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THE THEORY AND PRACTICE OF DRUG COURTS: WOLVES IN SHEEP
CLOTHING?

by

Kristen E. DeVall

A Dissertation
Submitted to the
Faculty of The Graduate College
in partial fulfillment of the
requirements for the
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Department of Sociology
Dr. Susan Caulfield, Advisor

Western Michigan University
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THE THEORY AND PRACTICE OF DRUG COURTS: WOLVES IN SHEEP CLOTHING?

Kristen E. DeVall, Ph.D.

Western Michigan University, 2008

This dissertation is a case study of an adult drug court in a medium-size Midwestern city. The primary impetus behind the creation of the drug court model was the partial recognition that the “get tough” approach to crime and the “war on drugs” was ineffective in “solving the United States’ drug problem. Drug courts represent an integration of a public-health approach and a public-safety strategy of fighting crime and administering “justice.” The bulk of the extant research regarding drug courts addresses one central question: “Do drug courts work?” Researchers and evaluators alike have attempted to answer this question over the last decade and their results have proved inconclusive. Proponents of the drug court movement assert that drug courts are effective, while opponents have raised additional questions regarding the effectiveness of such programs. The measures of effectiveness most commonly employed include: recidivism, substance use/abuse, treatment retention, quality of life, financial savings, and case flow efficiency.

This dissertation attempts to examine the degree to which drug courts are therapeutic and, therefore, the degree to which they can meet client-participants’ basic human needs. This research makes a unique contribution to the existing literature, as it examines the structure and process of the drug court program itself, as opposed to

focusing on outcome measures of effectiveness. Data collected from four sources (observations of drug court review hearings, interviews with drug court judges, interviews with drug court case managers, and focus groups with drug court client-participants) are analyzed to assess the extent to which the structure and process of the drug court program meet and/or do not meet the basic human needs of client-participants.

The findings of this research suggest that while, in theory, drug courts are designed to meet the basic human needs of client-participants, in practice, the structure and process of drug courts do not meet the basic human needs of all client-participants. Gender differences are highlighted and discussed throughout. A detailed discussion of the findings, implications of this research for drug court personnel and client-participants, limitations of this research, and suggestions for the direction of future research regarding drug courts are presented.

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CHAPTER I

INTRODUCTION

This research is a case study of one adult drug court in a medium-size Midwestern city. The first drug court was implemented in 1989 and, since that time, the number of drug courts across the nation has grown exponentially. The primary impetus behind the creation of the drug court model was a response by criminal justice practitioners to the ever-increasing number of individuals charged with drug-related offenses, the frustration with realization that law enforcement and imprisonment alone were not working to reduce the drug supply or demand, and the partial recognition that the “get tough” approach to crime and the “war on drugs” (as it was being waged) were abysmal failures in “solving” the United States’ drug problem. Drug courts, in essence, represent an integration of a public-health approach and a public-safety strategy of fighting crime and administering “justice.”

The bulk of the extant research regarding drug courts addresses one central question: “Do drug courts work?” Researchers and evaluators alike have attempted to answer this question over the last decade and their results have suggested that drug courts are effective in reducing recidivism (the most often sought after finding). However, opponents continue to question the effectiveness of drug courts, especially in times when federal, state, and local budgets are extremely tight. It should be noted that the focus of

this research is on treatment drug courts, as opposed to courts that focus on expediting the time it takes to process drug cases through the traditional criminal justice system.

This research is an attempt to explore the broad question of whether a seemingly new approach (the drug court movement) can or will produce different outcomes when it operates within the confines of a criminal justice process that is legalistic, hierarchical, rational, and rights-based. More specifically, I explore whether problem-solving courts (read drug courts) can be truly therapeutic. While this research project is not an attempt to validate whether drug courts represent the application of therapeutic jurisprudence *per se*, this research is an attempt to assess whether the drug court process itself promotes rehabilitation by seeking to address the basic human needs of the program participants. This research makes a unique contribution to existing literature, as it examines the structure and process of the drug court program itself, as opposed to focusing on outcome measures of effectiveness.

Data collected from four sources (drug court review hearing observations, interviews with drug court judges, interviews with drug court case managers, and focus groups with drug court participants) are analyzed to determine the extent to which the structure and process of the drug court program meet/do not meet drug court participants' basic human needs. This dissertation project is exploratory in nature. According to Babbie (2005:89) exploratory research "occurs when a researcher examines a new interest or when the subject of study itself is relatively new." Although there is a wealth of existing literature regarding drug courts in general, this study is unique in two ways. First, the focus is on the degree to which the structure and processes of drug courts allow for individual human needs to be met. Second, this research involves the use of focus

groups with client-participants, interviews with judges and case managers, and observations of drug court review hearings. At present, the vast majority of existing research on drug courts is quantitative in nature and seeks to determine whether drug courts are effective in reducing recidivism, effective in reducing substance abuse, and/or provide a cost-beneficial alternative to traditional court processing. Moreover, very few research studies employ the use of qualitative research methods and even fewer incorporate the voice(s) of the client-participants. As a result of the exploratory nature of this dissertation research, the operationalization of key terms and the development of the specific research questions to be addressed in this research evolved over time and were revised throughout the data collection process.

Recent History of the United States' War on Drugs

Richard Nixon was the first President to frame the drug problem in the United States as a political issue, although his rationale for doing so has been extensively questioned. Parenti (2000) phrased his underlying reasoning very succinctly in that "The 'war on drugs' [gave] the Feds the necessary latitude to beef up local policing and rationalize the nation's haphazard and often contradictory patchwork of criminal law" (9). During Nixon's term many of the problems facing the United States were framed as being drug-related. In fact, the use of drugs was framed as a precursor to and/or an accomplice of violent crimes. In addition, Nixon's "law and order" stance promoted a movement away from rehabilitative crime policies, with incarceration promoted as the primary way to deal with the increasing number of violent (read "drug related") offenders.

In the early 1980s, Reagan's "war on drugs" continued the trend toward increased state repression and surveillance. Couched as a war against drugs and violence, Reagan waged a war against the working class. The middle- and upper-classes were not adversely affected by these policies and enjoyed the perks that were associated with higher social class standing (e.g., tax breaks) (Irwin, 2005; Irwin and Austin, 1994; Parenti, 2000; Reiman, 2007). "Reaganomics" increased class and racial polarization, while also destroying social service agencies (e.g., public education, health care), which created a new class of poor individuals in need of being controlled (according to Reagan politics). According to Spitzer (as cited in Parenti, 2000), there are two types of cast off populations that were the targets of Reagan's "war on drugs:" social junk and social dynamite. Whereas social junk are not an active political threat and therefore do not require much in the way of time/energy, social dynamite pose a political challenge and must be constantly undermined, divided, and intimidated. "Controlling them requires both a defensive policy of containment and an aggressive policy of direct attack and active destabilization" (Parenti, 2000:45-46). There were a number of Crime Bills (1984, 1986, 1988-1992) that increased the powers of law enforcement officials and made legislation far more punitive with regard to drug and drug-related offenses.

After over thirty years of fighting this "war on drugs," "it is clear that we cannot arrest our way out of the problem of chronic drug use and drug-driven crime" (Reiman, 2007:42). The dramatic growth in the U.S. prison population is a direct result of a culmination of economic, political, and social policies that have fueled this "war on drugs" since its inception. Not only have we failed to have any meaningful impact on the amount of drugs that are in the United States, but we have also exacerbated the amount of

crime associated with the sale and use of drugs. More than any other social policy in history, the “war on drugs” has contributed to the increased incarceration of African Americans. Specifically, the sentencing of crack cocaine offenders for longer prison terms has resulted in severe racial disparities within prison admissions (Irwin, 2005; Irwin and Austin, 1994; Parenti, 2000; Reiman, 2007).

So, what has caused this crisis? According to Parenti (2000) the “war on drugs” was originated to serve as a method for containing the poor. The traditional approach to fighting this “war on drugs” involves arresting drug dealers and couriers, which has not only failed to reduce the accessibility of drugs, but has dramatically increased the number of people being supervised by federal and state departments of corrections. We continue to cut funding for both treatment and educational programs that have proven effective in reducing substance abuse in order to subsidize the efforts of law enforcement agencies that target drug offenders. A Rand study concluded that, “treatment is the most effective way to reduce violent crime” as opposed to relying on the efforts of law enforcement agencies and the prison industrial complex (Reiman, 2007:45). Nonetheless, given our current political and economic situation, conservatives have continued to further their agenda of crime control, which is based on the philosophies of deterrence, retribution, and incapacitation (e.g., “Three Strikes” laws, mandatory minimums) and grounded in theories of social control. Drug courts, in essence, symbolize an acknowledgement on the part of the criminal justice system that previous attempts at dealing with individuals addicted to drugs and/or alcohol failed to meet the stated goals of reducing drug use in the United States.

Competing Strategies Regarding the Drug Problem

General deterrence is “a goal of criminal sentencing that seeks to inhibit criminal behavior through the fear of punishment” (Schmallegger, 2004:392). The threat of punishment is used to try to convince individuals that the costs of crime outweigh the benefits one might receive. The overall goal of deterrence is the reduction of crime through the fear of punishment. The relationship between the individual and society is similar to that of “teacher and student.” Society fashions sentences in such a way that individuals should rationally refrain from committing certain acts in order to avoid the austere consequences. The sentencing of offenders is designed to exemplify and notify what the consequences will be if other individuals commit similar crimes. There is also specific deterrence, which is designed to inhibit the criminal behavior of the individual who is incarcerated or otherwise under surveillance.

The goal of retribution is to punish the offender and the punishment is viewed as deserved, justified, and necessary given the offender’s behavior. Severe punishment is viewed as necessary because the criminal violates the law and the law upholds certain specific social arrangements in society. The primary sentencing tool for those who believe in the retributive model is that of imprisonment, which is at the forefront of current political policymaking. This philosophy corresponds with the “just deserts” model of sentencing. The relationship between individuals and society within this model is an adversarial one. Offenders are viewed as in need of being held responsible for their actions/crimes, yet no attention is paid to the root cause(s) of the criminal activity. The theory is that this behavior is simply the result of free will/individual choice. Irwin (2005:250) asserted, “In America, according to the dominant ideology, everyone is

responsible for his or her acts, and every act is accomplished by a willful actor.

Consequently, every undesirable, harmful, 'bad' act is the work of a blameful actor." As a result, society is viewed as the party responsible for determining the form of punishment, which is deserved, justified, and required. Furthermore, critics have argued that social policies based on the assumption of free will/individual choice are flawed in that:

Social science should have taught us that all human behavior is only partially a matter of free will and that persons are only partially responsible for their deeds. Everyone's actions are always somewhat influenced or dominated by factors not of one's own making and beyond personal control (with economic situation being the most influential and obvious) (Irwin, 2005:250).

Retributive policies are designed to punish acts that have already been committed, but are not designed to use disproportionate or excessive punishment to deter future criminal behavior. No attempt is made to either change the offender's behavior or acknowledge that there might be structural reasons why a criminal act was committed.

Incapacitation, a form of specific deterrence, involves "locking offenders up and away from community settings" (Zimring and Hawkins, 1995:14). The goal of incapacitation is to protect innocent members of society from offenders who are viewed as having the potential to cause harm. It is argued, by proponents of the incapacitation justification for punishment, preventing specific individuals from committing further crimes is the only way to protect society. Two common sentencing tools utilized by proponents of incapacitation are imprisonment, and capital punishment. The individual is viewed as incapable of abiding by the law and therefore in need of restraint. Society's role is to determine the degree of restraint and mandates the agency (e.g., state Department of Corrections) responsible for supervising the individual during the period

of restraint. According to Zimring and Hawkins (1995:15), “the implicit assumption that criminal offenders are intractable and insusceptible to change serves to justify imprisonment for the purpose of restraint on both moral and practical grounds.”

Inception of the Drug Court Model

As stated earlier, the primary impetus behind the creation of the drug court model was a response by criminal justice practitioners to the ever-increasing number of individuals charged with drug-related offenses, the frustration with realization that the “get tough” approach to crime and the “war on drugs” (as it was being waged) were abysmal failures in “solving” the U.S. drug problem. Earlier efforts at engaging defendants in treatment, such as Treatment Alternatives to Street Crime (TASC) interventions, limited diversion programs, and conditions of pretrial release and probation, were implemented, but these interventions were “often fragmented, inconsistently or inappropriately used or not viewed as sufficiently effective” (Belenko, 1998:5).

Drug court programs have roots in the sentencing philosophy of rehabilitation, which stands in stark contrast with the sentencing philosophies of deterrence, incapacitation, and retribution. Rehabilitation is more humanistic than retribution because rehabilitative policies are designed to facilitate fundamental changes in the behavior of offenders. In rehabilitation individuals work in conjunction with social service agencies to change/improve their behavior. It is believed that these changes will decrease the propensity of offenders to commit future crimes. In so far as the relationship between individual and society is collaborative, “judgments about progress in

rehabilitation programs are supposed to provide the basis for determining when sentences should be terminated in favor of parole to the community” (Zimring and Hawkins, 1995:7). This is important because under the rehabilitative ideal, sentences are fashioned in a way so as to ensure that an offender’s needs are addressed.

Rehabilitation is an attempt to fundamentally change an offender’s behavior. The goal of rehabilitation is “to effect changes in the characters, attitudes, and behavior of convicted offenders, so as to strengthen the social defense against unwarranted behavior, but also to contribute to the welfare and satisfaction of offenders” (Zimring and Hawkins, 1995:8). Educators, psychologists, and drug/alcohol treatment providers are primarily responsible for facilitating these changes in behavior. The belief is that offenders need to make fundamental changes in their lives, whether it is, for example, to seek drug/alcohol treatment or to attain a basic level of education in order to return to a previous law-abiding and socially productive lifestyle (rehabilitation) or to improve their overall quality of life and to adopt, for the first time, a law-abiding and socially productive lifestyle (habilitation). Society’s role in this partnership is to provide access to the necessary resources or to facilitate the changes that are needed while providing support. This sentencing philosophy was implemented with adult offenders in the 1930s and was widely accepted as the preferred response in the 1950s-1960s. However, in the late 1960s and 1970s, rehabilitation lost its popularity due to the movement towards sentencing policies rooted in the ideals of retribution and incapacitation.

During the late 1960s, U.S. capitalism hit a dual social and economic crisis and the criminal justice buildup that is evident today began in response to the social, political, and economic conditions. Essentially the crisis of the times had two fault lines: race and

the Vietnam War. The social fabric of the U.S. was deemed to be falling apart and authority structures were losing power. For example, the police were failing to maintain order and many U.S. cities experienced rioting between 1965 and 1968. Because of the tragedy that was continuing in Vietnam, President Johnson turned his attention (and the attention of the American public) to a war at home...a war against crime (Parenti, 2000).

In the early 1970s, the growing turmoil in the political arena was coupled with economic stagnation and labor strife, which directly threatened American capitalism (Parenti, 2000). At the same time, the Watergate crisis decreased public tolerance for invasive police tactics, and the Drug Enforcement Agency (DEA) was formed. The grave economic situation in the U.S. took center stage and the issues of crime and violence receded into the background. Wages continued to increase during this time despite the fact that revenues and profits were declining. Workers had gained tremendous power during the 1960s and began demanding fair treatment. President Nixon saw that the solution to this situation was to attack the workers. The politicians of the 1960s and 1970s used the issue of crime as a social problem on which to base their campaigns and labeled certain groups (e.g., minorities and the lower-class) as responsible for the increasing crime rate. During this same time, several criminologists conducted studies whose findings were used by policymakers to support furthering their philosophical agendas. As an example, I address the work of Marvin Wolfgang, James Q. Wilson, and Robert Martinson.

Marvin Wolfgang's study "*Delinquency in a Birth Cohort*" (1945-1963) is one of the most influential studies conducted within the last fifty years with regard to thinking about criminal justice policy. Through this research, the profile of the "career criminal"

was developed and subsequent criminal justice policies were based upon the incapacitation ideal. Wolfgang studied 9,945 juveniles born in Philadelphia in 1945 through their 18th birthday in 1963. The most important finding was that a “small percentage [six percent] of delinquents are responsible for a majority of all crimes and for about two-thirds of all violent crimes” (Walker, 1998:60). Wolfgang labeled these individuals as “chronic delinquents” or “career criminals.” The overwhelming percentage of delinquents stopped committing illegal acts relatively early on in their life course, which meant that criminal justice policies that focus on these individuals would not yield a reduction in crime. Criminal justice policies should therefore target “career criminals” because these individuals are responsible for the overwhelming majority of crime that is committed. Moreover, the only way to effectively deal with these individuals is through incapacitating them for long periods of time as opposed to rehabilitating them, which was the approach of policymakers in the 1950s–1960s. One reason why incapacitation was viewed as the most effective way of addressing the crime problem was the belief that “incapacitative imprisonment seems morally appropriate because it singles out blameworthy persons for disadvantageous treatment” (Zimring and Hawkins, 1995:14). Moreover, imprisoning individuals eradicates their ability to commit future crimes and creates the image that society is safe.

There are two serious problems that plagued policymakers and practitioners alike when they attempted to translate Wolfgang’s findings into policies/programs. First, in order to develop a crime policy that targets the small percentage of delinquents who are responsible for the majority of criminal activity, you must first be able to identify the “career criminal.” This is essentially the problem of being able to adequately predict who

will become a “career criminal.” Second, in order to determine how effective and cost-effective this policy is, you must be able to accurately estimate exactly how much crime either treating or imprisoning these delinquents will prevent. In sum, Wolfgang asserted that in order to develop criminal justice policies that will be effective in reducing crime in the United States, we must be able to identify those individuals (“career criminals”) who are responsible for the majority of crime and we must be able to accurately determine how much crime will be prevented by incapacitating them. This task has proven to be daunting and nearly impossible to achieve in the years following the publication of the study.

Beginning in the late 1960s and after Wolfgang’s findings were reported, there was a noticeable movement away from rehabilitative policies and toward policies grounded in incapacitation. Selective incapacitation was touted as being a crime control strategy that was both more crime reducing effective and cost effective, in comparison with rehabilitation. Policymakers used Wolfgang’s findings to support their crime control policies that were based on the principles of selective incapacitation, which was precisely what his research findings suggested.

The decline of the rehabilitative ideal began in the late 1960s and was publicly acknowledged in 1974 when criminologist Robert Martinson released his report on “What Works?” He and his colleagues reviewed evaluations of correctional programs and concluded that most criminal justice programs were inadequately assessed and therefore “with few and isolated exceptions, the rehabilitative efforts that have been reported so far have had no appreciable effect on rehabilitation” (Walker, 1998:205). This conclusion was co-opted to mean, ‘nothing works.’ More substantively, these

results indicated that the correctional community had failed to develop a systematic way in which to evaluate existing programs and therefore incorrectly drew conclusions about their success and/or failure to rehabilitate criminals. Essentially, Martinson's report is a classic example of how social science research is often misinterpreted in the political/policy-making arena (Walker, 1998:205).

In the years following the release of the Martinson report, subsequent studies were conducted to determine whether Martinson was correct in his assertion that very few rehabilitative efforts achieved their stated rehabilitative goals. All in all, the results of these studies demonstrated that Martinson was correct and there is "no convincing evidence [that] exists regarding the effectiveness of correctional treatment" (Walker, 1998:205). Moreover, "certain sentencing and correctional policies, which differ according to the criminalization of the offender, are more likely than their alternatives to reduce recidivism rates" (Walker, 1998:206), which is essentially what Martinson concluded in 1974. While Wolfgang's findings supported the notion of selective incapacitation, Martinson soon followed with his argument that we really do not know if anything works because of the lack of quality evaluations/assessments of these programs.

In his 1975 book, *Thinking About Crime*, James Q. Wilson, like Wolfgang, came out in support of the concept of selective incapacitation, which asserts that locking up high-rate offenders or "career criminals" will have an impact on the exceptionally high crime rate. Specifically, Wilson claimed that, "serious crime could be reduced by one-third if each person convicted of a serious crime received a mandatory three-year prison sentence" (Walker, 1998:125). His argument was premised on the assertion that "we not

only want to reduce crime, we want to see criminals get their ‘just deserts’” (Wilson, 1983:154).

In 1983, Wilson revised *Thinking About Crime* and argued that creating a crime control policy based on the notion of selective incapacitation raises a number of issues. First, is it permissible to allow crime control to be an objective of sentencing policy? He contends that the goal of incapacitation can be achieved through a range of sentences and that “there is no objective way to convert a desire for retribution into a precise sentence” (157). Judges should always have some degree of discretion in order to effectively deal with cases that were not conceived of in advance. Second, are our prediction methods good enough to allow them to influence sentence length? He asserts that absolute certainty is unattainable and that is evidenced by the inability of criminal justice practitioners to accurately predict the future behavior of defendants. Third, should we deal with low-rate offenders who commit serious crimes and high-risk offenders who commit minor crimes differently? Wilson argues, “sentences would have to have legal boundaries set so that the use of selective incapacitation could not lead to perverse sentences” (157-158). Finally, should certain pervasive factors (e.g., race, prior criminal history, drug/alcohol addiction, unemployment history) be used as the basis for making predictions and thus affecting sentences?

All in all, Wilson contends that the goals of selective incapacitation and just deserts can be achieved both efficiently and effectively because:

An advantage of selective incapacitation is that it can be accomplished without a great increase (or perhaps any increases) in the use of prisons. It is a way of allocating more rationally the existing stock of prison cells to produce, within the constraints of just deserts, greater crime-control benefits. Many offenders—indeed most offenders—would probably have their sentences shortened, and the

space thereby would be allocated to the small number of high-rate offenders (158).

Despite the perceived advantages of this sentencing philosophy, it has not materialized as Wilson anticipated. In so far as criminal justice policy has been theoretically based on the premise of selective incapacitation, the foundation is actually rooted in the notion of gross incapacitation. According to Zimring and Hawkins (1995), the decline of the rehabilitative ideal happened over a relatively short period of time and was not grounded on any new empirical findings that demonstrated incapacitation was more effective in reducing crime. Interestingly, both liberals and conservatives alike were disillusioned with the rehabilitative policies during the 1950s and 1960s and were united in their efforts to replace this policy.

Since this time, researchers (Cullen, 2005; Cullen and Gendreau, 2001; Gendreau and Ross, 1987; Seiter and Kadula, 2003; Taxman, 1999; Wormith, Althouse, Simpson, Ratzel, Fagen, and Morgan, 2007) have concluded that some programs or interventions are successful in reducing crime and recidivism rates, and therefore do work. Reiman (2007:44) reports:

Among the programs that appear effective in reducing crime...family therapy and parent training for delinquent and at-risk adolescents; teaching of social competency skills in schools, and coaching of high-risk youth in 'thinking skills'; vocational training for older male ex-offenders; ...rehabilitation programs with risk-focused treatments for convicted offenders; and therapeutic community treatment for drug-using offenders in prisons.

Drug Court Program Expansion and Support

Drug courts have grown exponentially since their inception in 1989 in Dade County, Florida (Drug Court Clearinghouse and Technical Assistance Project, 1998:1).

In 1989 and 1990 there was only one drug court operating within the United States. However, five years later in 1995, there were 75 drug courts operating within the United States and that number increased to 665 by the year 2000. Finally, as of December 7, 2007 there were 1,786 drug courts operating within the United States (Bureau of Justice Assistance, 2007).

The drug court movement has, in general, received support from the federal government. The Attorney General has been able to give grants to states, state courts, local courts, units of local government, and Indian tribal governments to establish drug courts under Title V of the Violent Crime Control and Law Enforcement Act of 1994 [P.L., 103-322] (Roberts, Brophy, & Cooper, 1997:1). In 1998, President Clinton earmarked \$27 million in continued support for the drug court movement, and then in 1999, Congress appropriated \$40 million for drug court grants to be utilized for planning, implementation, and enhancement (Senjo & Leip, 2001:66). Moreover, additional funding to expand existing programs or to plan the creation of new programs in the amount of \$14 million was distributed to 147 jurisdictions for fiscal year 1999 (Office of Justice Programs, 1999:1).

What are Drug Courts?

Drug courts in essence represent an integration of a public-health approach and a public-safety strategy for fighting crime and administering “justice.” Marlowe (2003:4) argues that drug courts “[combine] community-based drug abuse treatment with ongoing criminal justice supervision.” Moreover, Senjo and Leip (2001:68) assert that drug courts are “specialized criminal court[s] that streamline drug cases away from traditional

processing and punishment into an intensive drug treatment program.” According to the National Drug Court Institute:

Drug courts represent the coordinated efforts of the judiciary, prosecution, defense bar, probation, law enforcement, mental health, social service, and treatment communities to actively and forcefully intervene and break the cycle of substance abuse, addiction, and crime. As an alternative to less effective interventions, drug courts quickly identify substance abusing offenders and place them under strict court monitoring and community supervision, coupled with effective, long-term treatment services (National Drug Court Institute, 2000).

While no two characterizations of the drug court model are identical, academics, researchers, and practitioners agree that drug courts are palpably different from the traditional model of criminal justice.

As is seen in Table 1, Warren (as cited in Hora, 2002:1482) underscores how the traditional and drug court models of criminal justice are theoretically supposed to function and discusses meaningful comparisons between the two. On one end of the continuum is the traditional model of criminal justice, which is often characterized as legalistic and designed in such a way that pits individual stakeholders/participants (e.g., the State, defendant, prosecuting attorney, defense attorney) against one another within an adversarial process. Cases are argued in a formal courtroom and there is very little discourse between the parties. Given that the judge is viewed as the final arbiter, the dialogue exchanged within the traditional court occurs between the judge and one of the stakeholders/parties (as opposed to between the two parties). The formal nature and ordering of the discourse is highly routinized and precedent sets the norms/standards for appropriate courtroom etiquette.

On the other end of the continuum is the drug court model, which is characterized as a needs-based, collaborative, and therapeutic process that incorporates the knowledge

and experience of multiple stakeholders/participants. While the discourse between these various parties takes place within a courtroom, the atmosphere is less formal than a traditional courtroom and is guided by the judge who is viewed as a facilitator and/or coach.

Table 1: Traditional Model versus Drug Court Model

Traditional Model	Drug Court Model
Dispute resolution	Problem-solving dispute avoidance
Legal outcome	Therapeutic outcome
Adversarial process	Collaborative process
Claim- or case-oriented	People-oriented
Rights-based	Interest-or needs-based
Emphasis placed on adjudication	Emphasis placed on post-adjudication and alternative dispute resolution
Interpretation and application of the law	Interpretation and application of social science
Judge as arbiter	Judge as coach
Backward looking	Forward looking
Precedent-based	Planning-based
Few participants and stakeholders	Wide range of participants and stakeholders
Individualistic	Inter-dependent
Legalistic	Commonsensical
Formal	Informal
Efficient	Effective

Within the extant literature focusing on drug courts, there appears to be general agreement between academicians, researchers, and practitioners regarding what constitutes a “drug court.” Furthermore, while no two drug courts are exactly alike, the fundamental process and structural characteristics are reflective of several key components. A detailed synopsis of the distinguishing structural characteristics of the drug court model follows.

Ten Key Components of Drug Courts

In general, drug courts are designed to be more holistic than traditional courts, hence they depend on the collaboration between several organizations, including treatment, criminal justice agencies, social service agencies, and the courts. With this collaboration and mutual effort, participants receive referrals deemed more appropriate as they are specific to individual needs (McGee, Parnham, Morrigan, & Smith, 1998:13). While no two drug courts are identical, researchers (Goldkamp, 2000; Hora, 2002; Huddleston, Freeman-Wilson, & Boone, 2004; Listwan, et al, 2003; Marlowe, 2002; Senjo & Leip, 2001; Simmons, 2000; Taxman, 1999) have identified ten key components of the drug court model that are integral to the structure and process of all drug courts. What follows is a detailed synopsis of these ten key components.

The first key component is *the integration of alcohol/drug treatment services with comprehensive criminal justice system case management*. Drug courts emphasize the needs of substance abusing defendants and are based on the premise that individuals are less likely to recidivate if their substance abuse problems are addressed.

The second key component is the *balancing of due process and community safety through a non-adversarial approach*. Key to the drug court model is the dramatic change in roles traditionally held by the judge, prosecutor, defense attorney, and treatment providers. Specifically, there is an on-going personal interaction between participants and the presiding judge. Furthermore, the formal procedures that guide the drug court process are fundamentally different. Within the drug court model the court personnel (i.e., judge, prosecutor, and defense attorney) work closely with treatment providers to develop and maintain comprehensive individualized care plans, addressing needs around

substance abuse, mental health issues, job placement, educational attainment, and housing.

The third key component is *early identification and screening of eligible participants*, which will allow for enrollment in the program at the appropriate stage of the criminal justice process. The court must define the target population(s) and eligibility criteria (e.g., violent offenders and offenders charged with delivery or manufacturing a controlled substance are excluded) must be clearly outlined and agreed upon by the practitioners involved in the supervision/treatment process. Moreover, given that all participants must have access to a continuum of care for alcohol/drug dependency, mental health, and other treatment/rehabilitation needs, attention must be paid to the number of participants that can be brought into the drug court.

The fourth key component requires that *drug court personnel must establish a coordination of services between criminal justice agencies, court personnel, treatment providers, and mental health practitioners that goes beyond the integration of alcohol and/or drug treatment services*. Establishing collaborative linkages between criminal justice practitioners and community treatment providers is vital to meeting the needs of drug court participants and the criminal justice system. Wenzel, Turner, and Ridgely (2004) detail eleven characteristics that define “collaborative linkages,” which are integral to the efficiency and effectiveness of the drug court model. These include: “(4) documentation of relationships (e.g., written agreements [between agencies]);...(6) joint planning of client service goals;...(9) mutual sensitivity to concerns of the other agency or program; (10) sharing of information about clients” (256).

The fifth key component requires that *frequent alcohol/drug testing be employed to ensure abstinence and compliance with program rules/regulations*. Key to the drug court model is participant accountability. Drug testing, counseling sessions, and case management appointments are measures of accountability typically employed by drug courts. Depending upon the identified target population and the needs of participants, courts must develop “incentives to encourage positive participation within the treatment process and [also have to develop] disincentives to discourage poor performance” (Goldkamp, 2000:7). Incentives can take a variety of forms: 1) advancement into the next phase of the process, 2) increased privileges, and 3) decreased frequency of case management appointments. Disincentives or sanctions can include: 1) short-term incarceration, 2) decreased privileges, 3) increased frequency of case management appointments, and 4) demotion to a previous phase of the process.

The sixth key component is the *utilization of a continuum of rewards and sanctions to respond to compliance and non-compliance with program rules/regulations*. Drug court personnel recognize that “structure without support feels punitive and support without structure is enabling” (Hora, 2002:1476). Therefore, striking a truly therapeutic balance between rewards and sanctions is vital to maintaining the integrity of the program and participants’ recovery.

The seventh key component highlights the importance of *discourse involving each individual participant and the judge*, which is one of the hallmark features of drug courts. It is believed that both the participant and the judge benefit psychologically and emotionally from frequent and on-going interactions with one another. Communication increases the degree to which participants and the judge become invested in the process.

The eighth key component requires that jurisdictions *utilize monitoring and evaluation efforts* to determine program effectiveness and whether or not program goals have been met. The results of on-going evaluation efforts should be utilized to highlight the strengths of a program, as well as to identify places where change is necessary and/or warranted.

The ninth key component asserts that in order to make improvements to the structure and process of the drug court model, *drug court personnel should remain engaged in inter-disciplinary education*. As stated earlier, drug courts represent the integration of a public-health approach and a public-safety strategy for fighting crime and administering “justice” and in order to be effective at meeting these stated goals, personnel should be knowledgeable about the state of the disciplines (e.g., biology, neurology, psychology, substance abuse, sociology, criminology) that comprise this public-health/public-safety approach.

The tenth key component includes *establishing and maintaining partnerships between the court, treatment providers, local community, and key social service agencies*. It is believed that the strength of these partnerships is vital to maintaining the integrity of program theory and to the overall sustainability of the program. In order for drug courts to operate efficiently and effectively, there must be institutionalized support for the overall process.

Description of the Process

While all treatment drug courts in the United States are structurally based on the 10 key components described above, the process by which these drug courts operate takes

on a wide variety of forms. What follows is a description of the drug court referral process and the program structure in operation within the X County Drug Court Program located in a medium-size Midwestern city. Eligible participants enter the drug court program in one of four ways: 1) as a diversion participant, 2) as a condition of the original probation sentence, 3) as a condition of a probation violation sentence, or 4) as a condition of release from prison.

Diversion participants are referred to the drug court program by the Office of the Prosecuting Attorney (OPA). The OPA reviews all warrant requests and selects individuals eligible for the program based upon the pending charges and their criminal history/record (see pages 34-36 for eligibility criteria). Once eligibility is determined, drug court program staff must then meet with a potential participant to discuss the program requirements and determine whether s/he has a substance abuse problem. Potential participants acknowledging a substance abuse problem and agreeing to participate in the program enter a guilty plea on the pending charge(s) and are admitted into the drug court program. Potential participants who either deny having a substance abuse problem or refuse to participate in the program are denied admittance to the drug court program.

Participants sentenced to the X County Drug Court Program as a condition of their original probation sentence, probation violation sentence, or release on parole, are referred by the supervising probation/parole officer. The probation/parole officer and drug court staff members discuss each case to determine whether the individual is eligible and appropriate to participate in the program. It should be noted that participants sentenced to the program do not have the option of refusing to participate.

X County's drug court program is comprised of three phases and continues for a minimum of fifteen months. Participants in the X County Drug Court Program must successfully complete all three phases in order to graduate from the program.

Participants enter the program in phase one, which is a minimum of three months (ninety days) in length. While in Phase One participants must do the following: submit to urine screens a minimum of three times per week, meet with a drug court case manager on a bi-weekly basis, attend a 12-step orientation class, attend a minimum of three 12-step meetings per week, attend family orientation, attend treatment as recommended by the treatment provider, follow-up with any referrals for specialized treatment (if recommended), attend bi-weekly court review sessions, and obtain a sponsor. Upon successful completion of Phase One, participants transition to Phase Two.

Phase Two lasts a minimum of six months and consists of the following program requirements: submit to urine screens a minimum of two times per week, obtain full-time employment or school enrollment, meet with a drug court case manager on a monthly basis, attend aftercare treatment (if appropriate), attend a minimum of three 12-step meetings per week, attend bi-weekly court review sessions (until employed and/or in school full-time), begin making regular payments toward restitution (if applicable) and drug court fees, and obtain a high school diploma/general equivalency degree (GED). Upon successful completion of Phase Two, participants transition to Phase Three.

Phase Three lasts a minimum of three months and consists of essentially the same program requirements as does Phase Two. The only differences between phases two and three are that all Phase Three participants are employed and/or attending school at least 30 hours per week and have obtained their high school diploma/GED. Moreover, Phase

Three participants must submit to urine screens at least one time per week. During the term of enrollment, participants are rewarded for complying with the program requirements and are sanctioned for displaying non-compliant behavior. For a detailed breakdown of the reward/sanction chart that is utilized within the X County Drug Court Program, see Appendix C.

Eligibility Criteria

Due to the focus of drug courts, it is suggested that this process is not appropriate for all individuals charged with criminal activity. Therefore, jurisdictions with drug courts must determine who is most appropriate for participation in the process.

According to Rossman, Butts, Roman, DeStefano, and White (2004):

Partly because of federal funding requirements, eligibility policies often exclude offenders charged with violent or other serious crimes. Some offenders are excluded because of their extensive criminal histories or the severity of pending charges. Eligibility standards vary, however, reflecting local estimates of public tolerance for community-based treatment of drug offenders (64).

What follows is a listing of the eligibility criteria for X County's drug court program.

This particular drug court was established in the early 1990s and the criteria have evolved over time to meet the needs of the local community and its' residents. According to the X County Drug Court Policy and Procedure Manual, in general "The target populations for the [X County Drug Treatment Court Program]...include substance-abusing adults charged with non-violent felony offenses, and Circuit Court probationers and parolees who have been placed in the program as a condition of probation or due to a probation/parole violation." More specifically, eligible individuals must meet the following criteria:

Table 2: X County Drug Court Program Eligibility Criteria

County resident (male or female) or reside in a county contiguous to _____ and work in _____ County
No previous diversion program participation
No pattern of violent behavior
No previous violent or assaultive felony conviction
No more than one prior Assault and Battery conviction and not currently under sentence
No more than one prior Domestic Violence conviction and not currently under sentence
No criminal record indicating history of drug delivery
No more than five prior felony convictions
No violence at the time of arrest
No weapons at the time of arrest
No weapon used during offense
Crime is not a violation of public trust
Probable cause exists to charge eligible offense

In addition, the Prosecuting Attorney in X County has determined that individuals committing the following crimes are most appropriate for drug court:

- Altering or Forging Certificate of Title, Registration Certificate or Registration Plate crimes
- Auto Theft crimes
- Breaking and Entering of Building (excluding all Home Invasions)
- Check crimes
- Credit Card crimes
- Drug Offenses (Excluding all Deliveries, Possession with Intent to Deliver, and Possession of 50 grams or more)
- Embezzlement crimes
- Theft offenses
- Malicious Destruction of Property crimes
- Prostitution/Pandering crimes

Participants sentenced to the program as a condition of their sentence, probation violation sentence, or release on parole must meet the following criteria: 1) “admit or present

evidence of addiction”, 2) “be physically/mentally capable of meeting program requirements”, and 3) “the instant offense or his/her criminal history cannot be ‘violent’ as defined by the 2005 Drug Treatment Courts Act” (X County’s Policy and Procedure Manual, 2007).

As one can see, the list of eligibility criteria excludes a large percentage of individuals who might possibly benefit from the drug court process. With that said, professionals in the field also recognize and acknowledge that parameters must be established and adhered to in order to maintain the integrity of the program. For example, Peters and Peyton (1998) assert that:

Program eligibility requirements should be written, clearly defined, and reviewed by all drug court staff. Once developed, eligibility criteria are sometimes translated into checklists for use by various screening staff. Drug courts that receive federal funding through the U.S. Department of Justice, Drug Courts Program Office, are also prohibited from admitting violent offenders. (Section 2201 of the Omnibus Crime Control and Safe Streets Act, 42 U.S.C. 3796ii). Eligibility criteria may also restrict admission of persons who have characteristics that may inhibit their successful involvement in a drug court program, such as infectious disease or active mental health symptoms (9).

Consequently, with the existing statutory restrictions as to who is/is not eligible to participate, it is readily apparent that drug courts were designed to serve a specific segment of the population.

Goals of Drug Courts

There are two overarching goals that the drug court model purports to achieve and these goals are directly related to the characteristics of the drug court model described above. First and foremost, the nature of the drug court model seeks to break the cycle of

dependence upon drugs and/or alcohol, as well as eliminate the accompanying criminal activity. According to Hora, Schma, and Rosenthal (1999:461):

DTCs [Drug Treatment Courts] view drug offenders through a different lens than the standard court system. In approaching the problem of drug offenders from a therapeutic, medicinal perspective, substance abuse is seen not so much as a moral failure, but as a condition requiring therapeutic remedies. As opposed to using the traditional criminal justice paradigm, in which drug abuse is understood as a willful choice made by an offender capable of choosing between right and wrong, DTCs shift the paradigm in order to treat drug abuse as a "biopsychosocial disease."

Brown (1997:84), in differentiating the goals related to the treatment aspect of drug courts and the goals of the criminal justice system states that:

The most important [treatment] goals are: to improve the rate of abstinence among drug abusers compared with traditional approaches; to improve the capabilities of drug court clients to function in society; to create the situation in which when relapses occur, they occur with less frequency and with longer periods of sobriety; and, to provide clients with employment, education, and life skills.

Second, drug courts are touted as a much more cost-effective alternative to traditional court processing, which has involved the use of probation, alternative sanctions (e.g., electronic monitoring, community-based sanctions) and incarceration in jails and prisons. Opponents argue that drug courts are not only ineffective in breaking the cycle of addiction and recidivism, but they actually cost taxpayers more money as compared with traditional court processing. The preliminary empirical data to date suggest that drug courts are cost effective and do result in financial savings. Cooper (2003:1691-1692) stated that

Drug courts are continuing to report significant justice system savings, particularly in the use of jail space and probation services but in other areas as well. Drug courts are increasingly reporting savings in costs and resource use, particularly in the more efficient use of jail space and probation services, which frees up these resources to focus on other offenders who present greater public safety risks.

In order to measure whether or not drug courts are meeting their stated goals, it is imperative that evaluations are conducted by researchers skilled within the evaluation field. However, evaluations based upon the principles of scientific rigor have only been conducted with any regularity within the past 8-10 years. In the early years following the advent of the drug court model, assessments and evaluations of drug courts were based upon anecdotal conjecture rather than empirical evidence (Belenko, 2002; Cooper, 2003; Fischer, 2003; Harrison and Scarpitti, 2002; Marlowe, 2002, 2003; Nolan, 2001).

Taking that into consideration, much of the research focusing on the effectiveness, or lack thereof, of drug courts has been conducted and published since approximately 1998. While there is an abundance of literature within this area, the findings of these studies are mixed. This has led to a great divide among interested academics, researchers, and practitioners as to what indicators are appropriate and most important for measuring success and therefore whether or not drug courts, as a whole, are effective. Despite the fact that drug courts have been described as the “most significant criminal justice initiative in the last century” (Huddleston, Freeman-Wilson, & Boone, 2004:1), this model possesses both strengths and limitations. Chapter Two presents a review of the empirical literature focusing on the effectiveness of drug courts.

CHAPTER II

LITERATURE REVIEW

The bulk of the research regarding drug courts addresses one central question: “Do drug courts work?” Researchers and evaluators alike have attempted to answer this question over the last decade and, as a result, there is a plethora of literature to draw upon. What follows is a review of the empirical literature regarding the effectiveness of drug courts in the United States. This discussion is organized by the measures of success and/or effectiveness that have been employed by evaluators and researchers. Within each section, the empirical articles reviewed are organized by the research design employed by the author(s) in order to facilitate a fair comparison of research findings/conclusions. Moreover, for each study discussed, a brief summary of the nature of the program being studied/evaluated is provided, so as to give the reader a meaningful context within which to interpret the findings/conclusions. Furthermore, the various limitations associated with each of these measures are addressed. In addition to the empirical research that examines the effectiveness of drug courts, there is a significant body of non-empirical literature that examines more general questions about the overall utility of drug courts. Some researchers address areas where drug courts could improve outcomes, while others suggest that drug courts be abandoned altogether. Even though this research is not based upon empirical evidence, it does warrant discussion. Finally, the questions that, at present, have yet to be addressed or remain unanswered are identified.

Effectiveness of Drug Courts

The principal question proponents and opponents of drug courts strive to answer is whether drug courts are effective in meeting their stated goals. There is a vast amount of literature that attempts to answer this question and overall the results are mixed; some researchers have concluded that drug courts are effective, while others have concluded that drug courts are not effective. While there seems to be some degree of general consensus among researchers and evaluators concerning how to measure the effectiveness of drug courts, there is a definite lack of uniformity in the specific operationalized measures of effectiveness employed by researchers and evaluators. The specific measures to be discussed include: recidivism, substance use/abuse, treatment retention, quality of life, employment, cost-benefit, and case flow efficiency.

