Adult Drug Treatment Courts: A Review

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Abstract

Drug treatment courts (DTCs), an alternative to traditional criminal courts, provide an innovative way to legally process some drug offenders. The origin and recent growth of the drug court system in the USA can be explained as an unintended consequence of a failing ‘war on drugs’. In this article, we discuss the spread of adult DTCs throughout the USA, the main components of drug courts, controversies surrounding DTCs, and some criticisms of drug courts. We summarize the recent evaluations of adult DTCs, and highlight various DTC factors that have been found to reduce individual drug use and criminal activity. We also offer suggestions for future research on DTCs and conclude with policy recommendations.

The origin and spread of drug treatment courts

In 1979, there were an estimated 40,237 adults incarcerated in the USA for drug offenses. By 1989, this number had increased 459% to 224,974 persons (Caulkins and Chandler 2006, 626). This increase in the number of persons incarcerated for drug offenses occurred in light of a decrease in the overall use of illegal substances (see Jensen and Gerber 1998). This unprecedented, exponential growth in incarceration was largely a result of changes in crime control and drug policies initiated during Ronald Reagan’s presidency.

In 1986, Congress passed the Anti-Drug Abuse Act that established the first mandatory minimum drug sentencing law since 1951. Additional ‘get-tough’ amendments were made to the Act in 1988. The number of adult arrests for drug offenses increased from 322,000 in 1970 to 1,654,000 in 2005 (Federal Bureau of Investigation 2006), and as a result of the war on drug policies, criminal courts became overburdened with processing defendants. Eventually, a substantial number of judges and other court officials came to the conclusion that traditional legal procedures for dealing with the nation’s drug problem were not working (Nolan 2001).

Frustrated with national drug policy failures, and faced with a growing felony caseload of drug offenders in Dade County, Florida, (then) State
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Attorney Janet Reno ‘joined with community leaders and the county drug treatment agency to design and implement a diversionary treatment drug court’ in 1989 (Goldkamp 1994, 3). The court’s philosophy was that offenders would be provided an opportunity to change as a result of a ‘demanding program of drug treatment’. Later that year, the first drug treatment court (DTC) was established in Miami, Florida, under the direction of Judge Herbert Klein.

Concerns with drug problems have long been a part of the criminal justice system. The federal government intertwined treatment programs with the criminal justice system as early as the late 1920s and specialized ‘narcotics courtrooms’ existed in Chicago and New York in the 1950s (Belenko 2000, 840). In the 1960s, integration of drug treatment into the criminal justice system was more widely adopted by several states. However, federally provided treatment opportunities were limited and the quality and atmosphere of those programs were generally inferior to services and options provided in drug treatment courts today (Belenko 2000). Of course, judges often require probationers to participate in drug treatment, but enforcing these orders has long proven to be problematic.

The DTC method of handling persons arrested for drug offenses was markedly different from traditional ‘business-as-usual’ criminal courts, in that persons convicted of drug offenses were to undergo a ‘judicially supervised treatment program’ (Nolan 2001, 39) rather than the possibility of being sentenced to prison. Considering the ubiquity of the ‘get-tough’ and ‘just–say–no’ rhetorical strategies used by politicians during the 1980s and 1990s, it is somewhat surprising that Miami’s drug court was created in the first place. Perhaps even more surprising is the rate at which DTCs proliferated across the country. What began as a nonconventional approach to dealing with drug offenders at a local level ultimately earned state and national support. In 1995, the US Department of Justice opened the Drug Courts Program Office (DCPO) to plan, implement, and provide funding for DTCs across the country. As can be seen in Figure 1, the rapid growth in DTCs began with the availability of federal funding. Federal funding for drug courts averaged $40 million per year in the recent past. The Bush administration, however, reduced federal funding by 75% to $10 million in fiscal year 2006 (National Association of Drug Court Professionals [http://ga4.org.drugcourts/intro.html]). By early 2007, 1,039 adult DTCs and 1,767 drug treatment courts in total were operating in the USA (see Figure 1).

In addition to the strains placed on the criminal justice system by exponentially increasing drug cases, and the expansion of financial resources available, Nolan (2001) identifies two other factors that contributed to the growth in popularity of DTCs. First, compared to incarceration, DTCs are cost-effective. Numerous studies have found that sending individuals arrested for drug-related violations to DTCs costs considerably less than sending them to prison (e.g. Carey and Finigan 2004; Finigan
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Figure 1. Adult Drug Treatment Courts in the USA, 1989–2007.

![Graph showing the number of Adult DTCs from 1989 to 2007](image)

Source: Bureau of Justice Assistance Drug Court Clearinghouse (American University 2007). Notes: Totals for 2007 are incomplete since data were last updated 15 April 2007. Does not include 100 DTCs that were suspended or consolidated with other programs.

