

**Incentives and Obstacles to Drug
Court Implementation:
Observations of Drug Court Judges
and Administrators**

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Volume 6 – No. 1 – Spring 2009

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Abstract

This study examines drug court program implementation. Surveys were disseminated to all drug court judges and administrators in five conservative states (AL, FL, LA, MS, UT). Of the 340 mailed surveys, 114 were completed (response rate of 33%). Findings revealed that respondents were active during implementation stages, primarily securing assistance from federal and state government. Local government was not regarded as a primary incentive source at all, instead perceived as the greatest source of obstacles. Lastly, administrators devoted more time to implementation activities, and generally regarded drug court outcomes as most successful.

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Incentives and Obstacles to Drug Court Implementation: Observations of Drug Court Judges and Administrators

Introduction

Drug courts appear to be an effective tool against drug use and abuse. Initial reports reveal that drug courts produce lower recidivism rates (Banks and Gottfredson 2003; Gottfredson and Exum 2002; Roman et al. 2003), higher retention rates (Belenko 2001; Peters and Murrin 2000; Rempel et al. 2003), and lower costs (U.S. GAO 2005) compared to traditional judicial remedies. Even media outlets have begun to sing the praises of drug court programming (Marlowe 2008; Smothers 2007). As such, the number of drug courts has steadily increased over the last two decades. Currently, approximately 1600 drug courts are operational in the United States, with nearly 400 more in the planning stages (Bureau of Justice Assistance 2006). Drug courts also are operational within tribal jurisdictions and abroad, including Puerto Rico, Guam and Australia (Sanford and Arrigo 2005).

Drug courts target a very specific and growing offender population which accounts for a significant percentage of prison populations. With the merger of judicial supervision and mandated treatment, drug courts address issues which have plagued policymakers for decades (Colyer 2007). Specifically, drug court programs impress “get-tough” advocates with the inclusion of strict accountability from program participants while rehabilitation proponents are encouraged by the focus on drug treatment (Shanahan, Lancsar and Haas 2004). Thus, drug courts seem to be an alternative which satisfies both conservative and liberal factions.

Drug Court Implementation

Existing literature on the implementation of public policy was synthesized in the mid-1990s. Designed as a comprehensive implementation model, Matland’s (1995) model utilized

ambiguity and conflict as benchmarks to determine the nature of policy implementation. The typology identifies four implementation classification areas. These are administrative implementation (low conflict, low ambiguity); political implementation (high conflict, low ambiguity); experimental implementation (low conflict, high ambiguity) and lastly, symbolic implementation (high conflict, high ambiguity). Within each type of implementation, a factor which is primarily responsible for successful implementation is identified. In administrative implementation, implementation is largely dependent upon resources. However, if the policy requires political implementation, it is dependent upon power. Experimental implementation is dependent upon contextual conditions and symbolic implementation upon coalition strength.

American drug control policy appears to fall within the body of experimental implementation. Though the goals of drug control policies are relatively clear and widely supported, the means for its implementation are often unclear (Matland 1995), especially regarding the use of drug court programs. The policies and statutory guidelines which attend the use of drug treatment courts are relatively clear, yet these policies clearly comprehend a healthy respect for local conditions, resources and actors. While the underlying components and goals of drug courts are well-defined and consistent, a great degree of flexibility exists pertaining to their implementation. As such, programs vary among and within states. According to Matland (1995, p. 167), when implementation in this context is examined, a bottom-up model, with its greater “tolerance for ambiguity,” is most appropriate. As a result, the present study included several variables to examine the impact of local actors, agencies and conditions on drug court implementation. However, in order to more fully examine such implementation, other measures which focused on the influence of federal and state actors and conditions also were included.

Drug court evaluations have produced encouraging and consistent results (National

Institute of Justice 1995; U.S. GAO 2005). Drug courts have proven successful at retaining offenders in treatment, providing greater supervision than traditional models, substantially reducing criminal behavior during participation and after completion of drug court program, and generating cost savings (Belenko 2001). Additionally, “drug courts have been successful in bridging the gap between the court and the treatment/public health systems and spurring greater cooperation among the various agencies and personnel within the criminal justice system, as well as between the criminal justice system and the community” (Belenko 1998, p. 21).

The literature does not reveal a one-size-fits-all method most appropriate for drug court evaluation. Drug courts are not mandated by state legislatures, but rather are authorized if state and local actors pursue establishment of programs. As such, drug court judges usually possess the initial motivation to develop these programs in their jurisdiction. Thereafter, it is the drug court judge and drug court administrator who are primarily responsible for the organization and implementation of the program. Based on this premise, drug court judges and administrators are believed to possess the knowledge required to most accurately evaluate the impact of a variety of factors upon the successful implementation of drug court programs.