Recidivism

The most cited measure of drug court effectiveness is whether or not participants show a decrease in criminal recidivism. The Criminal Justice Policy Council (1996) states that recidivism can be measured by “determining the percentage of offenders released from prison or placed under community supervision who are re-arrested or re-incarcerated after 1, 2, or 3 years” (1). However, researchers and evaluators have utilized variations of this measure, so there is a lack of consistency within the existing literature in the way “recidivism” has been defined.

The following discussion is organized into three segments: quasi-experimental research, experimental research, and non-empirical research. The majority of quasi-experimental/non-equivalent control group design articles reviewed (Bavon, 2001; Dynia and Sung, 2000; Fielding, Tye, Ogawa, Imam, and Long, 2002; Johnson, Formichella,

and Bowers, 1998; Peters and Murrin, 2000; Peters, Haas, and Hunt, 2001; Rodriguez and Webb, 2004; Spohn, Piper, Martin, and Frenzel, 2001; Stageberg, Wilson, and Moore, 2001; and Vito and Tewksbury, 1998) conclude that drug courts are effective in reducing recidivism rates.

Bavon (2001) evaluated the Tarrant County, Texas drug court program, which is designed for individuals charged with “possession of less than three grams of controlled substance, or possession of more than 4 oz. but less than 1 lb. of marijuana, or obtaining or attempting to obtain a controlled substance by fraud” (14). Eligible participants volunteered to participate in the 12-month program. Additional information regarding the specific nature of the program and what benefits participants received in exchange for successfully completing the program were not provided.

Comparisons were made between drug court graduates (experimental group) and two control groups: drug court participants who dropped out of the program and those individuals who refused to participate in the drug court program. The research findings focus on the differences found between the drug court graduates and drug court drop-outs in terms of recidivism (as measured by re-arrest rates, bookings, the number of jail/prison days served, and the length of time to arrest). More specifically, Bavon (2001:18) concluded that:

14.4% [of the total sample] were arrested and charged with a crime within one year after graduating or dropping out of the [drug court] program...The majority of all recidivists (55%) were re-arrested for drug/alcohol related offenses...the recidivism rate for [drug court participants] is 12.7% and the recidivism rate for the comparison group is 16.8% [those who refused to participate].

Moreover, 2.8% of drug court graduates recidivated, whereas 21.2% of drop-outs recidivated. Substantively these results suggest that drug court graduates are the least

likely to recidivate and as the length of time spent enrolled in the program increases, the likelihood of recidivating decreases.

Despite her conclusion that drug court graduates were less likely to be re-arrested than were control group members (those who dropped out of the drug court program and those who did not participate in drug court), Bavon did find that, on average, it took drug court participants²⁸ 5.3 months to recidivate, whereas it took control group members, on average, 8.2 months to recidivate (18). Therefore, while drug court graduates were overall less likely to be re-arrested, those who were re-arrested were re-arrested more quickly than were their control group counterparts.

Dynia and Sung (2000) evaluated the Drug Treatment Alternative-to-Prison program in Brooklyn, NY, which targets prison-bound offenders, who are either drug addicted property offenders or were arrested after the police observed them selling drugs. Participation is voluntary and participants' prison sentences are deferred to allow them to enter into residential treatment, which lasts between 15 and 24 months. Additional information regarding the specific nature of the program and what benefits participants received in exchange for successfully completing the program were not provided.

Comparisons were made between drug court graduates (experimental group) and two control groups: non-graduates and non-participants (those who either opted out or were rejected during the screening process). Participants who opted out of the program either did not want to commit to a long-term treatment program or refused to admit guilt. Participants rejected from the program either "did not have verifiable community ties or their cases were not likely to be prosecuted as a felony [and thus were rejected by the

²⁸ When discussing drug court participants, Bavon (2000) did not distinguish between drug court graduates and non-graduates. This could explain why the time it took for this group to recidivate was less than that of the control group.

District Attorney's office]" (303). Recidivism was operationalized as any arrest in the three years following program completion (experimental group) or sentence completion/release from prison (control groups).

Findings indicate that drug court graduates fared better than both non-graduates and non-participants with regard to recidivism rates. After the completion of the three-year follow-up period, "23% of drug court graduates had been re-arrested, as compared with 47% of non-participants and 52% of non-graduates" (307). More specifically, among those who were re-arrested, 48% of drug court graduates, as compared with 65% of non-participants and 67% of non-graduates were arrested for a drug related offense ($p < .10$). Substantively these results suggest that, after three years, non-graduates and non-participants are re-arrested more often than are drug court graduates.

Fielding, Tye, Ogawa, Imam, and Long (2002) evaluated four drug court programs in Los Angeles County, California. These drug court programs target non-violent, felony drug offenders charged with possession of narcotics or of a controlled substance. Participation in the 12-month program is voluntary and participants successfully completing the program will have their charges dismissed. The program consists of four phases: trial phase (2 weeks); assessment, stabilization, and treatment phase; intensive treatment phase; and the transition phase. Additional information regarding the program structure and process were not provided in the article.

Comparisons were made between drug court participants (experimental group) and two control groups: "defendants charged with felony possession, but who participated in Penal Code (PC) 1000 drug diversion education and defendants who went to trial" (219). Diversion participants have been charged with violating certain drug

laws, have entered a plea of guilt, and must attend a 20-week educational and rehabilitation course. Participants successfully completing the program will have their charges dismissed.

Within each of these three groups, individuals were categorized as either low-, medium-, or high-risk based upon the outcome of a risk/needs assessment which was conducted at intake. In the one year following program completion or discharge, recidivism was measured in two ways: 1) any arrest and, 2) any drug-related arrest. Findings for both measures of recidivism indicate that medium- and high-risk drug court participants had significantly lower rates of re-arrest, as compared with their counterparts in the control groups ($p < .001$). However, low-risk drug court participants' rates of re-arrest were not significantly different from their low-risk counterparts in the control groups.

Johnson, Formichella, and Bowers (1998) evaluated the Mobile, Alabama drug court program, which targets non-violent felony drug offenders charged with possession of a controlled substance (excluding drug trafficking). Participation in the 12-month program is voluntary and participants successfully completing the program will have their charges dismissed. The program consists of three phases: assessment and evaluation (approximately 2 weeks in length); intensive outpatient treatment (14 weeks in length); and transition and aftercare (8 months in length). Additional information regarding the program structure and process were not provided in the article.

Comparisons were made between three groups: 1) drug court graduates; 2) drug court failures; and 3) non-participants (control group). Members of the control group were referred to the drug court for assessment, but did not enroll in the program (reasons

as to why were not provided). Recidivism was operationalized as any arrest in the eighteen months following program completion (either drug court or traditional probation).

The researchers compared the recidivism rates of drug court graduates, drug court failures, and non-participants (control group). All in all, drug court participants had a lower percentage of arrests than did the drug court failures and the control group. 74.8% of graduates had no arrests ($p = .001$), whereas 23.5% had 1-3 arrests, and 1.6% had 4-6 arrests. 4.0% of drug court failures had no arrests ($p < .001$), 64.3% had 1-3 arrests, and 19.7% had 4-6 arrests. 17.5% of control group members had no arrests, 67.2% had 1-3 arrests, and 10.7% had 4-6 arrests. Moreover, at the eighteen month follow-up, 29.0% of drug court graduates ($p < .001$), 79.9% of control group members, and 89.7% of drug court failures had been re-arrested ($p < .01$). Substantively, these findings suggest that the re-arrest rates for drug court graduates are much lower than for drug court failures and control group members alike.

Peters and Murrin (2000) evaluated two Florida drug court programs (Escambia and Okaloosa counties), which target “non-violent offenders [e.g., drug and property offenses] who have a history of drug involvement and a history of limited criminal justice involvement” (75). The Escambia drug court program includes un-sentenced (post-plea) and sentenced participants, while the Okaloosa drug court program only includes un-sentenced participants. The program is 12 months in length and is comprised of three phases. Additional information regarding the program structure and process were not provided in the article.

Recidivism rates for drug court graduates, participants who did not graduate, and a control group (comprised of individuals charged with drug-related crimes and sentenced to probation) were compared to determine the effectiveness of the two programs. Drug court participants were matched with a member of the control group based upon demographic characteristics (e.g., county of residence, race/ethnicity, gender, and offense type) to ensure²⁹ that the groups were comparable. Recidivism was operationalized as an arrest during the term of program enrollment (average of 12 months) and an 18-month post-discharge follow-up period.

Peters and Murrin (2000:82-83) found that in Escambia, 48% of graduates, 86% of drug court failures, and 63% of control group members were arrested within the 30-month evaluation period (findings are statistically significant at the .001 level of significance). Similar findings were found in Okaloosa in that 26% of graduates, 63% of drug court failures, and 55% of control group members (findings are statistically significant at the .01 level of significance) were arrested within the 30-month evaluation period. Furthermore, drug court participants took a statistically significantly longer time to be re-arrested than did drug court failures and control group members. More specifically, drug court failures were arrested sooner (average of 494 days in Okaloosa and 299 days in Escambia) than were control group members (average of 587 days in Okaloosa and 547 days in Escambia) and drug court graduates (average of 790 days in Okaloosa and 682 in Escambia). All results are significant at the .001 level of significance.

²⁹ While this is the language used in the article, it is important to note that matching experimental and control group members based upon demographic variables alone does not guarantee comparability.

Using the same data as above, Peters, Haas, and Hunt (2001) concluded that the rates of re-arrest for drug court failures improved as the length of involvement in drug court increased. More specifically, at the 30-month follow-up 42.0% of drug court graduates had been arrested, whereas 74.2% of drug court failures who were enrolled in the drug court program for more than 271 days had been re-arrested. 88.0% of drug court failures with between 181-270 days enrolled had been re-arrested, as had 81.8% of failures enrolled for between 91-180 days and 80.6% of failures enrolled for 0-90 days (69). Therefore, participants who failed drug court, but were enrolled in the program for more than 270 days were less likely to recidivate than were participants enrolled in the program for a fewer number of days.

Spohn, Piper, Martin, and Frenzel (2001) studied the Douglas County (Omaha), Nebraska drug court, which is a 12-18 month diversion program. Participants may not have more than one non-violent felony conviction, demonstrate a need for treatment, and score out at a medium/high risk/need level on the Level of Service Inventory (LSI). Participants successfully completing the program will have their charges dismissed. Additional information regarding the program structure and process were not provided in the article.

Comparisons were made across three groups: drug court participants; drug offenders assigned to a diversion program which was in place prior to the inception of the drug court; and drug offenders processed through the traditional court. Recidivism was operationalized twelve ways. However, for the sake of comparison only, one of those measures; whether the individual was “arrested for a misdemeanor or felony during the 12-month follow-up period” (159) will be presented here. The findings suggest that drug

court participants did statistically significantly better than non-participants, but did not fare as well as diversion participants ($p < .05$). These findings should be interpreted with caution as the differences between drug court participants and diversion participants may be a function of the differences in risk/need level. “Unlike the diversion program participants who were only determined to be low risk offenders, drug court clients were either medium- or high-risk offenders; they also had a demonstrated need for substance abuse treatment” (171).

Vito and Tewksbury (1998) evaluated the Jefferson County, Kentucky drug court, which is designed to “divert first-time drug possession offenders into a...treatment program” (46). More specific eligibility requirements include: participants must be 18 years of age, preference is given to possession of cocaine cases (trafficking cases are considered after possession cases); only Jefferson County cases are accepted; lead arresting officer must give approval for participant to enroll; and “the prosecutor may include or exclude clients for program consideration based upon extenuating circumstances” (47-48). Participation in the 12-month (minimum) program is voluntary. The program is comprised of three phases: detoxification (minimum of 10 working days); stabilization (minimum of 108 days); and aftercare (6 months minimum). Additional information regarding the program structure and process were not provided in the article.

Comparisons were made between drug court graduates, drug court failures, and those individuals who were screened for the drug court program, but opted not to participate (control group). Recidivism was measured as “reconviction for a felony or a probation violation for a new felony” (6). The findings demonstrate that drug court graduates fare better than both non-graduates and the control group with regard to

recidivism. 13.2% of drug court participants were reconvicted, whereas 55.4% of the control group and 59.5% of drug court non-graduates were reconvicted. Similar to the findings of Johnson, Formichella, and Bowers (1998), Vito and Tewksbury (1998) concluded that drug court failures fared worse than drug court graduates as well as members of the control group with regard to reconviction.

In contrast, there are a few quasi-experimental/non-equivalent control group design articles reviewed (Davis, Smith, and Lurigio, 1994; Listwan, Stundt, Holsinger, and Latessa, 2003; and Meith, Hong, and Reese), which have asserted that drug courts are not effective in reducing recidivism rates. Davis, Smith, and Lurigio (1994) evaluated the drug court in Miami, (Florida),³⁰ which targets first-time drug offenders, so as to avoid “the stigma associated with a felony conviction” (4). Eligible participants cannot have any prior felony convictions, must be charged with a possession case, and must admit their addiction and request treatment (1994). Participation in the program is voluntary and lasts for a minimum of one year. Participants successfully completing the program will have their charges dismissed. Additional information regarding the program structure and process were not provided in the article.

Comparisons were made between drug court participants (experimental group) and those drug offenders who were processed through the court system prior to the implementation of the drug court program (control group). Recidivism was operationalized in three ways: 1) any arrest, 2) arrest for drug offense, and 3) arrest for

³⁰ For this study the authors also evaluated drug courts in Philadelphia (Pennsylvania) and Milwaukee (Wisconsin), however these two drug courts were not treatment drug courts and therefore are excluded from this summary.

any felony offense (16). The findings suggest that “drug treatment”³¹ was not an effective means to reduce re-arrests... We have no data to measure the court’s effect on stopping offenders’ use of drugs; nonetheless, we did not find a significant reduction in felony re-arrests following the introduction of drug court” (16-17). During the one-year follow-up period and with regard to drug offenses, 23% of control group members were re-arrested, whereas 20% of experimental group members were re-arrested. 18% of control and experimental groups alike were re-arrested for non-drug offenses. Regarding re-arrests for any felony offense, 33% of control group members and 32% of experimental group members were re-arrested. These differences were not statistically significant.³²

Listwan, et al (2003) evaluated the Cincinnati, Ohio drug court, which is designed to target individuals meeting the following eligibility criteria: charged with a 4th or 5th degree felony, no history of violent behavior, current and/or past crimes are the result of addiction; Hamilton County Prosecutor approves of the participants’ enrollment, no active mental illness, and the participant demonstrates a motivation to participate in the program. Participation in the 15-month drug court program is voluntary and the program is comprised of three phases: inpatient, outpatient, and aftercare. Participants must plead guilty and enter into the drug court as a condition of probation. Additional information regarding the program structure and process were not provided in the article.

Drug court participants were compared with those individuals who either refused to participate in drug court or were not eligible. Recidivism was operationalized in two ways: 1) arrest for any charge and 2) arrest for a drug-related offense. Findings suggest that a drug court participant’s probability of arrest for a drug charge was 10% versus 20%

³¹ The authors did not provide any additional information as to what “drug treatment” entailed.

³² It should be noted that the authors did not distinguish between drug court graduates and non-graduates and therefore these results should be interpreted with caution.

for non-participants. Listwan, et al (2004) asserted that the level of drug court involvement (specifically, the number of status review hearings attended) had a significant effect on drug-related recidivism. Therefore, the more hearings participants attended, the less likely they were to recidivate. However, in terms of general criminal behavior, drug court participants actually had a similar number of arrests as non-participants (comparison group). The average number of arrests was .47 and .56 respectively, which was not statistically significant.

Meith, Hong, and Reese (2000) examined the Las Vegas, Nevada drug court, which is a diversion program for first-time offenders charged with possession of a controlled substance or under the influence of a controlled substance (specifically cocaine and methamphetamine). Participants cannot have any prior felony convictions and cannot have a history of violent offenses. Participants reporting marijuana as their drug of choice are permitted to participate in the drug court program, but must pay all costs associated with participation (approximately \$1200). Participants can enter the drug court program in one of three ways: as a diversion participant (charges will be dismissed upon successful completion), as a condition of a negotiated agreement between the district attorney and defense counsel (charges will be reduced upon successful completion), and as a condition of a probation sentence. The Las Vegas drug court program consists of four phases: Phase I-detoxification and stabilization (minimum of two weeks or until five consecutive clean urine screens (UAs) are achieved; Phase II wellness education (completion of 24 sessions and at least their last five UAs have been clean; Phase III-twice weekly recovery groups (at least six months of treatment and a minimum of six months of successive clean UAs); Phase IV-clients receive one process

group each week and weekly UAs (clean for a minimum of three months). Additional information regarding the program structure and process were not provided in the article.

Comparisons were made between drug court participants with non-participants (non-drug court cases processed in the general district). Recidivism was operationalized as “any subsequent court appearance for a criminal offense” (530). Distinctions were made between drug-related re-arrest and non-drug related re-arrest. The researchers concluded that drug court participants actually had higher recidivism rates than did non-participants for both drug-related and non-drug related crimes. “Overall recidivism risks were about 1.8 times higher for drug court participants than non-drug court participants ($p = .05$)” (532).

Of the empirical research articles reviewed for this research only four employed an experimental research design. Of these, only one (Gottfredson, Najaka, and Kearley, 2003) concluded that drug courts are effective in reducing recidivism. The other three articles (Deschenes and Greenwood, 1994; and Deschenes, Turner, and Greenwood, 1995; Granfield, Eby, and Brewster, 1998) concluded that drug courts were not effective in reducing recidivism rates.

Gottfredson, Najaka, and Karley (2003) evaluated the Baltimore City, Maryland, which is designed to target Circuit Court felons and District Court misdemeanants. Eligible participants must be 18 years of age, a resident of the city of Baltimore, and have a criminal history free of violent offenses. The Baltimore City drug court program is comprised of three phases. While in Phase I participants must submit to two UAs per week and complete one month of clean UAs in order to graduate to Phase II. While in Phase II participants must submit to one UA per week and complete two consecutive

months of clean UAs in order to graduate to Phase III. While in Phase III participants must submit to one UA every two weeks.

Eligible drug offenders were randomly assigned to either drug court (experimental group) or “treatment as usual³³” (control group). Recidivism was operationalized as any arrest “during the two year period following the date of randomization into the study” (187). The researchers found that 66.2% of all drug court participants and 81.3% of all control group members were re-arrested during the two-year follow up period, which was a statistically significant difference ($p < .05$). Furthermore, with regard to drug offenses, 40.6% of all drug court participants and 54.2% of all control group participants were charged ($p < .05$) with such offenses. Substantively, these results indicate that fewer drug court participants are re-arrested after being referred to the program. Of those drug court participants that were re-arrested, fewer were charged with a drug offense than were control group members who were re-arrested.

Deschenes and Greenwood (1994) studied the Maricopa County Arizona drug court, which is a “post-adjudication program for [first-time felony] offenders sentenced to probation for a felony drug offense” (100). The program is designed to last for one year and consists of three phases, plus an aftercare component. Phase I is the orientation phase (2 months); Phase II is the stabilization or relapse prevention phase (2 months); Phase III is the transition phase (2 months); and the aftercare phase (up to 9 months). Participants completing Phases I-III within six to twelve months may be successfully discharged from probation or transferred to standard probation. Additional information regarding the program structure and process were not provided in the article.

³³ The researchers did not provide any specific information as to how “treatment as usual” was defined.

Comparisons were made between the experimental group (drug court participants) and three control groups. While members of the three control groups were all sentenced to traditional probation, they were subjected to different intensities of drug testing. The first control group was not subjected to any drug testing and met with the probation officer as often as was deemed necessary based upon the risk/needs score from the pre-sentence investigation report. The second control group was subjected to monthly random drug testing, and one bi-monthly meeting with the probation officer. The third control group was subjected to two bi-weekly urine screens (Monday and Thursday) and one bi-monthly meeting with the probation officer. Recidivism was operationalized as any new arrest or technical violation. Data were gathered over the course of a 12-month period following random assignment. Findings show that during the first six months of the follow-up period, drug court participants were re-arrested more often than were control group members. More specifically, 16.95% of drug court participants and 15.37% of control group members were re-arrested for a new criminal offense. However, with regard to being charged with technical violations, a larger percentage of control group members (11.9%) were charged with technical violations than were drug court participants (7.91%). These differences were not statistically significant. Substantively, these findings suggest that when looking at technical violations, drug court participants fare better than do control group members. Deschenes, Turner, and Greenwood (1995), expanding upon the work of Deschenes and Greenwood (1994), found that 31.3% of drug court participants and 32.6% of control group members were arrested. However, with regard to drug-related crimes only, 18.2% of drug court participants and 17.8% of control group members were arrested (70). While 40% of drug court participants compared with

46% of control group members were charged with technical violations, this difference is not statistically significant (69). Based upon these findings, the researchers concluded that the drug court did not decrease recidivism amongst participants.

Granfield, Eby, and Brewster (1998) conducted a study of the Denver, Colorado drug court. Participants' substance abuse patterns and risk level are assessed by drug court staff who then make recommendations to the court (prior to sentencing) as to what level/type of treatment modality is most appropriate. Participants can be referred to one of seven treatment levels: 1) no intervention; 2) drug and alcohol education and intensive urinalysis; 3) weekly therapy; 4) intensive outpatient therapy; 5) intensive residential treatment; 6) therapeutic community; and 7) "is reserved for offenders with both extremely high criminal risk as well as treatment needs for psychopathology" (186) and consequently were excluded from the analysis due to the fact that these individuals were not supervised by the drug court. The drug court program is comprised of three phases to be completed over the course of 24 months. Additional information regarding the program structure and process were not provided in the article.

The researchers employed a non-assignment experimental design and comparisons were made between the re-arrest rates of three groups: one experimental group (drug court participants) and two control groups, both of which were comprised of individuals who had been charged with drug offenses in the two years (1993 and 1994) prior to the implementation of the drug court. The researchers randomly sampled one hundred offenders "from all criminal narcotic filings" (Granfield, Eby, and Brewster, 1998:190). It should be noted that the following cases were excluded from the sampling frame: dismissed cases, defendants sentenced to the Department of Corrections, and

defendants who were deported. Recidivism was operationalized as the number of arrests in the twelve months prior to, during, and following participation in the drug court. Drug court participants averaged 72 days to their first arrest subsequent to participation in the drug court, whereas control group members averaged 88 and 84 days to their first arrest (195). While there are differences, statistical significance was not achieved. Similarities across groups were found in terms of the percentage of individuals re-arrested at least once subsequent to being sentenced (58% for drug court participants and 53% and 58% for each control group). Despite slight differences between groups, these results were not statistically significant.

Assessing the empirical literature, several researchers have attempted to summarize the existing findings. Based upon the results of other's empirical work, they have concluded that drug courts are effective in reducing recidivism rates amongst participants, as compared with non-participants. These assessments are worth mentioning as they provide an important foundation for the state of drug courts as a whole.

Belenko (1998, 1999, 2001) conducted a three-part comprehensive review of drug court evaluations in order to determine whether drug courts were effective in meeting stated program goals/outcomes. The 1999 and 2001 reviews are updates to the original review conducted in 1998. Since the results across all three years have remained consistent, this discussion focuses on the results that appear in the Belenko 2001 review.

Belenko (2001) distinguishes between three forms of recidivism: recidivism during program enrollment, recidivism during the post-program follow-up period, and general recidivism (measure employed when no distinction was made between during-program and post-program time periods). With regard to recidivism rates during the term

of program enrollment, all evaluations reviewed concluded that drug court participants had lower rates of re-arrest as compared to non-participants.³⁴ With regard to post-program recidivism, four of the six evaluation studies reviewed found lower recidivism rates for drug court participants. Finally, of the three evaluations that measured general recidivism and employed the use of an experimental design, drug court participants were found to have lower re-arrest rates than did non-participants. Belenko (2001) reviewed four other evaluations that measured general recidivism, and employed the use of a quasi-experimental design. Three of the four evaluations found that drug court participants fared better than did non-participants with regard to re-arrest. However, one evaluation concluded that while drug court participants fared better than did non-participants, they did not fare better than diversion participants.

In addition to Belenko's assessment, Huddleston, et al (2004) and Marlowe (2002, 2003) reviewed several drug court studies and concluded that while drug courts do reduce criminal recidivism, much of the existing research studies have methodological problems which "may have led to an overestimation of the positive outcomes for drug court clients in some studies..." (Marlowe, 2003:8). While recidivism rates are often seen as the most important indicator of drug court success or effectiveness, there is no standard time frame that is employed for calculating recidivism rates. More specifically, the time frame for calculating recidivism rates (e.g., six months post-discharge, 1 year post-discharge, 3 year post-discharge) is not uniform and is determined by the individual researcher/evaluator based upon his/her purpose and/or needs. Marlowe (2003) asserts that the overwhelming majority of research/evaluation projects measure program

³⁴ This particular review of the literature did not discuss whether the comparisons being made involved drug courts that were similar in structure (e.g., eligibility criteria, target population) and process (e.g., term of enrollment, number of phases, program requirements).

goals/outcomes during the term of participation and possibly in the year following the date of discharge. Looking beyond one year is the exception. Consequently, there is a lack of research regarding how participants fare, with regard to the program goals/outcomes, after they have been discharged from drug court for more than one year. Essentially, he argues that a follow-up period of one year is not long enough to measure program effectiveness.

In summary, of the empirical articles reviewed for this dissertation research, some researchers concluded that drug court participation led to a significant reduction in recidivism, while others concluded that drug court participation did not result in a significant reduction in recidivism. However, it should be noted that drawing comparisons between the various measures of effectiveness is problematic in that the researchers provide very little information about the specific nature of the drug court programs themselves.

Substance Use/Abuse

Drug court effectiveness is also measured in terms of whether participants demonstrate a decrease in substance use/abuse. However, of the empirical articles reviewed for this research, only two examined whether drug court participation leads to lower rates of substance use/abuse. In both studies, substance use/abuse was operationalized as the number of positive urinalysis tests and the findings were mixed. Beckerman and Fontana (2001) employed the use of a quasi-experimental research design and concluded that drug courts were effective in reducing substance use/abuse. Deschenes, Turner, and Greenwood (1995), on the other hand, employed the use of an

experimental research design and found that drug courts were not effective in reducing substance use/abuse. Detailed information regarding these studies follows.

Beckerman and Fontana (2001) studied a well-established drug court located in South Florida. Additional information regarding the program structure and process were not provided in the article. Within this particular drug court, there was a sub-group of participants who “presented a complexity of problems and exhibited a recalcitrant attitude and behavior toward the expectations of the Drug Court program [and thus] were referred to the ‘enhancement’ program” (51). The enhancement program was designed to more specifically meet the needs of females and African American males through the use of “small single-gender groups” (51)³⁵ and the program staff was comprised of trained professionals in the field of substance abuse. These participants were not in compliance with the drug court program and therefore in jeopardy of being unsuccessfully discharged. Additional information regarding the “enhancement program” was not provided in the article.

The experimental group was comprised of participants referred to the drug court “enhancement program” during the first nine months of the program’s inception. The control group consisted of participants who were in the drug court program in the nine months prior to the introduction of the “enhancement program,” but would have been referred if the “enhancement program” had been in operation. The control group members were significantly more likely to have positive urinalysis tests than were experimental group members ($p < .001$). More specifically, 15% of females in the experimental group had positive urinalysis results, whereas 67% of control group females

³⁵ It should be noted that the authors did not specify whether all females or African American males participated in the “enhancement program” or whether this program included only those participants who were “not making progress in the regular treatment program” (51).

had positive urinalysis tests ($p < .001$). Only 8% of African American experimental group members had positive urinalysis results, whereas 50% of African American control group members had positive urinalysis tests ($p < .001$). Substantively, these results suggest that the drug court “enhancement program” had a positive effect on the reduction of substance use/abuse amongst African American male and female participants alike.

On the other hand, Deschenes, Turner, and Greenwood (1995) in their study involving the Maricopa County Arizona drug court³⁶, concluded that drug court participants do not have lower rates of substance use/abuse as compared with non-participants. More specifically, drug court participants (experimental group) had more positive urinalysis tests than did non-participant control group members. These results may, however, be misleading as while the use of marijuana was higher among drug court participants, the use of cocaine and heroin was higher among control group members. Therefore, while drug court participants are testing positive for marijuana more often, control group members are testing positive for cocaine and heroin more frequently.

Belenko (1998, 1999, 2001), in his review of drug court evaluation reports, found that drug court participants have lower rates of substance use/abuse than do non-participants. For example, evaluators of the Santa Barbara County, California drug court concluded that “Using composite scores and severity measures from the Addiction

³⁶ As stated earlier in this chapter, this is a “post-adjudication program for [first-time felony] offenders sentenced to probation for a felony drug offense” (100). The program is designed to last for one year and consists of three phases, plus an aftercare component. Phase I is the orientation phase (2 months); Phase II is the stabilization or relapse prevention phase (2 months); Phase III is the transition phase (2 months); and the aftercare phase (up to 9 months). Participants completing Phases I-III within six to twelve months may be successfully discharged from probation or transferred to standard probation. Comparisons were made between the experimental group (drug court participants) and three control groups. While members of the three control groups were all sentenced to traditional probation, they were subjected to different intensities of drug testing. Additional information regarding the program structure and content was not provided in the article.

Severity Index (ASI)...compared to scores at intake, after 12 months in the drug court, drug and alcohol abuse severity significantly decreased” (Belenko, 2001:41). In summary, within the literature there are mixed findings regarding whether or not participation in drug courts results in lower substance use/abuse rates among participants.

Treatment Retention

Whether or not drug court participants remain engaged in treatment programs for longer periods of time than do non-participants is another measure of drug court effectiveness. Of the empirical articles reviewed for this research, two employed a quasi-experimental research design (Beckerman and Fontana, 2001; Remple and DeStefano, 2001), two utilized an experimental research design (Gottfredson, Najaka, and Karley, 2003; Granfield, Eby, and Brewster, 1998), and one employed a qualitative research design (Senjo and Leip, 2001).

Both studies employing a quasi-experimental design concluded that drug courts are effective in increasing treatment retention rates. Beckerman and Fontana (2001) evaluated a well-established drug court located in South Florida in order to determine whether the experimental group members were more likely to remain in treatment than were control group members. The experimental group was comprised of females and males who were referred to the drug court “enhancement program” during the first nine months of the program’s inception and the control group consisted of females and males who were in the drug court program in the nine months prior to the introduction of the “enhancement program,” but would have been referred if the “enhancement program”

had been in operation. As stated earlier, additional information regarding the program structure and process were not provided in the article.

The findings suggest that participants in the drug court “enhancement program” remained in treatment for significantly longer periods of time than did control group members. For females, experimental group members were in treatment for an average of 13 months compared with 5.5 months for control group members ($p < .001$). For males, experimental group members were in treatment for an average of 15 months compared with 7 months for control group members ($p < .001$). Substantively, these results suggest that participation in the drug court “enhancement program” significantly increased the likelihood of participants remaining engaged in treatment for longer periods of time. The researchers attributed these results to the structure and process of the drug court “enhancement program.”

Rempel and DeStefano (2001) studied the Brooklyn, New York drug treatment court, which is designed to target eligible defendants arrested in Brooklyn, New York. Participants must plead guilty to eligible drug charges and agree to a “*treatment mandate*, [emphasis original] which stems from the charges in the plea agreement and the participant’s criminal history” (95). Participants unsuccessfully discharged from the program are sentenced to jail/prison and are aware of this consequence prior to enrolling in the program. The Brooklyn drug treatment court has four *treatment mandates* or sub-programs in which participants take part: misdemeanor, first felony, multiple felony, and predicate felony.³⁷ Each of these sub-programs consists of three phases. In order to

³⁷ Eligible participants pleading guilty to a misdemeanor crime, participate in the *misdemeanor treatment mandate*. This program is a minimum of eight months and participants unsuccessfully discharged from the program face six months in jail. Eligible participants pleading guilty to a first felony, participate in the *first felony treatment mandate*. This program is a minimum of twelve months and participants unsuccessfully

complete phase one, participants must be drug- and sanction-free for four consecutive months. The requirements for completing phases two and three vary by treatment mandate, but also require participants to be drug- and sanction-free for a specified number of consecutive months (see Table below). The researchers focused on drug court participants who had enrolled in the program during the previous year. Treatment retention was measured in two ways: 1) whether or not a participant had completed ninety days of treatment, and 2) whether the participant had completed phase one of the program. The researchers argued that as the amount of time in treatment programming increases, positive post-treatment outcomes will result.

<i>Treatment Mandate</i>	<i># of months in Phase II</i>	<i># of months in Phase III</i>
<i>Misdemeanor</i>	2	2
<i>First Felony</i>	4	4
<i>Multiple Felony</i>	6	8
<i>Predicate Felony</i>	6	8

The results indicate that 70% of the drug court participants in the sample (including all treatment mandates) successfully completed the first ninety days of treatment, whereas 30% did not. With regard to completing phase one, 58% completed and 36% dropped out.³⁸ Substantively, these results suggest that completing phase one is a more

discharged from the program face one year in prison or jail. Eligible participants pleading guilty to two or more felonies simultaneously, participate in the *multiple felony treatment mandate*. This program is a minimum of 18 months and participants unsuccessfully discharged from the program face a minimum of one and a half years in prison. Eligible participants pleading guilty to a felony (and have at least one prior felony conviction in their criminal history), participate in the *predicate felony treatment mandate*. This program is a minimum of 18 months and participants unsuccessfully discharged from the program face a minimum of three years in prison. Additional information regarding the program structure and content was not provided in the article.

³⁸ The remaining 4% of the study sample was not accounted for in the article. It is possible that these individuals were still enrolled in the program, but had not completed phase one of the program.

informative measure of treatment engagement than is successful completion of the first ninety days of treatment. Given that in order to complete phase one, participants must remain abstinent and compliant for four consecutive months, only those individuals committed to the program are likely to complete this objective. Therefore, completing phase one is a more reflective measure of treatment engagement than is completing the first ninety days of treatment.

Rempel and DeStefano (2001) were also interested in examining whether utilizing legal coercion resulted in an increased level of compliance amongst drug court participants. Legal coercion was defined as “expected incarceration time in the event of program failure” (87). The findings suggest that there is a statistically significant correlation between utilizing legal coercion and completing phase one ($r=.130$; $p < .001$). Moreover, there is also a statistically significant correlation between utilizing legal coercion and completing the first ninety days of treatment ($r=.143$; $p < .001$). Substantively, these findings suggest that legal coercion had a strong influence on the level of treatment engagement and the likelihood of “successful” completion.

The studies employing an experimental research design produced mixed findings. Gottfredson, Najaka, and Karley (2003) evaluated the Baltimore City, Maryland drug court.³⁹ Utilizing an experimental research design, eligible drug offenders were

³⁹ As stated earlier in this chapter, the Baltimore Drug Court is designed to target Circuit Court felons and District Court misdemeanants. Eligible participants must be 18 years of age, a resident of the city of Baltimore, and have a criminal history free of violent offenses. The Baltimore City drug court is comprised of three phases. While in Phase I participants must submit to two UAs per week and complete one month of clean UAs in order to graduate to Phase II. While in Phase II participants must submit to one UA per week and complete two consecutive months of clean UAs in order to graduate to Phase III. While in Phase III participants must submit to one UA every two weeks. Additional information regarding the program structure and content was not provided in the article.

randomly assigned to either drug court (experimental group) or “treatment as usual”⁴⁰ (control group). They evaluated whether drug court participants were more likely than control group members to receive treatment services, as well as the length of time both groups spent engaged in treatment programming. Not surprisingly, 68.3% of drug court participants and 24.0% of control group members received treatment services. However, when only certified drug treatment [was] considered, the figures [were] 51.8% and 21.9% [respectively]” (185). With regard to the duration of treatment for the experimental and control groups, drug court participants spent an average of 121.7 days in treatment ($p < .01$), whereas control group participants only spent an average of 34.4 days in treatment. Substantively, these results indicate that drug court participants received treatment services at a higher rate and remained engaged in the treatment programming longer than did the control group members.

Granfield, Eby, and Brewster (1998) conducted a study of the Denver, Colorado drug court⁴¹ by using a non-assignment experimental design. The researchers sought to assess whether the court was accurately assessing the needs of participants and then matching them with appropriate treatment services. They assessed this by reviewing drug court revocation rates, as this is a proxy measure of whether or not individuals with serious drug/alcohol addiction are likely to comply with treatment requirements. They

⁴⁰ Again, the researchers did not provide any specific information as to how “treatment as usual” was defined.

⁴¹ As stated earlier in this chapter participants’ substance abuse patterns and risk level are assessed by drug court staff who then make recommendations to the court (prior to sentencing) as to what level/type of treatment modality is most appropriate. Participants can be referred to one of seven treatment levels: 1) no intervention; 2) drug and alcohol education and intensive urinalysis; 3) weekly therapy; 4) intensive outpatient therapy; 5) intensive residential treatment; 6) therapeutic community; and 7) “is reserved for offenders with both extremely high criminal risk as well as treatment needs for psychopathology” (186) and consequently were excluded from the analysis due to the fact that these individuals were not supervised by the drug court. The drug court program is comprised of three phases to be completed over the course of 24 months. Additional information regarding the program structure and content was not provided in the article.

found that of the individuals assessed as being low risk (in terms of treatment needs), 5.3% received one or more revocations, whereas individuals assessed as being moderate and high risk (in terms of treatment needs), 22.2% and 44.4% respectively received one or more revocations ($p < .05$). This suggests that while the Denver County, Colorado drug court is consciously making an effort to assess the needs of participants and matching them with necessary treatment services, individuals with more severe treatment needs might not be best served by the drug court.

The studies employing a qualitative research design also produced mixed findings. Senjo and Leip (2001) evaluated the Broward County (Florida) drug court, which is diversionary program modeled after the Miami (Florida) drug court.⁴² They observed the courtroom interaction between participants and other members of the drug court team (e.g., judge, prosecuting attorney, defense attorney, probation officer, and/or treatment provider). It should be noted that, of the articles reviewed for this research, this article is the first that focuses on process-oriented variables. Particular attention was paid to the type of comments made during the court hearing, as they were operationalized as either: supportive (e.g., praise, support, encouragement), indifferent (e.g., factual data--next court date) or adversarial court-monitoring (e.g., sanctions, threat of sanctions).

Senjo and Leip (2001) concluded that "offenders who received more supportive court-monitoring comments were more likely to complete the drug [court] program than those offenders who received fewer supportive comments" (82). This relationship was statistically significant at the .01 level of significance. In essence, as the amount of positive reinforcement given to drug court participants increased, the likelihood of these

⁴² The authors did not provide any additional information regarding the structure and process of the Broward County drug court.

participants staying engaged in treatment and graduating from the drug court program also increased.

Bouffard and Taxman (2004) evaluated four drug courts (in California, Louisiana, Oklahoma, and one in a medium-sized Midwest city) to examine the implementation of primary treatment services within each of the four jurisdictions. In effect, they were comparing the treatment services drug court participants were theoretically supposed to be receiving with the services these participants were actually receiving. Despite the fact that a wide variety of substance abuse services were offered within these jurisdictions, the treatment session time was considerably lower (75%) than what was expected by the courts and scheduled by the treatment providers. For example, in one drug court, treatment sessions were supposed to be 122 minutes in length (approximately 2 hours), however the actual length of treatment sessions was 88 minutes (approximately one and a half hours).

The authors outline several key components/elements of the recovery process that were largely absent from discussions within the treatment sessions: relapse prevention, emotional processes, cognitive change, social skills, education, gender expectations, cultural diversity, and graduation/aftercare. They did note that the majority of treatment session time was spent on drug education and health issues. In summary, Bouffard and Taxman (2004) concluded that while the eclectic mixture of treatment procedures may appear to be beneficial and targeting the needs of individual participants, this may actually detract from the overall treatment experience. This negative result could be due to the fact that participants may receive conflicting messages from drug court personnel,

treatment personnel, and counselors, as well as that adequate attention is not being paid to all the key components of drug/alcohol abuse treatment.

Belenko (1998, 1999, 2001) in his review of drug court evaluation reports concluded that, on average across eight courts, drug courts graduate 47% of participants. The lowest graduation rate was 36% and the highest rate was 60%. The argument for operationalizing the variable “treatment retention” as the drug court graduation rate is based upon the belief that if participants graduate from the program they are remaining actively engaged in a treatment program. Unfortunately, figures were not provided regarding non-drug court participants therefore comparisons cannot be made across the two groups.

After reviewing the existing literature, Huddleston, et al (2004) assert that “A drug court’s coercive power is the key to admitting drug-involved offenders into treatment quickly, for a period of time that is long enough to make a difference” (3). The researchers argue that there is an ideal time frame in which drug-abusing offenders should engage in treatment. Not only is there great concern about the fact that very few offenders receive the drug/alcohol treatment they desperately need, but also these individuals must remain in treatment long enough to realize the benefits. Marlowe (2002) concluded that “on average, only about 10 to 30 percent of clients, in or out of the criminal justice system, receive a minimally adequate dosage of drug treatment. Perhaps as few as 5 to 15 percent achieve extended abstinence (6).”

In summary, four of the six empirical articles and all of the non-empirical articles reviewed for this research concluded that drug courts do in fact increase treatment

retention rates. There were valid issues raised concerning coerced treatment and the validity of comparisons with control group members.

Overall “Quality of Life”

Several researchers have examined whether graduates of drug courts improve their overall quality of life more than do non-participants (Belenko, 1998, 1999, 2001; Butzin, Saum, and Scarpitti, 2002; Sechrest and Shicor, 2001; Hartley and Phillips, 2001; Stanton, Mateyoke, Leukefeld, Cole, Hopper, Logan, and Minton, 2001; Wolf and Colyer, 2001). The quality of life measures used in these studies were: lower re-arrest rates, the ability to sustain oneself (e.g., maintaining employment, securing stable housing), and fewer “life problems” reported by participants during the mandatory status review hearings.

Butzin, Saum, and Scarpitti (2002) examined the New Castle County, Delaware drug court, which is a diversion program targeting first-time offenders (“no or minimal prior felony convictions” (1618)) charged with drug-related offenses that do not require a mandatory sentence.⁴³ Participation in the drug court program is voluntary and is a minimum of six months in length. Additional information regarding the program structure and process were not provided in the article. The researchers were interested in analyzing what individual-level factors are associated with the successful completion of the program. Comparisons were made between drug court graduates and non-graduates. Employment was operationalized as either having gainful employment (includes students) or being unemployed.

⁴³ This particular drug court also has a post-adjudicatory track for probationers arrested for a new offense who need drug treatment services. This track was not the focus of said research, thus no analysis was included in the article.