1999; Harrell et al. 1998; Hora et al. 1999; Logan et al. 2004; Marchand et al. 2006a, b). For example, in a benefit/cost meta-analysis Aos et al. (2006) found that DTCs saved an average of $4,767 per participant compared to ‘business-as-usual’ processing.

The second reason the DTC model has been widely accepted is that drug court personnel have adopted the ‘medical or therapeutic paradigm’ of substance abuse (Nolan 2001, 49). Legislators and judges, as well as other court officials, are increasingly likely to view drug use as a ‘biopsychological disease’, whereas in previous periods, drug use was largely assumed to be the result of an individual’s choice or even a moral deficiency (Hora et al. 1999, as cited in Nolan 2001, 50). The disease concept model on which the DTC is based aligns with a cultural framework of addiction that has been institutionalized by the scientific and medical communities (see Reinarman 2005). As such, many drug court personnel have come to think of drug users as addicts whose behaviors are beyond the control of individual choice.

In the following, we provide a more detailed discussion of the main components of drug courts, followed by a discussion of the controversies inherent in the drug court model, criticisms of DTCs, and a survey of the research literature on outcome evaluations of adult DTCs. We also discuss research on DTC characteristics that have been found to influence success or failure. We conclude by offering several criticisms of DTCs and suggestions for future drug policy.
Key components of drug treatment courts

In 1997, the US Department of Justice published a document that identified the 10 key components of a drug court. Since the operation and structure of DTCs differ considerably from traditional adult criminal courts, the direction provided by these components is critical to the success of the drug court system.

1 Drug courts combine drug treatment services with justice system case processing using a team approach that includes the cooperation and collaboration of judges, prosecutors, defense counsel, probation authorities, treatment providers, and evaluation researchers (US Department of Justice 1997, 9).

   Drug courts usually employ a three phase treatment process: a stabilization phase, an intensive treatment phase, and a transition phase. The treatment process typically lasts from 9 months to 2 years.

2 ‘The prosecutor and defense counsel must shed their traditional adversarial courtroom relationship and work together as a team. ... The team’s focus is on the participant’s recovery and law abiding-behavior’ (US Department of Justice 1997, 11).

3 ‘Eligible participants should be promptly placed in the drug court program. ... The period immediately after an arrest, or after apprehension for a probation violation, provides a critical window of opportunity for intervening and introducing the value of” drug treatment (US Department of Justice 1997, 13).

4 Drug courts should provide access to a continuum of services. While primarily concerned with alcohol and drug use and criminal activity, the drug court team also needs to address co-occurring problems such as primary medical and dental problems, lack of adequate housing, basic educational deficits, unemployment and poor job skills, and spouse and family troubles – especially domestic violence.

5 Participants’ drug use is monitored by frequent drug testing.

6 A combination of rewards and sanctions is used by the drug court team to respond to participants’ compliance with program requirements. Relapse is expected and must be dealt with appropriately.

   ‘Small rewards for incremental successes have an important effect on a participant’s sense of purpose and accomplishment’ (US Department of Justice 1997, 23–24). Rewards include praise from the drug court judge and ceremonies in which tokens of accomplishment are awarded in open court.

7 ‘Ongoing judicial interaction with each drug court participant is essential. ... Drug courts require judges to step beyond their traditionally independent and objective arbiter roles and develop new expertise’ (US Department of Justice 1997, 27).

8 Monitoring and evaluation are used to measure the achievement of program goals and gauge effectiveness.
9 Team members need continuing interdisciplinary education to effectively implement DTC operations.

10 Creating partnerships among drug courts and stakeholder organizations generates local support and enhances drug court program effectiveness (US Department of Justice 1997, 37). The ability of drug court teams to achieve this goal varies widely according to the stigma placed on both drug court participants and drug courts in the local community, however.

Of course, many drug courts do not implement all of these key components. DTCs that do not successfully implement the key components as developed by the authors of the Department of Justice report will likely not achieve their goals (see Hoffman 2000; Miethe et al. 2000).

**Controversies surrounding drug courts**

Because drug courts are so different from criminal courts, DTCs are inherently controversial. DTCs, and other ‘specialty courts’, are based on a philosophy referred to as ‘therapeutic jurisprudence’. ‘These ideas emanate from the proposition that the judiciary can be a powerful force for social change ... by actively intervening in the day-to-day lives of litigants in an infinite variety of nontraditional ways ...’ (Hoffman 2002, 84). The new movement toward therapeutic jurisprudence is similar in many ways to the juvenile court movement of the late 1800s and early 1900s. Under such models, traditional legal procedures are modified or even eliminated with the objective of achieving a treatment-based milieu.

