they have left the program. However, in 2000, DCPO revised its survey and eliminated the questions that were intended to collect post-program outcome data.

"The DCPO Director said that DCPO's decision was based on, among other things, drug court program grantees indicating that they were not able to provide post-program outcome data and that they lacked sufficient resources to collect such data. DCPO, however, was unable to produce specific evidence from grantees i.e., written correspondence! that cited difficulties with providing post-program outcome data. The Director said that difficulties have generally been conveyed by grantees, in person, through telephone conversations, or are evidenced by the lack of responses to the post-program questions on the survey.

"Contrary to DCPO's position, evidence exists that supports the feasibility of collecting post-program performance and outcome data. During our 1997 survey of the drug court programs, ¹⁷ 53 percent of the respondents said that they maintained follow-up data on participants' rearrest or conviction for a nondrug crime. Thirty-three percent said that they maintained follow-up data on participants' substance abuse relapse."

Source:

US General Accounting Office, "Drug Courts: Better DOJ Data Collection and Evaluation Efforts Needed To Measure Impact of Drug Court Programs," (GAO-02-434: Government Printing Office, April 2002), pp. 12-13.

<http://www.gao.gov/new.items/d02434.pdf>

17.

(2002 - *drug courts - recidivism*) In a 2003 report, New York's Center for Court Innovation compared recidivism rates between drug court graduates and attendees from six different drug courts, and control groups of similar defendants not entering drug court. They found: "All six drug courts (Bronx, Brooklyn, Queens, Suffolk, Syracuse, and Rochester) produced recidivism reductions compared with conventional case processing. The six courts represent a mix of geographic areas and policies (e.g., regarding eligibility criteria, screening and assessment protocols, graduation requirements, approach to sanctions, and supplemental services). Since the measurement periods tracked defendants at least three years after the initial arrest and at least one year after program completion, the results indicate that positive drug court impacts are durable over time.

"The six drug courts generated an average 29% recidivism reduction over the three-year postarrest period and an average 32% reduction over the one-year post-program period."

Source:

Rempel, Michael, Dana Fox-Kralstein, Amanda Cissner, Robyn Cohen, Melissa Labriola, Donald Farole, Ann Bader and Michael Magnani, "The New York State Adult Drug Court Evaluation: Policies, Participants and Impacts" (New York, NY: Center for Court Innovation, Oct. 2003), p. x.

http://www.courtinnovation.org/uploads/documents/drug_court_eval.pdf

18.

(2001 - *drug courts - general statistics*)

The Drug Court Clearinghouse and Technical Assistance Project at the American University in Washington, DC, released the results of a survey of drug courts in 2001. Based on information reported by 372 of the 420 adult family drug court programs which were in operation as of January 1, 2001, DCC/TAP estimated:

Total number of individuals who have enrolled in adult drug court programs:
226,000

Number of participants as of 6/1/01:
77,000

Number of graduates as of 6/1/01:
74,000

Participant retention rates (overall):
67%+

Jail/prison days saved, average reported:
9,980 days

Jail/prison days saved, median reported:
4,015 days

Costs saved, average reported:
\$697,652

Costs saved, median reported:
\$330,000

Source:

"Drug Court Activity Update: Summary Information on All Drug Court Programs and Detailed Information on Adult Drug Courts," Office of Justice Programs Drug Court Clearinghouse and Technical Assistance Project (Washington, DC: American University, June 25, 2001), pp. 2, 6.

<http://www1.spa.american.edu/justice/documents/1933.pdf>

19.

(2001 - *drug courts - race of participants*) "According to the most recent American University survey of 237 responding adult drug courts out of 438 operational adult drug courts; American University, 2001!, an estimated 72% of drug court clients are male; 38% are African American, 42% white non-Hispanic, and 17% Hispanic; 49% are unemployed; 76% had prior substance abuse treatment; 74% had at least one prior felony conviction; and 56% had been previously incarcerated."

Source:

Belenko, Steven, PhD, "Research on Drug Courts: A Critical Review 2001 Update" New York, NY: National Center on Addiction and Substance Abuse CASA! at Columbia University, June 2001!, p. 19.

