

GAO

Briefing Report to the Committee on the
Judiciary, U.S. Senate, and the
Committee on the Judiciary, House of
Representatives

May 1995

DRUG COURTS

Information on a New Approach to Address Drug-Related Crime



General Government Division

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May 22, 1995

The Honorable Orrin G. Hatch
Chairman
The Honorable Joseph R. Biden, Jr.
Ranking Minority Member
Committee on the Judiciary
United States Senate

The Honorable Henry J. Hyde
Chairman
The Honorable John Conyers, Jr.
Ranking Minority Member
Committee on the Judiciary
House of Representatives

This briefing report provides information on drug courts,¹ a new approach used by state and local governments to address drug-related crime. These courts monitor the treatment and behavior of drug-using defendants.

Title V of the Violent Crime Control and Law Enforcement Act of 1994 (the 1994 Crime Act) authorizes the award of federal grants for drug courts. The act requires that we assess the effectiveness and impact of these grants and report to Congress by January 1, 1997. To assist Congress in its deliberations on whether to fund drug courts, we developed this preliminary report. Specifically, we gathered information on drug courts in existence prior to the awarding of grants under the 1994 Crime Act, assessed evaluations of these courts, and reviewed the Department of Justice's (DOJ) responsibilities and plans for implementing the federal drug court grant program.

During April and on May 11, 1995, we briefed the Committees on the results of our work.

Results

In response to the deluge of drug cases since the late 1980s and the cycle of recidivism (rearrest rates) common to drug offenders, some state and local jurisdictions created drug courts, the majority of which have been operating since 1993. The main purpose of drug courts is to use the authority of the court to reduce crime by changing defendants' drug-using behavior. In exchange for the possibility of dismissed charges or reduced

¹Throughout this briefing report, we use the terms drug courts and drug court programs interchangeably.

sentences, defendants are diverted to drug courts. Judges preside over drug court proceedings, monitor the progress of defendants through frequent status hearings, and prescribe sanctions and rewards as appropriate in collaboration with prosecutors, defense attorneys, treatment providers, and others. Although there are basic elements common to many drug court programs, they vary in terms of participant eligibility, length of the program, penalties and rewards, and other practices. The courts are supported by a variety of local, state, federal, and private funds and participant fees, according to the Drug Court Resource Center.²

As of March 1995, there were at least 37 drug courts operating nationwide, most of which had been fully operational for at least 9 months. Thirty-three drug courts responding to our questionnaire reported having accepted over 20,000 defendants, of whom a third had completed their programs. According to the Project Director of the Drug Court Resource Center, none of the drug courts accept defendants currently charged with a violent offense, and most do not accept defendants with prior violent convictions. However, at least one drug court accepts defendants regardless of prior offenses. (See sect. I for more general information on drug courts.)

We assessed six evaluations of five drug courts completed as of March 1995. Although some evaluation results indicated that drug courts may have some beneficial effects, limitations in their designs and methodologies, as well as the relative newness of drug courts, precluded firm conclusions about the overall impact of these programs. The evaluations showed mixed results in recidivism and other defendant outcomes. For example, two evaluations showed less recidivism by drug court defendants. However, three other evaluations showed no significant differences in recidivism. Additionally, two evaluations of the same drug court showed contrasting recidivism results. (See sect. II and app. III for more information on the evaluations we assessed.)

The 1994 Crime Act authorized the Attorney General to award and administer discretionary grants for drug court programs. A key requirement of the act is that violent offenders are prohibited as drug

²The Bureau of Justice Assistance funds the Drug Court Resource Center. The Resource Center began operating October 1, 1994, under the direction of The American University in partnership with the National Center for State Courts and the National Consortium of Treatment Alternatives to Street Crime Programs. The Resource Center assists state and local justice system officials in planning, implementing, managing, and evaluating drug courts. It also acts as a clearinghouse and provides technical assistance and other services to jurisdictions interested in developing or expanding drug courts.

court participants. The act authorized \$1 billion from fiscal years 1995 through 2000 to support drug court programs. For fiscal year 1995, \$29 million was appropriated. However, Congress has proposed fiscal year 1995 budget cuts in a pending rescission bill. In addition, the House has passed legislation repealing the drug court grant program authorized in the 1994 Crime Act.

DOJ expects to award grants beginning in the summer of 1995. The 1994 Crime Act also authorizes the Attorney General to provide for a national evaluation of drug courts supported by federal grants. DOJ expects to complete the evaluation to assess the impact and effectiveness of drug court grants in about 2 years. (See sect. III for more information.)

Objectives, Scope, and Methodology

In preparation for our 1997 mandated study, we initiated a preliminary review of drug court programs. Our objectives were to determine

- the number, location, and key elements of drug courts;
- the results and validity of evaluations of drug courts; and
- DOJ's responsibilities and plans for implementing statutory requirements for the federal drug court grant program.

The Drug Court Resource Center, which is based at The American University, Washington, D.C., provided us with general information on drug courts. To obtain more current information, we sent a questionnaire to 37 drug courts. We received responses from 33 drug courts as of March 31, 1995. We did not verify the accuracy of the data provided to us by the Drug Court Resource Center and drug courts. In addition, we attended a January 1995 national training conference for drug court professionals in Las Vegas, NV, and visited drug courts in Las Vegas and Washington, D.C.

To determine the results and assess the validity of evaluations of drug courts, we obtained 11 drug court evaluations completed as of March 1, 1995, from the Drug Court Resource Center. These evaluations were done by a variety of sources, including independent researchers, county officials, and court representatives. We reviewed them and assessed the evaluative methodology used and the validity of reported findings. We did not analyze the reported results of three of them because they reported outcome data for drug court defendants without any reference to comparison or control groups. We were unable to assess the validity of one because it did not include a description of the methodology used. Two dealt with one drug court and were assessed as one evaluation because

one was a follow-up to the other and contained the same methodology and findings.

To determine DOJ's responsibilities and plans for implementing the federal grant program, we met with representatives of the Office of Justice Programs, DOJ. We held discussions and reviewed documents regarding their responsibilities and plans for implementing the federally supported drug court program. We also obtained drug court funding information from the Department of Health and Human Services' Center for Substance Abuse Treatment.

Our review was done from January 1995 to April 1995 in accordance with generally accepted government auditing standards.

Agency Comments

In April 1995, we provided a draft of this report for comment to the Attorney General and the Project Director of the Drug Court Resource Center.

On April 21, 1995, we discussed the report with the Project Director of the Drug Court Resource Center. On May 5, 1995, we also discussed the report with the Deputy Assistant Attorney General and other officials from DOJ's Office of Justice Programs. These officials generally agreed with the information presented in the report and provided comments that we incorporated as appropriate.

DOJ officials said the report was positive, informative, and will be helpful to drug court professionals. They explained that there is no universal model for drug courts, and as a result, each drug court operates differently due to local needs and conditions. Similarly, the Project Director of the Drug Court Resource Center said that the information presented in the report was comprehensive, accurate, and objective.

We are sending copies of this briefing report to other interested congressional committees and Members and the Attorney General. Copies will also be made available to others upon request.

