

**REPORT OF THE  
VIRGINIA DEPARTMENT OF CRIMINAL JUSTICE  
SERVICES ON**

# **Virginia's Drug Court Programs**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



## **SENATE DOCUMENT NO. 4**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
2001**





# COMMONWEALTH of VIRGINIA

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September 8, 2000

To: The Honorable James Gilmore, Governor of Virginia,  
The General Assembly of Virginia, and  
The Virginia State Crime Commission

Senate Joint Resolution 399, agreed to by the 1999 General Assembly, requested the Department of Criminal Justice Services, with the assistance of the Office of the Executive Secretary of the Virginia Supreme Court, to study structural, funding and service guidelines for Virginia's drug court programs.

In compliance with this request, the Department of Criminal Justice Services has completed a study of these issues. It is my pleasure to submit this study report, Senate Joint Resolution 399: A Study of Virginia's Drug Court Programs, for your consideration.

Respectfully,

A handwritten signature in cursive script that reads "Joseph B. Benedetti".

Joseph B. Benedetti  
Director

JBB/dec



**A STUDY OF VIRGINIA'S DRUG COURTS  
SENATE JOINT RESOLUTION 399 (1999)**

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## **I. Executive Summary**

Since the establishment of the first drug court program in Florida in 1989, interest in and support for this program model has increased dramatically, both nationally and within Virginia. Eight drug court programs are currently operating in Virginia with four more in planning status and seeking implementation funds. Because federal planning and implementation grants for drug court programs are made directly to localities and because there has been no clear policy direction from the state to date, the funding and administrative roles of the local, state, and federal governments have remained unclear.

Drug court programs are a collaborative effort of the court, probation, substance abuse treatment providers, and others. The program combines continuous and intense treatment, frequent drug testing, appropriate sanctions, and needed ancillary services to substance abusers brought before the court and selected for program participation. The drug court judge is the leader of the drug court team. The underlying philosophy of drug court programs is that this model will result in higher recovery rates from addiction, in reduced criminal behavior, and in long-term reductions in recidivism.

National evaluations (and the first evaluation of the Twenty-third Judicial Circuit Drug Court) have been most positive in their findings regarding successful program participation and recidivism reduction. When comparison is made between the cost of incarceration (approaching \$40,000 per offender per year) and the cost of drug court program participation (approximately \$3000 per participant per year), the cost effectiveness of effective drug court programming is readily apparent.

SJR 399, directed "the Department of Criminal Justice Services, with the assistance of the Office of the Executive Secretary of the Supreme Court [and to collaborate with certain other specified agencies] to study structural funding and service guidelines for Virginia's drug court programs" and "to develop recommendations..." Following are the four recommendations resulting from this study:

- Localities should seek federal funding support for drug court planning and implementation before receiving General Funds.
- The Commonwealth should continue funding for established drug court programs.
- State General Funds should be made available as match to support new drug court programs that are currently engaged in planning supported by federal grant funding.
- The Department of Criminal Justice Services should be directed to provide administrative oversight and funding for locally operated drug court programs for the biennium.

Numerous issues remain for continuing study and resolution. Service guidelines should be developed. Long-term administrative responsibility should be determined. The creation of a commission or board to provide oversight should be considered.

## **II. Authority for the Study**

Senate Joint Resolution 399 (SJR 399), sponsored by Senator Kenneth Stolle, was approved by action of the 1999 General Assembly. SJR 399 requested "the Department of Criminal Justice Services, with the assistance of the Office of the Executive Secretary of the Supreme Court, to study structural, funding and service guidelines for Virginia's drug court programs." Further, the Department of Criminal Justice Services (DCJS) was asked, "to develop recommendations regarding such drug court policies, funding and structural guidelines which provide for maximum local flexibility." DCJS was directed "to collaborate with the judiciary, the Department of Corrections, the Department of Juvenile Justice, the Public Defender Commission, the Commonwealth's Attorneys Association, the staffs of the House Appropriations and the Senate Finance Committees, representatives of pretrial services and local community corrections programs, representatives of local law-enforcement agencies and local community services boards" in developing the recommendations.

## **III. Purpose**

Since the establishment of the first drug court in Florida in 1989, interest in and support for this program model has increased dramatically. In September 1995, the Twenty-third Judicial Circuit (Roanoke City, Roanoke County, and Salem) established the first drug court in Virginia. Subsequently, the Virginia General Assembly has provided financial support to establish and maintain five drug court programs at the circuit court level and two drug court programs at the juvenile court level. Drug courts represent a grass roots effort to reduce substance abuse and related criminal activities in Virginia localities. The existing programs in Virginia have been established as a result of concerted planning and effort by judges, lawyers, criminal justice officials, and treatment providers. There has been no clear policy direction from a state level to date.

The funding has been an eclectic mix of federal grants directly to localities for planning and implementation, of state general fund and local cash match, of in-kind match, and of state general funds for cost assumption of expiring federal grants. There has also been cooperative resource development such as treatment provided through community service boards, supervision provided through state Probation and Parole Offices, capacity allotted in state-funded day reporting centers operated by DOC, and screening and supervision provided through state-funded, locally-operated pretrial and community corrections programs. State funding flows directly to these programs through the Department of Corrections (DOC), the Department of Juvenile Justice (DJJ), the DCJS, and the Office of the Executive Secretary (OES) of the Supreme Court of Virginia. As summarized in SJR 399, "the funding mechanisms for drug court programs are not consistent, nor are the funding roles of the local, state, and federal governments clear."



Similarly, each drug court has developed in a distinctive fashion reflective of geographic location, offender demographics, judicial personality, locally available programmatic resources, and the source, amount, and timing of funding. This creates difficulties in maintaining accountability and in administering funding. These are not "cookie-cutter" programs.

DCJS, in its role as the state's criminal justice planning agency, had increasingly recognized these concerns. On numerous occasions, staff at DCJS had been approached with questions and requests concerning grant writing assistance, grant availability (state and/or federal), planning assistance, the propriety and allowability of particular collaborations (e.g., may a pretrial program assist a Circuit Court in screening drug court candidates), etc. DCJS staff knew that other agencies were fielding such questions as well. In fact, while DCJS does have experience and a certain level of expertise in grant writing, accessing federal funds, program design, treatment programming, and state / local collaborations, no particular expertise had been established on the specific issues of drug court programs. DCJS, therefore, took several specific steps to begin to address this concern:

- several staff (both Correctional Services and Juvenile Services) were directed to become involved in the work of the National Association of Drug Court Professionals (NADCP) and to pursue formal training and less-formal learning opportunities relating to drug courts;
- DCJS awarded a Byrne grant to allow the establishment of an expert presence at the OES; and,
- in January of 1999, DCJS convened an informal study group of persons interested in and knowledgeable about drug courts to begin a thoughtful examination of most of the same issues specified in SJR 399. Many of the same individuals have, in fact, participated in the current study.

Building on those efforts, SJR 399 directed DCJS to a more formal study of the issues. The pressures for and urgency of a formal study included several issues which the less formal DCJS approach had not taken into account. The continuing pace at which federal grants were expiring resulted in increased pressure on the General Assembly for cost assumption. The increasing pace of planning for new drug courts forced the General Assembly to look at the potential cost of providing state matching funds for federal grants. And, certainly, the confusion of funding and administration, as well as dissatisfaction with particular circumstances of funding and administration, resulted in local pressure being brought to bear on the legislature to resolve and clarify these issues. This study was intended to initiate this process and, if possible, to make recommendations to resolve such concerns.

#### **IV. Membership**

In selecting and inviting participation in this study, DCJS carefully followed the direction of the Resolution in targeting representatives from each of the specified agencies and areas. After our first meeting, additional participants were invited at the request of the group - recognizing a need for additional or particular expertise. Also included were several individuals who, by direct contact, indicated their concern that their particular interests or their particular localities might not be well represented by the group as originally designed and constituted. To the extent that the study group's participants are actively involved in, thus knowledgeable about, drug courts, the input and findings of the group were strongly supportive of drug court expansion. The participants were as follows:

**The Honorable Verbena M. Askew**  
Newport News Circuit Court

**The Honorable Aundria D. Foster**  
Newport News J&DR Court

**The Honorable Audrey J. Franks**  
Richmond J&DR District Court

**The Honorable J. E. Morrison**  
Portsmouth Circuit Court

**The Honorable Margaret P. Spencer**  
Richmond Circuit Court

**The Honorable Diane M. Strickland**  
Roanoke County Circuit Court

**Mr. Walter M. Pulliam, Jr.**  
Chief of Operations  
Department of Corrections  
Division of Community Corrections

**Mr. Malcolm V. King**  
Substance Abuse Program Coordinator  
Department of Juvenile Justice

**Mr. Overton P. Pollard**  
Executive Director  
VA Public Defender Commission

**The Honorable Dave Chapman**  
Commonwealth's Attorney, City of Charlottesville

**The Honorable Charles S. Sharp**  
Commonwealth's Attorney, City of Fredericksburg

**Mr. Richard E. Hickman, Jr.**  
Deputy Staff Director  
Senate Finance Committee  
Virginia Senate

**Mr. Clyde E. Cristman**  
Staff, House Appropriations Committee  
Virginia House of Delegates

**Ms. Anna Powers**  
Special Assistant  
Office of the Secretary of Public Safety

**Capt. Richard A. Martin**  
Director of Programs and Community Corrections  
Rappahannock Regional Jail

**Ms. Patricia L. Smith**  
Executive Director  
OAR-Jefferson Area Community Corrections

**Ms. Patty Gilbertson**  
Director  
Hampton/Newport News Community Services Board

**Ms. Dana Schrad**  
Executive Director  
VA Association of Chiefs of Police

**Mr. John W. Jones**  
Executive Director  
VA Sheriffs Association

**Mr. Bevill M. Dean**  
Clerk, Richmond Circuit Court

**Mr. Ken Batten**  
Human Services Program Consultant  
VA Department of MH/MR/SAS

**Ms. Kathy Mays**  
Director, Judicial Planning  
Office of the Executive Secretary  
Supreme Court of Virginia

**Dr. Donna Boone**  
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Office of the Executive Secretary  
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**Department of Criminal Justice Services Staff**

**Ms. Fran Ecker**  
Section Chief, Juvenile Services  
Department of Criminal Justice Services

**Mr. Dan Catley**  
Section Chief, Correctional Services  
Department of Criminal Justice Services

## **V. History of Drug Courts**

What started as a model project in Dade County, Florida in 1989 has increased to 464 operational drug courts in forty-eight states with another 167 drug court programs being planned or implemented (see Table 4). In Virginia, the twenty-third judicial circuit (Roanoke City, Roanoke County, and Salem City) was the first circuit to establish a drug court in September 1995. Seven other drug court programs have been implemented in the Charlottesville and Albemarle County Circuit Courts, the Rappahannock Regional (Stafford County, Fredericksburg City, Spotsylvania County, and King George County) Circuit Court and Juvenile and Domestic Relations District Court, Richmond Circuit Court and Richmond Juvenile and Domestic Relations District Court, and the Norfolk and Newport News Circuit Courts. Four Virginia courts (Virginia Beach General District, Newport News Juvenile and Domestic Relations, Portsmouth Circuit and Chesterfield County/Colonial Heights Circuit) have received federal funding to plan drug court programs.

## **VI. The Need for Drug Court Programs in Virginia**

*Insanity is doing the same thing over and over again and expecting different results.* Virginia, like other states, has handled drug offenders in the same way over and over again, perhaps expecting different results. Drug offenders are arrested, convicted, incarcerated, and released. The cycle begins again soon after release with relapse into further drug use. Some Virginia judges were frustrated when loss of freedom or other forms of judicial punishment did little to correct addiction and criminal behavior. This frustration grew as the volume of drug offenders increased.

The Virginia Department of Criminal Justice Services Research Center conducted a study of Virginia offenders in 1997. The findings indicated that 32% of all convicted felons are drug offenders. In 1988, only 22% of convicted felons were drug offenders. This represents a 45% rise in the percentage of convicted drug offenders in the last decade. Half (50%) of all convicted felons had evidence of prior drug abuse. In 1988, 34% of convicted felons had evidence of drug abuse – a rise of 47%. Almost a third (31%) of convicted felons had alcohol abuse in their background in 1997, up from 28% alcohol abusers in 1988. Over a fourth (27%) admitted heavy drug use in 1997, whereas 23% admitted heavy drug use a decade ago.

A 1992 survey of Virginia's offender populations indicated that 67% of probationers used illicit drugs. A total of 69% of local jail inmates were said to be in need of substance abuse treatment. Between 1990 and 1997, drug arrests rose 66% in Virginia (17,606 to 29,302). National statistics mirrored Virginia's problems with drug case management. The National Center for State Courts reported that 31% of the 870,000 felony convictions in state trial courts in 1994 were for drug (possession or trafficking) offenses. Within the last few years, drug arrests have risen sharply, surpassing the volume of arrests in the "drug war" years. Keeping up with increasing drug caseloads

presents a sizable challenge for Virginia's trial courts. Drug courts present one option for timely, efficient, and effective processing of rising drug caseloads.

**Table 1: Virginia's Substance Abuse Statistics**

- ◆ 32% of all convicted felons are drug offenders
- ◆ 45% rise in the percentage of drug offenders in the last decade
- ◆ 50% of all convicted felons have evidence of prior drug abuse
- ◆ 47% rise in last decade in percentage of felons with evidence of prior drug abuse
- ◆ 31% of all convicted felons have evidence of alcohol abuse
- ◆ 11% rise in last decade in percentage of felons with evidence of alcohol abuse
- ◆ 27% of convicted felons admitted heavy drug use
- ◆ 17% rise in last decade in percentage of felons admitting heavy drug use
- ◆ 67% of probationers use illicit drugs
- ◆ 69% of jail inmates in need of substance abuse treatment
- ◆ 66% rise in drug arrests between 1990 and 1997 (17,606 to 29,302)
- ◆ 7,892 substance exposed infants born between July 1998 and March 1999
- ◆ 975 of substance exposed infants had evidence of illegal drugs
- ◆ 422 of substance exposed infants had evidence of alcohol

While the volume of adult and juvenile drug use and drug-related offenses is grievous, perhaps the most tragic statistic is the number of substance exposed newborns born in the Commonwealth. A study conducted by the Virginia Department of Social Services indicated that 7,892 substance exposed infants were born between July 1998 and March 1999. This number exceeds the national average of 10-11% of live births being substance exposed infants. Of the 7,892 substance exposed infants, 975 were exposed to illegal drugs and an additional 422 were exposed to alcohol.

Drug court programs offer a way to treat the *causes* of crime and family dysfunction. In drug courts, non-violent substance abusers are held publicly accountable both for their offenses and their recovery. These programs combine intense substance abuse treatment and probation supervision with the court's authority to mandate responsibility and compliance. Drug court programs seek to address the chronic behavioral patterns of drug offenders. As an alternative to traditional court processing, drug courts have proven successful in deterring addicts from future criminal acts. Recidivism rates of drug court graduates are approximately half or less than half of the rearrest rates of non-drug court graduates.

## **VII. Programmatic Components of Drug Court Programs**

Drug court programs require a cooperative alliance between the court, probation, and substance abuse treatment agencies. Probation offers frequent urinalysis testing and strict, face-to-face supervision. Substance abuse clinicians provide intensive drug treatment, mental health assessment, and addiction screening. Judges require participants to report frequently (as often as once a week) to court and report their treatment progress. The power of the court is used to impose sanctions for relapse and program non-compliance. Intensive probation and strenuous clinical treatment have been used with drug addicts in the past. The new element that makes drug court a different approach is the introduction of judicial monitoring. Drug court participants say that regular appearances before the judge make the difference in this approach working to break their addiction cycle.