<http://www.drugpolicy.org/docUploads/2001drugcourts.pdf>

20.

(2000 - *drug courts - crime prevention*) "An individual who has an out-of-control addiction commits about 63 crimes a year. Assuming this could be reduced to 10 for someone who is in or has completed treatment, and multiplying it by the 200 offenders in Delaware's probation revocation track who comply with all requirements, a single drug court may prevent more than 10,000 crimes each year."

Source:

Gebelein, Richard S., National Institute of Justice, "The Rebirth of Rehabilitation: Promise and Perils of Drug Courts" Washington, DC: US Department of Justice, May 2000!, p. 5.

<http://www.ncjrs.gov/pdffiles1/nij/181412.pdf>

21.

(1999 - *drug courts - support services*)

The US Dept. of Justice and US Dept. of Health and Human Services reported on treatment services available to drug courts around the US. The government found the following types of support services available to program participants:

Type of Support Service
Percent making

service available

Mental Health Treatment
91%

Mental Health Referral
96%

Vocational Training
86%

Job Placement
77%

Housing Assistance
59□

Housing Referral
72□

Parenting Education
84□

Educational Remediation'GED
92□

Domestic Violence Intervention Services
73□

Transportation Assistance
59□

Anger Management
87□

Life Skills Management
79□

Stress Management
72□

Relapse Prevention

93□

Childcare

32□

Source:

Peyton, Elizabeth A., and Robert Gossweiler, PhD, "Treatment Services in Adult Drug Courts: Report on the 1999 National Drug Court Treatment Survey, Executive Summary," Drug Courts Program Office, Office of Justice Programs, US Dept. of Justice, and the Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment, US Dept. of Health and Human Services Washington, DC: US Dept. of Justice and US Dept. of Health and Human Services, May 2001!, p. xiv, Figure B.

<http://www.ncjrs.gov/pdffiles1/bja/188086.pdf>

22.

(1999 - *drug courts - treatment programs*)

The US Dept. of Justice and US Dept. of Health and Human Services reported on treatment services available to drug courts around the US. The government found the following types of dedicated and external treatment programs available to drug courts:

Type of Treatment Program
Percent making

treatment available

Residential Treatment
92□

Intensive Outpatient
93□

Outpatient
85□

Detoxification
82□

Alcohol and Other Drug Education
82□

Methadone Maintenance
39□

Other Pharmacological Interventions
25□

Prison- or Jail-Based Therapeutic Community
39□

Community-Based Therapeutic Community
51□

Acupuncture
32□

Self-Help

93□

Relapse Prevention

85□

Other

17□

Source:

Peyton, Elizabeth A., and Robert Gossweiler, PhD, "Treatment Services in Adult Drug Courts: Report on the 1999 National Drug Court Treatment Survey, Executive Summary," Drug Courts Program Office, Office of Justice Programs, US Dept. of Justice, and the Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment, US Dept. of Health and Human Services Washington, DC: US Dept. of Justice and US Dept. of Health and Human Services, May 2001!, p. 7, Figure A.

<http://www.ncjrs.gov/pdffiles1/bja/188086.pdf>

23.

(1999 - *drug courts - marijuana*) "Drug courts do not always target users of □ hard□ drugs. In several adult drug courts a substantial proportion of clients reported that marijuana was the primary drug used: Chester County PA! 47□ !, Lackawanna County NY! 22□ ! and Syracuse NY! 25□ !. A majority of participants in the Cumberland County ME! drug court reported alcohol as their primary drug 58□ !."

Source:

Belenko, Steven, PhD, "Research on Drug Courts: A Critical Review 2001 Update" New York, NY: National Center on Addiction and Substance Abuse CASA! at Columbia University, June 2001!, p. 20.

<http://www.drugpolicy.org/docUploads/2001drugcourts.pdf>

24.

(1998 - *drug courts - recidivism rates*) James L. Nolan Jr., an assistant professor of sociology at Williams College, notes "Likewise, in a study conducted by W. Clinton Terry, professor of criminal justice at Florida International University, no real differences were found between the recidivism rates of those who completed and those who dropped out of Broward County's Drug Court treatment program. Only a 4 percent difference in the number of felony rearrests and a 1 percent difference in the number of misdemeanor rearrests were found between the two groups."