The major contributors to this briefing report are listed in appendix IV. If you have any questions about this report, please call me on (202) 512-8777.

A handwritten signature in black ink that reads "Norman Rabkin". The signature is written in a cursive, flowing style.

Norman J. Rabkin
Director, Administration
of Justice Issues

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Abbreviations

BJA	Bureau of Justice Assistance
CSAT	Center for Substance Abuse Treatment
DOJ	Department of Justice
NIJ	National Institute of Justice
OJP	Office of Justice Programs

Drug Courts

GAO Types of Drug Courts

Expedited case processing

Drug treatment

In the late 1980s, state and local criminal courts were inundated with drug cases. One response to this challenge was the creation of drug courts, a relatively recent grassroots movement to deal with drug-related crime and drug-using defendants.

According to DOJ, two main types of drug courts have evolved, those that (1) expedite the processing of drug cases and (2) use court-monitored

drug treatment to attempt to achieve changes in defendants' drug-using behavior. In addition, some drug courts combine these two types.

The 1994 Crime Act authorizes grants for those drug courts that have programs offering court supervised drug treatment. The act does not authorize grants for courts designed solely to expedite the processing of drug cases. This briefing report provides information on drug treatment courts.

Courts offering court-monitored drug treatment are referred to as "drug treatment courts" or simply "drug courts." Although there is no standard definition applicable to drug treatment courts, the National Association of Drug Court Professionals³ defines them as follows:

"A Drug Court is a special court given the responsibility to handle cases involving less serious drug using-offenders through a supervision and treatment program. These programs include frequent drug testing, judicial and probation supervision, drug counseling, treatment, educational opportunities, and the use of sanctions and incentives."

One of the first drug courts to employ drug treatment as an integral part of the processing of drug felonies is located in Dade County (Miami), FL, and began operations in June 1989. This court became a model for other jurisdictions that implemented drug courts.

Although drug courts share certain common elements such as court-monitored treatment, the courts are uniquely designed to meet local needs and can vary considerably in the way they operate. Organizationally, drug courts generally are distinct parts of trial courts.

³This is the principal organization of professionals involved in the development of treatment-oriented drug courts. Its members include judges, prosecutors, defense attorneys, treatment service providers, educators, researchers, and community leaders.

GAO Drug Court Approaches

Deferred prosecution

- adjudication deferred and defendant diverted to treatment program shortly after being charged

Postadjudication

- case adjudicated, but sentence deferred or pronounced, and defendant enters treatment program
-

Drug Court Approaches

According to a report provided by the Drug Court Resource Center, drug courts have generally taken two approaches to processing cases: (1) deferred prosecution and (2) postadjudication. In the deferred prosecution approach, shortly after being charged, defendants waive their right to a speedy trial and enter a treatment program. Defendants who fail to complete the treatment program have their charges adjudicated. Defendants who complete the treatment program are not prosecuted further or have their charges dismissed. This approach is intended to capitalize on the trauma of arrest and offers defendants the opportunity to obtain treatment and avoid the possibility of a felony conviction.

In the postadjudication approach, defendants are tried and convicted, but their sentences are deferred or pronounced and incarceration is suspended until they complete or withdraw from the treatment program. This approach provides an incentive for the defendant to rehabilitate because progress toward rehabilitation is factored into the sentencing determination.

Appendix I presents examples of how cases are processed under the two drug court approaches.

GAO Participant Eligibility Criteria

Substance abuse problem

Current drug possession charge

No current violent offenses

Generally no prior violent convictions

Participant Eligibility
Criteria

According to the Drug Court Resource Center, drug courts generally accept defendants with substance abuse problems who are currently charged with drug possession and/or other nonviolent offenses such as property crimes. Some drug courts accept defendants who have prior convictions, and others do not.

The Project Director of the Drug Court Resource Center also pointed out that drug courts do not accept defendants currently charged with a violent offense. The Project Director further commented that most drug courts do not accept defendants with prior violent offenses. However, at least one drug court accepts defendants regardless of prior offenses possibly including defendants with prior convictions for violent crimes. Under the 1994 Crime Act, federal grants cannot be awarded to any drug court that allows either current or past violent offenders to participate in its program.

GAO Drug Court Players

Judges

Prosecutors

Defense attorneys

Other criminal justice agencies

Treatment providers

Other social services and community
organizations

Drug Court Players

According to a DOJ-funded report on the first national drug court conference,⁴ judicial leadership is the foundation on which the overall drug court approach is most often built. A jurisdiction's trial court provides the leadership, authority, and management capacity to enable the drug court to operate. The drug court is headed by a judge whose role is generally expanded beyond normal court duties to include active involvement in monitoring the status of defendants in the treatment program. The judge's duties may include conducting hearings, reviewing treatment progress reports, issuing bench warrants, and deciding who may enter the program and who should be terminated considering recommendations of prosecutors, public defenders, and treatment providers.

The judiciary alone, however, cannot successfully implement and operate a drug court, according to the conference report. Rather, a drug court requires a special collaborative effort among judges, prosecutors, defense attorneys, and related criminal justice agencies along with treatment providers and other social services and community organizations. This collaborative effort is based on local needs and the targeted population being served and may differ considerably among drug courts.

Specifically, drug courts create new and different roles for prosecutors and defense attorneys. In most drug courts these players are not adversaries in the traditional sense but rather are to work in concert with the court for the sole purpose of helping defendants become drug free. This nonadversarial role is significant because the court does not arbitrate in the usual fashion and has the opportunity to address addiction-related issues. Further, drug courts place the defendant in the unique role of being held publicly accountable for his or her actions.

⁴Justice and Treatment Innovation: The Drug Court Movement, A Working Paper of the First National Drug Court Conference, December 1993, John S. Goldkamp, October 1994.

GAO Common Elements of Drug Court
Programs

Treatment usually lasts at least 1 year

Defendants usually treated as
outpatients

Relapses are expected

Status hearings are the central
element

**Common Elements of Drug
Court Programs**

According to the Drug Court Resource Center, in most drug courts, treatment is designed to usually last at least 1 year and is administered on an outpatient basis with limited inpatient treatment as needed to address special detoxification or relapse situations.⁵ These courts operate with the philosophy that because drug addiction is a disease relapses can occur, and that the court must respond with progressive sanctions and/or enhance treatment rather than immediately terminate a participant.

The central element of all drug court programs is attendance at the regularly scheduled status hearings at which the drug court judge monitors the progress of participants. Monitoring is based on treatment provider reports on urine test results that detect drug use, attendance at counseling, etc. The judge reinforces progress and addresses noncompliance with program requirements. The primary objective of the status hearing is to keep the defendant in treatment.

⁵These programs recognize that some individuals will require a longer period to complete the program.

GAO Program Requirements

Attend status hearings

Attend counseling sessions

Submit to urine tests

Program Requirements

Overall, according to the Drug Court Resource Center, treatment program requirements are more demanding than the applicable sanction received through traditional adjudication. Most drug court programs require that defendants attend status hearings, participate in counseling sessions, and submit to urine tests with the goal of becoming drug free. Some programs focus on special classes of defendants such as women. Many programs also provide support services such as public health services; assistance with housing, food, and child care; vocational training; and job placement.

