

***Accountability and  
Recovery for  
Substance Use Disorder  
Defendants***

# Topics

- A brief history of criminal justice system
- Reform Initiatives
- Problem-Solving Courts
- Repeat DUI Offenders
- Alternative Tracks DUI Courts
- Pennsylvania DUI Court Study
- Trending Issues

# Presenters

- Honorable Michael Barrasse
  - ▣ President Judge, Lackawanna County Court of Common Pleas
    - ▣ Criminal Docket Administrator
    - ▣ Treatment Court Presiding Judge
      - ▣ DUI, Family, Veterans, Co-Occurring
  - ▣ Chair, National Association of Drug Court Professionals Board of Directors
  - ▣ PennDOT Judicial Outreach Liaison

# Presenters

## Jerry Spangler

- ▀ DDAP Criminal Justice/Treatment Collaboration Program Administrator
- ▀ Past President, Pennsylvania DA's Association
- ▀ Former District Attorney, Somerset County
- ▀ Former member, PCCD Criminal Justice Advisory Committee

# A Brief History of the Criminal Justice System

# A Brief History of Criminal Justice System

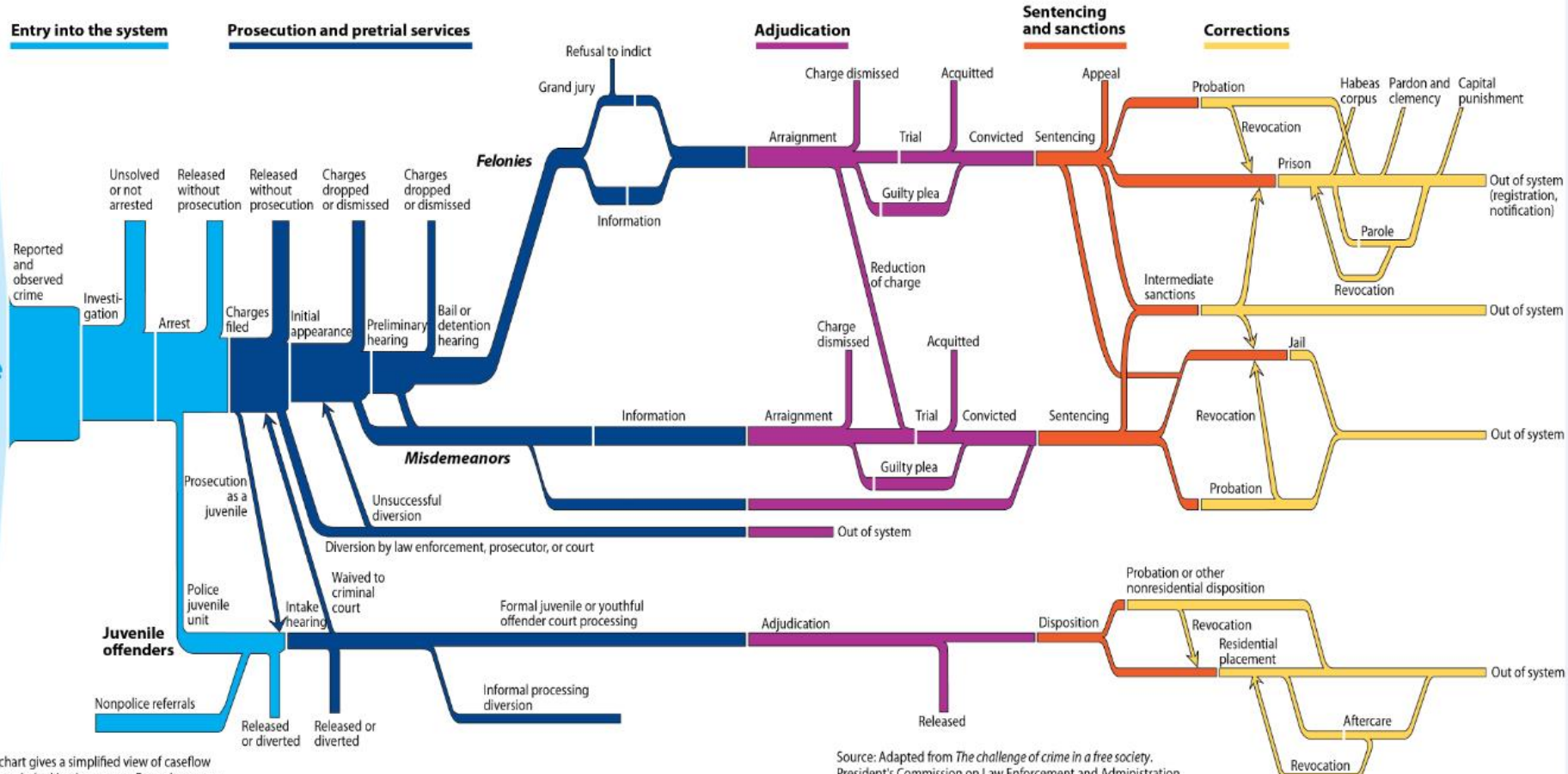
- “The Challenge of Crime in a Free Society” - 1967
- President’s Commission on Law Enforcement and the Administration of Justice

