THE LONG ROAD TO TREATMENT
Models of Screening and Admission Into Drug Courts

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Drug courts are quite popular but admit relatively small percentages of eligible offenders. Some participants may also not be appropriate for available treatment, further affecting the validity of evaluation findings. The authors used qualitative data from six representative drug courts to examine screening and admission processes in detail. Two distinct screening models were identified: (a) the prosecutor as key initial gatekeeper in diversion drug courts and (b) drug court staff as gatekeepers in postplea courts. Each had three stages: initial eligibility screening using formal eligibility criteria, evidence-based eligibility assessment incorporating clinical assessments and other screening, and judicial and client approval. Drug court admission is complex, with many decision points, gatekeepers, formal and informal criteria, and opportunities for rejection or refusal. The findings help explain drug courts’ low population penetration and suggest the importance of documenting admission processes to identify selection effects in evaluations and inform strategies to improve targeting and admissions.

Keywords: drug court; treatment admission; selection bias; program eligibility; qualitative research

Over the past two decades, as the number of drug-involved offenders in the criminal justice system has surged, alternative strategies for processing these offenders have been developed, implemented, and disseminated. These include treatment diversion programs (Belenko, 2000; Mauser, van Stelle, & Moberg, 1994), alternative-to-incarceration programs (Lang & Belenko, 2000; Taxman, Perdoni, & Harrison, 2007), and drug courts. The latter model has gained much popularity and is widely viewed as more effective than traditional criminal court processing for adjudicating offenders with drug abuse disorders (Belenko, 2002b; Goldkamp, White, & Robinson, 2001; Marlowe, DeMatteo, & Festinger, 2003). Spurred in part by increased federal funding in the mid-1990s, drug courts have spread rapidly over the past 20 years (Government Accountability Office, 2005; Huddleston, Marlowe, & Caseybolt, 2008). By the end of 2009, there were 2,459 active drug courts in the United States, including 1,317 adult drug courts (see http://www.ndei.org), serving an

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estimated 70,000 participants (Huddleston et al., 2008). Despite their popularity, drug courts serve only a small percentage of potentially eligible offenders, which may introduce selection bias into evaluations of these programs. This study of six representative drug courts examines the process of targeting, screening, and admitting participants, to help understand why drug courts serve relatively few drug-involved offenders.

The structure and philosophy of drug courts represent a dramatic shift in jurisprudence and treatment-criminal justice linkages (Belenko, 2002a; Hora, Schma, & Rosenthal, 1999), toward a “therapeutic jurisprudence” model (Hora et al., 1999; Winick, 2002; Winick & Wexler, 2009). This model emphasizes a new role for judges and criminal courts as agents for addressing underlying causes of drug-related crime, rather than simply processing criminal cases. Core elements include a dedicated case calendar incorporating a central role for the judge, cooperative rather than adversarial roles by prosecution and defense, team decision making, long-term substance abuse treatment, use of sanctions and incentives to manage participant behavior and enforce court rules, judicial monitoring and direct interaction with the offender, case management and close supervision, and a rehabilitation focus (Belenko, 2002b; Office of Justice Programs, 2004).

Drug courts acknowledge the relapsing nature of addiction and thus recognize that noncompliance with court conditions is expected and should not necessarily trigger traditional punitive responses such as incarceration or probation revocation (Belenko, 2002b; Goldkamp et al., 2001; Marlowe, Festinger, Dugosh, & Lee, 2005). Drug courts use both preplea diversion and postplea models with incentives for program completion. In preplea models, defendants enter the drug court soon after arrest, and criminal charges are dismissed after successful completion. In the postplea (or postconviction) model, the defendant pleads guilty or is sentenced. Depending on the drug court, successful completion results in withdrawal of the plea and dismissal of charges sentence reduction, or resentencing to probation rather than incarceration.

A large evidence base has emerged from drug court evaluations (including several randomized trials) and meta-analyses, suggesting that drug courts reduce drug use and criminal behavior during program participation and reduce postprogram recidivism for 1 to 3 years (Belenko, 1998, 1999, 2001; Gottfredson, Najaka, Kearley, & Roeha, 2006; Government Accountability Office, 2005; Henggeler, Halliday-Boykins, Cunningham, Randall, & Shapiro, 2006; Lowenkamp, Holsinger, & Latessa, 2006; Wilson, Mitchell, & MacKenzie, 2006). Economic analyses have found that drug courts yield net economic benefits (Barnoski & Aos, 2003; Carey & Finigan, 2004; Logan et al., 2004).

Although this body of research has helped spur the dissemination of the drug court model, this evidence base should be interpreted with caution. Much of the drug court research has been based on relatively nonrigorous evaluations, with relatively small sample sizes, inconsistent measures, short follow-up periods, inappropriate comparison samples, or lack of a logic model or theoretical framework guiding the evaluation (Belenko, 2002a; Goldkamp, 2010; Goldkamp et al., 2001; Marlowe et al., 2003). Moreover, little is known about the long-term postprogram impacts of drug courts on recidivism and drug use, employment, or other outcomes (Belenko, 2002b; Government Accountability Office, 2005). Aside from the broad guidelines codified in the consensus-driven Ten Key Components (Hiller et al., 2010; Office of Justice Programs, 2004), the drug court model is not well defined, nor have the specific effective components been isolated.
The lack of underlying frameworks for guiding drug court research means that there is limited information on the processes or critical components of drug courts that affect their outcomes (Belenko, 2002a, 2002b; Longshore et al., 2001; Marlowe et al., 2003), including effects on specific types of individuals with particular drug and other social or health problems (Joe, Simpson, & Broome, 1998; Simpson et al., 1997; Sung, Belenko, Feng, & Tabachnick, 2004). The match between the nature and severity of drug problems and the type and intensity of the treatment delivered greatly affects treatment impacts (Belenko & Peugh, 2005; McLellan & McKay, 2002; McLee, Shulman, Fishman, Gastfriend, & Griffith, 2001). For criminal justice populations in particular, theory and research on the risk–needs–responsivity principle indicate that failure to appropriately match the intensity of treatment to level of risk and treatment need of the client can lead to poor outcomes (Andrews & Bonta, 2003; Marlowe, 2003; Taxman & Thanner, 2006).