Undergirding drug court programs is the philosophy that more effective handling of drug treatment for addicts will result in not only higher recovery rates, but also in reduced criminal behavior. But why involve the courts in addiction recovery? First, the courts are already involved with addicts brought before them on drug and drug-related criminal charges. Therefore, they have a legitimate interest in dispositions that “fit the crime” and best protect public safety. Second, arrest often presents a “teachable moment” for the addict. This crisis often jars the addict’s denial of him/her disease and prompts him/her to seek treatment. A disposition that takes advantage of this teachable moment by applying appropriate and immediate sanctions may prove more effective than sanctions applied long after the shock of arrest has dulled. Third, no other treatment program has the power of the court to issue immediate sanctions such as jail time or community service when an addict relapses or when he/she does not adhere to treatment rules. Ongoing judicial interaction and supervision increases the likelihood of participant sobriety. There is simply more inducement to take drug treatment seriously when the power of the court is involved.

Drug court programs have the following dimensions that define their structure and function:

1. A drug court combines continuous and intense treatment, mandatory periodic or random drug testing, use of appropriate sanctions, and access to needed ancillary services to substance abusers brought before the court on drug or drug-related offenses.
2. Drug courts are developed through multidisciplinary and interagency efforts between judges, Commonwealth’s Attorneys, defense attorneys, treatment professionals, local law enforcement and jail staff, department of corrections personnel, and private agency staff. This coalition of public and private organizations is committed to addressing drug-addicted offenders with the effect of fostering public confidence in the criminal justice system.

3. A drug court integrates criminal case processing, treatment service and offender accountability under the leadership of the court. There is a high level of cooperation and collaboration among drug court team members. The drug court team confers regularly about the best course of action to take for each drug court participant. The drug court judge is the court authority and leader of the drug court team.
4. Drug court is a special court docket where nonviolent substance abusing offenders are held publicly accountable before a supervising judge.
5. Drug court is an alternative to traditional adjudication and/or sentencing options.
6. Drug court programs give access to a continuum of treatment and rehabilitative services, which enhances recovery.

### **VIII. Processes and Procedures in Virginia's Drug Court Programs**

Among Virginia's drug courts, there are differences regarding eligibility requirements, sanctions and rewards, treatment options, and whether the model is pre- or post-sentence. Local drug court planning teams make structural and operational decisions that best fit the locality. Yet, there are commonalities among all Virginia drug courts including these basic components: a) judicial supervision of structured community-based treatment; b) timely identification of defendants in need of treatment and referral to treatment as soon as possible after arrest; c) regular status hearings before the judge to monitor treatment progress and program compliance; d) increased defendant accountability through a series of graduated sanctions and rewards; and e) mandatory periodic and random drug testing.

Drug offenders must first plead guilty to their pending charge. Some drug courts defer sentencing while others impose a suspended sentence pending completion of the drug court program. The judge, after an investigation to determine if the offender meets necessary program guidelines, then offers the defendant a chance to enter the drug court program rather than face possible sentencing options including fines, jail time or prison time.

Drug courts often are seen as the most rigorous judicial response for drug offenders. Although the court may offer incentives such as reduced or dismissed sentences for voluntary drug court participation, many offenders choose incarceration or probation instead. If they fail to adhere to program requirements or if they relapse, the drug offender is sanctioned and may serve jail time and have their drug court time lengthened. Program non-compliance, new charges, and/or multiple and reoccurring relapses may result in removal from the program.



While all Virginia drug court programs have graduated program phases, local drug courts vary in their requirements during each treatment phase. Generally, drug court participants move through three program phases that decrease in intensity and required involvement. When drug court participants first enter the program, they are in Phase One, the most intense part of the drug court program. Drug testing occurs three to five times a week; group and individual outpatient therapy three to four times per week; regular weekly probation reporting; attendance at Narcotics Anonymous or Alcoholics Anonymous; and weekly court appearance before the drug court judge. Drug court programs also require the participant to acquire and maintain full-time employment or be enrolled in a full-time educational program. Some drug court programs also require participants to save a percentage of their earnings each month.

After participants have maintained sobriety approximately a month or more, they are promoted to Phase Two, which lasts approximately four to six months. Phase Two requirements include treatment group attendance two days a week, random drug testing about twice a week; intensive probation supervision, attendance at Narcotics Anonymous or Alcoholics Anonymous meetings, and bi-monthly attendance in court. During this phase, participants are expected to establish a personal relapse prevention plan and be alcohol and drug free.

Promotion to Phase Three generally requires at least six months of sobriety. Therapy sessions are reduced to once a week, drug testing is on a random schedule, and probation supervision decreases in frequency. Regular attendance at Narcotics Anonymous or Alcoholics Anonymous is still expected. The participant appears in drug court once each month.

Graduation from the drug court program usually occurs within twelve to eighteen months after entering the program. Drug court graduates recognize that drug and alcohol recovery is a lifelong process. Graduation does not represent an end, but rather the continuation of ingrained habits learned during their drug court program that lead them toward a healthy and productive future.

## **IX. Differences Between Traditional Adjudication and Drug Court Adjudication**

Traditional court adjudication of drug offenders has the following characteristics:

- 1. Adversarial proceedings through which defendants are found guilty or innocent of criminal charges;*
- 2. Court has limited supervision or knowledge of defendant's progress after adjudication and disposition;*
- 3. Separate entities (probation and parole offices, local treatment programs, etc.) attempt to reduce crime and treat drug abuse;*
- 4. Punishment is a primary tool for deterring future crimes;*
- 5. Treatment varies in availability, cost, intensity and quality;*

6. *Relapse is treated as a new crime or a probation violation.*

Drug court programs handle drug cases by:

1. *Members of a collaborative multidisciplinary drug court team (including judge, commonwealth's attorney, defense attorney, public defender, probation officers, and treatment professionals) works together to reduce crime and increase defendant's sobriety;*
2. *Treatment is seen as an effective tool for reducing the need for drugs and for restoring defendants to productive and lawful lives;*
3. *The court is active in monitoring the defendant's progress and applies immediate sanctions when necessary;*
4. *While treatment is individualized, the program is uniform in structure, quality, and intensity;*
5. *Relapse results in graduated sanctions.*

## **X. Evaluation of Drug Court Effectiveness**

Cost Effectiveness: According to the National Center for State Courts, most defendants (69%) convicted of felony drug charges receive a period of incarceration rather than probation. Nationally, prison incarceration of drug offenders has increased from less than 10% of the total prison population in the early 1980s to about one-third of all new prison commitments between 1989 and 1995. According to the Virginia Department of Corrections the approximate cost to house a prison inmate for a year is \$39,669. These costs include capital expenses for prison construction and maintenance and operating costs. The Virginia Department of Juvenile Justice estimates the cost for incarcerating juveniles at approximately \$58,092 per year. These costs do not include capital expenses for construction and maintenance but do include operating costs and educational expenses (Department of Correctional Education). The average cost of drug court treatment per participant for a year is approximately \$3,000. Community based drug court programs offer effective treatment and the ability to treat many more qualified drug offenders for the price now spent on other sentencing alternatives.

Retention and Recidivism Rates: According to the National Office of Justice Programs, more than 90,000 people have enrolled in U.S. drug courts with 70% either graduating or currently enrolled in the programs. Rearrest rates of drug court participants and graduates are consistently lower than rearrest rates of drug offenders in traditional probation or parole programs. According to the National Drug Court Institute, drug court impact studies indicate that graduates of various drug court programs throughout the U.S. have recidivism rates averaging between 5% and 19%. Drug offenders who were not referred to drug court or those who were removed from the program due to non-compliance have recidivism rates averaging between 24% and 66%. Lower recidivism rates correlate with longer periods of drug court treatment. A national study conducted by the National Center on Addiction and Substance Abuse at Columbia University

found that approximately 60% of those entering drug courts remain successfully involved after a year. Other drug treatment alternatives such as residential therapeutic communities and community-based treatment have retention rates averaging 10 - 30%.

A study conducted by the Virginia Criminal Sentencing Commission (July 1999) examined the subsequent offense histories of 962 Virginia offenders released from prison in 1993. Recidivism for this population was tracked for a period of three years. The report states that 50% of those offenders who were originally incarcerated for a drug offense had a new arrest within three years. Of that number, 38% were for felony offenses. They also reported that 59% of offenders incarcerated for drug offenses are re-arrested for the same type of offense.

Roanoke's drug court is the only Virginia program in existence long enough to have evaluative data on a sizable number of graduates. A study completed in October 1999 indicated that drug court participants had more successful treatment outcomes when compared with drug offenders on regular probation. Nearly sixty percent (59.8%) graduated from drug court treatment, whereas only 40.1% of those on probation completed their assigned treatment programs. Only four drug court graduates (3.2%) were convicted of a felony after completing the program. Eleven (8.8%) were convicted of non-drug related misdemeanors. This is a substantial reduction from the 50% recidivism rate for Virginia drug offenders released from jail or prison.

***Table 2: Evaluation Measures of Drug Courts***

- ◆ Cost Effectiveness: Approximately \$3,000 per year to treat offender in drug court
- ◆ Approximately \$39, 669 (operating and capital expenses) per year to incarcerate adult offender in prison
- ◆ Approximately \$58,092 (operating and educational expenses) per year to incarcerate juvenile offender in youth correctional facility
- ◆ 59.8% of referred drug offenders graduated from Roanoke's drug court program
- ◆ 40.1% of drug offenders on probation in Roanoke completed treatment
- ◆ 60% national retention rate for drug court participants
- ◆ 10%-30% national retention rate for drug offenders in other treatment programs
- ◆ 3.2% of Roanoke's drug court graduates were subsequently convicted of a felony
- ◆ 50% of Virginia's drug offenders are rearrested within 3 years after jail/prison release
- ◆ 59% of Virginia's released drug offenders are rearrested for another drug offense
- ◆ 38% of Virginia's released drug offenders commit felony offenses
- ◆ 24%- 66% national recidivism rate for drug offenders
- ◆ 5%-19% national recidivism rate for drug court participants

## **XI. National Survey of Drug Courts**

In August 1999, a national survey was mailed to a drug court representative or to the state court administrator in each state. The national survey included questions about which agencies took the initiative in planning and establishing drug court programs, which agencies were primarily responsible for administering drug court programs, and funding sources for drug court programs. The types and numbers of drug courts and their general approaches were queried. Questions about programmatic decisions including eligibility requirements, primary gatekeepers, and treatment and supervision service contractors were included. The initial rate of return was 46%. After a telephone follow-up in September and October, the rate of return increased to 100%. All fifty states and the District of Columbia participated in the survey. The primary intention of this survey was to examine the current administrative status of drug court programs in the United States. This information should serve to expand our awareness of various possibilities for Virginia's decisions about drug court funding, administrative placement, and program service guidelines. The results of this survey are summarized on the following pages. A complete survey report is included in Appendix D.

The terms "drug court" and "drug court program" are used interchangeably. Drug courts are not a separate court, but rather a specialized docket within existing court structures that targets drug and drug-related offenses. Survey results indicated that planning and initiation of drug court programs were spearheaded by the following entities, either solely or in conjunction with other agencies: Administrative Offices of the Courts in 26 states (52%); local courts in 32 states (64%); state Substance Abuse Agencies in 11 states (22%); Departments of Corrections (distinguished from Departments of Community Corrections, Departments of Public Safety, and Probation and Parole Departments) in 6 states (12%); Community Corrections and Probation/Pre-trial Services (generally falling under the court umbrella) in 9 states (18%); and local government in 7 states (14%). To a lesser degree, other entities such as the state departments of mental health (3 states), criminal justice planning agencies (2 states), and law enforcement (1 state) helped plan and establish drug courts.

Affiliation of local drug courts with a state or local administrative support/oversight agency was surveyed. There was shared administrative responsibility between the Administrative Office of the Courts and the local courts in thirteen states (26%); Administrative Office of the Courts has sole administrative responsibility in 11 states (22%); and local courts had sole responsibility in 13 states (25%). Forty-eight percent of local courts with drug court programs have established and/or maintained administrative alliances with Administrative Offices of the Courts. Other agencies providing administrative oversight and support (in conjunction with local courts) include the Department of Corrections in 3 states (6%); the state Substance Abuse agency in 3 states (6%); and local governmental entities in 3 states (6%). Five states have established steering committees or special commissions for drug court administration (9.8%).

	<i>Number of States</i>
Administrative Office of the Courts (AOC)	11
AOC and local courts	13
Local courts	13
Department of Corrections	3
State Substance Abuse Agency	3
Local Government Agency	3
Drug Court Commission	5

An open-ended question examined the rationale behind administrative placement of drug courts. Response analysis revealed a clear dichotomy between state versus local administrative expectations. When drug courts were unified under a statewide administrative structure, the respondents expected the oversight agency to assume the following responsibilities:

- *Alerting localities of funding opportunities.*
- *Providing training in grant writing and administration.*
- *Providing access to statistical information.*
- *Giving technical assistance to drug court programs.*
- *Providing fiscal services related to grant and program accountability.*
- *Educating the public about drug court programs.*
- *Providing on-going training opportunities for drug court staff.*
- *Providing vehicles for sharing information (newsletters, conferences, and meetings).*
- *Establishing models of effective program evaluation.*
- *Providing program management expertise.*
- *Establishing basic elements and guidelines of quality drug court programs.*
- *Seeking legislative support of drug court programs.*
- *Coordinating the services and resources of state agencies involved in drug court programs.*
- *Allowing for centralized accounting and equitable, rather than competitive, distribution of resources.*

Whether administrative oversight was provided by a state agency or the local court retained administrative responsibility, the following decisions and responsibilities were handled at the local level:

- *Deciding the types of drug courts needed in the community (adult felony, adult misdemeanor, juvenile, family, abuse and neglect, DWI/DUI, re-entry, domestic violence).*

- *Defining the general approach(es) of local drug court programs (pre-plea, diversion; post-plea, pre-sentence; standard first offender, probation revocation alternative, etc).*
- *Determining the eligibility requirements for drug court participants.*
- *Deciding the primary gatekeepers of eligibility and admissions to drug court programs.*
- *Contracting with treatment providers, establishing treatment guidelines, and conducting qualitative evaluations of treatment services.*
- *Contracting with supervision providers, establishing supervision guidelines, and conducting qualitative evaluation of supervision services.*
- *Contracting with qualified drug testing (urinalysis) service providers.*
- *Establishing sanctions and rewards of the drug court program.*
- *Searching for various funding sources for drug court programs.*
- *Hiring drug court staff.*
- *Providing periodic programmatic, fiscal, and progress reporting.*
- *Forming partnerships with drug court stakeholders and maintaining the vigor of those partnerships.*
- *Informing the community about their drug court programs.*
- *Conducting evaluations on the impact of their program.*

It is important to emphasize that administrative placement and state support did not preclude or restrain local responsibility for decisions affecting the daily operations or policies of local drug court programs. Nationally, drug courts more closely follow the adaption model of program implementation (adjustment to meet local needs and interests) rather than the adoption model (one size fits all). This process of adapting drug court programs to local needs and interests calls for continued local jurisdiction in major drug court decisions. Drug court professionals say that drug court programs are "home grown" because intense local involvement by all involved criminal justice stakeholders (judges, probation officers, treatment professionals, prosecutors, public defenders, defense attorneys, police, local government officials, criminal justice planners and others) is necessary to the success of the program. Drug court programs must be tailored to the unique social climate and attitudes of the community. National indicators show that decisions about the basic design of drug court programs, while conforming to broad federal guidelines, continue to be the locality's responsibility.