# A Brief History of Criminal Justice System

- Recognized need for national capacity to:
  - ▣ Collect data on crime and victimization
  - ▣ Conduct research on crime and justice
- Recognition that all agencies of justice — police, prosecutors, defenders, the court, probation, and corrections — are part of a system

# A Brief History of Criminal Justice System

What is the sequence of events in the criminal justice system?



Note: This chart gives a simplified view of caseload through the criminal justice system. Procedures vary among jurisdictions. The weights of the lines are not intended to show actual size of caseloads.

Source: Adapted from *The challenge of crime in a free society*. President's Commission on Law Enforcement and Administration of Justice, 1967. This revision, a result of the Symposium on the 30th Anniversary of the President's Commission, was prepared by the Bureau of Justice Statistics in 1997.



# A Brief History of Criminal Justice System

- 1960's-1970's — a time of peaks and valleys
  - ▣ Peaks — systems reforms
    - ▣ 1968 Pa. Constitutional Convention
    - ▣ 1972- Crimes Code
    - ▣ 1976- Vehicle Code
    - ▣ 1978- Act 274 creates PCCD
    - ▣ 1978- Act 319 creates Pa. Commission on Sentencing

# A Brief History of Criminal Justice System

- Valleys
  - ▣ Assassinations, riots, and systemic discrimination
  - ▣ Early efforts at rehabilitation that were inadequate

# A Brief History of Criminal Justice System

- “Nothing Works”

- “With few and isolated exceptions, the rehabilitative efforts that have been reported so far have no appreciable effect on recidivism...our present strategies cannot overcome, or even appreciably reduce the powerful tendencies of offenders to continue in criminal behavior.”

Robert Martinson 1974

# A Brief History of Criminal Justice System

- In hindsight, early efforts at rehabilitation were poorly planned and not of sufficient length
- Resulted in:
  - Determinate sentencing limiting discretion of judges with mandatory sentences
  - Guidelines that consider prior record and seriousness of offense but not needs of offender

# A Brief History of Criminal Justice System

- View system as an assembly line
- Think of crime as an input moves from that agency's inbox to its outbox and then into the next agency's inbox

# Reform Initiatives

# Reform Initiatives

- “What is done [today] in corrections would be grounds for malpractice in medicine.”
  - ▀ Latessa, Cullen and Gendreau, “Beyond Correctional Quackery.” 2002
- No longer prone to make policy based on anecdotes

# 2013 NADCP Executive Summit on Criminal Justice Reform

- Hosted by NADCP
- Funded by ONDCP
- Goals:
  - Gauge perspectives of front-line experts
  - Reach agreement on foundational principles from criminal justice reform
  - Build a lasting coalition to collect and share information on evidence-based practices



# Consensus Statement

- Individualized sentencing— disposition in the criminal justice system (other than determination of guilt) should be based on the characteristics of person charged with the offense in addition to the characteristics of the offense

# Consensus Statement

- Criminal justice professionals should be required to consider the person's rehabilitative needs and likelihood of recidivism when imposing criminal sentences, ordering conditions of treatment and supervision, and responding to infractions or technical violations.