These issues are particularly important because, similar to other criminal-justice and community-based behavioral health interventions, drug courts serve relatively small segments of the population with drug problems, perhaps 5% or less (Belenko, 2002b; Bhati & Roman, 2010). Considering that 70% to 80% of all offenders are estimated to have drug use disorders (Belenko & Peugh, 1998; Bhati & Roman, 2010), it is clear that drug courts are serving a very small percentage of potential clients.

CANDIDATE SELECTION FOR DRUG COURTS

The types of persons admitted may influence the performance of drug courts more than drug courts influence the people selected. Two proposed conceptual frameworks for guiding drug court research support the importance of understanding the process of selecting and recruiting candidates into drug courts. Based on a review of 14 adult drug courts, Longshore et al. (2001) developed a five-dimension framework: leverage, population severity, intensity, predictability, and rehabilitation emphasis. Leverage refers to the nature of consequences faced by participants for program failure, such as court-imposed sanctions or imposition of a punitive sentence. Population severity refers to characteristics of the target population related to drug use severity, criminal history, and risk level. Intensity refers to program requirements (e.g., urine testing, court appearances, treatment). Rehabilitation emphasis is measured against other functions, such as case processing and punishment. Goldkamp et al. (2001) specified contextual characteristics that may affect drug courts, proposing a set of internal and external dimensions as a framework for identifying key causal factors that predict effectiveness. These include the types of targeted drug and crime problems, target population, drug court model (diversion or postconviction), screening and assessment process, treatment structure or content, sanction and reward structure, and extent of system support. Both of these models suggest the importance of understanding the differences between target populations and those that enroll in drug courts, and their suitability for long-term treatment.

Selection effects may limit the “penetration” of drug courts and similar interventions into the target population. In drug court and treatment diversion programs, it is typical for only about one third of eligible offenders to be admitted to the programs, with one third rejected during the recruitment process and one third refusing to participate (Belenko,
More broadly, patients self-select into voluntary treatment programs as well as clinical research, including randomized trials, and thus are not necessarily representative of the broader target population (Tucker & Roth, 2006; Wolff, 2000). Eligible candidates typically self-select to participate in randomized clinical trials, resulting in poor external validity and low generalizability (Brown et al., 2009; Grimshaw & Eccles, 2004; Schulz, Chalmers, Haynes, & Altman, 1995; Tucker & Roth, 2006). In part this may explain why it can be difficult to replicate significant effects when interventions are brought to scale or implemented in different sites under less rigorous experimental controls.

The reasons for this apparent lack of penetration into the potential target population for drug courts (as with other interventions) are not clear. As with other problem-solving courts, the process of recruiting, screening, and admitting offenders into drug courts may be complex and encompass many stakeholders from different agencies and with different levels of expertise and perspectives (Wolff, Fabrikant, & Belenko, 2010). For example, although formal drug court eligibility criteria may limit admission to those with felony drug possession charges, many other criteria (both formal, such as nature of their criminal history, and informal criteria such as "suitability" for treatment) may be considered. Potential clients may be referred to the drug court from a number of different sources (e.g., a prosecutor, defense attorney, family member, treatment provider, sentencing judge, or jail personnel).

Candidates may be screened formally by the drug court team or a case coordinator with clinical substance abuse training, with or without input from drug treatment staff. Screeners may or may not have formal training in clinical diagnoses of drug abuse disorders, and staff may have different incentives for accepting or rejecting potential recruits, further increasing potential selection bias (Redlich, Hoover, Summers, & Steadman, 2010). For example, prosecutors have an incentive to admit low-risk clients or those with weak criminal case evidence. Drug court staff may have an incentive to accept clients not needing long-term treatment to increase the caseload and justify funding. Eligibility determination may be formalized in a protocol or be more informal and idiosyncratic. Even if clients are found eligible, issues of treatability, motivation, and support from the defense attorney may independently affect client recruitment and selection.

Many drug courts are voluntary in that an eligible offender can choose to participate or not based on motivation to address his or her substance abuse problem, advice of defense attorney, or weighing the benefits and disadvantages of drug court participation. For the low-level or first-time offenders that are targeted by many drug courts (especially pre plea diversion programs), drug court participation may require more supervision and more stringent requirements than standard sentences such as probation or a short jail term (Hoffman, 2002; Nolan, 2001). Thus, drug courts that target or admit low-risk offenders may "widen" or "tighten" the net of social control and create disincentives for offenders to volunteer.

Taking all this into account, it may be that the positive results reported in drug court evaluations are affected by targeting and admission procedures (e.g., admitting participants without drug abuse disorders or with low risk) or by selection bias, rather than the program itself (Luskin, 2001; Wolff et al., 2010; Wolff & Pogorzelski, 2005). It is surprising that the process of recruiting, screening, and admitting clients, the appropriateness of the target populations, and the extent to which drug courts penetrate the planned target population have rarely been considered in drug court research (Goldkamp, 2010; Goldkamp et al., 2001). As a consequence, it is difficult to interpret the generalizability of the evidence base cited above, to provide guidance for effectively replicating and expanding drug courts, or...
to fully understand why drug courts (despite the putatively strong evidence base) remain a relatively underutilized intervention.

