THE ADVANTAGES OF THE DRUG COURT TREATMENT SYSTEM

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It is tremendously encouraging for me to see such an excellent turnout. More than that, it is especially encouraging to hear so many judges talk about treatment, recovery and the process of recovery in such a sophisticated and professional manner. When the Miami Drug Court program began, Judge Herbert Klein and Judge Gerry Wetherington came up to Lincoln Hospital in the Bronx to see our treatment facility. Our clinical coordinator, Carlos Alvarez, and I visited Miami later that month. Finally, Mae Bryant and Raymond White led a group of observers from Dade County to study our procedures at Lincoln. Remarkably, only 5 months elapsed between Judge Klein’s first visit and the opening of the Metro-Dade outpatient unit in Liberty City in July 1989. The development of the judicial component using the day-to-day expertise of Judge Stanley Goldstein, public defender Hugh Rodham, and coordinator Tim Murray was just as rapid and effective. The Miami treatment component is modeled after the substance abuse clinic at Lincoln Hospital where we have easy access to treatment, acupuncture, frequent toxicology, counseling, Narcotics Anonymous, and so on. However, we developed our program under a set of circumstances that are considerably different than the operative reality in Miami. Consequently those of us at Lincoln have learned a great deal about the potential of our own work by observing the excellent creative developments in Miami.

First of all, the drug court model sets the stage and sets the context for treatment in a way that the treatment process ordinarily cannot accomplish. For instance, if I come up to the podium, it makes a big difference if someone introduces me; it makes a big difference if my name is on the program. Drug court sets the stage and context for treatment in many important ways. You are all familiar with “shock incarceration”. We have been funding shock incarceration for a long time: it is known as arrest. Look at the face of someone who has just been handcuffed for the first time. That is shock incarceration. But what we do is fritter away the money spent on each arrest by systemic ambivalence and procedural delay. If you are able to use this shock incarceration and tie the experience to treatment right after the arrest, you gain a tremendous advantage. No treatment program acting by itself can gain that advantage. Treatment programs often make an effort to confront new clients about denial and resistance; however the fact that someone was arrested the night before is a much more effective means of confrontation. In addition, treatment program bonding is not tarnished by the need to confront and the resultant hostility. In the Miami system, 95% of arrestees are choosing treatment. Usually programs say that only 30% of drug users are motivated for treatment. Those are very different numbers, extremely different numbers.

The second advantage is that we are conveniently empowering the persons entering treatment. The drug court and our whole legal system consider that everyone is an independent person. In the drug court model the patient communicates directly with the judge not only in the court room, but also through the toxicology data. In conventional situations, a counselor, a supervisor, social workers, and defense attorney are intermediaries in the indirect communication process. When working with people who have trouble communicating, trouble reacting, trouble responding, a direct clear contact with authority can be very important.

We are also preparing for aftercare from the first day. Aftercare signifies a stage of increasing independence at the end of treatment. Well, if I have you in a residential program and you have not been quite an independent person for a long time now you will have a difficulty resurrecting your independence. In the Drug Court model, that independence is always present:
Do you take responsibilities for your actions? This is a difficult issue in conventional treatment; it is not a difficult issue in Drug Court; it is “straight up”. Making the patient dependent and somewhat childlike occurs frequently within a conventional treatment process. Drug court reduces this risk because the judge is in essence the supervisor of the treatment process, and that means there is a legitimate authority and an adult communication process at all times. People are surprised that drug court clients are honest; they are surprised that they are compliant: they are surprised they are relaxed.

Drug court is cheerful and positive. We have an issue of authority, but we do not have all the parental transference, all the negativity; we have something positive. Drug abuse treatment involves instilling and empowering people with discipline, so this constructive climate is a tremendous advantage. Now the treatment program can use this authority in our treatment system. In addition, we do a very remarkable thing; we are able to reward good behavior. It is easy to tell our clients that they are bad. They have done it to themselves a thousand times for every crime we have listed. Enough already. But by using daily urines, by using a structured system, the judge can be lenient. The judge can respond to these urines and create leniency in the program. You are giving someone good feelings; you are rewarding what they are doing at the present moment. You cannot accomplish this goal very well in conventional treatment systems- our clients do not respond to merely verbal rewards. Usually, the courts are only able to show ambivalence. Society shows ambivalence toward almost all aspects of drug abuse. In the drug court room clients listen carefully to what the judge says to everyone on the calendar. They clearly sympathize with the court’s efforts to urge greater sobriety on fellow arrestees. You see the representatives in court as they are going to bond with the treatment process, as well.

This treatment system is a very good fit for the 12 step programs such as A.A. and N.A., because individual responsibility, independence, calmness and support are right there in the beginning. Clients are able to attend fellowship meetings much earlier in treatment. Remember that A.A. and N.A. are well known effective and cost-free components of treatment.

We also have a system where there are [objective] outcome measures. That is- were you in the court? How were your urines? The outcome is there. The program’s reality is clearly available for the judge. Therefore, we can improve our programs, because we have immediate outcome measures, and, the clients can improve their own performance. If all the patients are incarcerated, you will not know what the outcomes are until the patients are released.