# Consensus Statement

- Criminal justice professionals should be required to consider whether a proposed sentence is likely to:
  - Reduce crime
  - Improve the psychosocial functioning of the person charged with a crime, and
  - Make optimum use of taxpayer dollars
- Valid and reliable scientific evidence should guide the above considerations

# Reforms are based on

- Risk-Need-Responsivity theory developed by Andrews and Bonta (2010)
- The Sequential Intercept Model developed by Munetz and Griffin (2006)

# Risk-Need-Responsivity

- The RNR model has played a central role in discrediting the “nothing works” perspective, thereby revitalizing the movement for rehabilitation.

# Risk-Need-Responsivity

- Based primarily on theories of behavioral psychology
- Intended to support efforts at crime reduction through providing services targeted toward the individual's "criminogenic" risk factors—a need or risk factor that has been statistically associated with future offending

# Risk Principle

- Match the level of service to the individual's risk to reoffend.
- There is growing support in the research for reserving treatment resources for higher risk offenders.

# Need Principle

- Assess each person for known criminogenic needs and target treatment based on their most salient needs.



# Responsivity Principle

- Maximize the potential success of rehabilitative interventions by tailoring the intervention to the learning style, secondary needs, motivational level, and strengths of the individual.

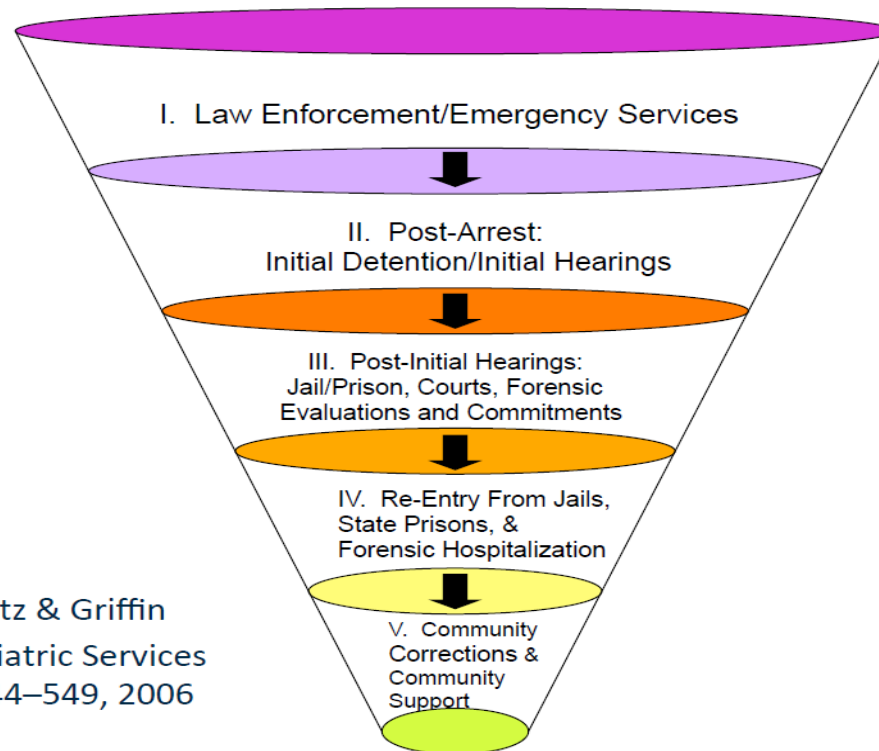
# Responsivity at two levels

- Individual:
  - ▣ General approaches such as Cognitive Behavioral Interventions
  - ▣ Client-specific factors
- Systemic:
  - ▣ An array of programs to address different risks and needs
  - ▣ Effective case management