This article is the first to examine the selection and admission process in drug courts. Using qualitative data from a national sample, we deconstruct and model this process, identifying key stages, gatekeepers, information sources, types of screening and admission criteria, and sources of potential selection effects. These models aim to capture and document consistency and variability in selection processes, identify key gatekeepers and decision points, and highlight potential intervention points where policies and procedures might be modified to reduce selection bias. The implications for future research and practice are then discussed.

METHOD

Qualitative methods and document review were used to identify and analyze the structural and procedural components of six drug courts that relate to the court’s design, targeting, and recruitment process. The deconstruction of the courts focused primarily on how potential clients were identified, screened, and recruited for participation in the courts and on the decision rules used to exclude and include defendants with drug use disorders.

SITE SELECTION

Six courts from different regions in the United States were selected using four criteria: adult caseload, operational for at least 3 years, had one prior performance evaluation, and program capacity or typical caseload. An initial sampling frame of 900 adult drug courts was compiled using information from the American University’s Justice Programs Office (American University Justice Programs Office, 2010), the National Center for State Courts (n.d.), state court administration offices, and contacts with program managers or judges for specific drug courts. Information on the sample selection criteria (year of inception, capacity or population, prior evaluation completed) was obtained for 220 drug courts. For the remaining courts, a staff person could not be reached or was unable to respond to several queries about this information.

Among the courts with available information, 98 (45%) met the first three eligibility criteria. For the fourth criterion, these 98 were ranked by caseload size ranging from 9 to 2,000 participants ($M = 137$, $SD = 263$). We divided the range into quartiles and first selected courts in the second and third quartiles (33 to 130), excluding courts on the tails of the caseload size distribution. To ensure regional representativeness, three of the selected courts had a program size outside the second and third quartiles but were located in a targeted region of the United States. All six courts selected agreed to participate in the study. They served 60 to 400 clients per year in geographic areas with populations between 100,000 to over 1 million in the Northeast, Southeast, Midwest, Southwest, or Pacific Northwest. Based on the number of adult arrests for any type of drug offense, the courts serve a range of 0.1% to 5.6% of the potentially eligible population. This is a rough estimate (although it is consistent with previously published penetration estimates) because data were not available on the proportion of paper-eligible offenders with drug abuse problems, or the numbers of arrested or convicted offenders meeting all written eligibility criteria. Our
sample included both pre-plea diversion and post-plea models (three courts had two tracks), and in only one drug court was there no involvement of the prosecutor or public defender. Two of the six programs provided treatment in the drug court, and the others contracted to community-based providers (see Table 1 for descriptions of the courts).

**RESPONDENT SELECTION**

The respondent sample included key staff affiliated with each drug court, such as judges, prosecutors, defense attorneys, probation, and program staff, in addition to staff from organizations providing client services. Snowball sampling was used to identify respondents. Initially, key informants for each court were identified through discussions with a court liaison and a review of relevant court materials. From these initial interviews, other key informants were identified. A total of 86 people were approached for an interview, of which 84 (98%) agreed; written informed consent was obtained, and all study protocols were approved by the Rutgers and Temple University institutional review boards. The total sample included 9 judges; 10 prosecutors; 6 defense attorneys; 9 drug court managers, coordinators, or supervisors; 11 other drug court staff; 14 service providers; 7 probation, nurses, and other community members.

**TABLE 1  Drug Court Sample Characteristics**

<table>
<thead>
<tr>
<th>Court Location, Year Started</th>
<th>N of Respondents</th>
<th>Type</th>
<th>Capacity</th>
<th>Court Penetration (2008 data)</th>
<th>Unique Features</th>
</tr>
</thead>
<tbody>
<tr>
<td>#1 Southeast, suburban and rural, 1994</td>
<td>13</td>
<td>Two tracks: pre-plea diversion, post-plea probation</td>
<td>120</td>
<td># adult arrests in county: 15,844</td>
<td>Two rotating judges; in-house outpatient treatment</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td># adult drug arrests: 2,476</td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td>Est. penetration rate: 0.5%</td>
<td></td>
</tr>
<tr>
<td>#2 Northeast, urban, 1996</td>
<td>12</td>
<td>Post-plea</td>
<td>300</td>
<td># adult arrests in county: 91,831</td>
<td>Drug court case managers certified as drug counselors</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td># adult drug arrests: 32,039</td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td>Est. penetration rate: 0.1%</td>
<td></td>
</tr>
<tr>
<td>#3 Midwest, urban and suburban, 1993</td>
<td>12</td>
<td>Pre-plea diversion</td>
<td>350 450</td>
<td># adult arrests in county: 93,502</td>
<td>Single contracted treatment provider</td>
</tr>
<tr>
<td></td>
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<td></td>
<td># adult drug arrests: 7,108</td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td>Est. penetration rate: 5.6%</td>
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<tr>
<td>#4 Southwest, suburban and rural, 1993</td>
<td>19</td>
<td>Two tracks: pre-plea diversion, post-plea probation</td>
<td>150</td>
<td># adult arrests in county: 8,370</td>
<td>Administered by probation department; in-house outpatient treatment</td>
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<td></td>
<td># adult drug arrests: 1,553</td>
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<td></td>
<td></td>
<td>Est. penetration rate: 1.0%</td>
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<tr>
<td>#5 Southeast, suburban, 1998</td>
<td>16</td>
<td>Pos-plea probation</td>
<td>90</td>
<td># adult arrests in county: 15,915</td>
<td>No prosecutor or public defender assigned to drug court</td>
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<td></td>
<td></td>
<td># adult drug arrests: 2,723</td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td>Est. penetration rate: 3.3%</td>
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<tr>
<td>#6 Northwest, suburban, rural, 2001</td>
<td>12</td>
<td>Two tracks: pre-plea diversion, post-plea probation</td>
<td>60</td>
<td># adult arrests in county: 10,610</td>
<td>Single contracted treatment provider</td>
</tr>
<tr>
<td></td>
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<td></td>
<td></td>
<td># adult drug arrests: 2,384</td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td>Est. penetration rate: 2.5%</td>
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</tbody>
</table>
supervision, or law enforcement agents; and 18 other informants (e.g., faith partners, para-
legals, medical staff, pretrial diversion staff).

