

A NEW IDEA IN THE BATTLE AGAINST CRIME:

DRUG COURTS

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In the Seventies and Eighties, the Federal government launched a program known as "The War on Drugs." The theory, at the time, was to increase the penalties for drug crimes and thus drug users would be deterred from using because of the increased likelihood of long prison sentences. All states followed this model and stiff sentences became the norm for even first time possession of most drugs.

This policy has resulted in the United States having the highest incarceration rate per capita of any developed nation. It is estimated that between 75-85 percent of all prisoners lodged in prisons and jails across the United States are in jail as a result of a drug or drug related crime.

In 1989, Judges, Prosecutors, Defense attorneys, the treatment community and community leaders in Dade County Florida recognized that this policy was flawed and sought to seek a better solution to the problem of drugs in Miami. In the years between 1985 and 1989 arrests in Dade County for drug possession had increased 93 percent, overwhelming the criminal justice and corrections systems. What grew out of these discussions was the creation of the first Drug Treatment Court or now commonly called Drug Court. The title of my paper is "A New Idea in the Battle Against Crime: Drug Courts."

What these pioneers sought and created was a dramatically new court-centered treatment program that emphasized drug treatment, responsibility and accountability. This Court totally contradicted the punishment and deterrence strategies of the nation at the time and received no Federal funding. A direct request was given to William Bennett, the Federal Drug Czar at that time and was brushed off with little interest or discussion.

The courtroom component of this model has been described as a "theater in the square" because it differs from the normal adversarial criminal courtroom mode of operation in many respects. First, the Drug Court judge presides over many brief hearings in which he or she engages in conversation directly with the defendant, who is referred to as a participant rather than the former term. These exchanges in conversation refer to the participant's entry into the program, progress throughout the program, needs or concerns, and the participant's graduation or termination from the program.

Participants who decide to enter the program (it is entirely voluntary) are instructed to appear in court on a regular basis to review the status of their progress in the program and their treatment. These periodic reviews may be weekly or as long as three weeks, depending on the participant's status in the program. The Judge and other members of the treatment team, which includes treatment providers, prosecutor, defense counsel, law enforcement, case specialist, create a supportive yet supervised environment for the participants. Incentives are offered such as gift certificates to encourage the participants to remain on the "right track." The Judge also imposes sanctions such as community service,

inpatient treatment or jail to those participants who continue to use or violate the participant rules of Drug Court.

Secondly, the prosecutor and other team members act in unorthodox, non adversarial, supportive and team oriented roles. The prosecutor, in particular shifts between communicating strong encouragement for those participants who are progressing in the program to threatening to reinstate formal prosecution to those who are non-compliant with Drug Court rules. In the Miami model, if the participants successfully completes the program and graduates, the prosecutor moves to have all charges dismissed.

Needless to say, many in the criminal justice system balked at this whole scheme. Some Judges complained that they weren't social workers. Some prosecutors and law enforcement said it was "soft on crime." But when the data began to come in that of those who successfully completed the program, 85% had not reoffended within five years, compared to 65% who had gone the traditional route had reoffended within five years, many of the doubters began to take notice.

The Drug Court movement had been born. Drug Courts began to spring up all over the country as news of how successful the program had been in Dade County. The Federal government finally got on board in the early 1990's and created the Drug Courts Program Office within the Department of Justice that provided Federal grants to start drug court programs and The National Drug Court Institute to provide training.

In the mid 1990's the Drug Courts Program office developed standardized guidelines that have shaped all drug courts since. They are known as The Ten Key Components of Drug Courts. I will not give a complete run down but I will summarize and capsulize the Key components. They are basically a statement of what was utilized in the early years in Miami, with addition to some refinements made both in Miami and at other sites that had begun Drug Courts. Participants are to be identified early as possible in the process, evaluated for eligibility and admitted. The team approach is essential as is judicial supervision. There are to be graduated incentives and sanctions. The participants are to be provided a continuum of alcohol and drug treatment and other rehabilitative services. There should be frequent evaluation of the program to insure continued effectiveness. The program should partner with government agencies and community-based organizations.