In unified state court systems, most drug court programs fell under the administrative supervision of the Administrative Office of the Courts. When drug court programs were initiated by a state agency other than the Superior (Supreme) Court or the Administrative Office of the Courts, that agency generally maintained administrative oversight (i.e. the state Substance Abuse Agency in Washington State and the Oklahoma Criminal Justice Resource Center). States without a unified state court system and states with planning or early implementation drug courts, generally maintain administrative control at the local level.

Funding sources for drug court programs were also examined. Most drug court programs began with funding from federal, state, and/or local resources. Eighty-five percent of the states with drug court programs used some combination of federal, state, and local funding to plan drug court programs. The percentage of states using a combination of federal, state, and/or local funding increased to 88% during the implementation stage. During the implementation stage, drug courts also began relying on other sources of funding such as private resources, participant fees, and third-party (insurance or Medicaid) payments. The percentage of states receiving federal funding during the maintenance stage declines to 75%. Nine states (22%) did not receive federal funding, but instead, relied on a combination of state, local, private, participant fees, and third-party payments to support their drug courts in the maintenance stage.

Different ways of soliciting drug court support were mentioned by survey respondents. One locality in Missouri voted to impose a sales tax that would be designated for drug court support. Other states have established private enterprises and non-profit associations to circumvent prohibition of government solicitation of private enterprise funding. Some states have designated funds for substance abuse treatment that help support drug courts. Most states also charge a court fee or treatment fee averaging in the \$10 - \$30 per week range. Only a few states have explored third-party insurance reimbursement, but New York has enacted legislation requiring Medicaid and insurance coverage for court-mandated substance abuse treatment. The survey results indicate that drug court personnel look beyond "standard" means of funding for their programs.

Other questions solicited information on program structure, including the following:

*How many and what types of drug courts are operational or planned in each state?*

*What are the general legal approaches (pre-plea, diversion, post-plea, etc.) of drug courts in each state?*

*What are the eligibility requirements of drug court programs?*

*Who are the primary gatekeepers determining eligibility for drug court programs?*

*Who provides treatment services for drug court programs?*

*Who provides supervision services for drug court programs?*

*Who conducts drug screening (urinalysis) services for drug court programs?*

*Which states have enacted drug court legislation?*

Responses to these questions indicated much variability in program structure between states and within each state. This variability is probably due to the local impetus for establishing drug court programs. Drug courts reflect regional and demographic differences when program structure decisions are made on the local level.

The number and types of drug courts have spread rapidly in the decade since drug courts were first introduced. There are presently 298 adult felony drug courts operating in the U.S. with another 91 adult felony drug courts in the planning stages. There are 29 adult misdemeanor drug courts with eight more of these drug court programs in the planning stages. Juvenile drug courts, while similar to adult drug court programs, are

more comprehensive and involve the youth's family and school officials. There are 78 operational juvenile drug courts with 37 more in the planning stages.

Other types of court programs based on the drug court design of intense treatment and judicial monitoring are also multiplying in the U.S. Family drug courts focus on parents who are charged with abuse and neglect and are in jeopardy of losing their children. The underlying reason for the parents' legal difficulties is their substance abuse. There are currently 10 family drug courts operating in the U.S. and additional 12 family drug courts in the planning stages. Additionally, there are 11 Driving Under the Influence (DUI)/Driving While Intoxicated (DWI) Drug Courts with 7 more DUI/DWI courts in the planning stages; 19 domestic violence courts with 4 more of these courts presently being planned; 1 family reunification court; 2 mental health courts; 5 community restorative justice courts; and 1 juvenile tobacco court. New to the drug court paradigm are re-entry drug courts that take addicts coming from jail or prison and use the rigorous drug court regimen to augment parole. There is one operational re-entry drug court and eight in the planning stages.

***Table 4: Number and Types of Drug Courts in the United States***

<i>Type</i>	<i>Operational</i>	<i>Planned</i>
<i>Adult Felony</i>	298	91
<i>Adult Misdemeanor</i>	29	8
<i>Juvenile</i>	78	37
<i>Family</i>	10	12
<i>DUI/DWI</i>	11	7
<i>Domestic Violence</i>	19	4
<i>Family Reunification</i>	1	0
<i>Mental Health</i>	2	0
<i>Community Restorative Justice</i>	5	0
<i>Tobacco Court (Juvenile)</i>	1	0
<i>Re-entry</i>	1	8

Drug courts differ in their plea requirements and rewards for voluntary admission. Some drug courts do not require a defendant to plead guilty to their drug or drug-related charge. They view drug court as a diversionary alternative. For purposes of this survey, this legal approach is labeled pre-plea/diversionary. Most first offender alternatives fall under the pre-plea/diversionary label. Other courts require a guilty plea, but defer adjudication of the plea until the completion of the drug court program. Those courts requiring a guilty plea may defer sentencing until the participant's conclusion in the program. Thereupon, the original charge is dismissed. Still others require the guilty plea and impose a suspended sentence. Upon completion of the drug court program, the sentence is dismissed or reduced. This second approach is labeled post-plea/pre-sentence. Still other courts use drug courts as a sentencing alternative with probation



revocation. While pre-plea drug courts are more numerous, most states have both pre-plea and post-plea drug courts.

Eligibility requirements generally include a record of non-violent current and prior offenses. However, some states allow prior violent offenses if charges are old and the nature of the violence is not egregious. A few states allow drug sales or distribution charges if the amount of drugs involved is small and if the offender is an addict selling small amounts to support his/her habit. Drug-related offenses (i.e., petty larceny to support an addiction) are generally eligible for drug court. Across the country, prosecutors and judges maintain primary veto power over drug court admission, although eligibility may be a joint decision of drug court team members.

## **XII. Virginia Drug Courts: Current and Future**

In Virginia, there are six operational circuit drug court programs in Roanoke (Roanoke City, Roanoke County, and Salem City), Charlottesville (Charlottesville and Albemarle Counties), Fredericksburg (Rappahannock Regional - Stafford County, Fredericksburg City, Spotsylvania County, and King George County), Richmond, Norfolk, and Newport News. There are two operational juvenile drug courts in Richmond and Fredericksburg (Rappahannock Regional). Four other Virginia localities have federal drug court planning grants. Two of the four localities are planning circuit drug courts (Portsmouth and Chesterfield County/Colonial Heights), Virginia Beach is planning a General District drug court program, and Newport News is planning a juvenile drug court program. Danville and Chesapeake are now exploring the appropriateness of establishing drug court programs in their localities. Charlottesville officials have expressed interest in exploring the appropriateness of establishing a family drug court.

The drug court components described in the preceding paragraphs are generic to all types of drug courts found at different judicial levels. However, family and juvenile drug courts have additional components. Inherent differences between minors and adults make simple replication of adult drug court inadequate for juvenile populations. Juveniles are more impulsive and have less experience grounding them in logical consequences of their behavior. Magical thinking ("nothing can happen to me") tempts them into dangerous drug activity. Accountability and responsibility to their families is often at odds with adolescent rebellion.

Because of these and other developmental differences, juvenile drug courts must offer adolescents creative incentives to commit to their recovery. Juvenile drug courts also encompass significant others such as parents, siblings, and school officials within the drug court program format. Parents or guardians must be supportive of the juvenile's recovery and cannot be unrecovered addicts themselves. Juvenile drug courts often conduct supervision and treatment in the juvenile's home, thus involving the whole family system. The dependence of minor children makes the juvenile drug court format more complicated. It requires more family, school and community involvement. The

number of people in the juvenile drug court is multiplied for each juvenile participant.

Family drug courts target drug abusing parents who are charged with abuse and neglect and are in danger of losing their children. While not charged with a drug offense, the underlying cause of the family dysfunction is substance abuse. Family drug courts, like juvenile courts, are involved with the entire family system. Effective treatment of substance abusing parents is proving a most effective solution for keeping families together and avoiding the high costs of incarceration and foster placement.

### **XIII. Research Questions**

Subsequent to the first meeting of the study group, the issues, questions and concerns which surfaced were organized into fourteen "research questions." Following are the questions, organized into three broad categories:

#### **STRUCTURAL / ADMINISTRATIVE ISSUES**

1. What are the basic components of a drug court program?
2. Should there be minimum requirements for the establishment and operation of a drug court program?
3. What are the basic administrative requirements of any state agency (entity) charged with oversight of local drug court programs?
4. What state entity should be responsible for the oversight and operation of drug court programs?
5. What would be the impact of enabling legislation for drug court programs in Virginia?

#### **FUNDING ISSUES**

1. What are the current assumptions regarding drug court funding in Virginia?
2. What state or federal funding streams are currently in place for drug court planning, technical assistance, and operation?
3. What state or federal funding is currently available to address the needs of the substance abusing population in Virginia?
4. What supplemental funding or resources are currently provided to drug court participants through DOC, DJJ, DMHMRSAS, or local community corrections programs? What funding streams are available for like populations?

#### **SERVICE ISSUES**

1. Is there equal access to drug court programs within the state, within the circuit / district, and within individual courts?
2. How does any lack of access impact the defendant, the court, and the Justice System?
3. What defines the success of a drug court program?
4. What defines quality programming?
5. Is there a need for a drug court program model that includes policies and program elements?

In the time available, and given the complexity of the issues, not all of these questions were fully addressed. Recognizing an immediate need for some direction to the General Assembly, in the face of increasing requests for funding and some local and judicial dissatisfaction with current perceptions about of administrative oversight, the focus of attention was directed to those two broad issues - funding and oversight. Many questions and issues in those areas remain unaddressed. Other questions and issues did receive substantial consideration but are not essential to the immediate questions of funding and oversight. Service issues were seen as significantly less critical at this time and remain for further study, legislative definition, or resolution by the administrative oversight body, with or without input from an advisory / steering group.

The following two sections of this report address the concerns, opinions, and recommendations of the workgroup with regard to funding and oversight during the next biennium.

#### **XIV. Recommendations for Funding**

- **Recommendation 1: Localities should seek federal funding support for drug court planning and implementation before receiving General Funds.**

One legislative expectation has been made clear by past practice and by communication from Appropriations and Finance Committees - that localities should apply for available federal drug court funding before requesting state General Fund support. Federal funds have been and remain available for drug court planning and, then, implementation. Certainly, use of the federal funds makes sense before the use of state funds. Also, federal funding brings with it a wealth of technical assistance and an established network of operational drug courts of diverse models serving a wide variety of courts, localities, and offenders / drug abusers. The opportunity to examine a wide variety of models lends potential strength to the eventual design of a local Virginia drug court program.

No clear policy exists if a locality applies for a federal grant but is denied. In any event, any locality considering a drug court program should adhere to a process consistent with the federal planning process. If a well-written grant application were denied due to limited federal funds or a shift in federal priorities, then due consideration should be given to state General Fund support. Whether federal or state funding is requested, technical assistance and application review should be sought from the State Court Administrator's Office prior to submission.

- **Recommendation 2: The Commonwealth should continue funding for established drug court programs.**

The drug court model is increasingly accepted on both national and state levels. Evaluation findings have been consistently positive regarding impact on

changing addictive behaviors, on cost savings over more traditional incarcerative practices, and, more tentatively, on long term recidivism reduction. In fact, SJR 399 asserts both the model as "an effective judicial tool for sanctioning certain offenders" and as having "a demonstrated positive effect on reducing recidivism." Only the Roanoke drug court has been established long enough for meaningful impact evaluation. In this light, the established drug court programs within the Commonwealth should be viewed as valuable pilot programs and potential models for replication.

Established programs should receive continuation support at current levels. Some annual adjustments should be made for reasonable cost of living increases and for inflation in other program costs (e.g., drug testing; treatment fees). With the implementation of mandatory drug screening and assessment requirements (January 1, 2000), additional data will become available on the population of offenders appropriate for drug court involvement. This will serve to validate or refute the need for drug court expansion and give some direction to the extent of potential expansion. Implementation and measurement of the screening and assessment outcomes should also make available better information on the levels at which offender self-pay can be factored in to reduce state expenditures.

It is also important to note that while these programs may prove to be an excellent investment and may generate future cost savings as claimed, drug court programs are not inexpensive to operate. For example, the federal award for a single jurisdiction drug court implementation program for FY 99 is capped at \$400,000 with a required 25% match of \$133,000. The federally established cap for a multi-jurisdictional drug court program is \$450,000 plus a required 25% match of \$150,000 (the FY 00 appropriation is unknown at this time). While these numbers reflect the federal maximum, many awards in Virginia were not at this level. Both categories of award are for a period of 24 months which may be extended.

Complementary programming includes the treatment costs borne by DMHMRSAS or local CSBs; the cost of supervision, drug testing, screening and assessment, day reporting centers and other programming supported by state Community Corrections, Juvenile Court Service Units, local community corrections and pretrial programs (CCCA & PSA), and ASAP programs; and less readily apparent costs of collaborative efforts with educational, vocational and social service providers.

Peripheral costs include the additional demands upon Commonwealth's Attorneys, Public Defenders and the courts (one "drug court liaison" position is currently supported through line item funding; court administrators are a continuing demand related to the drug court model; court clerks or designated clerical positions are required to maintain case records and report data). All of the involved agencies sustain certain indirect costs related to record keeping, fund administration and auditing, etc.

Current funding is displayed below in Figure A. This amount with a projected reasonable inflationary factor (perhaps 5%) should be appropriated.

**FIGURE A.**

Locality	Court Served	Federal Funds	GF Match	Local (match) Funds	State GF	GF FY01 Request
Charlottesville	Circuit	small rollover from FY99	In kind only		\$184,000	\$210,356
Fredericksburg	Circuit	\$450,000 for 2 years (5-31-00)	\$125,000 (DCJS) FY00			\$266,667 (½ Governor's proposed budget)
Fredericksburg	Juvenile					\$386,320
Newport News	Circuit	\$400,000 for 2 years (6-30-00)	\$125,000 (DCJS) FY00			\$266,667 (½ Governor's proposed budget)
Norfolk	Circuit					\$358,826*
Richmond	Circuit	\$160,000 FY00 carryover	In kind only		\$432,776 (\$389,246 actual)	\$432,776
Richmond	Juvenile	\$393,504 for 2 years	\$200,000 for 2 years			\$367,332
Roanoke	Circuit				\$49,856 (DCJS) \$251,915 (DOC)	\$69,979 for 4 <sup>th</sup> quarter grant conversion + \$251,915

- **Recommendation 3: State General Funds should be made available as match to support new drug court programs that are currently engaged in planning supported by federal grant funding.**

Four localities are presently receiving federal drug court planning grants. These localities have successfully and appropriately competed for these funds. They have laid the necessary groundwork, built the required coalitions, established collaborative agreements, and secured local support and the required local matching funds - all with a good faith expectation that they would be accorded the same state support provided to the eight established drug courts and, all with the sense of purpose that this approach to the problem of chronic addiction will best serve their localities and the Commonwealth.

It would seem appropriate to allow these programs to "continue on course" and to plan for both state match support and eventual cost assumption. Each of these programs is poised for implementation. Each is preparing an application

(due in February 2000) for federal implementation funding that will require a match, which by existing precedent should be state appropriated.

Certain restrictions should apply to state commitment to these efforts:

1. Match funds should be limited to the amounts required by the federal grant guidelines.
2. Match funds should be made contingent upon the approval of the federal grant application.