A legalistic objection to the therapeutic jurisprudence movement is voiced by Denver Judge Hoffman: ‘I cannot imagine a more dangerous branch (of government) than an unrestrained judiciary full of amateur psychiatrists posed to do “good” rather than apply the law’ (2002, 84). More generally, critics have noted that drug court judges exert a tremendous and perhaps unprecedented level of discretion, ‘usually within the absence of guidelines and within an environment of informality’ (Fischer 2003, 239).

A major controversy surrounding drug courts is the debate over appropriate sanctions versus treatment. Stakeholders such as prosecutors, the police, probation and parole officers, and some in the general public, believe that drug courts are ‘soft’ on persons accused of drug-related offenses. The treatment community, social workers, drug court bureaucrats, and some members of the general public are often found on the other side of the issue. They claim that drug courts are a productive alternative to traditional criminal justice sanctions. These positions are at least in part based on one’s perception of illicit drug use as a serious problem per se and the appropriateness of criminal sanctions for minor drug offenses.

Another controversial issue in DTCs is the element of coercion. Many observers of drug courts claim that defendants are often coerced into the program (see Hoffman 2002; Spinak 2003). (This argument has also been
made against diversion in the juvenile justice system.) That is, the defendant may be pressured by the drug court staff, the defense attorney, and/or the judge to accept this alternative form of state intrusion into their lives. A commonly offered ‘carrot’ in DTCs is dropping the criminal charges if the person successfully completes drug court. Others argue that the defendant is given a choice: traditional criminal justice processing or drug court. They are free to make the choice that is in their perceived best interests.

Related to the issue of coercion, some opponents of DTCs argue that defendants’ due process rights are compromised in drug courts. Due process rights exist to protect defendants against the power of the state. Yet clients in DTCs often agree to give up some or all of their due process protections to participate in drug court. ‘For many defendants, the decision to participate in the treatment court process will mean that they effectively forgo the presumption of innocence and the panoply of trial rights guaranteed by the United States Constitution’ (Boldt 2002, 120–21).

In response to this criticism of DTCs, it is argued that the defendant will avoid the possibility of incarceration, avoid the possibility of removal from their home community, receive needed treatment, and have the charges against them dropped if they successfully complete drug court. From this perspective, the benefits of the DTC participation may outweigh the loss of due process rights.

Another controversy surrounding DTCs is that they invoke involuntary substance abuse treatment. Some claim that involuntary treatment for substance abuse is often successful and thus must be invoked by the state whenever possible. Others argue that it is an ethical and legal problem to force people into substance abuse treatment against their will (see Mosher and Akins 2007). Of course, this dilemma is intermingled with the issues of coercion and the lack of due process rights.

The disease model of addiction that underlies many DTCs is also controversial. This growing movement in the USA claims that substance abuse is a disease with biological bases and needs to be treated in the same way as are ‘traditional’ medical problems. The US National Institute of Drug Abuse has gone so far as to claim that ‘addiction is a brain disease’. Despite the popularity of the disease model in some circles, the scientific support for this model is weak (see Peele 1989; Hoffman 2000; Reinarman 2005; Mosher and Akins 2007).

**Criticisms of the drug court model**

Nolan (2001) argues that problem-solving courts in general, and drug courts in particular, have become so blinded by the rhetoric of therapeutic jurisprudence that they ignore the fundamental legal principle of proportionality. Drug court clients are required to follow rigorous regimens that often include employment, General Education Development classes (or high school equivalency), drug tests, individual counseling, group counseling,
court appearances, paying drug court fees, attendance at Narcotics Anonymous meetings, etc. Nolan (2001) goes so far as to assert that if proponents of problem-solving courts have their way, treatment would replace fairness as the fundamental value of the criminal justice system.

DTCs have also been criticized for potentially ordering treatment ‘in ways that contravene accepted clinical standards. Some drug court programs may infringe on religious freedom by forcing defendants into 12-step programs ...’ (King County Bar Association Drug Policy Project 2005, 24).

Net widening and mesh tightening

Critics of specialty courts in general and drug courts in particular have also expressed concern regarding their potential net-widening effects. Clarke and Neuhard (2004) note that Judge Hoffman in Denver referred to the ‘popcorn effect’, whereby police and prosecutors have substantially increased the number of arrests and prosecutions of drug offenders due to the very existence of the drug court, when they might otherwise have dismissed the case or not prosecute it as a felony.