Source:

Nolan, James L., *The Therapeutic State*, New York, NY: New York University Press, 1998!, p. 104.

<http://books.google.com/books?id=Q-dRzYK1GugC&printsec=frontcover&dq=%22...>

25.

(2009 - *drug courts - United States - proposed drug control budget*) "The FY 2009 resources of \$1.250 million will support NDCI's [National Drug Court Institute] efforts to improve and expand drug courts through its research, training, and technical assistance programs. NDCI will conduct research and produce reports on successful methods of financing and sustaining drug courts. The program will also provide technical assistance to court systems wishing to adopt these methods. NDCI will use resources to continue to develop and encourage standard drug court data collection practices, which allow for comparisons across drug court systems."

Source:

Office of National Drug Control Policy, "National Drug Control Strategy: FY2010 Budget Summary," (Washington, DC: 2009), p. 138.

<http://www.whitehouse.gov/sites/default/files/ondcp/policy-and-research/...>

26. Drug Court - Law and Policy

(drug courts - law & policy - coercion and religious drug treatment programs)
Treatment options must be carefully considered by the courts. Various Federal court rulings have determined that offering only Alcoholics Anonymous (AA) and Narcotics Anonymous (NA) programs, because of their religious basis, violates the establishment clause of the US Constitution. Ruling in the case of Kerr v. Farrey in the 7th Circuit Federal Court of Appeals, Judge Diane P. Wood wrote, "We find, to the contrary, that the state has impermissibly coerced inmates to participate in a religious program." Judge Wood further notes that "the Court of Appeals of New York has recently come to the same conclusion we reach today in Matter of David Griffin v. Coughlin" and that "Our conclusion is thus in harmony with that of other courts that have considered similar questions."

Source:

Ruling in the United States Court of Appeals for the Seventh Circuit No. 95-1843 James W. Kerr, Plaintiff-Appellant, v. Catherine J. Farrey and Lloyd Lind, Defendants-Appellees, Judge Diane P. Wood, Decided August 27, 1996.

<http://ftp.resource.org/courts.gov/c/F3/95/95.F3d.472.95-1843.html>

27.

(drug courts - law & policy - judicial temperament) David Rottman of the National Center for State Courts noted in an article for the American Judges Association's Court Review, "Specialized forums like drug or domestic violence courts require a judicial temperament in interacting directly with litigants and an openness to insights from fields like mental health. "It is unclear that legal training is the best preparation for judging in specialized contexts."

Source:

Rottman, David B., "Does Effective Therapeutic Jurisprudence Require Specialized Courts and do Specialized Courts Require Specialist Judges3!", Court Review

Williamsburg, VA: American Judges Association, Spring 2000!, pp. 25-26.

<http://aja.ncsc.dni.us/courtrv/cr37/cr37-1/CR9Rottman.pdf>

28.

(drug courts - law & policy - judicial temperament) Judge Morris Hoffman of the Second Judicial District Denver!, State of Colorado, wrote in a *North Carolina Law Review* article: "As with drugs themselves, however, the promises of drug courts to not measure up to their harsh reality. They are compromising deep-seated legal values, including the doctrine of separation of powers, the idea that truth is best discovered in the fires of advocacy, and the traditional role of judges as quiet, rational arbiters of the truth-finding process."

Source:

District Judge Morris B. Hoffman, Second Judicial District Denver!, State of Colorado, "The Drug Court Scandal," *North Carolina Law Review* Chapel Hill, NC: North Carolina Law Review Association, June 2000!, Vol. 78, No. 5, p. 1533.

29.

(drug courts - law & policy - recidivism) In a law review article, Colorado Judge Morris B. Hoffman writes, "Reductions in recidivism are so small that if they exist at all they are statistically meaningless. Net-widening is so large that, even if drug courts truly were effective in reducing recidivism, more drug defendants would continue to jam our prisons than ever before."

Source:

District Judge Morris B. Hoffman, Second Judicial District Denver!, State of Colorado, "The Drug Court Scandal", North Carolina Law Review Chapel Hill, NC: North Carolina Law Review Association, June 2000!, Vol. 78, No. 5, p. 1533-4.