DATA COLLECTION AND ANALYSIS

Two authors spent 1 week at each site between March and July 2009 conducting inter-
views and observing court sessions and staff meetings. Semistructured interviews were
conducted in person, audio-recorded, transcribed, and analyzed using ATLAS.ti software.
Court sessions and staff meetings were not recorded, but extensive field notes were taken. A
preliminary codebook was created on key themes that emerged during the interviews. Two
researchers independently coded all of the transcripts. During the coding process, the
reviewers discussed and came to an agreement on all coded passages and redefined,
deleted, added, and merged codes until a final codebook was generated. One
researcher then conducted a second- and third-stage analysis of the portions of the data pertaining
to the client identification, selection, and recruitment process. In addition to the field data,
written background material was obtained from each court and used in the analysis. This
information included initial court prospectus or grant application, historical documents
describing aspects of the court and its modification, quarterly and annual reports and court
evaluations (process and impact), and documents related to informed consent, waivers, and
eligibility determination.

RESULTS

OVERVIEW OF PARTICIPANT SELECTION PROCESS

The general process from initial eligibility determination to admission into the drug court
has four main components, depicted in the following schematic.

Paper eligibility → Screening → Clinical assessment → Admission

Paper eligibility. Drug courts generally have formal eligibility criteria that are reviewed
during the initial case screening. These criteria usually focus on legal issues such as current
criminal charge and criminal history. Most drug courts, especially those that receive federal
funding, do not accept participants that have been convicted of a violent crime, and most
do not accept those with a current drug-selling charge (with some exceptions noted below).

Screening. During the initial or earlier stages of the admission process, brief screening
is conducted to provide initial information about the candidate’s drug use status. This may
simply relate to the current charge (i.e., drug possession), a review of the candidate’s
criminal history (prior drug possession convictions), or an interview with the candidate.
Other objective or formal indicators of a drug problem may also be noted.

Clinical assessment. Once there is an initial indication of a drug problem, some courts
will conduct a more formal assessment using a clinical assessment tool such as the Addic-
tion Severity Index (McLellan et al., 1992). A drug treatment counselor or other trained
staff may conduct an assessment to determine the nature and severity of the person’s drug
problem. Information may also be gathered on the candidate’s motivation for treatment and
other social or health problems (e.g., mental health status). Screening and assessment for drug abuse disorders may occur at multiple points in the admission process. The diagnostic criteria for substance abuse and need for treatment vary by drug court.

**Admission.** The final phase is formal admission to the drug court. In some courts the candidate is interviewed by the drug court judge. Some drug courts offer an orientation period of about 30 days when the candidate attends drug court hearings and treatment sessions. After that period the drug court staff and candidate both decide whether to continue in the drug court.

For each of the above components, and at each temporal stage of the admissions process, a “gatekeeper” has primary responsibility for case review and decision making. Generally, this is either a prosecuting attorney or a drug court team member. Both formal (paper or legal eligibility) and informal (subjective) criteria are used in different courts at different times, although most drug courts use a combination of formal and informal criteria. Informal eligibility criteria are of course more subjective but may directly influence admission to the drug court.

**ADMISSION PROCESSING MODELS FOR THE SIX SAMPLE DRUG COURTS**

Our data indicate two basic models for drug court screening and admission, displayed in Figures 1 and 2. Each model has three key stages, through which a case moves from initial identification or recruitment of potential clients, to more intensive and complex screening and assessment processes, to final eligibility determination and admission into the drug court. At each stage, drug courts vary regarding the key gatekeeper(s) or decision makers, the types of information reviewed to assist decision making, the amount of discretion and informal decision making involved, and the level of complexity of the process. Stage 1 involves the initial paper eligibility determination and screening, generally based on formal objective criteria related to legal criteria (only two courts, 1 and 5, also conduct substance abuse screening at this point). At Stage 2, additional screening and assessment are conducted, generally by drug court staff, to assess the nature of the candidate’s drug problem and suitability for treatment and identify other aspects of the case and the individual. The final stage, Stage 3, involves review by the drug court judge, participant consent, and an orientation or opt-out period for three of the drug courts.

The two models differ primarily by the key gatekeeper at the initial eligibility screening stage, as shown in the central node of Stage 1. In the first model (Figure 1), the district attorney (DA) is the gatekeeper for the initial formal paper eligibility determination and is the key decision maker for initial acceptance. Although cases may be referred to the DA from different sources, an individual in that office conducts initial screening of the case based on formal eligibility criteria that have typically been negotiated by the drug court staff and other key criminal justice system personnel. In the second model (Figure 2), drug court team members are primary gatekeepers for initial eligibility screening, receiving referrals from a number of sources including DAs.