They found that 79% of those gainfully employed or attending school successfully completed the program, whereas only 31% of those who were unemployed successfully completed the program ($p = .01$). Moreover, only 43% of high school drop-outs and 71% of high school graduates or those who obtained their GED successfully completed the program, which is compared to 89% of participants who have some college experience ($p = .01$). Substantively, these results suggest that drug court participants who are either working or attending school and have at least a high school diploma/GED have a greater likelihood of successfully completing the program, as compared with those participants who are unemployed and who are high school drop-outs. Moreover, it also appears as though gaining employment through the program is important because participants associate securing employment with the notion that the program is actually doing something for them, which will likely increase their commitment to the program.

Hartley and Phillips (2001) studied the “East Coast Drug Court” (located in the mid-Atlantic region of the United States), which is designed to target largely first-time offenders and is housed within the local probation/parole office (has its own staff). Participation in the program lasts one year (minimum), however no additional information regarding the program structure and process were provided in the article. The researchers sought to examine what variables might help predict successful completion of the drug court program. Two measures of the concept employment were operationalized. First, was the participant employed prior to entering drug court? Second, was the individual provided employment after entering the program?

The findings suggest that “being employed before and during the program increases the likelihood of successful completion of the drug court program” (116). More specifically, those participants who were employed prior to entering the drug court were 9.3 ($p < .05$) times more likely to successfully complete the program, whereas those individuals who obtained employment after entering the program were 35.5 times more likely to graduate than those who remained unemployed ($p < .05$). The researchers also found that having a high school diploma was also correlated with successful program completion ($p < .05$). Substantively, these results indicate that drug court participants who have gainful employment and a high school diploma are more likely to successfully complete the program than those who are unemployed. The researchers concluded “While employment services may be available in most drug courts, a greater emphasis on their actual use may lead to higher graduation rates” (116).

Sechrest and Shicor (2001) studied the Riverside County (California) Drug Court Program, which is a post-conviction program designed to target substance abusing offenders, 18-25 years of age, who have been charged with a felony drug offense and would be facing prison time without drug court intervention. Moreover, participants must be United States’ citizens or in the country legally and deemed to be “serious drug abusers” (as indicated by a screening instrument). Individuals on parole, assessed as violent gang members, and/or who have one or more prior convictions for violent felonies are excluded from participating. Eligible participants enter the program voluntarily and must plead guilty to the pending charges. Participants successfully completing the program may withdraw their guilty plea and the case dismissed or the prosecutor reduces the charges. The drug court program is comprised of three phases: 1)

initial (two weeks), which operates as an evaluation/screening period to determine whether this program is a good fit for each participant; 2) evaluation (four to six months), which operates as a stabilization period during which time a treatment plan is developed; 3) supervision (up to one year), which provides participants with enough time to complete the treatment plan.

The researchers conducted an exploratory evaluation of the Riverside County, California drug court during the first fifteen months of operation. In addition, they conducted a follow-up evaluation of graduates in the twelve months subsequent to their successful discharge. These researchers compared drug court graduates with those participants who were unsuccessfully discharged from the drug court program (this also includes participants who opted out of the program) to determine what variables were relevant to successful completion of the program and “ultimate success” (135).

43.1% of graduates and only 18.2% of unsuccessful discharges engaged in educational programming offered by the drug court (141-142). Moreover, with regard to financial stability, 60.3% of graduates and 79.5% of unsuccessful discharges were receiving one or more forms of governmental support, which is a statistically significant difference ($p = .05$). In summary, Sechrest and Shicor (2001) found that drug court participants are more likely to engage in educational programs and less likely to be recipients of governmental assistance as compared with non-graduates. Both of these variables measure specific aspects of the larger concept of “quality of life.” It is reasonable to assume that as one’s education level and financial stability (quality of life) increases, the likelihood that one will abuse drugs/alcohol and engage in criminal activity decreases, which are, in essence, two of the overarching goal of drug courts.

Staton, et al., (2001) conducted focus groups with participants from three Kentucky drug courts to determine the employment needs of these individuals and how the drug court program addresses and/or can address these needs. All focus group clients were recruited from Phase III of the drug court programs. Three general themes emerged from these focus groups: 1) obtaining a job, 2) maintaining a job, and 3) upgrading a job. With regard to obtaining a job, participants indicated that they “oftentimes settled for unsatisfying jobs in order to meet the employment requirement of the drug court program” (78). Overall, participants appeared generally interested in obtaining job skill training that focuses on where to search for jobs, interviewing techniques and tips, preparing a resume, as well as information regarding employers that will hire drug court participants. Focus group participants also identified several barriers to obtaining employment, which included: having a felony record and inadequate education and/or job experience.

With regard to maintaining a job, participants identified two main reasons why maintaining employment is important: 1) the need for a stable source of income, and 2) a positive work environment can be personally rewarding. However, participants also voiced frustration with trying to balance personal lives with drug court requirements, job requirements, as well as other responsibilities. One participant stated “Having to make it to classes, meetings, drops, and keep a job is really hard and takes a lot of planning and discipline” (80). With regard to upgrading a job, the majority of participants stated they needed additional training or education (high school diploma/GED at a minimum or vocational training/some college) in order to get a better job, which means that employment training should focus on taking college entrance exams, obtaining college

financial aid information, and vocational training requirements. Participants were knowledgeable about what information they needed, however were not sure where to obtain this information.

Substantively, these results suggest that the employment component of any drug court program should be comprehensive in nature and address the needs of individual participants (those with limited skills as well as those with well-developed skills). Obtaining and maintaining gainful employment has been shown to be an important predictor of successfully completing drug court programs. As a result, drug court practitioners should take employment training seriously and provide participants with the information they need and have actual placement activities readily available.

Wolf and Colyer (2001) evaluated a drug court located in the State of New York (specific location not disclosed), which is a 12-month (minimum) program designed to target non-violent felons and misdemeanants who have been assessed to have a substance abuse problem⁴⁴. They sought to analyze “the relationship between the everyday problems [drug court participants] identify in discussions with the judge and their patterns of recovery, as measured by compliance with program requirements” (233). Wolf and Colyer (2001) conducted observations of court sessions and employed the use of fieldnotes. The dependent variable, “compliance,” was operationalized as “how the participant ‘looked’ at the time of appearance [at the court hearing], which was based on information provided by treatment providers and case managers to the judge prior to each hearing” (236). A hearing was coded as “compliant” if the participant had done more than was required, had done satisfactorily, or was generally compliant even if all

⁴⁴ The authors did not provide any additional information regarding the structure and process of the drug court program being examined.

requirements had not been met. The independent variables were problems identified during the courtroom interaction and were categorized into three groups: 1) individual-level issues—individual has the most control (e.g., mental and/or physical health); 2) intermediate-level issues—individual has less control, as they pertain to his/her immediate social environment (e.g., relationships, peer groups); and 3) structural-level factors—individuals have little, if any, control, as they “are rooted in social systems” (e.g., employment, school, legal) (236).

The findings suggest that, in general, courtroom discussions revolve around structural-level factors for graduates and non-graduates alike. Graduates had a higher percentage of discussions that focused on structural-level issues than did non-graduates (50.8% and 48.1% respectively). Moreover, individual-level issues were addressed in 28.8% of graduate discussions, whereas non-graduates only discussed individual-level problems in 22.6% of their discussions. In summary, Wolf and Colyer (2001:251) conclude that “program graduates...are equipped with (or develop during the course of their treatment) certain management and problem-solving strategies that enable them to move through the drug court process.” Substantively, it is believed that the ability to problem-solve will undoubtedly improve one’s overall “quality of life.”

These results beg the question that drug courts themselves may not be responsible for this increase in the “quality of life” if program graduates enter the program with better problem-solving skills or are different from non-graduates and/or non-participants.

Butzin, Saum, and Scarpitti (2002) noted that

...those first offenders most successful in this drug treatment court diversion program are characterized by what may be called ‘stakeholder values.’ That is, they are characterized by two of our society’s most stabilizing attributes and

values, education and work. Those with more education and working at better jobs are more likely to be successful in drug treatment court (1629).

What this suggests is that some drug courts may be engaging in selection bias, which will inflate success rates and bias substantive findings. In summary, these findings suggest that drug court graduates are more likely than participants unsuccessfully discharged from drug court programs to improve their overall quality of life.

Cost/Benefit Analysis

Since their inception drug courts have been touted as cost beneficial to the criminal justice system. Of the empirical articles reviewed for this research, only four (Deschenes, Turner, and Greenwood, 1995; Fielding, et al., 2002; Granfield, Eby, and Brewster, 1998; Stageberg, Wilson, and Moore, 2001) assessed whether drug courts were in fact cost beneficial.

Deschenes, Turner, and Greenwood (1995), in their evaluation of the Maricopa County, Arizona drug court⁴⁵ concluded that “because the [drug court] program did not decrease recidivism, it is not clear whether increased treatment and court supervision of probationers are cost-effective” (72). Unfortunately, actual program costs were not included in their study, so costs associated with the traditional court and drug court could not be compared.

⁴⁵ As stated earlier in this chapter, this drug court is a “post-adjudication program for [first-time felony] offenders sentenced to probation for a felony drug offense” (100). The program is designed to last for one year and consists of three phases, plus an aftercare component. Phase I is the orientation phase (2 months); Phase II is the stabilization or relapse prevention phase (2 months); Phase III is the transition phase (2 months); and the aftercare phase (up to 9 months). Participants completing Phases I-III within six to twelve months may be successfully discharged from probation or transferred to standard probation. Comparisons were made between the experimental group (drug court participants) and three control groups. While members of the three control groups were all sentenced to traditional probation, they were subjected to different intensities of drug testing. Additional information regarding the program structure and content was not provided in the article.

Fielding, Tye, Ogawa, Imam, and Long (2002), in their evaluation of eleven drug courts in Los Angeles, California,⁴⁶ assert that the annual cost per program graduate ranged from \$3,706 and \$8,924. These figures included “administrative, planning and development, salary, equipment, drug testing, and treatment costs” (223). This is an enormous savings when compared with the estimated annual cost of imprisonment (\$16,500) and residential drug treatment (\$13,000). These cost savings figures should be interpreted with caution as costs associated with sanctions (e.g., jail time) are not factored into these estimates.

Granfield, Eby, and Brewster (1998) in their evaluation of the Denver County, Colorado drug court⁴⁷ asserted that “at an average of \$60.00 per day in jail, the [drug] court is saving...an estimated \$1.8 to \$2.5 million per year” (197). These figures are calculated by estimating jail costs (based upon 3,000 individuals) and multiplying that figure by the number of days individuals in the experimental and two control groups were incarcerated prior to being sentenced. These cost savings figures should be interpreted with caution as drug court administrative costs are not factored into these estimates.

⁴⁶ These drug court programs target non-violent, felony drug offenders charged with possession of narcotics or of a controlled substance. Participation in the 12-month program is voluntary and participants successfully completing the program will have their charges dismissed. The programs consist of four phases: trial phase (2 weeks); assessment, stabilization, and treatment phase; intensive treatment phase; and the transition phase.

⁴⁷ As stated earlier in this chapter participants’ substance abuse patterns and risk level are assessed by drug court staff who then make recommendations to the court (prior to sentencing) as to what level/type of treatment modality is most appropriate. Participants can be referred to one of seven treatment levels: 1) no intervention; 2) drug and alcohol education and intensive urinalysis; 3) weekly therapy; 4) intensive outpatient therapy; 5) intensive residential treatment; 6) therapeutic community; and 7) “is reserved for offenders with both extremely high criminal risk as well as treatment needs for psychopathology” (186) and consequently were excluded from the analysis due to the fact that these individuals were not supervised by the drug court. The drug court program is comprised of three phases to be completed over the course of 24 months. Additional information regarding the program structure and content was not provided in the article.

Stageberg, Wilson, and Moore (2001), in their evaluation of the Polk County, Iowa adult drug court, made comparisons across four groups: drug court graduates, non-graduates, the “referred group” (individuals referred to the drug court, but not accepted), and the “pilot group” (group of probationers not referred to the drug court). They concluded that participation in the drug court is cost beneficial when compared with traditional court processing. More specifically, processing a felony drug court participant through the system costs approximately \$26,000, as compared with \$29,400 for the “referred group” and \$39,800 for the “pilot group.” However, when looking at just misdemeanants, drug court participant was more costly (\$18,700) than the “referred group” (\$17,000) and about the same as the pilot group (\$18,400). It should be noted that it costs approximately \$4,500 for a misdemeanor to participate in the drug court program, which is much higher than traditional court processing.

When focusing on treatment costs alone drug court is more expensive. On average, treatment costs for drug court participants were \$5,100, whereas treatment costs for the “referred group” were \$4,000 and \$2,500 for the “pilot group.” Nevertheless, treatment costs are greatly reduced for drug court participants in the two years following entry into the drug court, whereas treatment costs for the “referred group” and the “pilot group” increase during this same time period. Substantively, these findings indicate that an investment in drug treatment at the beginning of drug court participation results in lower costs in the future. The costs associated with case processing and drug/alcohol treatment were discussed separately, so these findings should be interpreted with caution.

Belenko (2001) reviewed thirty-seven drug court evaluations and found that only five included information regarding the costs associated with drug courts. One example

is the Mendocino County, California drug court, which cited a \$3,900 cost per participant. This was compared with an estimated cost of \$6,360 for individuals sentenced to jail (42). Moreover, regarding the drug court in Douglas County, Nebraska evaluators asserted that drug court cases cost the system \$4,352 to process versus \$8,358 for traditional cases (43). Moreover, Huddleston, et al, (2004) and Marlowe (2002) found that drug courts do in fact save money and resources over time. Specific examples of this cost savings can be seen by examining the reduction in the amount of time spent in jail, the demands made upon probation departments, and the resources necessary to prosecute an individual (Marlowe, 2002; NDCI Fact Sheet, 2005).

It is indisputable that the criminal justice system has a scarce amount of resources available. In light of continuing budget cuts at the federal, state, and local levels across the United States, practitioners within the criminal justice system are asked to do more with less. Drug courts have been touted as cost beneficial, however some critics argue that they “[disrupt] the allocation of already scarce resources and ensure that more fundamental justice issues will not be addressed” (Goldkamp, 2000:3). As is demonstrated above, there are few studies that address the breakdown of costs associated with participation in drug courts. Nevertheless, despite the relative absence of such information within the literature, the existing empirical research demonstrates that investments in treatment programs can and do result in cost savings over time.

Case Flow Efficiency

One goal of drug courts is to lessen the burden that drug-related cases place upon the criminal justice system by streamlining the case flow process. According to several

researchers (Davis, Smith, and Lurigio, 1994; Granfield, Eby, and Brewster, 1998), drug courts are effective in improving case flow efficiency.

Davis, Smith, and Lurigio (1994) evaluated case flow efficiency in the Miami (Florida) drug court.⁴⁸ They collected four samples total: two samples were comprised of drug cases and two samples were comprised of non-drug cases. Of the two samples comprised of drug court cases, one sample included cases filed during the year prior to the implementation of the drug court and the other sample included cases filed after the drug court had been implemented. The same selection procedure was used in creating the samples comprised of non-drug cases. Case processing efficiency was operationalized as the number of days between the time the case was filed and sentencing.

The findings suggest that drug courts actually increased the time necessary to process drug cases where the defendant is sentenced to treatment. This increase in the amount of time is due to the fact that these cases remain open until the defendant is released (either successfully or unsuccessfully) from the treatment program. In the years prior to the implementation of the drug court, these cases had been administratively closed, so these results may be misleading.

Granfield, Eby, and Brewster (1998), in their evaluation of the Denver County, Colorado drug court, assessed case flow efficiency by analyzing “the amount of pre-sentence confinement and the time from arrest to sentencing” (191). They found that for

⁴⁸ As stated earlier in this chapter, the authors also evaluated drug courts in Philadelphia (Pennsylvania) and Milwaukee (Wisconsin), however these two drug courts were not treatment drug courts and therefore are excluded from this summary. This drug court program targets first-time drug offenders, so as to avoid “the stigma associated with a felony conviction” (4). Eligible participants cannot have any prior felony convictions, must be charged with a possession case, and must admit their addiction and request treatment (1994). Participation in the program is voluntary and lasts for a minimum of one year. Participants successfully completing the program will have their charges dismissed. Comparisons were made between drug court participants (experimental group) and those drug offenders who were processed through the court system prior to the implementation of the drug court program (control group).

drug court participants, the average number of days from arrest to bond is 14.2, compared with 20.75 and 28.95 days for members of the control groups ($p < .05$). With regard to the number of days that elapse between the date of arrest and sentencing, drug court participants averaged 83 days, whereas control group members averaged 179 and 200 days respectively ($p < .0001$). In summary, the researchers concluded that the Denver County, Colorado drug court has increased the case flow efficiency of processing drug court offenders. In reviewing these results, it should be noted that the increased resources available to the drug court may account for some of this increased efficiency independent of any drug court impact. Nonetheless, it was noted that the drug court processed significantly more cases than did the courts in the two years prior to the implementation of the drug court.

Despite the findings of increased efficiency, other researchers (Granfield, Eby, and Brewster, 1998; Simmons, 2001) argue that drug courts may not be more efficient than traditional court processing. Although not based in empirical work, the assertions made are noteworthy in any evaluation of drug courts. For example, Granfield, Eby, and Brewster (1998) allege that drug courts' "increased efficiency is more a measure of bureaucratic operation than of justice...and that increased efficiency is valuable only to the extent that a court is more responsive to the needs of an offender and can...provide requisite services" (188). In summary, the focus on drug courts being more efficient may result in practitioners cutting corners in order to meet bureaucratic stipulations, as opposed to working to meet the individualized needs of all clients. The extent to which a focus on efficiency actually detracts from the goals of helping offenders or drug court

participants is questionable, but certainly warrants empirical examination and further discussion.

Difference from Traditional Court

Drug court critics assert that drug courts are not markedly different from traditional court processing. Yet, one fundamental feature of the drug court model is the altering of participants' roles (e.g., judge, defendant, prosecuting attorney, and treatment provider). As a result, the role of the criminal justice system theoretically changes from adversarial and punitive to collaborative and therapeutic. This fundamental change in roles has been embraced by some and come under heavy scrutiny from others.

Burns and Peyrott (2003) examined three California drug courts to assess the extent to which drug court sessions were markedly different from traditional court sessions. The three research sites were not identified, however all three programs were one year (minimum) diversion programs consisting of a "trial phase" and three additional phases. Participants who have a history of violent crimes or have been charged with (or previously convicted of) the sale/manufacturing of a controlled substance are not eligible to participate. The "trial phase" is a minimum of two weeks in length and consists of program orientation and assessments/referrals. Stage I (three months in length) focuses on stabilization, program orientation, and "assessing participants' adaptation to treatment" (422). Moreover, an individualized treatment plan is developed with goals/objectives to be completed during the term of enrollment. Stage II (three months in length) focuses on maintaining sobriety, social adjustment, and the development of pro-social coping skills. Stage III (six months in length) continues the focus of Stage II, but also emphasizes education and employment. Prior to graduation, all participants must

complete all the goals and objectives expressed in their treatment plans. The researchers did not provide any information regarding the specific nature of these treatment plans.

During their observations of the drug court sessions, the researchers focused specifically on the interactions between the judge and participants. Moreover, they identified how the discourse exchanged between these two parties during the court sessions was different from interactions that occur within the traditional court setting.

Based upon their observations, the discourse exchanged within drug court sessions centered on four re-occurring themes: unsuitable clients, negotiating infractions, demonstrating commitment to recovery, and progress toward completion. Drug court judges must continually assess whether or not participants are suitable to continue participating in the program. The information used to make this determination comes from treatment provider records, case management records, and the discourse exchanged during drug court sessions. Participants who deny their addiction, claim they are being victimized by drug treatment court staff, or lack incentive to make meaningful changes in their lives are deemed “unsuitable” for participation in the drug court.

In terms of negotiating infractions, judges routinely require participants to recount their infraction and accept responsibility for the act and the resulting consequences. As one judge explains

Using cocaine wasn't gonna make your father any better. [addressing the courtroom audience] Notice how she stopped crying when I told her to? Nice way to control your crying Miss [client]...I'm gonna give you a patch [a drug monitoring device worn continuously on the body]. You wear it or you do jail time...If the patch comes off, I will assume you're dirty” (428).

In terms of demonstrating their commitment to recovery, participants who report program violations (e.g., relapse) prior to getting caught are treated differently from those

who admit to relapse only after being confronted, and markedly differently from those participants who continue to deny relapse even after being confronted with evidence. One judge asserts “relapse is part of this process. [And] part of the process here is [to ask] what do you do when you relapse—do you run, or do you binge or do you come back to your treatment provider and say, ‘help me’?” (430).

Finally, in terms of openly acknowledging progress toward completion, judges regularly praise participants who are remaining clean and/or sober and abiding by the program rules. Not only are these accolades given publicly when participants graduate from the program, but when they advance to the next phase of the program. As one judge noted “You look marvelous and I’m happy your life is on track. You really look like you have it together. I should show you an old photo of yourself! Your skin is glowing and you are all together” (432).

These four themes highlight the focus of the discourse that is exchanged between judges and participants in drug court sessions. While the judges in these three California drug courts restrict participants’ behavior through mediums of control (e.g., drug testing, monitoring devices, program requirements, frequent and certain check-ups) and hold participants accountable for their actions through incentives and sanctions, the emphasis is clearly on rehabilitating participants as opposed to retribution and incapacitation. In summary, Burns and Peyrott (2003) concluded that

Drug courts dispense justice as a distinctive form of ‘tough love,’ conveying the dual message to defendants that while the criminal justice system cares about helping them overcome their addiction problems, it also requires defendants to be responsible and accountable (433).

Substantively, these findings suggest that drug courts essentially blend the goals of rehabilitation and deterrence, which is markedly different from traditional courts.

Participants are required to take an active role in their recovery and collaborate with members of the treatment team (e.g., judge, treatment provider, prosecuting attorney, defense attorney) during the entire process.

Although not based on empirical research, Nolan (2001) outlines the specific 10 Key Components of drug courts (see Chapter One for a detailed discussion) and therapeutic jurisprudence (see Chapter Three for a detailed discussion) and contrasts them with the defining features of traditional courts and traditional punishment philosophy. He asserts that “drug court is a combination of taking responsibility and also recognizing that some things are beyond the control of the individual. Addiction to drugs is a health problem...We’re not supposed to be punishing people for their disease” (142). Notwithstanding his advocacy of drug courts, Nolan (2001) quickly reminds us that while drug courts are in fact distinct from traditional courts in term of structure and process, participants “still face potential coercive, even punitive punishments” (194). In other words, while drug courts are noticeably different from traditional courts, elements of deterrence, incapacitation, and retribution are still prevalent within the process of drug courts. Participants are encouraged to remain abstinent through the use of rewards and sanctions and non-compliance with program regulations and/or continued relapses are dealt with using graduated sanctions (e.g., increased levels of supervision, community service, and jail time). Therefore, while the focus of drug courts is on rehabilitating participants, the process is not without elements of the traditional court model. Similarly Granfield, Eby, and Brewster (1998) concluded

Though in the case of the Denver Drug Court there is evidence to the contrary, it is possible that drug courts continue to subscribe to the ‘offender as bad’ view that encourage punitive responses. Law and the courts construct powerful images of offenders that affect their status and passage through social institutions...Drug

courts are, after all, still courts and, thus, may be organizationally incapable of dramatically redefining their relationship to drug users (200).

Goldkamp (2000) argues that the drug court model “incorporates a mixture of values with a decided shift toward treatment and restoration. The mixture [also] includes deterrent and desert values” (4). In spite of this encouraging shift from punishment to treatment and rehabilitation, Goldkamp argues that the drug court process has the potential to “compromise the neutrality of courts by permitting judges to participate as decision-makers in a form of advocacy in social causes...and to adopt social work-like or activist roles, rather than the detached, objective judicial approach necessary [sic] for fair judgment” (3). With that said, he highlights an important component of drug courts that is problematic for two reasons. First, law school training does not prepare judges for this advocacy role nor does it provide them with specific guidelines necessary to take on this new-found responsibility. Secondly, the judicial oath states

I, _____, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as (name of position) under the Constitution and laws of the United States. So help me God (Retrieved from <http://www.conservativeusa.org/oathsofoffice.htm>)

Therefore, judges are required, by law, to ensure that justice is upheld in an objective and unwavering manner, and without consideration for the individual(s) involved in each individual case. Although drug court judges are sworn to carry out their duties in accordance with this oath, drug court judges have asserted that “The goal of getting the drug court client well, however, now supercedes the goal of consistency and impartiality, and even in some cases...strict adherence to statutory law” (Nolan, 2001:104). It is

evident then that drug court judges are cognizant of these contradictory roles, but are steadfast in their beliefs that rehabilitating individuals is a goal worth pursuing.

Fischer (2003) asserts that while drug court proponents criticize the traditional court's method of processing drug-/alcohol-addicted individuals through the criminal justice system and professing that they operate in accordance with rehabilitative principles, the drug court process itself is not void of elements of deterrence, retribution, and punishment. More specifically,

What has replaced traditional carceral punishment is a multi-faceted regime of disciplinary and [behavioral] correction tools under the 'therapeutic jurisprudence' umbrella, providing a new scope, reach and quality of penological or disciplinary control over the offender. The various tools of [TJ] are categorically framed in constructive and positive 'helping' terms, and are largely silencing connotations of negative power or punishment. However, in practice these tools are imposed on the offender in rather coercive ways and deeply penetrate a multiplicity of aspects of the offender's personal life and existence—far beyond the specific concern of 'lawful conduct' or the original drug offense—towards a morally 'good person'" (236).

Fischer acknowledges that while the drug courts monitor participants' state of affairs beyond criminal activity and substance use/abuse (e.g., health, employment, parenting, education) and while this increased monitoring is a positive attribute (in some instances) and can lead to improving one's quality of life, "All these measures come in the name of assistance,... yet are imposed by the coercive powers of the court and leave no room for individual choice or resistance...[and] Violations of any of the above conditions can be sanctioned" (237). Therefore, drug courts have increased both the depth and breadth of their scope. Not only is a broader range of individuals eligible to participate and thus participating in drug courts, but the scope of "intrusion" into the lives of participants by drug court program staff is increasing as well.

Collaboration with Other Social Service Agencies

Another defining feature or characteristic of drug courts is the coordination of services between criminal justice agencies, court personnel, treatment providers, and mental health practitioners that goes beyond the integration of alcohol and/or drug treatment services. Establishing collaborative linkages between criminal justice practitioners and community treatment providers is vital to meeting the needs of drug court participants and the criminal justice system. It should be noted that of the articles reviewed for this research, only one focused on this issue.

Wenzel, Turner, and Ridgely (2004) studied 14 drug courts across the United States,⁴⁹ which largely targeted adults and were post-plea programs. They examined why it has been difficult to create and maintain meaningful collaboration between drug courts and other social service providers. Given that this is a key feature of drug courts, it is important to identify the existence of any barriers to the development and maintenance of these meaningful relationships. Wenzel, et al (2004) sought to determine the specific agencies providing services to drug court participants, the extent of the linkages between the drug court and the service providers, if there was a disjuncture between the expectations regarding the linkages between the administrators and service providers, as well as perceived barriers that existed. A collaborative linkage was operationalized in terms of the following 11 characteristics: “1) the extent to which drug courts and providers accommodate each other’s practice standards; 2) the availability and extent of case management services; 3) cross training of staff; 4) documentation of

⁴⁹ The authors did provide some descriptive information as to the general location of these drug courts (region of the United States, population size of the jurisdiction), but did not identify the specific drug courts by name, nor did they provide information regarding the structure and process of the programs being studied.

relationships (e.g., written agreements); 5) resource sharing; 6) joint assessment of clients; 7) joint planning of client service goals; 8) client referrals; 9) mutual sensitivity to concerns of the other agency or program; 10) sharing of information about clients; and 11) staff meetings” (256).

The researchers interviewed one drug court administrator from each of the 14 drug courts that were included in the sample. During that interview, the drug court administrators were asked to provide the name and contact information for service providers in the following four areas: substance abuse, mental health, primary (medical) care, and other services (e.g., employment). The researchers then contacted these service providers for the purposes of interviewing them about the same issues.

A few of the findings that emerged are noteworthy. First, all fourteen drug court administrators interviewed were able to answer general questions regarding linkages between the drug court and service providers. However, when asked to provide the specific name and contact information for service providers in all four areas, none of the drug court administrators could provide this information for all four types of services. Contact information for substance abuse treatment providers was provided by all 14 drug court administrators, however contact information for other service types was more sporadic across the drug court programs. Second, “there was a significant difference ($p < .05$) between administrators and providers in perceived strength of referrals, in that providers’ scores on referrals were higher than administrators’ scores on this dimension” (259). Third, in terms of barriers to linkages (perceived or real), administrators and providers identified: “sharing of client information, referrals, and joint

planning/assessment, ...funding limitations,...data systems/sharing,...and staffing shortages” (259-260).

In summary, the researchers concluded: “The fact that administrators could not always identify an individual in a provider agency that could be contacted for an interview suggested that a very informal relationship exists between drug courts and these providers” (260). Moreover, while drug courts are cognizant of the myriad services necessary to meet the individual human needs of participants, collaborative linkages between drug courts and service providers that are free of bureaucratic, philosophical, and/or logistical barriers have yet to be fostered.

Overall, there are various measures of success that are employed when trying to assess whether or not drug courts are effective. As is demonstrated above, the research yields mixed findings regarding whether or not drug courts are successful in meeting their stated goals: reducing recidivism rates, maintaining abstinence in participants, increasing treatment retention rates, improving participants’ overall quality of life, reducing long-term costs to the criminal justice system, and facilitating collaborative working relationships between criminal justice and social service practitioners.

General Criticisms

Since their inception in 1989, drug courts have come under heavy scrutiny by members of the criminal justice community, practitioners within the drug abuse treatment community, and members of academe. To date, the literature assessing drug court effectiveness is inconclusive and consequently proponents and opponents alike are able to support their arguments for and against drug courts with empirical evidence. What

follows is a summary of some of the criticisms of drug courts found within the existing literature, however it should be noted that these criticisms are not based upon empirical evidence, but rather anecdotal evidence or are expressed concerns that have not yet materialized.

Due Process and Net-widening

As stated in Chapter One, drug courts are designed to be an alternative to traditional court processing that involves a more therapeutic approach. Despite their grounding in therapeutic jurisprudence and rehabilitative ideals, the structure of some drug court programs is such that participants must waive some of their due process rights during their term of enrollment. Consequently, defense attorneys have questioned this practice and have been especially leery of how the waiving of due process rights may disproportionately affect those who are unsuccessfully discharged from the program (Simmons, 2000).

Fischer (2003) acknowledges that requiring diversion participants to waive due process rights (e.g., right to an attorney, right to a speedy trial) and enter a guilty plea prior to entering the program, challenges one of the cornerstones of our criminal justice system; the presumption of innocence. He goes on to argue:

A further challenge to 'presumption of innocence' principles in DTCs [drug treatment courts] may be constituted by rules requiring the offender's 'honesty' and proactive reporting of violations of conditions...before they are inevitably revealed by treatment reports in order to avoid 'sanctions' (240).

Another criticism of drug courts is that many programs across the United States are much more rigorous and hold participants to a much higher degree of accountability than do standard probation programs. For example, within drug court programs, there is

a much more intense degree of supervision and participants are required to actively engage in the program, as opposed to passively going through the motions of complying with probation conditions. Therefore, while drug courts represent a shift in emphasis from punishment to helping defendants overcome substance abuse problems, those who are unsuccessfully discharged from the program risk facing stiffer penalties (e.g., longer terms of incarceration or punishment) than would have been imposed in traditional courts (Boldt, 1998; Nolan, 2001; Simmons, 2000). Boldt (1998) argues that:

Notwithstanding the fact that these courts [drug courts] may be less punitive than their traditional counterparts, they still pose a danger that ‘precisely because of their less overtly punitive content, [they] may become the occasion for significantly widening the reach and scope of the social control apparatus’” (1216-1217).

Nolan (2001) affirms that drug court participants typically experience “greater criminal justice involvement than the ordinary non-violent offender in a like position [not participating in drug court]” (194). He goes on to say that the therapeutic benefits of the drug court must be considered when assessing whether the demands on participants are too arduous. Chiodo (2002) also concluded that, drug courts are, in general, “more punitive...more intense, more difficult to complete, more onerous and far more intrusive on liberty than a term of [traditional] imprisonment” (83).

Since their inception, drug courts have also been criticized for expanding the net of the criminal justice system and intervening in the lives of individuals who otherwise would not be brought into court processes. Moreover, it has also been argued that drug courts intervene into aspects of participants’ lives that extend beyond the scope of the program. One drug court critic asserts that “the hands-off critique saw intervention into the problems of the individuals involved in criminal cases as inappropriate and

compromising to the ‘neutral’ judicial adjudication function” (Goldkamp, 2000:2). This criticism is based upon the belief that many of the individuals referred to drug courts would not have come under the purview of the traditional criminal justice system because they are considered to be low-level (e.g., non-violent) offenders.

In summary, critics of the drug court movement assert that the structure and process of drug courts violate due process in three fundamental ways: 1) drug courts violate the presumption of innocence standard; 2) drug courts require some participants to waive their due process rights during their term of enrollment; and 3) drug court participants must comport with strict and onerous requirements of the program. Furthermore, the sanctions for non-compliance are unduly harsh and are greater than what defendants face within the traditional criminal justice system.

Public Risk

Some critics have argued that drug court participants put the public at risk (Simmons, 2000). This argument is based on the belief that drug court participants should be dealt with more harshly (attention to public safety). Interestingly, this belief is not rooted in empirical evidence. Of the articles reviewed for this research, the only study that focused on this issue found evidence suggesting the public safety concern is unfounded (Dynia and Sung, 2000).

Dynia and Sung (2000)⁵⁰ assessed whether the level of risk posed to the general public increases when prison-bound drug offenders enter the drug court program. Public

⁵⁰ As stated earlier in this chapter, the DTAP in Brooklyn, NY targets prison-bound offenders, who are either drug addicted property offenders or were arrested after the police observed them selling drugs. Participation is voluntary and participants’ prison sentences are deferred to allow them to enter into

risk was assessed in terms of the sheer number of arrests of drug court participants (graduates and failures) and non-participants (control group) alike.

Findings indicate that 4% (n=12 of 272) of drug court participants were re-arrested, whereas 13% (n=28 of 215) of non-participants were re-arrested ($p = .0001$). The majority of arrests for the drug court participant group resulted after individuals were unsuccessfully discharged from the program and were considered “at large,” whereas the majority of arrests for the non-participant group occurred during the pretrial phase of the court process and prior to being sentenced to prison. Substantively, Dynia and Sung (2000) concluded that “the diversion of felony drug offenders to community-based treatment was as safe as incarceration in state prison” (307).

Questions that Remain

Based upon this review of the literature (both empirical and non-empirical), there are several important questions that, at present, have been either unexplored or remain unanswered. For organizational purposes, I begin with a summary of the questions that remain unanswered according to drug court evaluators and researchers and then follow with the questions I believe remain unanswered or unaddressed.

Remaining Questions According to the Literature

1. Are drug courts effective in reducing criminal recidivism in the short-term? Long-term?
2. Are drug courts effective in reducing substance use/abuse in the short-term? Long-term?
3. Are drug courts a cost-effective alternative to traditional court processing?
4. Do drug courts increase the time participants spend in substance abuse treatment?

residential treatment, which lasts between 15 and 24 months. Additional information regarding the program structure and content was not provided in the article.

5. Do drug court participants engage in substance abuse treatment programs for longer periods of time than do non-drug court participants?
6. Does the drug court process adequately balance the defendant's rights and interests with the stated desire of the crime control model?
7. Is drug court an attempt, on the part of judges, to regain some of their discretion that has been lost in the past few decades?
8. Does the drug court process foster meaningful relationships between drug court practitioners and practitioners responsible for providing social services (e.g., substance abuse treatment, mental health counseling)?
9. Does participation in drug court result in an improvement in one's overall "quality of life?"
10. What is the composition of an appropriate control group to which researchers and evaluators can compare drug court participants in order to determine whether drug courts are effective?

Questions I Believe Remain Unanswered or Unaddressed

In addition to the above-listed questions, evaluators and researchers alike have not addressed several important questions with regard to drug courts.

1. What other measures of effectiveness could be employed to evaluate drug courts?
2. How are the roles of the key drug court players different from those of the traditional court?
3. Do drug court participants have an active or passive role in the drug court process?
4. Do drug courts result in "net widening" within the criminal justice system and involve offenders that previously would not have been supervised by the system?
5. How do competing institutional and individual interests affect the processes of drug court programs?
6. How do the punitive practices in the drug court model correspond to or depart from traditional punishment practices?
7. How does the drug court model compare/contrast with previous rehabilitative practices?
8. Do drug court participants perceive this process as markedly different from traditional court processing?
9. Do drug courts address and meet individual client needs?
10. Given that drug courts mandate that all participants engage in treatment, can drug courts be considered truly therapeutic (read "needs-based")?
11. Are drug courts simply a different "war on the poor" or a "strategy to control the poor?"

In summary, there is a plethora of literature that focuses on drug courts. The research that has been conducted to date has employed a variety of research designs (e.g., experimental, quasi-experimental, and qualitative), focused on a limited number of outcome measures (e.g., recidivism, substance abuse, treatment retention, overall “quality of life,” and employment), and resulted in mixed findings regarding effectiveness. Within the literature reviewed for this research and discussed in this chapter, there is a very limited discussion of the theoretical foundation(s) of drug courts. Therefore, what follows in Chapter Three is a discussion of the theories (e.g., criminological and organizational) and perspectives (e.g., therapeutic jurisprudence and basic human needs) that together provide the conceptual foundation for the drug court movement.

CHAPTER III

THEORY

Before addressing the theoretical foundation of the drug court movement, the social and political views regarding drugs and crime that exist within the United States will be reviewed. While at first glance it might appear as though the drug court movement was developed by “liberals”⁵¹ in actuality, individuals across the political spectrum were supportive of the movement as it represented a new approach to controlling and regulating drug behavior.

Attempts to control and regulate drug behavior are exemplified in three significant pieces of legislation that were implemented prior to the advent of the drug court movement. First, in 1984, President Reagan signed the Comprehensive Crime Control Act, which completely overhauled the federal sentencing system and revised bail and forfeiture procedures, along with various other federal practices. During the same year, President Reagan’s wife Nancy began her “Just Say No” educational campaign, which targeted white, middle-class children in an effort to reduce the likelihood they would use/abuse drugs and alcohol (O’Bryant, 2003).

Second, on October 27, 1986 President Reagan signed the 1986 Anti-Drug Abuse Act, which appropriated \$1.7 billion to fight the “war on drugs.” \$97 million was allocated to build new prisons, \$200 million allotted for drug education, and \$241 million

⁵¹ For a discussion regarding the term “liberal,” please see Conover and Feldman (2004).

was earmarked for treatment programming. In addition, this bill also created mandatory minimum sentences for drug offenses. Two examples of such sentences are: ten years in prison for possession of one kilogram of heroin or five kilograms of cocaine, while the sale of five grams of crack cocaine was punishable by a mandatory five-year prison term. (O'Bryant, 2003).

Third, on November 15, 1988 the Anti-Drug Abuse Act was signed by President George Bush. This legislation formally established the White House Office of National Drug Control Policy (ONDCP) and the Substance Abuse and Mental Health Services Administration (SAMHSA). The head of the ONDCP (commonly known as the “drug czar”) was a cabinet-level position and tasked with the duty of preparing an annual national strategy to combat drug use. The appointed individual served largely as a spokesperson for the White House’s philosophy on drugs because there was no enforcement or budget attached to the position (O'Bryant, 2003).

Additional components of the 1988 Anti-Drug Abuse Act included the requirement that the Surgeon General’s warning label be placed on alcoholic beverages, and the reduction in the federal Blood Alcohol Concentration (BAC) standard for Driving under the Influence (DUI) from 0.10% to 0.08% (0.02% for drivers under 21 years of age). Moreover, state governments were encouraged to institute license forfeiture for drivers convicted of DUI.

On a broader level, the 1988 Act introduced a new official vocabulary intended to change society’s perception of drugs. For example, the term “recreational use” was deemed inappropriate because it was believed that no one could use illicit drugs for “fun.” This change purposely blurred the distinction between the experimenter, the user,

the abuser, and the addict. The Act also strengthened the ability of prosecutors to seize the assets of individuals convicted (or even suspected) of drug manufacturing/delivery and significantly lengthened sentences for those convicted of drug offenses (O'Bryant, 2003).

In 1990, immediately following the inception of the drug court movement, President George Bush signed the Crime Control Act of 1990. This legislation authorized \$900 million for the Edward Byrne Memorial State and Local Law Enforcement Assistance programs (Byrne grants). The Byrne grants were designed to assist states with improving the function of their criminal justice systems, preventing crime, and enforcing drug laws. The Act provided funding to assist states with building effective prison systems, and providing alternatives to incarceration. According to the Bureau of Justice Assistance, the agency responsible for the allocation of Byrne Grant monies,

The Grant Program provides financial and technical assistance to states, state courts, local courts, units of local government, and Indian tribal governments to develop and implement treatment drug courts that effectively integrate substance abuse treatment, mandatory drug testing, sanctions and incentives, and transitional services in a judicially supervised court setting with jurisdiction over nonviolent, substance-abusing offenders. Programs funded by the Drug Court Discretionary Grant Program are required by law to target nonviolent offenders and must implement a drug court based on 10 key components (<http://www.ojp.usdoj.gov/BJA/grant/byrne.html>).

During the late 1980s, politicians across the political spectrum were interested in developing new approaches to dealing with drug/alcohol-dependent individuals involved in the criminal justice system. While the majority of social policies of the time focused on increasingly harsh punishments (i.e., longer terms of incarceration, stiffer monetary penalties), there were some approaches that sought to deal with drug/alcohol-dependent

individuals more expeditiously, as these particular cases were clogging the criminal justice system. One such approach was the expedited drug case method, which sought to increase the efficiency with which courts disposed of drug-related cases. Another approach was the drug treatment court (Hora, Schma, & Rosenthal, 1999).

Drug court proponents have unapologetically acknowledged that, in 1989, theory was not a major factor in the development of the drug court model. Furthermore, since that time there has been relatively little attention paid to establishing a solid theoretical foundation for such a presumably dramatic departure from the traditional model of criminal justice. Even though the literature does not expressly link theory with the drug court movement, elements of various theoretical perspectives have clearly influenced the structure and processes of drug courts. Consequently, this discussion represents an attempt to theoretically locate drug courts within the existing body of literature.

This chapter begins with a summary of several criminological theories that were integral to the development of drug courts. Second, a discussion of therapeutic jurisprudence is provided. This is a perspective that has been almost exclusively linked with drug courts since their inception. Third, how the drug court model seeks to address the basic human needs identified as crucial to full human development by Gil (1996) and Maslow (1954) is provided. Finally, a summary of various organizational theories that, I argue, have been influential in both the structure and processes of the drug court model is presented.