30.

(drug courts - law & policy - plea agreements) "Most drug courts require a guilty plea as the price of admission. When guilty pleas are required before offering treatment, drug courts become little more than conviction mills. In post-adjudication courts, the defendant must plead guilty before entering drug court, and even if he or she is successful and completes the program, the conviction will never go away. In pre-adjudication courts, the defendant must plead guilty, but then, if he or she successfully completes the program there is a possibility that the plea can be withdrawn and the charge dismissed. Although procedures vary, the hoops through which participants must jump result in dismissals for relatively few defendants. Profound consequences flow from every failure."

Source:

"America's Problem-Solving Courts: The Criminal Costs of Treatment and the Case for Reform," National Association of Criminal Defense Lawyer (Washington, DC: September 2009), p. 11.

[http://www.nacdl.org/public.nsf/2cdd02b415ea3a64852566d6000daa79/665b5fa31f96bc40852574260057a81f/\\$FILE/problem-solvingreport_110409_629%28K+PMS3145%29.pdf](http://www.nacdl.org/public.nsf/2cdd02b415ea3a64852566d6000daa79/665b5fa31f96bc40852574260057a81f/$FILE/problem-solvingreport_110409_629%28K+PMS3145%29.pdf)

31.

(drug courts - law & policy - judicial temperament) "When a drug court judge steps down, it is not always possible to find a sufficiently motivated replacement. Without a

highly motivated judge, the drug court approach simply does not work."

Source:

Gebelein, Richard S., National Institute of Justice, "The Rebirth of Rehabilitation: Promise and Perils of Drug Courts" Washington, DC: US Department of Justice, May 2000!, p. 6.

<http://www.ncjrs.gov/pdffiles1/nij/181412.pdf>

32.

(drug courts - law & policy - unprincipled) In a *North Carolina Law Review* article, Colorado Judge Morris B. Hoffman writes, "By existing simply to appease two so diametric and irreconcilable sets of principles, drug courts are fundamentally unprincipled. By simultaneously treating drug use as a crime and as a disease, without coming to grips with the inherent contradictions of those two approaches, drug courts are not satisfying either the legitimate and compassionate interests of the treatment community or the legitimate and rational interests of the law enforcement community. They are, instead, simply enabling our continued national schizophrenia about drugs."

Source:

District Judge Morris B. Hoffman, Second Judicial District Denver!, State of Colorado, "The Drug Court Scandal", *North Carolina Law Review* Chapel Hill, NC: North Carolina Law Review Association, June 2000!, Vol. 78, No. 5, p. 1477.

33. Drug Court - Research

(drug courts - research - state-mandated treatment success) "...the state-mandated treatment in California (SACPA - Substance Abuse and Crime Prevention Act of 2000) has succeeded in two important ways that were central to its initial logic. First, it has provided an enormous benefit in being able to reach nearly all eligible offenders and offer treatment for their substance use issues instead of incarceration. Second, it has allowed offenders to have more total treatment than Drug Court. In this sense, it has had a much greater impact on the total system of offenders than Drug Court that often serves only a small number of offenders."

Source:

Carey, Shannon M., Ph.D.; Pukstas, Kimberly Ph.D.; Waller, Mark S.; Mackin, Richard J.; Finigan, Michael W. Ph.D. "Drug Courts and State Mandated Drug Treatment Programs: Outcomes, Costs and Consequences," NPC Research (Portland, OR: March 2008), p. IX.

<http://www.ncjrs.gov/pdffiles1/nij/grants/223975.pdf>

34.

(drug courts - research - compliance and completion) "Completion rates, which refer to the number of individuals who successfully completed a drug court program as a percentage of the total number admitted, in the programs we reviewed that assessed completion ranged from 27 to 66 percent. As might be expected, program completion was associated with participants' compliance with program requirements. Specifically, evaluations of 16 adult drug court programs that assessed completion found that participants' compliance with procedures was consistently associated with completion. These program

procedures include attending treatment sessions, engaging in treatment early in the program, and appearing at status hearings. No other program factor, such as the severity of the sanction that would be invoked if participants failed to complete the program and the manner in which judges conducted status hearings, predicted participants' program completion. Several characteristics of the drug court program participants themselves were also associated with an increased likelihood of program completion. These characteristics include lower levels of prior involvement in the criminal justice system and age, as older participants were more likely to complete drug court programs than younger ones."