**DETAILED FINDINGS**

We now describe each stage in more detail, highlighting key differences and commonalities among the sample drug courts. There was considerable variation among the courts
Figure 1: Drug Court Screening and Admission Model: District Attorney as Stage 1 Gatekeeper
Figure 2 Drug Court Screening and Admission Model: Drug Court Team as Stage 1 Gatekeepers
in the model used. Two of the drug courts (Courts 2 and 3) use the DA model, two use the drug court team model (Courts 1 and 5), and three use both: the DA model for the diversion track and the drug court team model for the postplea track (Courts 1, 4, and 6). Table 2 summarizes the key activities, criteria, and responsibilities for screening and decision making at each of the three main stages of the process. For drug courts with both diversion and postplea tracks, we distinguish the eligibility and screening criteria for each track.

During Stage 1, "initial eligibility screening," a case comes to the attention of the person or persons responsible for initially identifying a potential drug court case. This generally occurs in one of two ways: (a) Staff from other criminal justice agencies refer a case to the initial "gatekeeper," either the prosecutor or a member of the drug court team, or (b) certain types of cases are routinely screened by the initial gatekeeper. For example, in Courts 2 and 3 and the diversion tracks in Courts 4 and 6, an assistant DA routinely reviews all new felony drug possession cases, primarily by examining the criminal history to screen out persons with extensive or violent criminal histories (diversion track cases generally should not have any prior convictions). Referrals from other agencies are more common in drug courts with postconviction or probation tracks and can come from the prosecutor, defense attorney, sentencing judge, or a probation officer (Courts 4 and 6).

Stage 1 eligibility criteria usually include the criminal charge and criminal history (all courts in our sample). There were clear differences in the eligibility criteria and screening process. Diversion tracks generally target first-time low-level offenders (mainly drug possession felony charges, though Courts 1, 4, and 6 will make exceptions on a case-by-case basis for charges that are determined to be drug related) and do not allow drug sellers (exceptions are Courts 2 and 3). DAs are usually the primary gatekeepers for diversion cases. For the postplea tracks, eligibility criteria are broader. Sometimes the charge must be a drug charge, though some courts will accept other charges if the person's criminal activity is thought to reflect a drug problem. Usually a postplea candidate will not be accepted if he or she has prior violent crimes (although Courts 1, 4, 5, and 6 allow prior violent crimes on a case-by-case basis). For most drug courts, the criminal charge must be a drug offense, generally drug possession. All courts use other formal or informal exclusion criteria for which information is gathered at Stages 1 and 2.

During Stage 1, informal eligibility criteria also are considered on a case-by-case basis in some drug courts. For example, Court 1 requires potential participants to have reliable transportation to the drug court and to show a desire to get treatment. In Court 3, the DA might consult with the defense attorney to see if mitigating evidence allows consideration of a low-level seller, and in Court 4 the DA may speak with the defense attorney to determine if the participant has a stable socioeconomic situation that might mitigate toward admission.

Additional initial screening criteria other than the current criminal charge and criminal history are sometimes used: Drug court staff in Courts 1 and 5 also conduct a clinical assessment at the first stage to determine if the offender has a substance abuse problem. Those without any indication of a problem are screened out at this early point. Various other restrictions were noted by different courts, such as no gang members, too much restitution owed, multiple prior probation violations, or being assessed as too low risk (for a court that targets "higher-risk" participants).

At Stage 2 ("eligibility assessment"), a more in-depth and clinically driven assessment determines the participant's level and type of substance abuse problem, motivation to par-
### TABLE 2  Summary of Admission Process for Six Sample Drug Courts, by Stage