Method

Sample selection

Five states (primarily southern) were selected based on the collective conservatism of their political and social landscapes, in conjunction with similarities among the following: 1) program operation, structure and goals; 2) adherence to the Key Components of Drug Courts; 3) existence of an administrative mechanism for oversight of drug court programs; 4) existence of a sufficient number of operational programs; and 5) established directory of all operational drug court programs with accurate contact information for drug court judges and administrators. All

active drug courts in each of the five states were selected for survey distribution, resulting in the dissemination of surveys to 204 operational drug courts in Florida (100), Louisiana (43), Utah (28), Mississippi (17) and Alabama (16). While Utah is the only non-southern state, it too, met the qualifying criteria for this study and was also considered to be conservative in terms of social policy and political values. Drug court personnel were identified through AOC (Administrative Office of Courts) directories and state judicial websites, culminating in the dissemination of surveys to 340 judges and administrators.

Drug court judges and administrators were selected as survey respondents because they serve as the primary actors responsible for the implementation and oversight of drug court programs. Since the states in this project do not legislatively mandate drug courts, it is presumed that the drug court judges and administrators possessed the initial motivation to organize and manage these programs. As such, judges and administrators were believed to possess the knowledge required to most accurately evaluate the implementation factors of importance to this study.

Instrumentation and Distribution Procedures

Following a review of the available literature and conversations with drug court judges and administrators, a survey instrument was constructed to permit examination of 1) administrative characteristics of drug court programs, 2) programming alternatives, 3) funding sources, and 4) governmental influence (federal, state, and local) upon the implementation of drug courts. The average survey completion time was 20-30 minutes. The final survey was eight pages in length and contained 36 items. Six survey items were constructed to examine incentives and obstacles to drug court implementation. One survey item asked respondents to indicate whether various incentives for drug court implementation existed during the development of

their drug court program. Incentives included financial assistance/matching funds, grant funds, State Court Advisory Board, staff training, technical assistance, Management Information Systems, data collection and evaluation support and lastly, a drug court association. Respondents were asked to check all that applied. Respondents were also asked to identify the incentive which they deemed most important to the development of their drug court program.

Obstacles to the implementation of drug courts were measured using four Likert scale survey items. Respondents were asked to identify (from a list of fifteen possibilities) whether certain circumstances were present during the implementation of their drug court program. These circumstances included hindrances and/or obstacles existing at the federal, state, or local level. Respondents also were asked to indicate which of those circumstances proved the most difficult to overcome during the implementation phase.

The initial mailing consisted of a survey instrument, letter of introduction, self-addressed postage-paid envelope and respondent postcard (to be returned separately to reduce unnecessary reminder mailings). Approximately ten days after the initial mailing, a reminder letter was sent to participants. Approximately 2-3 weeks later, a final letter accompanied by a second copy of the survey was mailed to non-respondents to stress the importance of a response and offering to conduct the survey by telephone.

Results

Demographic portrait of survey respondents

One hundred thirteen self-identified drug court judges and administrators completed and returned the survey (response rate of 33%). The majority of respondents in this study were white (89%), male (64%), and possessed a post-baccalaureate degree (68%). Respondents mostly were non-judge administrators (57%) and approximately 50 years of age, with just more than five

years experience in their current drug court position. Lastly, respondents, on average, allocated 50% or less of their work week to drug court duties.

Table 1 presents a demographic comparison of drug court judges and drug court administrators in this study. The two groups were quite similar with regard to years of age (53/50), race (majority white), and years served within drug court position (5/5). On a moderate note, administrators had greater female representation (14%). Statistically significant differences, however, emerged only with regard to education and percentage of time devoted to drug court activities. As expected, the overwhelming majority of judges had an earned law degree (91%), whereas administrators' highest degrees tended to be bachelor's (38%) and master's degrees (33%) ($\chi^2 = 64.76, p < .01$). Moreover, most judges reported dedicating no more than 25% of their time to drug court supervision (69%), whereas the majority of administrators devoted more than one half of their time to such duties (72%) ($\chi^2 = 44.08, p < .01$).

Drug court program characteristics

At the time of survey completion (2006), most drug courts had been operational no more than ten years (85%) and regularly processed more than 100 clients (75%). Moreover, the drug courts primarily served multi-county districts (56%) within a populous exceeding 75,000 (71%). The largest jurisdiction pertained to adult cases only, while 18% served juveniles exclusively. Lastly, respondents indicated that their drug courts primarily operated within the post-plea adjudication model (56%).

