EXHIBIT C

THE TEN GUIDING PRINCIPLES



OF DWI COURTS

Determine the Population

By Mike Loeffler and Hon. James Wanamaker (Ret)

Introduction

The DWI court should select a target population that possesses significant criminal and substance dependency histories and strive to alter those behaviors that present a clear danger to their respective communities. The target population must be of sufficient size to have community impact, yet be modest enough to allow DWI courts to provide participants the services necessary to effect change.

Targeting of a population is the process of identifying a subset of the DWI offender population for inclusion in the DWI court program. This is a complex task given that DWI courts, in comparison to traditional drug court programs, accept only one type of offender: the person who drives while under the influence of alcohol or drugs. The DWI court target population, therefore, must be clearly defined, with eligibility criteria clearly documented.

> ***GUIDING PRINCIPLE #1:***
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- ***Developing a Target Population in collaboration with the Community.*** Community outreach and support is a vital component of a DWI court program. This is because DWI courts normally represent a dramatic departure from routine criminal case processing. Any such program instituted without community input and advice is liable to lack public support and subsequently be short-lived.

  The process of identifying the subset of DWI offenders necessarily involves community outreach. The Drug court team should consult various community stakeholders for comment and advice on which types of offenders should be accepted (or excluded) from the DWI court program. A non-exhaustive list of community stakeholders includes law enforcement agencies, faith-based organizations and institutions, prosecutors, victims groups (e.g., MADD), civic clubs, traffic safety officials, defense counsel, local elected officials, and the recovery and treatment communities, among many others. While it may be difficult to arrive at a consensus among such a myriad of groups, allowing everyone concerned to have a voice will only increase broad-based support for the DWI court. This type of outreach often results in the formation of a steering or policy advisory committee for the community in connection with the Drug court.

  With regard to the DWI court model, different communities have different priorities and tolerance levels with respect to the use of innovative resolutions to impaired driving cases. Such attitudes have been shaped, in part, by the increasing realization of the impact of impaired drivers on their community including the economic and public safety consequences of impaired driving. Eligibility for inclusion into a DWI court is necessarily a jurisdiction-by-jurisdiction determination, resulting in widely varying target populations from one DWI court to the next.

  One overriding concern is paramount in the selection of a target population: *community impact*. Taking this one concern into account means accepting those offenders into the DWI court program

who are having the most negative impact on the community, and who are seen as wanting to alter their impaired driving behavior to achieve more positive results. Accordingly, DWI Courts should target primarily repeat offenders with serious alcohol/drug dependences or addictions.

- ***Focus on first time offenders.*** However, a few DWI courts, especially where the offense level and punishment escalate significantly after the first conviction for DWI, may be better served concentrating efforts and resources on first time or lower level offenders. Often, the rationale for this is to intervene earlier in the cycle of addiction/alcoholism and criminality. And this approach is more politically palatable to elected policy makers than the alternative of dealing with repeat or higher level offenders. Unfortunately, there is a downside to this approach. In particular, many first time criminal offenders may be convinced simply by the 'mere brush' with the criminal justice system to refrain from future drunken driving behavior. This 'lesson learned' may prove effective regardless of the severity of the offender's addiction/alcoholism. Deterrence is one of the major tenets underlying the criminal justice system, and it would be short-sighted to believe that it cannot work with a large number of otherwise non-criminally involved first time offenders. To treat these persons in such a highly structured and resource intensive program as a DWI court may very well be an unwise use of scarce resources.

  Another disadvantage to placing low-level offenders in the repeat offender DWI court program is the diluted impact on the community. Generally, the more DWI's a person accumulates, the more that offender costs society, and this is true regardless of whether the repeat offender causes a crash. At a minimum, these costs include court processing, law enforcement processing, and jail/prison incarceration costs. In addition, repeat offenders (approximately 1/3 of repeat DWI arrests each year) cause a disproportionate number of DWI fatalities and crashes. Accordingly, if a repeat DWI court fails to treat the underlying causes of these offenders criminal behavior, it risks failing to have a significant impact on its host community.

  The final disadvantage to a DWI court that targets only low-level offenders is that the DWI court team may not have at its disposal a significant enough consequence to motivate or coerce the low-level offender into beginning and then completing treatment. It is important to note that just because an offender presents with an alcohol offense in the criminal justice arena does not mean that he or she will not also present with a drug addiction in the treatment arena. In other words, in a low-level criminal offense, the criminal justice system has limited coercive power to convince a hard-core addict/alcoholic offender to enter into and remain in treatment.

- ***Focus on repeat offenders.*** At the other extreme from the court that deals primarily with the first time offender is the court that handles the cases of chronic offenders. These offenders may have repeatedly been involved in a crash resulting in property damage, personal injury, or even death to a third-party victim, either in the drinking driver's automobile or another vehicle.

  This type of serious offender causes undeniable negative community impacts. Most states impose severe penalties on the multiple recidivist and some even treat DWI offenders who cause injuries or death as violent offenders. Ending this type of offender's criminal activity in any manner possible would be highly desirable. Further, there is no reason to think that dealing with these offenders in a DWI court setting would be any less effective than it has been with any other type of offender. However, securing and maintaining community support for this type of program may be problematic.

  For example, there is a compelling argument that it is inevitable that the DWI

recidivist will hurt, maim, or kill someone. Accordingly, only incarceration may deprive them of the opportunity to do so - at least for a specified period of time. Incapacitation, like punishment, deterrence, and rehabilitation are major tenets of the criminal justice system. Thus, if the consensus of the community is that after an offender commits some unacceptable number of offenses, or an offense that includes death or injury, these serious offenders must be locked away, it would be disingenuous for the DWI court team to place these offenders into a community-based DWI court program. Accordingly, it may be desirable for the DWI court to exclude some of these more serious criminal offenders altogether. This is especially the case when there are probably many other offenders in the system whose addiction/alcoholism and repeat impaired driving offenses also negatively impact community safety.

As a final consideration, the DWI Court planning team must think of the DWI court target population as a continuum. At one end are the first time DWI offenders who have a lower level addiction and/or alcohol dependence. Continuing along this continuum next would be the first time offenders with a serious addiction/alcoholism. Finally, at the other end would be the seriously addicted/alcoholic offenders with dozens of prior DWI offenses. The most problematic offenders along this continuum would probably be those with severe poly-drug addiction and/or who have caused personal injury or death regardless of the number of offenses.

The task of the DWI Court team is to identify a target population range along this continuum that balances the need to make a positive impact on community safety while simultaneously maintaining political and community support. This target population must also be defined based on knowledge the community's expectations regarding punishment of various DWI offenders. In effect, this is what the criminal justice system has always done: balance the various interests and goals of penal system (deterrence, punishment, incapacitation, and rehabilitation) with those of the community it serves.

- ***Developing Eligibility Criteria.*** Once the DWI court planning team has considered the various goals and priorities of the criminal justice system and the community, defining and describing the desired target population is a relatively simple process. The first step is to delineate the 'eligibility criteria' for program participation, that is, those characteristics that make an offender eligible for inclusion in the DWI court program.

Eligibility criteria can be divided into two categories: offender characteristics and offense characteristics. Offender characteristics are those attributable to the DWI offender personally such as being an alcoholic, addict, convicted felon, high school graduate, employed, over 18 years old, etc. Offense characteristics describe the offenses that have brought the offender into the criminal justice system, for example, DWI (1st offense) misdemeanor, DWI (3rd offense) felony, etc. An example (not necessarily recommended) list of eligibility criteria for a DWI court might be as follows:

OFFENDER CHARACTERISTICS:

1. Adult (Age 18+)
2. Long-term moderate to severe alcoholic or drug dependant person
3. No driver license
4. Resident of the jurisdiction
5. No prior violent offenses

OFFENSE CHARACTERISTICS:

1. Felony offense of DWI
2. No less than 2 and no more than 7 prior convictions for DWI
3. Not charged in conjunction with DWI-related death or serious personal injury

The more precise and descriptive the eligibility criteria, the more control a DWI court has over how many total offenders are eligible for, and whom it selects into, the program. Conversely, this precision reduces flexibility with respect to accepting other types of offenders along the previously described continuum. However, certainty may be desired over flexibility, especially in the early stages of a newly implemented DWI court program.

After determining the goals of the DWI court team and the concerns and goals of the community as articulated through various stakeholders with respect to the target population, it is also necessary to balance the DWI court's available resources with the number of anticipated participants represented by that target population. In other words, care must be taken that the DWI court not accepts more participants than it can adequately provide services. The number of participants cannot outstrip the treatment and supervision capacity of the jurisdiction, for example. Neither can the number of participants outstrip the capacity of the judicial system to process all the participants as required in the DWI court model. Exceeding resource capacity will necessarily dilute the effectiveness of services provided to the target population.

Conclusion

The targeting, or identifying, of offenders for inclusion in a DWI court program should focus on those offenders with the most serious criminal and dependency issues, who are most in need of treatment, and whose behavior poses the most clear and present danger to society – that is, those offenders who are seen as having the most negative community impact. Targeting should be based on specific eligibility criteria that are clearly defined and documented. And, to strengthen public support for the court, these criteria should be developed in collaboration with various community organizations and stakeholders to ensure they are consistent with the standards and values of community members.

Perform a Clinical Assessment

By Mike Devine, C. West Huddleston, III and Douglas B. Marlowe, J.D., Ph.D.

Introduction

> ***GUIDING PRINCIPLE #2:***
> ***A clinically competent objective assessment of the impaired-driving offender must address a number of bio-psychosocial domains including alcohol use severity and drug involvement, the level of needed care, medical and mental health status, extent of social support systems, and individual motivation to change. Without clearly identifying a client's needs, strengths, and resources along each of these important bio-psychosocial domains, the clinician will have considerable difficulty in developing a clinically sound treatment plan.***

The determination of whether an impaired driver is eligible for participation in a DWI court program is typically based on legal criteria related to the individual's current impaired-driving charges and to their recidivism history. In addition, this eligibility decision may be made based on the results of a brief screening instrument administered by intake staff to confirm that the individual has a substance abuse problem, and that he or she is potentially amenable to substance abuse treatment. This, however, is only the first step in conducting a clinically competent objective assessment of the impaired driver, which addresses a number of bio-psychosocial domains including alcohol use severity and drug involvement, the level of needed care, medical and mental health status, extent and stability of social support systems, and individual motivation to change. Without clearly identifying a client's needs, strengths, and resources along each of these important bio-psychosocial domains, the clinician will have considerable difficulty in developing a clinically sound treatment plan for the individual.

A number of instruments have been developed to measure these domains, though they vary considerably in terms of the populations with which they were normed, as well as on whether there are adequate data available to support their validity and reliability. The National Institute on Alcohol Abuse and Alcoholism (NIAAA) maintains an updated guide on the reliability and validity of alcohol assessment instruments[1] and the reader is advised to consult this guide in selecting appropriate instruments for particular clinical assessment purposes. Following are a number of important bio-psychosocial domains to be reviewed as part of a clinically competent objective assessment of an impaired driver.

- ***Alcohol Use Severity.*** The treatment needs of alcohol-involved offenders vary considerably from case to case. A "one-size-fits-all" approach to treatment is not acceptable and may even be inadvisable in some instances. For example, individuals manifesting hallmark features of dependence or addiction, such as cravings and withdrawal, may require pharmacological intervention and/or other intensive services focused on managing cravings,

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[1] Allen, J. P., & Wilson, V. B. (Eds.) (2003). *Assessing alcohol problems: A guide for clinicians and researchers* (2nd ed.) [NIH pub. No. 03-3745]. Bethesda, MD: National Institute on Alcohol Abuse and Alcoholism, U.S. Dept. of Health & Human Services.

avoiding alcohol-related stimuli, and marshalling social supports to forestall a relapse. In contrast, individuals who have not progressed to physical or psychological dependence, and who have not experienced significant dysfunction from their alcohol use, may instead respond better to motivational enhancement strategies or psycho-educational interventions. Mixing dependent and non-dependent individuals in the same regimen could have the unintended effect of distracting all involved from receiving proper treatment, or making treatment seem unsuited to their needs.

Many alcohol assessment instruments render a categorical diagnosis of abuse or dependence. One must be cautious, however, because the appropriate cut-off scores listed on these instruments for rendering a diagnosis could vary across populations. Moreover, some instruments were created on the presumption that alcoholics are in "denial" about their illness, and therefore they may inflate estimates of alcoholism based on "subtle" (and in some instances, non-validated) signs of addiction. Instruments that track official DSM-IV[2] diagnostic criteria and nomenclature will, at least, provide a common reference point of alcohol-severity across populations and across DWI court programs.

Ideally, instruments should measure not only global symptoms of dependence, such as tolerance, but should also measure concrete behaviors related to alcohol use, including the number of days the client drank alcohol in the previous month, or the amount of alcohol the client typically consumes in a single sitting. This permits a more sensitive characterization of the *severity* of the client's addiction than does a categorical, yes-or-no diagnosis. More importantly, it permits the program to measure *changes* in the client's drinking habits over time. Categorical diagnoses do not change by degree; rather, they can only measure full or partial remission.

- ***Drug Involvement.*** Drug and alcohol abuse are highly co-morbid conditions[3]; therefore, failing to inquire about both illicit and prescription drug involvement among alcoholics constitutes a sub-standard assessment. In particular, alcoholics who are abstaining from alcohol may take illegal or prescribed sedatives, or other intoxicating agents such as cannabis, to relieve anxiety, to attenuate withdrawal symptoms, or for the euphoric and calming effects. Predictably, this could constitute a serious continuing risk of intoxicated driving, and may portend a return to alcohol use following completion of the program. It is essential, therefore, to assess clients at baseline and periodically throughout the program regarding their drug usage. These assessments should include the clients' own self-reports, as well as results from multiple-panel urine drug screens and, where feasible, collateral reports from the clients' significant others.

- ***Medical Status.*** Many alcoholics suffer from serious co-morbid medical conditions, including vitamin deficiencies, malnutrition, and even mild to moderate dementia. Paradoxically, some may also experience serious or life-threatening medical consequences from periodically abstaining from alcohol, including delirium tremens (DTs), acute withdrawal, insomnia, or anxiety. In terms of best practices, therefore, it is desirable to have alcohol-dependent individuals evaluated by a trained physician who is competent to prescribe medications and vitamins, as needed, to stabilize and detoxify the client. At a minimum, the clinical evaluator for the DWI court program should screen the clients to determine who may be in need of an in-depth medical evaluation. Further screening should be performed following a sustained interval of abstinence to determine if the individual is

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[2] American Psychiatric Association. (1994). *Diagnostic and statistical manual of mental disorders* (4th ed.). Washington, DC: American Psychiatric Press.