<table>
<thead>
<tr>
<th>Drug Court</th>
<th>Main Gatekeeper</th>
<th>Stage 1: Initial Eligibility Screening</th>
<th>Stage 2: Evidence-Based Eligibility Assessment</th>
<th>Stage 3: Judicial and Client Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Court 1</td>
<td>Drug court team</td>
<td>Screener: Drug court officer for criminal history; drug court counselor for drug abuse</td>
<td>Screener: Diversion track Assistant DA, probation track: Individual prosecutor assigned to the case.</td>
<td>Judicial discretion: Judge usually follows team's recommendations; sentencing judge must agree to the plea agreement for probation track.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Evidence collected: Criminal history, current charge, client interview. Criminal history screen: Diversion track: First-time felony drug offenders. Non drug charge may be allowed if drug related.</td>
<td>Evidence collected: Criminal charge, criminal history, information from law enforcement</td>
<td>Candidate discretion: Candidate must consent to participate.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Probation track: All charges and criminal histories considered case by case. Substance use screen: Screened by 1 drug court clinical staff, discussed with drug court team. Drug court manager has final decision. Target those with need for treatment. Screen out factors: Diversion track: More than minimal criminal history, violent or serious drug sale charge. Probation track: Prior forcible felony convictions (e.g., homicide, robbery), history of probation violations, owing more than $2,000 restitution. Both tracks: Lack of motivation for treatment, no reliable source of transportation, prior participation in drug court, severe mental illness.</td>
<td>Criminal history screen: Diversion track: First-time felony drug offenders (mainly drug possession), with limited criminal history. Some exceptions for those with prior evidence of drug-related convictions, multiple charges, low-level dealers with drug problem. Probation track: Varies according to the assistant DA for that case. Substance use screen: None at this stage. Screen out factors: Diversion track: Prior violent conviction (some exceptions for domestic violence if drug related and victim agrees), current DUI charge, serious drug sales, prior client refusal of diversion offer.</td>
<td>Orientation/trial period: Around 30 days for diversion candidates; not available for probation candidates. Participation incentives: Charges dismissed (diversion track), avoidance of incarceration (probation track). Participation requirements: Probation candidates plead guilty, no plea required for diversion candidates. All candidates must agree to treatment recommendations. Fees: $20/week, community service can substitute. Restitution: Must be paid before drug court graduation.</td>
</tr>
<tr>
<td>Drug Court</td>
<td>Main Gatekeeper</td>
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<td>Court 2</td>
<td>District attorney</td>
<td>Screener: District attorney Evidence collected: Criminal charge, criminal history Criminal history screen: First-time felony drug possession charges (some exceptions made for some sales charges, case by case) Substance use screen: None at this stage Screen out factors: Not a drug-related charge Prior felony convictions (some exceptions for females) Prior violent or sex offenses or arson convictions (may accept if very old conviction) Active search warrant or open cases from other counties Must be legal U.S. resident Consent factors: None reported</td>
<td>Screener: CADAC-certified drug court case manager Screened-out cases reviewed by clinical director and director Evidence collected: Interview and clinical assessment Urine sample if person not in custody at interview Substance use screen: Must be addicted to substance other than alcohol or marijuana Exceptions made for 18- to 29-year-olds with marijuana-only abuse Must test positive for substance other than alcohol if not in custody; some exceptions for alcohol only if mitigating circumstances Screen out factors: Receiving &gt; 100 mg methadone (because of difficulty of detoxification); severe cognitive or medical limitations (medical or psychiatric evaluation may be done)</td>
<td>Judicial discretion: Usually defers to recommendation of drug court team Candidate discretion: Candidate must consent to participate and agree to recommended level of treatment Orientation/trial period: None Participation incentives: Charges dismissed on graduation Participation requirements: Candidate must plead guilty, agree to follow clinical staff treatment recommendation, and sign contract Fees: Not required Restitution: Not required</td>
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<td>Court 3</td>
<td>District attorney</td>
<td>Screener: DA's paralegal or individual assistant DAs: The assistant DA assigned to drug court has final decision if question of eligibility. Criminal history screen: Current felony drug possession charges (some exceptions for property crimes if drug related). Low-level dealers with drug problem considered based on specific case facts. Defense attorney might present mitigating evidence Substance use screen: None at this stage</td>
<td>Screener: Drug counselor Evidence collected: Clinical screening Eligibility criteria: Substance use disorder Screening has little bearing on drug court eligibility decision</td>
<td>Judicial discretion: None reported Candidate discretion: Must consent to participate Orientation/trial period: None Restitution: Must be paid before graduation</td>
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<td>Court 4</td>
<td>Diversion track: District attorney; probation track: Drug court team</td>
<td>Evidence collected: Diversion track: Criminal history, information from arresting officer, mitigating evidence (e.g., steady job) from defense attorney. Probation track: Criminal history, probation history, and social history from probation officer. Criminal history screen: Diversion track: First-time misdemeanor or felony drug offenders with limited criminal history. Probation track: Variety of charges and criminal histories eligible, including probation violations because of positive drug test. Case-by-case review. Drug court manager makes final decision. Substance use screen: None at this stage.</td>
<td>Screen (both tracks): Specific drug counselor. Drug court manager may review the case. Evidence collected (both tracks): Clinical evaluation (ASI) conducted by CADAC-certified drug court drug counselor. Eligibility criteria (both tracks): Evidence of a substance abuse disorder that can be managed in outpatient treatment. Screen out factors (both tracks): Severe mental illness, homelessness (with some exceptions), those who cannot be safely treated in the community.</td>
<td>Judicial discretion: Usually accepts team’s recommendation. Candidate discretion: Candidate must consent to participate. Orientation/trial period: About 30 days. Drug court staff reach team decision whether to admit the candidate. Participation incentives: Charges dismissed (diversion); avoidance of incarceration (probation track). Participation requirements: Diversion track: No plea required; Probation track: Guilty plea. All candidates must agree to the treatment plan. Fees: $1,000.</td>
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<td>Court 5</td>
<td>Drug court team</td>
<td>Drug court manager Evidence collected: Clinical evaluation and criminal history check, information about the sentence alternative from defense attorney. Criminal history screening: Felony offenders with a prior felony record, facing prison sentences of 5+ years. Substance use screening: ASI-based screening that indicates a substance abuse disorder; people with prior failed treatment attempts preferred. Screen out factors: First-time offenders, less than 3 years presumptive prison sentence; prior sex offense or weapons conviction, current violent charge, Residence out of county, Bad attitude or only wanting drug court to avoid jail. Severe mental illness. Prior drug court participation in the state. Consent factors: None.</td>
<td>Screened: No further screening at this stage, all screening takes place at Stage 1.</td>
<td>Judicial discretion: Sentencing judge sentences person to drug court as a condition of probation. Two of the three sentencing judges in the county will defer to drug court team recommendation, one judge requires DA's consent. Candidate discretion: Candidate must consent to participate. Orientation/trial period: None. Participation incentives: Incarceration sentence avoided. Participation requirements: All candidates must agree to treatment plan. Fees: $30/week for intensive outpatient treatment. Restitution: Must be paid in full, and those with child support obligations must make regular payments while in drug court. All jail fees must be paid in full to graduate (sometimes drug court will help negotiate a lower fee).</td>
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<td>Substance use screen: None.</td>
<td>No reliable transportation. Not a legal U.S. resident.</td>
<td>Orientation/trial period: About 30 days. Drug court team has input into final admission decision. If diversion candidate doesn't show up at first appearance, DA will not allow him or her back in.</td>
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<td>Screen out factors: Diversion track: Drug sale or too many current charges, crimes with victims, prior prison sentence, pending charges in other jurisdictions, gang affiliation. If there is a waiting list, DA might reject those not resource worthy, e.g., those without children.</td>
<td>Addicted to heroin or prescription drugs (some exceptions made if suboxone can be obtained).</td>
<td>Participation requirements: Guilty plea not required for diversion track, but candidate must stipulate to facts of the case before admission. If he or she fails drug court, prosecution may proceed without having to prove facts of the case. Probation track candidates have already pled guilty.</td>
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Note: CADAC = Certified Alcohol and Drug Abuse Counselor; ASI = Addiction Severity Index.