State General Funds should be projected for match, then cost assumption should be made available as shown in Figure B below:

**FIGURE B.**

Locality	Court Served	Federal Planning Grant FY00	Amount Requested for Implementation	State GF Match Required (Amount)	Planned Start date	State GF Cost Assumption Date (FY)
Chesterfield	Circuit	\$29,616 FY99-00 (Overlap)	\$500,000	\$125,000	9/2000	FY2003
Newport News	Juvenile	\$29,586	\$446,648			FY2001
Portsmouth	Circuit	\$18,840 (6/99 - 11/00)	\$400,000 (estimated)	\$100,000 (estimated)	7/20/01	FY2004
Virginia Beach	General District		\$444,460 for FY01 and FY02			

#### **XV. Recommendation for Administrative Oversight**

- **Recommendation 4: The Department of Criminal Justice Services should be directed to provide administrative oversight and funding for locally operated drug court programs for the biennium.**

Administration by a "single state executive branch agency" was considered and remains an acceptable possibility to the workgroup. This model would allow a broad oversight of the development of drug court programs in all three levels of Virginia's courts. A single source of funding, technical assistance, standards and guidelines, fiscal services, training, and evaluation is considered among the best possible models for administration. Such an organizational structure would encourage equitable, rather than competitive, development and distribution of resources. Specific consideration was given to the Department of Criminal Justice Services in this regard on the basis of DCJS' experience in administering local grant programs such as the Community Corrections and Pretrial Services Act.

Administration by "multiple state executive branch agencies" is the primary operational mode in Virginia at this time. The Department of Juvenile Justice oversees the funding and operations of the drug court programs serving the J&DR courts in Richmond and in the Rappahannock Region. The Department of Corrections has overseen the funding and operations of the drug court programs serving the circuit courts in Roanoke, Charlottesville / Albemarle, Richmond, Norfolk, Newport News, and the Rappahannock region. Funding for the circuit court programs in Newport News and in the Rappahannock region was passed from DCJS (IDEA funds) to DOC during FY 1999 but, at legislative direction, FY 2000 funds are granted directly to these localities by DCJS. These two localities now contract with DOC for services through Probation and Parole, limiting DOC oversight.

The Department of Corrections and the Department of Juvenile Justice strongly articulated their position that the funding, administration and oversight of drug court programs should be directed to the executive branch agency which serves the respective adult or juvenile court.

Precedent exists in the operation of juvenile court services units on behalf of the J&DR courts and in the operation of the P&P offices in support of the circuit courts. Resources such as day reporting centers can be readily made available to the circuit courts by DOC. Existing collaborative agreements between DOC / DJJ and DMHMRSAS / CSBs are already applicable or readily amendable.

Administration by the OES was argued to be a viable and appropriate option by some members of the study group. At first glance, this would parallel the thinking and operational choices of many other states. However, it should be noted that this argument is more logical in states where probation services come under the administrative supervision of the judicial branch. Despite the choice made in other states to locate oversight under the administrative office of the courts, this would require a significant shift in the long-standing public policy position in Virginia as observed not only by the judicial branch but by the legislative and executive branches as well.

## **XVI. Continuing Study Issues**

While it is clear that the Commonwealth must make some immediate decisions, a continued planful approach through continued study or by an advisory group seems highly advisable. The workgroup as constituted for the SJR 399 study has much to offer in the continuing design, implementation, and operation of the drug court treatment program model in the Commonwealth.

Though not made a part of this report, significant information has been gathered and progress made on building consensus related to the fourteen "research questions" listed earlier. Specifically, issues regarding the service guidelines of drug court

programs as directed by SJR 399 need further development. In addition, this report recommends placement of drug court program administration in the Department of Criminal Justice Services for the biennium. Consideration by the General Assembly should be given to the appropriateness of this as a long-term placement. There was not sufficient time during the course of the study to fully consider additional options such as the development of a newly created commission or board that would be responsible for the long term oversight and administration of Virginia drug court programs.

## **XVII. Acknowledgements**

The Department of Criminal Justice Services would specifically like to recognize the contributions, advice, and support of Mr. Robert N. Baldwin, Executive Secretary of the Supreme Court of Virginia, Ms. Kathy Mays, Director of Judicial Planning, Office of the Executive Secretary, Supreme Court of Virginia and Dr. Donna Boone, Drug Case Management Specialist, Office of the Executive Secretary, Supreme Court of Virginia. Each of them gave graciously of their time and provided invaluable assistance to this initiative.



# **APPENDICES**



# COMMONWEALTH of VIRGINIA

Office of the Governor

James S. Gilmore, III  
Governor

Gary K. Aronhalt  
Secretary of Public Safety

September 8, 2000

## MEMORANDUM

**TO:** The Honorable James Gilmore, Governor of Virginia  
The General Assembly of Virginia, and  
The Virginia State Crime Commission

**FROM:** Gary K. Aronhalt, Secretary of Public Safety *RAY*

**RE:** Senate Joint Resolution 399

While the many individuals who contributed to the report are to be commended for their work, the major issues confronting the drug court program in Virginia were not addressed. I strongly believe that "drug court programs" are not specialized courts, but simply courts with a specialized docket, much as specialized dockets exist for traffic and civil matters. As such, the administration of the programs in these courts should be under the judicial branch of government. The role of the executive branch is to provide probation and treatment services to defendants in these courts, while the role of the legislative branch is to provide such funding as it deems appropriate and policy direction. This report falls far short of addressing these matters. The comments below set forth more specific concerns.

First, the funding mechanisms for drug court programs are inconsistent, and the funding roles of the local, state, and federal governments are unclear. Federal grant policies for drug courts bypass the Governor and the General Assembly, both of whom will be asked to support funding when federal funds expire. Further, the federal grant policies totally ignore the role of the Supreme Court and its administrative arm in a unified state court system.

Localities seeking funding support for drug court planning and implementation should meet established minimum need criteria before receiving state funds. Funding criteria for drug courts in the Commonwealth should also address offender eligibility, probation supervision responsibilities, reporting and evaluation requirements, and minimum services. Minimum services should include: community-based and residential substance abuse treatment, offender supervision and case management, frequent scheduled offender appearances before the court, random or periodic drug and alcohol testing, substance abuse screening and assessment of offenders in accordance with §18.2-251.01 or §16.1-273 *Code of Virginia*, and ancillary services

such as community service work placements, vocational training/educational assistance, employment placement and psychological or psychiatric treatment including family therapy.

Standardization of services and responsibilities is necessary to assure equal justice throughout the Commonwealth. Among the elements that need to be made consistent statewide is offender eligibility criteria. The issue of whether drug court participants should be found guilty of the offense charged and subsequent sentencing for that offense must be addressed. Practices on this vary, which can result in unequal justice. Further, persons charged with a violent offense or who have a violent offense in the past 10 years should be excluded from program participation. Upon completion of the drug court program, the court should be required to impose an additional period of probation of not less than one year for aftercare and monitoring. During this probation period the defendant should be required to (i) maintain academic or vocational education or employment, (ii) complete a plan of community service, or comply with a plan for payment of fines and costs if he/she has not already done so, (iii) comply with aftercare substance abuse treatment, as deemed appropriate and (iv) submit to random alcohol and drug testing.

Probation supervision responsibilities also need to be clarified in accordance with statute and practice and an acceptable offender to officer ratio should be established. Offenders receiving a sentence of one year or more, should be supervised by Department of Corrections probation and parole officers. Juvenile offenders in the Juvenile and Domestic Relations District Court should be supervised by court services unit probation officers. Finally, offenders in pretrial status or those receiving a sentence of twelve months or less should be supervised by local comprehensive community corrections (CCCA) or pre-trial services (PSA) staff. This would provide consistency with the responsibilities set forth in existing substance abuse screening and assessment statutes.

Finally, standardized reporting and evaluation requirements that measure cost-effectiveness, net widening, and recidivism are necessary to develop recommendations to the Governor and the General Assembly regarding appropriate policies and funding recommendations.

## 1999 SESSION

ENROLLED

### SENATE JOINT RESOLUTION NO. 399

*Requesting the Department of Criminal Justice Services, with the assistance of the Office of the Executive Secretary of the Virginia Supreme Court, to study structural, funding and service guidelines for Virginia's drug court programs.*

Agreed to by the Senate, February 9, 1999

Agreed to by the House of Delegates, February 25, 1999

WHEREAS, nationally, drug court programs have proven to be an effective judicial tool for sanctioning certain offenders; and

WHEREAS, evaluative studies on drug court programs have shown that the programs have a demonstrated positive impact on reducing recidivism; and

WHEREAS, the General Assembly has provided financial support to establish five circuit level drug court programs and two juvenile level drug court programs; and

WHEREAS, such drug court programs are organized differently based on geography, service availability and offender demographics; and

WHEREAS, it is important that existing and planned drug court programs maintain accountability and establish outcome measures consistent with public safety while retaining local flexibility based upon local differences; and

WHEREAS, the funding mechanisms for drug court programs are not consistent, nor are the funding roles of the local, state, and federal governments clear; and

WHEREAS, the interest in establishing drug court programs is increasing among the judiciary; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Department of Criminal Justice Services, with the assistance of the Office of the Executive Secretary of the Virginia Supreme Court, be requested to study structural, funding and service guidelines for Virginia's drug court programs. The Department shall develop recommendations regarding such drug court policies, funding and structural guidelines which provide for maximum local flexibility. The Department shall collaborate with the judiciary, the Department of Corrections, the Department of Juvenile Justice, the Public Defender Commission, the Commonwealth's Attorneys Association, the staffs of the House Appropriations and the Senate Finance Committees, representatives of pretrial services and local community corrections programs, representatives of local law-enforcement agencies and local community services boards in the development of the recommendations.

All agencies of the Commonwealth shall provide assistance to the Department for this study, upon request.

The Department of Criminal Justice Services shall complete its work in time to submit any findings and recommendations to the House Appropriations Committee, the Senate Finance Committee, the House Committee for Courts of Justice, the Senate Committee for Courts of Justice, and the Virginia State Crime Commission by December 1, 1999 and the Governor and the 2000 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Drug Court  
Programs  
in Virginia --  
An Overview

Office of the Executive Secretary  
Supreme Court of Virginia  
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Richmond, Virginia 23219-2334  
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September 1999

# Drug Court Program Overview

## What is a Drug Court Program?

- ◆ Drug court programs offer a multidisciplinary team approach to handling drug offenders, combining continuous and intense treatment, mandatory periodic drug testing, use of appropriate sanctions and access to needed ancillary services.
- ◆ Drug court programs integrate criminal case processing, treatment services and offender accountability under court monitoring. A high level of cooperation and collaboration exists among drug court team members.
- ◆ Drug court programs constitute a special docket where nonviolent substance abusing offenders are held publicly accountable before a supervising judge.
- ◆ Drug court programs represent an alternative to traditional court adjudication and/or sentencing.

## Philosophy of Drug Court Programs

- ◆ Effective treatment of addiction reduces drug-related criminal behavior.
- ◆ The crisis of arrest may present a “teachable moment” reducing the addict’s denial of their disease and increasing their motivation for treatment.
- ◆ Access to a continuum of treatment and rehabilitative services enhances recovery.
- ◆ Ongoing judicial interaction and supervision increase the likelihood of participant sobriety.
- ◆ Coalitions of public and private organizations committed to addressing drug-addicted offenders foster public confidence in the criminal justice system.

# History of Drug Court Programs

- ◆ Drug court programs receive considerable attention by judges interested in handling their significant drug related caseloads more effectively. What began as a single project in Florida in 1989 now has spread to 361 programs operating in 48 states with another 220 drug court programs in the planning or implementation stages. The State Crime Commission first recommended establishment of a drug court pilot project in Virginia in 1994. A year later, the Twenty-third Judicial Circuit (Roanoke City, Roanoke County and Salem) established the first drug court in the Commonwealth.
- ◆ Seven other drug court programs were implemented in Virginia: the Charlottesville and Albemarle Circuit Courts, the Rappahannock Regional (Fredericksburg, Spotsylvania, Stafford and King George) Circuit and Juvenile and Domestic Relations District Courts, the Richmond Circuit and Juvenile and Domestic Relations District Courts and the Norfolk and Newport News Circuit Courts.
- ◆ Four other Virginia courts (Virginia Beach General District Court, Newport News Juvenile and Domestic Relations District Court, Portsmouth Circuit Court and Chesterfield/Colonial Heights Circuit Courts) received federal funding to plan drug court programs.





# How Are Drug Court Programs Different?

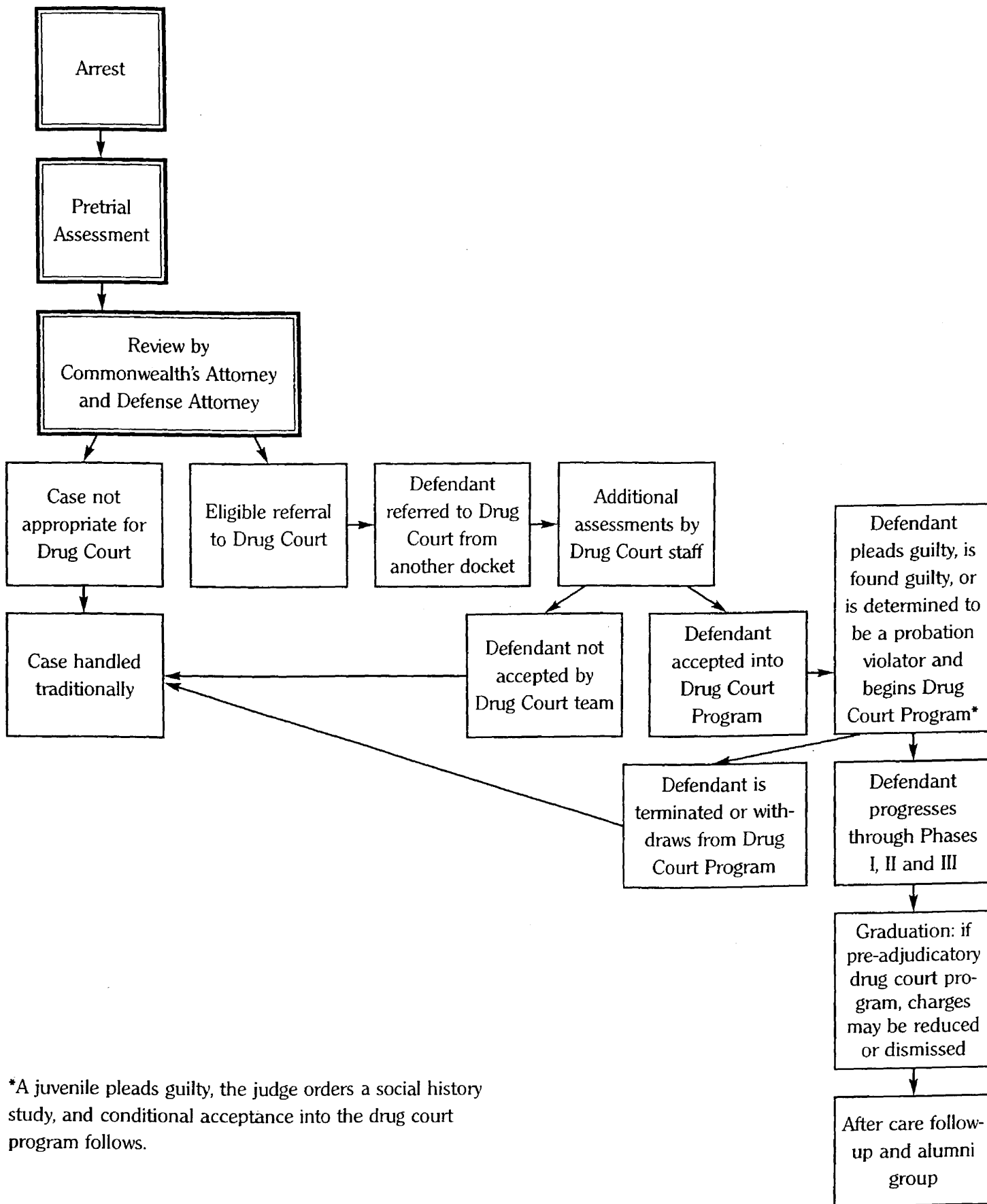
## Traditional Court Adjudication of Drug Offenses

- ◆ Court hearing is an adversarial process through which defendants are found guilty or innocent of criminal offenses charged against them.
- ◆ Court has limited supervision or knowledge of the defendant's progress after adjudication and disposition.
- ◆ Separate entities (probation and parole offices and/or local treatment programs) attempt to monitor offenders behavior and treat their substance abuse problems.
- ◆ Punishment is a primary tool for deterring further drug offenses.
- ◆ Treatment varies in availability, cost, length, intensity and quality.
- ◆ Drug relapse is treated as a new crime or a probation violation.