As noted earlier in this chapter, the development of drug courts and the subsequent alignment of drug courts with theories is not exclusively rooted in a particular political party or perspective. As will become apparent from the review of theories,

while some proponents of drug courts place their support behind rehabilitative ideals, others place their support behind ideals of rational choice and deterrence.

Criminological Theories

The drug court movement began as a response by researchers, academicians, and legal practitioners to the concern that the traditional model of criminal justice was not successful in dealing with drug abusing offenders. Despite the fact that theory was not a driving force in the development of the drug court model, there are elements of several criminological theories that have given shape to what we know today as the drug court. In the following section, several criminological theories that have been influential in the development and proliferation of the drug court movement within the United States are identified. Following a brief discussion of each theoretical perspective, how this perspective is applicable to the study of drug courts is demonstrated.

Labeling Theory

Labeling theory is rooted in the notion that individuals who have been labeled deviant or criminal oftentimes subscribe to or identify with these labels and use these labels to bolster or create their self-identity. This perspective also focuses on the role that politics plays in the process of defining who and what is criminal. What is of particular interest within this theory is how these definitions are constructed by individuals in positions of power and are perpetuated over time. Howard Becker (1963), a well-known labeling theorist, summarizes this theory as follows:

Deviance is not a quality of the act the person commits, but rather a consequence of the application by others of rules and sanctions to an 'offender.' The deviant is

one to whom that label has successfully been applied; deviant behavior is behavior that people so label (9).

Due to the fact that the process of defining who and what are criminal is highly political, labeling theorists argue that no behavior is inherently criminal. In summary, according to labeling theory, if one is interested in determining whether or not an individual will be labeled “criminal,” s/he should focus on how the person is perceived or defined (making sure to take into account factors such as race, class, and gender) as opposed to whether or not the individual has actually committed an act that has been defined as criminal.

Labeling theory has influenced how drug court practitioners view program participants, as well as the drug court process itself. Drug courts seek to address the negative psychosocial effects that drugs and/or alcohol have had on the lives of participants. Moreover, attempts are made to re-socialize participants in such a way so as to encourage them to view themselves as responsible, law-abiding, and successful individuals and to live a life that is drug/alcohol- and crime-free. Drug court practitioners work closely with participants and provide the encouragement, support and assistance needed in order to meet pre-determined program goals (e.g., abstinence from the use of drugs/alcohol, remain crime free). It is believed that through this process and with the support and encouragement of drug court staff, participants’ views of themselves will change, thus resulting in society’s views of these individuals (e.g., as an “addict” and a “criminal”) changing as well.

Some drug courts in the United States even allow participants to enter into the program as a diversion participant, which will allow them to avoid the official label of being a “criminal.” Some practitioners (within the criminal justice community and

certainly within the medical community) argue that addiction is actually a disease and therefore should not be addressed by the criminal justice system. It has been asserted that

The criminal justice model views drug addiction as one of many antisocial behaviors manifested by criminals, whereas the medical model views it as a chronic and relapsing disease. Traditionally, the courts use legal sanctions, including incarceration, both to punish drug-involved offenders and to deter them from further criminal activity. On the other hand, the treatment community emphasizes therapeutic relationships to help motivate addicts to reduce their dependence on drugs, change their behavior, and take control of their lives (National Institute of Justice, 2006:1).

Essentially, drug courts attempt to synthesize the efforts of the criminal justice and treatment communities in a way that more effectively addresses the needs of individuals involved in the criminal justice system who are struggling with an addiction.

Social Learning Theory

Social learning theory is based upon the assumption that criminal behavior is learned through interaction with one's social environment, as well as through interaction and communication with other individuals. One way in which individuals learn is through the use of modeling. Individuals are most likely to model behavior observed by others with whom they identify. Identification with others is a function of the degree to which a person is perceived to be similar to one's self, in addition to the degree of emotional attachment that is felt toward an individual. Within the learning process, individuals also learn when to repeat or discontinue a given behavior by gauging the responses elicited by others. Response consequences (rewards or punishments) either positively or negatively influence the likelihood that a person will perform a particular behavior again in a given situation (Akers, 2002; Vold, Bernard, & Snipes, 2002).

Social learning theorists argue that individuals who are involved in criminal activity (and thus labeled as “criminals”) and those who have not been labeled as “criminals” are not inherently different from one another. Rather, both groups have endured the same learning process, yet they internalized different norms/values, which resulted in the establishment of different definitions regarding what is right/wrong and/or acceptable/unacceptable. Sutherland, in his theory of differential association, argued that “the distinction between lawbreakers and the law-abiding lies not in their personal fiber but in the content of what they have learned” (Lilly, Cullen, and Ball, 1995:47). According to Akers (Lilly, Cullen, and Ball, 1995:51), “social reinforcements—rewards and punishments—determine whether any behavior is repeated. Involvement in crime, therefore, depends on exposure to social reinforcements that reward this activity. The stronger and more persistent these reinforcements, the greater the likelihood that criminal behavior will occur and persist.”

Social learning theory has influenced the way in which drug court practitioners approach the treatment process. Fundamentally, the drug court process seeks to re-condition participants to refrain from using drugs and/or alcohol and cease from engaging in criminal activity. The re-socialization process involves the use of drug/alcohol treatment programs, individual counseling, group counseling, and social support groups (e.g., Narcotics Anonymous, Alcoholics Anonymous), focusing on definitions unfavorable to drug/alcohol use and changing response consequences so as to move people away from the use of drugs and/or alcohol. It is believed that by replacing these negative definitions, experiences, and life situations with what participants need (e.g., coping skills, education, employment, access to drug/alcohol treatment resources,

individualized attention from professional drug court team members; see also the 10 Key Components outlined in Chapter One) is one of the strengths of the drug court process.

Deterrence Theory

Deterrence theory is premised on the belief that individuals will engage in criminal behavior if they do not fear apprehension and punishment. Proponents of this theory argue that laws themselves and the enforcement of laws should be designed in such a way so as to produce and maintain a positive association between criminal behavior and punishment. This theory is comprised of two approaches to deterrence; general and specific. General deterrence focuses on reducing the probability of criminal behavior within society at large, while specific deterrence focuses on individual actors and seeks to reduce the probability that these individuals will commit criminal acts in the future. The overarching goal is to prevent individuals from engaging in crime by implementing swift, certain, and severe punishments, and thus impacting their decision-making process (Akers, 2002; Vold, Bernard, & Snipes, 2002).

Above all else drug courts strive to deter participants from using drugs and/or alcohol. The various components of the drug court process (e.g., drug/alcohol treatment, counseling sessions, urine screens, case management sessions) are designed to educate participants on how drugs and/or alcohol have negatively affected their lives physically, psychologically, emotionally, socially, and financially. It is believed that if participants are cognizant of the negative impact their addiction has had on their lives and they are aware that violations of program rules are met with certain and severe sanctions, they will

be less likely to relapse. This view of course ignores the root reasons for use/“addiction” and criminal behavior.

Rational Choice Theory

Rational choice theory is essentially a modification of deterrence theory and is based upon three assumptions: hedonism, rationality, and free will. More specifically, hedonism refers to the belief that all individuals choose to obey or violate the law based upon a rational calculation of the risk of pain versus the potential pleasure derived from a specific act. Rationality refers to an individual’s capacity to make good, sound judgments, which are based upon logic. Free will refers to an individual’s ability to consider various courses of action and then select the one that is most desirable or in his/her best interest (Akers, 2002; Vold, Bernard, & Snipes, 2002).

This perspective is premised upon the belief that all individuals are capable of making rational choices. Furthermore, when contemplating whether or not to commit a criminal act, individuals take into account the probable legal penalties and the likelihood that they will be caught. If an individual believes that the legal penalty threatens more pain than probable gain, then it is likely the individual will not commit the criminal act. This rational calculation is based upon each individual’s own experience with punishment (Akers, 2002; Vold, Bernard, & Snipes, 2002).

Rational choice theory has influenced drug courts in two main ways. First, the entire drug court process is contingent upon participants taking individual responsibility for their use and/or addiction. Participants must openly admit their addiction and repeatedly demonstrate their commitment to the process of recovery by submitting

negative urine screens, successfully completing treatment programs, and remaining in compliance with program rules. Second, in order to remain in compliance with the drug court program, participants must agree to remain clean and/or sober during their term of enrollment (and it is hoped, after participation ends). Drug court practitioners approach the process of recovery in such a way that while relapse is viewed as an almost inevitable component of the recovery process, “it is strongly implied that ‘chronic disorder’ [addiction] can successfully be overcome by sufficient moral and personal strength, discipline, and willpower” (Fischer, 2003:235). Therefore, there are components of the recovery process that focus on increasing participants’ sense of willpower (the ability to remain abstinent) and discipline (e.g., maintain employment, increase sense of responsibility). Additional components (e.g., counseling, drug treatment programs, 12-step support groups) of the drug court process focus on some of the underlying reasons participants have chosen to become addicts/users. As can be seen, there is some dissonance between rational choice perspective and the medical model of treatment in that these two perspectives argue that addiction is the result of different factors; Rational choice proponents blame the individual and his/her decision-making process, whereas proponents of the medical model of treatment places argue that addiction is the result of a medical or psychological deficiency and therefore in need of medical treatment.

Social Control Theory

Social control theory is based on the assumption that all individuals would commit deviant acts if left to their own devices. Therefore, the question to be answered is not why do some individuals commit crime, but rather why do most people not commit

crime. Social control theorists argue that all individuals (criminal and non-criminal) are aware of the social control mechanisms that have been put into place by society in order to address acts of crime. Moreover, social control theorists also believe that all individuals possess a natural motivation to commit crime and therefore have an underlying impulse to engage in criminal activity.

Travis Hirschi (1969), one of the most well-known social control theorists, asserts that individuals form social bonds with other individuals (e.g., peers, mentors, and friends) and institutions (e.g., family, schools, and religion) in society and it is the strength of these bonds that prevent individuals from committing crimes⁵². These social bonds are comprised of four elements: attachment, commitment, involvement, and belief. Attachment refers to the strength of the ties that develop between children and key people in their lives (e.g., parents, teachers, relatives, and friends). It is argued that the stronger the attachment one has with key people in their lives, the less likely they are to engage in criminal acts.

Commitment refers to the degree to which individuals are vested in the social norms of behavior and regard as important getting a good education, maintaining a good job, and being successful. It is hypothesized that when individuals and society hold similar values regarding what is right/wrong and acceptable/unacceptable, the likelihood that these individuals will engage in criminal behavior is greatly reduced. In addition, because these individuals have invested time and energy, they have essentially conformed to societal values and therefore have more to lose by engaging in criminal behavior than do individuals who are not as committed.

⁵² I must preface my discussion of Hirschi's social bond theory with an acknowledgement that Hirschi posits these things are true even though they are not for many people.

Involvement refers to the proportion of time individuals spend engaging in conventional activities. The belief is that the more conventional activities a person is involved in, the less time he or she will have to commit crime. Belief refers to the notion that most individuals have been socialized to believe in and respect the law, as well as those people and institutions who enforce such laws. Hirschi argued that people who live in common social settings share similar values. Therefore, those individuals who are not socialized to believe in and respect the law are more likely to engage in crime. Furthermore, if people perceive laws as being unfair or unjust, this bond to society is weakened and the likelihood of engaging in crime increases.

Strong social bonds essentially create higher levels of social capital and encourage individuals to internalize societal norms and values. This theory has influenced the structure and process of drug courts in that drug court participants are encouraged to formulate and strengthen social relationships with positive individuals in their lives. Moreover, all participants are required to complete parenting education classes, maintain employment, and obtain a high school diploma or general equivalency degree (if applicable). These requirements were designed to improve each participant's overall quality of life and strengthen or re-establish social relationships that may have been negatively impacted by drugs and/or alcohol. Drug courts are organized in such a way that individuals are encouraged to become involved in and committed to conventional activities. The belief is that as the degree of attachment to others (such as family and friends) increases, the likelihood that person will use drugs and/or alcohol greatly decreases. This is a perspective of course that ignores the roots of drug use or involvement.

Even though drug courts were designed and implemented without an express foundation in criminological theory, the theories of the 1980s clearly played an important role in the process and structure of the drug court model. During this same time, practitioners within mental health law were questioning whether the processes utilized within the field were producing anti-therapeutic effects for the mental health patients they were designed to protect and serve. These practitioners sought to investigate how the law impacts the emotional life and psychological well-being of the individuals involved in the justice system. In order to conduct such an investigation, these practitioners needed a framework or perspective to utilize and as a result, the term therapeutic jurisprudence was born.

Therapeutic Jurisprudence

Roscoe Pound (1943) founded the term “sociological jurisprudence,” which can be seen as the precursor for the development of therapeutic jurisprudence. He argued that “the law must look to the relationship between itself and the social effects it creates” (446). If one interprets the term “social effects” to include both the therapeutic and anti-therapeutic effects individuals must endure during their involvement in the criminal justice system, then the link between the terms sociological jurisprudence and therapeutic jurisprudence is clear.

The term “therapeutic jurisprudence” was coined by Wexler in 1987 and applied to work in the field of mental health law, expressly as it related to the deprivation of liberty. Those working under the guise of therapeutic jurisprudence sought to look how “a system that is designed to help people recover or achieve mental health often backfires

and causes just the opposite” (Wexler, undated speech at Michigan State University’s Cooley Law School). The belief was that the field’s original focus, to protect the rights of patients who were unable to assume total responsibility for themselves, was waning and practitioners were interested in returning the field to its original roots. In an effort to re-assess how mental health law in practice impacts the lives of those who were affected by it, practitioners utilized the therapeutic jurisprudence perspective, in that it

proposes we use the tools of the behavioral sciences to study the therapeutic and anti-therapeutic impact of the law, and we think creatively about improving the therapeutic functioning of the law without violating other important values, such as *Gault*-like due process concerns” (Winick and Wexler:2003:7).

Therapeutic jurisprudence essentially focuses on how the practice of law (as opposed to law on the books) can actually have a detrimental (or anti-therapeutic) effect on the lives of people involved in the justice system. More generally, therapeutic jurisprudence

can be seen as a mental health approach to law that uses the tools of the behavioral sciences to assess law’s therapeutic impact, and when consistent with other important legal values, to reshape law and legal processes in ways that can improve the psychological functioning and emotional well-being of those affected (Winick & Wexler, 2003:106).

How, then, does therapeutic jurisprudence specifically apply to the study of drug courts? As stated in Chapter One, since the mid-1980s, United States courts have been given the responsibility of dealing with an ever-increasing number of substance-abusing individuals. In 1989, a small group of criminal justice practitioners openly acknowledged that traditional court case processing was failing to effectively deal with individuals within the criminal justice system who were addicted to drugs and/or alcohol. At the same time, these practitioners were cognizant of the fact that society at large was looking to the criminal justice system to fight the “War on Drugs” and enforce increasingly punitive sanctions. Despite political, social, and legal pressures to maintain the

traditional court case processing of criminal defendants with a substance abuse problem, these practitioners believed that the traditional court system was failing to deal with drug-abusing offenders in three main ways. Consequently, this failure supported their belief that a therapeutic jurisprudence approach would be more advantageous in meeting the individual needs of participants and the larger society.

First, the traditional “hands-off” approach to case processing was failing to reduce the sheer number of defendants charged with crime(s) and was consuming already-scarce resources (e.g., court time, money). The courts were notorious for referring offenders to alcohol/drug treatment that was beyond the purview of the criminal justice system. These treatment programs were not affiliated with the criminal justice system in any way and neither the judge nor the probation officer had any involvement within the process. This led to the establishment of a privatized and fragmented system, comprised of a potpourri of programs to which defendants were referred.

Second, probation, as an alternative to incarceration, was failing to identify and address the needs of drug-dependent offenders. This was inextricably linked to the shift in punishment philosophies from rehabilitation in the 1970s to that of retribution, deterrence, and incapacitation in the 1980s. Not only was rehabilitation a low priority for probation departments within the United States, but attempts to refer a probationer to treatment and then monitor his/her progress were nearly impossible given high case loads and the lack of institutional support for such efforts (Zimring and Hawkins, 1995).

Third, alcohol/drug treatment providers “operated under their own rules and discretion in determining eligibility, level of care, and termination, reflecting a different professional orientation and view of how substance abusers should be treated”

(Goldkamp, 2000:5). Judges had virtually no input into the treatment deemed appropriate and there was little, if any, communication between treatment providers and the courts as to compliance and additional needs.

Since the inception of the drug court movement in 1989, the definition of therapeutic jurisprudence has taken on a variety of forms. At present, it is fair to say that therapeutic jurisprudence can be loosely defined as the combination of a “‘rights’ perspective—focusing on justice, rights, and equality issues—with an ‘ethic of care’ perspective—focusing on care, interdependence, and response to need” (Rottman & Casey, 1999:13). While therapeutic jurisprudence has been touted by some researchers as the theoretical foundation of the drug court movement, this assertion is not fully accurate. Although the term “therapeutic jurisprudence” and the drug court model were developed around the same time (in 1987 and 1989 respectively), the two enterprises occurred completely independently of one another. Winick and Wexler (2003) have argued that that “specialized treatment courts (including drug courts) are related to therapeutic jurisprudence, but are not identical with the concept...These courts can be seen as *applications* [emphasis mine] of [therapeutic jurisprudence]” (106). Hora, Schma, and Rosenthal (1999) confirm that while the drug court movement was formulated “without the advantage of therapeutic jurisprudence analysis” (448), it does represent an attempt to put the theory of therapeutic jurisprudence into action.

In summary, therapeutic jurisprudence is a theoretical approach to criminal justice, with the underlying premise being that a legal rule or practice can and *should* (emphasis mine) be studied to determine whether or not it is benefiting the target population. Moreover, therapeutic jurisprudence provides not only theoretical support for

the implementation of drug courts throughout the country, but also a theoretical framework for modifying and evaluating existing drug courts.

According to theorists Gil and Maslow, the nature of human development is such that in order for meaningful change to occur, the basic needs of individuals must be satisfied. It follows then that in order for drug courts to be effective in meeting their stated goals, the structure and processes of the drug court model must be such that these needs are emphasized and individuals have access to the resources necessary to meet these needs. What follows is a discussion of the theories that address human needs.

Basic Human Needs

Part of what the drug court model is seeking to redress are the limitations of the traditional court structure in terms of meeting human needs. According to Gil (1996:78) “humans tend to develop spontaneously and to unfold their potential when they can meet their inherent needs in their natural and socially evolved environments. Conversely, when these needs cannot be met adequately, people’s development tends to be stunted.” Moreover, Gil (1996) and others understand that when social conditions are such that opportunities are blocked, which results in human needs not being fulfilled, individuals direct their energies away from the source(s) of the inequalities for the sake of self preservation. These energies can manifest themselves as substance abuse/addiction, mental illness, suicidal ideation, or any combination of the above.

There are essentially five categories of needs that all humans seek to realize in order to develop: 1) *Basic, material goods and services*; 2) *Meaningful human relations conducive to emergence of a positive sense of identity*; 3) *Meaningful and creative*

participation in socially valued productive processes; 4) A sense of security; and 5) Self-actualization (Gil, 1984:32).

Basic, material goods and services are comprised of the need for food, water, clothing, shelter, health, and learning. This category of needs is very broad in scope and a key route to addressing these needs, in our current society, is through maintaining gainful employment and securing adequate income. Gil argues that all human beings have the unconditional need to meet these needs and there is the possibility for structural forces (i.e., the State) to provide access to these needs. For example, all citizens in the United States should have unrestricted access to food, shelter, and healthcare. One way to ensure every individual in the United States has food, shelter, and healthcare is for the State to appropriate money to these areas of social life and to ensure that the money is equitably distributed across socio-economic class lines.

Meaningful human relations conducive to the emergence of a positive sense of self-identity refers to the importance of developing mutually beneficial intimate relationships with other individuals and how this is intricately tied to the development of a positive self-identity. Developing a positive self identity is vital to realizing ones' maximum potential and building on one's gifts and talents. Humans are, by nature, social beings and possess a desire to be respected, loved, and accepted by those with whom they are in relation (e.g., friendship, family, social network) and it is through these positive relationships that people develop a sense of self. Obstacles to the fulfillment of this basic human need "derive largely from pervasive structurally induced competition for employment, promotions, preferred positions, conditions, and opportunities" (Gil, 1984:33). Essentially, Gil argues that the structures of the United States inherently

breeds competition amongst its citizens and reduces the likelihood that individuals will be able to fulfill this basic human need. For example, all United States citizens should have equal access to opportunities and advancement regardless of, for example, socio-economic status, race, gender, age, etcetera. However, we know that certain groups of individuals throughout the United States have historically dealt with and continue to deal with the unwritten and/or unacknowledged obstacles that are placed in their life-course.

Meaningful and creative participation in socially valued productive processes refers to “exploring one’s world and discovering one’s potential by participating in socially valued, productive work, in a self-directed and creative manner, and in accordance with one’s talents and stages of development” (Gil, 1996:78-79). This basic human need is an extension of what was discussed above, but relates more to the process of full participation within society. Human beings naturally desire to participate in social situations, strive to achieve goals that have been set, and, during this process, must recognize the resources that are necessary as well as have the ability to access these resources.

A sense of security can only be achieved when an individual’s biological-material, social-psychological, and productive-creative needs are met on a regular basis. Developing a sense of security allows an individual to trust in society, themselves, and their support system(s), which then frees them up to develop long-term goals and work toward self-actualization. In order for an individual to reach the stage of self-actualization the first four basic human needs must be fully realized. Essentially, self-actualization refers to “becoming what one is capable of becoming” (Gil 1996:79). It is at this stage when people feel a sense of accomplishment and comprehend/internalize all

that they are capable of achieving. This basic human need cannot be met without basic material goods/services being available, an established social support system in place, participation in socially valued productive processes (e.g., work-related, spiritually-based), and a true sense of individual security.

Gil (1996) based his assertions regarding basic human needs on the work of Maslow. In 1943, Maslow asserted that “as humans meet ‘basic needs,’ they seek to satisfy successively ‘higher needs’ that occupy a set hierarchy” (395). This hierarchy of needs is often depicted as a pyramid consisting of five levels: the four lower levels are grouped together as “deficiency needs” (e.g., physiological, safety, love/belonging, and esteem needs), while the top level is termed “growth needs” (e.g., self-actualization and self-transcendence). While our deficiency needs must be met, our growth needs are continually shaping our behaviour. The basic concept is that the higher needs in this hierarchy are met only after the lower-level needs have been met or satisfied. Moreover, Maslow also argues that a hierarchy of needs is only applicable in societies that are hierarchical in nature.

Above all the rest, *physiological needs* take first precedence. This category is comprised of the need to breathe, drink, eat, dispose of bodily waste material, sleep, regulate bodily temperature, exercise, engage in sexual activity, and maintain good hygiene. Maslow argued that all other needs are secondary if one’s physiological needs are not met. Because these needs are inextricably linked to the daily activities of most individuals, they have the ability to control thoughts and behavior.

Safety needs often become primary once an individual’s physiological needs have been met. However, there are instances when the need for safety outweighs the need to

satisfy physiological needs. Safety needs are comprised of the need for employment, good health, access to resources (e.g., income), and physical security (freedom from violence, delinquency, aggression). Maslow argues that society (when properly organized) can provide a sense of security to its members.

The *need for love and belonging* refers to the need for individuals to engage in social relationships (friendship, sexual intimacy, and family). In general, human beings possess a strong desire to be accepted and to belong to social groups (e.g., clubs, religious groups, family, gangs). They need to feel loved (sexually and non-sexually) by others, and to be accepted by them. People also have a constant desire to feel needed. In the absence of feeling needed and accepted by others, individuals become prone to feelings of loneliness, anxiety, and possibly depression.

Esteem needs refer to the need to be respected by others, the need to respect oneself, and to respect others. Individuals engage in a variety of activities (e.g., work, hobbies, sports, criminal activities) in order to gain personal recognition and give value to oneself. However, when esteem needs are not fully met, the result can be seen in feelings of low self esteem or a sense of inferiority.

The final category of needs, actualization, is comprised of the *need for self-actualization and self-transcendence*, which are oftentimes intertwined with each other. Self-actualization has been defined as “the intrinsic growth of what is already in the organism, or more accurately, of what the organism is” (Maslow, 1970:pg x). Essentially, self-actualization refers to an individual’s ability to fulfill his/her full potential as a human being. Maslow asserts that self-actualizing people do the following:

embrace the facts and realities of the world...are spontaneous in their ideas and actions; are creative; they are interested in solving problems (this often includes

the problems of others); feel a closeness to other people, and generally appreciate life;...judge others without prejudice, in a way that can be termed objective (Maslow, 1970:xx)

Self-transcendence, on the other hand, refers to an individual's spiritual needs. In order to achieve self-transcendence, an individual must engage in "discovering and giving meaning and coherence to one's existence in relation to people, nature, and the world, along known, unknown, and ultimately unknowable dimensions" (Gil, 1999:27).

In summary, Maslow argues that each of the five categories of human needs must be fulfilled in order for there to be healthy growth and development. While some categories of needs may take precedence over others at different points in time and in different environmental contexts, "Human survival, development, and physical, emotional, and social health and well-being depend always on an adequate level of fulfillment of these needs" (Gil, 1999:27).

Within this dissertation research, theory provides the foundation for the development of drug courts, but theory also provides a basis for critiquing the development of drug courts. As stated at the beginning of this chapter, the research question is to what extent drug courts can be truly therapeutic when they operate within the confines of the larger criminal justice system that is legalistic, hierarchical, rational, and rights-based. Therefore, in order to address this question, one must understand the structure and process of the drug court model. Given that drug courts represent an organization operating within a larger organization, I have turned to the field of social or complex organizations for insight into how drug courts are structured and how this structure influences process.

Organizational Theories

Several organizational theories are important to the understanding of both the structure and process of drug courts within the United States. For the purposes of this discussion, four schools of thought are presented: Weber's rational-legal bureaucratic theory, Human Relations theory, Neo-Weberian theory, and the Institutional School. Following a brief discussion of each theoretical perspective, how each of these perspectives is applicable to the study of drug courts is discussed.

Before discussing theories that apply to organizations (and in this case drug courts), one must first define the term *organization*. Despite the difficulty in defining the term in general, Hendel's (2003) definition asserts that organizations involve deliberately planned groups, have specific goals, are "designed to outlive the participation of the particular individuals who participate at any one time (1-2)," have a developed set of formal rules, and are comprised of "a relatively fixed structure of authority, roles, and responsibilities that is independent of the personal characteristics of those filling the roles at any particular time" (1-2). Scott (1992) defines organizations as deliberately planned groups with specific goals, designed to remain intact over time, with formal rules to guide behavior, and an inherent hierarchy. These definitions are applicable to the study of drug courts as they both take into account the structural function, and the human relations involved in the process. However, a shortcoming of both definitions is the failure to acknowledge the role of external environmental factors (Thompson, 1969).

Rational-legal Theory

For Weber, rational-legal bureaucracies are comprised of several key elements. Skilled employees hold positions that are organized in a hierarchy and represent a clear division of labor. Job duties/responsibilities are governed by written rules and standards that are applicable to everyone (Handel, 2003; Perrow, 1986; Scott, 1992). Essentially, the roles and responsibilities of judges, prosecutors, defense attorneys, treatment providers, and drug court participants are delineated by program rules, which explicitly creates a division of labor (each individual has a unique and specific role within the process). The execution of each role is dependent upon the occupant having certain skills and/or credentials. For example, within the drug court model, judges have very different roles than treatment providers. This model is dependent upon the collaborative efforts of various key professional participants and the judge ultimately has some degree of discretion to address client-participants' needs as s/he sees fit, although the degree of discretion is limited by program policies and procedures.

The rational-legal theoretical perspective falls short in explaining the overall structure and function of drug courts in two key ways. First, Weber asserted that cooperation amongst employees is limited because of an inherent hierarchy and the belief that individuals must divorce their professional/public life from their personal/private life (Perrow, 1986). In contrast, proponents of the drug court model assert that in order for this process to meet the stated goals, practitioners must work collaboratively within the inherent hierarchical structure that exists, buy into the non-traditional process (e.g., be willing to play very different roles than are seen in the "traditional" court model), and perform duties in ways that uphold the underlying theoretical principles. Second, the

rational-legal framework fails to take into account the extra-organizational influences on employee behavior (Perrow, 1986). While the organizational structure of drug courts themselves undoubtedly exert tremendous influence on the behavior of practitioners, there are also factors external to the program structure that influence how drug courts operate. Some examples include: the political orientation of the larger community in which drug courts operate, the punishment philosophy adopted by the larger criminal justice system, the likelihood and availability of future funding (specific attention should be given to where this funding is coming from), and the political-economy, especially the economic context. All of these external influences will have a role in shaping the structure and process of the program, defining the roles/responsibilities of the professional members of the drug court team, and facilitating the drug court process on a day-to-day basis and over time.

In summary, the rational-legal framework is applicable to drug courts as it provides a theoretical rationale for the organizational structure of the drug court model. This perspective acknowledges the fact that the key professional participants within this court structure are organized in a hierarchy and there is a very clear division of labor. For example, drug court judges have a role that is distinct from that of the case manager and treatment provider. Moreover, because of the hierarchical structure of the drug court and clear division of labor, professional members of the drug court “team” (excluding drug court participants) must cooperate with each other and perform their specified duties in order for the process to function as designed. However, rational-legal theory does not account for the extra-organizational factors that influence the members of the drug court team. For example, all drug court practitioners are influenced by their own domain

assumptions. The approach they use when performing job duties is based upon their own position within the social hierarchy, life experiences, and socialization. Moreover, drug court practitioners must also contend with the local legal culture and political/economic culture of the local community when executing their job duties.

Human Relations Theory

In response to the shortcomings of the rational-legal theory (e.g., failure to address the importance of human interaction within organizational structures), human relations theorists asserted that organizations are “first and foremost, collectivities” (Scott, 2003:56). Human relations theorists also assert that good leadership is key to increasing productivity within the organizational structure (Handel, 2003; Perrow, 1986; Scott, 2003). Given that the judge plays a vital role within the drug court process, it is imperative that s/he uphold the theoretical principles upon which the drug court model is based (e.g., Therapeutic Jurisprudence), ensures that the fundamental policies and procedures are being adhered to, and motivates drug court participants to actively engage the drug court process.

Another aspect of human relations theory, humanistic management, is based upon Maslow’s hierarchy of human needs, which argues that, “people are motivated by needs such as love, social affiliation, and social esteem or prestige” (Handel, 2003:80). Whereas the rational-legal theory of bureaucracy asserts that cooperation amongst employees is limited because of the inherent hierarchy, humanistic management specifically focuses on “the interaction of groups, [the] role of management in setting the proper climate within the organization, [a] minimizing of hierarchical differences, and

increasing the influence of all groups” (Perrow, 1986:97). Humanistic management theory helps explain the structure and function of drug courts in that it: embraces: 1) the importance of the collaborative efforts of various practitioners (e.g., agreement on program goals, establishment of eligibility criteria and individualized treatment plans, determination of appropriate incentives/sanctions); 2) the role of the judge as the “leader of the drug court team, linking participants to...drug treatment and to the criminal justice system” (Senjo & Leip, 2001:69); and 3) the importance of involving all practitioners and the program participant in the decision-making process. “The metamorphosis of these roles allows the goal of the court to become primarily therapeutic while remaining a legal institution” (Hora, et al, 1999:476).

Human relations theory, however, falls short in explaining the overall structure and function of drug courts because “one can’t explain organizations by explaining the attitudes of individuals or even small groups within them” (Perrow, 1986:114). Given the adopted definition of organizations (and subsequently drug courts in this case study) discussed at the beginning of this section, we know that organizations cannot be fully explained via the attitudes of individuals nor even groups of individuals, as there are other factors impacting the ways in which drug courts operate (e.g., goals, authority structure, roles/responsibilities of practitioners, and extra-organizational factors—for example, the political orientation of larger community).

Neo-Weberian Theory

This theoretical perspective was developed in response to the shortcomings of the Human Relations model. Neo-Weberian theorists believe that the human relations model

“fails to grapple with the realities of authoritarian control in organizations and the true status of the subordinate” (Perrow, 1986:119). For example, March and Simon (1958) asserted that organizations are stable in so far as activities are routinized through the establishment of policies and procedures. While organizations contain built-in control mechanisms that seek to standardize behavior, coordinate efforts of members of the organization, and limit the search for alternatives, in order to shape behavior, you must also institute a system of rewards and sanctions. Furthermore, “the reduction in personalized relationships, the increased internalization of rules, and the decreased search for alternatives combine to make the behavior of members of the organization highly predictable” (March and Simon, 1958:39).

There are three forms of control mechanisms built into the structure and functioning of drug courts. According to Perrow (1986), they are: direct, fully obtrusive; unobtrusive; and fully unobtrusive. Examples of direct, fully obtrusive control mechanisms are giving orders, direct surveillance, and the creation of rules/regulations. Oftentimes these mechanisms exhaust resources (e.g., personnel, time, money), but are helpful in times of crisis. When supervising program participants, drug court practitioners give orders and enforce rules/regulations. Examples of unobtrusive controls are standardization and specialization, which are perceived as very efficient. Practitioners have “few opportunities to make decisions that maximize personal interests rather than the organization’s interests” (129). In short, they are neither given the opportunity nor allowed to deviate from existing policies and procedures. Fully unobtrusive control is achieved when a practitioner “voluntarily restricts the range of stimuli that will be attended to... and the range of alternatives that would be considered”

(129). Fully unobtrusive control mechanisms are implemented within an organization by individuals in positions of power so as to create an environment where subordinates make decisions based upon a pre-determined set of options. When these control mechanisms are in place within drug courts, practitioners might respond to situations by stating “It would never occur to me to do that” or “What has that got to do with the matter?” In essence, practitioners are discouraged from “thinking outside the box” or keeping the larger context in mind when making decisions.

Where this theory falls short in fully explaining the structure and function of drug courts is in its failure to deal with conflict among groups—an obvious component of any organization. “Theory should see conflict as an inevitable part of organizational life stemming from organizational characteristics rather than from the characteristics of individuals” (Perrow, 1986:132). This is applicable to the study of drug courts in that conflict might arise when the goals of one group of practitioners (e.g., prosecuting attorneys) conflict with another group of practitioners’ (e.g., treatment providers) goals. The conflict is likely not reflective of personal characteristics of those involved, but rather a function of the characteristics and goals associated with their particular roles and responsibilities.

The Institutional School

This theoretical perspective is premised on the principles of structural functionalism. Therefore, it is believed that we cannot explain institutional behavior by looking at the formal structure, the expressed goals/objectives, nor the technology and resulting output. Rather, institutional behavior must be explained in terms of

the myriad subterranean processes of informal groups, conflicts between groups, recruitment policies, dependencies on outside groups and constituencies, the striving for prestige, community values, the local community power structure and legal institution (Perrow, 1986:159).

It is argued that this theoretical perspective is most suitable when conducting case studies (Perrow, 1986). For example, David Sudnow examined courtroom procedures to determine how the day-to-day procedures (“reality”) compared with what was outlined in case law, courtroom policy, and procedure manuals (the “ideal”). He found that the “reality” of court procedures (what actually transpired within the court hearings) did not reflect the “ideal” (what was expressed formally), in that the activities of the courtroom workgroup were routine and efficient. Moreover,

Employing a common sense conception of what criminal lawyers behave like in cross examination and the popular portrayal of their demeanor and style of addressing adversary witnesses, the onlooker comes away with the sense of having witnessed not a trial at all, but a set of motions, a perfunctorily carried off event (274).

Both of these aspects of drug courts (the “ideal” and the “real”) are important for understanding the overall structure and processes of drug courts.

The Institutional School falls short in explaining the overall structure and functioning of drug courts because it fails to expressly connect organizations to the larger society. “Parts of the ‘environment’ are seen as affecting organizations, but the

organization is not seen as defining, creating and shaping its environment” (Perrow, 1986:173). This is important because while drug courts are undoubtedly influenced by society, the Institutional School fails to acknowledge and/or address what impact drug courts have on society and vice versa. For example, with the institutionalization of drug courts in X County beginning in the early 1990s, this non-traditional approach to dealing with drug abusing defendants has become legitimated within the criminal justice system and the larger community.

This discussion demonstrates that the drug court model is linked to a number of theoretical perspectives that are situated within distinct fields of study. In order to fully appreciate the drug court model, one must take seriously the role these various perspectives have had in its organization, structure, and process. The role of theory within this research project is such that not only does it inform the structure and process of the drug court model as a whole, but it also informs the research questions of this dissertation research.

The criminological and organizational theories discussed provide both a context for understanding the structure and process of drug courts. Drug courts were not created in a vacuum and certainly have theoretical roots within the various schools of criminological thought that were prominent in the creation of policies and practices, during the late 1980s and early 1990s. Furthermore, even though the drug court model was designed to be radically different from the traditional court system (e.g., non-adversarial process, emphasis on collaboration), drug courts have always operated within structure of the larger criminal justice system that is adversarial, legalistic, hierarchical, bureaucratic, and control-oriented. It is for these reasons that the question, To what

extent drug courts can address individual human needs and can be considered truly therapeutic?, is posed. In Chapter Four, the specific research questions to be addressed and the methods proposed to address them are outlined.

In this chapter, a historical and theoretical context for the development of the drug court movement has been presented. In order to fully appreciate the origins of the drug court movement, development of the social organization and processes, and the progress that has or has not been made to date, one must first understand the social, political, and economic context of U.S. society from the 1960s (when rehabilitation was the response emphasis within the criminal justice system) to the 1980s (when the response emphasis was on retribution and incapacitation). The criminological and organizational theories that provide a theoretical frame of reference for understanding the drug court movement and the development of drug court programs and processes has been presented. Furthermore, how drug courts can be viewed as an application of therapeutic jurisprudence and a method by which the basic human needs of client-participants can be met has been explored. Finally, a summary of several organizational theories that provide a context for understanding the structure and process of the drug court model has been presented. What follows is a discussion of the methods of data collection used to conduct this dissertation research.

CHAPTER IV

METHODOLOGY

As stated in the previous chapters, this research project was designed to evaluate the degree to which drug courts are therapeutic despite the fact that they operate within a criminal justice system that is legalistic, hierarchical, rational, and rights-based. While there is a substantial body of research that attempts to determine the effectiveness of drug courts, this research is markedly different from other drug court assessments. The focus of this research was not whether drug courts have yielded a decrease in participants' use of drugs/alcohol or a reduction in recidivism rates among participants (as compared with those who dropped out of the program, were unsuccessfully discharged, or did not participate in the drug court program). Rather, this research sought to examine to what extent the structure and processes of the drug court model actually understands/considers, addresses, and meets individual human needs and consequently can be considered "therapeutic." According to Saum, Scarpitti, Butzin, Perez, Jennings, and Gray (2001:49) "Programming in drug courts can be enhanced if the needs of participants more closely match the aims of the drug court model." Moreover, Winick and Wexler (2003:105) argue that, "For TJ [therapeutic jurisprudence] to be validated in the context of problem[-]solving courts [for the purposes of this research, read "drug courts"], it needs to be shown that court processes themselves, as distinct from the rehabilitative programs ordered by the courts, are effective in promoting rehabilitation."

What follows in this chapter is a discussion of the operationalized definitions of the key research terms, the hypotheses addressed through this research, an outline of the research design, and the specific methods of data collection that were utilized in this research.

Operationalization of Key Terms

When conducting any form of social science research (quantitative, qualitative, or mixed), it is imperative that the researcher or evaluator explicitly define all terms that are to be utilized in the research. This process is standard practice for quantitative researchers (e.g., operationally defining all variables and their attributes), however this step is sometimes negated during the process of conducting qualitative research data. Nonetheless, being clear about what one is looking for when conducting observations, how you will “know it when you observe, hear, and/or read it” when conducting interviews or coding textual analysis is a key part of the research design process. All of these decisions have implications for what information you will and will not be able to obtain, which has a direct impact on your findings and conclusions.

According to Babbie (1998:G5) an operational definition is “The concrete and specific definition of something in terms of the *operations* (emphasis original) by which observations are to be categorized.” Due to the exploratory and emergent nature of this research, the operational definitions of these key terms needed to be broad and forgiving. This allowed for the inclusion of information that emerged throughout the data collection process and also provided a framework for reviewing drug court records, observing drug

court review hearings, interviewing judges and case managers, and conducting focus groups with drug court participants.

What follows then is a listing of the operational definitions for several terms that are fundamental to this research.

- Individualized treatment plan—a plan that is comprised of various requirements that specifically address each participant’s human needs. Individualized treatment plans are comprised of input from the drug court case manager(s), probation officer (if applicable), drug court judge, and treatment provider.
- Needs-based—an orientation which focuses on the various human needs that were identified by Gil and Maslow as vital to human growth and development (see Chapter Three for detailed discussion). Some examples of human needs are: physical health, mental health, food/water, shelter, cravings, life skills, finances, employment and/or school, child care, transportation, and self-sufficiency, relational, safety, and self-actualization.
- Process-oriented—an orientation which focuses on how the drug court program functions (i.e., compliance/non compliance with program rules, sanctions/rewards to be employed, important dates, phase requirements).
- Rehabilitation—a process that seeks to return someone to a healthy condition, state-of-mind and body, and/or way of living; or a process that may facilitate the establishment of a healthy condition, state-of-mind and body, and/or way of living. For the purposes of this research, this process might not involve “returning” participants to a previous state, as they may not have ever lived a life where their basic human needs were being met, they were drug/alcohol free, and they did not engage in criminal activity.
- Standard requirements—program components (requirements) that all participants must successfully participate in and/or complete regardless of their individual human needs. The requirements that are specific to each phase of the program are discussed in Chapter V.
- Therapeutic orientation—an orientation which focuses on the emotional, physical, and physiological state of participants. Individual human needs are central to this focus and participants are encouraged to take an active role in the process that is designed to allow those identified needs to be met.

Research Hypotheses

As stated at the end of Chapter Two, there are several important questions regarding the structure and processes of drug courts that have yet to be addressed. The overall hypothesis is that drug courts do not meet individual client-participant needs given that they operate within the same institutional legal structure as traditional courts and the traditionally defined larger society. As a result, drug courts are not likely to elicit dramatically different outcomes than the traditional court processes because they do not focus on, address, or meet client needs. This then begs the question if non-traditional measures were used, what would one expect to find regarding effectiveness?

What follows are the hypotheses addressed through this research. After each hypothesis statement is a brief discussion of the specific research methods that were employed to obtain the information necessary to either reject or fail to reject each hypothesis. Specific details on these methods are provided later on in this chapter.

H₁ = If rehabilitation requires the meeting of individual participant needs, then the assignment of participants to the same standardized requirements indicates a non-rehabilitative focus.