Source:

United States Government Accountability Office, "Adult Drug Courts: Evidence Indicates Recidivism Reductions and Mixed Results for Other Outcomes," (Washington, DC: Feb. 2005) GAO-05-219, p. 6.

<http://www.gao.gov/new.items/d05219.pdf>

35.

(drug courts - research - declining compliance and increased recidivism) "As the results of more sophisticated evaluations become available, preliminary success rates will not be sustained. As less tractable groups participate, rates of compliance and graduation will decline and recidivism will rise."

Source:

Gebelein, Richard S., National Institute of Justice, "The Rebirth of Rehabilitation: Promise and Perils of Drug Courts" Washington, DC: US Department of Justice, May 2000!, p. 5.

<http://www.ncjrs.gov/pdffiles1/nij/181412.pdf>

36.

(drug courts - research - recidivism) "In most of the evaluations we reviewed, adult drug court programs led to recidivism reductions during periods of time that generally corresponded to the length of the drug court program — that is, within-program. Our analysis of evaluations reporting recidivism data for 23 programs showed that lower percentages of drug court program participants than comparison group members were rearrested or reconvicted. Program participants also had fewer incidents of rearrests or reconvictions and a longer time until rearrest or reconviction than comparison group members. These recidivism reductions were observed for any felony offense and for drug offenses, whether they were felonies or misdemeanors. However, we were unable to find conclusive evidence that specific drug court program components, such as the behavior of the judge, the amount of treatment received, the level of supervision provided, and the sanctions for not complying with program requirements, affect participants' within-program recidivism. Post-program recidivism reductions were measured for up to 1 year after participants completed the drug court program in several evaluations, and in these the evidence suggests that the recidivism differences observed during the program endured."

Source:

United States Government Accountability Office, "Adult Drug Courts: Evidence Indicates Recidivism Reductions and Mixed Results for Other Outcomes," (Washington, DC: Feb. 2005) GAO-05-219, pp. 5-6.

<http://www.gao.gov/new.items/d05219.pdf>

37.

(drug courts - research - recidivism) In a 2003 report, New York's Center for Court Innovation compared recidivism rates between drug court graduates and attendees from six different drug courts, and control groups of similar defendants not entering drug court. They found that "Graduation is itself a powerful predictor of avoiding postprogram recidivism; those who failed drug court were far more likely to recidivate in the post-program period. Further, contrary to previous research with non-drug court populations, no benefit was found to spending more total time in treatment only to fail in the end. Among those who failed, more time in the drug court program (measured in four courts) or more days specifically attending treatment (measured in one court) had no impact on post-program recidivism. These results strongly point to drug court graduation as the pivotal indicator of long-term outcomes."

Source:

Rempel, Michael, Dana Fox-Kralstein, Amanda Cissner, Robyn Cohen, Melissa Labriola, Donald Farole, Ann Bader and Michael Magnani, "The New York State Adult Drug Court Evaluation: Policies, Participants and Impacts" (New York, NY: Center for Court Innovation, Oct. 2003), p. xiii.

http://www.courtinnovation.org/uploads/documents/drug_court_eval.pdf

38.

(drug courts - research - recidivism of those who don't complete drug court)
"Even offenders who do not succeed in drug court appear to be less criminally active than they were previously. This may be due to the benefits of treatment or the supervision, sanctions, intensive surveillance, and specific deterrence of the drug court."

Source:

Gebelein, Richard S., National Institute of Justice, "The Rebirth of Rehabilitation: Promise and Perils of Drug Courts" Washington, DC: US Department of Justice, May 2000!, p. 5.

<http://www.ncjrs.gov/pdffiles1/nij/181412.pdf>

39.