While the net-widening effects of drug courts are important to consider, an even more salient issue is mesh tightening. There were more than 1.6 million arrests for drug offenses in 2005 (Federal Bureau of Investigation 2006). If a substantial proportion of these drug offenders who might previously have been sentenced to a probation or fine become drug court ‘clients’ and are defined as addicts by the state, the mesh has clearly been tightened as they will experience higher levels of formal social control.

In this context, it is worth briefly considering research on juvenile drug courts. In a provocative book published by the Urban Institute Press, Butts and Roman (2004) note that when they asked juvenile drug court officials about the drug use of their clients, the consensus view was that between 80% and 90% were nondependent users of alcohol and marijuana. Butts and Roman (2004) ask the question, which would obviously also apply in the adult context, ‘is arrest a useful proxy for the severity of substance abuse?’ They go on to note that a single arrest for marijuana possession could be sufficient to qualify an adolescent for DTC involvement in a number of jurisdictions. If the drug court was not available, it is unlikely that the youth would end up being so deeply involved in the juvenile justice system. And while it is certainly possible that drug court may be a positive experience for some youth, it is also possible that a large proportion may actually be damaged further by their participation.

Outcome evaluations of adult drug treatment courts

As is the case with other criminal justice system interventions, the number of outcome evaluations of DTCs lags considerably behind their rapid growth. While research on the effects of these courts has begun to appear
in scholarly journals, much of the research does not meet minimum standards of methodological rigor because experimental controls are not utilized, sample sizes are too small, or attrition rates are high (see Belenko 2001; Jensen and Mosher 2006; Wilson et al. 2006). It must be noted, however, that random assignment is very difficult to achieve in justice system settings.

**Guidelines for establishing the methodological rigor of research studies**

In order to determine whether or not drug court programs lead to a reduction in future drug use, arrest, and other outcomes of interest, sound research methodology is essential. Sherman et al. (1997) developed a rating system to assess the scientific rigor of the methods employed by evaluation researchers. Studies are rated on a scale of one to five, with one representing the lowest level of rigor and five representing the highest level (see also MacKenzie 2000; Campbell and Stanley 1963).

Studies scoring highest on the scale of Sherman et al. (1997) attempt to establish an empirical relationship and temporal sequence between DTC programs and outcomes. They also include a comparison (e.g. control) group of subjects who do not receive the experimental treatment of DTC participation. Furthermore, clients are randomly assigned to the DTC program or the comparison group. If random assignment is not possible, participants are carefully matched based on meaningful characteristics such as age, gender, criminal history, and prior drug use. Scientifically rigorous studies also utilize powerful statistical tests to control for the impact of extraneous variables. Finally, sound evaluation research studies have relatively large numbers of subjects, high response rates and low attrition rates (Sherman et al. 1997).

In this article, we review only those studies that meet the methodological rigor criteria for levels 4 or 5. Studies scored at level 5 meet all of the above requirements. Level 4 studies differ from level 5 in that the former do not utilize random assignment of participants to DTCs. Level 4 studies include nonequivalent comparison groups that differ only slightly from the treatment group (Sherman et al. 1997).

By restricting our review to studies that meet the criteria for levels 4 and 5, we can be more confident that findings are controlling for threats to internal validity. Level 3 studies are inadequate because they include a low number of subjects, have high attrition rates, and lack information on similarities between treatment and comparison groups prior to study implementation. Comparison and treatment groups in level 2 studies are too dissimilar to draw conclusions on the effectiveness of DTCs. Level 1 studies usually contain no comparison group.

**Recent reviews of the research literature**

Belenko (2001) reviewed three level 4 studies that reported recidivism only during the clients’ participation in the DTC. Arrests were reduced
by an average of 50% for DTC clients compared to the comparison groups. As Jensen and Mosher (2006, 456) comment, ‘Obviously, these studies are of limited value for program evaluation since they do not contain follow-ups after the clients left drug courts.’

Jensen and Mosher (2006) then reviewed six studies found in Belenko (2001) that used comparison groups and examined recidivism after participants graduated or were discharged from drug courts. Jensen and Mosher (2006, 456) conclude, ‘Five of the six studies found lower rates of recidivism for drug court clients than for the comparison groups. The reductions in recidivism were statistically significant in two of these studies. One study found significantly higher rates of re-arrest for drug court clients.’