GAO Treatment Phases

Detoxification

- acupuncture sometimes used

Stabilization

- frequent counseling sessions

Aftercare

- education, job training, etc.
-

Treatment Phases

Treatment services are generally divided into three phases: (1) detoxification, (2) stabilization, and (3) aftercare. First, the defendant's physical dependence on drugs is eliminated through detoxification. Acupuncture is sometimes used as an adjunct to treatment in the detoxification phase. According to the Project Director of the Drug Court Resource Center, 9 of 20 drug courts responding to the Center's 1994 survey indicated that they used acupuncture. Second, the defendant's psychological craving for the drugs is treated during stabilization. Frequent group and/or individual counseling sessions are employed during this phase. And third, aftercare focuses on helping the defendant obtain education or job training, find a job, and remain drug free.

GAO Program Sanctions

Verbal admonition by the judge

Demotion to an earlier stage

Short-term incarceration

More frequent status
hearings, treatment
sessions, or urine tests

Program Sanctions

Sanctions for failing to abide by program rules can include (1) verbal admonition from the judge; (2) demotion to an earlier stage of the program; (3) incarceration for several days or weeks, increasing with the number and severity of the violations; and (4) more frequent status hearings, treatment sessions, or urine tests. Many programs also use graduated sanctions, increasing the severity of the sanction with subsequent violations of program rules.

DOJ also pointed out that most drug courts use sanctions not to simply punish inappropriate behavior but to augment the treatment process. For example, many drug courts will place a defendant in residential treatment if he or she is unable to achieve satisfactory progress in an outpatient setting. In addition, many drug courts incarcerate defendants for the purpose of detoxification rather than detain them for inappropriate behavior.

GAO Reasons for Terminating Defendants
From the Program

New felony offense

Failures to comply with program
requirements

Failures to attend status hearings and
treatment sessions

Positive urine tests

Reasons for Terminating
Defendants From the
Program

Drug courts use various criteria for ending a defendant's participation in the program before completion. These may include a new felony offense; multiple failures to comply with program requirements, such as not attending status hearings or treatment sessions; and a pattern of positive urine tests. According to DOJ, many drug courts do not terminate defendants for a new drug possession offense.

Before terminating a defendant for continuing to use drugs, drug courts will use an array of treatment services and available sanctions. There are no uniform standards for the number of failed urine tests and failures to attend treatment sessions that result in a participant being terminated that apply to all programs. Each drug court sets its own standards. Relapses are expected and the extent to which noncompliance results in terminations varies from program to program.

Generally, the drug court judge makes the decision to terminate, but the prosecutor or treatment provider can recommend the termination. Once a defendant is terminated, he or she will be referred for adjudication or sentencing.

GAO Program Graduation
Requirements

Drug courts typically require
completion of treatment program

Some drug courts impose
additional conditions

**Program Graduation
Requirements**

Drug courts typically require defendants to complete a treatment program in order to graduate. Some impose other conditions defendants must meet after treatment. These could include remaining drug free and not being arrested for a specified period of time, paying restitution, being employed full-time, or performing community service.

For example, the Seattle, WA, drug court requires that a defendant complete all phases of the program to graduate. However, the Beaumont, TX, drug court requires that, in addition to completing the treatment program, the defendant maintain sobriety for a specified time and participate in education and vocational training and/or be working full-time.

GAO Effects of Program Graduation on
Case Outcome

Charges dismissed/cessation of
prosecution

Guilty plea stricken

Sentenced to probation

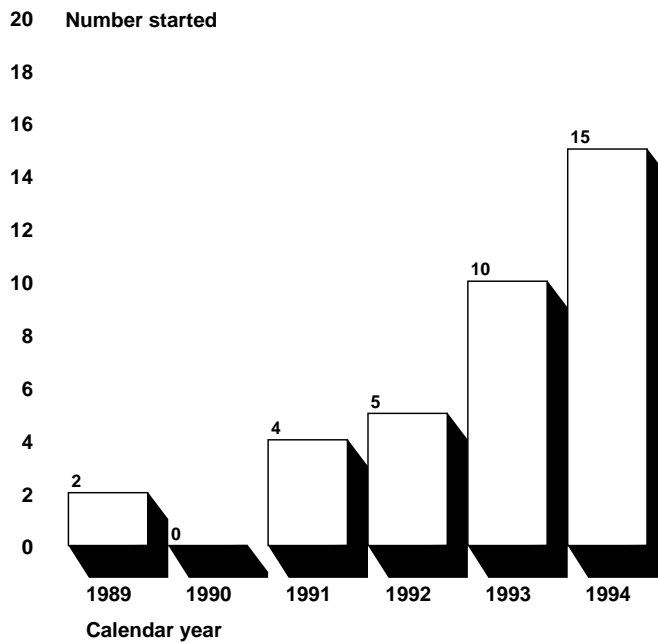
Probation shortened

**Effects of Program
Graduation on Case
Outcome**

In many jurisdictions, completion of the drug court program leads to a dismissal of charges or cessation of prosecution. In others, the guilty plea can be stricken, the defendant can be sentenced to probation in lieu of incarceration, or the defendant's probation can be shortened.

DOJ pointed out that some drug courts will seal all case records, including arrests, when defendants complete the program. The sealing of records is particularly significant when attempting to measure the impact of drug court programs at a later date.

GAO Number of Drug Courts Started, 1989-1994



Note: One drug court was started in March 1995.

Source: GAO and Drug Court Resource Center data.

**Number of Drug Courts
Started, 1989-1994**

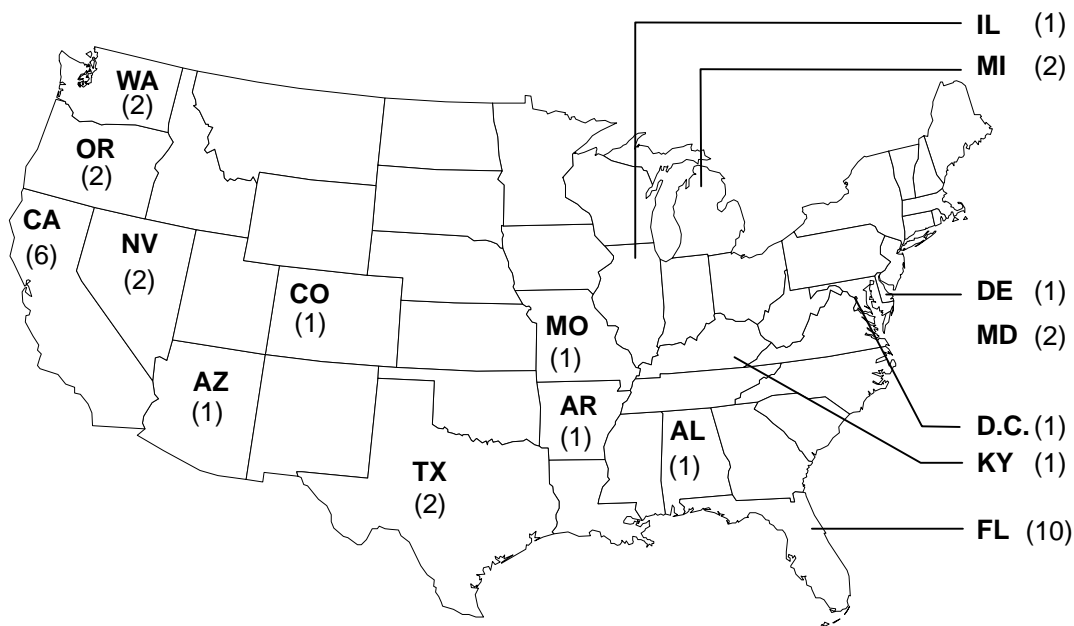
According to the Drug Court Resource Center, as of March 1995, there were at least 37 drug courts operating across the country.⁶ Of these drug courts, 29 had been fully operational for at least 9 months, and 8 others had been operating for a lesser period.