[3] Cornish, J., & Marlowe, D. B. (2003). Alcohol treatment in the criminal justice system. In B. Johnson, P. Ruiz, & M. Galanter (Eds.), *Handbook of clinical alcoholism treatment* (pp. 197-207). Baltimore, MD: Lippincott, Williams & Wilkins.

suffering from a lingering metabolic or cognitive disorder that could jeopardize his or her recovery, or threaten his or her ability to function safely and effectively in the community.

- ***Psychiatric Status.*** Many alcoholics experience psychiatric-like symptoms of anxiety, dysphoria, or depression when they detoxify from alcohol. Following an interval of sustained abstinence, it may also become apparent that the client is suffering from a co-morbid mental illness that may have previously been "self-medicated" with alcohol. The most common co-morbid conditions (other than drug abuse) include major depression, dysthymia, anxiety disorders, and post-traumatic stress disorder (especially for females). An appropriate assessment should screen for co-morbid affective and anxiety disorders, and should refer the patient for a more formal psychiatric assessment if this appears warranted from the findings.

- ***Employment and Financial Status.*** Substance abuse can create havoc with one's job stability and financial resources. Although many DWI offenders are gainfully employed, others may have lost their job or been threatened with imminent financial ruin. Such stressors can threaten the client's sobriety and may trigger further drunk-driving episodes. An appropriate assessment should screen for serious financial problems, and the client should be referred, where indicated, for a more formal assessment of educational and vocational needs.

- ***Family and Social Status.*** Substance abuse also devastates one's family and social relationships. Although many DWI offenders have an intact family and may have stable living arrangements, others might be estranged from their loved ones or isolated from friends and acquaintances. In addition, many alcoholics tend to socialize with other alcohol abusers. If they continue these relationships after entering treatment, there is a substantial likelihood of reverting to alcohol use; conversely, if they discontinue such relationships, they might feel further isolated and unsupported. An appropriate assessment should, therefore, screen for serious family or social conflicts, evidence of familial estrangement, and evidence of interactions with alcohol-using peers or associates. Where indicated, the client may be referred for family therapy, or the treatment counseling sessions might focus on helping the client to avoid alcohol-involved peers and forge more productive sober relationships.

- ***Alcohol Triggers and Cognitions.*** Behavioral or cognitive-behavioral counseling assists clients to avoid alcohol-related triggers, practice alcohol-refusal skills, and correct distorted thoughts related to alcohol usage. These interventions cannot be effective unless the client first undergoes an assessment to identify alcohol-related attitudes and stimuli. A number of assessment instruments can assist clinicians to identify antecedents and consequences of the client's alcohol use, as well as expectancies and cognitions that accompany alcohol intoxication. The information derived from these instruments should form the basis of subsequent behavioral and cognitive-behavioral counseling interventions. For example, the client might be encouraged to plan strategies for avoiding alcohol-related triggers, or the counselor might challenge some of the client's maladaptive assumptions about alcohol use (e.g., "I'm no good, so I might as well drink").

- ***Self-Efficacy and Motivation for Change.*** Several instruments have been developed to assess substance abuse clients' motivation for change, confidence in their ability to quit alcohol or drugs, and expectancies related to the perceived positive effects (or

"pros") of continued substance use. Most studies have failed to confirm a hypothesized continuum of motivational "stages of change"; however, there is evidence that clients who continue to deny the existence of a problem (i.e., who are "pre-contemplative" of change) tend to have a poorer prognosis. Moreover, as clients begin to progress through their recovery, there is some reason to believe they may begin to experience greater confidence in their ability to avoid drugs and alcohol, or may perceive fewer positive effects of substance abuse. As such, changes on these measures could serve as markers or predictors of ultimate treatment improvements.

- ***Level of Care Placement.*** The American Society of Addiction Medicine (ASAM)[4] publishes non-proprietary patient placement criteria for matching substance abuse clients to indicated levels or modalities of care. The assessment encompasses such issues as withdrawal symptoms, co-morbid biomedical conditions, emotional and behavioral complications, relapse potential, and the availability of a stable recovery environment. Based upon this assessment, a recommendation is reached about the indicated modality of care, which may include:
    - Early intervention or secondary prevention (e.g., psycho-education – ASAM 0.5);
    - Outpatient treatment (typically 1 to 5 hours per week – ASAM I);
    - Intensive outpatient treatment (typically 5 to 10 hours per week – ASAM II);
    - Partial hospital treatment (typically 4 to 8 hours per day – ASAM II.5);
    - Non-medically monitored residential treatment (e.g., 28-day rehab – ASAM III);
    - Medically-managed inpatient hospitalization (ASAM IV)

There may also be indications of the need for acute medical detoxification services, or for methadone maintenance treatment for individuals co-morbidly addicted to opiates. Although data are sparse in terms of validating the ASAM criteria, studies have confirmed that higher dosages of services in more structured environments may be required for patients who are suffering from withdrawal symptoms, who have alcohol-related metabolic or cognitive disorders, or who have seriously unstable community supports. Even in the absence of validity data, the ASAM criteria are generally regarded as reflecting the current standard of care in the alcohol abuse treatment field.

Conclusion

In the past, when all substance abuse clients received essentially the same menu of group-based, peer-facilitated services, there may have been little reason to conduct a comprehensive evaluation of each client's distinct needs and resources. However, times have changed and treatments have progressed. At present, alcohol clients may be referred to an array of treatment protocols and services including the prescription of various types of medications, as well as different forms of behavioral, cognitive-behavioral, and interpersonal counseling programs. Effective treatment requires that the client first undergo a competent clinical assessment to identify relevant impairments as well as strengths in multiple bio-psychosocial domains. Providing a sub-standard clinical assessment runs the risk of leading to sub-standard care for a chronic and potentially life-threatening condition that has serious public-safety implications. A competent evaluation, however, facilitates the clinician's efforts by pointing inexorably to an appropriate treatment care plan that focuses resources where they are likely to be most efficient and cost-effective.

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[4] American Society of Addiction Medicine. (1996). *Patient placement criteria for the treatment of substance-related disorders.* Chevy Chase, MD: Author.

Develop the Treatment Plan

By Chet Bell and Ken Robinson, Ed.D.

Introduction

According to the research, without clinical intervention, DWI offenders are at high risk of continuing to drive while impaired. In particular, certain types of individuals have been found to be at highest risk for continuing such behavior. For example, individuals with high levels of drinking for tension reduction; 'heavy drinkers,' with frequent episodes of alcohol abuse and low levels of depression and resentment; and, individuals with the highest levels of driving-related aggression, assaultiveness, sensation-seeking, hostility, and irritability. The individuals in these groups tend to be younger and heavier drinkers.[5] The typical eligible population for receiving treatment is therefore likely to include individuals evidencing substance dependence, criminality, and impulse control difficulties.

GUIDING PRINCIPLE #3:
Substance dependence is a chronic, relapsing condition that can be effectively treated with the right type and length of treatment regimen. In addition to having a substance abuse problem, a significant proportion of the DWI population also suffers from a variety of co-occurring mental health disorders. Therefore, DWI courts must carefully select and implement treatment practices demonstrated through research to be effective with the hard-core impaired driver to ensure long-term success.

The provision of multiple and varying treatment interventions capable of addressing each of these domains will be required for producing effective outcomes. Presently, DWI courts may select from and utilize a variety of effective treatment models designed for addressing a number of problem areas including alcoholism[6], other drug dependency disorders, and mental health issues. The challenge is to identify the constellation of treatment services that, individually prescribed and provided, are most likely to bring about change. Alcoholism treatment outcome research reveals a number of effective treatment principles to consider when developing a treatment continuum for DWI offenders, for example: there is no single superior approach to treatment for all individuals; treatment programs and systems should be constructed with a variety of approaches that have been proven to be effective; and treatment approaches must be individualized based on identified clinical needs.[7]

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[5] Caviola, A. & Wuth, C. (2002). *Assessment and treatment of the DWI offender*. Binghamton, NY: Haworth Press; Donovan, D. & Marlatt, G. (1983). Personality subtypes among driving while intoxicated offenders: Relationship to drinking behavior and driving risk. *Journal of Counseling and Clinical Psychology* 50(2): 241-249.

[6] Currently, there are three general approaches to alcoholism treatment – the Minnesota Model, a "learned behavior" model, and what has recently been described as the Pennsylvania Model. Minnesota Model programs describe alcoholism as a disease and emphasize group therapy and participation in 12-step programs. Learned behavior models see alcoholism not as a disease, but as learned behavior that can be addressed by cognitive-behavioral therapy. The Pennsylvania Model is based on the work of Volpicelli and others at the Pennsylvania School of Medicine Treatment Research Center. The Pennsylvania model addresses alcoholism as a complex disease with specific biological, psychological, and social components. Protocols in the Pennsylvania model include the use of medications to reduce craving and address co-occurring psychiatric issues including anxiety and depression, and the use of cognitive-behavioral therapy (see Vacovsky, L. (2004). Finding effective treatment for alcohol dependence. Internet document: www.aca-usa.org/pharm2.htm.).

[7] Miller, W. & Hester, R. (2003). Treating alcohol problems: Toward an informed eclecticism. In Hester, R & Miller, W. (eds.) *Handbook of alcoholism treatment approaches: Effective alternatives, 3rd edition*. Boston, MA: Allyn and Bacon.

Multi-systemic treatment approaches work best because multiple domains, conditions, deficits, and disorders are treated simultaneously. A recent meta-analysis of 381 rigorous alcohol treatment outcome studies provided a "Cumulative Evidence Score (CES)" for each treatment modality studied. The CES ultimately allows a ranking of evidence-based approaches.[8] The alcoholism treatment approaches with a positive CES score, ranked in order (top to bottom, left to right) include:

- Brief Intervention
- Motivational Enhancement Therapy
- GABA Agonist (Acamprosate)
- Community Reinforcement plus Vouchers
- Self-Change Manual (Bibliotherapy)
- Opiate Antagonist (e.g. Naltrexone)
- Behavioral Self-Control Training
- Behavior Contracting
- Social Skills Training
- Marital Therapy – Behavioral
- Aversion Therapy, Nausea
- Case Management
- Cognitive Therapy
- Aversion Therapy, Covert Sensitization
- Aversion Therapy, Apneic
- Family Therapy
- Acupuncture
- Client-Centered Counseling

DWI courts must consider providing all the pieces that comprise an effective treatment continuum, particularly, motivational enhancement therapies, community reinforcement, behavior contracting, social skills training, and marital therapy. However, research further indicates that motivational approaches, cognitive-behavioral therapies, pharmacological approaches, and aftercare are critical to sustaining long-term successful treatment outcomes.

- ***Motivational Approaches.*** It was once assumed that the client must demonstrate a particular level of motivation to change prior to enrolling in treatment. Without this motivation on the part of the client, there was a belief that counseling would be ineffective. Motivational approaches, however, disprove this notion. Current theory holds that most individuals enter treatment under some sort of duress, which results in resistance, or, at best ambivalence, regarding any change in behavior. Motivational approaches therefore focus on ways to engage substance users in considering, initiating, and continuing substance abuse treatment while at the same time, discontinuing their use of alcohol and other drugs.[9]

  Motivational approaches involve linking a therapeutic style, called "motivational interviewing"(MI), with a transtheoretical stages-of-change model. MI is a style of interacting with the client and generates more of a discussion than an interview. MI emphasizes providing feedback, assigning responsibility for change to the client, giving advice, and offering a menu of counseling options. Importantly, MI provides an empathic rather than confrontational approach with the goal of improving client self-efficacy – a sense on the part of the client that change is possible and achievable.[10] The transtheoretical model of change defines the processes involved in natural recovery and self-directed change, a movement from pre-contemplation regarding change, through contemplation, preparation, action, and then to maintenance.[11] And, these "stages of change" can be engaged and continued by enhancing motivation.[12]

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[8] Miller, W., Wilbourne, P. & Hettema, J. (2003). What works? A summary of alcohol treatment outcome research. In Hester, R & Miller, W. (eds.) *Handbook of alcoholism treatment approaches: Effective alternatives, 3rd edition.* Boston, MA: Allyn and Bacon.

[9] Miller, W. (ed). (1999). Enhancing motivation for change in substance abuse treatment. *Treatment Improvement Protocol Series #35.* DHHS Publication No. (SMA) 99-3354. Rockville, MD: Substance Abuse and Mental Health Services Administration.

[10] Miller, W. (2003). Enhancing motivation for change. In Hester, R & Miller, W. (eds.) *Handbook of alcoholism treatment approaches: Effective alternatives, 3rd edition.* Boston, MA: Allyn and Bacon.

[11] Prochaska, J. & DiClemente, C. (1984). *The transtheoretical approach: Crossing traditional boundaries of therapy.* Homewood, IL: Dow Jones-Irwin.

[12] Miller (1999).

- ***Cognitive-Behavioral Therapy (CBT) Approaches.*** The use of cognitive behavioral models has been recognized as a critical factor in reducing recidivism. A research review of meta-analyses found that cognitive behavioral approaches consistently appear to be among the most effective treatment therapy for substance abusers.[13] CBT approaches suggest that unless offenders' faulty thinking is addressed, there is a reduced likelihood of long-term change. Moreover, other research has shown that the use of cognitive interventions can enhance outcomes by up to 50%.[14] However, even today, only about 30 to 50 % of treatment programs for offenders report having a cognitive-behavioral component as part of the therapeutic intervention. The three main cognitive models now utilized by criminal justice agencies are Reasoning and Rehabilitation (R&R), Thinking for a Change, and Moral Reconation Therapy (MRT®).

- ***Pharmacological Treatments – Naltrexone and Campral (Acamprosate).*** The Substance Abuse and Mental Health Services Administration's (SAMHSA) Treatment Improvement Protocol (TIP) Series 28 titled "Naltrexone and Alcohol Treatment" concluded that "when used as an adjunct to psychosocial therapies for alcohol-dependent or alcohol-abusing patients, naltrexone can reduce the percentage of days spent drinking, the amount of alcohol consumed on a drinking occasion and relapse to excessive and destructive drinking."

  Naltrexone is a medication utilized for many years as a highly effective opiate treatment (referred to as an opioid receptor antagonist), and is able to be given with Antabuse if needed. Recently, it was determined that the brain pathways used by alcohol and opiates may be the same. Because of this, Naltrexone reduces or stops the cravings experienced by alcoholics during treatment, without causing physical or psychological dependency.[15] It is these cravings (physiological reactions which are triggered by behavioral cues) that interfere with an alcoholic's ability to complete a treatment program.

  Essentially, Naltrexone functions as a tool to aid recovery and treatment; it is not a "stand alone" treatment. While being used by recovering alcoholics, Naltrexone functions in two manners: (1) it blocks cravings, and (2) if the offender does drink, while they may become intoxicated, there is no pleasure derived from drinking alcohol. Thus, if an alcoholic is sincerely working on changing his/her behavior through treatment, true progress can be made. While on Naltrexone a client can maintain sobriety long enough to successfully establish a pattern of behavior modification, and at the end of 180 days, they are examined to determine if a reduction in use of Naltrexone can be ordered.