(drug courts - research - recidivism) In a 2003 report, New York's Center for Court Innovation compared recidivism rates between drug court graduates and attendees from six different drug courts, and control groups of similar defendants not entering drug court. They found that "When in-program participation time was included in the calculation, processing time for participants was far longer than for comparison defendants (due to the length of the drug court program). Hence to achieve positive impacts such as lower recidivism, drug courts require a significant up-front investment of court resources."

Source:

Rempel, Michael, Dana Fox-Kralstein, Amanda Cissner, Robyn Cohen, Melissa Labriola, Donald Farole, Ann Bader and Michael Magnani, "The New York State Adult Drug Court Evaluation: Policies, Participants and Impacts" (New York, NY: Center for Court Innovation, Oct. 2003), p. xi.

http://www.courtinnovation.org/uploads/documents/drug_court_eval.pdf

40.

(drug courts - research - relapse and noncompliance) In a 2003 report, New York's Center for Court Innovation examined eleven different adult drug courts in New York state. They found that "Relapse and noncompliance are common, even among those who ultimately succeed. In seven of eight courts examined, at least half of all graduates had at least one positive drug test, and many had several positives - usually in the earlier stages of participation. This highlights the value of drug courts according multiple chances to participants experiencing early problems."

Source:

Rempel, Michael, Dana Fox-Kralstein, Amanda Cissner, Robyn Cohen, Melissa Labriola, Donald Farole, Ann Bader and Michael Magnani, "The New York State Adult Drug Court Evaluation: Policies, Participants and Impacts" (New York, NY: Center for Court Innovation, Oct. 2003), p. xiv.

http://www.courtinnovation.org/uploads/documents/drug_court_eval.pdf

41.

(drug courts - research - managed care) "It is unlikely that the level and intensity of services required for drug court participants will be supported by managed care. Pressures to reduce treatment expenditures and manage costs associated with Medicaid are driving States to shorten length of stay in treatment and increasing the thresholds for admission to intensive treatment."

Source:

Peyton, Elizabeth A., and Robert Gossweiler, PhD, "Treatment Services in Adult Drug Courts: Report on the 1999 National Drug Court Treatment Survey, Executive Summary," Drug Courts Program Office, Office of Justice Programs, US Dept. of Justice, and the Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment, US Dept. of Health and Human Services Washington, DC: US Dept. of Justice and US Dept. of Health and Human Services, May 2001!, p. 13.

<http://www.ncjrs.gov/pdffiles1/bja/188086.pdf>

42.

(drug courts - research - managed care) It is possible that managed care will become a barrier to the success of drug courts and treatment as alternative to incarceration. The National Institute of Justice notes, "The premise of managed care, increasingly the norm, is that the least treatment required should be provided. This is at odds with research on substance abuse treatment, which has shown that the longer a person remains in treatment, the more successful treatment will be. Furthermore, managed care assumes the patient will

aggressively pursue the treatment he or she deems necessary. Because most drug court clients initially prefer not to be treated, they are likely to welcome a ruling by the health care provider or the managed care insurer that treatment is not needed. Finally, drug court clients frequently encounter delays in obtaining treatment funding or must cobble together bits and pieces of various programs because the "exhaustion" rules of health care plans limit treatment."

Source:

Gebelein, Richard S., National Institute of Justice, "The Rebirth of Rehabilitation: Promise and Perils of Drug Courts" Washington, DC: US Department of Justice, May 2000!, p. 6.

<http://www.ncjrs.gov/pdffiles1/nij/181412.pdf>

43.

(drug courts - research - lack of research) "Despite their ongoing popularity and rapid spread, historically there has been a relative paucity of empirically sound and comprehensive research on drug court operations and impacts. Most evaluations have been relatively small-scale local process evaluations mandated for DCPO [Drug Courts Program Office] grantees, which include program and client descriptions, with some retention and outcome data."

Source:

Belenko, Steven, PhD, "Research on Drug Courts: A Critical Review 2001 Update" New York, NY: National Center on Addiction and Substance Abuse

CASA! at Columbia University, June 2001!, p. 6.

<http://www.drugpolicy.org/docUploads/2001drugcourts.pdf>

44.