To address this hypothesis the following research methods were conducted:

1. A textual analysis of drug court records in order to determine the requirements that are standard for all program participants, as well as requirements ordered based upon individual participant needs.
2. Interviews with four of the five judges who have presided over the drug courts and all three active case managers in X County to gain their perspectives on the degree to which drug courts meet the basic human needs of participants, while also meeting the “needs” of the criminal justice system. Moreover, they were asked to identify and describe the stipulations that are standard for all program participants and the stipulations ordered based upon individual participant needs. [The questions asked of the judges and case managers were partially based upon the findings from #1 above, as well as from observations of drug court review hearings.]
3. Focus groups with participants (one focus group for male participants and one focus group for female participants) to obtain their perspectives on

what specific individual needs were met, as well as those needs that were not met by the drug court program. Moreover, participants were asked to discuss any programming that they believed was relevant or irrelevant to their individual needs.

According to the National Association for Drug Court Professionals (NADCP), one of the key components of the drug court model is that participants take an active role in the recovery process (1997). Based upon this assertion, the second hypothesis was constructed:

H₂ = If the discourse exchanged between drug court client-participants and the professional members of the drug court team focuses on process-oriented issues, as opposed to individual human needs, then drug courts are not “therapeutic.”

To address this hypothesis the following research methods were conducted:

1. Observations of the bi-weekly drug court review sessions in order to determine the extent to which the dialogue exchanged between members of the drug court team and program participants focused on process-oriented issues (e.g., court dates, specific program requirements) versus individual human need issues (e.g., housing, child care, transportation, health care, mental health, relationship issues).
2. Interviews with four of the five judges who have presided over the drug courts and all three active case managers in X County in order to gain their perspectives on the nature of the discourse that is exchanged between participants and members of the drug court team. They were asked to what degree they believed the discourse exchanged focused on issues of process versus individual human needs. [The questions asked of the judges and case managers were partially based upon the findings from #1 above, as well as observations of drug court review hearings.]
3. Focus groups with participants to obtain their perspectives on the degree to which the discourse exchanged during the bi-weekly court review sessions focused on process-oriented issues, individual human needs, or both.

Research Design

This research was designed to utilize focus groups, interviews, observations, and textual analysis. In designing this research, the work of Davidson (2005) was influential.

Davidson (2005) notes that central to any evaluation project is the development of a logic model, which is “a diagram that illustrates the cause-and-effect mechanism(s) by which an evaluand⁵³ meets (or is supposed to meet) certain needs (or achieve certain effects)” (32). Essentially a logic model is a visual tool that identifies all the program elements (what the program is comprised of), the immediate outcomes that can be expected (short-term returns), the intermediate outcomes that can be expected (longer-term returns), and finally the ultimate outcomes (what goals the program is designed to meet in the long-run; similar to the overall goals). Essentially, the logic model describes how the drug court program is supposed to work in theory. What I plan to do through this research is compare the drug court “program theory”⁵⁴ with the practice of adult drug courts in one county in Michigan.

Table 2 presents the logic model for the drug courts chosen for this dissertation research. Due to the fact that this research only focuses on one aspect of the drug court model, the various outcomes that are relevant to this research have been highlighted.

Description of Logic Model

Program elements are essentially the bulk of what comprises the evaluand. In this research, the 10 Key Components of the drug court model are the “program elements” (National Association of Drug Court Professionals, 1997). Immediate outcomes are what short-term changes (or lack of changes) result from the implementation of the evaluand. For example, one goal of the drug court

⁵³ According to Davidson (2005:240) an evaluand is “that which is being evaluated (e.g., program, policy, project, product, service, organization). In personnel evaluation the term is *evaluatee*”.

⁵⁴ According to Davidson (2005:245) program theory is “a description of the mechanism by which the program is expected to achieve its effects. A program theory can be expressed in a narrative or a picture, or it can be depicted in a simple logic model (i.e., a visual representation of the program theory.”

Table 3: Logic Model

PROGRAM ELEMENTS ➡	IMMEDIATE OUTCOMES ➡	INTERMEDIATE OUTCOMES ➡	ULTIMATE OUTCOMES
Integration of alcohol/drug treatment services with criminal justice case management	Abstinence from drug/alcohol use	Increased participation within and attachment to the community	Decrease the burden drug/alcohol cases have on the criminal justice system
Change in roles of key drug treatment court program participants	Greater access to drug/alcohol treatment services (NA/AA, individual/group counseling)	Decreased likelihood client-participants will recidivate	Rehabilitation of client-participants through behavior modification and cognitive restructuring
Establishing collaborative linkages between criminal justice agencies and other social service agencies	Increased monitoring of client-participant's daily activities	Long-term abstinence from drug/alcohol use	Decrease in long-term costs incurred by the criminal justice system and local community
Frequent alcohol/drug testing	Increased likelihood of client-participants obtaining employment and/or education	Increased likelihood client-participants will be self-sufficient (securing stable housing and employment)	Establishment of strong partnerships between criminal justice system and local community agencies
Early identification of eligible client-participants	Attention focused on individual client-participant needs through the development of individualized treatment plans	Decrease in costs incurred by the criminal justice system and local community	Establishment of a program that addresses individual client-participant needs
Utilization of graduated rewards and sanctions	Decreased likelihood client-participants will engage in criminal activity	Increase in client-participant knowledge regarding drug/alcohol dependency	Decrease the likelihood client-participants will recidivate
Direct supervision of client-participants by the presiding judge	Reduction in the burden drug/alcohol cases place on the criminal justice system	Meeting individual client-participants needs	Long-term abstinence from drug/alcohol use
Personnel engage in continuing inter-disciplinary education	Facilitate client-participants taking responsibility for their behavior		
Actively engage in evaluation efforts that focus on program effectiveness	Client-participants actively engage in the recovery process		
Establish partnerships between the criminal justice system and local community agencies	Reduction in costs associated with processing drug/alcohol cases		
	Establishment of a less adversarial court process		

program is to break the cycle of addiction and have participants clean and sober.

Therefore, the immediate outcome “abstinence from drug and/or alcohol use” (see logic model) will measure whether or not the cycle of addiction has been broken. While there is not a specified time frame associated with these outcomes, the expressed hope is that by changing the structure and process of the drug court, these results should be observable during the time participants are enrolled in Phases I and II.

Intermediate outcomes are what long-term changes (or lack of changes) result from the implementation of the evaluand. As stated above, there is not a specified time frame associated with when these outcomes should be met, however there should be observable differences between those who are in the early stages of the program (e.g., Phase I) and those who are in later phases of the program (Phase II and III). Ultimate outcomes are the specific program goals that the drug court is trying to achieve. These are directly linked with the program elements and will be observable over time. It is important to note here that while the logic model suggests that there is a temporal element associated with the achievement of these specific outcomes, this is beyond the scope of the current research and thus will not be addressed.

Methods of Data Collection

This research employs the use of four different data collection techniques: textual analysis, observations, interviews, and focus groups. See Appendix A for the Human Subjects Institutional Review Board approval letter. The nature of this research is such that the information gleaned from my observations was utilized to create the specific questions asked of the interviewees and focus group participants. First, a textual analysis

of 349 drug court records (250 male and 99 female drug court participants who were enrolled in the programs) was conducted for the purposes of obtaining demographic information regarding program participants and to determine which program requirements were standard for all participants, as well as which requirements were ordered based upon individual participant needs. In order to gain access to these records I contacted the Drug Court Program supervisor and obtained permission to review the records.

Second, I observed the bi-weekly drug court review sessions from April 2006 through June 2007. Given that not all participants are required to attend bi-weekly review sessions (e.g., Phase III participants are not required to attend review sessions unless ordered by the judge or s/he is graduating), conducting observations over a long period of time provided me with a wealth of information that I would not have obtained had I only observed the court review sessions for two months (as was originally planned).

I observed these drug court review sessions in order to examine the extent to which the dialogue exchanged between members of the drug court team and program participants focused on process-oriented issues (e.g., court dates, specific program requirements, etc.) versus individual human needs (e.g., housing, child care, transportation, health care, mental health, relationship issues, etc.). These observations provided me with first-hand information regarding whether or not basic human needs were being discussed among the drug court team and participants. I relied on the use of field notes to document what transpired during the drug court sessions. I was able to gain entry to these court sessions as they are open to the general public and I was deemed to

be a guest of the drug court program due to the fact that I had a professional interest in the program.

Third, I conducted interviews with three of the four judges who have presided over the adult drug courts that have been implemented in X County since 1992 and all of the case managers (n=3) who are responsible for the supervision of all active drug court participants. Through these interviews I obtained information regarding their perspectives on the effectiveness of drug courts, and whether drug courts overtly focus on and satisfy individual human needs, among other issues (see Appendix B for the complete interview schedule).

The interview sessions with the judges and case managers lasted from forty-five minutes to one and one-half hours. Six of these interviews were conducted in the offices of the interviewees (located at the courthouse), however one judge is retired and therefore does not have an office in the courthouse. Therefore, I conducted this interview in a conference room on the campus of a local University. Prior to the beginning of the interview, I introduced myself, gave each judge or case manager a brief overview of the research project, and then asked him or her if s/he would be willing to participate in the interview session. Given that all interviewees agreed to participate in the interview session, I then gave each a consent form to sign. The consent form served as their acknowledgement that they were aware of the research project and did agree to participate.

Fourth, I conducted focus groups with drug court client-participants, as I believe they have a unique perspective to offer regarding the degree to which drug courts meet (or do not meet) individual human needs. Moreover, I was also interested in obtaining

their perspectives on the degree to which the discourse exchanged during the bi-weekly court sessions focused on process-oriented issues, individual human needs, or both. One key reason for conducting focus groups as opposed to administering a survey is that drug courts encourage participants to actively participate in the process; therefore, I did not believe that a study focusing on their perspectives should methodologically exclude their voices. Furthermore, given that I was interested in their perceptions regarding the structure and process of drug courts, pre-determining response categories and/or restricting the content of their voices did not seem to be the most viable approach for this dissertation research. According to Babbie (2005), “Sometimes exploratory research is pursued through the use of focus groups, or guided small-group discussions” (89).

In order to recruit participants for the focus groups sessions, I had to advertise my research project. In order to do this, I developed a flyer which was then distributed (by me) to all client-participants prior to the start of the bi-weekly court review hearing sessions. This flyer briefly described the purpose of this research and asked drug court participants if they would be willing to participate in a focus group. This flyer provided potential focus group participants with a telephone number to call if they were interested in participating. Participants interested in participating contacted me by phone and provided me with their contact and schedule information. I scheduled the focus group sessions on dates and at times that were convenient for the interested participants. After confirming the scheduled dates and times with interested client-participants, I conducted two focus groups, one with male drug court participants (two participants attended) and the other with female drug court participants (two participants attended). Prior to the beginning of the focus group sessions, I introduced myself, gave the client-participants a

brief overview of the research project, and then asked him or her if s/he would be willing to participate in the focus group session. Given that all focus group participants agreed to participate, I then gave each a consent form to sign. The consent form served as their acknowledgement that they were aware of the research project and did agree to participate.

Seven female and five male drug court client-participants contacted me and expressed an interest in participating in the focus group sessions. I obtained their contact information and the days/times when they were available. After obtaining everyone's information, I reserved a conference room at the local public library on a day and at a time that worked for everyone. I then contacted all interested client-participants with the specific day/time of the focus group. Participants were given a \$15 gift card to a local grocery store at the completion of the focus group session.

According to Saum, et al (2001:44) "by examining drug court client perceptions more comprehensively, one may do a better job of evaluating the legitimacy of the drug court as a model of therapeutic jurisprudence" and a response to drug use. Researchers openly acknowledge that the existing body of drug court literature is severely lacking input from drug court participants themselves. This research seeks to give voice to drug court participants, as well as evaluate the degree to which drug courts address individual human needs. It was my hope that the triangulation of these four data collection techniques would provide me with a plethora of data that would allow me to address the research hypotheses presented earlier in this chapter.

Description of the Research Site

The county chosen for this research is unique in that three drug courts operate within this particular jurisdiction; one targeting females, one targeting males, and one targeting juveniles (both male and female). The female drug court has been in operation since June 1992 and was the first drug court in the United States that focused specifically on female offenders. The men's drug court began in January of 1997 and the juvenile drug court was implemented the following year in January of 1998.

For the purposes of this research, I have chosen to focus on the male and female adult drug court programs, as both have the same program goals and process (e.g., involve three phases), and involve the same program staff. The juvenile drug court, on the other hand, utilizes a different process (e.g., involves four phases versus three, has a different referral process) and involves different program staff. In order to draw a comparison, it is important to evaluate two programs that are relatively similar in structure and process.

CHAPTER V

DATA ANALYSIS AND FINDINGS

The data from this research project were generated from four sources: textual analysis, observations, interviews, and focus groups. This chapter begins with a discussion of my evolved research questions and a presentation of my interview/focus group schedule. Second, summaries of X County's drug court eligibility criteria, the various ways in which client-participants enter the drug court program, and the structure of the X County drug court program are presented. Next a brief discussion of X County's adult drug court program in terms of descriptive statistics is presented. A summary of the structure and process of the planning sessions and court review hearings follows. Finally, the data that emerged from my observations of the court review hearings, interviews with judges and case managers, and focus groups with drug court client-participants are summarized in order to answer the questions from my interview/focus group schedule. Consequently, this chapter is comprised of the data that was collected for this dissertation research.

Research Questions

In a broad sense, this research project addresses the degree to which drug courts are truly therapeutic given that they operate within the confines of the traditional criminal justice system which is legalistic, hierarchical, rational, and rights-based. More specifically, this research project addresses four broad areas of the drug court model.

These broad areas emerged from my original hypotheses (stated in Chapter Four) during the time I conducted observations of the court review hearings.

1. To what extent does the discourse exchanged between the members of the drug court team focus on process-oriented issues versus basic human needs issues?
2. To what extent do the structure and process of the drug court model actually address and meet the basic human needs of client-participants?
3. To what extent does the drug court process promote rehabilitation by seeking to address the basic human needs of client-participants?
4. Do members of the drug court team and drug court client-participants have a common understanding of the cycle of substance use/abuse and the recovery process?

To address these broad areas, specific questions were included in the interview/focus group schedule. These nine questions are:

1. Describe your beliefs about the effectiveness of the drug court processes.
 - a. Are drug courts effective in processing drug court client-participants?
 - b. What components of the drug court program contribute to their effectiveness?
 - c. What components of the drug court program do not contribute to their effectiveness?
2. What do you believe are obstacles to participant participation and success?
 - a. What hinders client-participants from participating in the drug court program?
 - b. What hinders client-participants from successfully completing the drug court program?
3. Why do you think client-participants do not complete the program?
 - a. What are the most common reasons why client-participants are unsuccessfully discharged?
 - b. What are the most common reasons why client-participants elect to “opt out?”
4. Why do you think client-participants return to crime and/or drug use?
 - a. What are the most common rationales given for why client-participants relapse?
 - b. What are the most common reasons given for why client-participants commit crimes while enrolled?

5. What do you believe are the “causes” of drug/alcohol use?
 - a. Why do you think individuals use drugs/alcohol?
 - b. Are there any individual characteristics that are common among individuals who use?
 - c. In your opinion, are there any structural issues that lead to drug/alcohol use?
6. In your opinion, what are some effective techniques/strategies to prevent individuals from abusing drugs and/or alcohol?
7. What techniques/strategies do you believe are ineffective in preventing individuals from using drugs/alcohol?
8. What role do you think drug courts play in meeting the individual human needs of client-participants?
 - a. How would you define individual human needs?
 - b. Do you think drug courts address individual human needs?
 - c. What changes do you think could be made to the men’s and/or women’s program that would allow individual human needs to be met?
9. What is the nature of the discourse that is exchanged between drug court client-participants and the drug court “team” during the court review sessions?
 - a. To what extent does the discourse exchanged between drug court client-participants and members of the drug court team (e.g., case manager, judge, treatment provider, etc.) focus on process-oriented issues (e.g., next court date)?
 - b. To what extent does the discourse exchanged between drug court client-participants and members of the drug court team (e.g., case manager, judge, treatment provider, etc.) focus on individual human needs (e.g., employment, housing, and transportation)?

The dynamic nature of the research plan allows the research questions to be addressed through a variety of data collection techniques. Consequently, at times the research questions are best addressed by using drug court judges’, case managers’, and/or client-participants’ voices, whereas other research questions might best be addressed using my voice as an observer. With that said, while I know I do not speak for drug court client-participants or drug court staff members, my voice is also important for gaining an understanding of both the structure and process of X County’s adult drug court programs. For over one year, I have been positioned as both an insider (e.g., attending the drug court

planning sessions and serving as the evaluator for both adult drug court programs) and an outsider (e.g., observer of the drug court review hearings) to this process, which has afforded me the opportunity to both gather a plethora of information and develop my own standpoint in both the structure and process of X County's adult drug court program.

In the next three sections, the overall structure of the X County adult drug court programs is presented in terms of eligibility criteria, the various ways in which a participant can enter the programs, and general program design (e.g., specific program requirements).

Eligibility Criteria

In order to be eligible for X County's drug court program, client-participants must meet several specific criteria. First, because X County's drug court program is a Circuit Court program, all client-client-participants either have felony charges pending or have been convicted of a felony offense. Therefore, individuals with misdemeanor charges pending or who have been convicted of a misdemeanor offense are not eligible for this program. Second, all client-client-participants must either reside and/or work/attend school within X County. Persons not meeting this requirement are not eligible for this program. Moreover, client-client-participants must maintain residency and/or continue to work/attend school in X County during their entire term of enrollment in the program otherwise they become ineligible, which will result in an unsuccessful discharge. Third, all client-client-participants must have a diagnosed substance abuse problem. Persons who do not have a diagnosed substance abuse problem are not eligible for this program.

Fourth, eligible client-client-participants' criminal histories cannot include certain offenses (see pages 25-26 for specific exclusionary criteria).

Drug Court Tracks

X County's drug court essentially has four "tracks" or ways in which client-client-participants can enter the drug court: diversion, sentenced, probation violation, and parole. Diversion track client-participants have felony charges pending, have pled guilty to the pending charge(s), but have not been convicted of any crime(s). These client-participants have agreed to participate in the program and enter into an agreement with the Office of the Prosecuting Attorney that if they successfully complete the program, the pending charge(s) will be dismissed. Diversion track client-participants unsuccessfully discharged from the program are scheduled for formal sentencing and will not have the pending felony charge(s) dismissed by the Office of the Prosecuting Attorney.

Client-participants on the sentenced track have been convicted of at least one felony offense and are court-ordered to participate in the drug court program as a condition of their probation sentence. Client-participants on the probation violation track have also been convicted of at least one felony offense and have violated the terms of their probation in some way. As a result of their violation(s), the court has ordered them to participate in drug court as a condition of the probation violation sentence. A small number of drug court client-participants have been required by the parole board to participate in drug court as a condition of their release on parole.

Drug Court Program Structure

X County's drug court is a fifteen month program (at the minimum) and consists of three phases. Client-participants begin the program in Phase I, which is the most restrictive of the three phases and lasts for a minimum of ninety days. While in Phase I, client-participants must do the following: meet with their assigned case manager on at least a bi-weekly basis, submit to urine screens at least three times per week (for a minimum of ninety days), attend individual and group substance abuse counseling (this lasts approximately four months), complete the 12-step orientation class, attend at least three Alcoholic's Anonymous (AA) and/or Narcotic's Anonymous (NA) meetings per week (verification of attendance is required), obtain an AA or NA sponsor, and appear in court every two weeks for the court review session. Phase I client-participants must also establish a payment plan for restitution (if applicable) and the Drug Treatment Court fee (\$300 payable to the program). In order to transition to Phase II, client-participants must be alcohol and/or drug free for a minimum of ninety days. If a participant relapses while in Phase I after being clean and/or sober for sixty-two days or less, s/he must re-start Phase I and achieve a minimum of ninety days of sobriety before s/he is eligible to transition to Phase II.

Phase II is a minimum of six months (approximately 6-9 months) in length and consists of the following requirements: attend a minimum of three AA/NA meetings per week (verification is required); continue working with an AA or NA sponsor; attend appointments with the case manager as scheduled (bi-weekly or once every three weeks); work toward obtaining a high school diploma or general equivalency degree (GED), if applicable; actively seek employment and/or attend school (must occupy at least 30 hours

per week); submit to urine screens a minimum of two times per week; and make regular payments toward restitution (if applicable) and the Drug Treatment Court fee.

Phase II client-participants not employed and/or in school at least 30 hours per week must attend the bi-weekly court review hearings. Moreover, disabled client-participants must attend the bi-weekly court review sessions for the duration of their enrollment in the program, as they are not employed more than 30 hours per week. In order to advance to Phase III, client-participants must remain clean/sober for a minimum of ninety days, obtain high school diploma/GED (if applicable), and be employed and/or attending school at least 30 hours per week. Client-participants who relapse while in Phase II are demoted to Phase I and must re-start the program.

Phase III is a minimum of three months (approximately 3-6 months on average) in length and consists of the same requirements as does Phase II. The only differences between Phases II and III is that all Phase III client-participants are employed and/or attending school at least 30 hours per week, and have obtained their high school diploma/GED. Moreover, Phase III client-participants must submit to urine screens at least one time per week.

Descriptive Statistics

What follows is a summary of descriptive statistics of X County's men's and women's drug court programs. Each program is discussed separately and then comparisons are made between the two programs in order to highlight their similarities and differences.

Male Drug Court Program

Between October 1, 2004 and July 1, 2007, four hundred three men were enrolled in X County's drug court program. The average age of these men was 31.8 years, with a median of 30.0 years, and a range of 44 (17 to 60 years-old) (see Table 3). 67.0% (n=270) of these client-participants were White, 26.5% (n=115) were African American, and the remaining 4.4% were: Hispanic (n=12; 3.0%), Asian (n=2; 0.5%), other (n=3; 0.7%), and Multi-racial (n=1; 0.2%). 63.8% (n=257) of these men were single, whereas 10.9% (n=44) were married, 11.9% (n=48) were divorced, 6.0% (n=24) were separated, and 0.2% (n=1) were widowed. The average number of children for these four hundred three men was 1.0, a median of 1.0, a mode of 0 children, and a range of 11 (0-10 children).

At the time they entered the program, 40.0% (n=161) of male client-participants were high school graduates, 16.9% (n=68) had earned a general equivalency degree (GED), and 29.3% (n=117) had less than a high school diploma. Only 3.2% (n=13) had a college degree, 0.5% (n=2) had a graduate degree, and 10.4% (n=42) had earned some college credits. 50.9% (n=205) of client-participants were unemployed, 5.7% (n=23) were employed part-time, and 33.7% (n=136) were employed full-time.

The three most common drugs of choice identified by X County's male drug court client-participants were: marijuana (n=113; 28.0%), alcohol (n=84; 20.8%), and crack cocaine (n=84; 20.8%). The average age at onset of drugs and alcohol for these client-participants was 16.2 years, with a median and modal age of fifteen (n=52), and a range of 42 (4-45 years-old).

Table 4: Descriptive Statistics for X County Men's Drug Court Program⁵⁵

<i>Variable</i>	<i>n</i>	<i>%</i>	<i>Variable</i>	<i>n</i>	<i>%</i>
Age at program entry			Employment		
under 20	44	10.9%	Disabled	24	6.0%
20-24	88	21.8%	Full-time	136	33.7%
25-29	65	16.1%	Part-time	23	5.7%
30-34	53	13.2%	Retired	2	0.5%
35-39	49	12.2%	Student	13	3.2%
40-44	46	11.4%	Unemployed	205	50.9%
45-49	33	8.2%	Drug of choice		
50-54	20	5.0%	Alcohol	84	20.8%
55-59	4	1.0%	Amphetamine	2	0.5%
60+	1	0.2%	Cocaine	19	4.7%
Ethnicity			Crack cocaine	84	20.8%
African American	115	28.5%	Heroin	37	9.2%
Asian	2	0.5%	Marijuana	113	28.0%
Bi-racial	1	0.2%	Methamphetamine	51	12.7%
Hispanic	12	3.0%	Opiates	8	2.0%
Other	3	0.7%	Poly drug	3	0.7%
White	270	67.0%	Steroids	2	0.5%

...Table 4 is continued on the next page

In terms of the various tracks within the drug court, 34.1% (n=137) of male client-participants were on the diversion track, 32.8% (n=132) were on the probation violation track, 31.8% (n=128) were on the sentenced track, and only 1.2% (n=5) were on the parole track. Moreover, 72.2% (n=291) of client-participants were in the "lockout" sentencing guideline (SGL) range, whereas 23.3% (n=94) were in the straddle cell range, and 4.2% (n=17) were in the presumptive prison range (see Table 2 footnote 2). The average number of misdemeanors committed (pursuant to the Law Enforcement Information Network records) by male drug court client-participants prior to their

⁵⁵ Unless otherwise noted, n=403.

Table 4—continued

<i>Variable</i>	<i>n</i>	<i>%</i>	<i>Variable</i>	<i>n</i>	<i>%</i>
Marital Status (n=374)			Sentencing guideline range⁵⁶		
Single	257	68.7%	Intermediate sanction	291	72.4%
Married	44	11.8%	Straddle	94	23.4%
Divorced	48	12.8%	Presumptive prison	17	4.2%
Separated	24	6.4%	Probation status (n=402)		
Widowed	1	0.3%	Diversion	137	34.1%
# of dependents (n=402)			Parole	5	1.2%
0	233	58.0%	Probation violation	132	32.8%
1-2	103	25.6%	Sentenced	128	31.8%
3-4	50	12.4%	Status		
5+	16	4.0%	Graduated	98	24.3%
Education at program entry			Still enrolled	84	20.8%
Less than high school	117	29.0%	Unsuccessfully discharged	221	54.8%
High school diploma	161	40.0%	# of misdemeanors committed prior to program entry (n=401)		
GED	68	16.9%	0	80	20.0%
Some college	42	10.4%	1-2	127	31.7%
College graduate	13	3.2%	3-4	97	24.2%
Graduate degree	2	0.5%	5-6	46	11.5%
Age at onset of drug/alcohol use (n=361)			7-8	22	5.5%
Under 10	28	7.8%	9-10	10	2.5%
11-14	119	33.0%	11-12	7	1.7%
15-19	165	45.7%	13+	12	3.0%
20-24	19	5.3%	# of felonies committed prior to program entry (n=401)		
25-29	12	3.3%	0	185	46.1%
30-34	6	1.7%	1-2	137	34.2%
35-39	5	1.4%	3-4	57	14.2%
40-44	4	1.1%	5-6	15	3.7%
45+	2	0.6%	7-8	4	1.0%
			9+	3	.8%

⁵⁶ According to the Michigan Legislature, “Intermediate sanction cells are those cells in which the upper limit recommended by the guidelines is 18 months or less. Straddle cells are those cells in which the lower limit of the recommended range is one year or less and the upper limit of the recommended range is more than 18 months. [Presumptive] prison cells are those cells for which the minimum sentence recommended exceeds one year of imprisonment” (p. 6).

enrollment in the drug court program was 3.3, with a median of 2.0, a mode of 0 misdemeanors, and a range of 37 (0-36 misdemeanors). The average number of felonies committed (pursuant to the Law Enforcement Information Network records) by these same male client-participants prior to their enrollment was 1.3, with a median of 1.0, a mode of 0 felonies, and a range of 14 (0-13 felonies). As of June 2007, 20.8% (n=84) of client-participants were still enrolled in the men's drug court program. 24.3% (n=98) had graduated and 54.8% (n=221) had been unsuccessfully discharged from the program. Therefore, the retention rate for the men's program was 45.2%, which is significantly lower than the national average, which is approximately 60% (Rempel, et al, 2003).

Female Drug Court Program

Between January 1, 2006 and July 1, 2007, ninety-nine women were enrolled in X County's drug court program. The average age of these women was 32.4 years, with a median of 31.0 years, and a range of 42 (17-58 years-old) (see Table 4). 67.7% (n=67) of these client-participants were White, 25.3% (n=25) were African American, and the remaining 7% were: Bi-racial (n=3; 3.0%), Hispanic (n=2; 2.0%), and Native American (n=2; 2.0%). 65.7% (n=65) of these women were single, whereas 16.2% (n=16) were married, 14.1% (n=14) were divorced, 3.0% (n=3) were separated, and 1.0% (n=1) was widowed. The average number of children for these ninety-nine women was 1.5, with a median of 1.0, and a range of 9 (0-8 children).

Table 5: Descriptive Statistics for X County Women's Drug Court Program⁵⁷

<i>Variable</i>	<i>n</i>	<i>%</i>	<i>Variable</i>	<i>n</i>	<i>%</i>
Age at entry			Employment		
under 20	9	9.1%	Disabled	7	7.1%
20-24	20	20.2%	Full-time	15	15.2%
25-29	20	20.2%	Part-time	18	18.2%
30-34	5	5.1%	Student	1	1.0%
35-39	13	13.1%	Unemployed	58	58.6%
40-44	18	18.2%	Drug of choice		
45-49	11	11.1%	Alcohol	8	8.1%
50-54	2	2.0%	Cocaine	11	11.1%
55-59	1	1.0%	Crack Cocaine	30	30.3%
Ethnicity			Heroin	4	4.0%
African American	25	25.3%	IV Heroin	5	5.1%
Bi-racial	3	3.0%	IV Methamphetamine	3	3.0%
Hispanic	2	2.0%	Marijuana	14	14.1%
Native American	2	2.0%	Methamphetamine	18	18.2%
White	67	67.7%	Poly drug	6	6.1%

...Table 5 is continued on the next page

At the time they entered the program, 32.3% (n=31) of female client-participants were high school graduates, 24% (n=23) had earned a general equivalency degree (GED), and 24% (n=23) had less than a high school diploma. Only 4.1% (n=4) had a college diploma and 14.6% (n=14) had earned some college credits. 58.6% (n=58) of client-participants were unemployed, 18.2% (n=18) were employed part-time, and 15.2% (n=15) were employed full-time.

The three most common drugs of choice identified by X County's female drug court client-participants were: crack cocaine (n=30; 30.3%), methamphetamine (n=18;

⁵⁷ Unless otherwise noted, n=99.

Table 5—continued

<i>Variable</i>	<i>n</i>	<i>%</i>	<i>Variable</i>	<i>n</i>	<i>%</i>
Marital Status			Sentencing guideline range⁵⁸		
Divorced	14	14.1%	Intermediate sanction	72	75.0%
Married	16	16.2%	Straddle	17	17.7%
Separated	3	3.0%	Presumptive prison	7	7.3%
Single	65	65.7%	Probation status		
Widowed	1	1.0%	Diversion	39	39.4%
# of dependents (n=95)			Parole	2	2.0%
0	31	32.6%	Probation violation	33	33.3%
1-2	46	47.4%	Sentenced	25	25.3%
3-4	16	16.8%	Status		
5+	2	2.1%	Graduated	41	41.4%
Education at time of entry (n=96)			Still enrolled	11	11.1%
Less than high school	23	24.2%	Unsuccessfully discharged	47	47.5%
High school diploma	31	32.6%	# of misdemeanors committed prior to program entry (n=98)		
GED	23	24.2%	0	38	38.8%
Some college	14	14.7%	1-2	31	31.6%
College graduate	3	3.2%	3-4	13	13.3%
Graduate degree	1	1.1%	5-6	6	6.1%
Age at onset of drug abuse (n=94)			7-8	5	5.1%
Under 10	1	1.1%	9-10	2	2.0%
11-14	18	19.1%	11+	3	3.1%
15-19	44	46.8%	# of felonies committed prior to program entry (n=98)		
20-24	11	11.7%	0	60	61.2%
25-29	6	6.4%	1-2	27	27.6%
30-34	6	6.4%	3-4	7	7.1%
35-39	1	1.1%	5-6	4	4.1%
40-44	4	4.3%	Age at onset of alcohol use (n=55)		
45+	3	3.2%	Under 10	4	7.3%
			11-14	17	30.9%
			15-19	27	49.1%
			20-24	5	9.1%
			25-29	2	3.6%

⁵⁸ Ibid

18.2%), and marijuana (n=14; 14.1%). The average age at onset of drugs for these client-participants was 20.5 years, with a median age of seventeen, and a range of 41 (9-49 years-old). Moreover, the average age at onset of alcohol for these same client-participants was 15.4 years, a median age of 15.0 years, and a range of 21 (5-25 years-old).

In terms of the various tracks within the drug court, 39.4% (n=39) of female client-participants were on the diversion track, 33.3% (n=33) were on the probation violation track, 25.3% (n=25) were on the sentenced track, and only 2.0% (n=2) were on the parole track. Moreover, 72.7% (n=72) of client-participants were in the “lockout” sentencing guideline (SGL) range, whereas 17.2% (n=17) were in the straddle cell range and 7.1% (n=7) were in the presumptive prison range. The average number of misdemeanors committed by female drug court client-participants committed prior to their enrollment in the drug court program was 2.2, with a median of 1.0, and a range of 17 (0-16 misdemeanors). The average number of felonies committed by these same female drug court client-participants was .8, with a median of 0, and a range of 7 (0-6 felonies).

As of June 2007, 41.4% (n=41) of client-participants were still enrolled in the women’s drug court program, 11.1% (n=11) had graduated, and 47.5% (n=47) had been unsuccessfully discharged from the program. Therefore, the retention rate for the women’s program is 52.5%, which is higher than the men’s program, but still slightly lower than the national average (approximately 60%). (Rempel, et al., 2003)

In summary, X County’s drug court programs for men and women have some similarities and some differences. In terms of demographic characteristics of program

client-participants, it appears as though the women's drug court program is serving a different population than is the men's drug court program. Differences between the populations can be seen with the following variables: First, the women's drug court program appears to have a larger percentage of client-participants who are over the age of forty. Second, the women's drug court program has a larger percentage of client-participants who have at least some college experience and a smaller percentage of client-participants with less than a high school education. Third, crack cocaine (n=24; 30.8%), methamphetamine (n=17; 21.8%), and marijuana (n=11; 14.1%) respectively were the most often reported drugs of choice among female drug court program client-participants. In contrast, marijuana (n=99; 28.9%), alcohol (n=74; 21.6%), and crack cocaine (n=69; 20.1%) were the most often reported drugs of choice among male drug court program client-participants.

Drug Court Planning Sessions

Drug court planning sessions are designed to provide the drug court team with an opportunity to discuss individual participant's cases and to decide, as a team, the appropriate course of action, if action is warranted. While specific team members may communicate via email/phone or during a scheduled meeting, the planning sessions represent the only organized meeting attended by all drug court team members. While there is no formal or official structure to the planning sessions, the process by which the sessions are carried out is highly routinized. What follows is a synopsis of the process by which the planning sessions are conducted, based upon my observations of the planning sessions conducted on a bi-weekly basis between April 2006 and June 2007.

Prior to the court review session, the majority of the court review hearing attendees (except for program client-participants) attend a planning session. This planning session is usually held one hour prior to the court review hearing (8 o'clock in the morning) at the courthouse. During the planning session a list of all program client-participants is distributed to all attendees, which outlines the various categories (to be discussed in the next section) and the client-participants who are in each of these categories. The judge, case manager(s), probation agent, defense attorney, and the representative from the Office of the Prosecuting Attorney receive this list of program client-participants the day before the planning session and review the case managers' notes and recommendation prior to the beginning of the planning session. The attendees discuss each participant's progress in the program, whether anything has developed and/or come up in the last two weeks that others should be aware of, how to fashion sanctions (when/if appropriate), and, on occasion, how to reward an individual for a job well done. The judge traditionally leads the discussion and seeks input, clarification, and alternative ideas from attendees. The length of the discussion for each participant, as well as the overall planning session itself, varies depending upon what transpired during the two week period. Once the planning session has ended, the court review hearing begins shortly thereafter.

During the planning session, the judge is the leader of the discussion yet is not always the individual offering the most input. The judge calls the names of each individual participant and any attendee is afforded the opportunity to offer insight. Typically the case manager(s) and probation officer (if the participant is on probation) will summarize what has transpired during the time since the last court review hearing

and will detail the participant's progress (or lack thereof) in the program. Moreover, they will also inform the judge of any issues that s/he should be aware of regarding that participant (e.g., death in the family, medical condition, difficult life situation). During this time the judge oftentimes asks questions, seeks clarification from others (e.g., prosecuting attorney representative, defense attorney), and talks openly about decisions that need to be made. The dynamic during these planning sessions is such that all active attendees (those who actively participate in the discussion) appear to feel as though they can speak openly and honestly. There were times when attendees disagreed regarding how to address a given situation however the overall tone of the conversation remained professional. For the most part, decisions were based on consensus; however there were a few exceptions. For example, the men's drug court judge decided not to unsuccessfully discharge one participant despite the fact that the rest of the drug court team was in favor of discharging him. The judge rationalized his decision by stating that the client-participant had been in the program for approximately three months and therefore believed that he was still adjusting to the program rigor and deserved another chance at success. The other professional members of the drug court team voiced frustration over and concern with expending the limited resources available on client-participants who were not actively engaging in the drug court process.

The representative from the Office of the Prosecuting Attorney and respective defense attorneys began attending the drug court planning sessions shortly after I started conducting my observations. Prior to this, the planning sessions were attended by: the drug court judge, drug court program staff (supervisor, case manager(s), intern(s), program assistant), Michigan Department of Corrections probation agent, and other

professional members of the community (i.e., substance abuse treatment professionals, medical students, community service organization representatives, guests of the Court (e.g., a judge from another jurisdiction)). This change was made in order to ensure that client-participants' due process rights were being upheld and to involve members of the legal community in the drug court process.

The same individual from the Office of the Prosecuting Attorney attended the planning sessions and drug court review hearings during my observations. The drug court judge oftentimes asked the representative for his/her perspective regarding what course of action would be appropriate, what sanctions would be appropriate, and whether to unsuccessfully discharge client-participants in an attempt to gauge the consensus opinion among drug court team members.

Four different court-appointed defense attorneys attended the drug court planning sessions and court review hearings during my bi-weekly observations between April 2006 and June 2007. Two of these individuals were in attendance on a regular basis, while the other two attended on a sporadic basis. Each of these individuals had a unique approach and different level of involvement in the process. For example, one defense attorney was quite outspoken and did not hesitate to ask questions, seek clarification, and advocate on behalf of the client-participants. However, another defense attorney was noticeably less outspoken, did not appear to be all that comfortable asking questions, and did not advocate on behalf of the client-participants. The defense attorney's role during the planning sessions appeared to be that of ensuring that the due process rights of client-participants are not being infringed. The drug court judge oftentimes asked the defense attorney for his/her perspective regarding what course of action would be appropriate,

what sanctions would be appropriate, and whether to unsuccessfully discharge client-participants in an attempt to gauge the consensus opinion among drug court team members.

During the planning sessions it was readily apparent to me that the drug court judges placed a great deal of emphasis and importance on ensuring that all client-participants were treated fairly. There were numerous times when planning session attendees would engage each other in a discussion of how to handle a given situation by referring to similar situations. Their discussion focused on the similarities and differences between the various cases, which served as the justification for the decision that was made. As stated previously, planning session attendees did not always agree with one another, but the tone of the discussion remained professional throughout.

Despite the fact that the drug court judges did not always have the most dominant voice during the planning sessions, it was clear to everyone that s/he was in charge and was responsible for making the final decision. The majority of the time, the drug court judges agreed with the proposed recommendation as to how to handle a given situation. However, when the judge did not agree with the proposed recommendation s/he would engage the planning session attendees in discussion about the circumstances of the specific case. Planning session attendees were encouraged to provide input and this input was used by the drug court judge to make the appropriate modifications.

Drug Court Review Hearings

As stated previously, X County's drug court requires that all Phase I client-participants attend court review hearings, which are held every other Friday morning at

nine o'clock. As stated earlier, client-participants enrolled in Phases II and III are excused from attending the court review hearings as long as they are enrolled in school and/or employed more than thirty hours per week. Phase II and III client-participants not meeting this requirement or who have been declared disabled must attend the court review hearings.

Court review hearings are used to: 1) recognize the accomplishments of client-participants graduating from the program; 2) to congratulate client-participants transitioning from Phase I to Phase II; 3) to introduce new program client-participants, address client-participants who have not fulfilled all program requirements during the two-week period; and 4) congratulate client-participants who have fulfilled all program requirements during the two-week period. In addition to program client-participants, the court review hearings are attended by the drug court judge, drug court program staff (supervisor, case manager(s), intern(s), program assistant), representative from the Office of the Prosecuting Attorney, defense attorney, Michigan Department of Corrections probation agent, other professional members of the community (external evaluator, substance abuse treatment professionals, medical students, community service organization representatives, guests of the Court (e.g., judge from another jurisdiction)), members of the recovery community (e.g., sponsors, members of AA/NA groups), client-participants' family members, and former graduates of X County's drug court program. What follows is a synopsis of the process by which the court review hearings are conducted, based upon my observations of these hearings from April 2006 through June 2007.

Location

The men's drug court judge is a District Court judge who conducts the drug court review hearings in one of the Circuit courtrooms in the X County Circuit Courthouse. For the first nine months of my observation period (April 2006 through mid-December 2006) the physical courtroom where the men's drug court review hearings were held changed regularly depending upon which courtroom was available on Friday mornings. However, in mid-December 2006, scheduling changes were made within X County Circuit Court Administration, which allowed the drug court review hearings to be held in the same courtroom on a bi-weekly basis. This change was well received by everyone, as it facilitated some consistency for both drug court staff and client-participants. Moreover, it also ensured that there was adequate seating available for all client-participants, drug court team members, and drug court observers.

For the first five and one-half months of my observation period (April 2006 through mid-September 2006), a Circuit Court Family Division judge presided over the women's drug court program. The physical courtroom where the women's drug court review hearings were held changed regularly depending upon which courtroom was available on Friday mornings. However, in mid-September 2006, a District Court judge assumed the responsibility of presiding over the women's drug court program. Since that time, the women's drug court review hearings have been held in the Judge's District Court courtroom, which is housed in the X County Circuit Courthouse. As was true with the men's drug court, this change was also well received by everyone, as it facilitated some consistency for both drug court staff and client-participants.

Courtroom Setup

The physical setup of the courtrooms in which the men's and women's drug court review hearings are held are vastly different. The courtroom in which the men's drug court review hearings are held is very large, with vaulted ceilings, and what most people envision as the quintessential courtroom. The judge's bench is at the head of the courtroom on an elevated platform, and is flanked with the witness box and judicial aide's desk. The drug court program assistant is seated at the judicial aide's desk and enters information into the computer during the court review session. To the right of the judge is a large jury box (approximately fourteen chairs) where the defense attorney, prosecuting attorney representative, and guests of the drug court program (i.e., substance abuse treatment professionals, medical students, community service organization representatives, distinguished observers (i.e., judge from another jurisdiction, legislators)) are seated. Directly in front of the judge's bench is a podium with a microphone which is where client-participants stand when called forward to speak with the judge. Directly behind the podium is an L-shaped table where the drug court case managers and the Michigan Department of Corrections probation agent are seated. Adequate distance and a waist-high wall with a swinging half-door in the middle separates the L-shaped table from approximately ten rows of benches, which are where drug court client-participants are seated. A door leading to the hallway is located behind these benches. Directly in front of the waist-high wall is a bench where client-participants in the custody of the X County Sheriff's Department are seated. To the far right of this bench and directly next to the jury box is another door, which leads to the lobby. The X County Sheriff's deputies use this exit to transport drug court client-participants in the custody of the X

County Sheriff's Department to and from the holding cells located in the basement of the courthouse.