  Research suggests that the utilization of Naltrexone (especially as part of the terms and conditions of a probation sentence) is effective since it blocks cravings and allows behavioral modification to take effect. In particular, it was found that when combined with substance abuse treatment, Naltrexone is significantly more successful (61%) than a placebo combined with the same treatment program (22%) in preventing relapse.[16] Further, those who did drink did so on fewer days than the placebo group (2 and 6 days respectively) over the same 12-week period.

  Another pharmacological treatment is Campral Delayed-Release Tablets, which are now FDA-approved for the maintenance of abstinence from alcohol in those patients with alcohol

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[13] Taxman, F.S. (1999). Unraveling "What Works" for Offenders in Substance Abuse Treatment Services. *National Drug Court Institute Review* 2(2): 93-134.

[14] Mackenzie, D.L. (2001). *Sentencing and Corrections in the 21st Century: Setting the Stage for the Future.* U.S. Department of Justice, Office of Justice Programs, National Institute of Justice.

[15] However, prior to the prescribing of Naltrexone, persons must be screened through a liver panel as there are specific physical conditions that are not compatible with the administration of this drug. (see Tauber J. & Huddleston, W. (1999). *DWI courts: Defining a national strategy.* Alexandria, VA: National Drug Court Institute.)

[16] Archives of General Psychiatry. (1992), 49:881-887

dependence who are abstinent at the time of treatment initiation. Treatment with Campral can be part of a comprehensive management program that includes psychosocial support; particularly since this drug appears to reduce cravings and distress during early abstinence. Based on studies conducted in Europe, the drug is both safe and effective with minimal side effects.

- ***Aftercare.*** Research indicates that the window of greatest vulnerability for relapse is the first 30 to 90 days following discharge from an index episode, although an elevated risk of relapse can extend up to 2 years or more.[17] The vast majority of aftercare services provided in this country are 12-Step or similar peer-support groups.[18] Studies have consistently shown a positive and substantial correlation between engagement in peer-support groups and maintenance of sobriety or reductions in substance use.[19] These correlations, however, do not prove causality. It is possible that higher-functioning or better-motivated clients may be more likely both to adhere to aftercare recommendations and to sustain symptom improvements. Regardless, the data indicate that involvement in aftercare groups is a significant predictor of long-term success. Unfortunately, less than 20% of graduates of community-based substance abuse treatment programs attend even two aftercare sessions.[20]

  Several studies have examined the effectiveness of professionally administered aftercare services. A 2001 review article identified 14 empirical studies of professional continuing-care interventions that presented follow-up data. Of those studies that included an active control condition, only 1 out of 7 yielded positive findings. Of those that included a minimal-aftercare or no-aftercare control condition, 3 out of 7 yielded positive findings. Based on the limited literature that does exist, it appears that six interventions have some empirical support for their efficacy. These include: telephone monitoring[21], quarterly recovery management checkups[22], behavioral recovery groups[23], nurse home-visits[24], couples behavioral therapy[25], and an assertive continuing care model for adolescents.[26] Of these, the efficacy of only one intervention (telephone monitoring) has been replicated in subsequent clinical trials. Taken together, these data suggest that graduates of substance abuse treatment programs require at least monthly contacts, either in person or by telephone, to check in with them about their progress, to monitor them for impeding signs of relapse, and to make treatment or aftercare referrals as required.

- ***12-Step Self Help/Mutual Aid Approaches.*** Self-help or mutual aid approaches refer to those situations in which alcoholics seek help from other people experiencing the same problem. Drug courts, whose program rules universally require abstinence from the use of alcohol and illicit drugs, typically recommend that clients participate in self-help/mutual aid programs that reinforce the program's philosophy. The programs most often attended include Alcoholics Anonymous (AA), Narcotics Anonymous (NA), Cocaine Anonymous (CA), Women for Sobriety, and SMART Recovery. It should be noted that while AA, NA, and CA are widely

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[17] Hunt et al. (1971); Joe et al. (1994); Simpson & Savage (1980); Simpson & Sells (1990); Stout et al. (1999) (Moos et al., 1990; Valliant, 1973.

[18] McKay et al. (1998) and Ouimette et al. (1998).

[19] Emerick, et al. (1993); Ito & Donovan (1986); McKay et al. (1998); Montgomery et al. (1997); Moos & Moos (1994); Morgenstern et al. (1997); Ouimette et al. (1998); Peterson et al. (1994); Timko et al. (2000); Tonigan et al. (1996); Trent (1998).

[20] Godley et al. (2001, 2002).

[21] Foote & Erfurt (1991); McKay et al (in press); Sobell & Sobell (2000); Stoudt et al. (1999).

[22] Dennis et al. (2003).

[23] McAuliffe (1990).

[24] Patterson et al. (1997).

[25] O'Farrell et al. (1998).

[26] Godley et al. (2002).

available. Women for Sobriety and SMART Recovery both have fewer than 350 groups nationwide.[27]

Manualized treatment approaches designed to integrate 12-step principles into primary treatment have also been developed and utilized successfully in treatment. The 12-Step Facilitation Therapy Manual[28] (which focuses on AA's first four steps) was found to be an effective treatment approach with individuals both intentionally and unintentionally matched in the National Institute on Alcohol Abuse and Alcoholism's (NIAAA) Project MATCH.

The experience of drug courts is that self-help/mutual aid group attendance appears to be enhanced when clients are offered choices, both in terms of the types of groups approved by the court and also in the types of 12-step programs (AA, CA, NA) offered in the community. Clients report a greater level of acceptance when attending meetings where there is a good match in terms of drug of choice (i.e., alcoholics attending AA, rather than NA or CA meetings) and also in the demographics of the client and the group (i.e. young people, women, etc.).

Conclusion

Recovery and rehabilitation are the primary treatment goals for participants in DWI courts. Treatment providers now benefit from having a broad array of clinical and medical interventions to choose from that can be employed to enhance motivation, teach new skill sets, and facilitate long-term recovery from addiction to alcohol and other drugs. Research suggests that the most important factor is to create an environment in which it is possible for participants to remain engaged in treatment for significant periods of time. The design of drug court programs provides this structure. Equally important is regular participation in treatment, which has been demonstrated effective with similar client groups and is provided by properly trained and supervised clinicians. The combination of providing high quality therapeutic interventions and promoting treatment retention results in significant improvements in treatment outcomes.

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[27] McCrady, B., Horvath, A. & Delaney, S. (2003). Self-help groups. In Hester, R & Miller, W. (eds.) *Handbook of alcoholism treatment approaches: Effective alternatives, 3rd edition.* Boston, MA: Allyn and Bacon.

[28] Nowinski, J., Baker, S. and Carroll, K. (1994). *Twelve step facilitation therapy manual.* NIH Publication No. 94-3722. Rockville, MD: National Institute on Alcohol Abuse and Alcoholism.

Supervise the Offender

By Helen Harberts and Kathy Waters

Introduction

The offender who drives under the influence of drugs or alcohol is extraordinarily dangerous,[29] and this, coupled with the quick dissipation of alcohol from the body, makes increased supervision a necessity. Public safety remains the paramount concern and therefore more frequent monitoring by the court, the probation department, and treatment provider must occur. Because this crime presents such a significant level of danger to the public, supervision must be tighter, and the response to violations must be faster and stricter. This can be accomplished through technical innovation,[30] random and frequent drug and alcohol testing, home and other field visits, office contacts, and frequent judicial review.

GUIDING PRINCIPLE #4:
Driving while intoxicated presents a significant danger to the public. Increased supervision and monitoring by the court, probation department, and treatment provider must occur as part of a coordinated strategy to intervene with repeat and high-risk DWI offenders and to protect against future impaired driving.

Research supports the position that coerced treatment works,[31] and in a program where protecting public safety is imperative, community supervision reinforces the importance of treatment, accountability, and early intervention for relapse. Absent a coordinated strategy to intervene with these repeat and high-risk offenders, thousands more innocent individuals will become victims of a substance related vehicular accident each year.

- ***The Role of Community Supervision in DWI Courts.*** Court and treatment supervision teams must extend their supervision of offenders into the home, community, and work environments of the offender. In particular, community supervision officers must conduct field and home visits frequently to identify emerging relapse patterns, to assist with the cognitive restructuring and the development of problem solving capabilities of offenders, and to monitor the offender for signs of substance use. Officers must relay all of the learned information regarding the offender's habits, associates, new trends, any positive urine tests, changes of circumstance, or barriers to success to the rest of the DWI court team immediately. This requires the supervision officer to be knowledgeable of the life circumstances of the offender, including both negative and positive circumstances and changes. In fact, a critical element of the community supervision piece is to *catch offenders doing something right* and then alerting the rest of the court team.

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[29] This statement is based on the fact that 17,500 Americans died and 500,000 injuries were reported in 2003, and $16 billion dollars in property damage occurs every year because of impaired driving (Cited in The George Washington University Medical Center (2004). "Finding Common Ground: Improving Highway Safety With More Effective Interventions for Alcohol Problems". *Ensuring solutions to alcohol problems, primer 7*).

[30] For example, utilization of Ignition Interlock Devices, In-Home Electronic Monitoring with Alcohol Detection Devices, the SCRAM transdermal alcohol detection device, presumptive alcohol screening devices, and instant test cups for detection of drug use.

[31] See National Drug Court Institute (2004). *Painting the Current Picture: A National Report Card on Drug Courts and Other Problem Solving Court Programs in the United States, Vol. I, No. 1*. Alexandria, VA: Author.

Encouragement and incentives are the counterbalance to the higher degree of sanctions and accountability in these courts. The supervision strategy of these offenders should focus on identifying the underlying problems and providing appropriate treatments, rather than on relying solely on the surveillance and punishment model of supervision. There must be a balance between enforcement and treatment.

Protecting officer safety, however, is crucial. In addition to the understood dangers, officer safety is also a concern given the increased number of required home visits to homes where domestic violence is often a reality and where firearms and weapons pose a threat (in this circumstance, all weapons must be ordered removed). Officers must also be aware of the possibility of sabotage or pressure being placed on the probationer by their partner, particularly if the partner is a substance abuser.

Community supervision officers and in fact, all team members, should be aware that participants may have cultural norms that do not prohibit drinking and driving. While this must be addressed in treatment and from the bench, it must also be a primary focus for supervision in participant indoctrination and when dealing with the participant's family. Communications, orientations, and expectations of supervision should be conveyed to the family to ensure there is a clear understanding of the requirements for success in treatment and supervision. This, in turn, will build a stronger support system for the offender. Also, some offenders may provide a mixed message to their family regarding driving under the influence. The concept of treatment requires abstinence, and the concept of a DWI court requires abstinence, recovery, and not driving until properly licensed. By conducting family and community outreach, officers can clarify any confusion regarding the expectations of the court, and assist with the readjustment of family norms if they include consumption of alcohol.

- ***Screening and Risk Assessment.*** Unlike the illicit drug user, the alcoholic may not have lost support of family and friends, and in many cases may still have some semblance of a functional lifestyle. Similarly, while court involvement may be considered inconvenient or embarrassing, alcohol use may be condoned and even expected by family or work associates. Because of this, the DWI offender is often in a greater state of denial than other addicts, and therefore more resistant to the goals of the drug court team, specifically to supervision efforts.

Offenders come before the courts with different strengths and weaknesses, and this is particularly true of DWI offenders. For example, some DWI offenders may have a high level of functioning, are able to maintain employment, have a relatively stable family environment, and a relatively lower level of criminogenic needs. As such, these offenders may require a different level of structure and support than a typical offender with different criminogenic needs. Alternatively, some DWI offenders, particularly those with a poly substance abuse problem may require yet a different level of supervision as they progress through recovery. They may present with high criminogenic needs and have a profoundly poorer recovery environment at home or in the community. This may be the case because offenders have lost the support of family and friends, may not have a clean and sober environment in which to recover, or may not possess sufficient resiliency factors to complete treatment and probation without a higher level of assistance and supervision.

Use of risk assessment instruments that have been normed on corrections populations is important. Instruments such as the LSI-R (Level of Service Inventory – Revised) allow for targeted case management, and a better sequencing of collateral referrals designed to maximize success over the long term. In addition, instruments such as the LSI-R show movement in various dimensions, allowing both the agent and the offender to see improvement, and share in the success of the case plan. Likewise, such instruments help to identify if treatment and interventions may or may not be working. The supervising officer and team should take an active interest in how well

the offender who has been diagnosed with a drug or alcohol problem responds to the treatment. The LSI-R or like assessment should be re-administered periodically to help identify improvements in offender behaviors, as well as to assist in the modification, if necessary, of the case plan which might include referral to a different treatment program. This forms a basis of incentives, and encourages a partnership in recovery and accountability between the offender and the officer.

- ***Monitoring Medication, Abstinence, & Relapse Detection.*** Many DWI court jurisdictions have a zero tolerance policy in place regarding drug testing, with the participant immediately taken into custody upon having a positive test. This is in contrast to a standard drug court non-driving case where, in most cases, a positive test does not cause immediate custody. The distinction, of course, is the aspect of *driving* while impaired. By virtue of their conviction and referral to the DWI court, these offenders have demonstrated a propensity to *drive* under the influence, and put the public at risk. Because of the public safety concerns surrounding driving under the influence, the discretion of the officer may default to custody to protect the public.

  Because of the public safety risks, DWI offenders must be monitored through every method possible. This includes utilizing technology such as ignition interlocks, car impounds, global positioning devices, in-home electronic surveillance that has photo capable alcohol testing equipment or trans-dermal alcohol detection devices. However, these technologies are only an adjunct to personal surveillance. In jurisdictions where naltrexone or other medications are used to assist with recovery, community supervision agents must review the observation logs of the pharmacies responsible for monitoring actual consumption of the medication to ensure the offender's adherence to the court orders regarding the use of the medication. Similarly, community supervision is in the best position to monitor the ASAM[32] recovery environment of the offender, and attendance at a 12-step program by reviewing signed meeting logs and written step work.

  Additionally, the team must be vigilant in identifying relapse behaviors that occur before the participant falls back to using drugs or alcohol, and provide appropriate intervention. These behaviors could include loss of a job, appearance of old associates or even advancement in program phases. This information must be detected and shared in a timely manner with other team members.

- ***Testing.*** Alcohol use is more difficult to detect than other drug use. Alcohol burns off at a fairly steady rate of .02 Blood Alcohol Content (BAC) per hour. Thus, a person could be under the influence in the evening and provide a clean test the next day. Testing, therefore, must be conducted more frequently and randomly than is done with other drugs of abuse. Increased field services by community supervision are an essential component of this monitoring requirement. Noting any signs of alcohol cans, bottles, and alcohol packaging is just as important as the results of breath testing in the detection of use or relapse potential. As many offenders have both primary and secondary drugs of choice, supervision must always search, and screen, for poly substance abuse.