# Sequential Intercept Model

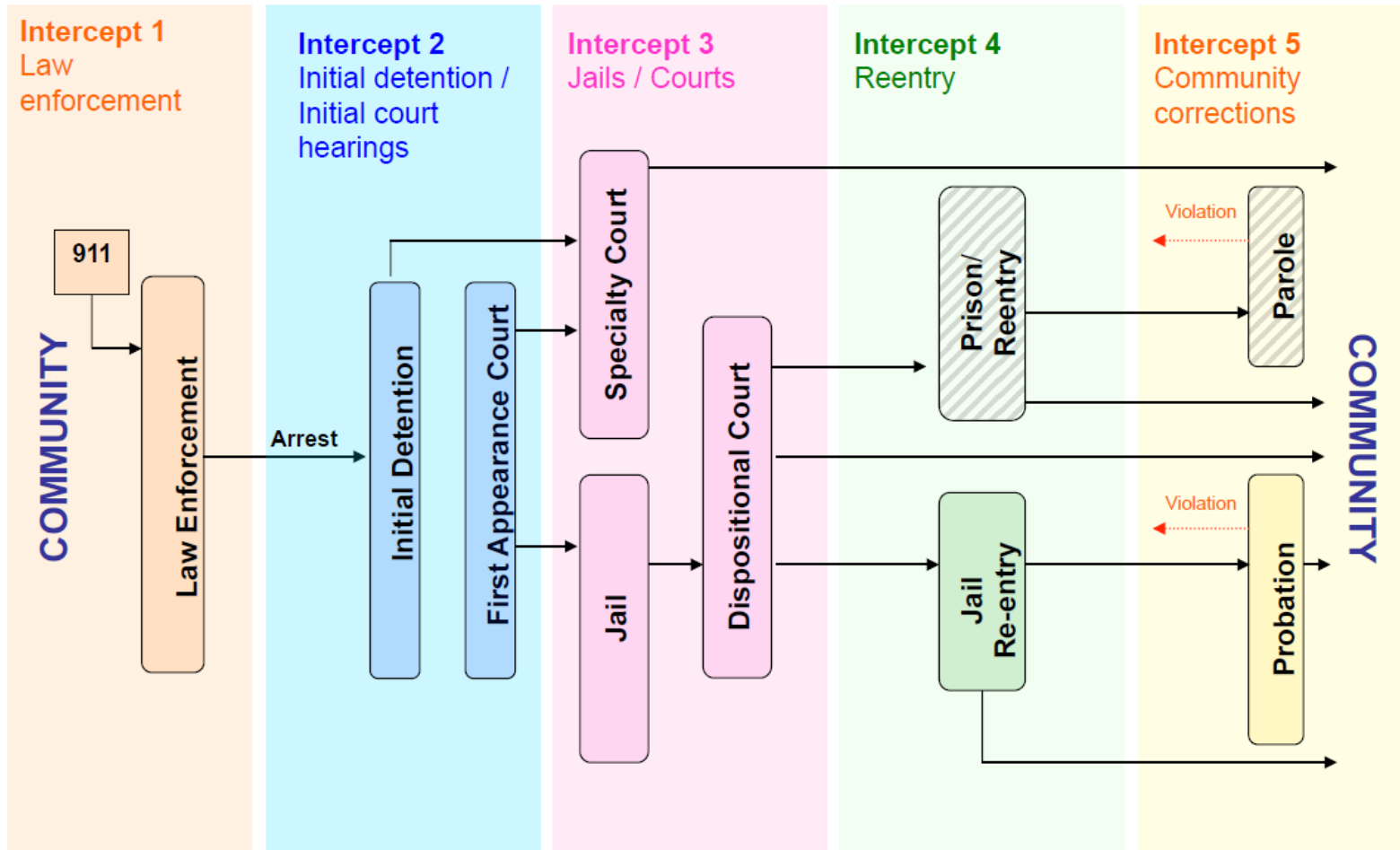
## Sequential Intercepts

Best Clinical Practices: The Ultimate Intercept



Munetz & Griffin  
Psychiatric Services  
57: 544–549, 2006

# Sequential Intercept Model



# Sequential Intercept Model

- The stage of criminal justice processing is often a “rate-limiting” factor that determines:
  - What obligations can be legally imposed
  - What services are likely to be available

# Problem Solving Courts

# Problem Solving Courts

- “The most successful judicial innovation in American history.”
- “The cornerstone of judicial reform.”
- Hold people accountable and connect them with evidence-based treatment.