Jensen and Mosher (2006) then reviewed the research from 2001 through June 2005 applying the same methodological criteria. They found studies of nine drug courts that mixed in-program and post-program follow-up periods (four separate studies were conducted on the Baltimore DTC). In summary, the studies of seven drug courts found that the programs reduced recidivism. The results from the King County, Washington, drug court indicated a small but not statistically significant reduction in reconvictions of clients compared to individuals processed through criminal court cases. Results from an analysis of the Omaha DTC were mixed. When relevant background variables were controlled in the Omaha study, there was no difference in rates of recidivism between drug court clients and a comparison group from a diversion program. The drug court clients had a significantly lower rate of recidivism than did a comparison group that was processed through criminal court, however. ‘In addition, the Baltimore studies found that the drug court achieved a longer time to re-arrest and that treatment appears to be the most influential component of the drug court program’ (Jensen and Mosher 2006, 461–62).

Jensen and Mosher (2006) also examined drug court studies in which only post-program outcomes were reported. As Belenko (2001, 52–53) cautioned,

It is particularly important to distinguish in-program from post-program outcomes. ... The distinction is important because it captures information in two different settings: client behavior during drug court, when they are under close supervision and have many reporting and service requirements, and their behavior once they have left the drug court, whether through graduation or unsuccessful termination.

Three studies were identified that focused only on post-program outcomes. One of these studies pooled the results for four DTCs, another pooled the results for three DTCs, and one study reported results for one DTC. All of these studies found that DTC participants and comparison groups were not equivalent on relevant background factors. Due to this problem, the authors statistically controlled for these differences. Jensen and Mosher’s (2006, 464) review concluded,
these three studies of post-program outcomes found that drug courts resulted in lower rates of recidivism, with recidivism measured by a variety of outcomes. In addition, one study found average days to arrest were longer after drug court, and another study found that drug court graduates had substantially higher annual earnings than were predicted by the statistical models.

An update of methodologically rigorous outcome evaluations of adult drug treatment courts

As a follow-up to Jensen and Mosher’s (2006) review of the adult criminal drug court outcome evaluation literature, we reviewed studies published between July 2006 and March 2007. The sources we searched included Criminal Justice Abstracts, Criminology: A Sage Full Text Collection, CSA Sociological Abstracts, Academic Search Premier, the Washington State Institute for Public Policy website (www.wsipp.wa.gov), the NPC Research website (www.npcresearch.com), and American University’s Justice Program Office website (spa.american.edu/justice/drugcourts.php).

Combined in-program and post-program outcome evaluations

Taxman and Bouffard (2005) examined the pooled effects of four DTCs on arrest and time to arrest during program participation, and for a 12-month post-program period. Two of the drug courts were located in urban areas and two in rural areas. The samples consisted only of persons who entered drug court programs. While these samples do not meet level 4 criteria on the methodological rigor scale of Sherman et al. (1997), we include this study because the authors statistically controlled for length of participation in the program. Thus, some individuals who were in the program for a brief period of time would be expected to be in the sample, and can serve as an acceptable comparison group.

Of course, this type of comparison group has limitations. For example, the possibility of motivational differences between those that graduated from the program and those who dropped out or were terminated. Another limitation of this design is that since the most thorough record-keeping was done by treatment providers, those that did not enter treatment were underrepresented in the sample (Taxman and Bouffard 2005, 28). Thus, the results of this research must be interpreted with caution.

The statistically significant predictors of a decreased probability of arrest during the drug court program, or 12-month post-completion of, or termination from the drug court program were: graduation from the program, completion of a treatment program operated by a governmental agency (as opposed to a nonprofit community agency), older age, and having entered the drug court as the result of a felony charge. An increase in the probability of arrest was associated with a higher number of arrests
prior to participation in the DTC. Length of participation in the drug court program was also associated with an increased probability of arrest. Increased months to post-program rearrest were significantly associated with DTC graduation, while the total number of prior arrests was associated with a shorter time to rearrest (Taxman and Bouffard 2005).

Marchand et al. (2006a) conducted an outcome evaluation of the Barry County, Michigan, drug court. The sample consisted of all individuals who entered the DTC and a comparison group matched on a number of important background characteristics. The comparison group was comprised of persons who were accepted into the drug court but did not enter because of an insufficient number of slots, and others who met the eligibility criteria but were processed in criminal court. The follow-up period for rearrests was 24 months after entry into the DTC. The average time spent in the drug court was 18.5 months for graduates and just over 1 year for participants who were terminated from the program.

Marchand et al. (2006a) found that the average number of rearrests was significantly lower for drug court participants than for members of the comparison group, with the former experiencing rearrest approximately one third as often as the comparison group. The authors also monitored substance use through drug tests, but urged caution when interpreting between-group results, as positive tests were infrequent. When the results of drug tests were analyzed during the first 12 months of participation in the DTC, drug court participants had lower rates of positive tests than members of the comparison group.