  Community supervision must, therefore, arrive with breath testing equipment when they are not expected: on paydays, during football games, early in the morning, or two hours after making their last check at the house (to catch the "celebration" syndrome). Knowledge about the behavior and life style of the offender will also assist with scheduling surprise visits. In addition, the availability of proper resources and equipment for use by the officers in the field is paramount for being able to conduct truly random and accurate testing, particularly since field

[32] American Society of Addiction Medicine; www.asam.org.

and community testing should be a required component of supervision in addition to office visits. Testing should also take place at every possible point of contact between the community supervision team member and the offender, especially given the fact that breath testing is relatively inexpensive and swift. Testing should take place at group meetings, at the court, in the supervision office, and during field contacts. In addition to breath testing, occasional and random urine testing should be conducted. While urine testing is not as effective for detecting alcohol use, it assists with the identification (and prevention) of poly substance abuse.

Additionally, other law enforcement agencies can provide assistance with testing, as many local police departments have screening devices, intoxilyzers, or other testing equipment on site or in their vehicles. Random testing, or assigned testing can thus assist with monitoring use. As part of an assigned testing protocol, an offender can be directed to appear at a local precinct or department twice a day with picture identification to provide a breath sample. And, as part of conducting unannounced, random checks, a local police officer can be asked to drop by and check on the status of an offender. Police can also assist with caseload supervision if they are provided with a list of people on the DWI court caseload and know who should and should not be driving. Police work 24/7 and can often report observed pro-social and negative activities of DWI court participants to the team. If other law enforcement is utilized as part of the team strategy, they must understand the team concept and the desired outcomes of the supervision strategy, as they may have a different view of dealing with offenders and the expectations of the program.

- ***Court Orders.*** Court orders must be absolutely clear, unambiguous, and delineate all the court's expectations. This includes consequences if alcohol or drugs are found in the offender's presence, in their vehicle, at their workplace, or in their home. In particular, the offender must have absolute clarity about the total ban of alcohol and other drugs in the home, even if these substances belong to someone else living in the home. That is, parents, roommates, or other associates cannot possess alcohol or drugs in a place that is accessible to the participant. In addition, the offender must clearly understand the section of the court order that includes the avoidance of any alcohol outlets, bars, casinos, or other places where liquor is a primary item sold, and that this will be strictly monitored and enforced.

  The offender should also have a thorough indoctrination with the community supervision officer, and should sign all relevant consent forms, as well as a clause affirming that they understand the terms and conditions of their release into the community. As it is often the nature of an addicted person to try and "beat the system" at first, the court's orders must leave no doubt about the expectations placed upon the participant. Community supervision is crucial in detecting and addressing non-compliant and compliant behavior in a swift manner. This is important in behavior modification, because reinforcement, either in a positive or negative manner, should occur as close as possible to the targeted conduct. Failure to detect, or address such behavior in a responsive manner allows intervening behaviors to confuse the message, and reduces the effectiveness of the sanction or incentive in shaping future behavior.[33]

  Court orders may also include orders tailored to meet the individual needs of the offender or a specific offender population. Such orders may include general and specific curfews, for example, geographic curfews (the offender is not to go to the concert arena or River Park), temporal curfews (the offender must be in his/her home between 8:00 PM and 7:00 AM each day); and occasional curfews (the offender must be home by 7:00 PM on New Years Eve). And,

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[33] See Marlow, Douglas B. and Kimberly C. Kirby. (1999). Effective use of sanctions in drug courts: Lessons from behavioral research. *National Drug Court Institute Review Volume II, Issue 1.* See too Transforming probation through leadership (Reinventing Probation Council Center for Civic Innovation at the Manhattan Institute, 2000); and Stevens, Darrell et al., Butte County Revia Project (www.aca-usa.org/reviaproject.htm).

orders can be tailored to address specific individual triggers until recovery is well under way, such as limiting certain activities or places unless otherwise approved by the supervision agent (e.g., the offender is not to enter the raceway without the express permission of their probation officer). Officers and law enforcement partners can assist in the monitoring of these orders by conducting checks of local bars and other known party areas. In addition to surveying for negative behaviors, they can also look for pro-social and recovery oriented activities that support the success of the client and which can then be rewarded with positive incentives by the team in support of continued behavior modification.

Case managers can help the client work with their family members, roommates, and others in the residence to determine if they are willing to comply with these terms. If not, then the court team will need to help identify new housing for the client that can be alcohol and drug free. In addition, if there are other factors present in the home that are identified as possible impediments to the treatment and supervision plan and long-term recovery of the offender, these will have to be addressed.

- ***Court Contacts.*** While personal accountability by the offender is the keystone of allowing clients to remain within the community setting, frequent judicial monitoring is important. The presence of a well informed bench officer who is able to encourage progress is fundamental in assisting the offender pursue a clean and sober lifestyle. Frequent appearances early on promotes the establishment of the relationship between the offender and the court, and this relationship will be strengthened both through the court's use of rewards and praise for success and of the dispensation of immediate sanctions for non-compliant behavior if necessary. Positive and negative reinforcement of conduct soon after it occurs has been shown to be critical in helping to build the increased sense of personal accountability among offenders. Additionally, the immediacy of a pending court appearance enforces the notion that the court is very serious about supporting and monitoring the defendant's abstinence and engagement in treatment. Having weekly court appearances therefore sustains pressure on the offender to perform in a positive manner. Immediacy of appearances before the bench officer also assists with the prevention of denial. Moreover, the public viewing of these conditions and court responses by other offenders in the program will assist in developing camaraderie and support from other participants, as they will see that they are not alone.

Conclusion

Supervision of a DWI offender, particularly because of the very serious risk they pose to society, is best accomplished with a team approach. The DWI court team, comprised of court, supervision, and treatment staff must closely monitor the behaviors of DWI offenders not only in the office, but out in the community, and in offender's home as well. Monitoring can also be accomplished through the use of various risk screeners and assessments to assess the impact of treatment over time, as well as through a number of technological methods such as drug testing, breathalyzers, and ignition interlocks. Expectations and consequences of non-compliance must be clearly and unambiguously delineated in the court orders so that the offender understands what is required of him or her for successful completion of the DWI court program. Successful monitoring of an offender requires more than the issuing of sanctions for non-compliance – DWI court team members should also seek to identify incidences of positive behavior on the part of the offender and provide accolades and incentives to motivate the continuation of such behaviors.

Forge Agency, Organization, and Community Partnerships

By Jane Pfeifer with contributions from Norma Jaeger and Nadine Milford

Introduction

The idea to initiate a drug court program can come from any number of individuals, whether it is a judge, a court administrator, a prosecutor, a public defender, a treatment agency, a non-profit corporation, or just a concerned citizen. This initiating individual, however, must strive to create a broad partnership with others in support of establishing a DWI court.

> ***GUIDING PRINCIPLE #5:***
> ***Partnerships are an essential component of the DWI court model as they enhance credibility, bolster support, and broaden available resources. Because the DWI court model is built on and dependent upon a strong team approach, both within the court and beyond, the court should solicit the cooperation of other agencies, as well as community organizations to form a partnership in support of the goals of the DWI court program.***

While partnerships are the cornerstone of any effective collaborative program and one of the *Ten Key Components* of the drug court model[34], they are essential within the DWI court setting where public safety is of great concern and public misunderstanding and misinformation about the program abounds. A broad-based, multi-agency, and grassroots partnership enhances credibility, and with an established mission that elicits widespread support and active involvement by various stakeholders – community leaders, the media, and the public – the partnership's efforts will be taken more seriously. Building coalitions – creating a group of individuals and organizations working together for a common cause – broadens the availability of resources and moves others to embrace the change that is being promoted. Because a Drug court is built on a strong team approach, the court should solicit the cooperation of agencies, organizations, and community partnerships to work together as a coalition. The more community members involved, the more ambassadors representing the DWI court within the community from diverse perspectives. Thus, the program gains validity and acceptability within the community as a solution to a critical social problem. Ultimately, quality partnerships fulfill three main purposes within the DWI court setting. In particular, they beget: (1) increases in services for program participants, thereby increasing the likelihood of their long-term success; (2) broader support and understanding of agencies and organizations that might otherwise be opposed to a DWI court; and (3) the building of a foundation of ongoing resources including but not limited to financial resources to support the operations of the court. Partnerships are the foundation upon which drug courts are based. The DWI court requires a more varied group of partners due to the unique challenges facing DWI offenders and the heightened public safety risk these offenders present. As with all drug court programs, the design must follow the *Ten Key Components* and be tailored specifically to the target population being served. The development of partnerships must similarly be chosen based on the needs of the program participants and to the benefit of the program as a whole.

NOTES

[34] *Defining Drug Courts: The Ten Key Components.* (1997). Washington, DC: U.S. Department of Justice.

- ***How Partnerships support the DWI court.*** Partnerships expand the collateral resource base, allowing the DWI court to link participants to a comprehensive list of services provided in the community. The availability of such expanded services enhances the likelihood of positive treatment outcomes. This is a critical issue for the repeat DWI offender who often faces prison if he or she fails, or worse, significant potential to reoffend and place lives in danger. Effectively addressing the underlying causes and effects of the long-time alcoholic's drinking and related behaviors is a monumental task, both for the participant and the drug court team. Having access to a broad array of treatment and rehabilitation resources, thus expanding the availability of culturally responsive services, can have a major impact on treatment success.

  Moreover, the National Institute of Corrections cites the importance of engaging in ongoing support through a natural community approach[35]:

> Realign and actively engage pro-social supports for offenders in their communities. Research indicates that many successful interventions with extreme populations (e.g., inner city substance abusers, homeless, dual diagnosed) actively recruit and use family members, spouses, and supportive others in the offender's immediate environment to positively reinforce desired new behaviors. This Community Reinforcement Approach (CRA) has been found effective for a variety of behaviors (e.g., unemployment, alcoholism, substance abuse, and marital conflicts). In addition, relatively recent research now indicates the efficacy of twelve step programs, religious activities, and restorative justice initiatives that are geared towards improving bonds and ties to pro-social community members.[36]

Partnerships provide not only direct and collateral resources for the program, but they can also provide essential political support. Through effective collaboration, partnerships can achieve significant community awareness and understanding of the DWI court's mission and goals. And, given the significant public safety risk posed by repeat DWI offenders, broad-based partnerships can serve to inform both policy makers and the general public of the high level of accountability expected of offenders participating in the DWI court program. Furthermore, broad and informed support of the DWI court increases public acceptance for treatment interventions, rather than sole reliance upon incarceration of offenders. Effective partnerships can also make a major difference in helping the community understand the policies in place to assess offenders' risk, and to provide appropriate, intensive supervision. It is then that the DWI court becomes an accepted response to addressing repeat offenders.

Partnerships also provide a foundation for identifying and accepting resources in support of the long-term success and sustained efforts of the DWI court program. A broad-based partnership is essential to maintain a resource base and to continue to expand to meet growing demands. Financial resources, while important, and able to be provided via an effective partnership, are not the only resources that are needed. Other resources include physical facilities, drug-testing equipment, staff support for various elements of the court, incentives and rewards for participant successes, and, of course, alcohol treatment services.

Additionally, partnerships facilitate access to varied and influential contacts that foster success on

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[35] *Implementing Evidenced-based Principles in Community Corrections: The Principles of Effective Intervention.* (2004). National Institute of Corrections, Community Corrections Division. Washington, DC: U.S. Department of Justice.

[36] See Azrin, & Besalel. (1980); Emrick et al. (1993); Higgins & Silverman. (1999); Meyers & Smith. (1997); Wallace (1989); Project MATCH Research Group (1997); Bonta et al. (2002); O'Connor & Perryclear. (2003); Ricks (1974); Clear & Sumter. (2003); Meyers et al. (2002).

key public policy issues. Most legislation is enacted through the efforts of coalitions, whether explicit or implicit. In this sense, partnerships can provide many benefits, particularly, they can:

- Coordinate and focus the resources of many groups that have a common interest in the issue;
- Consolidate resources: groups may provide technical or financial assistance, help from membership, name recognition, etc;
- Produce influential contacts; and
- Create a powerful image: the perception of power and broad-based support.

- ***What Partnerships to Develop.*** Partnerships should be expansive, and each community designing a DWI court must identify the appropriate partnerships to be developed based on the target population of program participants and the unique characteristics of the jurisdiction. For example, a DWI court in a college or university community will likely serve students in their program. Such a court will need to develop partnerships not only with the college or university but also with other local agencies and organizations that provide services to young adults. Similarly, treatment and other services will need to be designed to meet the developmental needs of this youth population. A jurisdiction that elects to utilize medication, such as Naltrexone, to aid participants in their early recovery, must develop a strong relationship with the medical community, especially pharmacists. A comprehensive service delivery system will depend on developing these kinds of quality partnerships.

  By pooling resources, coalition members can also multiply opportunities. Broad-based coalitions include more than the traditional drug court partners such as law enforcement, judges, prosecutors, and treatment providers. They could also include local educators, activists, youth groups, the faith community, the military, civic groups, emergency medical personnel, hospitals and trauma units, physicians, insurance companies, members of the Chambers of Commerce, Victim Advocacy groups (including MADD and SADD), defense attorneys and public defenders, attorneys working throughout the legal system, treatment groups, 12-step programs, licensing agencies such as Alcohol Beverage Control (ABC) or Alcohol Beverage Laws Enforcement (ABLE) Commissions, Departments of Motor Vehicles and Highway Traffic Safety agencies, schools, colleges and universities, local pharmacies, and pharmaceutical groups are all potential partners and coalitions members. Coalition models emerge in different forms, with the three basic models as follows:

  - The **Endorsement Model** consists of a list of endorsers who lend credibility and a base of support to the effort;
  - The **Associate Model** is made up of groups or individuals who take a more active role, but one person or organization is responsible for making decisions, with occasional meetings to inform members; and
  - The **Partner Model** shares power and active participation by partners including various groups and volunteers working closely together. (It is this model, with a horizontal decision making process, that best suits the DWI court setting).

- ***Enlisting Partners and Supporters.*** There are several strategies that can assist the DWI court in developing quality partnerships with other agencies and organizations. The development and maintenance of these partnerships must be an ongoing effort and must be the responsibility of the entire DWI court team. Such strategies might include:

- Making frequent presentations to public clubs and groups, explaining the program;
- Inviting potential partnering agencies to court sessions;
- Inviting potential partnering agencies to graduations or other special events;
- Including potential partnering agencies in Advisory or Steering Committees, or in ad hoc committees focused on specific program issues;
- Conducting community outreach and education, and invite program participants to "tell their story";
- Using video and other outreach materials;
- Setting up booths at public safety and information fairs, county fairs, and other community events;
- Making wise use of the media to let them see the public safety orientation of the program and the good outcomes of the model;
- Holding meetings with potential partners to discuss common mission and goals, and to address concerns; and
- Conducting ongoing evaluations and publicizing results.