# Problem Solving Courts

- Participants undergo rigorous treatment and develop new habits for successful living.
- The program combines evidence-based SUD treatment with strict behavioral accountability, and ultimately reduces the harmful effects of repeated and untreated SUD problems.



# Accountability

- “The quality or state of being accountable, especially an obligation or willingness to accept responsibility or to account for one’s actions.”

Merriam-Webster Dictionary

# Accountability

- “The justice system can send the message that all criminal behavior, even low-level, quality-of-life crime, has an impact on community safety and has consequences.

# Accountability

- “By insisting on regular and rigorous compliance monitoring - and clear consequences for non-compliance - the justice system can improve the accountability of offenders.”

# Accountability

- “It can also improve the accountability of service providers by requiring regular reports of their work with participants.”
  - ▀ Robert Wolf. “Principles of Problem-Solving Courts” Center for Court Innovations. Best Practices Series. 2009.

# Recovery

**TABLE 1** Definitions of Recovery

Source	Year	Definition
Center for Substance Abuse Treatment (CSAT)	2005	Recovery from alcohol and drug problems is a process of change through which an individual achieves abstinence and improved health, wellness, and quality of life
American Society of Addiction Medicine	2005	A patient is in a "state of recovery" when he or she has reached a state of physical and psychological health such that his or her abstinence from dependency-producing drugs is complete and comfortable
Betty Ford Institute Consensus Panel	2006	A voluntarily maintained lifestyle characterized by sobriety, personal health, and citizenship
UK Drug Policy Commission	2008	The process of recovery from problematic substance use is characterized by voluntarily sustained control over substance use which maximizes health and wellbeing and participation in the rights, roles, and responsibilities of society
Scottish Government	2008	A process through which individuals are enabled to move on from their problem drug use towards a drug-free life as an active and contributing member of society.
SAMHSA	2011	Recovery from mental disorders and substance use disorders is a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential

SOURCE: Recovery Research Institute, 2012



**NDCI**  
NATIONAL DRUG  
COURT INSTITUTE

# Drug Court Practitioner Fact Sheet

July 2014

Vol. IX, No. 1

## Building Recovery-Oriented Systems of Care for Drug Court Participants

*By Pat Taylor, CEO of Faces & Voices of Recovery*

**D**rug Courts make it possible for participants to begin a recovery journey that will hopefully last a lifetime. Their long-term recovery will benefit them, their families, and their communities. Over 23 million Americans are in recovery and each sustains his or her recovery in the communities where he or she lives and works (Rondo & Feliz, 2012). Professionals and recovery community members have been partnering to create a supportive environment that connects participants with a broader, community-based system of services and support, bridging the gap between the treatment and recovery communities.

### What is Recovery?

While there is no single definition of recovery, each person who is in recovery knows what it means personally and its importance to his or her life. For policy makers, researchers, and service providers, reaching agreement on a definition of recovery has been challenging, as can be seen in the recent attempts described in Table 1. In each of the definitions and for purposes of describing the recovery journeys of Drug Court participants, recovery has some common principles:

- Recovery from alcohol and drug problems is a process of change, sometimes described as a journey.
- Recovery involves no longer using alcohol or other drugs.
- Recovery includes improved overall health, wellness, and civic engagement.

What this means for a person who has just completed treatment is the initiation of a recovery journey that will involve managing and sustaining his or her recovery for the long haul.