The courtroom in which the women's drug court review hearings are held is much smaller than the men's courtroom, does not have vaulted ceilings, and is a much more intimate space. The judge's bench is on an elevated platform and angled in the front right-hand corner of the courtroom. To the left of the judge's bench is the witness box and to the right is the judicial aide's desk. The drug court program assistant and drug court case manager are seated at the judicial aide's desk. The program assistant enters information into the computer during the court review session. To the right of the judge is a small jury box (approximately seven chairs) where the defense attorney, prosecuting attorney representative, and guests of the drug court program (i.e., substance abuse treatment professionals, medical students, community service organization representatives, distinguished observers (i.e., judge from another jurisdiction, legislators)) are seated. Directly in front of the judge's bench is a podium with a microphone which is where client-participants stand when called forward to speak with the judge. Directly behind the podium are two tables, both of which sit two people. The drug court supervisor, Michigan Department of Corrections probation agent, and drug court intern are seated at these two tables. This seating arrangement is sometimes disrupted depending upon how many individuals are observing the drug court review hearing and the number of client-participants in the custody of the X County Sheriff's Department. A waist-high wall with a swinging half-door in the middle separates these two tables from approximately four rows of benches, which are where drug court client-participants are seated. A door leading to the lobby is located behind these benches. There is no room in

this courtroom for client-participants in the custody of the X County Sheriff's Department to sit. Therefore, these client-participants must either stand up or they are transported from the holding cells (located in the basement of the courthouse) one-by-one. To the far left of the jury box and directly in front of the waist-high wall is another door, which leads to the hallway. The X County Sheriff's deputies use this exit to transport drug court client-participants in the custody of the X County Sheriff's Department to and from the holding cells.

Process

The court review hearings vary in length depending upon how many client-participants are: graduating, transitioning from Phase I to Phase II, to be incarcerated, not present at the drug court review session, and to be sanctioned for not fulfilling the program requirements in the time period since the last drug court review session. Moreover, X County's men's program has significantly more client-participants enrolled than does the women's program. Consequently, the men's court review session is much longer in length as compared to the women's court review session. On average, the men's court review hearing lasts two and one half hours, whereas the women's court review hearing lasts one and one half hours.

Each court review hearing is comprised of several categories, which provides some insight into how client-participants are faring within the program. The specific categories include: completed program, completed Phase I, in custody, to be discharged, to be incarcerated, accolades, other, and new client-participants. The ordering of these categories is quite standardized, with only a few situational exceptions. This

standardization is readily acknowledged by program staff, client-participants, and the judge. Prior to calling the first person in each category, the judge will announce which category is being called. Additionally, within each category, participant's names are called in alphabetical order.

First, client-participants graduating from X County's drug court program are called forward individually by the judge and stand at the podium in front of the judge's bench. While the graduate is walking to the front of the courtroom, everyone in attendance claps. It should be noted that client-participants graduating from the program do not have to sit in the back of the courtroom with all of the other client-participants, but rather may sit in the jury box with professional members of the community attending the court review session. Family members/friends of graduating client-participants are also permitted to sit in the jury box. The judge shakes hands with the graduate and presents him/her with the following: 1) a certificate of achievement, which reads "In acknowledgment of overcoming adversity and achieving life-changing goals and the successful completion of the [X County] Adult Drug Treatment Court Program."; 2) an informational letter client-participants can present to anyone with questions regarding the drug court program (contains contact names/telephone numbers); 3) a book (the women get *Each Day a New Beginning: Daily Meditations for Women* and the men get *Twenty-four Hours a Day*); and 4) a "Normal Ordinary Responsible Person" (NORP) t-shirt, which was created by the men's drug court judge. Client-participants on the diversionary track also receive a copy of the *nolle* from the prosecuting attorney representative,

which is the legal document dismissing the charges previously pending against the individual. The judge will then ask the graduate if s/he brought anyone with him/her to court today. If so, the judge thanks these individuals for attending and offers them an opportunity to speak. Finally, the judge will ask the graduate to address the rest of the program client-participants and everyone else attending the court review session. Graduates know beforehand that they must share some words of encouragement, insight, and/or wisdom with everyone in attendance. After s/he has spoken, the judge will shake hands with the participant again, everyone claps, and s/he is dismissed. In the next section, I provide a summary of client-participant comments at this juncture within the drug court process.

Second, client-participants transitioning from Phase I to Phase II are called forward individually by the judge and stand at the podium in front of the judge's bench. While the participant is walking to the front of the courtroom, everyone in attendance claps. The judge shakes hands with the participant and presents him/her with a certificate of achievement documenting this transition, which reads "In recognition of completing Phase I of the [X County] Adult Drug Treatment Court Program and having the courage and conviction to strive for a better future." Client-participants also get a book (*Twelve Steps and Twelve Traditions*) and are given the opportunity to address the other program client-participants and everyone in attendance. While client-participants are not required to speak at this transition point, they are informed (regardless of whether they speak or not) that they must do so at their graduation. The judge shakes hands with the participant again, everyone in attendance claps, and s/he is dismissed.

Third, the next three categories of individuals, “in custody,” “to be discharged,” and “to be incarcerated,” are done together as they all require the services of the X County Sheriff’s Department deputies. “In custody” refers to those drug court client-participants currently in the custody of the County X Sheriff’s Department. “To be discharged” refers to those program client-participants who have been non-compliant for a period of time (not specified, but rather taken on a case-by-case basis) and/or violated one or more program rules, which has ultimately resulted in them being unsuccessfully discharged from the program. And, “to be incarcerated” refers to those program client-participants who have violated one or more program rules, resulting in them being incarcerated for a specified amount of time (see Appendix C for the sanction chart).

Client-participants falling in these three categories are called forward individually by the judge and stand at the podium in front of the judge’s bench. In contrast with the graduates and those client-participants transitioning from Phase I to Phase II, while these client-participants are walking to the front of the courtroom no one claps and the courtroom is awkwardly quiet. The judge will oftentimes ask the participant how s/he is doing, what has been going on in their lives, and why they are standing in front of them all alone. Each judge has a unique style/method of questioning client-participants and eliciting information from them, which I discuss more specifically later in this chapter. While the judge does not announce which category client-participants fall under, once the judge and participant begin their discussion, it becomes readily apparent to

anyone observing as to whether the participant is going to be incarcerated or unsuccessfully discharged from the X County drug court program. Client-participants currently in the custody of the X County Sheriff's Department are readily noticeable, as they are clad in either a bright orange (men), dark green (women), or white (trustee) jumpsuit with "X County Jail" on the back in large black lettering. Once the judge and participant have completed their discussion, two Sheriff's deputies handcuff the participant and escort him/her out of the courtroom and to a holding cell in the basement of the courthouse and then to the X County Jail. After the judge has spoken with client-participants in these three categories, s/he dismisses the deputies by stating "thank you deputies...I think we're all done for today." At this point, client-participants still in the courtroom usually clap and cheer, as this is a cue that they are not going to jail.

Fourth, the next category of client-participants is called "accolades," which is the term used for those client-participants who have been compliant with all program rules for the past two weeks. The men's drug court judge calls these client-participants up to the front of the courtroom four or five at a time, while the women's drug court judge calls each participant up individually. While these client-participants are walking to the front of the courtroom, everyone in attendance claps and they position themselves behind the podium in front of the judge's bench. Despite the fact that the male drug court client-participants in accolades are called forward as a group of four or five, the judge still addresses each participant by name and asks: 1) "what's going on in your life?" and 2) "is there anything we need to discuss?" The judge will also ask specific/direct

questions if there is an issue that needs to be addressed and will engage the participant in a dialogue if s/he asks a question or brings up something in the course of the conversation. The women's drug court judge will engage client-participants in a short discussion by asking them how they are doing in general and will then ask about something specific (e.g., children, work, and school). Each participant's (male and female) conversation with the judge varies in length depending upon his/her level of comfortability in talking with the judge in open court and/or about certain issues, and whether or not there are any specific issues that need to be discussed.

The Nature of Drug Court Discourse

During my observations of the court review sessions I noticed that there are essentially three junctures at which client-participants are either afforded the opportunity to talk aloud or are required to answer questions and engage in dialogue with the drug court judge. These three junctures are: graduation ceremonies, transition from Phase I to Phase II, and during dialogue with the Drug Court Judge, which takes on the form of a question and answer session.

Graduation Ceremony

The first, and probably the most notable, juncture at which client-participants have the opportunity to engage the Drug Court Judge, client-participants, and everyone present in the courtroom is during the graduation ceremony. As stated earlier in this chapter, graduations are conducted at the very

beginning of the court review sessions and are the only time at which client-participants are required to verbally address the other program client-participants and the court. Some graduates have prepared their speeches ahead of time, whereas others have spoken "off-the-cuff." Despite their mode of delivery, the majority of graduates imparted insight and words of wisdom to everyone in the courtroom about what drug court has done for them personally, their family, and their career; the way(s) in which drug court facilitated them being successful; and what it takes to make it through the program.

Personal Impact

- "I'm speechless."
- "I feel different now."
- "I think I can be great today."
- "This program saved my life...I was homeless and beaten down, but now I have my family back."
- "I wish my victims were here because they advocated for me to be in this program."
- "I thought I'd be rid of all my problems when I got clean and sober. All my problems haven't gone away, but I can deal with them [now]."
- "When I came into the program I was probably the farthest thing from normal and didn't even realize it."

Facilitating Success

- "Phase I is difficult, but just do what you have to do each day and move forward."
- "It's a tough program, but if you're honest about your addiction, it's a good program to be in...stick with it."
- "I never thought I'd be able to do this, but it gets easier...just stick with it."
- "It's a program of honesty; [the most important thing is to] be honest with yourself. I can pay my bills, [I] have a job, etc. I never thought I could do it. Let them help you."
- "Take the program seriously and get your life back on track."
- "The program is only as hard as you make it; just do what you're asked and it will go by a lot smoother."

- “I’m a lot better than I was four years ago. I was a train wreck. For those guys who are not working the program, I don’t have much to say other than ‘good luck’ because there isn’t much to say. This program is not here to see you fail, but it is here to see you progress.”

What Works

- “Put forth some effort and you might get something out of it.”
- “It’s a tough, long program. Keep your will about you.”
- “The first three months were the hardest for me. Just do what they say...it’s really *that* easy (original emphasis).”
- “It’s all about changing your life...I can’t tell you what to do. All I can tell you is what I have done. I also want to say ‘thank you.’”
- “It can be done...it’s not that difficult of a process.”

All of the drug court graduates thanked individual members of the drug court team who were instrumental in their success and thanked the court for the opportunity to participate in the program. While there were varying levels of sincerity displayed, all graduates seemed relieved that the process was over and all talked about being able to move on with their lives. During this process, family members and friends of the graduate were also given the opportunity to address the graduate and the court. While this did not happen on a regular basis, on the occasions when a friend or family member did choose to speak, the graduate appeared to be moved by what their loved one(s) had to say.

Transition from Phase I to Phase II

The second juncture at which client-participants have the opportunity to engage the drug court judge, client-participants, and everyone present in the courtroom is when client-participants transition from Phase I to Phase II. As stated earlier in this chapter, client-participants are not required to speak at this

time and the majority of client-participants choose to not do so. However, the Drug Court Judge does engage client-participants who are returning to Phase II (for the second, third, or fourth time) in a dialogue about what is different this time around (as compared to the last time). These client-participants previously transitioned to Phase II, but were demoted to Phase I for some reason (e.g., relapse), and are now returning to Phase II. Of the client-participants who spoke at this juncture, the majority talked openly about what changes they have made in order to be successful and what has worked for them.

- “Phase I ain’t no joke but you can get through it.”
- “It’s all about attitude...[looking at the program as a] pain in the butt versus an opportunity.”
- “Don’t give up.”
- “It was a tough road at the beginning, but now I have the hang of it.”
- “Don’t use and go to meetings.”
- “People, places, and things.”
- “Feels good walking out of here without those bracelets (handcuffs).”
- “Work the program one day at a time.”
- “I see a big change in me and others do too.”
- “Stay clean and sober.”
- “I had to give up everything I was doing to get where I am today.”
- “Do everything you’re supposed to...I’m going to be more honest with myself.”
- “I’m not going to bullshit the program.”
- “Do what you gotta do. Read your rules and follow them.”
- “It’s a good feeling. Take things one day at a time...it gets easier.”
- “Don’t miss your drops (urine screens).”
- “It’s tough...lots of stuff to do. Stay focused...you’ll get there.”

For the most part, client-participants transitioning to Phase II discussed honesty, regular meeting attendance, and following the rules of the program as the keys to being successful in the program. The majority of client-participants have also internalized the mantra of changing “people, places, and things” and are able to

comprehend the impact one's surroundings have on one's ability to be successful in the long-run.

Dialogue with the Drug Court Judge

The third juncture at which client-participants have the opportunity to engage in dialogue or discourse is slightly different from the first two. The third juncture is when the Drug Court Judge engages drug court client-participants in a "question and answer" session. While this is not an explicit or formalized juncture within the drug court review hearings, this process plays out throughout the "in custody," "to be incarcerated," "to be discharged," "accolades," and "other" segments of the process. As stated earlier in this chapter, there were three drug court judges who presided over the men's and women's programs during the time I was conducting my observations; one judge for the men's program and two judges for the women's program. Each of these three judges has a unique approach to blending elements of therapeutic jurisprudence, due process, and crime control/coercion.

The Men's Drug Court Judge [hereafter referred to as Judge A] oftentimes engages client-participants in the "to be incarcerated," "to be discharged," and "other" categories in lengthy discussions regarding why they have not been in compliance with the program rules. Judge A places a great deal of emphasis/importance on honesty (this is reiterated over and over again throughout the court review hearing sessions and over time) and therefore provides client-participants with multiple opportunities to be honest and forthcoming with what is

going on in their lives, the ways in which they have been non-compliant, and the reasons for their non-compliant behavior. Judge A begins the dialogue with “What’s going on in your life?” and/or “Why are you standing up here all alone?” When a participant denies any knowledge of the ways in which he has been non-compliant, Judge A will routinely review each and every requirement of the drug court program [the specific program requirements are discussed earlier in this Chapter] and ask the participant if he has been in compliance. During my period of observation, this exchange of discourse took anywhere from five minutes to twenty-five minutes to complete. Client-participants generally fell into essentially one of three categories with regard to taking responsibility for their behavior/actions: 1) those who readily admitted to having violated program rules; 2) those who did not admit to violating program rules until they were faced with proof of their behavior; and 3) those who maintained their position (denying any violation of the program rules). Judge A has a very stern, yet caring voice and creates a relaxed, yet formal environment. Judge A uses dry humor and at times “small talk” (e.g., regarding job, life situation, etc.) to lighten up the atmosphere. Nonetheless, client-participants appear to be cognizant of the reality that they will be held accountable for their behavior and actions and have a genuine respect for the drug court judge.

Judge A’s approach to engaging client-participants in “accolades” is noticeably different from his approach to engaging client-participants in the “to be incarcerated,” “to be discharged,” and “other” categories. First, Judge A calls client-participants in “accolades” forward in groups of four to five at a time.

Client-participants appear to be much more comfortable standing before the judge in groups of four to five as opposed to all alone (several client-participants have even verbalized this). Even though they are standing before him in a group, Judge A addresses each participant by name and asks two questions: "What's going on in your life?" and "Is there anything you would like to discuss?" Some client-participants do take the opportunity to discuss issues with the judge, while others do not. Their willingness to engage the judge appears to be a function of whether they have an issue that needs to be discussed (e.g., release from the [alternative to incarceration program], daily preliminary breath test (PBT) requirement, etc.) and not out of fear or a reluctance to ask questions.

The first Women's Drug Court Judge [hereafter referred to as Judge B] engaged client-participants in the "to be incarcerated," "to be discharged," and "other" categories in dialogue by asking very direct questions. Client-participants were not given the opportunity to initiate the discourse by detailing what has been going on in their lives, which limited the information that was disclosed. In some instances, the violations committed by client-participants were never discussed. The other program client-participants appeared to be confused and left wanting more information as to what was going on. In other instances, client-participants were able to detail what was going on in their lives and the way(s) in which they had violated the program rules. However, in the majority of instances, it was difficult to discern in which of the three categories client-participants fell with regard to taking responsibility for their decisions/behavior.

Judge B's approach to engaging client-participants in "accolades" was also noticeably different from her approach to engaging client-participants in the "to be incarcerated," "to be discharged," and "other" categories. Judge B would announce the names of all the client-participants in "accolades" and have them stand up (as is stated earlier in this chapter, all client-participants are seated in the benches at the back of the courtroom). Once all the client-participants in "accolades" were standing, everyone in the courtroom would clap and that would conclude the court session. Consequently, Judge B did not engage in dialogue with client-participants in the "accolades" category.

The second Women's Drug Court Judge [hereafter referred to as Judge C] engages all client-participants (regardless of category) in dialogue in much the same manner that Judge A engages the client-participants in the "to be incarcerated," "to be discharged," and "other" categories. Judge C begins the dialogue with "Tell me what's going on in your life." Given that Judge C also places a great deal of emphasis/importance on honesty, client-participants are afforded multiple opportunities to be honest and forthcoming with what is going on in their lives, the ways in which they have been non-compliant, and the reasons for their non-compliant behavior. Judge C also has a very stern, yet caring voice and creates a relaxed, yet formal environment. Judge C engages client-participants in "small talk" (e.g., regarding their attire, hairstyle, new job, children, etc.) to lighten the mood. Nonetheless, client-participants appear to be cognizant of the reality that they will be held accountable for their behavior and actions, and have a genuine respect for the drug court judge and staff. In general,

there appears to be an established level of trust and reciprocity between Judge C and the female client-participants, which creates an environment where client-participants appear quite comfortable voicing concerns and discussing what is going on in their lives.

During my interviews with judges, each one of them emphasized the importance of honesty and the fact that getting client-participants to “own” their behavior and the resultant consequences is extremely difficult at times. All of the judges discussed the importance of building a sense of community within the program among the drug court staff and client-participants. Three key components to building this sense of community are for client-participants to: 1) buy into the process, 2) feel as though they understand what is going on, and 3) understand the decision-making process.

When interviewing the case managers, I was particularly interested in the nature of the discourse that is exchanged between the client-participants and themselves during the case management sessions. Case Manager Z stated that the majority of female client-participants appear to be “in tune” with their needs and have an established rapport with the case manager to the extent that they are willing and able to voice their concerns. Case Manager Z also stated “the male client-participants [in this program] do not vocalize their needs because their case managers do not make them feel that it’s a priority.” Case Manager X stated that client-participants new to the program do not vocalize their needs right away due to the fact that many of them are in such ill health that they focus on ways to manipulate the system and get away with “using behaviors.” Generally, this

behavior pattern persists until they have acclimated themselves to the structure of the program, which, in this individual's opinion, takes approximately six months. It should be noted that of the 178 male client-participants who have been unsuccessfully discharged from the men's program, 148 (83.1%) were enrolled in the program for less than six months when they were unsuccessfully discharged. Of the 47 female client-participants who have been unsuccessfully discharged from the women's program, 37 (78.7%) were enrolled in the program for less than six months when they were unsuccessfully discharged. Consequently, more than three-fourths of the X County Adult Drug Court client-participants who are unsuccessfully discharged from the program do not complete this "acclimation" process and thus are never able to voice their needs/concerns to the case manager.

The male and female focus group client-participants also stated that the "welcome speech" that Judges A and C give all new client-participants entering the drug court program is very effective in outlining their expectations of all drug court client-participants and the principles underlying the entire program.

Judges A and C give the "welcome speech" to all new client-participants at their first court review hearing. In the event that the one or more of the new client-participants are "in custody" or are in the "to be incarcerated" groups, Judges A and C give the speech to everyone present in the courtroom. In the event that all of the new client-participants are not "in custody" or in the "to be incarcerated" groups, Judges A and C give their "welcome speech" at the end of the court review session with just the new client-participants present.

Judge A begins his speech by shaking hands with the new client-participants and welcoming them to drug court. Judge A then states that while there are a few keys to being successful in the X County Drug Court program. First, "this program must be the number one priority in your life. Therefore, if your boss asks you to stay late/work overtime and you have to go to a meeting or have a treatment appointment, I expect that you will tell your boss that you have a meeting to go to and not stay late at work." Second, "This is a program of honesty and the other client-participants in the program will tell you that I place a high degree of value on people being honest...I don't tolerate lying." Third, "When you are in front of me and we are talking, as long as you're respectful, you can tell me anything you want to...you can say 'Judge, I think that is a lousy decision.' People have convinced me to change my mind, and although it doesn't happen very often, it has happened." Lastly, Judge A asks all the new client-participants if they can "do it [complete the program and be successful] and shakes their hand again.

Judge C begins her speech by informing all new client-participants that the X County Women's Drug Court program "is a program of honesty and accountability." Therefore, "I expect that you are honest with [Case Manager Z], drug court staff, your probation officer [if the participant is on probation], me, and most importantly, yourself." Judge C also asserts "this program is a program of accountability," which means you will be held accountable for the decisions you make and the resultant behavior. One of the most notable aspects of the "welcome speeches" are that neither Judge A nor Judge C say anything about the

specific program phase requirements, both do an excellent job of highlighting their overall expectations.

As stated earlier, in the next nine sections, the information obtained from my interviews with the drug court judges and case managers and focus groups with drug court client-participants is summarized in order to answer the specific questions listed in my interview/focus group schedule presented at the beginning of this chapter. Moreover, where appropriate, information obtained during my observations of the court review hearings is also included.

Drug Court Effectiveness

General Drug Court Effectiveness

In terms of general drug court effectiveness, all the judges, case managers, and focus group client-participants believe that drug courts are effective. The rationales given for why drug courts were effective generally fell into two categories: one category focused on the lives of individual client-participants and the other focused on the criminal justice system.

For drug court judges and case managers, the most widely cited reason why drug courts are effective is that they provide a sense of structure and order in the lives of the individual client-participants who previously were living “in chaos.” Related to this was the notion that drug courts force client-participants to engage in the recovery process and hold them accountable for their behavior. Engaging in the recovery process includes: attending 12-step meetings at least three times per week, attending group and individual counseling, attending substance abuse counseling, meeting with the probation officer (if

applicable), substituting non-narcotic medications for narcotic medications (if applicable), attending drug court case management sessions, and attending bi-weekly court review sessions. The drug court judges and case managers purport that client-participants must actively engage in the process for a period of time before they begin to recognize that their substance abuse issues are a manifestation of one or more underlying issue(s) that they have not yet addressed. Discussions regarding these underlying issues³² are provided throughout this chapter. According to drug court case manager X,

The health, wellness, and sobriety [are] much higher for drug court client-participants than that of someone who didn't have the opportunity to learn about themselves, the world, their behavior, and responsibility.

According to Judge B,

Even if the person does not graduate, I think anybody who spends time in the drug court, let's say, more than one or two sessions or one month or so, has to get some benefit because it makes them focus on the basic substance abuse problems. So, it may not be successful this time, but I think there's no program in the criminal justice system that really makes people do the kind of self-reflection that drug courts do.

According to Judge D,

Overall, it [drug court] combines insight, I think, into the realities of addiction with the program similar to 12-step. And, like 12-step, the people that engage in that program have an effective way of dealing with their addiction. Another thing about drug court effectiveness is, I suppose, to look at the alternative; that is the traditional system which is useless, virtually, when it comes to changing addictive behavior.

Two of the drug court judges talked about drug courts being catalysts for changing the culture of the community and local legal system, which can/should also be viewed as measures of effectiveness. Not only do drug courts change the way "judges judge," but they also change the way in which local criminal justice system practitioners do their jobs

³² According to the judges and case managers interviewed for this research, examples of these underlying issues include: abuse, poverty, mental health issues, lack of stable family structure, etc.

and the larger community's view of criminality, substance abuse, and the relationship between the two. According to Judge A,

Drug treatment courts can be and ought to be a reflection of community values. And I think to [Judge] D's eternal credit, he's always operated on that premise; that we need to get community buy-in. We need to understand what's important to the community, and legally, we have to be aware of all the constitutional principles that we have to treat people fairly and equally...that we can do certain things here that the community is willing to accept.

Both Judges A and D openly acknowledged that not every judge, member of the local legal culture, or member of the larger community has a philosophy similar to that of the drug court judges and case managers. However, it is believed that if/when more practitioners adopt the principles of therapeutic jurisprudence in their daily work and members of the larger community gain more knowledge about drug courts, the likelihood that the local legal culture will slowly transition from one of retribution and incapacitation to that of rehabilitation will increase. It should be noted here that prevention is excluded from the judges' and case managers' statements.

The female drug court program client-client-participants offered great insight into what makes X County's drug court program effective. All agreed that the program provided the structure and motivation necessary early in the recovery process. One client-participant asserted that "the scare of sanctions is both a motivating factor and a deterrent to stay clean." Despite all the positive feedback regarding the program as a whole, the client-client-participants were quick to note that in order for the program to be effective and successful, the client-client-participants themselves must be "ready to change." They asserted that the drug court program is most effective for the client-client-participants who are ready to change, but just do not know how and/or where to start.

One female participant drew comparisons between drug court and prison and stated “drug court is better...my addiction got worse in prison and I learned a lot of negative behaviors.” She went on to say that many client-client-participants of X County’s drug court program have not had the experience of being sent to prison and therefore do not know how hard prison time can be and “what they’re getting themselves into.”

Similarly, the male drug court client-client-participants asserted that drug courts offer “a jump start into clean time.” They all agreed that while it is hard to want to be clean in the very beginning of the program, this is due to the fact that “your mind isn’t right at first and the program is a shock.” They also noted that while the program is very rigorous, there are a lot of “hoops” client-client-participants must jump through, and the standards/expectations are set very high, these are all positive attributes of the program. “Many client-client-participants are not aware of what they’re getting into and it’s a shock.” When asked to elaborate on what was most shocking about the program, the male drug court client-client-participants stated that the majority of client-client-participants think they can “beat the system” and maintain the status quo (e.g., using drugs/alcohol). This mentality is a function of having been able to “beat the system” before and the lack of consequences for negative behavior. One participant reported that drug court has both forced him and given him the opportunity to “look at my life before drug court and I know that is not what I want.”

Specific Program Components

In terms of the specific components of the drug court program that contribute to its effectiveness, the judges and case managers focused on different aspects of the

program when answering this question. While the case managers highlighted specific program components that they believed played a role in the overall effectiveness of the program, the judges provided a more holistic assessment of how the program, in general, made a positive impact on the lives of client-participants.

All three case managers asserted that the random urine screens are vital to maintaining the integrity of the drug court program, as they provide a degree of structure and a level of accountability that was not present in the lives of the majority of client-participants prior to their entry into the program. Moreover, all three case managers believe that rewards (tangible and intangible) and sanctions are also integral components of the drug court program, as this provides client-participants with incentives to effect meaningful change(s) in their lives. Some additional components the case managers believed played a role in the program's overall level of effectiveness are: case management meetings, individual contact with the drug court judge, access to substance abuse treatment services, sponsorship through Alcoholics Anonymous (AA) or Narcotics Anonymous (NA), and the degree of emphasis placed on obtaining high school diploma/GED and employment.

All four drug court judges highlighted some of the specific program components as being contributors to the overall effectiveness of the drug court program. Moreover, all four judges argued that the level of accountability built into the structure of the program is one of its most effective aspects. According to Judge C,

...the longer I'm involved with the program the more I realize that having a black-and white structure, 'these are the rules that must be followed,' is an important criteria for people who have never had to follow rules, or due to their circumstances, chose

not to follow the rules. Whatever it may be, they've never had to live within a structure. And so for them to surrender to the structure of drug court, once they are able to do that...then they can meet those structures that everybody has to meet in their daily life [and] that up to this point they [the client-participants] haven't.

Judge D highlighted the fact that the drug court program is unique in that it facilitates the re-engagement process for individuals who have been marginalized by society. One of the key components of this process is honesty, as client-participants must be honest with themselves and all members of the drug court team before they can move forward and create meaningful and long-lasting changes in their lives. Once client-participants have embraced the role that honesty plays in this re-engagement process, they can begin to acknowledge and address the issues underlying their use of drugs/alcohol (e.g., abuse, low self-esteem, depression) with the assistance of certified professionals. One important by-product of this process is that many drug court client-participants begin to change their view of the criminal justice system and larger social world.

According to Judge D,

...the whole notion of the criminal justice system being a caring system, being a helping system, totally turns the experience of most criminal defendants upside down because they've always perceived the system to be their enemy, that had hurt them and kept them from getting to where they wanted to get to.

While this re-engagement process is particularly important for the drug court client-participants, it also serves as a learning experience for probation officers, prosecuting attorneys, and judges. The drug court process, by nature, forces members of the drug court team to change their philosophy and behavior from punitive to therapeutic. The belief and hope is that with more practitioners within

the criminal justice system adopting this philosophy, the likelihood that it will change the local legal culture and the policies that are enacted within it will increase.

According to the female drug court client-participants, there are several components (structural and processural) of X County's drug court program that contribute to the overall effectiveness. In terms of the structural aspects of the program, the female drug court client-participants asserted that "there's no way to cheat the program, which is key." The strict Phase I requirements preclude client-participants from being able to "use one time and get away with it." They did note that while the urine screens are not necessarily "fool-proof," the frequency with which client-participants submit to urine screens increases the likelihood that client-participants who are using will be caught. Client-participants also noted that the program minimum of fifteen months "gives you time to re-program yourself" and went on to say that "[a] longer [enrollment period] might even be better." They discussed the difference between the requirements for Phase I and Phases II/III and reported that the gradual reduction in strictness allows client-participants to develop and utilize a new skill set, which is vital to the change and recovery processes. In terms of the financial component of the drug court program, the female client-participants agreed that requiring client-participants to pay \$30 for positive urine screens and \$5 for negative urine screens, as well as a \$6 co-pay for all treatment appointments, are effective in that they hold client-participants responsible for their behavior (reward those who have negative urine screens, sanction those who have positive urine screens) and provide access to

affordable treatment programs. “Paying \$6 for every [treatment] appointment makes you appreciate it more, but it’s still affordable.”

In terms of the process of X County’s drug court program, the female client-participants noted that the program effectively monitors all aspects of the lives of the female client-participants. This holistic approach is very beneficial to effecting meaningful changes in the lives of client-participants and helps to provide a sense of security and protection. To illustrate, several of the female client-participants expressed an interest in wanting to engage in physical exercise and/or lose weight. In response to this, the drug court judge and case manager developed a walking group for all interested female client-participants. Some of the additional ancillary services available to female client-participants that were mentioned are: GED classes (even during the summer months), counseling, and a parenting program. One participant stated “[the parenting program] is a great program...it involves the kids and also allows us to bond with each other.” Moreover, client-participants who successfully complete the parenting program are given a monetary reward, which the client-participants noted was a reward for positive behavior.

The majority of male drug court client-participants’ responses focused on structural components of the program with one notable exception. All client-participants agreed that the myriad Phase I requirements hold you accountable and prepare you for what is to come while enrolled in the program. As one male participant noted, “It gets your mind right.” Moreover, the strictness of Phase I precludes client-participants from being able to maintain the status quo (e.g., using drugs/alcohol) without harsh

consequences. The male client-participants acknowledged some discomfort and frustration associated with having to “jump through hoops” (read; comply with Phase I requirements), however they did recognize that it forced them to step out of their comfort zone and provided a sense of real accomplishment when they successfully completed the requirements.

One male participant stated that meeting with his case manager on a regular basis has been tremendously beneficial to his recovery and is one of the most effective components of X County’s drug court program. “In the beginning I believed he was ‘out to get me,’ but now I recognize that he’s there to help me...I confided in him and was totally honest. I look forward to seeing [case manager]...this helps. I know he’s there to talk to.”

Program Components and Overall Effectiveness

The drug court judges and case managers had a wide array of thoughts on what components of the drug court program do not contribute to its overall effectiveness. Despite the array of opinions, there was an overall consensus among both groups that there is a lack of flexibility within the structure of the program which restricts what can/cannot be done in various situations. Two case managers asserted that it is very difficult to take into account an individual’s need(s)/situation when addressing an issue due to the rigid program structure. For example, all client-participants must submit their urine screens before 4 o’clock, otherwise it is considered to be “missed,” which then results in a sanction of three days in jail (see Appendix C for the sanctions charts). Case Manager Z expressed frustration with the fact that life situations (e.g., car breaks down,

child care issues, overtime at work) are not viable excuses for missed urine screens. Both discussed the importance of using creativity when interacting with drug court client-participants, yet the structure of the program limits what can/cannot be done. With that said, however, both acknowledged that making allowances for individual client-participants and not treating everyone the same could be a “slippery slope” that has the potential to jeopardize the integrity of the program (as it is currently structured).

According to Case Manager Z,

[Drug courts are not effective] in accepting and dealing with the day-to-day happenings in people’s lives. For our program, under no circumstances are you allowed to be late for a urine screen, but in life things happen, for example, if your car breaks down...and you don’t make it here by 4:00pm you still get a sanction no matter what...I think that with the individualistic approach there needs to be more room for flexibility, but if you create leniency for one person you’re going to have to do it for another. But, I think more life situations need to be taken into account.

One drug court judge specifically voiced reservation about the program’s lack of flexibility with regard to placing client-participants on “zero tolerance,” which is referred to as “fish-or-cut-bait” status. Judge A stated that “fish-or-cut-bait should not be a lifetime thing while in the program, but rather for a short period of time.”

Judge D was staunch in his conviction that there was grave danger in the propensity of law enforcement officials and criminal justice practitioners to slip back into a punitive mentality. The argument is that drug courts are premised on the principles of therapeutic jurisprudence, consequently there should be greater emphasis on rehabilitation as opposed to retribution. Allowing programs that are punitive in nature to be classified as “drug courts” (in the original sense of the

term), may result in the term “drug court” being co-opted in the future, undermining the movement as a whole. Judge D noted,

One of the things that will most readily, in my judgment, destroy (even though it's a combination of law enforcement and treatment) [the drug court is] that slide back into punitive behavior, that punitive mentality, which is always present in anybody who's got a law enforcement background. While that is a useful tool, the availability of punishment is a useful tool to get somebody to comply, it's not what the system is all about.

For the most part, all four drug court judges believe that the drug court is effective in achieving what it was designed to achieve. Judge B went on to say that there is always room for improvement. Therefore, the entire drug court team needs to remain cognizant of this and seek to identify specific areas where additions, modifications, and deletions can and/or should be made. Moreover, when making additions, modifications, and deletions, the drug court team has the responsibility to remove any structural impediments that would limit and/or prevent client-participants from fully engaging in the drug court process. One example of this arose in the beginning of May 2007 when the women's drug court judge and case manager discovered that there were no GED programs offered during the summer months in X County. As stated earlier, obtaining your high school diploma/GED is a requirement of the program, which must be fulfilled in order to graduate from the program. However, the fact that there are not any GED programs in operation during the summer months in X County presented a structural impediment for drug court client-participants that they themselves would not be able to overcome. Therefore, the women's drug court judge and case manager recruited volunteers

from the local community to tutor drug court client-participants who were working on obtaining their GED over the summer.

All of the male and female drug court client-participants who responded to this question asserted that the only component of X County's drug court program that does not contribute to its overall effectiveness is the across-the-board application of the program rules. Their comments were specifically related to the sanction associated with positive urine screens. Some client-participants stated that there needs to be "more leniency for different situations," however when asked how the program might implement such a practice, all of the client-participants readily acknowledged the importance of being consistent with sanctions and the danger associated with "be[ing] lenient for some and not for others." The male drug court client-participants reported that "the sanctions need to be more immediate in order to be effective." They went on to say that only sanctioning client-participants during the bi-weekly court review sessions is not as effective as if client-participants were sanctioned immediately following a violation. For example, if a participant had a positive urine screen, then s/he should go to jail immediately as opposed to waiting to be sanctioned until the next bi-weekly court review session.

Obstacles to Participation and Success

The judges and case managers interviewed for this research provided insight into the various obstacles to participation and success that drug court client-participants may face while enrolled in the program. For the sake of categorization, I divided them into three groups: individual obstacles, individual/structural obstacles, and structural obstacles.

Individual-level

The most commonly cited individual obstacle to participation and success within the drug court program, as cited by the judges and case managers, was a lack of readiness and motivation to change behavior and lifestyle (often referred to as “people, places, and things”). All interviewees acknowledged that the drug court program is rigorous, time consuming, and intense. However, it is believed that this is necessary in order to facilitate long-lasting, meaningful change in the lives of client-participants. Additional individual obstacles to participation and success include: immaturity; excessive relapses and not being able to demonstrate the ability and/or willingness to make the necessary changes; lack of support system (e.g., no stable role model, no established relationships with people outside of the “using” world); relationship issues (e.g., unhealthy relationships with significant others, siblings, parents, immediate family members); and parental over-investment (e.g., enabling parents, parents who refuse to acknowledge the reality of their son/daughter’s addiction and want to “rescue” them from “the system”).

Individual/Structural-level

There were two obstacles cited by two judges and one case manager that are both individual and structural issues: Axis-two personality disorders³³ and lack of safe, alternative housing. Case Manager Y asserted that client-participants with axis-two personality disorders have an extremely low success rate due to the fact that they do not recognize and/or acknowledge the fact that they have a substance abuse problem, which hinders their ability to actively engage in the

³³ Axis-two personality disorders are defined as...

program. While this could be viewed as an individual issue, I argue that this is a structural issue, in that the program does not meet the needs of client-participants with axis-two personality disorders. The addition of supplemental forms of counseling/therapy (e.g., parenting classes) may address the needs of these client-participants, which may increase their ability to actively engage in the program.

The second individual/structural obstacle is the lack of safe, stable housing options for drug court client-participants. Judge C voiced great concern over the lack of housing resources available in X County.

Once they are out of jail, there's [alternative to jail program]. But once they don't need [alternative to jail program] anymore, I feel we've lost some people along the way because they had no place to go. So, if a family member doesn't say 'Okay, we're gonna believe you this time and you can live with us,' which is an incredible strain on the family, then they're left to their own devices, unless they came from a pretty stable family situation. Our options are limited...if they have to go back to the life they had before, and we're saying 'Here's all your program requirements,' I can't imagine how they're gonna be able to do that; keep the requirements and do everything. Unfortunately, I think we lost a few [client-participants] because of that.

Again, while this could be viewed as an individual obstacle, I argue that this is a structural issue, in that the program does not meet the needs of client-participants who do not have safe, stable housing. The program holds all client-participants, regardless of their housing situation, to the same standards. The availability of safe, alternative housing options would address the needs of these client-participants and may also result in an increased retention rate for these client-participants.

Structural-level

The structural obstacles to participation and success within the drug court program, as identified by the judges and case managers, include: breakdown within drug court program staff (e.g., issues that arise between drug court program staff members), inconsistencies between the men's and women's programs (e.g., female program client-participants have more resources available to them than do the male program client-participants), operationalization of the term "success" (e.g., successful completion of the drug court program might not be possible for all client-participants. However these client-participants might successfully complete a few requirements of the program. The question is: Should that be deemed "success?"); eligibility requirements (e.g., too restrictive and therefore do not allow some individuals (e.g., violent felons) to participate), lack of funding, lack of training opportunities for drug court program staff (e.g., drug court case managers have very limited opportunities, due to funding, scheduling, and lack of motivation, to attend training sessions); the infrequency with which the drug court review hearings are conducted (currently on a bi-weekly basis, however some interviewees argued that the court review hearings should be conducted every week); and the tendency of drug court program staff to revert to a punitive mentality (e.g., over time and subconsciously moving away from therapeutic jurisprudence and toward retribution, incapacitation, and deterrence).

The female drug court client-participants asserted that the largest obstacle to participation and success in X County's Drug Court program is a lack of

readiness/willingness to change on the part of individual client-participants. They agreed that the program requirements are not unrealistic and that the drug court program as a whole provides client-participants with numerous opportunities to “get it together.” Client-participants unsuccessfully discharged “...either don’t want it [sobriety] or are not willing to do the work.”

The female client-participants did acknowledge the importance of having qualified staff members. More specifically, they asserted that “the personality of the case manager and judge can make or break the program.” One participant stated, “If I’m feeling judged, I’m going to run the other way.” These client-participants asserted that trust is a big factor in developing rapport between staff and client-participants. “I know [case manager] has my best interest at heart and that she believes in me.” Another participant stated “Being a cheerleader is a great quality...both the judge and [case manager] are great for this program.”

Interestingly, the female client-participants readily acknowledged that they receive a lot more positive reinforcement than do the male client-participants and that “positive reinforcement is key for both men and women.” They viewed this as unfair and believed that this was the result of differences in personalities of the men’s and women’s program staff.

The male drug court client-participants also asserted that the main obstacle to participation and success in X County’s drug court program is a lack of readiness/willingness to change.

- They don’t want to stay clean. They see drug court as a pain in the ass...it’s all about attitude.
- Most people need to hit rock bottom first before they recognize the need to change.

- People in denial believe they can use one time and get away with it, which is not true.
- Taking people out of their comfort zone is difficult to do even though it's in their best interest.

In order to develop the readiness/willingness to change, one must also develop a sound understanding of the recovery process itself. Understanding and being able to identify triggers are two keys to being successful in the recovery process. For one participant, fishing was a time when he routinely drank to excess. Another participant eloquently said "Recovery is a process not an event...not doing anything [having downtime] is okay...when I try to make things happen, that's not a good thing."

The male drug court client-participants also asserted that some client-participants continue to use in order to get kicked out of the program, as they believe completing the drug court program will result in having to expend more work than what the consequences for being unsuccessfully discharged will require. They also noted that some client-participants fall victim to peer pressure, some do not have a positive home environment and/or support system to rely on and they give up because it is "too hard."

Reasons for Unsuccessful Discharge

The drug court judges and case managers provided similar reasons as to why client-participants are unsuccessfully discharged from the drug court program or choose to "opt out" of the program as they did in the previous section. It is important to note that the only client-participants that can "opt out" of the program are the client-participants on the diversion track, as they entered into an agreement with the prosecuting attorney, which stipulates that if they successfully complete the program the felony charges pending against them will be dismissed.

Client-participants on the sentenced, probation violation, and parolee tracks do not have the ability to “opt out” of the program.

The reasons for unsuccessful discharge provided by drug court judges and case managers essentially fell into three categories: individual, programmatic, and societal. Individual reasons address the mentality and behaviors of individual client-participants. Programmatic reasons address issues within the drug court program and/or criminal justice system and societal reasons address issues that pertain to society in general.