- ***Strategies for Managing Partnerships.*** As with any collaboration, communication is key to successful operations. Identifying roles and responsibilities at the onset can help avoid misunderstandings as the DWI court becomes operational. Developing a memorandum of agreement (MOA) or memorandum of understanding (MOU) between partnering agencies and organizations can provide the detail necessary to frame the expectations of all partners, by clearly outlining agreed upon specific duties and responsibilities of each partner. Having an MOA or MOU in place can also assist new team members as they transition into the program.

  Cross-training as well can assist with increasing the knowledge base of all partnering agencies. Often agencies and organizations come together with little or no prior information about the operation, or legal and ethical mandates, of one another, particularly as terminology alone can differ greatly between agencies and disciplines. While this is true of all multidisciplinary teams, the DWI court team faces additional challenges as team members learn the additional considerations involving public safety and the policy decisions that must be made. To develop, maintain, and manage an effective collaboration there are eleven essential elements as identified by the National Institute of Corrections:[37,38]

  1. *Common Vision*
     - Define a problem to be solved or task to be accomplished that will result in a mutually beneficial outcome.
     - Seek agreement regarding a shared vision to develop system-wide commitment.
     - Develop strategies for achieving the vision.
     - Ensure a safe environment for vocalizing differences.
     - Find a common ground and keep everyone engaged and at the table.
  2. *Purpose*

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[37] NIC (2004).

[38] The list is adapted from The Wilder Foundation and incorporates views from Feely, K. (2000). *Pathways to Juvenile Detention Reform: Collaboration and Leadership* Baltimore, MD: Annie E. Casey Foundation; Carter, M., et al. (2002). *Collaboration: A Training Curriculum to Enhance the Effectiveness of Criminal Justice Teams.* Washington, D.C.: State Justice Institute; and Griffith G. (2000). *Report to Planning Committee on the Study of Three Collaborations.*

- Develop a unique purpose and clarify the need for change.
- Build concrete, attainable goals and objectives.
- Seek agreement between partners regarding strategies.
- Create incentives for collaboration and change.

3. *Clarity of Roles and Responsibilities*
   - Value the unique strengths that each partner brings to the collaboration.
   - Clarify *who does what,* and create a sense of accountability.
   - Take time to develop principles defining how participants will work together and revisit them often.
   - Focus on strengths.
   - Listen to, acknowledge and validate all ideas. Be inclusive.
4. *Healthy Communication Pathways*
   - Ensure open and frequent communication.
   - Establish formal and informal communication links to strengthen team bonds and direct the process.
5. *Membership*
   - Develop an atmosphere of mutual respect, understanding, and trust that is shared between participants.
   - Help participants to see that collaboration is in their self-interest.
   - Develop multiple layers of decision-making or consensus-based decision-making to create ownership of the project and maintain communication.
   - Ensure that members share a stake in both the process and outcomes, have the ability to make compromises and the authority to make decisions.
6. *Respect and Integrity*
   - Ensure that respect and integrity are integral to the collaborative relationship. Collaborations will fail without these two elements.
   - View all partners as representatives of organizations and as *Centers of Expertise.*
   - Ensure that all partners offer each other *procedural respect and role respect.*
   - Overcome feelings of skepticism and mistrust. If not, they will undermine achievements of the collaboration.
7. *Accountability*
   - In order to clarify mutual expectations, partners must explicitly understand the following: their accountability to each other, to the collaboration as a whole, and to his or her parent organization.
   - In order to create mutually agreed-upon expectations of accountability, each collaborative partner must understand the others' *accountability landscape* (i.e., their organization's history, successes, and challenges).
   - Once a common understanding is achieved, the modes of attaining accountability can be developed among the partners.
8. *Data-Driven Process*
   - Focus on data. *The centerpiece of reform implementation is a data-driven, outcome oriented, strategic planning process and a cross-agency coordinated plan.*[39]
   - Maintain a process that is flexible and adaptable to obstacles or barriers.
   - Develop clear roles and policy guidelines, and utilize process improvement strategies.

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[39] Feely (2000).

- Identify and collect outcome data. *Identifying clear, measurable outcomes and charting progress toward their attainment is the most concrete and visible basis for accountability in complex change strategies.*[40]
- Utilize data to review and refine processes and outcomes.
- Evaluate the process; self-assessment and data are essential tools for effective collaboration. The strength of the collaboration will grow as access and capacity to use data to inform policy and program decisions increases.

9. *Effective Problem Solving*
   - Identify problems in a safe way before they become crises.
   - Offer collaboration participants an agreed-upon process to resolve problems effectively and efficiently.
   - Continually assess team effectiveness and take steps to strengthen their work together.[41]
   - Build upon *small wins*. Celebrate and institutionalize changes quickly.
10. *Resources*
   - Provide sufficient funds and staffing necessary to maintain momentum.
   - Use skilled convener(s), as they can help to keep leadership and working groups on task and organized.
11. *Environment*
   - Develop a reputation for collaborating with the community.
   - Be seen as a leader in collaborative work within the community.
   - Develop trust, as it is a critical element in a collaborative climate.
   - Develop a favorable political/social climate – a political climate that supports collaboration is one that recognizes what collaboration is, values it as a process for social action, and supports collaborative efforts.

Conclusion

The design and implementation of a DWI court requires the cooperation of and collaboration between a number of court and community partners. The greater the quality of these partnerships the greater will be the resources, credibility, and support given to the program. To maintain and manage these partnerships, the DWI court must keep various stakeholders informed of and engaged in ongoing activities, including the touting of accomplishments by court programs to media partners. A number of resources are available by the National Drug Court Institute, the Department of Justice, and the National Institute of Correction to courts considering implementing a DWI court program and to courts seeking to increase and/or manage community partnerships.

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[40] Ibid.
[41] Carter et al. (2002).

Take a Judicial Leadership Role

By Hon. J. Michael Kavanaugh, Hon. Philip F. Howerton, Jr., Hon. Kent Lawrence and Hon. James Wanamaker (Ret)

Introduction

The judge is a vital member of the DWI court team. As team leader, he/she must be committed to this role and willing to recognize and understand the complex and often troubled lives of those who stand before the bench. The judge must express a sincere commitment to this role and possess a strong personal belief that only by first addressing the underlying problems of substance abuse – through intensive treatment and accountability – can an offender acquire the ability to stop driving while impaired. The success or failure of a DWI court in large part depends on the convictions held and strength exuded by the judge as leader of the program.

> ***GUIDING PRINCIPLE #6:***
> ***Judges are a vital part of the DWI court team. As leader of this team, the judge's role is paramount to the success of the Drug court program. The judge must also possess recognizable leadership skills as well as the capability to motivate team members and elicit buy-in from various stakeholders. The selection of the judge to lead the DWI court team, therefore, is of utmost importance.***

DWI courts provide an effective T.E.A.M. (i.e. "Together Each Achieve More") approach, involving the judiciary, prosecutor, defense counsel, court coordinator, treatment coordinator, treatment provider, law enforcement, and probation officer. As leader of this team, the judge's role is paramount to the success of the Drug court program.

- ***Selection of a Judge.*** The selection of the judge to lead the DWI court team, therefore, is of utmost importance. A judge with extensive experience handling DWI cases is obviously preferable. Additionally, a well-known judge with a positive reputation in the community is often in a good position to forge the kinds of partnerships and support, which are needed to develop and implement a successful DWI court. The judge must also possess recognizable leadership skills as well as the capability to motivate and elicit buy-in from various stakeholders.

  A DWI court judge should also be capable in tempering judicial authority in a manner that encourages teamwork and empowers others to contribute to the team process. He or she must recognize that differences of opinion can often lead to creative solutions to problems; the judge's role, therefore, is to create an environment where team members are encouraged to offer input, while also being able to make difficult and sometimes risky decisions when necessary. The judge must also be willing to assume the role of inspirational leader of the team by continually providing encouragement and positive reinforcement to team members.

- ***Capabilities of a DWI court Judge.*** Substance abuse issues involving alcohol and other drugs are complex, and it is incumbent upon the judge to understand the nature of addictive disorders and attendant behaviors. In order to be effective in a DWI court setting, the judge must fully appreciate the importance of his/her persona and its effect on the dynamics of the relationships established with program participants. The judge must be perceived as one who has a genuine interest in both the present and future well being of program participants.

Additionally, the judge must be willing to enforce all program requirements, including the meting out of sanctions, yet be seen as fair and impartial when doing so by both program participants and drug court team members.

The judge also has the on-going responsibility of ensuring that the entire team, including him/herself, receives adequate training and cross training on matters related to the operations of a DWI court. This includes taking advantage of national, regional and state DWI court specific training programs. Also, site visits to reputable DWI courts, including mentor DWI courts, provide for an effective method of demonstrative learning of practices and procedures in established court programs.

In addition to providing training, the judge must also be keenly aware, and make the team aware, of the importance of cultural sensitivity and how the culture of the offender may influence their current circumstances and their progress through the program. The judge should work with the other team members to implement strategies that work best for the particular participant, taking into account as many cultural aspects as possible. Without strong judicial leadership on this point, cultural issues are often ignored or overlooked.

- ***Funding a DWI court Program.*** Initial funding, and the sustainability of a DWI court are continuing issues. Some courts begin operations solely on grant funding, while other courts have started programs with a combination of local government and grant funding. A few courts have initiated programs entirely on local funds and community resources. To the extent permitted by applicable judicial standards, the judge should consider and aid in the process of securing adequate funding for the continued operation of the court. Regardless of the funding source(s), the judge must be aware of all funding sources and to make certain of the sustainability of the program based on these funds.

  Additional sources of funds available for use to sustain the program are those monies collected by program participants to offset the costs of conducting testing and providing treatment. The judge should recognize and emphasize the significance of a financial investment by each participant in the program who has an ability to pay. Not only do these funds provide an additional funding stream, but also, the requirement of financial contributions by participants tend to increase attendance at treatment sessions and increase feelings of accountability.

- ***Community outreach on the part of the Judge.*** The DWI court judge must constantly strive to develop trusting, cooperative, and supporting relationships with various community and victims groups, including MADD. Such groups need to be informed about the DWI court's practices, particularly those designed to address community safety issues. The judge should view these groups as partners who have a common interest in the DWI court mission of promoting public safety and helping DWI offenders achieve long-term sobriety through treatment and accountability.

  Additionally, the role of the judge is to effectively communicate to local government officials, the media, and the general public, the multiple benefits derived from the operation of a program that is based on: (1) individual and financial accountability; (2) enhanced supervision of offenders; (3) the provision of prolonged counseling and treatment; (4) the conduct of random and frequent alcohol and other drug testing; and (5) the continual and frequent judicial monitoring of each participant.

- ***Considerations for a judge considering implementing a DWI court.*** A judge considering the implementation of a DWI court should consider a number of important factors, including:

- The level of need, if any, for such a court within a particular community;
- Whether the resources within the targeted geographic area of operation are sufficient to support this type of program;
- The level of interest and commitment of each of the necessary team members to the DWI court model;
- The unity and cohesiveness of the identified DWI court team on issues such as program structure, eligibility of participation, rewards and sanctions, compliance issues, and phase movements;
- The ability to coordinate the structure of the new DWI court with court imposed sentence requirements;
- The identification of local qualified and licensed treatment clinicians and programs;
- The capacity to implement an appropriate incentives and rewards program designed to serve as a continuing motivator for participants to achieve sobriety, as well as an appropriate sanctions schedule to handle non-compliant behavior;
- The development of program conditions that meet driver license reinstatement requirements for the target population served by the DWI court; and
- The available resources to maintain complete program records, which can be used as part of a program evaluation to examine participant outcomes following program completion, as well as part of a cost-benefit analysis comparing DWI court operations and benefits with other court programs.

Conclusion

With the establishment of DWI court programs across the county, and their documented successes, judges have become enlightened to the benefits of using the innovative team approach with clients, which includes protocols of immediate intervention, participant accountability, enhanced supervision, and prolonged counseling and treatment. These protocols, delivered within a team framework, enable DWI offenders to clearly focus on and establish sobriety in their lives, and function as productive members of the community. The role of the judge as the leader of the DWI court team, therefore, is that of the proverbial strong link in the chain, and how this role is carried out will ultimately be determinative of program success. Simply stated, the role of the judge should be that of a *change agent*, by providing effective and continuing judicial leadership and support to the team members, program participants, and the community at large served by the program.

♦ GUIDING PRINCIPLE #7 ♦

Develop Case Management Strategies

By Randy Monchick, Ph.D., J.D.

Introduction

Defining Drug Courts: The Key Components[42] underscores that a successful drug court requires a coordinated team strategy and seamless collaboration across the treatment and justice systems. Case management is the series of inter-related functions that provides for this coordination and seamless collaboration and ensures that: (1) clients are linked to and guided through relevant and effective services; (2) all service efforts are monitored, connected, and in synchrony; and (3) pertinent information gathered during assessment and monitoring is provided to the entire drug court team in real-time. Case management, therefore, forms the framework around which the drug court process can credibly and effectively operate.

> ***GUIDING PRINCIPLE #7:***
> ***Case management, the series of inter-related functions that provides for a coordinated team strategy and seamless collaboration across the treatment and justice systems, is essential for an integrated and effective DWI court program.***

- ***Functions of Case Management in DWI courts.*** There are five core functions of case management in a DWI court setting: 1) assessment; 2) planning; 3) linking; 4) monitoring; and 5) advocacy. Although various members of the drug court team share the performance of these functions, a specially designated team member serves as the person primarily responsible for coordinating the development and pursuit of participant case plans, linking participants to resources, and monitoring participant and service provider performance. As part of his or her monitoring responsibilities, this designated "primary case manager" makes sure that the participants' case plans, AOD test results, and relevant treatment and supervision data are timely, and are accurately and routinely memorialized. It is only when this information is systematically collected, recorded, and shared with the team that the "team case management" concept can be employed and the full power of the drug court model can be demonstrated. And it is only through the systematic collection of related demographic, process, and outcome information that a foundation can be laid for a comprehensive and comprehendible program evaluation.

- ***Team Member Functions.*** All members of the DWI court team assist the primary case manager by providing relevant services, supporting the participant's pursuit of the goals in his or her case plan, and supplying timely and accurate information to the case manager for recordkeeping and information sharing. For example, clinical treatment and other service providers who oversee the delivery of specialized services to the DWI court participants disseminate the relevant attendance and participation reports to the case manager. Community supervision officers provide compliance reports based on home, job, or other collateral contacts.

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[42] *Defining Drug Courts: The Key Components*. (1997). Prepared in collaboration with The National Association of Drug Court Professionals, Drug Court Standards Committee, Washington, DC: U.S. Department of Justice.

Those responsible for administering alcohol and other drug screens, a task perhaps shared amongst community supervision officers, case managers, treatment providers and law enforcement officers, closely monitor the delivery of the specimen, maintain its security through appropriate sealing and chain of custody documentation, and transmit test results promptly to the court. The designated DWI court attorney, in consultation with the team's representative from the prosecutor's office, coordinates the removal or resolution of legal obstacles to the participant's long term sobriety and helps keep the team focused on each participant's strengths.