## Drug Court Programs

- ◆ Collaborative and cooperative multidisciplinary alliances (including judge, commonwealth's attorney, public defender, defense attorney, probation officer and treatment professionals) work together to increase defendant's sobriety, reduce recidivism among offenders and thus reduce crime.
- ◆ Treating drug abusers is seen as an effective tool for reducing the demand for drugs and for restoring defendants to productive and lawful lives.
- ◆ The court is active in monitoring the defendant's progress and applies immediate sanctions when necessary.
- ◆ While treatment is individualized, each program is structured in quality and intensity of treatment and supervision. Judicial sanctions and rewards are uniformly applied.
- ◆ Relapse results in graduated sanctions.

# Flow Chart of Drug Court Program Process



\*A juvenile pleads guilty, the judge orders a social history study, and conditional acceptance into the drug court program follows.

# Facts About Drug Court Programs

## ◆ **Nationally, drug court programs report successful outcomes with drug offenders.**

According to the National Institute of Justice, Office of Justice Programs, more than 90,000 people have enrolled in U.S. drug courts, with an average of 70% of drug court participants either graduating or currently enrolled in the programs. Nationally, rearrest rates of drug court participants and graduates are consistently lower than rearrest rates of drug offenders in traditional probation or parole programs. According to the National Drug Court Institute, drug court graduates have recidivism rates averaging between 5% to 19%. Drug offenders who have not graduated from drug court exhibit rates averaging between 24% and 66%. Most (64%) of the drug court graduates or participants are parents, so drug courts also have indirect impact on an estimated 35,000 minor children. A study conducted by the National Center on Addiction and Substance Abuse at Columbia University found that approximately 60% of those entering drug courts are still successfully involved after a year. Other drug treatment alternatives such as residential therapeutic communities and community-based treatment have retention rates averaging 10% - 30%.

## ◆ **Drug Courts address the on-going cycle of addiction and crime.**

Drug addicts commit a large proportion of crimes in Virginia. Between 1990 and 1997, drug arrests rose 66% (17,606 to 29,302). A 1992 survey of Virginia's offender populations indicated that 67% of probationers used illicit drugs and 69% of local jail inmates were in need of substance abuse treatment.

National statistics mirrored Virginia's problems with drug case management. The National Center for State Courts has reported that 31% of the 870,000 felony convictions in state trial courts in 1994 were for drug (possession or trafficking) offenses. Drug court programs attempt to address the underlying causes of drug abuse and thus impact the "revolving door" of criminal processing of drug offenders.

## ◆ **Drug Court programs combine strict monitoring with treatment intensity.**

Drug courts often are seen as the most rigorous judicial response for drug offenders. Although the court may offer incentives such as reduced or dismissed sentences for voluntary drug court participation, many offenders choose incarceration or probation believing they are less obtrusive than the stringent requirements of frequent (daily or several times a week) drug testing, group and individual intensive outpatient therapy (2-3 times per week), and regular attendance at Narcotics Anonymous or Alcoholics Anonymous meetings. During the minimum program length of one-year, participants receive intensive and interactive scrutiny by the judge, probation/parole staff, treatment providers and drug court staff. If they fail to adhere to program requirements or if they relapse, the drug offender is given sanctions such as community service, jail time, or lengthened stay in drug court.

◆ **Drug Court programs are cost effective alternatives to incarceration of drug offenders.**

The cost of drug court treatment is often compared to the cost of jail or prison incarceration of drug offenders. According to the National Center for State Courts, most defendants (69%) convicted of felony drug charges receive a period of incarceration rather than probation. Nationally, prison incarceration of drug offenders has increased from less than 10% of the total prison population in the early 1980's to about one-third of all new prison commitments between 1989 and 1995. According to the Virginia Department of Corrections, the estimated cost per year for a prison inmate is \$39,669. The Virginia Department of Juvenile Justice estimates the cost for incarcerating a juvenile at \$38,646 per year. These costs include capital expenses of institution construction and maintenance, operating costs, and, for juveniles, educational expenses. In contrast, the average cost of drug court treatment per participant for a year is approximately \$3,000. Community based drug court programs offer effective treatment and the ability to treat many more qualified drug offenders for the price now spent on other sentencing alternatives. Additionally, drug court participants continue working and can pay court costs in full and support their families who otherwise may require public assistance.

◆ **The judge's role is crucial to a drug court program.**

Judges exercise the power and authority of the courts. Their active involvement with drug court programs is especially crucial. The judge emphasizes adherence of the rules to program participants. Non-adherence or relapse results in immediate judicial sanctioning. Such sanctioning presents an insurmountable wall to the addicts in manipulating others about their disease. The judge closely monitors the progress of drug court participants. The goal is to break through the offender's denial, provide treatment services, and give negative reinforcement (sanctions) that will curtail addictive behavior. The judge also praises the participant's successes. Many drug court participants cite the judge's positive reinforcement as a key to their ultimate recovery.

◆ **Juvenile drug court programs differ from their adult counterparts.**

Inherent differences between minors and adults make simple replication of adult drug courts inadequate for juvenile populations. Juveniles are more impulsive and have less experience grounding them in the logical consequences of their behavior. Magical thinking (“nothing can happen to me”) often tempts them into dangerous drug activity. Accountability and responsibility to their families is often at odds with adolescent rebellion. Because of these and other developmental differences, juvenile drug courts must offer adolescents creative incentives to commit to their recovery. Juvenile drug courts also encompass significant others, such as parents, siblings, and school officials within the drug court program format. Parents or guardians must be supportive of the juvenile’s recovery and cannot be unrecovered addicts themselves. Juvenile drug courts often conduct supervision and treatment in the juvenile’s home, thus involving the whole family system. The dependence of minor children makes the juvenile drug court program more complicated. It requires more family, school and community involvement. The number of people involved in the juvenile drug court is multiplied for each juvenile participant.

# Drug Court Planning Steps

*Successful drug court programs are carefully planned. While not an exhaustive list, the following information summarizes the key questions that must be answered by a collaborative group of court and community officials and criminal justice agency professionals in determining the feasibility of establishing a local drug court program. Listed beneath each step are suggested areas of activity and inquiry that a planning group may want to address.*

◆ **Step 1: What benefits might a drug court program offer to the community, the court, criminal justice agencies and defendants?**

- Assess the need for a drug court program in your court/community.
- What is the potential number of adult or juvenile participants for a drug court program?
- How do we currently handle drug offenders and addicts?
- How effective are the current forms of treatment?
- Are there adequate local or regional substance abuse treatment providers to staff a drug court program?
- Is there requisite interest in a drug court program by members of the bench and community criminal justice officials to further study its applicability in your locality?

◆ **Step 2: Assess Your Court's Criminal or Delinquency Case Processing System.**

- How many criminal/delinquency cases and, in particular, drug offenses are filed in your court each year?
- Is this caseload increasing or decreasing?
- How might a drug court program most effectively be incorporated into the existing weekly docket in your court?
- Does the court currently meet the Judicial Council's voluntary criminal/delinquency case processing guidelines?
- What changes, if any, would need to be made in the court's criminal case processing procedures in order to effectively implement and administer a drug court program?
- What types of coordination and collaboration between the courts, criminal justice agencies and treatment providers are required in order to successfully plan and implement a drug court program?
- What other resources would be required?

◆ **Step 3: Determine the individuals/offices required to plan, develop, implement and administer an effective drug court program.**

- Judges
- Clerks of court
- Local government officials
- Commonwealth's attorneys, defense attorneys and public defenders
- Probation officers and juvenile justice officials
- Substance abuse treatment professionals
- Law enforcement officials (police, sheriff, detention staff)
- Criminal justice planners
- Citizens

◆ **Step 4: Form a Planning Team**

- While soliciting input from the larger group of stakeholders as mentioned above, choose core team members who will be responsible for completing the tasks of planning and implementing the drug court program. Clarify core team members roles and responsibilities.
- Conduct team building training with core planning team.
- Include all judges in your court in the planning stages of a drug court program. If judges are not vested by being a part of the planning process, it may be difficult to secure their involvement for implementation.

◆ **Step 5: Plan the Drug Court Program Structure**

- Write a mission statement for the drug court program to clarify the court and community's intent in establishing a drug court program.
- Decide the eligibility requirements of drug court participants.
  - Which offenders/cases will be referred?
  - What are the disqualifying factors?
  - How will new eligibility issues be addressed?
- Develop a flow chart mapping case movement through the judicial and treatment system of a drug court
  - Who makes eligibility and program retention decisions at points along the process?
  - How is treatment progress monitored and reported?
  - What are the specific duties of drug court staff (supervision, treatment, coordination)?
- Write a procedures manual detailing the steps involved in referral, assessment, judicial review, treatment progress, program sanctions and rewards, and program completion.

◆ **Step 6: Provide Training to Drug Court Teams**

- Provide on-going training on addiction and substance abuse recovery.
- Train non-judicial drug court staff on judicial processes and procedures.
- Train drug court staff on evaluation methods and data collection procedures.
- Design an on-going program for educating outside agencies and the public on the structure, effectiveness, and community advantages of having drug court programs.

◆ **Step 7: Inform Policy Shapers**

- Meet with Community Criminal Justice Board, law enforcement and jail authorities, local legislators and others to discuss implementation of a local drug court program.
- Describe the basic premise and structure of drug court programs.
- Cite evidence of drug court's effectiveness in substance abuse recovery.
- List potential benefits to the community.

◆ **Step 8: Plan for Drug Court Program Implementation**

- Establish a time line and work plan for implementing the drug court program.
- Develop an operational budget.
- Set a target date for beginning the program.

◆ **Step 9: Benefit from Expert Advice**

- Core planning team members should visit established drug courts in Virginia and in other states.
- Consult with state and national drug court authorities.

Office of the Executive Secretary, Supreme Court of Virginia, Dr. Donna Boone, 804/786-3321

Drug Courts Clearinghouse, American University, Carolyn Cooper, 202/885-2875

U.S. Department of Justice, Office of Justice Programs, 202/305-2400

National Association of Drug Court Professionals, Jeffrey Tauber, 703/706-0576

National Council of Juvenile and Family Court Judges, 775/784-1663



◆ **Step 10: Explore Funding Sources**

- In Virginia, most drug court programs have received initial planning grants through the U.S. Department of Justice. For information about federal funding opportunities, you may want to contact the Drug Courts Program Office (202/885-2875). Drug court programs have appealed to state and local governing bodies and community agencies for additional sources of funding.

◆ **Step 11: Plan for Evaluation of the Drug Court Program**

- There are three types of evaluations to consider in assessing the merit of a drug court program: (1) a process evaluation describes the drug court program procedures and policies, services, and demographic characteristics of participants; (2) a cost analysis evaluates the cost of the program compared with other community or institutional alternatives for drug offenders; and (3) an impact evaluation examines retention rates of drug offenders in the program and the program's effect on recidivism rates of program graduates. Technical assistance in planning your evaluations is available by contacting the Office of the Executive Secretary, Dr. Donna Boone (804/786-3321).



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Office of the Executive Secretary

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*A STUDY OF DRUG  
COURT PROGRAMS IN  
THE UNITED STATES*

*Preliminary Draft: September 20, 1999*

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## *EXECUTIVE SUMMARY*

In August 1999, a national survey was mailed to a drug court representative or to the state court administrator in each state. This study was conducted in response to the Virginia Senate Joint Resolution #399 requesting a study of the structural, funding and program guidelines for drug court programs. The national survey included questions about which agencies took the initiative in planning and establishing drug court programs, which agencies were primarily responsible for administering drug court programs, and funding sources for drug court programs. Other questions queried the types and numbers of drug courts and their general approaches. Programmatic decisions including eligibility requirements, primary gatekeepers, and treatment and supervision service contractors were surveyed. A copy of the survey is included in Appendix A. A telephone follow-up to the mailed survey was conducted between September 14<sup>th</sup> and 20<sup>th</sup>. Thirty-five surveys were completed for a 70% rate of return. It is expected that the telephone interview will continue and will result in a higher rate of return. The final report will be included as a part of the legislative study.

Survey results indicated that planning and initiation of drug court programs were spearheaded by one or more agencies in each state. The following entities, either solely or in conjunction with other agencies, were instrumental in the planning stages: Administrative Offices of the Courts in 20 of the 35 states (57%); state Substance Abuse Agencies in 10 states (29%); Departments of Corrections in 6 states (17%); state mental health agencies in 3 states (9%); local courts in 23 states (66%); local government in 8 states (23%). Other entities such as criminal justice planning, law enforcement, Department of Public Safety, Pre-trial services, local Bar Associations, Clerk of the Court, and independent commissions helped establish drug court programs in individual states.

Seventy one percent of local courts with drug court programs have established and/or maintained administrative alliances with Administrative Offices of the Courts. A lesser number included other agencies in the administrative paradigm: 3 included the Department of Corrections, 3 included the state Substance Abuse agency, 5 had sole local jurisdiction, and 5 had steering committees or special commissions established for drug court administration. The various reasons given for administrative placement of drug courts are represented in Table 3.

It is interesting to note that responses to question 3 reflect a dichotomy in expectations of state versus local responsibility for drug court programs. The general responsibilities of the agency (agencies or commissions) that provide administrative oversight of drug court programs included the following:

- ◆ Alerting localities of funding opportunities
- ◆ Providing training in grant writing and administration
- ◆ Providing access to statistical information
- ◆ Giving technical assistance to drug court programs

- ◆ Providing fiscal services related to grant and program accountability
- ◆ Educating the public about drug court programs
- ◆ Providing on-going training opportunities for drug court staff
- ◆ Providing vehicles for sharing information (newsletters, conferences, meetings)
- ◆ Establishing models of effective program evaluation
- ◆ Providing program management expertise
- ◆ Establishing basic elements and guidelines of quality drug court programs
- ◆ Seeking legislative support of drug court programs
- ◆ Coordinating the services and resources of state agencies involved in drug court programs
- ◆ Allowing for centralized accounting and equitable, rather than competitive, distribution of resources

Nationally, drug courts more closely follow the adaption model of program implementation (adjustment to meet local needs and interests) rather than the adoption model (one size fits all). This process of adapting drug court programs to local needs and interests calls for continued local investiture in major drug court decisions. Drug court professionals say that drug court programs are "home grown" because intense local involvement by all involved criminal justice stakeholders (judges, probation officers, treatment professionals, prosecutors, public defenders, defense attorneys, police, local government officials, criminal justice planners and others) is necessary to the success of the program. Drug court programs must be tailored to the unique social climate and attitudes of the community. National indicators show that decisions about the basic design of drug court programs, while conforming to broad federal guidelines, continue to be the locality's responsibility. The survey indicates that local drug court officials continue to make these programmatic decisions:

- ◆ What types of drug courts are needed in the community (adult felony, adult misdemeanor, juvenile, family, abuse and neglect, DWI/DUI, re-entry, domestic violence)? *See Tables 7 & 8.*
- ◆ What is the general approach of the drug court program (deferred prosecution, postadjudication, standard first offender, probation revocation alternative, or another)? *See Table 9.*
- ◆ What are the eligibility requirements for drug court participants? *See Table 10.*
- ◆ Who are the primary gatekeepers of eligibility for drug court participants? *See Table 11.*
- ◆ Who will provide treatment services and how is the quality of these services evaluated? *See Table 12.*
- ◆ Who will provide supervision services for drug court participants? *See Table 13.*
- ◆ Who will conduct drug-testing services for program participants? *See Table 14.*
- ◆ What available avenue of drug court funding will the community pursue? *See Tables 4-6.*

- ◆ What sanctions and rewards will be built into the program structure?