Individual Reasons

All three case managers focused their responses on individual issues with the most common being “a lack of readiness to change.” They argued that client-participants are given numerous chances to be successful within the program and that it takes a long time and involves myriad violations of program rules before someone is unsuccessfully discharged from the program. Moreover, client-participants who are unsuccessfully discharged from the program typically have a lengthy record of non-compliance with program rules, violations of the medication contract, and relapses. The drug court judges also cited a lack of readiness to change as one of the most common individual reasons why client-participants are unsuccessfully discharged from the program. Additionally, they cited the fact that for many of the drug court client-participants a life rooted in instability, disorganization, chaos, and addiction is “normal” for them because that is what they know, “it’s comfortable and predictable,” whereas a healthy and

productive life of sobriety is foreign and unpredictable. Consequently, many client-participants are ill-equipped to maintain a life of sobriety and therefore revert to what they know best and what is familiar; a life of crime and addiction. What emerged from this was an acknowledgement on the part of the judges that the drug court program requires that client-participants not only abstain from drugs/alcohol, but also that they are ready to function as mature, responsible, law-abiding adults. The process of dealing with an addiction, developing a new, “normal” [read, sober and drug free] lifestyle, while at the same time taking on the responsibilities of a mature, responsible adult is extremely complex and oftentimes not linear in nature.

Programmatic Reasons

In terms of programmatic issues, several issues were raised by the drug court judges: drug court is not a panacea for the substance abuse issue within the criminal justice system. This program is not appropriate for everyone and not everyone can be successful. This is due in part to the elusiveness of addiction and that the recovery process is such that “recovery is different for everybody; it’s not a cookie-cutter thing. You can’t say ‘take these ten pills and it’s all set.’” With that said, many criminal justice practitioners do not understand and/or do not buy into the philosophy of therapeutic jurisprudence and consequently can do and/or say something that is a catalyst for client-participants’ relapsing. Judge D asserted,

I think that people in the system who are responsible for helping these folks can actually cause a lot of relapses and

failure themselves by not properly understanding the balance and not being able to execute the balance between the coercion aspect and the therapeutic aspect. I firmly believe you can't beat somebody, you can't lock somebody into recovery. Of the two components, if there are two components, the one that is gonna every time be the catalyst and the cause of recovery, is...the therapeutic one. It's how it gets across to them, the wellness part of it.

In order for drug courts to maintain their integrity and operate in accordance with the principles of therapeutic jurisprudence, all members of the drug court team must adopt such a philosophy and be able to execute their responsibilities accordingly.

Societal Reasons

In terms of societal factors that result in client-participants being unsuccessfully discharged, Judge D discussed three important issues: the need for immediate/instant gratification that is built into United States' society; the lack of meaningful incentives offered to drug court client-participants; and the stigma associated with being a "felon." First, the need for immediate/instant gratification can be seen on the part of both drug court client-participants and society. On one hand, client-participants oftentimes want to get their addictions under control overnight and do not understand the complex nature of the process and the time necessary to identify and address the underlying issues. On the other hand, United States' society is rooted in the desire for immediate/instant gratification. "People don't want to wait. They want everything done right now...It's a real issue that people want their bang for their buck and they want it next week." Second, the lack of meaningful incentives that demonstrate to client-participants

why successfully completing this program is worthwhile and beneficial is problematic. Judge D articulated this well:

We have to incentivize a lot of people. Telling them 'you have to recover' is not an incentive. That's saying 'I'm going to take something from you that you really like and depend on' and that is no incentive at all...For people that have lived in this other side of the world for so long, it doesn't mean a hell of a lot to tell them that you're gonna wake up in the morning and feel better and you're gonna work instead of what you've been doing. It's not what they recognize.

Related to the issue of lack of incentives is the issue of felons being demonized by society and forced to live with the stigma of "criminal" that does not go away. "...demonization doesn't do anything for them. It's real easy for care-givers, case managers to slip into that shaming, blaming, instead of really reaching out and helping." (Judge D)

The male and female drug court client-participants offered a few reasons why client-participants are unsuccessfully discharged from X County's drug court program. The women asserted that the majority of the female client-participants are discharged for one of two reasons: too many unreported relapses, which is indicative of someone who is not willing and/or ready to begin the recovery process, and consistent lying, which is also indicative of someone who is not willing and/or ready to engage in a program of abstinence and honesty, which are two of the underlying principles of the X County drug court program. The male client-participants talked in some length about the fact that "some client-participants lack the mental capacity to make such a drastic turnaround...they may need a more gradual process." It struck me as though the client-participants were referring to specific individuals when making this statement.

In terms of reasons why diversion client-participants choose to “opt out” of the drug court program, there was a consensus among judges and case managers that client-participants no longer wanted to do the work necessary to make long-lasting, meaningful changes in their lives. Directly related to this is the desire to continue their “old” lifestyle and the realization that drug court is not the “easy way out” that they thought it would be in the beginning. Case Manager X stated emphatically “Drug courts are more intrusive into a person’s life-world than is probation.” Unfortunately, the consequences that these client-participants will face for not completing the program may not be as harsh and/or significant as they are portrayed to be, which then undermines the incentive (*nolle*) that is there waiting to be earned. When the *nolle* is no longer worth all the hard work and effort that is required to complete the drug court program, client-participants begin to dis-engage and do not view themselves as having any responsibility to society and/or the community.

The catalysts for dis-engaging and subsequent opting out that were noted by the drug court judges and case managers are: excessive relapses, which result in the participant having to re-start the program (which is a minimum of fifteen months); a constant struggle to maintain structure which the program requires; client-participants getting caught violating the program rules and determining that they can no longer “play the game,” as they would have to re-start the program if they remained in the program; client-participants who were forced into the program by their attorney, family member(s), etc. have no real investment in the program and therefore struggle to remain in compliance.

The male and female drug court client-participants offered three reasons why some drug court client-participants elect to “opt out” of the program. First, these client-participants want to continue to use, but instead of admitting this, they make excuses for why “drug court is not for me” or they assert that they can handle it themselves by saying, “I don’t need drug court to stay clean.” The client-participants asserted that while some of these individuals genuinely do not know how to get better, others have not accepted responsibility for the fact that their actions got them into drug court. These client-participants are the ones that play the role of the victim and have excuses for why drug court will not work for them. In summary, the male and female drug court client-participants asserted that opting out of the drug court program is indicative of a lack of personal responsibility.

Reasons for Recidivism and Relapse

With regard to relapse and recidivism, I obtained insight from drug court judges, case managers, and drug court client-participants as to their beliefs why client-participants relapse and commit crimes after enrolling in the program. All of the drug court judges and case managers interviewed provided similar reasoning as to why individuals relapse. Both groups were careful to distinguish between the reasons why client-participants relapse and the reasons client-participants give for why they relapse.

According to Judges Case Managers

The most common reason given by judges and case managers was drug court client-participants' refusal or inability to change the "people, places, and things" in their lives that serve as triggers for substance use. They asserted that the majority of client-participants either have lived or are currently living in an environment where it is "normal" to use drugs/alcohol and the individuals in their lives (e.g., family members, significant others, children, peers, etc.) are substance abusers and consequently do not support their recovery efforts.

The judges and case managers also stated that this inability or unwillingness to make significant changes in their "people, places, and things" is in large part related to the fact that the majority of drug court client-participants have very low self-esteem and succumb easily to drugs/alcohol when it is available or when they are in the company of peers. Moreover, these individuals also have difficulty opening up to other people in their lives (e.g., parents, peers, doctors, etc.) and individuals in positions of power (e.g., probation officer, case manager, judge, etc.) because they are embarrassed of their addiction and do not want others to know about what is going on in their lives. These interviewees believe that these feelings of embarrassment and trepidation detract from the recovery process and oftentimes lead client-participants to be fearful of moving forward and embracing the "unknown," which begins with being sober and drug-free. According to Judge A

'People, places, and things.' We try and give them the skills to understand triggers and what to do when they need help...I don't think that relapses are the result of those kinds of significant changes [house fire], maybe for some people, but I

don't think it's that. I think it's being with the people where you used before or some combination of that and the people you're associating with don't want you to be successful...they don't know you're in recovery because you're too embarrassed to tell them because somehow in their peer group it is not a good thing.

According to Judge C, "People, places, and things. Somebody else is lighting up so I did too."

According to the judges and case managers, client-participants' excuses for why they relapse have run the gamut from plausible to outlandish. While some client-participants are honest and state that they relapsed "because I am an addict," others have rationalized their using behavior by stating that they used because the stressors in their lives got the best of them, they were depressed, "(name) made me do it," and others have stated "Because I wanted to" or "I thought I could get away with it."

In terms of why drug court client-participants commit crimes while enrolled, it should first be noted that the recidivism rates for X County's male and female drug court client-participants are extremely low,³⁴ which suggests that client-participants are either not committing crimes as often as they were prior to their enrollment in the program, not getting caught as often as they were prior to their enrollment in the program, or a combination of the two. Nonetheless, the judges and case managers asserted that the client-participants who have committed crimes while enrolled in the program were committed to maintaining

³⁴ According to the Year 2 evaluation report, male client-participants had a recidivism rate of 0.33, which can be compared with a pre-program crime commission rate of 0.85 and an in-program recidivism rate of .013 (Hartmann and DeVall, 2006:75). According to the Year 1 evaluation report, female client-participants had a recidivism rate of 0.11, which can be compared with a pre-program crime commission rate of 0.77 and an in-program recidivism rate of 0.08 (Hartmann and DeVall, 2007:48).

their “old” lifestyles and thus did not make significant changes in their “people, places, and things.” Judge D summed the reasons up well in that:

They [drug court client-participants] are just slipping back into the thinking of an addict, which is to ignore consequences, to satisfy immediate needs, [and the] need for immediate self-gratification. Sometimes economics; they are desperate, they can’t get a job. They are out of money, they need something. Their world keeps catching up with them a lot of times. The non-recovery world has a vested interest in preventing them from becoming recovered. Some will take more active steps than others. I think most of this stuff keeps sucking them back in the black hole. And they are very fragile, they can’t resist much, especially early on.

Case Manager Z also cited society’s role in the commission of crimes. Case Manager Z stated that numerous policies and laws enacted within the United States have made it very difficult, if not impossible, for individuals with a criminal history to “re-enter” society and get back on their feet. More specifically,

...society is so anti-rehabilitation for felons that they resort back to what they know best—committing crimes to survive. That’s the serious B&E [breaking and entering], U&P [uttering and publishing]. The DWLS [driving while license suspended] [violators], well because they needed to get to wherever they were going [or] needed to get to work.

Case Manager X discussed one psychological reason why client-participants with mental health issues (specifically anti-social personality disorder) commit crimes. “Sociopaths need more stimuli to feel satiated like a socially normal person and criminal activity provides them with [such] stimuli.”

According to Client-participants

When asked why client-participants relapse, the male and female drug court client-participants provided individual-level reasons. The female client-participants asserted that oftentimes client-participants will rationalize a relapse by blaming it on other people (e.g., significant other, parent, sibling, etc.) or an emotional event that took place (e.g., death of a loved one, fight with a significant other, reunification with an “old friend,” etc.), both of which are excuses. Moreover, they reported that early on in the recovery process, client-participants sometimes forget that they have options regarding how to live and get through the difficult times. According to one participant, “Using is a choice and not something I *have* to do...I didn’t know this before [drug court] (emphasis original).” The female client-participants also asserted that some client-participants use because “they have too much free time.” The male drug court client-participants argued that oftentimes when client-participants relapse it is because they “get caught up with the wrong people” and/or “give in to temptation/peer pressure,” which is usually the result of not being willing to deny themselves the opportunities to go certain places and do certain things.

In terms of why client-participants commit crimes while enrolled in the program, both the male and female client-participants were quick to distinguish between less severe crimes (e.g., driving while license suspended (DWLS)) and more severe crimes (e.g., selling drugs, breaking and entering). The male client-participants asserted that client-participants commit less serious crimes (e.g., DWLS) in order to get to and from work and meet all of the program requirements (e.g., case management appointments, urine screens, treatment appointments). In terms of the more serious crimes (e.g., selling

drugs), one participant sarcastically said “some [client-participants] sell drugs to pay for drug court.” There was some rationalization in the statement “we all need to work in order to make money to live.” However, the client-participants also argued that this line of thinking represents a return to “addict-thinking” and the belief that “I can get away with it.” They recognize that committing crimes is, in some cases, all an individual knows how to do.

Causes of Drug/Alcohol Use

In terms of the ‘causes’ of drug/alcohol use, the drug court judges, case managers, and client-participants’ perspectives were obtained as to the individual characteristics that are common among drug court client-participants, as well as what structural issues they believe are influential in drug/alcohol use.

Judges’ and case managers’ perspectives on why individuals use drugs/alcohol fell into three categories: biological/psychological, social, and environmental. The biological/psychological category includes a genetic predisposition to substance abuse and pain avoidance; the social category includes factors that are specific to an individual person; and the environmental category refers to factors that are related to an individual’s environment. Judge D, and Case Managers X and Y discussed the biological element that influences substance use. Judge D and Case Manager Y discussed the bio-medical trigger that is present in the make-up of addicts, which prohibits them from thinking/acting like “normal” individuals when controlled substances are around. Judge D went on to say that addicts oftentimes don’t use because it makes them

feel “good,” rather they use in order to keep from feeling worse. Case Manager X stated that he believes “everyone is predisposed to seek an altered state of mind. Psychologically speaking, it helps one escape uncomfortable feelings.”

In terms of social rationales given for why individuals use drugs/alcohol, judges and case managers stated that some client-participants (especially women, but also true for men) have extremely low self-esteem and thus use drugs/alcohol to escape the uncomfortable feelings associated with low self-esteem (e.g., depression, inferiority, suicidal). Similarly, Case Manager Y also asserted that addicts oftentimes do not possess the ability to ameliorate discomfort or deal with pain in appropriate ways (e.g., exercising to alleviate one’s stress level or taking Tylenol versus using cocaine for a headache). Case Manager Z discussed the fact that some addicts use because they are “bored.” This boredom is oftentimes a direct result of the fact that these individuals do not have employment and thus have too much time on their hands.

In terms of the environmental factors that ‘cause’ drug/alcohol use among individuals, Case Manager Z discussed the role of family/friends, peer group, and immediate environment (e.g., household, neighborhood, community).

For some, it’s a part, it’s embedded in their family; their parents used or drank, or they grew up in an environment where it wasn’t uncommon. They were brought up in an environment where that was the norm to be high. Significant others...you see a lot of women client-participants who use because they have significant others that use. Or even if they are not still with them, that significant other got them to start using and then they ended their relationship.

Male and female client-participants’ views regarding the causes of drug/alcohol abuse were radically different. The female client-participants were staunch in

their assertion that drug/alcohol abuse is fueled by and a symptom of one or more underlying issues, which include: a negative self image, which develops over time when women do not have a nurturing relationship with loved ones; victims of abuse (e.g., verbal, emotional, physical, sexual); peer pressure and the desire to “fit in;” lack of direction in life; and a lack of positive reinforcement. These women argue that “addiction doesn’t start with picking up the drug.” One participant articulated very clearly her thoughts and feelings as a young girl being harassed and called names. In summary, they report that female addicts oftentimes do not understand the intricate relationship between these issues and their addiction, nor do they want to face the normal emotions/feelings associated with these issues. Consequently, their inability to self-reflect combined with the overwhelming desire to numb the negative feelings (e.g., guilt, shame) perpetuate the cycle of denial and addiction.

The male client-participants asserted that client-participants oftentimes use drugs/alcohol because they like the way it makes them feel, which leads to increased use over time in order to feel “normal.” One participant stated, “I like the way they [drugs and alcohol] make me feel...I like to get screwed up.” Another participant stated that “drugs and alcohol helped keep me going, made me feel like I could function.” These client-participants did note that the younger generation seems to use drugs/alcohol in order to “fit in with the ‘cool’ crowd.”

Personality Characteristics Common among Client-participants

The case managers provided great insight into some of the individual characteristics that are common among individuals who use, while two of the four judges were more reticent to make such generalizations. Nonetheless, the characteristics fell into three categories: intra-personal, extra-personal, and demographic. The intra-personal characteristics addressed tendencies of the individual that speak to one's personality, whereas extra-personal characteristics addressed life situations/circumstances that are beyond the control of the individual, but nonetheless greatly influenced his/her personality. Demographic characteristics also address life situations/circumstances that are beyond the control of the individual, but that speak to one's place in the social world. According to the judges and case managers, individuals who use drugs/alcohol can oftentimes be characterized as: liars, manipulators, yearning for affection and/or attention, emotionally disturbed, lacking guidance, compulsive, having low self-esteem, poor judges of character (specifically related to significant others), selfish/self-centered, unable/unwilling to accept consequences for their behavior, and displayers of childlike behavior (especially when they do not get their way).

In terms of extra-personal characteristics, individuals who use drugs/alcohol were oftentimes seen as having a family history of dysfunction and/or substance abuse, were members of a cohort group and/or culture where substance use is prevalent, and were seen as victims of abuse (e.g., sexual, emotional, physical, verbal).

In terms of demographic characteristics, a large percentage of drug court client-participants are members of low socio-economic status groups and have low levels of education³⁵. See Tables 3 and 4 (at the beginning of Chapter Five) for a summary of the demographic makeup of X County's men's and women's drug court programs.

The male and female client-participants offered a litany of characteristics that are common among addicts. The female client-participants asserted that addicts oftentimes: have low self-esteem and drugs/alcohol make them feel glamorous; are the victims of abuse; experience pervasive feelings of guilt and/or shame associated with their behavior; have an inferiority complex, which can negatively influence one's ability to make rational decisions; and live a life riddled with stressful and chaotic situations. One characteristic that these female client-participants believe is only common among some addicts is the desire and drive for perfectionism.

The male client-participants asserted that addicts: lie, cheat steal; manipulate everyone in their immediate surroundings; have a one-track mind and therefore are not able to multi-task; and seclude themselves from the rest of the world for periods of time. These male client-participants argued that some addicts use drugs/alcohol in order to make themselves more sociable/likable, especially around women.

³⁵ While this characterization is not necessarily representative of all individuals who use drugs/alcohol in the United States, it is representative of the individuals who come to the attention of the criminal justice system (see US Office of Justice Programs Drug Court Program Office (1998) for further discussion).

Structural Issues

The judges and case managers were greatly in-tune with myriad structural factors that are related to the issue of substance abuse within the United States. The insights provided fell into three groups: demographic, media-related, and environmental/societal. Demographic factors address client-participants' location within the hierarchical makeup of United States society. Media-related factors address the role that media outlets, available within the United States society, play a role in the problem of substance use. Environmental/societal factors address the moral and social fabric with which United States' society is comprised.

The three demographic factors discussed were poverty, low levels of education, and lack of opportunities for large segments of the population (e.g., unemployment rate). The two media-related factors cited were: the perception of the United States as a 'party society,' and the glamorization of substance abuse by Hollywood and its celebrities.

The environmental/societal factors cited were: the ease with which drugs/alcohol are available, prevalence of discrimination (of all types), negative stigma associated with the label "addict," desire for instant gratification, degree to which individuals are encouraged to indulge, obsession with money, prevalence of abuse, emphasis placed on 'rites of passage' (e.g., 21st birthday celebrations), deterioration of neighborhoods, disintegration of family and society, medicalization of society, 'War on Drugs,' lack of understanding regarding addiction, and the criminal justice system's lack of focus on relationship-centeredness and rehabilitation.

The male and female client-participants provided very different responses to the structural factors that lead to drug/alcohol abuse. The female client-participants were much more in tune with the role that society plays in the cycle of addiction than were the male client-participants. The women asserted that society, as a whole, does not understand addiction and the recovery process, and consequently has a very skewed perception of who is an addict. The Hollywood glamorization of substance abuse along with the pervasive message that, as a woman, in order to be beautiful you must be skinny, perpetuates the cycle of addiction. They were quick to note that “substance abuse is not a moral issue at the beginning, but eventually becomes a moral/legal issue.” The female client-participants also discussed the culture of poverty and acknowledged that some addicts (men and women) live life in “survival mode” and due to unfortunate life experiences do not know life without drugs/alcohol, crime, and violence.

The male client-participants asserted that individuals make a choice to use drugs/alcohol and dismissed the notion that there were structural factors that lead to drug/alcohol use. They argued that most addicts cannot see beyond their current lifestyle and consequently do not have a vision for being able to live life any differently.

Effective Techniques/Strategies to Prevent Substance Abuse

The judges and case managers provided great insight into what strategies/techniques are effective in preventing individuals from abusing drugs/alcohol. Their responses focused on strategies/techniques employed at

three different levels: individual, drug court program, and the criminal justice system.

In terms of strategies and techniques that address individual client-participants, the judges and case managers asserted that facilitating a sense of self-esteem, self-worth, and purpose are vital to the recovery process. Moreover, getting client-participants to buy into the drug court process is imperative to effecting long-lasting and meaningful change in their lives. The drug court process not only demands that client-participants remain sober and drug free, but they also must change their thought processes and subsequent behavior (e.g., punctuality, honesty). One of the keys to this change process is client-participants gaining knowledge and insight into the 'people, places, and things' that serve as their triggers. Client-participants who have an understanding of themselves and their triggers are oftentimes more successful than those who do not. Related to this is the important, yet often under-rated, component of the recovery process which is the development of positive self-talk. Positive self-talk will assist client-participants in getting through moments of temptation and weakness without using. Judges and case managers also asserted that in order to remain in recovery, client-participants must develop a desire to change that is not contingent upon a specific outcome or what other individuals in their lives do/do not do.

In terms of strategies and techniques utilized within the drug court program, judges and case managers asserted that holding client-participants accountable is one of the keys to effecting change in the lives of client-participants. All members of the drug court team should interact with client-

participants in a positive manner, which includes not only highlighting the successes of client-participants, but also sanctioning them when appropriate and being sure to talk about what went wrong, why, and what they could do differently in the future. In addition, the judges and case managers also highlighted the importance of having client-participants meet regularly with their case managers and having client-participants talk with each other about what works for them. Some of the additional techniques employed by the drug court that are beneficial in getting client-participants to refrain from using drugs/alcohol are: daily preliminary breath tests, alcohol tether, AA/NA support programs, emphasizing the importance of physical exercise, facilitating client-participants' involvement in employment and educational programs, and using rewards/sanctions. Judge D emphasized the importance of AA/NA in that

When you look at the successful life of somebody, there's a million little pieces to it. Interestingly, AA touches none of those. It just simply talks about the spiritual side, and yet it is by far and away the most successful tool to get somebody back. I hate to say 'tool' because it's not a 'tool,' it's a life, a way of living.

In terms of the strategies and techniques utilized within the criminal justice system, judges and case managers asserted that employing the philosophy of therapeutic jurisprudence in other aspects of the criminal justice system will assist in preventing drug/alcohol use. Moreover, training criminal justice practitioners in the methods of therapeutic jurisprudence and relationship-centered care will facilitate the spread of this philosophy into other arenas within the criminal justice system.

Judge B discussed the importance of close parental involvement in the activities of teenagers.

The only one [technique] that I've seen that I think has the best chance of success is very close parental involvement with the activities of their teenage children. If that's not present in the home, then there's nothing that anybody else can do. I don't believe that school education programs will work; it's the parents who have to be really closely involved.

Again, the male and female client-participants provided somewhat different views regarding what strategies/techniques are effective in preventing substance abuse. The female client-participants focused on the need for different educational programs. Due to the fact that society's perception of what constitutes an "addict" is very skewed, they argued that all members of society would benefit from increased knowledge of the issues surrounding substance abuse and the myriad ways in which substance abuse may negatively affect your life.

The male client-participants focused on strategies/techniques employed at the individual and drug court program levels. The individual-level strategies/techniques included: developing a regimen, praying, reading, investing oneself in the recovery process, and staying in touch with support people. One participant asserted that during the recovery process "you begin to learn about yourself (self-reflection) and can then see when you start to move off track." In terms of program-level strategies/techniques, the male client-participants asserted that the keys are to remain actively involved in 12-step meetings and other support programs, as well as following directions. "You need to work the program and can't make a big deal over everything."

Ineffective Techniques/Strategies to Prevent Substance Abuse

In terms of strategies and techniques that are ineffective in preventing drug/alcohol use, the judges and case managers focused on very different issues. Judge A asserted that increasing the penalties for crimes committed by individuals with substance abuse problems has proved ineffective just as prohibition proved ineffective in banning the use of alcohol.

My belief is that it's more education, peer pressure and that kind of stuff rather than increasing penalties and throwing people into jail. That's not going to work. I'm not a believer in legalizing these drugs, but again I'm not a believer in prohibition for alcohol. All I know is that we have some problems we need to address and we haven't been able to address them by being harsher.

Similarly, Judge B asserted that mandatory sentencing practices have proved to be ineffective. "I think everybody agrees with that. I don't think penalties (criminal penalties) have really made an impact the way they (legislators) thought they would."

Case Manager Z asserted that monitoring programs (e.g., tether) and the use of medications are both ineffective in preventing substance abuse. Even though these are techniques/strategies that are utilized within the drug court program, Case Manager Z argues

[The use of alcohol tether]...you know those are band-aids to the bigger issue. There's no one technique that can stop somebody from using. They're gonna have to decide to stop on their own. [With regard to] medication (the whole Suboxone/Methadone issue) that's just trading one substance for another and it doesn't make things any better and I think it creates a bigger problem.

In terms of what strategies/techniques are ineffective in preventing substance abuse, the male and female client-participants offered two similar insights. First, jail/prison without proper programming is virtually worthless in addressing substance abuse. Second, trying to battle addiction alone is oftentimes a disaster. The male client-participants reported that the individuals who engage in the drug court process just enough to get through the program without truly investing in the process are doing themselves a real disservice, as the drug court program has a lot to offer outside of just staying sober and crime-free. A discussion of the specific ways in which the X County drug court program meets (and does not meet) the basic human needs of client-participants is provided in Chapter Six.

Role of Drug Courts in Meeting Client-participants' Basic Human Needs

A critical hypothesis for the research was the degree to which the structure and process of drug courts meet the basic human needs of client-participants. During the interviews and focus groups, the drug court judges, case managers, and client-participants were asked two questions: 1) Do you believe drug courts meet the basic human needs of client-participants? And 2) What changes do you think could be made to the structure and process of drug courts that would allow individual human needs to be met?

Do Drug Courts Meet Basic Human Needs?

While the judges and case managers focused on different aspects of the program, there was a general consensus that drug courts do, in fact, meet the basic

human needs of client-participants. For example, Judge A focused on one of the larger goals of drug courts to stop the “revolving door” phenomenon within the criminal justice that is a direct result of the strong correlation between addiction and criminal behavior.

I don't know...well, it's almost hearsay to say, I don't know if recidivism has declined. I don't know how many of the people who graduated from drug treatment courts don't re-offend. By “re-offend” I mean things like drinking and driving again. But there is no question that there are other ways in dealing with these folks that drug treatment courts are successful. The revolving of going to prison, then coming back out, and committing a crime again [has been reduced]...About the people coming out of prison and the barriers they face, we try to do something to try and help these folks, just in very elemental ways to get them to be successful.

Judge C focused on the drug court process and how the various components (e.g., drug court review hearings, case management sessions) help to strengthen client-participants' self-image. Moreover, Judge C asserted that because recovery is much more involved than just being sober and drug-free, the work of the drug court is much more involved than monitoring client-participants' use of substances.

If I want them to learn something, it can be done through many, many different ways, and one of the most successful is through other client-participants in the program sharing. So, I think that's very key to the part that I do with them. I don't think you could ever under-estimate the time their case manager spends with them on their individual issues. It's not always the big things; sometimes it's the little things...[client-participants] should be able to have [their] God-given talents (for a lack of a better term) acknowledged by somebody. This is important. It takes more time, it takes more effort, but that's really what we need to do. I mean, it would be very easy just to sit there and say dish out punishments. [But] it's not what it [drug court] is, it won't work.

Case Manager Z also noted the depth and breadth of involvement case managers have within the lives of drug court client-participants, but was clear in stating that the level of case manager involvement was not uniform for all drug court client-participants.

In our program, I think that it [the degree to which client-participants' basic human needs are met] is based on the case manager. I think there are certain case managers that just deal with the issue of drug/alcohol use and program compliance, and that's where it stops. And then there are other case managers who really get involved in every aspect of their clients' lives, every aspect of their recovery, and they touch on their individual human needs. I believe this breakdown [those client-participants whose basic human needs are met versus those client-participants whose basic human needs are not met] is very much the breakdown of gender in our program. The individual needs of females in the program are met far greater than [the] males.

When asked if the client-participants (male and female) are cognizant of the differences in the men's and women's programs, Case Manager Z stated "Yes, a lot of clients want to know why the women get shampoo, body wash, and all that in court. And why the women have a GED program available to them in the summer. And why the women get their hair cut, planners, etc."

Case Manager X asserted that drug courts do meet the basic human needs of client-participants, in that

We obviously address their need to address their substance abuse through all the obvious programs that we have. We also address any mental health needs. I will refer someone to a mental health specialist for anything, it doesn't even have to be related to drug abuse; it could be familial, marital, or anything. We also help people with obtaining jobs, job skills, medical referrals, psychiatric referrals, housing, hygiene needs, food, nutrition, and clothing.

On a different note, Case Manager Y stated that “drug courts are not in a position to meet their [client-participants’] needs, but rather to get them to a place where they can meet their own needs.” Case Manager Y believes that facilitating a process whereby client-participants become self-sustaining and self-sufficient will result in greater success than if client-participants’ needs are addressed without the client-participants themselves playing an active role in the process. Case Manager Y also highlighted the importance of holding client-participants accountable for their behavior through sanctions and also rewarding them for “a job well done.”

Despair perpetuates the addictive cycle. Many [client]-participants are convinced they’re going to fail because they haven’t experienced success ever in their lives or in quite some time.

Over the course of their enrollment in drug court, it is believed that client-participants begin to develop a sense of responsibility to themselves and others and ownership of their decisions and behavior through the system of rewards and punishments.

The male and female drug court client-participants had divergent views regarding the program’s ability to meet basic human needs. The female client-participants provided a glowing report as to the various ways in which the program meets their basic human needs. The male client-participants prefaced their comments with “Drug court has come a long way in the last year. Having community representatives come to [the] court [review hearings] and speak about what services/resources are available is a lot better than posting flyers on the bulletin board.” These client-participants did discuss the fact that X County’s

Drug Court requirement that all graduates must obtain a high school diploma or GED forced them to do something positive that they otherwise would have never considered doing. On a different note, one participant talked about the incentive associated with receiving a *nolle* and the fact that this will salvage his criminal history by removing a felony from his record. He readily admitted that receiving this *nolle* will allow him to obtain jobs that he would otherwise not be eligible for with a felony conviction on his record.

However, the male client-participants stated that “Basic human needs can be met without drug court.” They went on to discuss the fact that the structure of the program does not focus on basic human needs, nor does it help provide assistance with life situations (e.g., transportation, housing, driver’s license restoration). Interestingly, the male client-participants went on to say that they do not really see (meeting basic human needs) as being the role of the drug court either. “Drug court gets people re-engaged with life and changes your mindset...I would rather live today.”

Proposed Changes

Judges’ and case managers’ thoughts on what changes could be made to X County’s drug court program in order to facilitate the process by which client-participants’ human needs are met fell into three categories: changes to the current drug court structure and process, additions to the current drug court structure and process, and changes to the local legal culture.

The recommended changes to the current structure and process of X County's drug court include: better training, more inclusive eligibility criteria, incorporating basic human needs into the day-to-day work of case managers, include client-participants' voices and input in the decision-making process, and ensuring that the drug court staff and administration are competent.

The recommended additions to the current structure and process of X County's drug court include: more adequate and sustainable funding, developing an active alumni group, incorporating an exercise program into the structure of the program, and utilizing smaller cohort groups. The proposed changes to X County's local legal culture include: establishing a more coordinated system of drug courts, involving more judges in the drug court process, and making the work of drug courts central to what is done in X County.

In this chapter, the information from my textual analysis, observations of court review hearings, interviews with drug court judges and case managers, as well as focus groups with male and female drug court client-participants has been presented as it relates to the following: effectiveness of the drug court process, obstacles to participation and success within the drug court program, why client-participants relapse and/or recidivate, why client-participants use drugs/alcohol, effective/ineffective strategies for preventing substance use/abuse, role that drug courts play in meeting the basic human needs of client-participants, and the nature of the discourse exchanged during the court review hearings.

In Chapter Six, the information summarized in this chapter, as well as my own perspective, are utilized to address the four main research questions: 1) To

what extent does the discourse exchanged between the members of the drug court team focus on process-oriented issues versus basic human needs issues?; 2) To what extent do the structure and process of the drug court model actually address and meet the basic human needs of participants?; 3) To what extent does the drug court process promote rehabilitation by seeking to address the basic human needs of participants?; and 4) Do members of the drug court team and drug court client-participants have a common understanding of the cycle of substance use/abuse and the recovery process? In addition, recommendations for specific changes that could be made to the structure and process of the X County Drug Court program, limitations associated with this dissertation research, and avenues for future research that may result from this work are presented.

CHAPTER VI

FINDINGS/CONCLUSIONS/IMPLICATIONS

In a broad sense this research project is an attempt to assess the degree to which drug courts are therapeutic given that they operate within the confines of the traditional criminal justice system, which is legalistic, hierarchical, rational, and rights-based. In this chapter, I address this broad question by answering the four main research questions identified at the beginning of Chapter Five. First, to what extent does the discourse exchanged between the members of the drug court team focus on process-oriented issues versus issues of basic human needs? Second, to what extent does the structure and process of the drug court model actually address and meet the basic human needs of client-participants? Third, to what extent does the drug court process promote rehabilitation by seeking to address the basic human needs of client-participants? Fourth, to what extent do members of the drug court team and drug court client-participants have a common understanding of the cycle of substance use/abuse and the recovery process? I then discuss specific changes that could be made to the structure and process of X County's drug court program that might increase the degree to which the program is therapeutic. Next, I discuss the limitations associated with this research. Finally, where future research is warranted as it relates to drug courts is outlined.

While the case study methodology chosen for this research does not allow for a generalization of the findings to all drug courts, it does allow one to draw conclusions

and assess the degree to which X County's Adult Drug Court program meets (or does not meet) client-participants' basic human needs. These conclusions and assessments are based upon the information garnered from interviews with drug court judges and case managers, focus groups with drug court client-participants, and observations of the drug court review hearings, as discussed in Chapter Five.

Nature of Drug Court Discourse and Basic Human Needs

The extent to which the discourse exchanged between the members of the drug court "team" and the drug court client-participants focused on process-oriented issues versus basic human needs has been a central interest. I argue that one method of assessing the therapeutic nature of drug courts is to examine the degree to which the discourse exchanged during the court review hearings focuses on client-participants' basic human needs.

During the drug court review hearings, the nature of the discourse exchanged between the members of the drug court team and drug court client-participants was, in large part, determined by the nature of the proceeding. With that said, the overwhelming majority of the discourse exchanged during these hearings was between individual client-participants and the drug court judge, as opposed to a "team" of individuals. On occasion the case manager(s) and/or probation officer(s) interjected information or answered a direct question posed by the drug court judge. However, this was the exception as opposed to the rule.

For both the male and female drug court client-participants, the discourse involving program graduates was remarkably different from the discourse

involving client-participants in “accolades.” The differences mimic the nature of interaction between professors and undergraduate students versus professors and graduate students, or parents and adolescent children versus parents and adult children. Whereas with the former groups of individuals there is a recognized hierarchy and a greater degree of responsibility and supervision on the part of undergraduate faculty and parents of adolescent children, with the latter groups of individuals there is a greater degree of collegiality and oftentimes less direct supervision. It appears as though drug court graduates are viewed as somehow different from client-participants in “accolades” despite the fact that both groups of client-participants are doing well. With the drug court graduates there is a degree of reciprocity as opposed to an implied hierarchy. As stated in Chapter Five, drug court graduates are required to address the rest of the drug court client-participants and anyone else they wish (e.g., case manager, judge, probation officer, parents, significant other, treatment provider, etc.). Some graduates prepared speeches ahead of time, whereas others spoke “off the cuff.” While some of the speeches were lengthy (the longest was approximately twenty minutes in length), others were quite short (lasting a minute or two). If the graduates did not discuss how their lives were different today (as compared with life before the drug court experience), then the drug court judge oftentimes asked them to talk specifically about this issue.

Hearing the client-participants talk about their lives and self reflect on all they have accomplished since enrolling in the X County Drug Court Program was an extremely enlightening experience. For example, one drug court graduate

drew an analogy between the weather that morning (the day of his graduation) and his life since becoming clean/sober while in drug court. He stated “When I was walking here this morning, I was trying to come up with something to say to all of you and then it came to me. When I left the house this morning it was really foggy and overcast outside, but as I continued walking the fog lifted, the sun came out, and it is a beautiful day out there (motioning out the window). That is the same path my life has taken since beginning this program; without the drugs, the fog has cleared and my life is good today.” This participant credited himself for making the changes in his life, but acknowledged the drug court staff members who were instrumental in his success and thanked them for their “support, guidance, and strictness” along the way. During these graduation ceremonies, the majority of graduates had at least one family member present, some of whom spoke while others did not. Of the family members who spoke, many of them talked about the huge impact this program has had on their lives as well as the graduate’s life and thanked the program staff members who supported their loved one.

Client-participants in “accolades” were acknowledged and given the opportunity to address the court regarding anything they wanted to state. Client-participants typically shared (if they chose to share anything at all) strategies about “what works” for them, as well as providing words of encouragement for their peers in the program. Their thoughts were oftentimes prompted by direct questions from the judge, however some spoke “off the cuff” about what was going on in their lives and the specific changes they made in order to improve

their overall quality of life. Client-participants in the “other” or “to be incarcerated” groups were engaged in a more structured conversation. The drug court judge asked a series of questions and the questioned participant answered. These questions/answers touched on a wide variety of topics (e.g., relapses, other violations, scheduling issues, employment, school, housing, financial, relationships, children, health, etc.), but were oftentimes linked to either a program requirement that was not fulfilled and/or a violation of the program rules committed by that individual.

As stated in Chapter Three, Gil (1996; 1999) identified the following needs that all human beings strive to achieve:

1. basic material goods/services;
2. meaningful human relationships, which lead to the development of a positive self identity;
3. meaningful participation in socially valued productive processes;
4. a sense of security; and
5. self-actualization.

Of these five categories, “basic material goods/services” and “meaningful human relationships which lead to the development of a positive self identity” were the most common basic human needs discussed during the drug court review sessions. Discussions involving basic material goods/services focused on whether or not client-participants had adequate food and shelter. For those client-participants who did not have adequate food, referrals were made to the food pantry or other local service providers for assistance. Male client-participants in need of housing were often referred to the local shelter and female client-participants were first referred to several organizations that provide emergency housing. If there were no resources available to these women, they were referred

to the local shelter as a “last resort.” Client-participants were informed that if they were unable to secure stable housing in the next two weeks, that [a community-based residential program used to stabilize and sanction individuals] was also an option. However, the client-participants viewed this as a punishment as opposed to an opportunity.

The discourse focusing on “meaningful human relationships, which lead to the development of a positive self identity” oftentimes involved female client-participants and focused on a negative relationship with a significant other (e.g., husband, boyfriend) and occasionally an immediate family member (e.g., parent, typically mothers; sibling). The bulk of the discussion concerning parents focused on co-dependent and/or enabling practices and the ramifications of such behaviors. Interestingly, some of these parents were present in court during these discussions, yet their co-dependent and/or enabling behaviors persisted. The bulk of the discussion concerning siblings focused on how to effectively deal with the negative influence (e.g., a sibling who is also an addict, but not in recovery). Not surprisingly, none of these siblings were present in court. In terms of developing “a positive self identity,” the discourse focused on the role that low self-esteem plays in the cycle of addiction, as well as the recovery process. During my observations of the drug court hearings it appeared as though a large percentage of the female client-participants had low self-esteem, which was later confirmed by the focus group client-participants. When asked what individual characteristics are common among addicts, the female focus group members were quick to report low self-esteem. For example, during one conversation, the

female drug court judge asked Jane (pseudonym) if she had ever considered enrolling in the local community college. With a bewildered look on her face and in a very low tone of voice, Jane responded “no, why?” The judge went on to say “I read the transition plan³⁶ that you submitted and you are very articulate. You were very thorough and you have a lot of potential.” Jane turned red in the face and responded “Do you really think so? Oh, I don’t know, I was never good in school.” Jane appeared uncomfortable with the idea and did not know how to accept the compliment. Another example of low self-esteem was when the drug court judge told Kim (pseudonym) “You have such a beautiful smile...your face just lights up. You really should smile more and not try to hide it.” Kim appeared very shy and, like Jane, did not know how to accept the compliment.

Within the men’s drug court review sessions, the exchanged discourse did not openly focus on human relationships or the development of a positive self image. Nonetheless, I would argue that the majority of the male drug court client-participants suffer, as do the female client-participants, from low self-esteem. Some of the male client-participants presented themselves as extremely tough and “macho.” However, some of these same individuals had fragile egos and cracked easily under the slightest amount of temptation and/or pressure. For example, one male participant relapsed because he “was afraid to tell a ‘lady friend’ that I am an alcoholic.” This same individual stated that despite the fact that he knew he

³⁶ Jane had been sentenced to a residential facility as a result of several program violations and her inability to secure stable housing. Prior to her release from the facility, the drug court judge requested that Jane outline (in writing) her housing plan and provide the case manager with the necessary contact information for verification purposes.

would get caught and that he would spend at least three days in jail, admitting to a woman that he could not drink was too much for him to handle at that time.

The importance of a positive self-identity is addressed both through dialogue and action within the X County Women's Drug Court Program. The women's drug court judge routinely identified one characteristic (e.g., nice smile, positive outlook, strong personality) that each participant possesses and compliments them during the court review sessions. Moreover, during the course of my observations, several of the female client-participants openly expressed an interest in improving their self-image through diet, exercise, new hair style, and/or more feminine attire. In order to achieve their goals, the case manager developed goals and individualized plans designed to achieve these goals with interested client-participants. These goals and plans became part of their dialogue with the judge during the court review sessions. For example, Karen (pseudonym), informed the case manager that she was tired of looking like "one of the guys" and therefore wanted to look more feminine. Interestingly, this came on the heels of a relapse after Christmas 2006, which resulted in Karen having to re-start Phase I (she had just transitioned to Phase II). Karen sought out (on her own) a class that focused on etiquette and what it means to be "feminine." Through her involvement in this class and interactions with the case manager, she changed her entire appearance (e.g., hairstyle, went to the tanner, began wearing makeup, purchased a new wardrobe). The judge, case manager, and other client-participants openly complimented her on a regular basis regarding her personal transformation. In preparation for her transition to Phase II for the second time,

she purchased a suit and high-heeled shoes, which she had never worn before. In talking with the case manager, Karen expressed some trepidation about wearing high-heeled shoes. Therefore, during her case management appointment, the case manager took her into the hallway of the courthouse and had her practice walking in high-heeled shoes. Karen's much-improved presentation of self and positive self-identity was palpable to everyone during her transition to Phase II and she continues to be an inspiration to the drug court staff and her peers. Since that time, several other client-participants have begun their own personal transformations and openly talk about what this has done for them personally, as well as for their recovery.