Drug abuse is an illness of time. You buy cocaine; it means you are addicted to the present time, forgetting the past and forgetting the future. “One day at a time”. Addicts need support in a timely manner. Acupuncture, daily urines, court appointed counseling are all effective kinds of present-time therapeutic activity. If we can satisfy the present-time needs, then assessment and treatment planning are more tolerable because we have not ignored the patient’s present anguish. We frighten clients when we ignore the present, when they need help with such perceived urgency.

All of these situations then provide a solid foundation for the beginning of what we ordinarily call treatment. Actually we have done a lot of useful therapeutic actions in setting up this compliant sober foundation. We have all these supportive elements in place, so that our treatment contacts and issues of motivation and compliance can reach a much higher quality than in most programs. We are not screening people out for lack of motivation and yet we are able to have a higher degree of compliance. It would never occur to other providers to wish for the level of compliance that drug court provides on a regular basis.
Assessment [of substance abuse treatment needs] also is helped if the client is compliant. A legitimate treatment contact is strengthened if issues of authority are more clear. Assessment is greatly improved if you can add a daily assessment process. When we evaluate friends or employees, we do not just use our initial reaction; we continue to gain more insight on a daily process. If there is a cooperative process with regular toxicology data and you have people coming in a relatively relaxed state, there will be a tremendously different quality of assessment material and you will be able to individualize treatment much more appropriately.

For instance, in-patient referral is tremendously easier if the patient who has recently given 7 dirty urines comes into court with a little suitcase in hand. Such a patient respects the court enough to provide dirty urines instead of avoiding treatment. In this context it is much easier for the patient to ask for help on a genuine basis.

So, we are able to have considerable improvement in the quality of assessment and treatment contract. This applies to the dual diagnosed MICA population as well. We are not as interested in their past as in their present status. Past treatment and diagnosis depends often on the availability of services as much as coping ability, and whether or not a particular referral will be useful. We want to establish a steady outpatient continuum if at all possible. An acupuncture based system makes this goal much more attainable. In this way we have established the (partly) supportive reality of the outpatient continuum so that the patient will feel more secure after discharge from the in-patient setting. You are able to assess severity more effectively in these programs. The data from El Rio, as well as other programs, suggests that many people who are very severely addicted or severely damaged do better in an outpatient setting than in an inpatient setting. The patient may be “severe” in some abstract sense, but still able to cope in an outpatient setting. This is important. You have to be able to improve in an outpatient setting, if you are going to have any significant success.

And so, the inpatient referrals have an entirely different quality in the Drug Court model; there is much more flexibility than in any other kind of model.

There is an issue of partnership and co-therapy between the criminal justice system and drug treatment providers. One of the most important characteristics of successful co-therapy is the use of clear language. Everyone must be able to evaluate status and progress in the same language. Using daily urines provides a suitable clear language, not only between the courts and the treatment program, but also between the courts and the clients and the treatment program. When there is such a clear [basis for] communication one can make more sophisticated statements, more insightful statements. You can avoid jumping back and forth between different authority systems.

The drug court model allows a very healthy system of authority. Drug users like authority, they respect it, they even like bad authority, so they are certainly going to like this authority. The drug court authority is based directly on the patient’s own performance, their attendance, their urine tests, and their statements. It is clear and objective. The judge has an opportunity to use his or her personality in a much more extensive and creative manner because their relationship with the patient is not contaminated by an often pressured and awkward determination of the facts of current abuse. It is a very clean system. In a clean system, people can learn more and grow to a higher standard. This kind of clean system cannot be established outside of the drug court model in an independent conventional setting.
Question And Answers:

Q. If the Drug Court model enhances the efficacy of the prior Criminal Court System; does the prior Criminal Court do the opposite and make traditional treatment less effective?

A. In many ways it does. The Criminal Court model enhances ambivalent feelings toward society. I cannot imagine that this would be helpful to encourage anyone to stop using drugs.

    I was trained to do that...I was trained in treatment that you did not disclose the Court because the court was an adversary and you tried to say only favorable things, such as “they visited their mother regularly”, “there was a urine test two weeks ago that was clean.”

    The truth of it was, we were adversaries. I am embarrassed to say how many times I played such an enabling role.

The drug abusing person respects the prosecuting attorney more than their own defense lawyer. They respect authority; they respect even nasty, sadistic authority. Anyone who is depressed, paranoid or who has a low opinion of themselves does not tolerate kindness. They do not tolerate compliments. They do not tolerate favors. If you give such a person optimistic comments, they will think you are a chump. They may play with you, but will not respect that process. This is the major dilemma in drug treatment: it is impossible to tell the client good and supportive things, because the person will be alienated by such statements. So the whole purpose of legal defense is flawed for such persons.

    If a person is suicidal, the fact that they have civil rights is not really a very big issue. You have to be here to have civil rights. And an addict is really interested in not being here, they want to be somewhere else, where there are no civil rights...So just altering the adversary system, I think, is tremendously important.

    In an ordinary court room, the judge has very few options: an empty severity, ineffective leniency, and the most common choice: postponement. I think that it is no accident that you have a series of “hard nosed prosecutors” who have now become strong and effective drug court supporters. Given flexibility, given permission to have a different language and different options these public servants find it easy to work with a new series of options.