The first outgrowth of the Drug Court movement was the creation of juvenile drug courts. This occurred in 1995 in Birmingham, AL, Reno NV, Pensacola FL, Salt Lake City UT and Tulare County CA. These were created because of the successes that had been demonstrated with the adult drug courts and as a response to the increased numbers in juvenile caseloads that involved the use of drugs and alcohol.

Despite the similarities to adult drug court programs, juvenile drug courts faced several challenges not encountered by their adult counterparts. These challenges included

counteracting the negative influences of peers, gangs and family members; addressing the needs of family members, especially families with substance abuse problems; complying with confidentially requirements for juvenile court proceedings while at the same time obtaining information necessary to address the juvenile's problems and progress; and motivating juvenile offenders to change, especially given their sense of invulnerability and lack of maturity. Different strategies had to be developed to meet these kinds of challenges with the juvenile participant.

In 1994, the first Drug Court in Kentucky was established in Louisville and in 1996 the Kentucky Drug Court office was established as an arm of the Administrative Office of the Courts. The Kentucky Drug Court office administers and funds, either through grants or funds from the state budget, all adult drug courts. In most drug courts, there is a Treatment Coordinator and a Case Specialist that are either full or part-time employees of AOC. They are the only paid staff; the rest of the treatment team including the Judge are volunteers who receive no additional pay for their extra duties in operating a drug court.

Most adult drug courts in Kentucky operate as a division of Circuit Court, as to be eligible for drug court in Kentucky, the participant must be charged with a non-violent, non-sexual offender felony. There are at least two examples in Western Kentucky where drug court is handled by the District Court Judges, in the 56th Judicial Circuit (Trigg, Caldwell, Livingston and Lyon) and in the 1st Judicial Circuit (Ballard, Carlisle, Hickman and Fulton.) and they have been given the same powers as a Circuit Judge to operate those programs.

The Kentucky Drug Court Procedure Manual governs the operations of adult drug courts throughout Kentucky; however leeway is given to local courts to add procedures needed to adapt the program to address local needs. The Ten Key Components previously mentioned are the cornerstone of the Manual. The program consists of three phases as well as aftercare and is designed to be completed in not less than one year, although many graduates have taken as long as two years to complete the program. Kentucky's program is generally a post-plea program, meaning that the participant is required to plead guilty and be sentenced and placed on probation. In some instances the participant may be part of a diversion and not be required to plead.

While on phase I the participant must undergo three random urine screens, attend weekly group and individual counseling sessions, either maintain a job or be in school or training, meet all court-ordered financial obligations, attend and document assigned AA/NA meetings and maintain a journal which is submitted to the Court for review. The participant must attend Drug Court weekly.

On Phase II the participant must comply with all the requirements of Phase I, however the number of drug screens will be less frequent and the participant attends Drug

Court every two weeks. The participant is expected to have an AA/NA sponsor, read a book every two weeks and write a report on the same and do one good deed every two weeks.

On Phase III the requirements are the same as Phases I and II, however the number of meetings and counseling sessions are decreased as well as the number and frequency of drug screens. The Phase III participant is expected to begin exit planning and have a relapse prevention plan in place prior to graduation. The Phase III participant attends Drug Court every three weeks.

In 1997, I was contacted about the possibility of starting a juvenile drug court in Christian County by the Kentucky Drug Court office. While at that time I had heard about drug courts, I really did not know much about them or how they operated. That soon changed. We formed a committee comprised of local juvenile justice, law enforcement and treatment people to explore what we needed to form a juvenile drug court.

In 1998, I was sent to the National Drug Court Institute in Washington D.C. to attend the first training session sponsored by the Institute specifically for Juvenile Drug Court Judges. The training was held at Georgetown University School of Law and was very intense. When I completed the training, armed with what I had learned we began planning in earnest. We met during the next two years and put together our procedures and policy manual and all of our rules and regulations that would govern the program. We had to identify who would be responsible for supervision, treatment and oversight.