The number of drug courts steadily increased from 1991 to 1994, with substantial increases since 1993. As of March 1995, 24 jurisdictions were developing drug courts. Another eight jurisdictions had exhibited interest in starting drug courts by initiating feasibility studies.

Appendix II lists the number of drug courts in operation and being developed.

⁶Because of the absence of any official requirement to report their existence to a central organization, additional drug courts may exist.

GAO Drug Court Locations as of March 1995

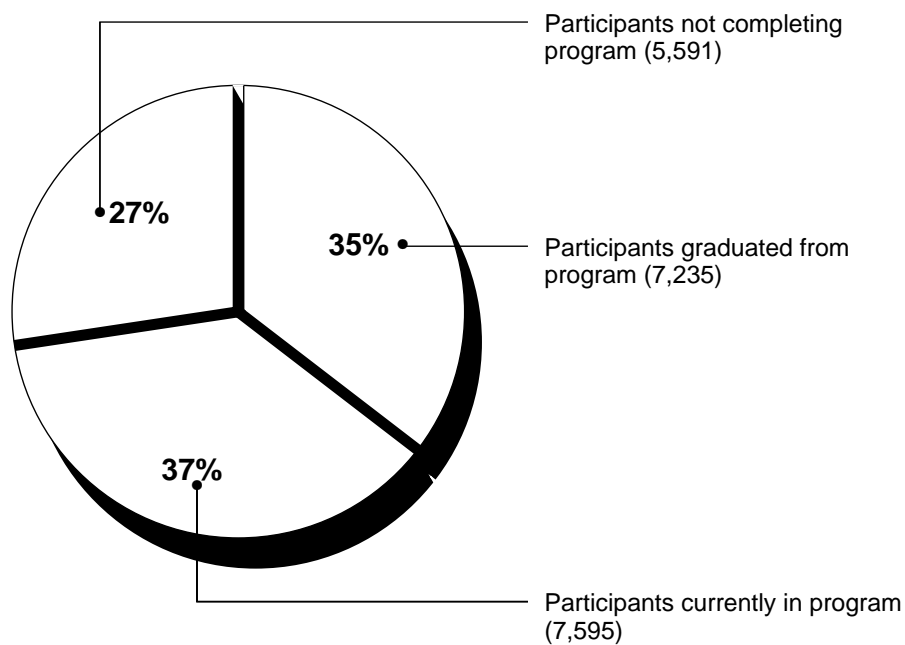


Source: Drug Court Resource Center data.

**Drug Court Locations as of
March 1995**

According to the Drug Court Resource Center, the 37 drug courts in operation as of March 1995 are located in 15 states and the District of Columbia. The largest number of drug courts are located in Florida, with 10, followed by California, with 6. There are two drug courts in each of six states, and there is one drug court in each of the remaining eight states and the District of Columbia. The specific location of each drug court is shown in appendix II.

GAO Drug Court Participants' Status as of March 1995



N = 20,421

Note 1: Based on responses from 33 drug courts.

Note 2: Percentages do not add to 100 percent due to rounding.

Source: GAO questionnaires.

Drug Court Participants'
Status as of March 1995

Data obtained from 33 of 37 drug courts responding to our questionnaire showed that since inception of the first drug court in 1989, 20,421 persons have participated in drug courts. Of these, 7,235 participants have graduated, and 7,595 are currently in the programs. The remaining participants did not complete the programs. Generally, when participants do not complete drug court programs it is because they were terminated, voluntarily withdrew, or died. Based on the data received, these totaled 5,591.⁷

The number of participants currently in each of these drug court programs varied widely, ranging from a low of 1 participant in Santa Ana, CA, a new drug court,⁸ to a high of 1,200 participants in Miami, FL, one of the oldest drug courts. The median number of participants in these drug court programs is 105.

It should be noted that many of the drug courts have been operating for less than a year and would not yet have graduates. As shown, more than one-third of the total participants are currently enrolled in drug court programs.

⁷We calculated the number (5,591) of participants not completing the programs by subtracting the number (7,235) of graduates and the number (7,595) of participants currently in the programs from the total number (20,421) of participants in the programs since their inception.

⁸At the time of our review, Orange County, CA, had filed for bankruptcy and curtailed resources for its drug court.

GAO Funding Sources

Local taxes and surcharges

State alcohol and drug agency funds

Private foundation monies

Participant fees

Federal grants

According to the Drug Court Resource Center Project Director, drug courts generally piece together funding from a variety of sources. Information reported to the Drug Court Resource Center by 15 drug courts showed that these sources included local taxes and surcharges, state alcohol and drug agency funds, private foundation monies, participant fees, and federal grants.

Some drug courts have developed innovative funding approaches. For example, a drug court judge from Orange County, CA, told us that when the county filed for bankruptcy, it cut back services necessary for the drug court operation. The judge said that he was forming a nonprofit corporation to try to provide funding for the drug court outside of the bankruptcy proceedings.

Until the 1994 Crime Act, there was no federal grant program specifically designed for drug courts. However, some drug courts have received federal grants and technical assistance from the Department of Health and Human Services' Center for Substance Abuse Treatment (CSAT) and DOJ's Bureau of Justice Assistance (BJA). According to CSAT, it has provided or plans to provide an estimated \$15 million in assistance to some drug courts. Of the \$15 million, about \$6 million is for a drug court demonstration project for the District of Columbia Superior Court.

BJA could not provide us with complete information on DOJ grants used in support of drug courts. According to a BJA official, "drug courts" was not a specific grant category that grantees could designate for funding. However, this official commented that BJA is aware that DOJ grant funds provided under other grant categories such as "corrections options" have been used in support of drug courts, and that three drug courts had received \$2.5 million from the Corrections Options program.⁹

⁹The Corrections Options program assists states with design, development, and implementation of innovative alternatives to traditional modes of incarceration.

GAO Participant Fees

Most drug courts charged fees

Fees ranged from
\$20 to \$2,500

Several drug courts used fees
for treatment services and other
program costs

Participant Fees

We obtained data (based on our questionnaire and information provided by the Drug Court Resource Center) from 34 drug courts on fees charged to participants in drug court programs. Twenty-three of the 34 drug courts reported that they charged fees, and 11 reported that they did not. Insufficient data on fee amounts actually collected precluded us from determining the extent to which drug courts relied on participant fees as a funding source.