Team case management is absolutely necessary in this environment because DWI court participants come into court with untold numbers and types of problems and chaos in their personal and professional lives. Managing this chaos is not typically something that the AOD dependent person can accomplish or should even attempt to accomplish until they reach a point of stability in their recovery. Rather, it is the primary case manager who is charged with seeing that the chaos is "managed" in a way that allows the participant to restructure and rebuild. With that said, the knowledge and skills required to effectively control all the outstanding issues are beyond what a designated case manager or any one person could possess. But it is not beyond what a "team" can possess. In example, the fallout from and repercussions of AOD dependency are varied and many and often times implicate legal processes. The primary case manager is normally not the team member who is skilled in maneuvering a client through the complex legal system. Rather, it is the DWI court attorney, in consultation with the team's prosecutorial representative, who is typically best situated to assist in delaying the impact of this fallout or coordinating its resolution in a manner that does not undermine the treatment process. The existence of related criminal cases, outstanding warrants, pending or alterable administrative decisions (e.g., driving and professional license suspensions), and unresolved family, probate, juvenile and other civil court-related matters are just some of the venues within which the DWI court attorneys' expertise may be called upon to offer guidance or assistance. As one would expect, AOD dependent individuals are at a heightened risk for causes of action related to such things as family dissolution, child custody disputes, tax and other payment default, creditor attachments, business dissolution, mental commitment, and paternity. The primary case manager is attuned to the fact that each of these potential legal issues may have ramifications for the participant's recovery and draws upon fellow team members or other resources to help the participant "manage" his/her road to recovery.

Regardless of one's role on the DWI court team, performance of one or more of the case management functions will be part of the team member's job description. In the performance of the case management functions, information relevant to the participant's progress toward recovery will need to be documented and shared. All such participant information must be passed to a primary case manager in time for the court's periodic review of the participants' progress. The accuracy and promptness of this information sharing is critical for providing appropriate sanctions and incentives, maintaining quality assurance across the various program components, and developing a database for program evaluation.

- ***Special Role of the Defense Attorney.*** Defense attorneys, as part of the case management team, can play a unique and powerful role in promoting and supporting behavioral change. The defense attorney is typically the first system player whom the client looks to for advice and direction. Defense attorneys are ethically tasked with doing what is in the best interests of the client. They present the defendant with a relatively early opportunity to talk with a non-judgmental and non-threatening person. The defense attorney carries an aura of trust and reliance and in effect authorizes the client to be vulnerable. The defense attorney can…and should…be trained to pre-screen for AOD abuse and dependency and provide motivation for the revealing client to seek more formal assessment and treatment as needed. It is in this sense that the defense attorney kicks off the case management process. Upon entry into a DUI/drug court, the

defense attorney continues to perform duties that correspond with some of the key functions of case management, most notably planning, ongoing assessment (in its general sense) and advocacy. The defense attorney is especially useful in serving as a conduit for delay or resolution of pending civil matters that arise from behaviors tied to the participant's pre-treatment addiction.

- ***Case Management with Alcoholics.*** There are preliminary indications that the team case management approach takes on heightened significance in the DWI court arena where alcohol, as opposed to illicit substances, tends to be the primary drug of choice for the target population. Clinical case management staff in drug courts that work with both alcohol dependent and illicit drug dependent target populations indicate that when alcohol dominates as the dependency drug of choice, "denial" of the addiction is more deeply ingrained and tougher to overcome. "Denial" is the self-imposed armor that shields the alcoholic from confronting his/her disease and associated deficits.

  Conventional wisdom indicates that the alcoholic's denial of his or her disease arises in large part from the legitimacy our society bestows on alcohol consumption. Drinking alcohol is not only socially accepted, but it is celebrated by many of our cultures as a rite of passage into adulthood. Indeed, there is no escaping the fact that "drinking" is promoted through virtually every medium available to salesmanship, its promotion serving as a constant reminder that alcohol is okay for "normal" and "responsible" adults. And while the DWI court team expects and requires the participant to move quickly through the denial phase of the disease, they understand that admitting that one is powerless over alcohol is not an easy pill to swallow when the use of alcohol is so widely condoned and promoted.

  During the early stage of drug court intervention, managing the alcoholic requires an extra focus on the breakthrough of denial. This breakthrough can be expedited by a unified and supportive team response. But breakthroughs in denial can be short-lived. The cultural entrenchment and social psychological power of alcohol makes it exceedingly difficult for the alcoholic to readily adopt a total abstinence philosophy, the philosophy that dominates the treatment of the disorder of alcoholism. Team members must maintain a constant focus on participant ego-building and other strength development throughout the treatment process to help prop up the alcoholic against the steady barrage of competing messages that he or she will confront daily. The monitoring and management of the alcoholic participant must be vigilant and intensive. Given that the alcoholic may well need more frequent home and collateral contact, team members must be willing to share roles so as to be more omnipresent in their supervision and support and more vigilant in carrying out frequent and random AOD testing. It is in this sense that the DWI case management team can serve as a chronic prevention tool.

  Case management in a DWI court must be designed with the alcoholic target population in mind. This means it must ready itself to deal with the unique problems posed by the diverse demographics, economics, and cultures that define the broad target population. Case management must also be flexible and willing to intensify or reduce the intensity of treatment interventions to support the progress being made and to reflect the participant's changing needs and circumstances.

Conclusion

Successful DWI court programs are those that rely on a coordinated team strategy approach between the courts, supervision, and treatment staff and on a case management model coordinated by a primary case manager. By adopting a case management framework, court programs can operate in a manner that can seamlessly provide needed services to clients at all stages of the program while simultaneously

allowing court personnel to monitor offenders' progress. Case management therefore engenders an open environment and supports the sharing of information among all team members and between the DWI court team and partner organizations in the community. The implementation and maintenance of this type of seamless, coordinated system, therefore, improves the DWI court team's ability to effectively monitor and manage participants progress through the program, identify and address problems in a timely manner, and support participants successful completion of the program.

Address Transportation Issues

By Mark Pickle and Hon. James Wanamaker (Ret)

Introduction

Perhaps the most unique aspect that differentiates DWI courts from drug courts is the issue of transportation. Nearly every state revokes or suspends a person's driving privileges upon conviction for a DWI offense. And, many states suspend or revoke driver's licenses prior to conviction based on breath alcohol results or refusal to submit to a blood or breath alcohol test at the time of initial arrest. License revocation, therefore, poses a significant issue for the individual who is involved in a DWI court program.

> ***GUIDING PRINCIPLE #8:***
> ***Though nearly every state revokes or suspends a person's driving license upon conviction for a DUI offense, the loss of driving privileges poses a significant issue for those individuals involved in a DWI/Drug Court program. In many cases, the participant solves the transportation problem created by the loss of their driver's license by driving anyway and taking a chance that he or she will not be caught. With this knowledge, the court must caution the participant against taking such chances in the future and to alter their attitude about driving without a license.***

Virtually every participant in a DWI court program will have had a previous DWI conviction and a previous revocation of their driver's license. Unfortunately, and in many cases, the participant will have previously approached his or her transportation problem created by the loss of their license by driving anyway and taking a chance that he or she would not be caught. The DWI court participant must be cautioned against taking such chances in the future and to alter their attitude about driving without a license. It is very important at the outset of defendant's participation in the program to emphasize that there will be absolutely no driving of a vehicle unless the defendant has a valid driver's license. Furthermore, the DWI court program must strictly emphasize the participant's responsibility to obey all laws including the prohibition against driving while their license is suspended or revoked. Typically, the participant will need to get by without a driver's license for several months or years after completion of the DWI/Drug Court program, since the usual period of license suspension is longer than the duration of the drug court program. Also, the participant will have several years of probation following completion of the drug court program. As such, if the participant has learned to solve his or her transportation problems while in the program, then he or she will have the ability to continue solving them during the remaining time of license suspension and probation.

- ***Transportation of Participants in Custody.*** Transportation problems may arise while the defendant is still in custody serving their DWI sentence, as there may be a need to transport an in-custody defendant to an alcoholism treatment provider for assessment. Or, in those programs that require the taking of naltrexone or other adjunctive medications to reduce alcohol cravings, it will be necessary to get a defendant to a doctor for a medical assessment. Typically, it is very difficult to get the corrections personnel or jailers to transport a defendant for this purpose. Several DWI court programs have a van for this purpose, while others have provided a brief release with bail to such appointments as long as a court approved "Third Party Custodian" accompanies the defendant. Otherwise, the participant will remain in custody until his or her time is served.

- ***Transportation during the DWI court Program.*** In most DWI court programs, the majority of participants will be on some form of monitored bail release and will be engaged in outpatient treatment. Participants will have the responsibility of getting themselves to and from treatment meetings, Alcoholics Anonymous meetings, court appearances, medical appointments, and work. How the defendant will solve his transportation needs will depend largely on the transportation structure of his community, including the availability of public transportation, ride sharing programs, taxicabs, as well as friends and family members who are willing to assist. Also, the location of meetings and other appointments is important, since close proximity also allows for walking or bike riding by the participant.

Emphasis by the court should be placed on the participant solving his or her transportation needs. The end goal is that the participant will accept responsibility for leading a sober, lawful, and self-reliant lifestyle, with the obtaining of lawful transportation as one of these requirements. It is acceptable for the program to point out what resources are available, but programs should avoid solving the participant's transportation problems. Though the DWI court participant is required to adhere to strict program requirements, the lack of transportation should not be used as an excuse for failing to attend required appointments; failure to do so would result in court imposed sanctions for non-compliance.

Depending on the type of area in which the drug court is located (urban vs. rural for example), it may be necessary for the court to develop program requirements which take into account limited transportation options. For example, programs may provide indigent participants with bus passes or tokens while others may utilize a bicycle loan program. In many DWI courts throughout the country, unclaimed bicycles are obtained from the police department, refurbished, and then loaned to the participants in need. The bike is then returned to the program upon discharge. In other programs located in rural jurisdictions, vans have been purchased vans to help provide a variety of services across a large geographical area including counseling, drug and alcohol testing, education, and face-to-face contacts with probation officers and other case mangers. The vans may also be used to transport the assigned Judge to a central location to preside over a DWI court docket.

- ***Issuing Limited Driver's Licenses.*** The loss of driver's license in one of the most common penalties imposed upon a person convicted of DWI. Providing a procedure for participants to regain driving privileges would provide a powerful incentive for DWI defendants to enter the DWI court program. Sometimes, state laws will empower a court and/or the Department of Motor Vehicles (DMV) to issue a limited driver's license to a defendant who has completed a DWI court. If a court is issuing a limited drivers license, then strong efforts should be made to coordinate through the state's DMV, and a suitable plan, as issued by the court, would require a defendant to satisfy the procedural requirements of the DMV before proceeding. Such requirements would include: passing a written driver's test; passing a vision test; showing proof of automobile insurance; the expiration of clearance of any drivers license suspensions in prior cases; and the installation of any ordered monitoring systems such as ignition interlock.[43]

Only after these procedural matters have been completed should the court proceed to authorize a limited license. The limited license would typically be limited to proceeding to and from work, school, and treatment, and would expire upon the date when a defendant is eligible to receive a

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[43] An ignition interlock device is an in-car alcohol breath-screening device that prevents a vehicle from starting if it detects a blood alcohol concentration (BAC) over a pre-set limit (i.e., .02 or 20 mg of alcohol per 100 ml of blood). The device is located inside the vehicle, near the driver's seat, and is connected to the engine's ignition system.

regular license. It is best if the DMV actually issues the license card and monitors compliance issues. Moreover, in authorizing a limited license, the court should make it a condition that defendant obey all laws and conditions of probation.

State law primarily governs such matters of driver's licensing. There is, however, a customary provision in the federal law concerning funding of highway construction, to the effect that, if a state does not meet certain required federal standards on issuing limited licenses, then a certain financial penalty amount is removed from that state's construction funding and moved to a discretionary account administered by the state's Highway Traffic Safety Director. Since these Federal provisions may change from time to time states should stay abreast of the current status of these Federal guidelines before proceeding to authorize limited licenses.

- ***Monitoring Compliance.*** There are various methods for monitoring the requirement that a defendant not drive on a suspended or revoked driver's license or drive beyond the parameters of a limited license. Detection will require active observations by the police, probation agents, case managers, and treatment providers. Whether conducting random home visits to document the mileage on the participant's vehicle odometer, or checking the parking lot of the treatment program on a regular basis, each team member must ensure public safety through proactive means. Finally, ignition interlock devices that disable a car if the operator fails a breath test are an extremely useful technology for monitoring compliance.

Conclusion

As a result of having their license suspended or revoked, if only for a short time, every participant in a DWI court will face some transportation problems. The program, however, should make it clear to the participant that they must obey the law and the rules of the program, which restricts the driving of an automobile with a suspended or revoked license; rules, which if broken, can lead to sanctioning, including rearrest. Furthermore, the program must clearly articulate that it is the participant's responsibility to solve their transportation problems. By solving these problems on his or her own, the participant will gain the tools and skills necessary to lawfully solve his or her transportation needs on a continuing basis.

Evaluate the Program

By Douglas B. Marlowe, J.D., Ph.D. and Randy Monchick, Ph.D., J.D.

Introduction

To be useful, an evaluation of a DWI court must provide a road map for others to understand the type of program provided, how the program was implemented, what types of clients were served, and how outcomes were measured. The evaluation must control for the impact of non-program variables that correlate with and thus could explain behavioral outcomes. These include *jurisdictional variables* (e.g., mandatory minimum jail terms & driver's license suspensions); *participant risk factors* (e.g., educational achievement level, prior DWI arrests, and age); *supervision variables* (e.g., enhanced alcohol testing or surprise home visits & use of sanctions and incentives); and *treatment variables* (e.g., types and dosages of services delivered to program clientele).

GUIDING PRINCIPLE #9:

To convince "stakeholders" about the power of DWI court, program designers must design a DWI court evaluation model capable of documenting behavioral change and linking that change to the program's existence. A credible evaluation is the only mechanism for mapping the road to program success or failure. To prove whether a program is efficient and effective requires the assistance of a competent evaluator, an understanding of and control over all relevant variables that can systematically contribute to behavioral change, and a commitment from the DWI court team to rigorously abide by the rules of the evaluation design.