Local drug court officials also continue the responsibilities of:

- ◆ Awarding contracts to service providers and hiring staff.
- ◆ Providing periodic programmatic and progress reporting.
- ◆ Forming partnerships with drug court stakeholders and monitoring the vigor of those partnerships.
- ◆ Informing the community about the drug court program.
- ◆ Conducting evaluations on the impact of their program.

Survey questions about funding sources for drug court programs yielded interesting information. Most (69%) of drug court programs were federally funded in the planning stage. Local funds were allocated to match a percentage of the federal funds. Forty percent (40%) of the drug court programs were also given state funds during the initial planning phase. Four states reported receiving private funding to augment federal, state, or local funding. By the time drug court programs were implemented, eighty-six percent (86%) had obtained federal funding, again with most receiving local and/or state match money. During the implementation stage, a few drug courts turned to third-party insurance reimbursement for treatment services. Others levied participant fees. One locality in Missouri voted to impose a sales tax that would be designated for drug court support. In Mississippi, a private enterprise is being established to solicit drug court contributions (from riverboat gambling fees among other enterprises). Participant fees range from 0 to \$1400. Most participant fees are in the \$10 - \$30 per week range.

By the time some drug court programs matured to the maintenance stage, federal funding declined and seventy-one percent of the existing programs were federally maintained. Concomitant with this decline, state support emerged as a primary funding source for 57% of the programs.

Responses to the survey questions are synthesized in the tables on the following pages. While this is not intended to be a final report, it gives a glimpse of the current "state of art" of drug court programs in the United States.

**TABLE 1: Which Agency or Agencies Took Primary Responsibility for Planning and Establishing Drug Court Programs in Your State?**

	AOC	State SA	DOC	State MH	Courts	Local Gov	CJ Plan	Law Enf.	Other
Alabama	X				X				
Alaska	X								
Arizona									Probation/ Pretrial srv.
Arkansas	X	X							
California									
Colorada									
Conn.	X				X	X			
Delaware	X								
D.C.	X								Clerk of Court/Prob.
Florida					X				
Georgia	X				X				
Hawaii	X				X				Prob/pre- trial srvs.
Idaho					X				
Illinois					X				
Indiana					X				
Iowa	X		X		X				
Kansas									
Kentucky									
Louisiana		X	X		X				
Maine									
Maryland					X				D.Public Safety/Bar
Mass.									
Michigan	X								
Minn.									
Miss.						X			



**TABLE 1: Which Agency or Agencies Took Primary Responsibility for Planning and Establishing Drug Court Programs in Your State?**

	AOC	State SA	DOC	State MH	Courts	Local Gov	CJ Plan	Law Enf.	Other
Missouri	X				X				
Montana									
Nebraska									
Nevada					X				
N. H.									
N. J.	X				X				
N. M.	X		X		X				
N. Y.	X				X				
N. C.	X								S. A. Task Force
N. D.									
Ohio	X	X			X	X			
Oklahoma		X		X					State MH & SA =1 agency
Oregon									
Pa.					X				
R. I.									
S. C.		X			X	X			
S. D.									no drug courts in state
Tenn.	X	X	X	Health Dept.	X	X			Metro. Drug Commission
Texas			X			X			
Utah	X	X				X			
Vermont									
Virginia	X	X	X	X	X	X	X	X	
Wash.		X			X				
W. Va.	X	X			X		X		
Wisconsin									
Wyoming									

**TABLE 2: Which Agency or Agencies Now Has Primary Administrative Responsibility for Drug Court Programs in Your State?**

	AOC	State SA	DOC	State MH	Courts	Local Gov	CJ Plan	Law Enf.	Other
Alabama	X				X				
Alaska	X								
Arizona									Local jurisdiction
Arkansas	X		X		X				
California									
Colorado									
Conn.	X								
Delaware	X								
D.C.	X								Clerk of Court/Prob. Steering Committee
Florida	X				X				
Georgia	X				X				
Hawaii	X				X				Local jurisdiction
Idaho					X				
Illinois					X				
Indiana					X				
Iowa	X		X		X				
Kansas									
Kentucky									
Louisiana		X			X				
Maine									
Maryland									Public Safety/Steer.Comm.
Mass.									
Michigan	X								
Minn.									
Miss.						X			6

**TABLE 2: Which Agency or Agencies Now Has Primary Administrative Responsibility for Drug Court Programs in Your State?**

	AOC	State SA	DOC	State MH	Courts	Local Gov	CJ Plan	Law Enf.	Other
Missouri	X				X				
Montana									
Nebraska									
Nevada					X				
N. H.									
N. J.	X				X				
N. M.	X		X		X				
N. Y.	X				X				
N. C.	X								S. A. Task Force
N. D.									
Ohio	X	X			X	X			
Oklahoma					X				State MH & SA =1 agency
Oregon									
Pa.					X				
R. I.									
S. C.									AOC pending legislation
S. D.									no drug courts in state
Tenn.									Metro. Drug Commission
Texas						X			
Utah									Steering Committee
Vermont									
Virginia					X				
Wash.		X							
W. Va.	X				X				
Wisconsin									
Wyoming									

**TABLE 3: Rationale for Administrative Placement of Drug Courts**

Alabama	AOC is the central agency to handle funding, planning, and technical assistance to drug court programs; drug courts linked to unified court system through existing substance abuse programs.
Alaska	Native Alaskan population expressed interest in drug courts and received grant funding through AOC to proceed with drug court program planning.
Arizona	Localities established drug court programs; there is not a centralized oversight agency.
Arkansas	Drug court programs were evaluated and AOC, Dept of Community Punishment and local courts were the "best fit" for handling administrative responsibility.
California	
Colorado	
Conn.	Funding from state legislature for drug court programs generally overseen by AOC.
Delaware	Our Superior Court handles both misdemeanor and felony cases. Coordination of drug court programs by the AOC is logical because they oversee all levels of courts.
D.C.	The Chief Judge was interested in establishing a drug court and overseeing its progress.
Florida	Local courts initiate drug court programs with the AOC providing baseline data, funding for court-based positions, technical assistance, training, planning, and conferences. The AOC has established a Drug Court Steering Committee to monitor and meet the needs of drug court programs.
Georgia	The Supreme Court helps local courts establish drug court programs, gives technical assistance, seeks funding sources, has set up Supreme Court commission to seek state funding for drug courts.
Hawaii	Adult probation is a part of the court system and endorsed drug court programs because this initiative will benefit the court system overall.
Idaho	Administrative control of drug court programs is on the local level.
Illinois	
Indiana	Currently state government is left out of the drug court "loop". The Indiana Supreme Court is slowly looking into and deciding what its role should be.
Iowa	Drug court programs are a collaboration between the Supreme Court, local courts and the Department of Corrections.
Kansas	
Kentucky	
Louisiana	While local courts administer individual drug court programs, the state substance abuse agency is needed to fund treatment services.
Maine	
Maryland	The impetus for drug court programs came from the Baltimore Bar Association and the Russell Report which found court dockets severely clogged with drug cases. An oversight group was formed consisting of a public defender, social services agency representative, prosecutor, and judge. The Department of Public Safety put up the match to federal funding of drug court programs.
Mass.	
Michigan	The State Court Administrator's office has provided technical assistance, resources and information on drug court programs for the past eight years. The Michigan legislature now appropriates funding specifically for drug court programs. This funding is administered by the State Court Administrator's office.
Minn.	
Miss.	Mississippi has one operational drug court which is administered on the local level. The drug court program contract is awarded to a private corrections agency to administer.
Missouri	Drug courts are court programs; if the court isn't involved it's not a drug court, it's something else. When drug court participants were asked what made the difference with this program's success, resoundingly they said "the judge". That's the basic reason the AOC administers drug court programs.

Montana

Nebraska

Nevada The first drug court in Nevada was established in 1992 before there was a "movement" and federal funding. Local courts operate drug court programs and thus are the best administrators of the programs.

N. H.

N. J. New Jersey's judiciary is a unified judicial system. The AOC gives centralized administration and support to drug court programs.

N. M. The AOC acts as an "organizing umbrella" for all drug courts throughout the state. The AOC organizes federal grant writing workshops, seeks legislative funds and works with other state agencies to combine resources for drug court funding.

N. Y. Drug court programs are administered by the AOC which allows for centralized accounting and financial control.

N. C. Drug court programs in North Carolina are funded primarily through state appropriations. The Drug Court office under the AOC administers all aspects of drug court programs.

N. D.

Ohio There is a close partnership between the Supreme Court of Ohio and the state substance abuse agency in handling drug court programs.

Oklahoma The Oklahoma Criminal Justice Resource Center gathered support for drug court programs in the legislature and with the judiciary and the prosecutors.

Oregon

Pa. Drug courts are administered on the local level. Local administration allows drug court personnel to structure programs consistent with their objectives and to build local support.

R. I.

S. C. The Chief Justice and Associate Justices wanted drug court programs under the AOC because they involve judges and the courts.

S. D.

Tenn. The Metropolitan Drug Commission (MDC) was formed by the localities to educate the public and to establish programs combating substance abuse. There was a logical fit between MDC and administration of drug court programs.

Texas Localities administer funding which may be "pass-through" federal funds or funds allocated by the governor for drug courts. Also, the Texas Narcotics Control Program helps sponsor drug court programs.

Utah A voluntary, state-wide coordinating committee steers drug courts, but has no statutory authority.

Vermont

Virginia Senate Joint Resolution #399 mandates a study of drug court administration, funding, and service guidelines for Virginia's drug court programs.

Wash.

W. Va. In West Virginia probation services and courts are combined. Drug courts are seen as a combined court-probation program, thus administrative placement in the AOC and local courts is logical.

Wisconsin

Wyoming

**TABLE 4: What Were the Primary Funding Sources during the Planning Stages of Your Drug Court Programs?**

	Federal Funding	State Funding	Local Funding	Private Resources	Participant fees	Third-party
Alabama	X		X			
Alaska	X		X			
Arizona	X	X	X			
Arkansas	X	X	X	State Bar Assn.		
California						
Colorado						
Conn.		X				
Delaware	X		X			
D.C.	X					
Florida	X	X	X	X		
Georgia	X		X			
Hawaii	X	X				
Idaho	X		X			
Illinois			X			
Indiana	X		X			
Iowa	X		X			
Kansas						
Kentucky						
Louisiana		X	X			
Maine						
Maryland	X	X				
Mass.						
Michigan	X					
Minn.						
Miss.			X			

	Federal Funding	State Funding	Local Funding	Private Resources	Participant fees	Third-party
Missouri	X		X			
Montana						
Nebraska						
Nevada			X			
N. H.						
N. J.	X	X				
N. M.	X	X				
N. Y.	X		X			
N. C.	X	X				
N. D.						
Ohio						
Oklahoma	X		X			
Oregon						
Pa.	X		X			
R. I.						
S. C.	X		X			
S. D.						
Tenn.			X	Metropolitan Drug Comm.		
Texas		X	X			
Utah	X	X				
Vermont						
Virginia	X	X	X	X		
Wash.						
W. Va.		X				
Wisconsin						
Wyoming						

**TABLE 5: What Were the Primary Funding Sources during the Implementation Stages of Your Drug Court Programs?**

	Federal Funding	State Funding	Local Funding	Private Resources	Participant fees	Third-party
Alabama	X				X	
Alaska	X		X			
Arizona	X	X	X		X	
Arkansas	X	X				
California						
Colorada						
Conn.		X				
Delaware	X		X			
D.C.	X					
Florida	X	X	X	X	X	
Georgia	X		X			
Hawaii	X	X			X	X
Idaho	X		X			
Illinois			X			
Indiana	X		X			
Iowa	X		X			
Kansas						
Kentucky						
Louisiana	X	X	X		X	
Maine						
Maryland		X				
Mass.						
Michigan	X	X				
Minn.						
Miss.	X		X		X	X



	Federal Funding	State Funding	Local Funding	Private Resources	Participant fees	Third- party
Missouri	X	X	X	X	X	X
Montana						
Nebraska						
Nevada	X	X				X
N. H.						
N. J.	X	X	X		X	X
N. M.	X	X				
N. Y.	X	X	X			X
N. C.	X	X				X
N. D.						
Ohio	X	X				
Oklahoma	X		X			
Oregon						
Pa.	X	X	X			
R. I.						
S. C.	X	X	X			
S. D.						
Tenn.	X		X	Drug Comm.		
Texas	X	X	X			
Utah	X		X			
Vermont						
Virginia	X	X	X	X		
Wash.						
W. Va.	X					
Wisconsin						
Wyoming						

**TABLE 6: What Were the Primary Funding Sources during the Maintenance Stages of Your Drug Court Programs?**

	Federal Funding	State Funding	Local Funding	Private Resources	Participant fees	Third-party
Alabama	X				X	
Alaska						
Arizona	X	X	X		X	
Arkansas	X	X				
California						
Colorado						
Conn.		X				
Delaware	X		X			
D.C.	X					
Florida	X	X	X	X	X	
Georgia	X		X			
Hawaii	X	X			X	X
Idaho	X		X			
Illinois			X			
Indiana	X		X			
Iowa	X		X			
Kansas						
Kentucky						
Louisiana	X	X	X		X	
Maine						
Maryland		X				
Mass.						
Michigan		X				
Minn.						
Miss.	X		X		X	X

	Federal Funding	State Funding	Local Funding	Private Resources	Participant fees	Third- party
Missouri	X	X	X	X	X	X
Montana						
Nebraska						
Nevada	X	X				X
N. H.						
N. J.	X	X	X		X	X
N. M.	X	X	X			
N. Y.	X	X	X			X
N. C.		X				X
N. D.						
Ohio	X	X	X			
Oklahoma			X		X	X
Oregon						
Pa.	X	X	X			
R. I.						
S. C.	X	X	X			
S. D.						
Tenn.	X	X		Drug Comm.		
Texas	X	X	X			
Utah	X		X		X	
Vermont						
Virginia		X	X			
Wash.						
W. Va.	X					
Wisconsin						
Wyoming						

**TABLE 7: Types of Operational Drug Courts in the United States**

	<i>Adult Felony</i>	<i>Adult Misdem.</i>	<i>Juvenile</i>	<i>Family Abuse&amp;Neg</i>	<i>DWI/ DUI</i>	<i>Re-entry</i>	<i>Domestic Violence</i>	<i>Other</i>
Alabama	7		1					
Alaska								
Arizona	2		1					
Arkansas	1							
California								
Colorado								
Conn.	3		1					
Delaware	3							
D.C.	1	1	1					
Florida	21		11	3	1		2	2MH
Georgia	1		1					
Hawaii	1							
Idaho	2							
Illinois	1	1	1					
Indiana	8		2					
Iowa	2		2		8			
Kansas								
Kentucky								
Louisiana	19		6					
Maine								
Maryland	1	2						
Mass.								
Michigan	11							
Minn.								
Miss.	1							