Of the 23 drug courts charging participant fees, the amounts charged for the total cost of treatment ranged from \$20 to \$2,500. One drug court reported charging fees on a sliding scale from \$60 to \$300 for treatment based on a defendant's ability to pay, while another reported charging on a sliding scale from \$500 to \$2,500. At least nine courts responded that they charged fees ranging from \$200 to \$350.

Several drug courts reported applying participant fees to counseling and treatment costs, drug testing costs, and other program expenses. In addition, DOJ commented that many treatment providers believe participant fees are a useful therapeutic tool and should be charged regardless of the extent to which fees are needed to cover program costs.

GAO Cost Savings

Reduced costs of incarceration

Reduced drug caseloads

Reduced police costs

Cost Savings

Drug courts have reported information to the Drug Court Resource Center on savings that they believe their programs have achieved in the costs of court and other criminal justice system operations.

One of the larger categories of savings reported by drug courts was jail costs avoided, i.e., the estimated costs of incarcerating a typical drug court defendant that would be expected to incur if he/she were not participating in a drug court program. One court estimated savings of \$5,400 per drug court participant, and another estimated savings of \$2,566 to \$5,185.

Another drug court claimed a savings of \$2 million over a 3-year period resulting from drug court participants spending fewer days in custody and the consequent ability of the county to rent unused jail cells to other law enforcement agencies. Still another drug court estimated it had saved about \$875,500 in jail costs for its program but did not specify the time frame.

The National Association of Drug Court Professionals noted that drug court programs are much less costly than the incarceration of drug-using offenders. The Association reported that incarceration of drug-using offenders ranges from \$20,000 to \$50,000 annually, and the cost to build a prison cell is \$80,000 to \$90,000. It also said that drug courts cost less than \$1,500 annually for each offender.

Some drug courts identified savings such as reduced caseloads of other trial judges not in the drug court program. In addition, some drug courts claimed savings in court-appointed attorney fees, reduced probation office caseloads, and costs of prosecution, arrests, and police overtime.

We did not verify this information, and further analysis of all drug court costs is essential to fully understanding the benefits of these programs.

Evaluations of Drug Courts

GAO Do Drug Courts Make a Difference?

Drug courts may have some beneficial effects

Firm conclusions cannot be drawn

In evaluating the effectiveness of drug courts, the basic question is: Do drug courts make a difference? Specifically, do defendants who successfully complete drug court programs exhibit reduced recidivism, decreased drug use, and other socially beneficial effects as a result of participating in drug court programs when compared to their counterparts, i.e., control groups who were not exposed to the same drug court treatment?

Based on evaluations we reviewed, drug courts generally may have some beneficial effects. However, because of the nature of the study designs and the short periods of time elapsed between treatment and measurement of outcomes (drug courts are relatively new), firm conclusions cannot be drawn about the effects of drug courts.

It is both difficult and costly to conduct program evaluations that can measure program effects. Although the strongest design involves assembling and randomly assigning defendants to control groups (comparing drug courts versus traditional courts, for example), such studies raise serious logistical and ethical issues. Additionally, according to the Project Director of the Drug Court Resource Center, control groups cannot be used properly unless a drug court is originally designed to define such groups.

An alternative approach is to design studies allowing the researcher to create comparable groups from existing programs, through the use of various analytical techniques. However, even such studies are often made more difficult by the fact that existing programs change over time, resulting in individuals at the end of the study period being exposed to different treatments than those at the beginning. Also, different locations of the same program may have very different implementation needs, making it more difficult to compare such programs.

GAO GAO Assessed Drug Court Evaluations

The evaluations

- compared current drug court defendants to other defendants
- varied in degree of validity
- used recidivism as a major outcome measure

We assessed six evaluations that compared performance outcomes for drug court defendants to the experiences of other defendants, i.e., previous divertees or unsuccessful drug court defendants or defendants who had never been in a drug court. In order to determine whether a drug court has an impact on its participants, an evaluation should compare outcomes of drug court defendants to those of other groups of similar defendants who are not in drug courts.

The six evaluations covered five drug courts and varied considerably in terms of the study designs, types of outcomes measured, and scope of analyses performed on the available information. Our assessment indicates that the evaluations differed particularly in terms of the validity of the designs, which determine the extent to which the reader is able to draw conclusions from any findings. Of the six studies:

- two studies had fairly strong designs; of these, one provided some evidence of an effect of the drug court program, and the other study's results were too preliminary to draw any conclusions;
- two studies had designs with more serious problems; of these, one suggested possible effects of the program, and the other was inconclusive; and
- two studies had design weaknesses that prevented any conclusions about the effects of the program.

The major outcome measure used, in five of the six evaluations, was recidivism (rearrest rates). To a lesser degree, recidivism-related measures were also used, such as length of time before rearrest and days spent in custody for felony offenses. We focused on these measures in this report because they provided the strongest evidence for the long-term effect of the drug court programs, even though other measures were used in these studies.

GAO Evaluation Outcomes

Some evaluations show positive outcomes for recidivism, but others do not

Outcomes should be considered in light of evaluation validity

Two of the six evaluations were well-designed. However, the results in terms of recidivism outcomes were mixed. One of the evaluations showed that drug court defendants had significantly lower rearrest rates than defendants not in drug court, and that they spent fewer days in custody for felony offenses (app. III, evaluation 1). This evaluation also showed that drug court defendants had a lower rate of failures-to-appear for required court hearings than did other defendants. However, the other evaluation, with preliminary information only, showed no significant difference so far

in rearrest rates between drug court defendants and defendants who were not in the drug court (app. III, evaluation 2).

Although these evaluations have strong study designs and one indicates some beneficial effects on defendants resulting from the drug court programs, the evidence does not permit firm conclusions about the effects of the drug courts studied. Additionally, for one of the evaluations, insufficient time had elapsed to provide firmer evidence of program effect.

Of the next two evaluations, both of the same drug court, one provided some suggestive evidence of program effect. It showed lower recidivism by drug court defendants and longer time before rearrest (app. III, evaluation 3). The other generally showed no difference in recidivism rates (app. III, evaluation 4). Design problems made it difficult to attribute these findings to the programs. There are too many potential differences between the drug court participants and the groups to which they were compared to develop strong conclusions.

The final two evaluations did not provide reliable evidence concerning the effects of the programs. One showed no substantial difference in recidivism between drug court defendants and defendants who left the drug court (app. III, evaluation 5). The other evaluation measured defendants' drug abstinence and failure-to-appear rates and showed positive results for drug court defendants as compared to defendants terminated from the drug court (app. III, evaluation 6). Because the study design did not control for a number of factors, such as motivation and susceptibility to treatment, these evaluations do not permit conclusions to be drawn about the effects of the programs.

Appendix III contains further information on each of these evaluations.