Within both the men's and women's drug court review sessions, while there was some discussion regarding "meaningful participation in socially valued productive processes," this was almost always in the context of meeting program requirements (e.g., obtaining at least part-time employment and/or obtaining a high school diploma/GED or earning a college degree). The myriad other ways in which client-participants engaged in socially productive processes (e.g., voting, attending civic events, etc.) were not specifically addressed during the court review hearings. On occasion, the Men's Drug Court Judge asserted that becoming a "NORP" [normal, ordinary, responsible person] also involved "mowing your lawn, shoveling snow, and paying taxes." While these three tasks are ways in which members of society participate in "socially valued productive processes," this general statement was made to all male client-participants and was not part of the discourse exchanged with individual client-participants.

Within the women's drug court review hearings, the bulk of the dialogue regarding what it meant to engage in "socially valued productive processes" focused on the importance of employment. The majority of female client-participants who were employed earned minimum wage. While this was encouraged and expected (all client-participants in Phases II and III must be employed and or attending school at least 30 hours per week), there was little in the way of discussion about careers or where these client-participants would like to be in the future (career-wise). There were a relatively small number of female client-participants who were enrolled in college (at either two- or four-year institutions) who did discuss their career plans as they related to their major course of study.

In terms of "a sense of security," this need was typically addressed more through interaction than through specific dialogue. Client-participants openly admitted during the focus group sessions that trusting others, especially people within the criminal justice system, is not easy and definitely not something to which they are accustomed. All of the female focus group client-participants expressed the fact that they trusted both the judge and case manager and one even stated, "I know they care about me." One of the male focus group client-participants expressed a high degree of trust in his case manager, whereas the other male focus group participant was less convinced that his case manager had his best interest in mind.

Over time, it was readily apparent which client-participants had developed a level of trust with the judge, case manager, and/or probation officer (if

applicable) and those who had not yet done so. For those client-participants who had an established level of trust, the discourse exchanged centered on their specific needs and life situations, whereas for those client-participants who had not developed an established level of trust, the discourse focused on “surface issues” (e.g., employment, childcare, education) and was not tailored to their needs and/or life situations. For these individuals, the questions posed by the judge focused on basic “get-to-know-you” information and there was a palpable sense of discomfort on the part of the drug court judge and client-participants. On occasion, the drug court judge acknowledged this dynamic by stating “I get the sense that you are not opening up” or “we cannot help you if you don’t tell us how you’re feeling or what’s going on in your life; you need to be honest with yourself and us.”

It was apparent to me that client-participants had varying degrees of trust and some were more guarded than others. I suspect that some client-participants opened up more during their case management appointments than they did during the court review hearings with all of their peers present. One example of this occurred when a female participant asked her case manager to be present during the birth of her baby. This participant decided to give her baby up for adoption and had confided in the case manager and one other participant in the program regarding her decision. The case manager supported this participant throughout her pregnancy and referred her to several social service agencies for additional resources and support mechanisms. Being present at the birth of a participant’s baby was not listed in the case manager’s job description, yet when asked why

she agreed to attend the birth, the case manager stated that she knew it was the “right thing to do” and that the participant was obviously reaching out for support and assistance in a time of need.

Ensuring client-participants are physically safe is another way by which the X County Drug Court Program can meet the basic human needs of client-participants. While concern regarding the physical safety of female client-participants was raised on more than one occasion, this did not negate the reality that the physical safety of male client-participants was also a legitimate concern and something about which program staff needed to be cognizant. The importance of client-participants’ physical safety was exemplified by the fact that one female client-participant and her two young children were murdered by an abusive live-in boyfriend during the course of my observations. This client-participant was admitted to the program just one week prior to her death. Despite the fact that she was only in the program for a very short time, she expressed concern for her safety during the court review session. When client-participants openly expressed concern for their safety, or if the drug court judge suspected that a participant was in physical danger, s/he would ask the participant to stay after court and meet with the case manager and/or probation agent (if applicable) to discuss alternative living arrangements. Frustration regarding the dearth of housing resources available to women in X County was raised, which led to an on-going discussion among drug court staff and community service providers about possible remedies.

In terms of “self-actualization” as a basic human need, there is an implicit discussion of this during the graduation ceremonies. In order for client-participants to graduate from the X County Drug Court Program, they must be drug/alcohol and crime free for a minimum of 18 months. During this time, it is hoped/believed that client-participants will develop the knowledge and skills necessary to become productive, law-abiding, drug/alcohol-free members of society and to achieve their full potential. Moreover, also during this time, it is believed that client-participants will meet their basic needs, which will eventually lead to self-actualization.

During the graduation ceremonies, the drug court judge typically highlighted each participant’s accomplishments while in the program (e.g., secured employment, obtained a high school diploma, GED, or college degree, had a child, got married) and encouraged him/her to keep working toward his/her goals. With that said, the focus of the discourse with client-participants who are not graduating from the X County Drug Court Program tended not to focus on self-actualization, but rather, on the more “primitive” basic human needs.

Structure and Process of Drug Courts and Basic Human Needs

The extent to which the structure and process of the drug court model actually addressed and met the basic human needs of client-participants was also a focus of this dissertation research. One method of assessing whether drug courts are therapeutic is to examine the extent to which the structure and process of the program meet the basic human needs of the client-participants. Summaries of the

structural and processural components of the X County drug court program that address the basic human needs of client-participants are presented. In addition, attention is paid to several ancillary resources available exclusively to the X County female drug court client-participants.

Given that the X County Women's Drug Court Program has been in operation since the early 1990s and the Men's Drug Court Program since the late 1990s, there has been an institutionalization of this program within the local criminal justice system. It was reported that while not all practitioners within the local legal system bought into the drug court model and the underlying principles of therapeutic jurisprudence, there was a genuine respect for the legitimacy of the program and the practitioners responsible for the delivery of services. Given the diversity of perspectives represented within the drug court team and the reality that all were openly encouraged to provide input, the integrity of the program design remains intact. As stated in Chapter Five, one prosecuting attorney and one defense attorney were present during the drug court planning sessions and court review hearings in order to provide additional input into how the program operates and to ensure that client-participants' due process rights were upheld. Without their input and presence within the drug court "team," the nature of the discourse exchanged during the planning sessions would likely change over time. One potential ramification of this would be for client-participants' due process rights to be infringed upon.

As stated in Chapter Four, the X County Drug Court Program is a 15-month program (minimum) that is divided into three phases. The requirements

for each of the three phases are comprehensive in nature and focus on an array of issues (e.g., abstinence, employment, education, restitution, treatment). During the term of enrollment, client-participants were supposed to receive, from the drug court “team” members, the support, guidance, structure, and encouragement necessary to be successful. The “team” was also supposed to identify individual needs and ensure that these individuals were referred to and follow-up with the appropriate service providers. The 15-month time frame was a minimum and it was openly acknowledged, by the professional members of the drug court team, that the majority of program graduates take longer than fifteen months to graduate. It was argued that fifteen months was the minimum amount of time necessary to effect meaningful change in the lives of client-participants. In talking with focus group client-participants, one of their recommendations was to actually lengthen the program, as they argued it would provide additional support for client-participants who have come to rely on the rigidity of the program and the degree of accountability expected of all client-participants.

During my observations of the court review hearings, interviews with judges and case managers, and focus groups with client-participants, the high degree of integrity of the X County Drug Court Program was mentioned on multiple occasions. The most often cited structural component of the program was the urine screen schedule. The judges, case managers, and client-participants all agreed that the structure of the urine screen schedule was such that client-participants could not “get away with old behaviors” over the course of their 15-month enrollment. While they may have been able to get away with using for

short periods of time, the likelihood that they will be able to continue to get away with using was slim to none. All of the focus group client-participants stated that in the beginning their first thoughts were about how they would be able to manipulate the program and continue the “addict lifestyle.” However, three focus group client-participants stated that they quickly realized that the probability of being successful at manipulating the program was very small. Client-participants stated that the rigid and comprehensive nature of the program were its two greatest features.

In talking with the judges, case managers, and client-participants about the processural components of the X County Drug Court Program, they all asserted that the one-on-one case management appointments were the key to meeting client-participants’ basic human needs. The function of these case management appointments was two-fold. First, they provide an opportunity for the case managers and client-participants to develop a rapport with each other, during which time they discussed any needs/issues that may have arisen and/or what is going on in the lives of the client-participants. The second processural component discussed encompassed the rewards and sanctions employed. Rewards were established to serve as an incentive to remain abstinent and in compliance with the program requirements, and to reward client-participants for a job well done, as opposed to merely saying “nice job.” Some examples of rewards were: personal hygiene products from the cart, gift cards to a local grocery store, and referrals to additional services (e.g., employment readiness/training program, GED tutoring). Conversely, sanctions were

established to serve as a deterrent from using drugs/alcohol and violating program requirements, and to reinforce the importance of remaining abstinent and violation-free. Some examples of sanctions were: jail time, increased AA/NA meeting requirement, phase demotion, and community service work.

Specifically, during the women's court review hearings, it was readily apparent that the flexibility of the judge and case manager in allowing human needs to be part of the discourse was critical to the overall therapeutic nature of the process. Furthermore, during my observations the interpersonal skills and personalities of the members of the drug court "team" appeared to be integral components to the overall operation of the program. During the focus group sessions, the female client-participants confirmed that the judge and case manager's personalities and approach to their jobs were absolutely crucial to success within the program. The female client-participants stated that they have never felt judged, that they were on the defensive, or that the judge and/or case manager did not have their best interest at heart.

In addition to the official program structure, several ancillary services were made available exclusively for female drug court client-participants. First, client-participants in "accolades" were allowed to take anything they want from "the cart," which contained personal hygiene products and other miscellaneous items. These items were provided by the women's case manager as a way to acknowledge their successes and to also assist them with meeting their personal needs. Client-participants were encouraged to speak up and ask the case manager if there was something they needed, but was not available in "the cart." Second,

during the summer months there was no GED program available to program client-participants, so the women's drug court judge and case manager recruited volunteers from the community to serve as GED tutors for program client-participants in need of obtaining their GED. Moreover, the GED materials were not available to program client-participants, so the women's case manager made copies of all the necessary materials for each participant. Third, in response to the overwhelming interest among program client-participants in exercising, the judge and women's case manager organized a walking group and the women's case manager participated in the activity on a weekly basis. Fourth, also in response to an interest in dieting, the women's case manager worked with individual client-participants to develop a diet and exercise plan that was tailored to fit their individual needs/abilities. Fifth, the women's case manager created inspirational cards for client-participants to take with them. These cards contained short quotes and were designed to serve as a voice of reason and/or a "pick-me-up" for client-participants who were having a difficult day. Sixth, the women's case manager reported that she routinely researched various cold medications client-participants could take when they were sick. As stated in Chapter Four, the X County Drug Court Program is an abstinence-based program and therefore client-participants were not permitted to take over-the-counter or prescription medications that contained certain ingredients. Client-participants who consumed products with these unapproved ingredients were found to be in violation of the medication contract and sanctioned accordingly (see Appendix C for the sanction chart).

Interestingly, these same ancillary resources were not made available to the male drug court client-participants. More specifically, of the ancillary resources presented above, the male client-participants were able to access the research on approved cold medications, but did not have access to the personal hygiene products, the summer GED tutoring program, the walking group, or inspirational cards. Moreover, the male drug court case managers did not work with the male client-participants to create a dieting plan. During the female focus group session, both client-participants asserted that they were aware of the fact that the male client-participants did not have access to the array of ancillary services. When asked if they thought the male client-participants would benefit from these services, one female client-participant said “Oh, without a doubt.” This participant went on to say that the male client-participants were aware of the fact that these ancillary services were not part of the program structure, but rather were made available by the female drug court case manager.

Drug Courts and the Rehabilitative Ideal

I was particularly interested in the extent to which the drug court process promoted the rehabilitative ideal by seeking to address the basic human needs of client-participants. It has been argued “For therapeutic jurisprudence to be validated in the context of problem solving courts [for the purposes of this research, drug courts], it needs to be shown that court processes themselves, as distinct from the rehabilitative programs ordered by the courts, are effective in promoting rehabilitation” (Winick and Wexler, 2003:105). The data gathered for

this dissertation research suggest mixed findings with regard to the degree to which the X County Drug Court Program promoted rehabilitation by addressing the basic human needs of client-participants. On one hand, as stated in the first two sections of this chapter, there was an evident emphasis on rehabilitation and meeting client-participants' basic human needs. The underlying premise of the drug court model is intrinsically linked to the principles of rehabilitation. As stated in Chapter 3, the goal of rehabilitation is "to effect changes in the characters, attitudes, and behavior of convicted offenders, so as to strengthen the social defense against unwarranted behavior, but also to contribute to the welfare and satisfaction of offenders" (Zimring and Hawkins, 1995:8). The drug court model seeks to embody the principles of rehabilitation both in terms of process (how the drug court operates) and outcomes (the results that emerge from the process). For example, the X County Drug Court Program refers client-participants to various treatment providers (e.g., mental health, substance abuse, parenting, etc.) and other social service agencies (e.g., employment, housing, etc.) in order to address their basic human needs. The X County Drug Court process is much more inclusive of the client-participants' voices than is the traditional criminal justice system. For example, during the court review hearings, client-participants interact directly with the drug court judge and are provided the opportunity to discuss what is going on in their lives. During these interactions the judge also uses this time to order sanctions as well as praise individuals for a job well done. This one-on-one interaction occurs on a bi-weekly basis, so there is a built-in sense of routinization and predictability on which participants can

count. In addition to the personal interaction with the judge, client-participants also interact regularly with the drug court case manager and probation officer (if the client-participant is also on probation). Given that the drug court case managers and probation officers are responsible for the day-to-day supervision of the client-participants, consequently they are responsible for making the necessary referrals to treatment providers and social service agencies. It is believed/hoped that over time they will establish a positive rapport with the client-participants and that this working relationship will help facilitate the recovery process. The structure of the X County Drug Court Program is such that client-participants are also heavily enmeshed in the recovery community (e.g., AA/NA). This program component was included for the purposes of establishing a larger support system and increasing the resources available to all client-participants. One positive result of this enmeshment is the establishment of a sense of community among the drug court client-participants themselves. While this sense of community was much more readily apparent in the women's drug court program than in the men's drug court program, there was still a sense of camaraderie among the client-participants.

However, despite the explicit emphasis on rehabilitation within the structure and process of the X County Drug Court Program, there are also clear elements of retribution, deterrence, and incapacitation. Specific program components that exemplify the elements of retribution, deterrence, and incapacitation include: sending client-participants to jail for positive, missed, or late urine screens; and assigning community service work hours for being late to a

case management and/or treatment appointment. Jail sanctions are used to remove participants who are using drugs/alcohol uncontrollably from their current environment (incapacitation) in hopes that they will be able to “sober up” (alcoholics) or “dry out” (drug addicts) during the time they are confined. Sanctions are also utilized to deter client-participants from violating program rules. It is believed/hoped that client-participants who receive a specific sanction will be less likely to commit program violations in the future for fear of being sanctioned again (specific deterrence). Moreover, it is believed/hoped that having client-participants witness other client-participants being sanctioned for program violations will serve as a deterrent (general deterrence).

Understanding the Cycle of Substance Abuse and Recovery

This research also sought to assess the extent to which the professional members of the drug court “team” and drug court client-participants had a common understanding of the cycle of substance use/abuse and the recovery process. In talking with the judges, case managers, and client-participants, all had a similar general understanding of substance abuse and the underlying issues and individual characteristics that oftentimes facilitate the cycle of addiction. However, there were stark differences between judges, case managers, and female client-participants’ and male client-participants’ responses to the structural factors that were believed to have a role in the cycle of addiction. The judges, case managers, and female client-participants interviewed possessed a vast knowledge of the myriad structural factors that, together with individual characteristics,

facilitate the cycle of addiction. For example, the media plays an undeniable role in glamorizing substance abuse, sending the message to women that “skinny equals beautiful.” Another example is the medicalization of virtually all ailments by way of, for example, pharmaceutical advertisements. With the medicalization of United States’ society has come an ease with which to obtain drugs/alcohol, resulting in greater numbers of children and adults utilizing (and becoming addicted to) either legal or illegal substances. Additional structural factors include: dead-end jobs; unemployment; institutionalization/prisonization (for those individuals who have been institutionalized in jail, prison, mental health facilities, etc.); blocked opportunities or inability to access resources; stigma associated with being an “addict” and/or a “criminal;” debt; just to name a few.

All three groups also stated that people in the United States have an extremely skewed view of how to define the term “addict.” The question remains as to whether a highly functioning adult who goes to work every day, but consumes a large quantity of alcohol throughout every day should be considered (and labeled) an “alcoholic.” Moreover, the judges, case managers, and female client-participants acknowledged that addiction is oftentimes fueled and maintained by people’s inability and/or unwillingness to face the reality of their own lives, and they seek to numb the negative feelings. Their life realities might consist of dead-end jobs, no health care benefits, no hope for developing one’s gifts/talents, earning less than a living wage, not being respected by others, and living less than a decent life. Moreover, within our society, generally speaking, there is a dearth of services readily available to addicts, which is then

compounded by the negative stigma associated with needing and asking for help. The mantra “pick yourself up by your bootstraps” still holds true today and is one of the barriers to breaking the cycle of addiction for many addicts.

The male client-participants had dramatically different views on the structural factors that play a role in the cycle of addiction. Both male focus group client-participants were staunch in their conviction that substance abuse is an individual choice and that the structural aspect of addiction is more of an excuse than an answer. They believed that individuals in the throes of their addiction(s) cannot see beyond their current lifestyle and therefore have no vision for being able to live life any differently. I suspect that these male client-participants did have some insight into the role that structural factors play in an individual’s choice to use drugs/alcohol, but saw individual choices as the primary catalyst for addiction. Just as they viewed the cycle of addiction beginning with individual choice, they also saw the cycle of addiction ending with an individual’s choice to stop using drugs/alcohol.

I believe this might be a function of the internalization of the AA/NA mantra “once an [alcoholic or addict], always an [alcoholic or addict]” and the belief that willpower can/should prevail over any/all temptation. Within the discourse exchanged during the drug court review hearings, excuses were dismissed as such and client-participants were encouraged to take personal responsibility for their behavior and the resultant consequences. This practice is not surprising given that the larger criminal justice system is premised on this notion of rational choice, which is further discussed in the next section.

Theoretical Implications

As stated at the beginning of Chapter Three, drug court proponents have unapologetically acknowledged that theory was not a major factor in the development of the drug court model. Furthermore, since that time there has been relatively little attention paid to establishing a solid theoretical foundation for the drug court model. Even though the literature does not expressly link theory with the drug court movement, elements of various theoretical perspectives have clearly influenced the structure and processes of drug courts. These criminological and organizational theories together provide a framework for understanding the structure and process of the X County Drug Court Program.

Of the criminological theories discussed, labeling theory provides insight into the negative impact labels, such as “criminal” or “addict,” can have on an individual’s self-identity and self esteem. Within the drug court model, the professional members of the drug court team are supposed to work with participants through the recovery process and facilitate their re-socialization. The re-socialization process consists of attending AA/NA meetings, engaging in substance abuse treatment, attending case management sessions, participation in educational programs, securing employment, and fostering healthy social relationships with significant others, such as, friends, family, children, peers, and co-workers.

Within the X County Drug Court Program, client-participants (both male and female) are strongly encouraged to establish healthy social relationships and to discontinue relationships with individuals who are not positive influences in their lives.

Insight into the important role that these relationships play is explained by social learning theory, which argues that criminal behavior is learned through interaction with one's social environment, as well as through interaction and communication with other individuals. The professional members of the drug court team and client-participants alike often speak to the positive and negative role that "people, places, and things" play in the recovery process. In processing a relapse, client-participants often attributed their decision to use drugs and/or alcohol to the people they were with at the time (e.g., roommate), the place they were at the time (e.g., a bar, "an old friend's house"), and/or the activities going on around them (e.g., parents were drinking at home). The drug court process seeks to re-socialize participants so that they refrain from using drugs and/or alcohol and cease from engaging in criminal activity. The re-socialization process involves the use of drug/alcohol treatment programs, individual counseling, group counseling, and social support groups (e.g., AA/NA), focusing on definitions unfavorable to drug/alcohol use and changing response consequences so as to move people away from the use of drugs and/or alcohol.

The X County Drug Court Program's structure also contains elements rooted in deterrence theory. Two examples of these elements are: three day jail sanction for missed and positive urine screens, and community service sanction for being late to and/or missing case management and treatment appointments. Deterrence theory is premised on the belief that individuals will engage in criminal behavior if they do not fear apprehension and punishment. The various components of the drug court process (e.g., drug/alcohol treatment, counseling sessions, urine screens, case management appointments) are designed to educate participants on how drugs and/or alcohol have

negatively affected their lives physically, psychologically, emotionally, socially, and financially. It is believed that if client-participants are cognizant of the negative impact their addiction has had on their lives and they are aware that violations of program rules are met with certain and severe sanctions, they will be less likely to relapse.

Components of the X County Drug Court Program are also rooted in rational choice theory. The entire drug court process is contingent upon participants taking individual responsibility for their use and/or addiction. Participants must openly admit their addiction (this is a requirement for participation in AA/NA meetings) and repeatedly demonstrate their commitment to the process of recovery by submitting negative urine screens, successfully completing treatment programs, and remaining in compliance with program rules. There are components of the recovery process that focus on increasing participants' sense of willpower (the ability to remain abstinent) and discipline (e.g., employment requirement, education requirement, increasing participants' overall sense of responsibility). However, there are also additional components of the drug court process (e.g., counseling, drug treatment programs, AA/NA support groups) that target the underlying reasons participants have perpetuated the cycle of addiction.

Several organizational theories provide important insight into the structure and process of the X County Drug Court Program. Rational-legal theory offers insight into the division of labor within the professional members of the drug court team. The professional members of the drug court team perform roles and deliver services that require certain skills (e.g., written/oral communication, empathy, interviewing, etc.) and credentials (e.g., *juris doctorate*, substance abuse treatment licensure, etc.). Within the drug court model, judges have very different roles than, for example, treatment providers.

This model is dependent upon the collaborative efforts of various key professional participants and the judge ultimately has some degree of discretion to address client-participants' needs as s/he sees fit, although the degree of discretion is limited by program policies and procedures. Within the X County Drug Court Program, the professional members of the drug court team had varying skills and credentials, which greatly influenced the way in which they approached their jobs. For example, both case managers for the men's program have training in the field of psychology. Consequently, their view of addiction focused on the individual as opposed to societal factors.

Human relations theory highlights the role of leadership within the organizational structure. Moreover, humanistic management focuses on the importance of interaction between individuals within the organization. The drug court judge is the leader of the drug court team, however the other professional members provide important input and insight in the decision-making process. During the drug court planning sessions, all of the professional members of the drug court team are encouraged to provide insight and input during the decision-making process. There was a healthy exchange of ideas and information during these sessions, however there was an implicit acknowledgement by everyone present that the drug court judge had the final decision.

Neo-Weberian theory provides great insight into the importance of establishing a set of standard policies and procedures. An example of this can be seen in the role that the sanctions chart played during the drug court planning sessions. On numerous occasions, issues (concerns) were raised regarding how a particular sanction recommendation was fashioned. The professional members of

the drug court team reminded each other about the role of the sanctions chart and its importance for the sake of consistency. While in some instances this limited the creativity of the drug court team in fashioning sanctions, in other instances it facilitated consistency across program participants. The drug court judges asserted that their role was to uphold the law and to ensure that all client-participants were treated fairly. Moreover, they also discussed the fact that the client-participants pay attention to the ways in which their peers are treated and most will speak up when they feel as though they are being treated differently than their peers. In essence, consistency speaks to the integrity of the program and the professional members of the drug court team.

Therapeutic jurisprudence theory provides a useful framework for understanding and evaluating the drug court process. As stated in Chapter Three, therapeutic jurisprudence is a theoretical approach to criminal justice, with the underlying premise being that a legal rule or practice (insert drug court process) can and *should* (emphasis mine) be studied to determine whether or not it is benefiting the target population. In essence, therapeutic jurisprudence takes seriously the role that processes play in outcomes and acknowledges the fact that processes can both positively and negatively impact the target population. Processes that negatively impact the target population are problematic and should be modified. In summary, criminological and organizational theory and therapeutic jurisprudence provide an important foundation for understanding the structure and process of the X County Drug Court Program.

Recommendations

Several recommendations have emerged from this research. First, as stated throughout this chapter, in comparing the men's and women's programs, I would argue that within the X County Drug Court Program, the basic human needs of the female drug court client-participants are met to a greater degree than are the needs of the male drug court client-participants. An increase in the ancillary resources and opportunities available to both the male and female client-participants is definitely warranted.

Second, it would behoove the entire drug court team to periodically re-visit the intent of the drug court program and the principles of therapeutic jurisprudence to ensure that the structure and process in place uphold the original integrity of the drug court model. With that said, it is also vital to ensure that the professional members of the drug court "team" accept the philosophy of therapeutic jurisprudence and complete their daily tasks in accordance with these principles. If the "team" does not accept and/or operate in accordance with this philosophy, the integrity of the program will be jeopardized. This re-visiting activity is imperative especially when you have turn-over in staff and new individuals join the "team." During my observation period there were some staffing issues that appeared to negatively impact the X County Drug Court Program. Some professional members of the drug court team and the client-participants expressed great dissatisfaction with what was transpiring and acknowledged the negative impact it was having on everyone involved. Moreover, the various professional members of the drug court team appeared to incorporate the philosophy of therapeutic jurisprudence into their daily routines in very different ways. Two of the drug court judges interviewed for this research expressed concern over the movement toward adopting more punitive sanctions

and a cynical view of client-participants (in general) and I would agree that at times this was evident.

Third, it would also behoove the X County drug court “team” to have an on-going dialogue regarding the high unsuccessful discharge rate and to take the steps necessary to reverse this trend. Researching the characteristics of those client-participants who were unsuccessfully discharged may provide insight into specific areas within the structure and process of the X County Drug Court Program in need of modification. Moreover, conducting focus groups with current client-participants may yield insight as to the strengths and limitations of the program’s structure and process. Finally, in terms of the process of the court review sessions, it might be beneficial to have client-participants write down the judges’ order(s) (and consequently what they need to do during the next bi-weekly period) or be given the order(s) in writing while in court. On numerous occasions it was apparent that client-participants either did not understand or were not paying attention to what they were being ordered to do. Having a written reminder to reference at a later time might assist in alleviating some instances of non-compliance with court orders. Members of the drug court team should remain cognizant of the fact that not all client-participants have the same skills and/or abilities. For example, each of the women’s drug court client-participants were given a planner and encouraged to use it as a way to keep track of all of their obligations and appointments. On one notable occasion during the interaction with the drug court judge, it became evident that one client-participant did not know what to do with the planner nor did she know how the planner could help her organize her daily life. In response to this, the drug court judge requested that this client-participant stay after court to meet with the case manager to

learn how to use the planner. Providing client-participants with the structure and guidance necessary to achieve self-sufficiency is one of the goals of the X County Drug Court Program and will lead to meaningful change in their lives.

After completing the research process, I have three general observations regarding the X County Drug Court process. First, the drug court review hearing process is highly routinized and, consequently, predictable. The order in which client-participants are called before the judge follows a routine script from week to week and deviations from this script are rare. On the one or two occasions when there was a deviation from the norm, client-participants were visibly nervous and did not know what to expect. While the routinization of program operation/delivery of services is inevitable to some degree, it has the potential to become problematic when client-participants become complacent and no longer feel as though they are being challenged.

Second, I question the roles members of the drug court “team” and drug court client-participants assume in developing a sense of community. In my opinion, there appears to be a greater sense of community and collegiality among the drug court “team” and client-participants within the women’s program as compared with the men’s program. For example, the women’s walking group was developed by the drug court judge and case manager in response to an overwhelming interest among client-participants in exercising and also as a social outlet for client-participants to bond with each other while engaging in a positive social activity. In contrast, there is not much dialogue on the development of a sense of community within the men’s program. Moreover, from my observations, I sense that the client-participants are expected to take on a more active role in developing a sense of community than are the professional drug

court “team” members. I would argue that the male client-participants would benefit just as much from an exercise program as the women and therefore should have a similar opportunity available to them.

Third, client-participants are only required to address the drug court “team” and their peers at the very end of the process when they graduate, which is, in my opinion, very unfortunate. When client-participants addressed the court and/or their peers (either because they were asked to or in a few instances, when they asked to speak) they were able to articulate their thoughts, ideas, feelings, and experiences in very powerful ways. Hearing them speak about their experiences, life situations, thought patterns, struggles, successes, and dreams for the future was an extremely humbling experience. I would argue that having client-participants address the drug court “team” and their peers more often would be an excellent way to develop a sense of community and accountability within the structure and process of the X County Drug Court Program. This explicit emphasis on involving all professional and non-professional members of the drug court team in the drug court process embodies the notion of rehabilitation and therapeutic jurisprudence. Encouraging client-participants to work together and serve as resources for one another is truly unique and not something present within the traditional criminal justice system. As stated earlier in this dissertation, drug courts embody the principles of therapeutic jurisprudence despite the fact that the drug court model was developed void of any explicit theoretical roots. With that said, drug courts are not only supposed to be therapeutic in *what* they do, but also *how* they do it (emphasis mine).

Limitations

There are several limitations associated with this research that must be addressed. First, this research is a case study of one drug court program in a medium-sized Midwestern city. Consequently, these findings cannot (and should not) be generalized to the larger population of adult drug court programs in the United States. Second, the focus group sessions conducted for this research were attended by two female and two male drug court client-participants. While these client-participants provided me with a wealth of information and were very candid in their responses, having more client-participants attend the focus group sessions would have provided additional insights into client-participants' perspectives and experiences within the X County Drug Court Program.

Third, I have often wondered how my position within the research impacted the process as a whole and the information obtained. Despite the fact that the drug court judges asked me to introduce myself and explain why I was attending the court review sessions on numerous occasions, I suspect that the participants may have viewed me as an outsider and therefore were reluctant to answer questions from someone they did not know. Moreover, during the court review sessions I was positioned in the jury box, which was located at the front of the courtroom and far removed from where the client-participants were seated. This physical distance may have fostered a degree of distrust between the client-participants and me. While I do not suspect that the client-participants were overtly dishonest, they may have omitted details or events that occurred altogether. With that said, I do believe that the focus group client-participants were more

comfortable and were more candid with each other present than they would have been with me in a one-on-one interview.

As stated in Chapter Four, in addition to conducting this research I am also an external evaluator of the X County Drug Court Program. This position requires that I collect, analyze, summarize, and disseminate data in order to assess whether the X County Men's and Women's Drug Court Programs are meeting their stated goals and are effective in reducing recidivism. I question to what degree my role as an external evaluator influenced my interaction with the professional members of the drug court "team," and the information obtained during my interviews. With that said, I believe that my dual-role within the research also had a positive impact on this research for several reasons. First, due to my position as an external evaluator, I was invited by the drug court staff to attend the drug court planning sessions prior to the court review hearings. During these planning sessions I was able to gain additional insight regarding the discourse exchanged among the drug court "team" members, as well as obtain additional information regarding the drug court client-participants themselves. My experience conducting the court review sessions would have been radically different if I had not attended the planning sessions ahead of time. Second, as a result of my position as an external evaluator and the rapport I developed with the drug court staff over the course of the time I conducted my observations (April 2006-July 2007), I believe that the drug court judges and case managers were candid during their interviews.

Future Research

I see tremendous potential in terms of future research related to this dissertation. First, I would like to conduct follow-up interviews with the drug court judges and case managers to see if their opinions and/or behavior have changed as a result of this research and the explicit focus on basic human needs. I would be interested in evaluating the extent to which the day-to-day work performed by the professional members of the drug court team focuses on client-participants' basic human needs. Moreover, I would also be interested in assessing whether a greater proportion of the discourse exchanged during the drug court review sessions focuses on client-participants' basic human needs. Second, I would like to conduct additional focus groups with many more client-participants to obtain a greater range of perspectives. Moreover, I would especially like to obtain the perspectives of those client-participants who were unsuccessfully discharged from the program to more fully understand their needs and what role (if any) the structure and/or process of the program played in their not being successful in completing the program. Third, this research could also be conducted within other adult drug courts in the United States and comparisons could be made between programs that are similar in content, structure, and process. Fourth, I believe that the emphasis on client-participants' basic human needs could be applied to evaluating other agencies within the criminal justice system that assert rehabilitation as their goal to assess the degree to which they promote rehabilitation through their structure and process. This is important because rehabilitation programs will not/cannot be successful if their structure and process are not rooted in rehabilitative principles.

Appendix A: HSIRB Approval Letter

WESTERN MICHIGAN UNIVERSITY



Human Subjects Institutional Review Board

Date: April 12, 2006

To: Susan Caulfield, Principal Investigator
Kristen DeVall, Student Investigator for dissertation

From: Mary Lagerwey, Ph.D., Chair

Mary Lagerwey

Re: HSIRB Project Number: 06-03-05

This letter will serve as confirmation that your research project entitled "Logical/Rational Versus Biological/Psychological: Evaluating Drug Court Outcomes" has been **approved** under the **full** category of review by the Human Subjects Institutional Review Board. The conditions and duration of this approval are specified in the Policies of Western Michigan University. You may now **begin** to implement the research as described in the application.

Please note that you may **only** conduct this research exactly in the form it was approved. You must seek specific board approval for any **changes** in this project. You must also seek **reapproval** if the project extends beyond the termination date noted below. In addition **if there** are any **unanticipated** adverse reactions or **unanticipated** events associated with the conduct of this research, you should immediately suspend the project and contact the Chair of the HSIRB for consultation.

The Board **wishes** you **success** in the pursuit of your research goals.

Approval Termination: March 15, 2007

Appendix B: Interview Schedule

Interview Schedule

1. Describe your beliefs about the effectiveness of the drug court processes.
 - a. Are drug courts effective in processing drug court participants?
 - b. What components of the drug court program contribute to their effectiveness?
 - c. What components of the drug court program do not contribute to their effectiveness?
2. What do you believe are obstacles to participant participation and success?
 - a. What hinders participants from participating in the drug court program?
 - b. What hinders participants from successfully completing the drug court program?
3. Why do you think participants do not complete the program?
 - a. What are the most common reasons why participants are UD?
 - b. What are the most common reasons why participants elect to "opt out."
4. Why do you think participants return to crime and/or drug use?
 - a. What are the most common rationales given for why participants relapse?
 - b. What are the most common reasons given for why participants commit crimes while enrolled
5. What do you believe are the "causes" of drug/alcohol use?
 - a. Why do you think individuals use drugs/alcohol?
 - b. Are there any individual characteristics that are common among individuals who use?
 - c. In your opinion, are there any structural issues that lead to drug/alcohol use?
6. In your opinion, what are some effective techniques/strategies to prevent individuals from abusing drugs and/or alcohol?
7. What strategies do you believe are ineffective in preventing individuals from using drugs/alcohol?
8. What role do you think drug courts play in meeting the individual human needs of participants?
 - a. How would you define individual human needs?
 - b. Do you think drug courts address individual human needs?
 - c. What changes do you think could be made to the MDTCP and/or WDTCP that would allow individual human needs to be met?
9. What is the nature of the discourse that is exchanged between drug court participants and the drug court "team" during the court review sessions?
 - a. To what extent does the discourse exchanged between drug court participants and members of the drug court team (e.g., case manager, judge, treatment provider, etc.) focus on process-oriented issues (e.g., next court date)?
 - b. To what extent does the discourse exchanged between drug court participants and members of the drug court team (e.g., case manager, judge, treatment provider, etc.) focus on individual human needs (e.g., employment, housing, transportation)?
10. What program stipulations are standard for all participants?
 - a. What program requirements are standard for all MDTCP and/or WDTCP participants?
 - b. What is the rationale for requiring participants to complete these requirements?
 - c. What program requirements are ordered based upon individual human needs?
 - d. What human needs are these program requirements supposed to meet?

Appendix C: Sanctions Chart

DRUG COURT SANCTIONS

- Phase I -

REQUIREMENT	CONSIDERATIONS	SANCTION
Paying for Urine Screens	New Participant? (Maximum 13 free urine screens)	Missed urine screen (after 13 free urine screens)
Missed appointment (late=missed) (DTCP, treatment, 12-Step Orientation Session, etc.)	Verification of whereabouts? Did the client reschedule the appointment within 7 days?	8 hours of CSW for each unexcused missed appointment
Chronic missed appointments or Chronic rescheduling (Chronic=4 th unexcused missed appointment in any phase)	None	8 hours of CSW, add 4 hrs for each following, continued add jail Daily Reporting Electronic Monitoring Incarceration
Missed 12-Step meeting	None	Graduated: 30/30, 60/60, 90/90, Jail and/or 8 hours CSW
Missed GED class	None	8 hours CSW per class
Absconded from the DTCP	Did the client turn him/herself into authorities? Are there new charges pending? What treatment options are left?	3-5 days in jail or K-PEP Electronic Monitoring Daily Reporting
Absconded from the DTCP twice	How long has the client been in the program? What treatment options are left?	Discharge from the DTCP
Absconded from or unsuccessfully discharged from long-term treatment, inpatient treatment, or K-PEP	None	Jail, tether
Violation of court-ordered no contact	None	3 days jail
Violation of the Medication Contract	Is this the first violation?	Graduated CSW: 8 hours, add 4 for each following
First tampered urine screen (Tamper= Creatinine less than 20.0)	Creatinine between 10.0 and 19.9----- → Creatinine below 10.0----- →	8 hours of CSW 3 days jail
History of tampered urine screens (4 or more)	Time frame Was there a positive or missed urine screen between tampers	Progressive jail or K-PEP time Discharge from the DTCP (eventually)
Tampering with urine specimen (i.e. using another person's urine)	None	1-2 weeks jail and/or discharge from the DTCP
Failure to submit urine screen by noon if unemployed or not currently employed	Includes those who are laid off and on break from school. Out of labor force at discretion of case manager.	Missed urine screen; 3 days jail

Missed urine screen (late=missed)	None	3 days in jail or K-PEP
Reported relapse	How many times? How close together?	Graduated sanctions: 1 st =increase treatment and/or meetings 2 nd =above plus 16 hours CSW 3 rd =add jail at discretion
Unreported relapse - positive urine screen (Reported relapse=notifying case manager within 24 hours and before drop line message has changed)	Admits after being confronted by DTCP staff? Denies completely when confronted by DTCP staff? Admits after being confronted by Judge? Denies completely when confronted by Judge?	3-6 days in jail or K-PEP
Being in an establishment where the primary purpose is to dispense alcohol	None	1-3 days in jail
Lying behavior	Continues to deny when confronted with evidence that the client has been lying.	1-7 days in jail or K-PEP
Lying in court	None	3 days jail standard, 1-7 days depending on circumstances
Missed court session	None	1 day jail
Forged meeting or CSW slip	None	7 days in jail
Failure to complete CSW	None	Double CSW with no credit for hours completed
Failure to report police contact	Severity of offense/police contact Discretion to not sanction when client is the victim	8 hours CSW-3 days jail
DWLS while in the program	None	Graduated: 16 hours CSW, 24 hours CSW, Jail
Misdemeanor conviction while in the program: DV, larceny, B&E, OUIL, ordinance violations	Circumstances (read police report)? Was there violence? Injury to victim? Repeated offense (is defendant on probation for the same charge or previous conviction for the same charge)?	CSW, jail, tether, or unsuccessful discharge
New felony while in the program (Must be bound over to Circuit Court)	None	Unsuccessful discharge

Revised 3/21/07

DRUG COURT SANCTIONS

- Phase II/III -

REQUIREMENT	CONSIDERATIONS	SANCTION
Working while in Phase II/III (allow 1 month to find employment)	Pregnant? (allow 6-8 weeks following delivery) Single parent?	16 hours CSW biweekly Increase 4 hours CSW each biweekly until either employed or CSW is up to 30 hours per week Prorate CSW if employed part-time
Missed appointment	None	8 hours of CSW If in last month of participation, Phase II/III extended one month
Chronic missed appointments or Chronic rescheduling (Chronic=4 th unexcused missed appointment in any phase)	None	8 hours of CSW, add 4 hrs for each following, continued add jail Return to Phase I Daily Reporting Electronic Monitoring Incarceration
Tampered urine screen (Tamper= Creatinine less than 20.0)	Creatinine between 10.0 and 19.9- ----> Creatinine below 10.0----- ---->	8 hours of CSW, Phase I urine screens for 4 weeks 3 days jail
1 st Missed Urine Screen	None	3 days jail, Phase I urine screens for 4 weeks, and remain in program minimum 90 days following missed urine screen
2 or more Missed Urine Screens	None Follow "Admitted after Screen" for Phase II credit time	3 or more days in jail or K-PEP and returned to Phase I for 1-3 months
Failure to attend 12-Step Meetings (missed 1-2 meetings during a reporting period)	None	30/30
Failure to attend 12-Step Meetings (missed 3 or more meetings during a reporting period)	None	90/90
Failure to pay restitution or DTCP fees	Is the client working? Has the client experienced unusual financial problems? Other issues?	Court appearance and 8 hours of CSW
Lying behavior	Continues to deny when confronted with evidence that the client has been lying.	1-7 days in jail or K-PEP, returned to Phase I
Forged meeting or CSW slip	None	7 days in jail, returned to Phase I

Revised 3/21/07

PHASE II/III
RELAPSE SANCTION CHART
 Also applies to any violation causing a return to Phase I

CLEAN TIME IN PHASE II	ADMITTED PRIOR TO SCREEN (reported relapse)	ADMITTED AFTER SCREEN (unreported relapse)	DENIED USE
Less than 3 months	Start over	Start over	Start over
3-5 Months	Return to Phase I Credit for all Phase II time earned	Return to Phase I Credit for Phase II time earned beyond 3 months (ex: 5 mo = 2 mo credit)	Start over
6-8 Months	Return to Phase I Credit for all Phase II time earned	Return to Phase I Credit for Phase II time earned beyond 3 months (ex: 8 mo = 5 mo credit)	Start over
9 Months and above	Return to Phase I Phase II for 3 months	Return to Phase I 6 months credit towards Phase II	Start over

This chart was developed on treatment principles. The sanctions are directly related to the phase of treatment/recovery that the client is in. For instance, a client who has internalized the skills, knowledge, and behavior of recovery and wants to recover is more likely to admit the relapse. This client demonstrates that he is likely to recover more quickly than the client who denies the relapse even when presented with the evidence. The second client demonstrates a lack of internalized skills, knowledge, and behavior, as well as a lack of wanting to recover and is more likely to need further treatment and time in supervised recovery.

Forms/sanctionsphaseII

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