	<i>Adult Felony</i>	<i>Adult Misdem.</i>	<i>Juvenile</i>	<i>Family Abuse&amp;Neg</i>	<i>DWI/ DUI</i>	<i>Re-entry</i>	<i>Domestic Violence</i>	<i>Other</i>
Missouri	15	1	3	2		1		
Montana								
Nebraska								
Nevada	1	3	1	1				1 Reunifica.
N. H.								
N. J.	6		2					
N. M.	6		3		1			
N. Y.	6	8		2	1			
N. C.	9		1					
N. D.								
Ohio	18		3	1				
Oklahoma	12	10	2					
Oregon								
Pa.	1							
R. I.								
S. C.	6		2					
S. D.								
Tenn.	3	1	1					
Texas	6		1					
Utah	3			1			1	1 Tobacco
Vermont								
Virginia	6		2					
Wash.	10		2					
W. Va.								
Wisconsin								
Wyoming								

**TABLE 8: Types of Drug Courts Planned in the United States**

	<i>Adult Felony</i>	<i>Adult Misdem.</i>	<i>Juvenile</i>	<i>Family Abuse&amp;Neg</i>	<i>DWI/ DUI</i>	<i>Re-entry</i>	<i>Domestic Violence</i>	<i>Other</i>
Alabama	4						1	
Alaska	1							
Arizona	5							
Arkansas	2							
California								
Colorado								
Conn.	1					1		
Delaware				1				
D.C.								
Florida	6		2					
Georgia								
Hawaii	1			1		1		
Idaho	1		1					
Illinois								
Indiana								
Iowa								
Kansas	1		1					
Kentucky								
Louisiana								
Maine								
Maryland			1					
Mass.								
Michigan								
Minn.								
Miss.	1		1					

	<i>Adult Felony</i>	<i>Adult Misdem.</i>	<i>Juvenile</i>	<i>Family Abuse&amp;Neg</i>	<i>DWI/ DUI</i>	<i>Re-entry</i>	<i>Domestic Violence</i>	<i>Other</i>
Missouri	9		6	4		4	1	
Montana								
Nebraska								
Nevada						1		
N. H.								
N. J.	1							
N. M.			3					
N. Y.	3	4	1		6			
N. C.	9			1	1			
N. D.								
Ohio			2	2				
Oklahoma	7		3					
Oregon								
Pa.								
R. I.								
S. C.	5		1	3				
S. D.								
Tenn.								
Texas							1	
Utah	2					1		
Vermont								
Virginia	2	1	1					
Wash.	5		2					
W. Va.			1					
Wisconsin								
Wyoming								

**TABLE 9: General Approaches of Drug Courts in the United States**

	<i>Deferred Prosecution</i>	<i>Postad-judication</i>	<i>First Offender</i>	<i>Other</i>
Alabama	X	X		
Alaska				
Arizona	X	X		
Arkansas	X	X		
California				
Colorado				
Conn.		X		
Delaware	X			
D.C.		X		
Florida	X	X		
Georgia	X	X		
Hawaii	X			Probation revocation
Idaho		X		
Illinois		X		
Indiana	X	X		
Iowa	X	X		
Kansas				
Kentucky				
Louisiana		X		
Maine				
Maryland	X	X		
Mass.				
Michigan				
Minn.				
Miss.	X			



	<i>Deferred Prosecution</i>	<i>Postad- judication</i>	<i>First Offender</i>	<i>Other</i>
Missouri	X	X		
Montana				
Nebraska				
Nevada	X	X		Prob. Revoc./ child pro. service plan/prob cond.
N. H.				
N. J.		X		
N. M.	X	X		
N. Y.	X	X		
N. C.	X			Prob. Condition/ Post- sentence or sent. susp.
N. D.				
Ohio	X	X	X	
Oklahoma	X	X		
Oregon				
Pa.	X			
R. I.				
S. C.	X	X		
S. D.				
Tenn.	X	X		
Texas	X	X		
Utah		X		
Vermont				
Virginia	X	X		
Wash.	X			
W. Va.	X			
Wisconsin				
Wyoming				

**TABLE 10: Eligibility Requirements of Drug Courts in the United States**

	<i>Non-violent Current</i>	<i>Non-violent Priors</i>	<i>Addiction Evidence</i>	<i>Drug Possession</i>	<i>Drug Distribution</i>	<i>Drug- Related</i>	<i>Alcohol Related</i>	<i>Other</i>
Alabama	X	accept old	X	X		X	X	
Alaska	eligibility requirements now being developed							
Arizona	X	X	X	X	small amt.	X	X	no dual dia no methado
Arkansas	X	X		X		X		X
California								
Colorada								
Conn.	X	X				X		
Delaware	X	X	X	X	X	X	X	X
D.C.	X	X	X	X	X	X		
Florida	X	X	X	X	few	X	X	
Georgia	X	X		X		X	X	
Hawaii	X	X	X	X	small amt.	X	X	
Idaho	X			X		X		X
Illinois	X	X	X	X	X	X	X	
Indiana	X	X	X	X		X	X	
Iowa	X	old	X	X	small amt.	X	X	no guns
Kansas								
Kentucky								
Louisiana	X	X	X	X		X	X	
Maine								
Maryland	X	X	X	X	small amt.	X	X	no guns
Mass.								
Michigan								
Minn.								
Miss.	X	X	X	X	small amt.	X	dual depen.	no guns

	<i>Non-violent Current</i>	<i>Non-violent Priors</i>	<i>Addiction Evidence</i>	<i>Drug Possession</i>	<i>Drug Distribution</i>	<i>Drug- Related</i>	<i>Alcohol Related</i>	<i>Other</i>
Missouri	X	X	X	X	small amt.	X	X	
Montana								
Nebraska								
Nevada	X	X	X	X		X	X	
N. H.								
					small amt.			
N. J.	X	X	X	X	addict-relat.	X	X	
N. M.								
N. Y.	X	X	X	X		X	X	
N. C.	X	X	X	X		X	X	
N. D.								
Ohio	X	X	X	X		X	X	
Oklahoma	X	X	X	X		X	X	
Oregon								
Pa.	X			X	X	X	X	
R. I.								
S. C.	X	X	X	X	rare	X	X	
S. D.								
					small amt.			no dual dia
Tenn.	X	X	X	X	addict-relat.	X	X	no methado
Texas	X	X	X	X		X	X	no med.
Utah								
Vermont								
Virginia	X	X	X	X		X	X	
Wash.	X		X	X	small amt.	X		
W. Va.	eligibility requirements now being developed							
Wisconsin								
Wyoming								

**TABLE 11: Who Are the Primary Gatekeepers Determining Eligibility for Drug Court Program Participation**

	<i>Prose- cutors</i>	<i>Judges</i>	<i>Clinicians</i>	<i>Drug Ct. Team</i>	<i>Drug Court Admin.</i>	<i>Probation/ Pre-trial</i>	<i>Public Defender</i>	<i>Others</i>
Alabama	X	X	X	X	X	X	X	
Alaska	drug court not yet operational							
Arizona					X	X		
Arkansas		X						
California								
Colorada								
Conn.	X	X	X					
Delaware	X				X			
D.C.	X	X				X		
Florida	X	X				X		
Georgia	X							
Hawaii	X	X	X		X	X		
Idaho	X		X					
Illinois	X							
Indiana	X	X			X			
Iowa	X		X			X		
Kansas								
Kentucky								
Louisiana	X	X	X					
Maine								
Maryland	X	X				X		
Mass.								
Michigan								
Minn.								
Miss.	X	X		X	X	X	X	Police

	<i>Prosecutors</i>	<i>Judges</i>	<i>Clinicians</i>	<i>Drug Ct. Team</i>	<i>Drug Court Admin.</i>	<i>Probation/ Pre-trial</i>	<i>Public Defender</i>	<i>Others</i>
Missouri	X		X			X		
Montana								
Nebraska								
Nevada	X	X	X					
N. H.								
N. J.	X							
N. M.	X	X	X	X	X	X	X	
N. Y.	X	X	X					
N. C.	X			X	X			
N. D.								
Ohio		X	X					
Oklahoma	X							
Oregon								
Pa.	X							
R. I.								
S. C.	X							
S. D.								
Tenn.	X	X		X	X	X		
Texas	X	X					X	
Utah	X		X					
Vermont								
Virginia	X	X	X	X	X	X	X	
Wash.	X	X	X				X	
W. Va.						X		
Wisconsin								
Wyoming								

**TABLE 12: Drug Court Treatment Providers**

	<i>State/local MH Agency</i>	<i>Probation Parole staff</i>	<i>Substance Abuse Agency</i>	<i>Private Clinicians</i>	<i>Residential Treatment</i>	<i>In-house drug ct. counselors</i>
Alabama	X		X	X	X	X
Alaska	drug courts not yet operational					
Arizona			X		X	X
Arkansas			X			
California						
Colorada						
Conn.					X	X
Delaware	X	X	X	X	X	
D.C.			X	X	X	
Florida	X		X	X	X	
Georgia						X
Hawaii			X		X	X
Idaho				X		
Illinois			X			
Indiana			X	X		
Iowa			X	X	X	X
Kansas						
Kentucky						
Louisiana			X			
Maine						
Maryland				X		
Mass.						
Michigan						
Minn.						
Miss.				X	X	

	<i>State/local MH Agency</i>	<i>Probation Parole staff</i>	<i>Substance Abuse Agency</i>	<i>Private Clinicians</i>	<i>Residential Treatment</i>	<i>In-house drug ct. counselors</i>
Missouri	X					
Montana						
Nebraska						
Nevada			X			
N. H.						
N. J.			X	X		
N. M.			X	X		
N. Y.	X	X	X	X	X	
N. C.	X		X	X	X	
N. D.						
Ohio			X			
Oklahoma	X		X	X	X	
Oregon						
Pa.	X					
R. I.						
S. C.	X				X	
S. D.						
Tenn.	X		X	X	X	
Texas	X	X	X	X	X	
Utah			X			
Vermont						
Virginia	X		X	X	X	X
Wash.			X			
W. Va.	X					
Wisconsin						
Wyoming						

**TABLE 13: Drug Court Supervision Providers**

	<i>local law enforcement</i>	<i>probation/parole</i>	<i>treatment/case manage.</i>	<i>drug court staff</i>	<i>other</i>
Alabama					
Alaska	drug court not yet operational				
Arizona		X	X		
Arkansas					
California					
Colorado					
Conn.					
Delaware		X	X	X	
D.C.					
Florida		X	X	X	
Georgia					
Hawaii	X	X	X		
Idaho					
Illinois					
Indiana					
Iowa		X			
Kansas					
Kentucky					
Louisiana					
Maine					
Maryland		X			
Mass.					
Michigan					
Minn.					
Miss.				X	Court Watch-private P.O.



	<i>local law enforcement</i>	<i>probation/ parole</i>	<i>treatment/ case manage.</i>	<i>drug court staff</i>	<i>other</i>
Missouri					
Montana					
Nebraska					
Nevada					
N. H.					
N. J.		X			
N. M.					
N. Y.		X		X	TASC officers
N. C.					
N. D.					
Ohio					
Oklahoma					
Oregon					
Pa.					
R. I.					
S. C.		X	X	X	
S. D.					
Tenn.	X	X	X	X	
Texas		X		X	
Utah					
Vermont					
Virginia		X		X	Offender Aid case man.
Wash.					
W. Va.					
Wisconsin					
Wyoming					

**TABLE 14: Drug Use Screening Providers**

	<i>probation/ parole staff</i>	<i>drug court staff</i>	<i>treatment providers</i>	<i>commercial/ gov't lab</i>	<i>in-house lab techs</i>	<i>other</i>
Alabama						
Alaska						
Arizona			X			
Arkansas						
California						
Colorado						
Conn.						
Delaware	X		X			
D.C.						
Florida	X		X			
Georgia						
Hawaii			X			
Idaho						
Illinois						
Indiana						
Iowa						
Kansas						
Kentucky						
Louisiana						
Maine						
Maryland	X					
Mass.						
Michigan						
Minn.						
Miss.			X			

	<i>probation/ parole staff</i>	<i>drug court staff</i>	<i>treatment providers</i>	<i>commercial/ gov't lab</i>	<i>in-house lab techs</i>	<i>other</i>
Missouri						
Montana						
Nebraska						
Nevada						
N. H.						
N. J.	X		X			TASC officers
N. M.						
N. Y.	X	X	X			
N. C.						
N. D.						
Ohio						
Oklahoma						
Oregon						
Pa.						
R. I.						
S. C.	X		X			
S. D.						
Tenn.						Sheriff deputy
Texas					X	
Utah						
Vermont						
Virginia	X	X	X			Offender Aid case manage.
Wash.						
W. Va.						
Wisconsin						
Wyoming						

**TABLE 15: States with Drug Court Legislation**

	YES	NO
Alabama		X
Alaska		X
Arizona	X	
Arkansas	X	
California		
Colorado		
Conn.	X	
Delaware	In progress	
D.C.		X
Florida	X	
Georgia		X
Hawaii	X	
Idaho		
Illinois		X
Indiana		X
Iowa	X	
Kansas		
Kentucky		
Louisiana	X	
Maine		
Maryland		X
Mass.		
Michigan		
Minn.		
Miss.		X

Missouri	X	
Montana		
Nebraska		X
Nevada	X	
N. H.		
N. J.		X
N. M.		X
N. Y.		X
N. C.	X	
N. D.		
Ohio		X
Oklahoma	X	
Oregon		
Pa.		X
R. I.		
S. C.	In progress	
S. D.		
Tenn.		X
Texas		X
Utah		X
Vermont		
Virginia		X
Wash.	X	
W. Va.		X
Wisconsin		
Wyoming		

*APPENDIX A*

## SURVEY OF DRUG COURT PROGRAM FUNDING, PROGRAM GUIDELINES, AND ADMINISTRATIVE STRUCTURE

**Which agency (agencies) took primary responsibility for planning and instituting drug court programs in your state?**  
(Check all that apply)

- |  |   |
|--|---|
| <input type="checkbox"/> Administrative Office of the Courts | <input type="checkbox"/> Local Courts                     |
| <input type="checkbox"/> State Substance Abuse Agency        | <input type="checkbox"/> Local government (specify) _____ |
| <input type="checkbox"/> State Department of Corrections     | <input type="checkbox"/> Criminal Justice Planning Agency |
| <input type="checkbox"/> State Department of Mental Health   | <input type="checkbox"/> Law Enforcement (specify) _____  |
| <input type="checkbox"/> Other _____                         |   |

**Which agency (agencies) now has primary administrative responsibility (planning, funding requests, budgets, training, etc.) for drug court programs: (Check all that apply)**

- |  |   |
|--|---|
| <input type="checkbox"/> Administrative Office of the Courts | <input type="checkbox"/> Local Courts                     |
| <input type="checkbox"/> State Department of Mental Health   | <input type="checkbox"/> Local government (specify) _____ |
| <input type="checkbox"/> State Substance Abuse Agency        | <input type="checkbox"/> Law Enforcement (specify) _____  |
| <input type="checkbox"/> State Department of Corrections     | <input type="checkbox"/> Criminal Justice Planning Agency |
| <input type="checkbox"/> State Drug Court Commission         | <input type="checkbox"/> Other: _____                     |

**Please explain the rationale for placing drug courts within this administrative agency/branch of government:** \_\_\_\_\_

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**What were the primary funding sources for your drug court programs? (check all applicable categories)**

	Planning Stage	Implementation Stage	Maintenance Stage
<b>Federal</b> (include Byrne, SJI, CSAT, etc.)			
<b>State</b> (also include special surtaxes, fines, state revenues, state department allocations, etc.)			
<b>Local</b> (local government, agencies and groups)			
<b>Private</b> (foundations, private businesses, etc.)			
<b>Participant fees</b> (specify fee amount: _____)			
<b>Third-Party</b> (HMOs, Medicaid, Insurance, etc.)			