### Recovery-Oriented Systems of Care

Recovery-oriented systems of care build on the strength and resilience of individuals, families, and communities to support responsibility for long-term recovery, health, and wellness. They create an environment of hope, connectedness, and potential. Because life keeps getting better as recovery progresses, how a person manages and plans his or her recovery often changes over time. Recovery exists on a continuum of improved health and wellness. Because it's not a linear process, recovery-oriented systems of care offer a variety of services and supports based on continual growth and improved functioning. They also



**pennsylvania**  
DEPARTMENT OF DRUG AND  
ALCOHOL PROGRAMS

# The Challenge of High-Risk and High-Need Repeat Offenders

# A Deadly Minority

- Formerly known as hard-core drunk drivers
- High-risk/high-need persons who drive while impaired
- Defined as
  - ▣ BAC > 0.15 percent,
  - ▣ Prior conviction,
  - ▣ Or both.



# Repeat offenders

- One in six adults (16%) account for 66% of all alcohol consumed in US.
- Chances an impaired driver will be caught and arrested 1/50, 1/88, 1/200
- 2.1% of all drivers
- 8% of Pennsylvania drivers in alcohol/drug fatal crashes

# Pennsylvania Statistics

- 2015: 15,000 individuals convicted of a second or subsequent offense
- 57.3% of individuals convicted each year of DUI had a prior DUI
- The good news: 2/3 do not reoffend
- The bad news: 1/3 do

# Trending: DUID

- PennDOT data
  - ▣ Convictions up 290% from 10 years ago
  - ▣ 2016 data: of 52,000 arrests, 1/2 alcohol alone, 1/4 drugs alone, 1/4 drugs and alcohol
- CRN data
  - ▣ 2014: 14.3%
  - ▣ 2016: 20.8%

# Steady Increase in DUIs

Section	2012	2013	2014	2015	2016
3802a1	18%	20%	20%	20%	40%
3802a2	3%	3%	3%	3%	2%
3802b	19%	18%	18%	17%	11%
3802c	35%	32%	33%	30%	18%
3802d	16%	21%	23%	25%	24%
Other	9%	6%	3%	5%	5%

# DUI Courts

- Traditionally target repeat offenders
  - High-risk, high-need
- Committed to fidelity in implementing
  - “Guiding Principles of DWI Courts”
  - “10 Key Components of Drug Courts”

# Alternative DUI Court Tracks

# Alternative Tracks

- Not all counties have the resources to implement DUI Courts limited to high-risk/high-need offenders.
- Not all repeat offenders are high-risk/high-need offenders

# DRUG COURT PRACTITIONER FACT SHEET

## TARGETING THE RIGHT PARTICIPANTS FOR ADULT DRUG COURTS PART ONE OF A TWO-PART SERIES<sup>1</sup>

By Douglas B. Marlowe, JD, PhD  
Chief of Science, Law & Policy  
National Association of Drug Court Professionals

### INTRODUCTION

Adult drug courts are not designed to treat all drug-involved adult offenders. They were created to fill a specific service gap for drug-dependent offenders who were not responding to existing correctional programs—the ones who were not adhering to standard probation conditions, who were being rearrested for new offenses soon after release from custody, and who were repeatedly returning to court on new charges or technical violations.

Admittedly, eligibility criteria for some of the earliest drug courts did not clearly reflect this limited objective. Largely in an effort to avoid appearing “soft on crime” or to gain the buy-in of local prosecutors or other stakeholders, some of the earliest drug courts began as pre-plea diversion programs for first-time, drug-possession cases. The goal, however, was not to remain fixated on this low-level population, but rather to expand upon and focus the admissions criteria once the programs proved their worth and science identified the best populations to serve.

<sup>1</sup> A companion fact sheet to this document, entitled *Alternative Tracks in Adult Drug Courts: Matching Your Program to the Needs of Your Clients*, is available from the National Drug Court Institute at [www.NDCI.org](http://www.NDCI.org)



# DRUG COURT PRACTITIONER FACT SHEET

## ALTERNATIVE TRACKS IN ADULT DRUG COURTS: *Matching Your Program to the Needs of Your Clients*

PART TWO OF A TWO-PART SERIES

By Douglas B. Marlowe, JD, PhD

Chief of Science, Law & Policy

National Association of Drug Court Professionals

### INTRODUCTION

More than two decades of research indicates which types of adult offenders are most in need of the full complement of services embodied in the "10 Key Components" of drug courts (NADCP, 1997).<sup>1</sup> These are the individuals who are (1) substance dependent and (2) at risk of failing in less intensive rehabilitation programs. Drug courts that focus their efforts on these individuals—referred to as *high-risk/high-need* offenders—reduce crime approximately twice as much as those serving less serious offenders and return approximately 50 percent greater cost-benefits to their communities.