Marchand et al. (2006b) also conducted an outcome evaluation of the Kalamazoo County, Michigan, drug court. The sample consisted of all individuals who entered the drug court over a specified 2-year period and a comparison group that was eligible for the drug court but did not enter it for a variety of reasons. The follow-up time for rearrests was 24 months after entering the drug court and the average time spent in the drug court for graduates was just over 19 months and approximately 9 months for participants who were terminated. The comparison group experienced significantly more rearrests over the 24-month period than the DTC group, and female drug court participants had significantly fewer rearrests than males.

Wilson et al. (2006) conducted a meta-analysis of drug court evaluations. Their selection criteria for inclusion in the analysis were that studies had a comparison group that was treated in a ‘business-as-usual’ fashion by the court system, and reported a measure of criminal behavior for a period following entry into the program. The meta-analysis covered 50 studies that included 55 independent DTC comparisons. The measures of recidivism most frequently consisted of arrest but also included conviction, self-reports, and/or drug test results.

The meta-analysis of Wilson et al. (2006) found that DTC participants were significantly less likely to recidivate than members of comparison
groups. The authors conclude ‘the findings ... tentatively suggest that drug offenders participating in a drug court are less likely to reoffend than similar offenders sentenced to traditional correctional options, such as probation’ (Wilson et al. 2006, 479). The equivocal nature of this conclusion is due to the lack of methodological rigor found in many of the studies they reviewed. The authors also examined the possibility that the effects of DTCs on recidivism decay over time and concluded, ‘although there is evidence of some decay in effects over time, positive effects appear to remain at post-program time points’ (Wilson et al. 2006, 478).

In summary, these four publications that report or meta-analyze findings from 61 studies of DTCs conclude that completion of a drug court reduces recidivism. However, combining in-program and post-program outcomes reduces our confidence in the validity of the findings. In addition, a number of the studies included in the meta-analysis of Wilson et al. (2006) utilized methodologically weak designs.

**A post-program outcome evaluation**

Gottfredson et al. (2005) interviewed participants and control group (i.e. ‘business-as-usual’) members from the Baltimore DTC regarding outcomes of concern approximately 3 years after having been randomly assigned to their treatment group status. The overall response rate was 72%. The resulting sample size was 157.

Based on official data the interviewed and noninterviewed subjects differed significantly on the number of arrests during the 3-year follow-up period. The authors note this finding is related to the fact that those who are in jail and prison are easier to locate than are the other subjects. The authors state, ‘our results may generalize better to the higher risk (or more readily arrested) participants in the drug court population’ (Gottfredson et al. 2005, 51).

When comparing the treated participants and the nontreated participants, the drug court clients were significantly less likely to have been rearrested in the past 12 months; had lower maximum crime seriousness scores; reported less variety in the commission of crimes; reported fewer days of alcohol, heroin, and cocaine use in the past 12 months; were less likely to have used a variety of drugs in the past 12 months; and scored lower on scales of alcohol and drug addiction – all of these differences were statistically significant. The authors also found that these results were different in the district courts and the circuit courts.

The drug court and control groups were not significantly different on percentage presently employed, the percentage who obtained money illegally, a measure of physical health, a measure of mental health, and a measure of family and social relationships. The control group had a significantly higher percentage receiving money from public assistance ‘when the data were weighted’ (Gottfredson et al. 2005, 58).
Gottfredson et al. (2005) point out that the cases accepted into treatment from both the randomized treatment and control groups were less at risk than were those denied treatment (57). Thus, they caution readers to interpret these results conservatively.

**How can adult drug treatment courts be improved?**

Although the studies summarized above find that adults participating in DTCs experience greater in-program and post-program success than individuals processed through traditional courts, research suggests more can be done to maximize the effectiveness of DTCs. The most recent research focuses on the specific components of drug courts that influence success or failure among participants.

The meta-analysis of Wilson et al. (2006) found weak support for the notion that certain types of DTC models are more effective than others. Specifically, ‘pre- and post-plea drug court models that either dismissed charges or expunged a conviction from an offender’s record upon graduation appeared more effective than courts with mixed approaches and no uniform incentive for the completion of the court’s requirements’ (Wilson et al. 2006, 479). They also found weak support that single treatment providers were more effective in reducing recidivism than was treatment through multiple providers.

Gottfredson et al. (2006) conducted a follow-up study of the Baltimore drug court clients for 3 years after the initial randomization using measures of program components from official records. They found that increased participation in a combination of certified drug treatment, judicial status hearings, and drug testing were significantly related to a decrease in the number of rearrests (see also Gottfredson et al. 2007).