**How many of the following types of drug court programs are planned ("P") or operational ("O") in your state?** (Example: 7 "O" & 2 "P" Adult Felony)

\_\_\_\_\_ *Adult Felony*                      \_\_\_\_\_ *Adult Misdemeanor*  
\_\_\_\_\_ *Juvenile*                              \_\_\_\_\_ *Domestic Violence*  
\_\_\_\_\_ *DWI/DUI*                              \_\_\_\_\_ *Abuse & Neglect*  
\_\_\_\_\_ *Re-entry*                              **Other:** \_\_\_\_\_

**What general approach do most drug court programs follow?** (Check all that apply):

\_\_\_\_\_ *Deferred prosecution (withhold finding, pre-adjudication diversion)*  
\_\_\_\_\_ *Postadjudication (convicted, sentence is deferred, later reduced or dismissed)*  
\_\_\_\_\_ *Standard first offender alternative*  
\_\_\_\_\_ **Other:** \_\_\_\_\_

**What are the eligibility requirements for drug court acceptance?** (Check all that apply):

\_\_\_\_\_ *non-violent current*      \_\_\_\_\_ *non-violent prior*      \_\_\_\_\_ *addiction evidence*  
\_\_\_\_\_ *drug possession*      \_\_\_\_\_ *alcohol-related offense*      \_\_\_\_\_ *drug distribution*  
\_\_\_\_\_ *drug-related offense*      \_\_\_\_\_ *other requirements:*

**Who are the primary gatekeepers who determine drug court eligibility?** (Check all that apply):

\_\_\_\_\_ *prosecutors*                      \_\_\_\_\_ *judges*                      \_\_\_\_\_ *drug court administrators*  
\_\_\_\_\_ *treatment staff*                      \_\_\_\_\_ *probation staff*                      *other* \_\_\_\_\_

**Who provides drug court treatment?** (Check all that apply):

\_\_\_\_\_ *state/local mental health agencies*      \_\_\_\_\_ *private mental health clinicians*  
\_\_\_\_\_ *probation/parole staff*                      \_\_\_\_\_ *private residential agencies*  
\_\_\_\_\_ *substance abuse clinicians*                      *other:* \_\_\_\_\_

**Has your state enacted drug court legislation?** (If yes, please send a copy of this legislation)      \_\_\_\_\_ *Yes*      \_\_\_\_\_ *No*

Thank you for your time and effort in answering this survey and for sending any available printed information about your state's drug courts to:

Dr. Donna L. Boone  
Office of the Executive Secretary  
Supreme Court of Virginia  
100 North Ninth Street  
Richmond, Virginia 23219-2334

\_\_\_\_\_  
*Your Signature*  
State of \_\_\_\_\_





Drug  
Court  
Programs  
in  
Virginia

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## ***Introduction to Drug Court Programs***

Drug court programs represent a new way of doing business for state and local courts and criminal justice agencies in the United States. Drug courts provide a different type of court intervention in which non-violent substance abusers are held publicly accountable both for their offenses and their recovery. First established in Florida in 1989, these programs combine intense substance abuse treatment and probation supervision with the court's authority to mandate responsibility and compliance. Drug court programs seek to address the chronic behavioral patterns of drug offenders. As an alternative to traditional court processing, drug courts have proven successful in deterring addicts from future criminal acts. Recidivism rates of drug court graduates are approximately half or less than the rearrest rates of non-drug court graduates. News of successful drug rehabilitation spread within criminal justice communities and piqued interest in this alternative court process. Now there are 361 drug court programs operating in 48 states with another 220 drug court programs being planned or implemented.

## ***Virginia's Drug Court Programs***

In Virginia, the Twenty-third Judicial Circuit (Roanoke City, Roanoke County and Salem) was first in establishing a drug court, in September 1995. Seven other drug court programs have been implemented: Charlottesville and Albemarle Circuit Courts, the Rappahannock Regional (Stafford, Fredericksburg, Spotsylvania and King George) Circuit and Juvenile and Domestic Relations District Courts, Richmond Circuit and Juvenile and Domestic Relations District Courts and the Norfolk and Newport News Circuit Courts. Four other Virginia courts (Virginia Beach General District Court, Newport News Juvenile and Domestic Relations District Court, Portsmouth Circuit Court and Chesterfield/ Colonial Heights Circuit Courts) have received federal funding to plan drug court programs.

### ***Basic Premise of Drug Court Programs***

Undergirding drug court programs is the philosophy that more effective handling of drug treatment for addicts will result in not only higher recovery rates, but also in reduced criminal behavior. But why involve the courts in addiction recovery? First, the courts are already involved with addicts brought before them on drug and drug-related criminal charges. Therefore, they have a legitimate interest in dispositions that "fit the crime" and best protect public safety. Second, arrest often presents a "teachable moment" for the addict. This crisis often jars the addicts' denial of their disease and prompts them to seek treatment. A disposition that takes advantage of this teachable moment by applying appropriate and immediate sanctions may prove more effective than sanctions applied long after the shock of arrest has dulled. Third, no other treatment program has the power of the court to issue immediate sanctions such as jail time or community service when an addict relapses or when he/she does not adhere to treatment rules. Ongoing judicial interaction and supervision increases the likelihood of participant sobriety. There is simply more inducement to take drug treatment seriously when the power of the court is involved.

### ***What is a Drug Court Program?***

Drug court programs have several dimensions that define their structure and function:

- ❖ A drug court combines continuous and intense treatment, mandatory periodic or random drug testing, use of appropriate sanctions, and access to needed ancillary services for substance abusers brought before the court on drug or drug-related offenses.
- ❖ Drug courts are developed through multidisciplinary and interagency efforts between judges, commonwealth's attorneys, defense attorneys, public

defenders, treatment professionals, local law enforcement and jail staff, department of corrections personnel, and private agency staff. This coalition of public and private organizations committed to addressing drug-addicted offenders has the effect of fostering public confidence in the criminal justice system.

- ❖ A drug court integrates criminal case processing, treatment service and offender accountability under the leadership of the court. There is a high level of cooperation and collaboration among drug court team members. The drug court team confers regularly about the best course of action to take for each drug court participant.
- ❖ Drug court is a special court docket where nonviolent substance abusing offenders are held publicly accountable before a supervising judge.
- ❖ Drug court is an alternative to traditional adjudication and/or sentencing options.
- ❖ Drug court programs give access to a continuum of treatment and rehabilitative services, which enhances recovery.

### ***Virginia's Drug Court Program Structure***

The drug court model includes: (a) judicial supervision of structured community-based treatment; (b) timely identification of defendants in need of treatment and referral to treatment as soon as possible after arrest; (c) regular status hearings before the judge to monitor treatment progress and program compliance; (d) increased defendant accountability through a series of graduated sanctions and rewards; and (e) mandatory periodic and random drug testing.

Drug offenders must first plead guilty to or be found guilty of their pending charge or probation violation. Some drug courts defer sentencing while others impose a suspended sentence pending completion of the drug court program. After receiving an assessment that determines if the offender meets necessary

program guidelines, the judge then offers the defendant a chance to enter the drug court program rather than face possible sentencing options including fines, jail time or prison time.

### ***The Rigor of Drug Court Programs***

Drug courts often are seen as the most rigorous judicial response for drug offenders. Although the court may offer incentives such as reduced or dismissed sentences for voluntary drug court participation, many offenders choose incarceration or probation instead of the intense treatment and supervision required in a drug court program. If they fail to adhere to program requirements or if they relapse, the drug offender is sanctioned and may serve jail time and have their drug court time lengthened. Program non-compliance, new charges, and/or multiple and reoccurring relapses may result in removal from the program.

While all Virginia drug court programs have graduated program phases, local drug courts vary in their requirements during each treatment phase. Generally, drug court participants move through three program phases that decrease in intensity and required involvement. When drug court participants first enter the program, they are in Phase One, the most intense part of the drug court program. During this phase, participants undergo drug testing three to five times a week; group and individual outpatient therapy three to four times per week; intense probation supervision; attendance at Narcotics Anonymous or Alcoholic Anonymous; and a weekly court appearance before the drug court judge. Drug court programs also require the participant to acquire and maintain full-time employment or be enrolled in a full-time educational program. Some drug court programs also require participants to save a percentage of their earnings each month.

After participants have maintained sobriety approximately a month or more, they are promoted to Phase Two, which lasts approximately four to six

months. Phase Two requirements include treatment group attendance two days a week; random drug testing about twice a week; intensive probation supervision; attendance at Narcotics Anonymous or Alcoholics Anonymous meetings; and bi-monthly attendance in court. During this phase, participants are expected to establish a personal relapse prevention plan and be alcohol and drug free.

Promotion to Phase Three generally requires at least six months of sobriety. Therapy sessions are reduced to once a week, drug testing is random, and probation supervision decreases in frequency. Regular attendance at Narcotics Anonymous or Alcoholics Anonymous is still expected. The participant appears in drug court once each month.

Graduation from the drug court program usually occurs within 12 to 18 months after entering the program. Drug court graduates recognize that drug and alcohol recovery is a lifelong process. Graduation does not represent an end, but rather the continuation of ingrained habits learned during their drug court program that lead them toward a healthy and productive future.

### ***Cost Effectiveness of Drug Court Programs***

According to the National Center for State Courts, most defendants (69%) convicted of felony drug charges receive a period of incarceration rather than probation. Nationally, prison incarceration of drug offenders has increased from less than 10% of the total prison population in the early 1980's to about one-third of all new prison commitments between 1989 and 1995. According to the Virginia Department of Corrections, the estimated cost per year for a prison inmate is \$39,669. The Virginia Department of Juvenile Justice estimates the cost for incarcerating juveniles at \$38,646 per year. These costs include capital expenses of institution construction and maintenance, operating costs, and for juveniles, educational expenses. The average cost of drug

court treatment per participant for a year is approximately \$3,000. Community based drug court programs offer effective treatment and the ability to treat many more qualified drug offenders for the price now spent on other sentencing alternatives.

### ***Why Do We Need Specialized Drug Court Dockets?***

Since the mid-1990's, specialized drug case management programs, including drug courts, have received considerable attention by judges interested in more efficient and effective handling of drug addiction and related criminal caseloads. Between 1990 and 1997, drug arrests rose 66% in Virginia (17,606 to 29,302). A 1992 survey of Virginia's offender populations indicated that 67% of probationers used illicit drugs. A total of 69% of local jail inmates were said to be in need of substance abuse treatment. National statistics mirrored Virginia's problems with drug case management. The National Center for State Courts reports that 31% of the 870,000 felony convictions in state trial courts in 1994 were for drug (possession or trafficking) offenses. Within the last few years, drug arrests have risen sharply, surpassing the volume of arrests in the "drug war" years. Keeping up with increasing drug caseloads presents a unique challenge for Virginia's courts because their budgets seldom keep pace with the volume of work. Drug courts present one option for timely, efficient and effective processing of rising drug caseloads.

### ***How is Drug Court Different From Traditional Court Adjudication of Drug Offenses?***

Traditional court adjudication of drug offenders has the following characteristics:

- ❖ Adversarial proceedings through which defendants are found guilty or innocent of criminal charges



- ❖ Court has limited supervision or knowledge of defendant's progress after adjudication and disposition
- ❖ Separate entities (probation and parole offices, local treatment programs, etc.) attempt to reduce crime and treat drug abuse
- ❖ Punishment is a primary tool for deterring future crimes
- ❖ Treatment varies in availability, cost, intensity and quality
- ❖ Relapse is treated as a new crime or a probation violation

Drug court programs handle drug cases by:

- ❖ Collaborative multidisciplinary alliances (including judge, commonwealth's attorney, defense attorney, public defender, probation officer, treatment professionals) work together to reduce crime and increase defendant's sobriety
- ❖ Treatment is seen as an effective tool for reducing the need for drugs and for restoring defendants to productive and lawful lives
- ❖ The court is active in monitoring the defendant's progress and applies immediate sanctions when necessary
- ❖ While treatment is individualized, the program is uniform in structure, quality, and intensity
- ❖ Relapse results in graduated sanctions

***Have Drug Courts Been Proven to be Effective in Reducing Substance Abuse and Drug-related Crime?***

According to the National Office of Justice Programs, more than 90,000 people have enrolled in U.S. drug courts with 70% either graduating or currently enrolled in the programs. Rearrest rates of drug court participants and graduates are consistently lower than rearrest rates of drug offenders in traditional probation or parole programs. According to the National Drug Court Institute, drug court impact studies indicate that graduates of various drug court programs throughout the U.S. have recidivism rates averaging between 5% and

19%. Drug offenders who were not referred to drug court or those who were removed from the program due to non-compliance have recidivism rates averaging between 24% and 66%. Lower recidivism rates correlate with longer periods of drug court treatment. A national study conducted by the National Center on Addiction and Substance Abuse at Columbia University found that approximately 60% of those entering drug courts remain successfully involved after a year. Other drug treatment alternatives such as residential therapeutic communities and community-based treatment have retention rates averaging 10 - 30%. Most (64%) drug court participants are parents, so drug courts also have indirect impact on an estimated 35,000 minor children.

#### ***Why Should Courts be Involved with Drug Treatment?***

The judge's role in drug court programs is essential. The judge uses the authority of the court to mandate adherence to drug court rules. Non-adherence or relapse results in almost immediate judicial sanctioning. Since most addicts are experienced in denying and manipulating others about their disease, judicial sanctioning presents an insurmountable wall to their previously successful manipulations. The goal is to break through the offender's denial, give support and encouragement, and give negative reinforcement (sanctions) that will curtail addictive behavior.



## **Summary**

The recurring cycle of addiction, crime, and incarceration made it clear that traditional approaches to handling drug offenders have not worked. The philosophy underlying drug court programs is that effective drug abuse treatment increases recovery rates while decreasing drug-related crimes. Traditional handling of drug offenders often requires them to fit within the criminal justice system and wait months to face the consequences of their offense. In contrast, drug court offers an immediate referral to a judicially-supervised treatment program which combines intense treatment, frequent supervision and urinalysis, and weekly status hearings before the drug court judge. Other ancillary services (vocational, educational, family, medical, housing) support the addict's recovery process.

Drug court programs are comprehensive and well coordinated to ensure both program and offender accountability. Drug courts bring many community elements into active involvement in the addict's recovery process. The cooperation of court and probation staff with the treatment community closes gaps in program supervision that were once exploited by addicts.

When no one person accepts responsibility for a program's effectiveness, then no one is accountable if the program fails. Drug court judges and drug court teams accept responsibility for treatment program effectiveness. That responsibility and accountability is passed on to the drug offender with the firm expectations that addicts commit to recovery and finally break their addiction-crime cycles.



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## Key Components of Drug Courts

In January 1997, DOJ released "Defining Drug Courts: The Key Components," which is based on the experience of the drug court field. The report describes the 10 key components of a drug court and provides performance benchmarks for each component. It was developed through a cooperative agreement between OJP, DCPO, and the National Association of Drug Court Professionals, which convened the Drug Court Standards Committee. The committee comprised drug court practitioners throughout the nation (judges, prosecutors, defense attorneys, treatment providers, pretrial service officers, and probation officers). The report is available through the National Criminal Justice Reference Service Clearinghouse, at 1-800-851-3420, and on the DCPO homepage (<http://www.ojp.usdoj.gov/dcpo>).

As identified by the committee, the 10 key components of a drug court are as follows:

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' due process rights.
  3. Eligible participants are identified early and promptly placed in the drug court program.
  4. Drug courts provide access to a continuum of alcohol, drug, and 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' compliance.
  7. Ongoing judicial interaction with each drug court participant is essential.
  8. Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.
  9. Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations.
  10. Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness.
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