ticipate, and broader case circumstances. Assessors may or may not use evidence-based assessment tools during this process. In addition, the approvals of other members of the drug court team are usually sought at this stage after further case review. In general, we found Stage 2 screening to be similar whether the participant is entering a diversion or postplea track. With the exception of Court 1 (where a prosecutor conducts screening and must approve all diversion and nondiversion candidates during Stage 2), Stage 2, eligibility assessment, is the primary responsibility of a drug court counselor or case manager. This generally involves clinical assessment of substance abuse and other social and health problems.
Examples of issues that might render a candidate ineligible are being homeless (Court 4) and having a serious mental health problem (Courts 2 and 4). Candidates in Court 6 must indicate a need for 9 to 12 months of intensive outpatient treatment and not be addicted to heroin or prescription opioids.

In the final stage, Stage 3 ("judicial and client approval"), the client meets the judge, receives an orientation to the drug court, and may be offered a "trial" period in which he or she attends drug court and treatment for a short period (usually 30 days) to see if the program is a good "fit." At the end of that opt-out period, the client may decide not to participate in the drug court and return to regular criminal case processing (or receive the predetermined sentence), or the judge may not allow the person to be admitted into the drug court because of a perceived lack of appropriateness for the program. These informal and rather subjective criteria are another source of variation and selection effects in the process of admitting drug court clients. Half of our sample drug courts (Courts 1, 4, and 6) offered an orientation or opt-out period of about 30 days. Data were not available from these courts as to what percentage of potential clients is not admitted to the drug court following the opt-out period.

In most of our sample courts, the judge initially follows the recommendation of the drug court team and accepts their recommended participants into the program. Only in Court 6 does the judge sometimes exercise veto power over the potential candidates, and in the Court 1 postplea track the original sentencing judge must agree to allow the offender to participate in the drug court. Thus, although research and theory on the judge's role in drug courts suggest that they are the primary decision makers (Marlowe & Kirby, 1999; Satel, 1998), in the admission process the judges in our sample drug courts deferred to other staff and drug court team members for key screening and admission decisions.

**DISCUSSION**

Issues of selection bias and penetration into the target population in drug courts and other problem-solving courts such as mental health courts have been raised by critics as a possible explanation for their putative treatment and criminal justice outcomes (Belenko, 2002a; Belenko, Wolff, & Holland, 2009; Wolff, 2003). This issue reflects more general concerns about target population penetration in behavioral health services. Our study involved a qualitative analysis of the selection procedures and processes of a national sample of drug courts, with the goal of furthering our understanding of the selection and admission process for identifying, screening, and admitting clients into these programs.

We found both commonalities and differences across different courts. First, two distinct models emerged that differed mainly by the gatekeeper conducting initial formal screening: the DA or the drug court team. The DA model generally operated for drug courts that were based on a preplea diversion model, or for the diversion tracks in drug courts with both diversion and postplea tracks. For drug courts with postplea tracks, the drug court team model dominated. However, there were exceptions to this: Court 1 has both preplea and postplea tracks but fit the drug-court team gatekeeper model. Courts 2 and 3 both fit the DA gatekeeper model, yet one is a postplea and the other a preplea diversion drug court. Second, all drug courts had three distinct stages in the screening and admission process, operating in the same sequence. An initial eligibility screening was based on formal criteria typically related to criminal charge and criminal history. The second stage (eligibility...
assessment) incorporated clinical assessments as well as other review and screening by drug court stakeholders. The focus here was on evidence for substance abuse disorders and treatment needs, as well as other behavioral health and social issues. Criteria for defining the drug disorder and treatment need varied widely among the courts but were not typically based on formal drug abuse or dependence diagnoses. More informal and subjective criteria were used to determine suitability or readiness for treatment.

The final stage (judicial and client approval) involved a decision by the drug court judge, client consent to participate, and, for half the drug courts, an orientation or opt-out trial period. In five of the six drug courts the judge follows the recommendation of the drug court team, and although the judge in Court 6 maintains veto power, that judge usually also follows the team’s recommendation. Most judges generally relied on the decisions made by the drug court team, although an orientation period in three of the courts allowed a mutual "test" of the client’s suitability for drug court. In making their final decision to participate (and incorporating legal advice from their attorney), clients may weigh the benefits and disadvantages of participation relative to the likely outcomes of their criminal case under standard criminal court processing. Intrinsic motivation for treatment and self-awareness of a drug abuse problem are other factors likely to be considered by the client. Although none of our sample drug courts had data on the proportion of eligible clients who choose not to participate in drug court, other drug court research suggests that a substantial percentage (perhaps one third) decide not to enroll (Belenko, 2002b). Such a decision may be rational and in the best interests of the client. Without additional research on the reasons for nonconsent and its impact on selection bias, we are left to speculate.