For a number of reasons, however, it may not always be possible or desirable for a drug court to target high-risk and high-need participants exclusively. To gain the buy-in of local prosecutors, the public, or other stakeholders, it may be necessary for some drug courts to begin by treating less serious offenders and to expand the admissions criteria after they have proven their safety and efficacy. Moreover, in some communities the drug court may be the most effective, or perhaps only, program serving as an alternative to incarceration that has staff members with expertise in managing drug-involved offenders. If low-risk or non-addicted individuals are ineligible for drug court, they may have no other option but to face prosecution, and possibly incarceration, without an opportunity to be diverted into an effective rehabilitative disposition.

<sup>1</sup> This research is reviewed in a companion fact sheet to this document, entitled *Targeting the Right Participants for Adult Drug Courts*, which is available from the National Drug Court Institute at [www.NDCL.org](http://www.NDCL.org)

# Alternative Tracks

- Traditional DUI Court guidelines — no more than 125. San Joaquin County is more than 500 repeat offenders per year.
- San Joaquin County, California study of risk/needs data:
  - ▀ 32 percent high-risk/high-need
  - ▀ 68 percent not high-risk/high-need

# Traditional DUI Court Principles That Can Be Used in Other Tracks

- Monitoring and accountability to court
  - Same judge
- Compliance monitored
- Consequences certain and immediate
- Positive reinforcement
- **ACCOUNTABILITY WORKS**

# Multi-Track Model Design

- **All Repeat Offenders**
- Track One: Everyone except high-risk/high-need
  - ▣ Substance users, not suffering from addiction
  - ▣ Court monitoring, no treatment
- Track Two: High-risk/high-need
  - ▣ People with addictions
  - ▣ DUI Court: monitoring and treatment

# Multi-Track Model Design

- DUI RANT screening determines track
- CARS screening/referral for mental health disorders

# Court Monitoring Track

- Report to case manager, who verifies compliance
- Added probation conditions
  - ▀ Alcohol/drug monitoring; Abstain clause: VIP
- Court reviews scheduled for: one month, six months, one year

# Court Monitoring Track

- Immediate response to non-compliance
- Recognition for compliance
- **81% of clients, 29% of costs**

# NPC Research outcomes study

- Participation in DUI Court leads to a lower recidivism rate.
- Participation in DUI Court leads to a lower accident rate.



# Pennsylvania DUI Court Study

# Pennsylvania DUI Court Study

- Objective: To identify and encourage implementation of programs/policies/processes in criminal justice and treatment systems that provide accountability and recovery as goals in managing correctional populations with substance use disorders (SUDs)

# Pennsylvania DUI Court Study

- DUI Courts are recognized as effective in reducing recidivism by use of intensive supervision, effective clinical treatment, ongoing monitoring, swift incentives, and sanctions
- Pennsylvania currently has 22 DUI or Drug/DUI hybrid courts, represents a cross-section of classes of counties

# Pennsylvania DUI Court Study

- Can we distill the “active ingredients” or “essence” of the DUI/Drug Court framework?
  - Share information among DUI/DUI-Drug Hybrid Courts
  - Share information among counties that don't have DUI/DUI-Drug Hybrid Courts

Trending Issues:  
National Academies of  
Sciences, Engineering, and  
Medicine Report

# Report Recommendations

- Reduce per se BAC limit to 0.05
- Increase taxes on alcohol
- Strengthen policies to prevent illegal sales to those < 21 and intoxicated adult patrons
- Enact all-offender ignition interlock
- Provide effective treatment

# ▶ Electronic Search Warrant Applications

- Responsibility.com and the Justice Management Institute partnered on a project related to electronic warrant guidelines
- Expected release sometime this spring
- <http://www.jmijustice.org/>

# Questions/Comments



# Contact Information

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