Federal Drug Court Grant Program

GAO The 1994 Crime Act

DOJ may award grants to drug courts that

- provide continuous supervision by a judge
 - permit participation by nonviolent offenders only
 - integrate judicial sanctions and treatment services
-

The 1994 Crime Act

Beginning in fiscal year 1995, DOJ may provide jurisdictions with drug court grants. Title V of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322) authorizes the Attorney General to award discretionary drug court grants to states, units of local government, Indian tribal governments, and state and local courts. Grants may be awarded to drug court programs when a judge continuously supervises the progress of nonviolent offenders with substance abuse problems.

The act requires the Attorney General to issue regulations to ensure that jurisdictions receiving drug court grants to support their programs do not allow violent offenders to participate. It defines a violent offender as a person who is charged with or convicted of an offense involving a firearm, dangerous weapon, death, serious bodily injury, or force; or who has one or more prior convictions for a violent felony crime.

Drug court programs must also integrate a number of judicial sanctions and treatment services. Specifically, the act requires programs to include (1) mandatory periodic testing for the use of addictive substances; (2) substance abuse treatment; (3) diversion, probation, or other supervised releases with the possibility of prosecution, confinement, or incarceration when participants do not comply with program requirements or fail to show satisfactory progress; and (4) program and aftercare services, such as relapse prevention, health care, education, vocational training, job placement, housing placement, and child care.

GAO Federal Funding for Drug
Courts

Congress

- authorized a \$1 billion,
6-year grant program
 - appropriated \$29 million in
fiscal year 1995
-

Federal Funding for Drug
Courts

The 1994 Crime Act authorized a total of \$1 billion for fiscal years 1995 through 2000 to support drug court programs. Although the act authorized \$100 million for fiscal year 1995, DOJ's fiscal year 1995 Appropriations Act (Public Law 103-317) included only \$29 million for the drug court program. However, Congress has proposed fiscal year 1995 budget cuts for the drug court program. On March 16, 1995, the House passed H.R. 1158, the Emergency Supplemental Appropriations Act of 1995, which rescinds \$27.75 million for the drug court program. During its consideration of H.R. 1158, the Senate reduced the rescission to \$17.1 million. On April 6, 1995, the Senate passed its version of the bill and requested a conference with the House. The House and Senate conferees began May 3, 1995, to try to reconcile the separate provisions of the bill.

The President's fiscal year 1996 budget requests \$150 million for drug court grants. However, H.R. 667 (The Violent Crime Incarceration Act of 1995) passed by the House of Representatives on February 10, 1995, would amend Title V of the 1994 Crime Act and in doing so would repeal the 1994 Crime Act's drug court discretionary grant provisions. On February 22, 1995, H.R. 667 was referred to the Senate Committee on the Judiciary.

GAO DOJ's Responsibilities
for Drug Courts

Establish policy and award grants

Monitor and track grants

Provide for independent and national evaluations

DOJ recognizes that no single model exists for an effective drug court. Consequently, DOJ plans to maintain flexibility in awarding grants to programs that use a variety of approaches to coordinate drug treatment and persuade offenders to abstain from drugs with the goal of becoming drug free. In addition, given the great diversity in the structure and operation of state and local courts and criminal justice systems, DOJ plans to allow jurisdictions to tailor local initiatives to best suit their needs and local conditions.

DOJ's Office of Justice Programs (OJP) has overall responsibility for the new federal drug court program, including policy setting. To carry out this responsibility, OJP has hired an acting director and policy analyst to staff its Drug Court Program Office. In addition, BJA, an office of OJP, recently established a Drug Court Program Office to manage and monitor drug court program grants, according to an OJP official. BJA has hired four people to staff this office.

Since November 1994, OJP and BJA staffs have worked together to develop program guidelines and application materials.¹⁰ Currently, these staffs are considering the most appropriate and effective ways of providing technical assistance to federally supported drug courts, operating drug courts, and related federal projects to be funded with other fiscal year 1995 resources. The level and source of funding to support this technical assistance is also under review.

OJP's National Institute of Justice (NIJ) is responsible for funding a national evaluation of drug court program impacts. This evaluation will assess whether federally supported drug court programs have helped their participants to break the cycle of substance abuse and crime. It will also assess the cost-effectiveness of these programs.

NIJ is also responsible for ensuring that drug court programs use part of their grants to conduct process evaluations. These are aimed at determining, among other things, if the drug court is achieving its objectives, if it was implemented as originally intended, and whether major changes are appropriate. They will also examine how drug courts affect the rest of the court system and other elements of the criminal justice system.

¹⁰In March 1995, DOJ published Drug Court Grant Program Guidelines and Application Information.

GAO Fiscal Year 1995 Drug Court
Grant Program

Planning grants

Implementation grants

Improvement and enhancement
grants

Fiscal Year 1995 Drug Court Grant Program

If Congress does not rescind the fiscal year 1995 appropriation, DOJ plans to award grants for planning, implementing, and improving or enhancing drug court programs. Eligible applicants may apply only for one type of grant. Assuming no rescission is enacted, of the \$29 million appropriated for fiscal year 1995, DOJ plans to award up to

- 100 planning grants for not more than \$35,000 each to jurisdictions interested in establishing drug courts,
- 10 implementation grants for not more than \$1 million each to jurisdictions that have identified their target populations and case processing procedures,
- 3 additional implementation grants for not more than \$2 million to larger jurisdictions with populations exceeding 1 million, and
- 20 improvement and enhancement grants for not more than \$1 million to jurisdictions that have already established drug courts.

Federal grants for each drug court program will be 75 percent of program costs. The grantees will be required to provide cash to fund the remaining 25 percent.

Applications are due by May 23, 1995. Then, OJP and BJA staffs will focus on screening and processing qualified applications for potential grant awards, pending final congressional action on the fiscal year 1995 budget rescission. If the current deadline for filing drug court applications does not change, the first grants are expected to be awarded in the summer of 1995.

GAO Evaluation Requirements for
Federally Funded Drug Courts

NIJ and GAO responsible for
conducting impact evaluations

Drug courts responsible for
conducting process evaluations

Evaluating effectiveness is a critical element of the federal drug court program. The 1994 Crime Act authorizes the Attorney General to carry out or make arrangements for evaluations of programs that receive discretionary program grants. The act also mandates us to study and assess the effectiveness and impact of these discretionary grants and report to the Congress by January 1, 1997.