This research sheds light on the differences in the district court and the circuit court found in their earlier study (Gottfredson et al. 2005). They concluded that the difference between the courts on the behavioral outcomes of individuals is in large part explained by their difference in the use of incarceration as a response to noncompliance (Gottfredson et al. 2006, 78; see also Gottfredson et al. 2007). The authors go on to state that drug courts ‘can be made even more effective if (a) the level of participation in key services can be increased and (b) the use of incarceration as a sanction can be decreased’ (Gottfredson et al. 2006, 92–93).

Gottfredson et al. (2007) investigated the degree to which social control and procedural justice variables mediate the effects of specific components of the Baltimore DTC on behavioral outcomes. They found that individuals were more likely to report high levels of informal social controls if they spent a longer time in drug treatment and received longer suspended sentences. Informal social controls were negatively related to multiple drug use. Gottfredson et al. (2007) argue that these ‘court effects’ motivated participants to show judges, probation officers, and family members that
they could control their drug use. The authors interpret these effects using life course theory, which posits that social attachments to conventional society reduce the likelihood of involvement in crime and substance use (Sampson and Laub 1993).

Procedural justice theory hypothesizes that individuals respect decisions made by judges and other legal authorities if defendants perceive legal proceedings are fair and just (Paternoster et al. 1997). Gottfredson et al. (2007) found offenders’ perceptions of procedural justice were negatively associated with the variety of crimes committed. Specifically, individuals who reported their experiences in court were fair (e.g. stakeholders were impartial, the defendant was given ample opportunity to present a case and have opinions considered) were significantly less likely to report engaging in a variety of types of crime.

The negative effects of incarceration can also be interpreted through life course theory. Incarceration reduces social bonds, whereas suspended sentences and drug treatment help maintain and strengthen conventional bonds. Marchand et al. (2006a, b) also found a relationship between the number of days spent in jail and failure to complete drug treatment. Perhaps incarcerated DTC participants have ‘less to lose’ since they are segregated from positive social relationships. These researchers encourage future research on the utility of incarceration as a sanction for noncompliance, suggesting ‘the use of high amounts of jail time as a sanction may not be the most effective promoter of behavior change’ (2006b, 36).

Other researchers have considered the role of judges in DTC outcomes. Miethe et al. (2000) found participants in a Las Vegas drug court were 1.8 times more likely to reoffend than a carefully matched comparison group. ‘Extensive field observations of the Las Vegas drug court reveal a wide disparity between its organizational rhetoric and actual practices’ (Miethe et al. 2000, 536). The court failed to implement reintegrative shaming (Braithwaite 1989), the formal process of denouncing deviant behavior and ‘subsequently accept[ing] supposedly-reformed offenders back into the community’ (Jensen and Mosher 2006, 451). Court proceedings were antagonistic, rather than nonadversarial. For example, the judge primarily gave stigmatizing comments rather than words of encouragement, and was generally uninvolved personally in the monitoring and supervision of defendants (Miethe et al. 2000).

In summary, research exploring the various components of DTCs finds that quality drug treatment, longer time in drug treatment, drug testing, more judicial status hearings, longer suspended sentences combined with more time in treatment, less incarceration for noncompliance, and supportive judges increase participants’ chances of succeeding. If designed and implemented properly, these ‘court effects’ often lead to increased informal social controls based on relationships with judges, family members, and other conventional persons and organizations that motivate clients to be successful.
Additional issues to consider in future research on drug treatment courts

While we have learned a great deal from the drug court evaluation research published in the last decade, there is much more we need to know. What is the primary drug of choice among drug court clients? If it is marijuana, we need to consider whether the mesh is being tightened (see Net widening and mesh tightening above). Related to this issue, as Taxman and Bouffard (2005) have commented, we need to collect more detailed information on the level of drug use of DTC participants in order to distinguish between individuals who are dependent on drugs versus those who are simply casual drug users. Members of the latter group are not appropriate clients for drug courts.

We also need to know more about the demographic characteristics of those who participate in drug courts compared to those who are not allowed this alternative. Are whites more likely to be in drug courts than members of minority groups? Or are females more likely than males to be given the opportunity to participate in drug courts? And if disparities are found, why do these disparities exist? We also need to know more about the relative success of these different groups of DTC participants. Our comprehensive review of the literature uncovered very few studies (e.g. Dannerbeck et al. 2006) that systematically examined outcomes by race/ethnicity.

Furthermore, as drug courts continue to proliferate and are in practice for longer periods of time, they may begin admitting ‘less tractable’ groups of individuals, and as a result ‘rates of compliance and graduation will decline and recidivism will rise’ (Gebelein 2000, 5). Ironically, ‘success’ may become a major problem that DTCs face in the future.