(drug courts - research - inadequate data) According to the US General Accounting Office in 2002, the Department of Justice fails to collect adequate data on drug courts. "One of the Drug Court Clearinghouse's functions has been to identify DCPO-funded drug court programs. However, the Drug Court Clearinghouse has only been tasked since 1998 with following up with a segment of DCPO [Drug Courts Program Office] grantees to determine their implementation date. Thus, the information provided to DCPO on the universe of DCPO-funded drug court programs is at best an estimate and not a precise count of DCPO drug court program grantees. Noting that its current grant information system was not intended to readily identify and track the number of DCPO-funded drug court programs, DCPO officials said that they plan to develop a new management information system that will enable DOJ to do so. Without an accurate universe of DCPO-funded drug court programs, DCPO is unable to readily determine the actual number of programs or participants it has funded or, as discussed below, the drug court programs that should have responded to its semiannual data collection survey."

Source:

US General Accounting Office, "Drug Courts: Better DOJ Data Collection and Evaluation Efforts Needed To Measure Impact of Drug Court Programs," GAO-02-434: Government Printing Office, April 2002!, p. 9.

<http://www.gao.gov/new.items/d02434.pdf>

45.

(drug courts - research - lack of research) According to the US General Accounting Office in 2002, "Although DOJ [Department of Justice] points out in its comments that a number of individual program evaluation studies have been completed, no national impact evaluation of these programs has been done to date. We continue to believe that until post-program follow-up data on program participants are collected across a broad range of programs and also included within the scope of future program and impact evaluations (including nonprogram participant data), it will not be possible to reach firm conclusions about whether drug court programs are an effective use of federal funds or whether different types of drug court program structures funded by DCPO [Drug Courts Program Office] work better than others. Also, unless these results are compared with those on the impact of other criminal justice programs, it will not be clear whether drug court programs are more or less effective than other criminal justice programs. As such, these limitations have prevented firm conclusions from being drawn on the overall impact of federally funded drug court programs."

Source:

US General Accounting Office, "Drug Courts: Better DOJ Data Collection and Evaluation Efforts Needed To Measure Impact of Drug Court Programs," GAO-02-434: Government Printing Office, April 2002!, pp. 20-21.

<http://www.gao.gov/new.items/d02434.pdf>

46.

(drug courts - research - 'net-widening') "Net-widening refers to “an expansion in the number of offenders arrested and charged after the implementation of [a drug court] because well-meaning police and prosecutors now believe there to be something worthwhile that can happen to offenders once they are in the system (i.e., treatment instead of prison).”³⁸⁷ When drug courts are created, police in some cities have arrested more people and prosecutors have filed more charges.³⁸⁸ “The very presence of the drug court, with its significantly increased capacity for processing cases, has caused police to make arrests in, and prosecutors to file, the kinds of \$10 and \$20 hand-to-hand drug cases that the system simply would not have bothered with before, certainly not as felonies.”³⁸⁹ "

Source:

"America's Problem-Solving Courts: The Criminal Costs of Treatment and the Case for Reform," National Association of Criminal Defense Lawyer (Washington, DC: September 2009), p. 42.

[http://www.nacdl.org/public.nsf/2cdd02b415ea3a64852566d6000daa79/665b5fa31f96bc40852574260057a81f/\\$FILE/problem-solvingreport_110409_629%28K+PMS3145%29.pdf](http://www.nacdl.org/public.nsf/2cdd02b415ea3a64852566d6000daa79/665b5fa31f96bc40852574260057a81f/$FILE/problem-solvingreport_110409_629%28K+PMS3145%29.pdf)

47.

(drug courts - research - evaluations) "Drug court evaluations have been widely criticized for methodological weaknesses and data inconsistencies. Some criticisms stem from the fact that the majority of drug court program

evaluations (1) have either no comparison group or a biased comparison group, such as offenders who refused or failed the drug court program; (2) report outcomes only for participants who complete the program (graduates), while excluding participants who did not complete the program (dropouts); and (3) use flawed data-collection methods, such as drug court participants' self-reported surveys. ⁵² "

Source:

Franco, Celinda, "Drug Courts: Background, Effectiveness, and Policy Issues for Congress," Congressional Research Service (Washington, DC: Library of Congress, October 12, 2010), p. 13.