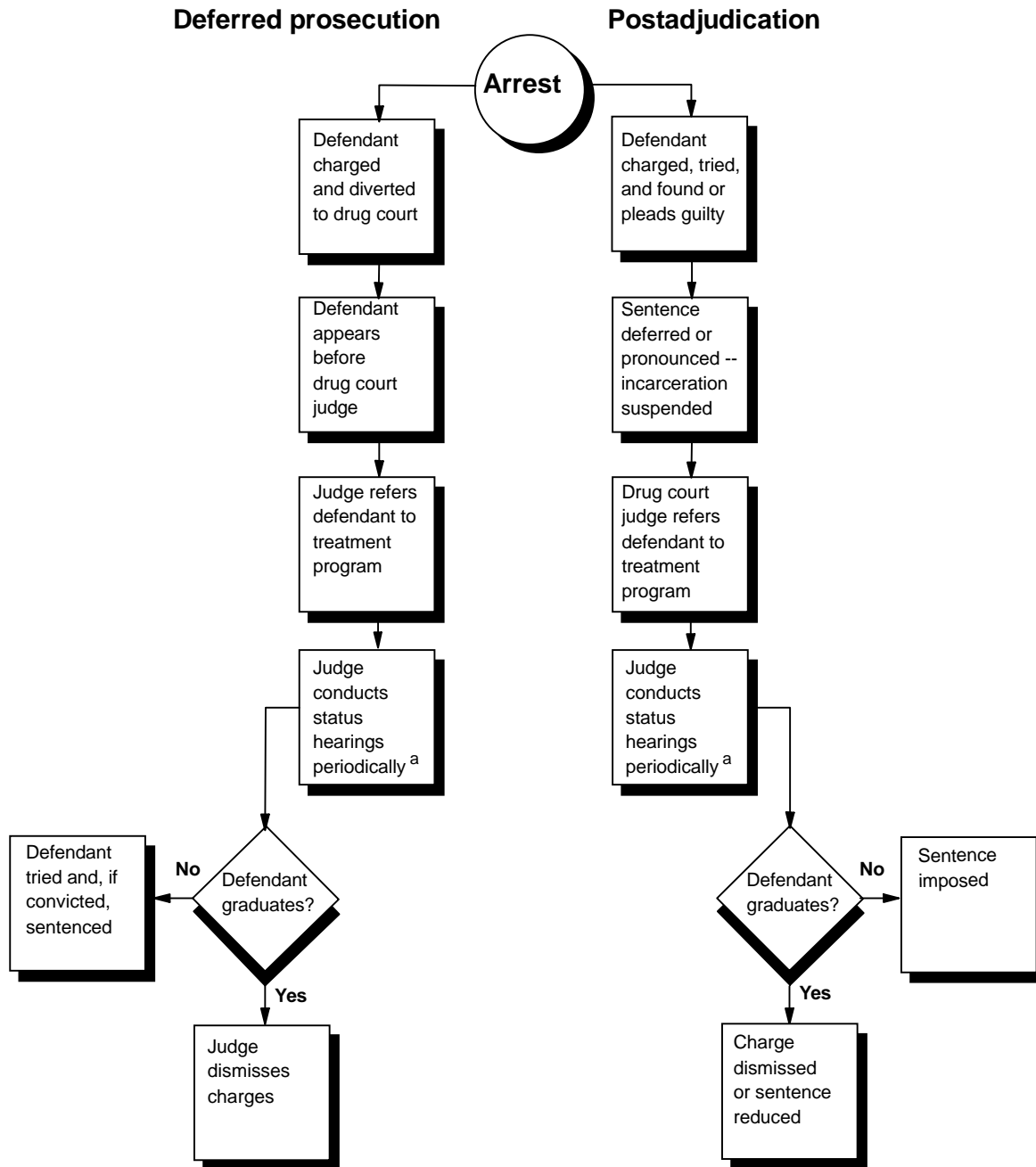
OJP program guidelines require recipients of drug court grants to cooperate with a national evaluation team. The evaluation will be aimed at measuring program impact primarily through the use of the following criteria:

- reduction in recidivism rates of program participants,
- maintenance of acceptable treatment completion rates,
- decreased participant drug use, and
- maintenance of a cost-effective program.

NIJ is responsible for overseeing the national evaluation. The evaluation will focus on treatment and its impact and is expected to take at least 2 years to complete. At the time of our review, NIJ was developing the solicitation for proposals to conduct the evaluation.

Program guidelines also require each drug court grant recipient to conduct process evaluations of their programs. For these evaluations, grantees are expected to collect descriptive information on the role of drug court players, potential eligible population, and participant program characteristics. Grantees will also be asked to collect information on program procedures used to identify and screen eligible offenders, accept and assess offenders, respond to relapses, manage and monitor cases, and discharge and refer participants.

Flowchart of Two Drug Court Approaches



Appendix I
Flowchart of Two Drug Court Approaches

^aJudges may reward progress and impose sanctions for noncompliance with program requirements.

Source: Drug Court Resource Center and GAO analysis of selected drug court program descriptions.

Number and Location of Drug Courts in Operation and Being Developed as of March 1995

Location	In operation	Being developed	
		About to start	Planned
Alabama			
Mobile	1		
Arizona			
Phoenix	1		
Arkansas			
Little Rock	1		
California			
Bakersfield			
East Bay Corridor	1		
El Monte			1
Los Angeles	1 ^a		
Oakland	1		
Riverside	1		
Sacramento			1
Santa Ana			1
San Bernardino	1 ^a		
San Francisco	1 ^a	1	1
Connecticut			
Hartford			1
Colorado			
Denver	1		
Delaware			
Wilmington	1		
District of Columbia			
Washington	1		
Florida			
Bartow	1 ^a		
Crestview	1		
Ft. Lauderdale	1		
Gainesville	1		
Jacksonville	1 ^a		
Key West	1		
Miami	1		
Orlando			
Panama City			
Pensacola	1		1
Tallahassee	1		1
Tampa	1		1
Georgia			
Atlanta			1
Hawaii			
Honolulu			1
Illinois			
Chicago	1		
Indiana			
Gary			1

(continued)

**Appendix II
Number and Location of Drug Courts in
Operation and Being Developed as of March
1995**

Location	In operation	Being developed	
		About to start	Planned
Kansas			
Wichita			1
Kentucky			
Louisville	1		
Maryland			
Baltimore	2 ^a		
Massachusetts			
Dorchester		1	
Michigan			
Kalamazoo	1		
St. Joseph	1		
Missouri			
Kansas City	1		
Nevada			
Las Vegas	1		
Reno	1 ^a		
New Mexico			
Las Cruces		1	
New York			
Rochester		1 ^b	
Ohio			
Akron			1
Cincinnati			1
Cleveland			1
Sandusky		1	1
Oregon			
Eugene	1		
Portland	1		
South Carolina			
Columbia			1
Texas			
Austin			
Beaumont	1		
Fort Worth	1		1
Utah			
Salt Lake City			1
Washington			
Seattle			
Tacoma	1		
Spokane	1 ^a		1
Total	37	5	19

(Table notes on next page)

**Appendix II
Number and Location of Drug Courts in
Operation and Being Developed as of March
1995**

^aDrug courts in operation less than 9 months. Includes one of the two Baltimore drug courts.

^bIn commenting on a draft of this report, the Project Director of the Drug Court Resource Center told us that a drug court in Rochester began operating on a pilot basis in early 1995.

Source: Drug Court Resource Center data.

Outcomes Reported in and GAO'S Assessment of Evaluations of Five Drug Courts

Evaluation 1: F.I.R.S.T. Oakland

Treatment Group	Drug use defendants granted admission to a diversion program. Admission requirements changed during the course of the study.
Study Design	Comparison of 110 defendants in a program with a similar group of 110 defendants in a different program a year earlier.
Time of Study	Drug court participants referred in January and February of 1991; earlier group referred in January 1990 through March of 1990. The report contained a 3-year follow-up study.
Key Measures	(1)Felony rearrests: Drug court defendants had a lower average rate of felony rearrests per defendants (0.75) than had previous divertees (1.33). (2)Days in custody for felony offenses: Drug court defendants, on average, spent fewer days in custody per defendant (44) than had previous divertees (78). (3)Bench warrants: Drug court defendants, on average, had fewer bench warrants issued for failures to appear at court hearings (0.67) than had previous divertees (1.1).
Assessment	There were some questions concerning the comparability of the two groups, as well as the eligibility requirements for the two programs. (The report stated that eligibility requirements were relaxed for the drug court program participants in order to obtain a broader group for comparative purposes.) In spite of these concerns, the evaluation suggested some fairly strong evidence of program success after 3 years.