A policy statement

Given the seriously inadequate state of public substance abuse treatment in the USA (see MacCoun and Reuter 2001), drug treatment courts are an effective, cost-efficient although controversial alternative to punitive ‘war on drugs’ policies that have permeated the American criminal justice system for the past two decades. Graduation from drug court reduces subsequent contacts with the criminal justice system, may reduce the consumption of illicit substances, and is cost beneficial when compared to traditional court processing. As with any other criminal justice innovation, however, the key components of the DTC set forth by the US Department of Justice (1997) must be implemented correctly for its goals to be realized.

Substance abuse problems should be treated as a public health issue, not a criminal problem. In addition, US drug policy should be rooted in harm reduction principles as it is in several other Western nations (Mosher and Akins 2007; see also Gerber and Jensen 2001; MacCoun and Reuter 2001).
2001). That is, the policy goal should be to reduce the harms caused by substance abuse and by the societal reactions to it. Criminalization of the possession of certain substances and the more recent addition of a multitude of civil sanctions for drug offenses create many additional problems for the individual and the society alike (see Jensen 2000, 2007; Jensen et al. 2004; Sampson and Laub 1993; Western and Beckett 1999). In an ideal public health-based policy context, the need for adult criminal drug courts would be greatly reduced. A substantial number of DTC clients are arrested for simple possession of a controlled substance, and while drug court is a favorable alternative to incarceration, any form of criminal justice supervision as a penalty for possession of a small amount of the substance for personal use is unwarranted.

If quality substance abuse treatment were readily available to any individual who wanted it, and criminal sanctions for possession of a controlled substance were reduced or eliminated, it is likely that more people would voluntarily seek treatment. It is estimated that only 14% of people who needed drug treatment received it in 2004, a decrease from 19% in 2002 (see Robinson and Scherlen 2007).

The threat of criminal sanctions deter an undetermined proportion of persons with illicit drug problems from seeking treatment. Another obstacle to high-quality substance abuse treatment is cost. Treatment should be available to all who desire it at no cost for those in the lowest economic strata and on a sliding scale for others. Once again, such a policy would put the USA into the realm of most other postindustrial nations.

Research has shown that treatment is much more effective in reducing substance abuse problems than is incarceration (Caulkins et al. 1997; see also MacCoun and Reuter 2001) and that community-based treatment is more effective in reducing substance abuse than is treatment in prison (Aos et al. 2006). Thus, the incarceration of persons for minor drug offenses must be curtailed, and high-quality, accessible drug treatment in the community must be made widely available.

American academics and researchers have a professional obligation to share the abundant evidence-based knowledge of effective drug treatment with our lawmakers in an effort to achieve change (see Aos et al. 2006; Farrington and Welsh 2007; http://www.campbellcollaboration.org/; MacKenzie 2006; Welsh et al. 2001). US drug policy must be significantly changed to improve public health, reduce crime, and ameliorate the draconian social and economic costs of incarceration.

**Short Biographies**

Eric L. Jensen’s recent research and publications are on drug policy, juvenile justice systems, and correctional programming. His articles are published in the *Journal of Offender Rehabilitation, Criminal Justice Policy Review, Criminal Justice and Behavior*, and *Crime and Delinquency*, among others. Two of his
coedited books that reflect his increasing emphasis in comparative policies are: *Juvenile Law Violators, Human Rights, and the Development of New Juvenile Justice Systems* (Hart 2006) with Jørgen Jepsen; and *Drug War, American Style: The Internationalization of Failed Policy and Its Alternatives* (Garland 2001) with Jurg Gerber. Dr. Jensen was a Fulbright Lecturer/Research Scholar at the School of Law, University of Aarhus, Aarhus, Denmark, during the spring of 2002. He holds BA, MA, and PhD in Sociology from Washington State University.

Nick Parsons is a PhD candidate in the Department of Sociology at Washington State University Vancouver. His scholarly interests include criminology, quantitative methods, and the sociology of culture. He is currently conducting research on the epidemiology of methamphetamine use in the USA and media coverage of the ‘Meth Epidemic’. He is also engaged in research on collective memory in sport and the processes through which the visual design of Web surveys influences response measurement. He is second author on a paper with Michael P. Allen about the cultural consecration of professional baseball players (*American Sociological Review* 2006).

Clayton Mosher is an Associate Professor in the Department of Sociology at Washington State University Vancouver. He conducts research on criminal justice system policies, with a focus on drug policies and inequalities in criminal justice system processing. He has also conducted federal and state-funded research on drug treatment and racial profiling. His most recent book (coauthored with Scott Akins, Sage Publications) is titled *Drugs and Drug Policy – The Control of Consciousness Alteration*. He also currently serves as associate editor for the journal *Social Problems*.

**Note**

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**References**