<http://www.fas.org/sgp/crs/misc/R41448.pdf>

48.

(drug courts - research - cost/benefit) "A limited number of evaluations in our review discussed the costs and benefits of adult drug court programs. Four evaluations of seven drug court programs provided sufficient cost and benefit data to estimate their net benefits (that is, the benefits minus costs). The cost per drug court program participant was greater than the cost per comparison group member in six of these drug court programs. However, all seven programs yielded positive net benefits, primarily from reductions in recidivism affecting both judicial system costs and avoided costs to potential victims. Net benefits ranged from about \$1,000 per participant to about \$15,000 in the seven programs. These benefits may underestimate drug court programs' true benefits because the evaluations did not include indirect benefits (such as reduced medical costs of treated participants). Financial cost savings for the criminal

justice system (taking into account recidivism reductions) were found in two of the seven programs."

Source:

United States Government Accountability Office, "Adult Drug Courts: Evidence Indicates Recidivism Reductions and Mixed Results for Other Outcomes," (Washington, DC: Feb. 2005) GAO-05-219, p. 6-7.

<http://www.gao.gov/new.items/d05219.pdf>

49.

(drug courts - research - needed improvements) "Drug court judges and coordinators ranked improving staff skills to engage and retain drug court participants in treatment as the most needed improvement in the court's treatment component."

Source:

Peyton, Elizabeth A., and Robert Gossweiler, PhD, "Treatment Services in Adult Drug Courts: Report on the 1999 National Drug Court Treatment Survey, Executive Summary," Drug Courts Program Office, Office of Justice Programs, US Dept. of Justice, and the Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment, US Dept. of Health and Human Services Washington, DC: US Dept. of Justice and US Dept. of Health and Human Services, May 2001!, p. 14.

<http://www.ncjrs.gov/pdffiles1/bja/188086.pdf>

50.

(drug courts - research - reliability of drug screening) "Drug courts report that screening, assessing, and determining drug court eligibility occur quickly, and most participants are able to enter treatment less than 2 weeks after drug court admission. However, not all drug courts use screening or assessment instruments that have proved reliable and valid, and some do not appear to use appropriate clinically trained staff to conduct assessments."

Source:

Peyton, Elizabeth A., and Robert Gossweiler, PhD, "Treatment Services in Adult Drug Courts: Report on the 1999 National Drug Court Treatment Survey, Executive Summary," Drug Courts Program Office, Office of Justice Programs, US Dept. of Justice, and the Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment, US Dept. of Health and Human Services Washington, DC: US Dept. of Justice and US Dept. of Health and Human Services, May 2001!, p. 9.

<http://www.ncjrs.gov/pdffiles1/bja/188086.pdf>

51.

(drug courts - research - limited treatment and access to specialized services)
"The greatest frustrations described by drug courts include limited access to residential treatment, treatment for mental health disorders, and specialized services for women, racial and ethnic minorities, and the mentally ill. Problems with client engagement and retention in treatment are also identified. Followup interviews with a sample of respondents suggest that, while services may be available, they may be limited in quantity or otherwise very difficult to access."

Source:

Peyton, Elizabeth A., and Robert Gossweiler, PhD, "Treatment Services in Adult Drug Courts: Report on the 1999 National Drug Court Treatment Survey, Executive Summary," Drug Courts Program Office, Office of Justice Programs, US Dept. of Justice, and the Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment, US Dept. of Health and Human Services Washington, DC: US Dept. of Justice and US Dept. of Health and Human Services, May 2001!, p. xv.

<http://www.ncjrs.gov/pdffiles1/bja/188086.pdf>

52.

(drug courts - research - race and class) "In identifying target populations, drug courts need to be sensitive to class and race bias. Unless care is taken, diversion courts may tend disproportionately to work with white and middle-class substance abusers."

Source:

Gebelein, Richard S., National Institute of Justice, "The Rebirth of Rehabilitation: Promise and Perils of Drug Courts" Washington, DC: US Department of Justice, May 2000!, p. 5.

<http://www.ncjrs.gov/pdffiles1/nij/181412.pdf>

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