Evaluation 2: Maricopa County

Treatment Group	Offenders sentenced to probation for first-time drug possession convictions.
Study Design	Random assignment to four groups:

-
- (1) No drug testing, frequent visits (n=approximately 154).
 - (2) Monthly random drug testing, occasional visits (n=approximately 154).
 - (3) Biweekly scheduled drug testing, limited visits (n=approximately 154).
 - (4) Drug court, with testing and treatment supervised by a probation officer (n=177).

Time of Study Participants in program between March 1992 and April 1993. Current data reported only preliminary findings after 6 months.

Key Measures

- (1) Rearrest rates: No statistically significant differences (16.95 percent for the drug court group vs. 15.37 percent for others).
- (2) Rates of technical probation violations: Drug court group had lower rates than those of others (7.9 percent vs. 11.9 percent).

Assessment Although the evaluation design was quite strong, the results were preliminary; insufficient time had elapsed to provide a firm indication of program effect. Future comparisons may be complicated by the fact that the drug court sample had lower rates of reported history of prior marijuana use. Otherwise, the control groups (groups 1-3) were quite similar to the drug court group (group 4).

Evaluation 3: Dade County (Goldkamp and Weiland)

Treatment Group Persons arrested for 2nd and 3rd degree drug-related felonies.

Study Design Five key groups:¹¹

- (1) Persons admitted to drug court program (n=326).
- (2) Sample of felony drug defendants in same period not eligible because of more serious drug-related offenses (n=199).

¹¹An additional sample of offenders could not reliably be used as a control group because they were exposed to the drug court program.

(3) Sample of nondrug felony defendants in same period (n=185).

(4) Sample of felony drug defendants in period several years earlier (n=302).

(5) Sample of felony nondrug defendants in period several years earlier (n=536).

In addition, the evaluation compared persons completing the drug court program with those failing to complete.

Time of Study

Participants in groups 1-3 had charges filed in August 1990 and September 1990. Charges for groups 4-5 were filed in the summer of 1987. Data report results after 18 month follow-up.

Key Measures

(1) Rearrest rates: Drug court defendants were rearrested at a statistically significant lower rate (33 percent, vs. 40 percent to 53 percent for other groups).

(2) Time before rearrest: Drug court defendants had statistically significant longer time before rearrest (median of 235 days, vs. 52 to 115 days for other groups).

(3) Rearrests and treatment completion: Rearrest rates were associated with failure to complete the treatment program.

Assessment

The results suggested an effect of the program. However, the study design was unable to make the comparison with offenders in the same situation with similarly serious drug offenses; therefore, the results must be interpreted cautiously. In particular, the drug court sample had fewer prior arrests than had the other comparison groups, and the key group of felony drug defendants used for comparative purposes were not eligible for the drug court program because of the seriousness of their charges or prior records.

The comparisons between those completing and failing to complete the program must also be viewed with caution, due to possible motivational and other differences between the groups.

In commenting on a draft of this report, DOJ officials noted that this study had a strong design with carefully drawn comparison groups. We agree that the study's design was generally strong. However, as we state in this

report, there were some potentially important differences in prior arrest rates between the groups, and the study was not able to compare similarly situated drug defendants in a roughly similar time period. Therefore, as we noted, the study's results should be interpreted cautiously.

Evaluation 4: Dade County (Smith, Davis and Goretsky)

Treatment Group	Defendants with no prior convictions charged with a drug possession offense, admitting to a drug problem for which they wanted treatment.
Study Design	Comparison of 318 defendants assigned to the drug court with a sample of 99 narcotics cases in early 1988. In addition, a group of drug court defendants who were accepted into the drug court program were compared on rearrest rates.
Time of Study	Participants were assigned to the drug court in January 1990 through March 1990. The comparison group was charged between January 1988 and March 1988.
Key Measures	<p>(1)Rearrest rates: There was no statistically significant difference in the rate of felony rearrests after 1 year between those assigned to drug court (32 percent) and the comparison group of defendants charged 2 years earlier (33 percent). Those defendants accepted by the drug court did have lower rates of rearrest (15 percent), but the authors noted that these individuals constituted "a highly select group . . . least disposed to commit new crimes." The rearrest results in this evaluation differed from those in the other evaluation of Dade County (evaluation 3).</p> <p>(2)Sentencing dispositions: There were statistically significant differences in dispositions between those assigned to drug court and the comparison group of earlier defendants. Those assigned to drug court were more likely not to face further prosecution and less likely to serve probation or short jail terms.</p>
Assessment	There were concerns about the comparability of the participants in the various groups. In particular, the finding of lower rearrest rates for program participants should be viewed cautiously in light of the selectivity

of admission to the program. As a result, there were strong reservations about the results reported.

DOJ officials, in commenting on a draft of this report, indicated that this study had several flaws. They pointed out that the study was done when this drug court was less than 10 months old. They further noted that information on successful drug court participants was not available for evaluation because the participants' records were sealed. We concur with these comments.

Evaluation 5: Broward County (Terry)

Treatment Group	First-time offenders arrested for possession or purchase of cocaine.
Study Design	Comparison of 392 defendants completing or remaining in the drug court program with 241 defendants not completing the drug court program.
Time of Study	Participants entered the program from July 1991 through June 1992. Study results were reported for October 1993.
Key Measures	Rearrests: Persons remaining in the program committed felonies at a slightly lower rate than did those leaving the program (7.7 percent vs. 12.0 percent). (Cases dismissed were not included in these comparisons.) No differences occurred in comparing the proportions having committed misdemeanors (4.1 percent for persons remaining in the program vs. 5.0 percent for those leaving the program).
Assessment	There was no adequate comparison group in this study from which to draw any conclusions about the effect of the program.

Evaluation 6: Multnomah County

Treatment Group	Defendants arrested for possession of any illegal substance for personal use.
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**Appendix III
Outcomes Reported in and GAO'S
Assessment of Evaluations of Five Drug
Courts**

Study Design	Comparison of 105 defendants graduating from the drug court program with 78 defendants who terminated unsuccessfully.
Time of Study	Participants entered the program on or before August 1, 1992, and graduated or terminated unsuccessfully on or before April 1, 1994.
Key Measures	Graduates had lower rates of bench warrants for failure to appear, went slightly longer before the first bench warrant was issued, and had a lower percentage of positive urine tests than those who terminated unsuccessfully. However, the report did not indicate whether these figures referred to prior histories or follow-up information after program completion.
Assessment	There was no adequate comparison group in this study from which to draw any conclusions about the effect of the program.

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