After much hard work and discussion we implemented the Christian County Juvenile Drug Court on April 1, 2000. Since that time we have successfully graduated almost 100 youth of our community. We have also been able to get treatment for several family members of the juveniles. We receive thanks at most if not all gradations from parents who say they have their child back. Eighty-two percent of those who have graduated our program have not been charged with another offense and have maintained sobriety. Several have completed or attended college. The vast majority have jobs and families. In short, this has proven to be the most successful program in my 28 years of working in the juvenile justice field. In April of 2010 we will celebrate our 10th Anniversary.

I will give one example how our Juvenile Drug Court has been able to impact one juvenile and one family. I could tell many similar stories from the past nine years. Katie came to us a very messed up girl. She was living with her mother, who was and is a substance abuser and who actually allowed Katie to drive to Florida when she was twelve years old while mom and Katie smoked pot and cocaine along the way.

Mary Johnston who is one of our Court Designated Workers, our juvenile intake personnel, very quickly identified Katie as someone who could benefit from juvenile drug court. We were able to have her assessed and brought into Juvenile Drug Court rather quickly. We knew that for Katie to have any chance we would have to get her away from her mother.

Dad obtained custody of Katie and Katie really was resistant in the beginning, because set he boundaries and did not let Katie do whatever she wanted to do. Another bright light in this picture was how her step-mother really stepped up to the plate and gave Katie a lot of love and support. Katie's dad and step-mom never missed one parents' group that we have for parents of our kids in drug court.

We knew from school reports that Katie was struggling academically. We had her assessed for the Christian County Day Treatment Program and got her admitted. Katie began to thrive at home, at Day Treatment and in the community. She completed the highest number of accelerated reader points of anyone in the history of Day Treatment. Her grades shot through the roof and she successfully completed Day Treatment. By the time she graduated from Juvenile Drug Court she had over 200 days clean time, looked like a different person and realized that her mom had used her and was really not her friend. And oh, by the way she never had a sanction while in Juvenile Drug Court. While in after care, Katie called us to let us know that she had made the principal's list the first nine weeks of school...STRAIGHT A's!!!!!! This from a girl who when she came to us was a C-D student at best. She is now planning on attending college and working as a counselor. That is the kind of success story that we rarely get to experience in the justice system.

As a result of our planning in juvenile court, Circuit Judges John Atkins and Edwin White began exploring creating an Adult Drug Court in Christian County. They received a Federal Grant through the Kentucky Drug Court office and attended three implementation trainings in Pensacola FL Lafayette LA and Buffalo NY. We were in Buffalo for that training on September 11, 2001 and got stranded. Thanks to Detectives Stevie Tucker and Chris Miller who picked all of us up in a prisoner transport van we were able to get back to Hopkinsville late on September 12.

The Christian County Adult Drug Court came into being in April of 2002. While I do not have the records that go back to the beginning, I can tell you of some of the successes from 2004 to the present. During that period there have been 85 graduates, 14 drug free babies born, 12 parents that have been reunified with their children, \$54,744.27 in fines fees and cost paid, \$35,117.37 in child support paid and 29 who have obtained their GED.

We have a saying in the Drug Court community; "Drug Courts Work!!!" In fact drug courts have worked so well that many courts have taken the drug court model and created other therapeutic courts such as DUI courts, mental health courts and Family

Drug Courts (one that Judge Jason Fleming is desperately waiting for funding here in Christian County) and Veteran Treatment Courts.

In summary, people from across many disciplines reached across lines and turfs, thought outside the box, and asked the question, “can we do this better and more effectively, more cheaply, incarcerate fewer, get people the treatment that they need and make them taxpayers instead of tax takers.” The answer across the United States, Kentucky, and right here in Christian County has been a resounding “YES!!!!!!!!!!!!!!”