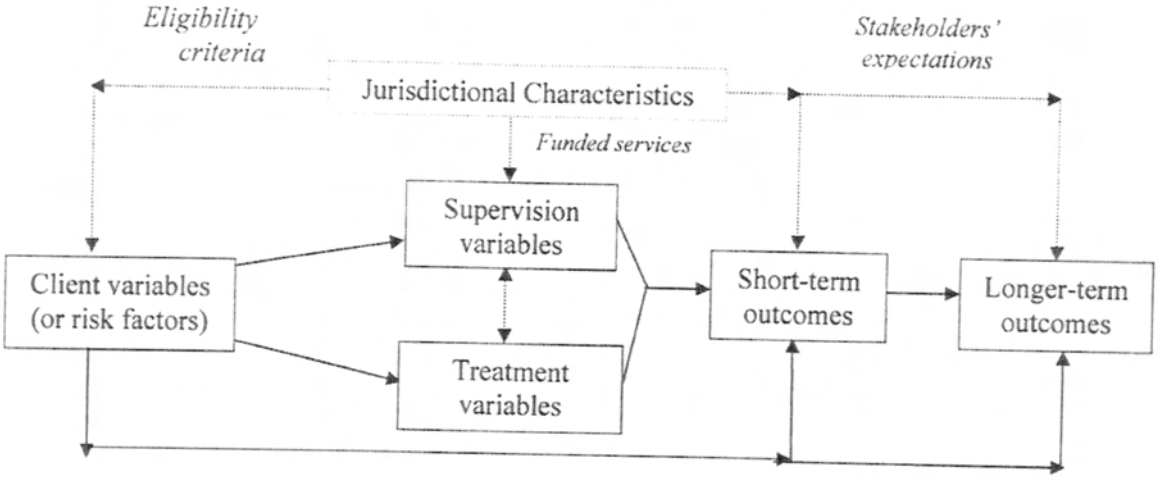
In some instances, DWI courts may be well funded, targeted to the appropriate clients, and administered with substantial programmatic integrity. In other instances, they may be poorly implemented, provided to the wrong types of clients, or watered down by extraneous political or economic forces. It is not instructive to have some studies report positive outcomes for DWI courts and others to report negative findings unless there is some basis for reconciling the discrepancies. This makes it imperative for evaluators to describe the legal and fiscal culture within which their DWI court operated, the types of interventions that were delivered and in what doses, and the types of clients that were served.

No intervention "works" for all clients in all locales regardless of how it is administered. Some clients may respond well to DWI court, others may be unaffected by the interventions, and still others may be harmed. If outcomes are averaged over the sample as a whole, they may become diluted and may mask important "interaction effects" for specific types of clients. DWI courts typically have several "ingredients" such as status hearings, alcohol treatment, breathalyzers, and graduated sanctions and rewards. Some clients may respond well to certain ingredients but may be unaffected or harmed by others. This, too, can lead to a washing-out of overall outcomes and may mask important client-program interactions. Analyses should seek to determine (1) which types of clients had the best outcomes, (2) which interventions were most predictive of improved outcomes, and (3) which clients had better outcomes when exposed to which interventions.[44]

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It is important to have a conceptual framework in mind for analyzing and reporting on the findings. This framework must take into consideration the baseline characteristics of the clients, the services that were delivered and the short-term and long-term outcomes of the program (see Figure 1).

Figure 1. Conceptual framework for analyzing and reporting findings



- ***Jurisdictional Characteristics.*** Outcomes in DWI courts are likely to be influenced by the legal and economic climate. Local policies may set limits on which clients are eligible for DWI court; economic constraints may affect the range of treatment and supervisory services that are available; and the demands of policymakers and the public may influence what types of outcomes are considered acceptable. In addition, some jurisdictions may impose across-the-board consequences such as minimum jail time, mandatory fines, community service, or drivers' license suspension for repeat DWI offenders. These policies, in and of themselves, have been associated with a small to moderate reduction of approximately 1% to 17% in local DWI rates[45]. Finally, outcomes are likely to be influenced by such factors as whether offenders are afforded the opportunity for drivers' license reinstatement, criminal diversion, or expungement upon graduation from DWI court. It is important to describe these characteristics in evaluation reports to set reasonable limits on the potential generalizability of the results. Positive results for a DWI court that offers license reinstatement to graduates, for example, might not be expected to generalize to a court in another jurisdiction that offers no such incentive.

  To the extent that jurisdictional variables affect all participants equivalently, they generally cannot be statistically factored into outcome analyses. This is represented by a dotted line in the above Figure. For example, if all clients in **the** program have the same opportunity for license reinstatement, then this variable cannot be used to predict outcomes for clients within that program.

- ***Client Variables or Risk Factors.*** Outcomes in DWI court could be expected to vary considerably depending upon the proportion of seriously impaired or "high-risk" clients being served in the program. The most frequently reported risk factors for failure in DWI treatment

[44] For an example of how interaction effects were evaluated in a drug court program, see Festinger et al. (2002).
[45] Wagenaar et al. (1995).

programs are lower educational attainment, earlier age at first DWI arrest, greater number of prior DWI convictions, higher arrest BAC level, and higher scores on such instruments as the CAGE or the MMPI-2 MacAndrews Alcoholism Scale.[46] Relatively poorer outcomes have also been reported for so-called "Type B" alcoholics who are characterized by an earlier age of onset of alcohol abuse (< 14 years of age), more severe alcoholism symptoms including withdrawal, higher rates of alcoholism among first-degree relatives, and impulsive or antisocial behavioral characteristics.[47]

Ideally, evaluation studies should *randomly assign* DWI offenders either to DWI court or to a suitable comparison condition such as probation or adjudication-as-usual. This has the effect of spreading the risk-level evenly across the conditions. As a practical matter, however, it is often necessary to settle for non-randomized comparison groups such as DWI offenders from a neighboring jurisdiction that does not have a DWI court. Under such circumstances, there is a serious concern that the two groups could differ on important dimensions that are, themselves, responsible for differences in outcomes. For instance, if the DWI offenders in the neighboring jurisdiction tended to have more severe alcohol problems, then the "deck would be stacked" in favor of the DWI court from the outset. It is, therefore, necessary to (1) identify client characteristics that correlate significantly with DWI court outcomes; (2) determine whether the intervention group and comparison group differed on those characteristics; and if so, (3) statistically control for the effects of those characteristics (also called "covariates" or "confounds") in the outcome analyses.

- ***Supervision Variables.*** It is important to indicate how participants' conduct was assessed in DWI court and how consequences were imposed for compliance or noncompliance in the program. Urinalyses or breathalyzers, for instance, may be relatively insensitive to alcohol consumption in part due to the body's rapid absorption of alcohol. Accurate assessment of alcohol use may require frequent and random spot-tests, surprise home visits, or blood analyses. The method and "density" of alcohol testing – for example, the number of breathalyzer tests performed per week per subject – are important "mediating variables" that should be reported in evaluations and statistically correlated with outcomes.

  It is similarly important to report on the fidelity with which negative sanctions were imposed for infractions and positive rewards were imposed for accomplishments. Outcomes could be expected to differ substantially, for instance, between a DWI court that administered sanctions for every positive breathalyzer test compared to one that administered sanctions for an average of every fifth positive test.[48] Outcomes might also be expected to differ based on such factors as the frequency with which status hearings were held and whether the program adhered to a "zero-tolerance" policy for alcohol consumption.

- ***Treatment Variables.*** Many evaluations list the range of treatment services that were potentially available to all clients in the program, but do not report the type(s) and dosage of services that were *actually delivered.* Without this information, it is not possible to judge the integrity of the program or to conduct "dose-response analyses." If clients received relatively few services in a particular program, then negative outcomes may be attributable to poor compliance or to poor integrity of the program, rather than to limitations with DWI courts generally. It is important to indicate whether the program provided a standard "platform" of treatment services to all clients, and what adjunctive services, if any, were delivered on a referral or as-needed basis. Some programs, for instance, may offer a standard regimen of psycho-

[46] C'de Baca et al. (2001); Cornish & Marlowe, in press.
[47] Ball et al. (2000).
[48] Marlowe & Kirby (1999).

educational groups or may present graphic footage of accident scenes or victim-impact statements to all clients.[49] It is important to indicate what proportion of clients completed all or part of such a standard regimen, what proportion was referred for additional individual or group counseling services or pharmacological interventions and how many sessions clients attended of each intervention. It is also useful to conduct a form of "dose-response" analysis that relates the amount of services clients received to their outcomes. Obviously, the extent to which an evaluation can achieve this specificity of measurement depends in large part on the sophistication of the DWI court's management information system (MIS) and the reliability of program staff's data documentation. Moreover, a meaningful analysis of an evaluation that simultaneously controls for a multitude of variables would necessitate a sufficient number of program attendees and graduates.

- ***Short-Term Outcomes.*** Clients' functioning during DWI court is likely to be an important "performance indicator" of longer-term outcomes. For instance, individuals who achieve sustained intervals of abstinence during their time in the DWI court program are more likely to remain sober in the future than are those who have intermittent lapses. It is important to report such short-term outcomes as counseling attendance, attendance at court hearings, weekly urinalysis and breathalyzer results, and attainment of treatment plan goals. Other short-term goals may include whether clients reduced the time they spent with alcohol-using associates, whether they developed and implemented a risk management plan, and whether they completed homework assignments and practiced alcohol-refusal strategies.

- ***Longer-Term Outcomes.*** The outcomes from DWI courts that are likely to be of greatest interest to policymakers, stakeholders, and the public are DWI recidivism, alcohol relapse, and realized cost savings from such sources as reduced jail sentences or more efficient administration of court dockets. Official re-arrest records can be an important and objective source of information on recidivism rates; however, they only reflect criminal activity that was officially detected by authorities. Self-report information from clients about their actual DWI episodes and other criminal activity, irrespective of detection, could provide important convergent information, but only if the information is collected by researchers who are independent of the criminal justice system and who can assure clients of strict confidentiality.

  It is very difficult to obtain reliable data on alcohol use or drug use following completion or termination from the program. Unless it is possible to offer substantial payment incentives to clients, relatively few may be willing to return for follow-up assessments. Moreover, given the relatively short "window" for detecting alcohol use in urine or blood, it is very difficult to obtain reliable objective assessments of continued alcohol usage. Self-report information, possibly obtained over the telephone, may be the only practicable means for obtaining information on relapse to substance use. Again, independent researchers should be responsible for collecting this information under conditions of guaranteed confidentiality. Whenever possible, self-report information should be compared for accuracy against objective evidence such as urinalysis or breathalyzer results, employment pay stubs, and official records on criminal, domestic violence, and traffic offenses.

- ***Determining Types of Data to be Gathered.*** Ultimately, a DWI court evaluation design should consider the types of information that policymakers, stakeholders and the public would want to draw upon in determining whether a program is effective…and worth the cost. This means

[49] DeYoung (1997).

that the evaluation design must take into consideration the interests of Legislatures, victim impact groups (e.g., MADD), local funding sources (county commission, local planning councils, local law enforcement), state funding sources (AOD office; Department of Public Safety; Crime Commission; Governor's Highway Safety Commissions), state judiciaries, media, and law enforcement, among others. For example:

- **Legislatures and other funding sources** would likely be most interested in avoiding duplication of services and measuring cost effectiveness (e.g., cost of involvement in DWI court per participant vs. incarceration or cost savings derived from reductions in impaired driving episodes, future prosecutions, deaths, critical injuries, and other victimizations).
- **Advocacy groups** (e.g., MADD; NOVA; American Medical Association and its affiliates) would likely be most interested in (1) data reflecting the intensity of supervision of program participants compared to traditional supervision; (2) AOD testing results during program participation and over time after program completion; (3) recidivism; (4) number of subsequent victims of DWI court participants or graduates (compared to a control group); and (5) number of "clean" babies birthed (i.e., reductions in occurrence of fetal alcohol syndrome).
- **Judicial and Executive Branch Agencies**, although interested in many of the above noted types of information, may have a unique interest in some specialized data that measures docket control, case processing time, jail/prison beds saved, and reduction of alcoholism and other drug dependencies among adult and juvenile offenders and among respondents in juvenile petitions for abuse or neglect.
- **Local service delivery organizations (e.g., educational/vocational institutions, family service organizations, religious groups)** may be most interested in how DWI court participation enhances participants' efficacious use of community services, impacts family unification and harmony, and promotes more effective use of community-based resources by justice and treatment system personnel.
- **Elected Officials** may have a special interest in ascertaining levels of community approval and support for the DWI court intervention and documenting efficient and effective increases in the personal, familial, and societal accountability of offenders.

Conclusion

By taking into account program-controlled (e.g., type of program, type of clients served) and non-controlled variables (e.g., jurisdictional, participant risk, supervision, and treatment factors) when evaluating the efficacy and effectiveness of a DWI court program, evaluators and the DWI court program can have greater confidence in findings, whether or not findings support the value and cost of the program as currently implemented. In addition, it is important to have a conceptual framework in mind for analyzing and reporting on the findings, such as the framework presented above. Finally, it is important to know and understand the interests of those stakeholders who are in a position to affect the continued operation of the program, and to gear the collection and reporting of data accordingly.

Ensure a Sustainable Program

By Norma Jaeger and Dennis Reilly

Introduction

The foundation for sustainability is laid, to a considerable degree, by careful and strategic planning, which includes considerations of structure and scale, organization and participation and, of course, funding. Planning for sustainability often means moving ahead slowly to reduce resistance from interagency partners and the courts.

> ***GUIDING PRINCIPLE #10:***
> ***The foundation for sustainability is laid, to a considerable degree, by careful and strategic planning. Such planning includes considerations of structure and scale, organization and participation and, of course, funding. Becoming an integral and proven approach to the DWI problem in the community however is the ultimate key to sustainability.***

Becoming an integral and proven approach to the DWI problem in the community, rather than an interesting experiment, is the ultimate key to sustainability. This can be accomplished through strategic planning which includes identifying resources, creating sustainable collaborative partnerships with other criminal justice and community agencies, setting administrative standards and protocols, engaging and involving all team members toward achieving a common goal, and learning to foresee obstacles and addressing them proactively.

- ***Planning for Sustainability.*** Part of the planning process for achieving sustainability includes the decision of what type of program or approach will be initially implemented. One common approach is to initially implement a pilot program in order to demonstrate the effectiveness of a new program – in this case the DWI court. The implementation of a pilot program provides time to accrue resources and refine policies and procedures. Additionally, time allows team members, who have not worked in an interdisciplinary environment, to gain experience before working with a larger population.

  Jurisdictions may also choose to go beyond implementing a DWI court as one sentencing option and use a systems approach, using the model to address all levels of DWI offenses that provides a continuum of responses to match the severity of the offense and addiction. A DWI court system may overcome certain legal barriers through universal screening, and standardized eligibility and program requirements, which address all levels of offenders. Such a universal system can achieve greater impact and greater efficiency through economies of scale. For example, fixed costs for drug testing can be spread among more participants. The more integral the DWI court is to the justice system the less likely it is to be eliminated.

  A third option is that jurisdictions can move beyond a narrowly defined DWI court model to a collaborative justice model that may apply the established key drug court components to a wide range of offenses. "Blended" DWI courts can accept both drug cases and DWI cases. The key to maximizing this opportunity is to serve large populations where different types of offenses are integrated for appropriate court monitoring and treatment based on the commonality of their addiction. Collaborative justice courts create benefits that more narrowly defined courts lack, including bringing together relevant specialists and specialized services and the centralization of information collection, sharing, and reporting.