That said, however, the effects on drug court outcomes might differ depending on whether clients refusing participation would have been suitable for the drug court and, thus, benefited from treatment. In contrast, diversion-eligible offenders with limited criminal histories and low severity of drug problems may accurately perceive that they do not need the long-term treatment and intensive supervision of the drug court and would benefit by proceeding through standard adjudication, where their cases might be dismissed or they might be sentenced to minimal supervision under probation. Treating low-risk offenders in intensive programs such as drug courts negatively affects drug court outcomes as well as their cost-effectiveness (Festing et al., 2002; Marlowe, 2003; Thanner & Taxman, 2003; Wolff, 2002) and violates principles of risk-needs-responsivity in criminal justice programming (Andrews & Bonta, 2003; Marlowe, 2003; Taxman & Thanner, 2006).

The drug court selection process thus incorporates multiple stages, criteria, and staff from different agencies. Admission is based on decisions made by multiple stakeholders at different points in the process. The DA is a primary gatekeeper whose approval is generally needed (with the exception of one court) at either Stage 1 or Stage 2. The central role of the DA, with veto power either in the beginning of the process in Stage 1 or later on, is consistent with the criminal court process in general, where control over initial charging, evidentiary review, and plea bargaining means that prosecutors are generally the primary gatekeepers and decision makers in the resolution of criminal cases (Albonetti, 1987; Ball, 2006; Wilmot & Spohn, 2004). At all stages, the client and his or her defense attorney must agree to participate and weigh the benefits and consequences of drug court participation. Multiple members of the drug court team may be involved and decide whether a person is suitable for the program based on formal and informal criteria. The drug court judge can refuse admission to the drug court or decide during an orientation phase that a client is not suitable.
It is not known how typical it is for judges to overrule a drug team's recommendation to admit a client, but given the power that criminal court judges exercise in their courtrooms, it is not unreasonable to speculate that this occurs in other drug courts as well. In the post-plea drug courts, the original sentencing judge or probation officer must decide to refer a case to the drug court and approve the person's participation. Finally, although courts may have specific eligibility requirements, occasional exceptions are made. Some admission decisions are made on a case-by-case basis and are based on more informal criteria.

LIMITATIONS

Several limitations in our study should be noted. Although our sample was representative of different regions and caseloads, it included only six courts. It is possible that larger samples of drug courts would have uncovered different models of screening and admission or demonstrated more or less variability in the process. Furthermore, we excluded from our sampling frame drug courts with very low or very high caseloads, so our findings may not apply to such programs. However, our sample was selected to broadly represent the size, maturity, and geographic location of modal types of drug courts and for the purpose of understanding their selection and admission processes. Our goal was less to quantify the representativeness of each type of selection process than to describe general patterns and variations in the process.

Second, quantitative data on the screening and admission process were not available. Thus, the extent to which the drug court admission process contributes to their low penetration rate is not known at this time. Future work should develop tools for monitoring and analyzing this process. Finally, it may be that the screening and admission process differs by offender characteristics such as gender, race/ethnicity, or socioeconomic status. Consideration of these factors was beyond the scope of this study but is worthy of future research.

CONCLUSIONS AND FUTURE DIRECTIONS

This qualitative study of six representative drug courts has identified a multistage, complex process for screening and admitting clients that involves a number of key decision points, gatekeepers, formal and informal admission criteria, and opportunities for eligible participants to decline admission. Given the complexity of this process, it is not surprising that drug courts admit only a relatively small proportion of potentially eligible offenders. Our findings suggest that there is enough variation in the selection processes and opportunities for modifying policies and procedures to suggest the importance of developing methods and tools to measure and document drug court screening and admission processes. These data would be important for documenting and controlling for selection effects on outcomes in drug court evaluations. The selection and admission processes could explain the variable effect sizes found in drug court evaluations; they may be driven by the variation in client samples, rather than the drug court. This hypothesis cannot be tested without more standardized methods for comparing those admitted into the court to those not admitted, and testing the potential of drug courts to penetrate further into their target population of offenders with drug abuse disorders.

Our general model suggests that the types of clients admitted into the drug court are shaped by formal and informal selection criteria as well as by the local treatment system. The challenge is to develop a tracking instrument that can capture the variation in meaningful and measureable ways. It will be relatively straightforward to document screening decisions...
based on formal eligibility or screening criteria, such as criminal charges, criminal history, and assessment of a drug disorder based on clinically valid tools. Measuring the effects of more informal criteria based on subjective judgments and preferences will be more difficult. These challenges are surmountable, however, and important for understanding the impacts of selection effects, which in turn will improve our understanding of the existing drug court evidence base, the potential for increasing penetration into the target population, and the effective components of drug courts.

The positive evidence from drug court research is often interpreted to suggest that if we took any random offender with a substance abuse problem and a range of convictions and assigned him or her to a drug court, the court would produce outcomes in accordance with the evidence. This expectation, however, is most valid if those participating in drug courts and drug court research are representative of the broader group of offenders with substance abuse problems. In drug treatment and other behavioral health evaluations, program effects are highly contingent on the characteristics of the offenders admitted to the program and the appropriateness of the services they receive (Belenko & Peugh, 2005; Marlowe, 2003; McLellan & McKay, 2002). Drug court evaluations often leave unexplored the extent to which the courts are targeting appropriate populations, penetrating the target population in sufficient numbers, and providing equal access to the intervention. To answer the question of “for whom” a program works, and what treatment services are needed to maximize positive outcomes, it is important to understand and document the process of selecting participants for the programs. This type of evidence is central to the effectiveness of these programs, their impacts on substance abuse and crime, and the ability of drug courts to expand their client base and effectively and efficiently reduce drug abuse and drug-related crime.

REFERENCES


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