Miami’s Drug Court: Leading the Way
by Bennett H. Brummer and Hugh Rodham

The establishment of Dade County’s experimental Drug Treatment and Diversion Program, in June of 1989, constituted a fundamental change in the way our local criminal justice system responded to certain drug cases.

As in most parts of the country, treatment for drug addiction was largely unavailable locally. Despite the professed national goal of reducing demand for drugs, only those with financial means had access to any sort of treatment. The treatment available, whether through insurance or under the aegis of the courts, was relatively short-term and ineffective.

Our courts were being used to warehouse people without giving them the support or skills necessary to escape their addiction.

In order to win acceptance and, once established, to have any chance of success, the “drug court” concept had to meet the conflicting requirements of the judiciary, public defender, prosecutor, police and providers of social services. The obvious impossibility of meeting these requirements within the traditional adversarial structure implied that these agencies had to substantially modify their usual routines and relationships and, in fact, develop an unusual degree of cooperation. By calling upon each agency to focus upon its core goals and minimum requirements, rather than business-as-usual, we were able to conceive of an innovative, yet practical approach that would permit each agency to achieve its desired ends. The drug court was developed with an eye toward treating the defendant as an addict, rather than as a criminal.

Although initially only first-offenders were eligible for the program, all defendants are now accepted, with the exception of those convicted of a crime of violence. The program even accepts certain drug sellers, such as those who sold only to support their drug habit.

Enrollment in the program is at the option of the client. The only condition is that the client agree to make the best possible effort.

Upon successful completion of the program, the prosecution will announce a nolle prosequi of the charges and the record will be sealed and expunged. This is of extreme importance in that expungement not only serves as an incentive for success in the treatment program, but increases the likelihood that the client, unimpeded by a criminal record, will be able to lead a law-abiding life.

There are a number of differences between our Drug Court, our local criminal justice business-as-usual, and “drug court” efforts in other jurisdictions. Some of the more significant differences are reflected in the following operational principles, agreements and accommodations.

The judiciary, prosecutor and defender were aware that the experiment would reduce the workload caused by the overwhelming number of small drug cases. However, emphasis was placed on permitting the defendant to benefit from treatment of adequate duration, rather than on reducing caseloads by quick disposition of cases. Thus, the Drug Court differed dramatically from similar efforts which emphasized the
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sink-or-swim approach to treatment and the prompt imposition of sanctions and disposition of the case upon the defendant’s failure to meet all conditions of the program. Although drug testing was an essential aspect of the treatment, “dropping dirty urine” would not mean termination from the Dade program so long as the defendant was deemed to be making a reasonable, good-faith effort. The defense agreed to waive speedy trial due to the fact that successful completion of the program required approximately one year. Defendants were permitted to remain in the program, even after an announcement of a “no action” on the case, if additional support were necessary.

The judiciary, prosecutor and defense agreed to assign to the Drug Court only personnel who would be able to operate successfully in this highly specialized and somewhat peculiar criminal justice environment. This staff would be required to cast off time-honored professional roles, set new priorities, keep only appropriate defendants in the program and be supportive of those people. The judge and attorneys for both sides were to support individuals making a good-faith effort. Thus, recognition and encouragement from authorities in the courtroom complemented that provided by treatment personnel. The proper choice of personnel for the court was an early test of the founders’ commitment and was a reliable indicator of the probability of success for the entire experiment.

Confidentiality of communications between the judge and the client, and between the treatment counselors and the client was assured, so that if the client later chose a trial, he or she would not be disadvantaged by anything divulged during either court proceedings or the course of treatment. Under these circumstances, the defense felt comfortable permitting the judge to speak directly and intimately with its clients.

Clients could be jailed (for one day to two weeks) for limited purposes. The jail would be used as a specialized treatment facility, in which each individual would receive one-on-one and group therapy for the length of the incarceration; as a detoxification unit when an initial drying out period was deemed essential; and as an incentive for improved client effort in the program.

Through a variety of trial and error techniques, the personnel assigned to the Drug Court were able to assist defendants in ridding themselves of their addiction and becoming responsible citizens. While assistant public defenders make a full assessment of the legal strengths and weaknesses of their cases, they also apply particular skills in assessing the likelihood of each client’s success in the program, and structuring the treatment and career counseling.

The early results of the experiment are extremely positive. An evaluation of the Drug Court has been funded by the State Justice Institute and the National Institute of Justice; the evaluation should be complete within the next few months. Within our jurisdiction, we would like to see this program expanded to potentially serve all drug abusers. Across the country, we would like to see replication of the program so as to permit the reallocation of scarce judicial and corrections resources to more constructive purposes.

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