Once the type of program to be implemented has been selected, the other important component in the sustainability planning process is the development of a funding strategy. This should start with a clear vision of the desired product and an analysis of each component, followed by how each can be obtained. Often, the first consideration is to seek seed money, particularly from federal grant funding sources. While grants can provide a window of time to demonstrate positive results and publicize community impact, they do pose limitations with respect to getting courts "to scale", that is, to adopt a systems approach. Thus, grants include requirements that may not fit the community, and are a short-term operational strategy. Mobilizing existing resources, with or without grant funding, may take longer and involve more complex stakeholder negotiations but is more likely to ensure the ongoing and stable operation of a DWI court; and local resources can better adapt to local circumstances and changes.

- ***Resources for Sustainability.*** Courts must clearly identify all program cost elements and be vigilant about examining potential cost reductions. Program administration and stakeholders must be alert to circumstances that may affect current and future funding opportunities. An effective method of resource analysis is "community mapping", ideally conducted on a yearly basis. Community mapping systematically reviews the availability and stability of the widest possible range of existing resources and identifies new resources. In addition to funding, resources include the existence of appropriate treatment and rehabilitation services, recovery support activities, facilities, in-kind contributions, partners, and program supporters.

    - **State Funding.** State legislative bodies can provide initial funding or continuation funding when grants are included through specific appropriations to state agencies to be passed through to the DWI court. New appropriations may also be augmented by allocations from existing resources such as the federal Substance Abuse Prevention Treatment (SAPT) block grant.

State agencies may also have access to grant funding opportunities that can be utilized for supporting or strengthening program components. For example, National Institute of Corrections Technical Assistance funding has been utilized to provide training for cognitive behavioral group facilitation, and highway traffic safety funds have supported DWI court program elements such as drug testing or probation supervision.

States have employed multiple strategies toward financial sustainability of drug court programs. Strategies include: linking mandatory incarceration savings to DWI court funding; creating separate state DWI accounts, which may only be expended for the purposes of providing alcohol and other drug abuse treatment or education efforts and which are funded from revenues collected from DWI offenders as part of their court costs and held centrally for distribution; imposing Drug Court Litigation Taxes, which are taxes on all drug and alcohol related criminal warrants settled without a proceeding; enacting drug court fees assessed to all drug convictions and DWI treatment fees assessed to every DWI conviction for DWI courts; and creating assessments on certain criminal offenses to be deposited into these funds. Additionally, litigation taxes on all criminal cases can be passed to an Indigent Defense Fund, and those monies can be used to access treatment for drug court offenders. Courts can also utilize probation funds including probation supervision fees or conviction surcharges imposed on participating and nonparticipating offenders convicted of drug offenses, utilizing lower level offenders program fees to support higher-level offender treatment and supervision costs.

State Commissions, formed to reduce crime, improve highway safety, or increase access to treatment may be tapped for court or program funding. And, states can

incorporate surcharges on the gross sales of beverage alcohol sold by state liquor dispensary systems or legislate that liquor taxes fund DWI courts.

In addition, expenses associated with the judicial staff, including the judge or magistrate, probation, pretrial supervision, and clerks, should be assumed under the court budget as traditional costs. And, wraparound services, such as medical care, employment training, vocational and educational counseling, housing, parenting classes, and childcare can be provided through resources administered by various state agencies.

- **Medicaid and Managed Care.** Medicaid, a State-administered medical services reimbursement program, has been used to cover treatment for DWI court participants. In some states, legislation has allowed for Medicaid reimbursement for all "court mandated" treatment services provided under the Medicaid system. In other states, county governments have provided funds to the state to match the federal Medicaid dollars. Courts have even been able to take advantage of some court discretionary funding to match Medicaid supported treatment.

- **Counties and Municipalities.** Some jurisdictions have successfully looked to local governments for funding. Judges have asked counties within the court's jurisdiction to provide a proportionate share of funding based on participants served from each county. Also, some municipalities and counties have been able to support DWI court models by reallocating other state or federal funds received by the county, or creating new funding streams to support the courts.

Counties have directed money from fines and forfeitures toward DWI court treatment programs. Other criminal justice system partners may also access limited funding. For example, Sheriffs Departments or other law enforcement agencies can contribute by dedicating staff or providing funds from the sale of confiscated property or may even donate confiscated vehicles for program transportation needs. Other ways in which City or County budgets can contribute is through the allocation of funds from fees collected through ordinances from traffic violations; doubling of the marriage license fees charged by the county and probate fees; and providing a greater share of sales tax revenues. Finally, at the community level, designated Drug Free Community Funds can be established to assist with program delivery and staffing.

- **Client fees.** Offender user fees can be utilized to support treatment, testing, supervision, and assessment. In the DWI population, clients tend to be higher functioning so the likelihood of their ability to pay is greater. Client and user fees are utilized not only to support the long term sustainability of the DWI court, but research has shown that by instilling responsibility in the client for their own treatment results in higher levels of engagement and completion. These fees may be imposed on a sliding scale or the clients may be given to the end of the program or the end of a probationary period to pay for their participation. Fees may also be reduced for clients who participate in extra treatment or support meetings, or who complete additional community service hours. There may also be monetary sanctions for missed groups that are given to a non-profit provider for the development of incentive systems. Requiring each participant to pay a fee (court costs and restitution) to help offset part of the cost of the program is not only a positive thing for participants, but it helps gain support from stakeholders, funding sources, the community, and victims groups.

- **Broader Fundraising Considerations.** DWI courts may also carry out fundraising to provide for operating costs, treatment, and behavioral incentives. To make fundraising a

viable and significant part of a financial support strategy, courts need to formalize and develop an infrastructure for fundraising. An effective fundraising strategy is based on comprehensive and systematic information, educating the public, and the development of relationships to build visibility and credibility. Fundraising tools include brochures, historical documents, and a case statement outlining program mission, vision and goals for the future, and clear evidence of effectiveness; and, this may be a resource that can be obtained *pro bono* from among the partners in the DWI court effort.

Local non-profit fundraisers can also improve awareness for DWI courts, and local media and public broadcasting stations can produce segments on these fundraisers. This type of free publicity can help educate the community and can be used as a marketing tool during formal solicitations.

DWI courts can also establish a non-profit organization under IRS tax code 501(c)3 to seek funding and to promote public awareness of this effective criminal justice system substance abuse approach. Forming a non-profit corporation to conduct fundraising activities may be worthwhile for several reasons, for example, the public may be more willing to donate to a non-profit organization; non-profit organizations enjoy certain legal and tax preferences (e.g., reduced postal rates); and non-profit organizations may be eligible to receive some gifts that the courts themselves might not. A DWI court established as a 501(c)3 non-profit can write grants for funding from foundations and other organizations and can become a United Way member agency, which can help build credibility.

- **Affiliations with Non-profit Organizations.** Affiliations with non-profit agencies can provide crucial support and resources for participants and programs. Non-profit organizations can solicit monetary and material donations or open special bank accounts as "pass-throughs" for donations for program operations or to cover extraordinary needs for program participants such as glasses, work uniforms, and other necessary items for clients in recovery. Non-profit organizations can also supply incentive items that have been donated such as cosmetics, clothing, photo albums, and cameras and can also be crucial in coordinating "donated treatment beds" and sober living homes from community treatment providers. These organizations may also assist with coordinating activities for participants such as attendance at cultural and civic events and gaining free YMCA memberships for drug court participants and their families.

- **Foundations, Service Organizations, and Private Businesses.** By demonstrating support from a variety of private sector businesses, a DWI court can become more competitive in traditional funding streams. In particular, granting agencies are interested in identifying innovative program partnerships with the ability to sustain the program long term. The existence of a partnership between a DWI court and a foundation or business can boost the court's ability to demonstrate sustainability to funding agencies.

  By tapping into non-traditional areas of support, new funding streams can be identified, and non-monetary donations (as well as access to funding) can come as a result of new partnerships formed with foundations and community coalitions (e.g., with citizen's councils, with community anti-drug coalitions, and prevention groups). These groups can also provide resources for treatment or other necessary services, such as alcohol-free housing, or vocational-education programs. Other support can be garnered from local citizens organizations (e.g., the Rotary Club, Elks Lodge) and corporations (for example, Wal-Mart frequently provides matching funds for fundraisers and donates gift cards that can be used as incentives to recognize client achievements).

  Foundations can also assist in the process of developing a fundraising plan, in identifying funding sources and in writing grant applications. They can help organize

letter-writing campaigns and develop newsletters, bulletins and list serves that communicate the research of effective court approaches and treatment to members of the community.

- ***Partnering for Sustainability.*** Partnerships and interagency cooperation not only provide necessary resources but also create the network of community and political support necessary to sustain the DWI court effort. Partners may provide staff, financial resources or in-kind services to the DWI court with the understanding that the involved offenders would be a responsibility of their agency in the absence of drug court. Other partners will link with the DWI court because they have an overlapping mission and see the court partnership as a means to enhance results.

    - **State Agency Partners.** The State Department of Health may enforce standards for substance abuse treatment or facilitate access to additional services such as communicable disease prevention or mental health treatment and may be able to assign case coordination providers to conduct on-site assessments, treatment planning, and help the DWI court work across systems. These workers may also assist in Medicaid eligibility determination, service and payment prior authorization, and reporting. The State's Division of Alcohol and Drug Abuse may provide state match for Medicaid and access to treatment financed by state funds and federal block grant resources. The State Medicaid agency is a key potential partner to assure that treatment provided to eligible participants is well coordinated and appropriate to their needs. While some states have drafted legislation to require Medicaid managed care organizations to provide covered services to court ordered participants, courts can also encourage managed care organizations to cooperate by reaching out to explain DWI court operations and requirements as well as how drug courts can improve treatment outcomes.

State entitlement agencies also provide important resources to DWI court participants. A well-coordinated working relationship can reduce cases closures during jail-sanctions as well as facilitate pretreatment and education programs that engage clients in treatment immediately while they are awaiting verification of eligibility.

- **Law Enforcement and Probation.** The relationship with law enforcement is critical to community credibility of the DWI court program. Beyond political support, building relationships with law enforcement can assist by conducting home-visit alcohol testing, setting up random checkpoints, and carrying out bar sweeps to identify noncompliant participants. Law enforcement and assigned supervision officers can work in conjunction by entering supervised person information into state and federal criminal information systems to alert officers running routine checks of active DWI court supervision and speed the process of serving warrants for program noncompliance.

- **Treatment Partners.** Courts working with treatment partners create the leverage that is one of the foundations of the success of the DWI court. Treatment providers can often enable DWI court participants to access Medicaid or other state financed treatment dollars for the client's treatment and mental health services. As DWI court systems engage larger numbers of participants they become major treatment referral sources. This may result in partnering treatment programs becoming more economically viable and better able to provide effective treatment

- **Community Organizations.** Community support for DWI courts requires an intensive educational effort and clear understanding of concerns for community safety. DWI

courts need to engage the community to serve on the advisory board, to volunteer in the program, or provide resources and opportunities for program participants. Such engagement may come from invitations to planning sessions, courtroom hearings, graduations, and alumni activities. DWI court team members can also join other community coalitions with common goals and purposes to the program. Existing support systems like DWI driving schools can assist the court by providing required DWI classes. Improved relationships with employment agencies can assist program participants in finding secure employment. DWI courts may also develop relationships with local colleges and universities to provide enhanced student services to potential applicants, and offer internship opportunities.

- **Media Partners.** Outreach and communication with various agencies and programs necessarily involves outreach to the media. DWI court practitioners must build a media strategy, including a crisis response plan, to ensure the communication of a positive image of the program's goals and achievements. Court program team members can increase community awareness and understanding by inviting not only the court staff and community leaders, but also the media, to planning sessions, courtroom hearings, graduations, and alumni events – the media will not only publicize the event, but will show that civic leaders support the DWI court and its programs by attending such events and interacting with participants. And, by developing a partnership with the media, when a critical incident does occur, the media will have an accurate knowledge base to report from. Additionally, the media can report on the positive achievements and benefits gained by participants in the program. This is an important partnership to forge as well since the media can help educate the community during such times when the court needs particular community backing (e.g., the passage of a special referendum or ballot initiative in support of the court). The media can also communicate research and evaluation results as well as individual success stories that powerfully personalize the pro-DWI court message and clearly demonstrate the value added to the community by the program.

- ***Administration and Standards.*** Integrating DWI courts into the fabric of public policy is a key long-term strategy for sustainability. Legislation or executive orders can legitimize administration, support permanent interagency cost-sharing, foster support in the legal community, enhance the use of best practices, build the necessary infrastructure, and ensure that programs reach capacity. Legislation can also formalize legal eligibility for program entry thereby reducing localized legal challenges, can clarify minimum standards of operation, and can clarify that DWI courts are officially sanctioned and can foster essential interagency collaboration to build effective systems.

  States may support the stability of DWI courts by creating a state-level administrative authority to coordinate and oversee the courts. Such administrative entities may establish standards or guidelines for drug court operation, develop funding allocation and accountability mechanisms, receive and administer federal and other grants, develop statewide management information and evaluation systems, and work to develop necessary collaborative relationships. For example, some States have developed effective, voluntary certification of drug courts as a means of promoting best practices.

  Local jurisdictions must also play an integral role in managing, staffing, and funding DWI court operations. Local communities and their elected officials have a key public safety responsibility, as well as access to community resources. In addition, they provide an important link to the relevant legislators for information and education on the impact of DWI courts at the

local level. Counties may also establish regional agreements with other areas as a way to share scarce resources.

- ***Team Engagement and Judicial Involvement.*** One of the most critical components of DWI court stability and sustainability is maintaining the ongoing commitment of the members of the DWI court multidisciplinary team by promoting a sense of accomplishment and a work experience based on mutual respect and accountability. Teams benefit from regular and on-going training, technical assistance, and encouragement.

  Judicial leadership and willingness is universally acknowledged as a critical element of effective and sustained DWI court operations, both short-term and long-term. Operational effectiveness hinges on judicial involvement in providing direct client supervision, ongoing planning, resource development, and outcome tracking and information dissemination. And, effective judicial leadership can overcome bureaucracy and skepticism through both positional authority and personal relationships.

Conclusion

The sustainability of a DWI court program relies on ongoing strategic planning, which includes the continual development and strengthening of relationships with criminal justice and community partners, the establishment and dissemination of realistic and achievable operating standards, the engagement of all team members to work toward a common goal, the ability of the program to proactively address problems, and the identification of long-term sources of funding. Coming to be seen as an integral and proven approach to the DWI problem in the community, however, is the ultimate key to sustainability. This can be achieved by involving key stakeholders (at the community, media, and legislative levels) in program planning sessions, disseminating program success stories and publicizing findings from program evaluations, and keeping DWI court team members engaged and motivated to continue to help offender's achieve success throughout the program and beyond.