Table 2 presents a comparison of court characteristics operated by the drug court judges and administrators responding for this study. No statistically significant differences emerged between the two groups, but there were nonetheless some noteworthy findings. Specifically,

Table 1. Drug court respondent demographics

Characteristics	Judges (n = 49)		Administrators (n = 64)		χ^2
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	
Gender					5.13
<i>Male</i>	34	72	37	58	
<i>Female</i>	13	28	27	42	
Race					0.47
<i>White</i>	42	91	54	87	
<i>Black</i>	4	9	8	13	
Education					64.76*
<i>Less than bachelors</i>	0	0	10	16	
<i>Bachelors</i>	1	2	24	38	
<i>Masters</i>	3	6	21	33	
<i>Law school</i>	43	91	9	14	
Drug court activity					44.08*
<i>0-25%</i>	34	69	8	13	
<i>26-50%</i>	8	16	10	16	
<i>51-75%</i>	3	6	13	20	
<i>76-100%</i>	4	8	33	52	
Years served in current position (in years)					
<i>Range</i>	1 – 21		1 – 24		
<i>Mean (SD)</i>	5.23 (3.97)		5.30 (3.91)		t = 0.09
Age (in years)					
<i>Range</i>	36 – 71		29 – 74		
<i>Mean (SD)</i>	53.35 (7.40)		50.23 (10.05)		t = 1.73

Note: Percentages have been rounded to the nearest whole number.

* $p < .01$.

Table 2. Drug court respondent demographics

Characteristics	Judges (n = 49)		Administrators (n = 64)		χ^2
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	
Operational Duration (in years)					3.78
<i>0-1</i>	5	10	2	3	
<i>2-5</i>	20	42	24	38	
<i>6-10</i>	18	38	26	41	
<i>11+</i>	5	10	12	19	
Counties in District					1.03
<i>Single</i>	19	39	30	48	
<i>Multi</i>	30	61	32	52	
Population					1.89
<i>Under 75,000</i>	11	22	21	34	
<i>75,000 +</i>	38	78	40	66	
Total Clients Served					1.33
<i>100 or less</i>	13	27	15	24	
<i>101-500</i>	21	44	23	37	
<i>Over 500</i>	14	29	25	40	
Jurisdiction					2.53
<i>Adult Cases Only</i>	34	69	35	55	
<i>Juvenile Cases Only</i>	7	14	14	22	
<i>Adult and Juvenile Cases</i>	8	16	15	23	
Drug Court Model					0.75
<i>Diversion (Pre-plea)</i>	9	18	11	17	
<i>Post plea</i>	29	59	34	53	
<i>Probation/Other</i>	11	22	19	30	

Note: Percentages have been rounded to the nearest whole number. Chi-square revealed no statistically significant differences between judges and administrators.

administrators more often managed drug courts which had been operational for six years or more (60%), whereas judges were situated primarily within drug courts with less than six years operational existence (52%). Meanwhile, though the drug courts for both judges and administrators were primarily housed within multi-county districts with populations exceeding 75,000, judges were about ten percent more likely to be found in those venues. Additionally, administrators and judges both supervised drug courts primarily servicing more than 100 clients, but administrators (40%) were much more likely than judges (29%) to exceed 500 clients. Regarding this clientele, administrators (45%) were more likely than judges (30%) to supervise drug court programming involving juveniles. Lastly, both drug court personnel functioned primarily as a post-plea court, but administrators (30%) did report more activity pertaining to probation and other alternatives than did judges (22%).

Drug court implementation activities by position within court

Twenty-one survey items sought to discover actions taken by judges and administrators during the drug court implementation phase. Table 3 provides the results to that line of questioning by position within the drug court. Data revealed that judges (19) and administrators (20) reported having conducted nearly all of the 21 implementation activities. From this examination, it is clear that drug court judges and administrators were quite active during the implementation phase of their drug court program. Respondents indicated that more efforts were directed toward attending training sessions and consulting with a variety of governmental actors (with the exception of the state attorney general). Reasonable efforts were also made toward obtaining funding and technical assistance.

In general, drug court administrators devoted more time to most of the implementation activities, but drug court judges and administrators also meaningfully differed (defined as a 10%

Table 3. Implementation actions of drug court judges and administrators

Characteristics	Judges (n = 49) Yes (%)	Administrators (n = 64) Yes (%)
<i>Attended</i>		
Federal training sessions	78	86
State training sessions	80	92
Drug court sessions in other districts	84	86
<i>Applied for</i>		
Federal grant funding	69	84
State grant funding	57	75
<i>Requested</i>		
Federal technical assistance	45	66
State technical assistance	57	72
State drug court association assistance	55	72
Budget increase	65	70
<i>Consulted with</i>		
Other drug court judges	94	94
Other drug court administrators	76	95
State attorney general	14	19
State legislators	61	59
Local elected officials	76	86
District attorney/prosecutor	88	92
Public defender	88	94
Local law enforcement administrators	88	86
Local probation/parole administrators	84	92
Local probation/parole officers	84	92
Local mental health administrators	74	84
Local mental health staff/counselors	78	81

Note: Percentages have been rounded to the nearest whole number.

disparity) with regard to several implementation actions. Compared with judges, administrators requested assistance from the federal government, state government, and drug court association much more often. Administrators also spent significantly more time attending state training sessions and applying for state and federal grant funding. Furthermore, though most judges and administrators devoted significant efforts to consulting activities, administrators consulted much more often with other drug court administrators, local elected officials, and local mental health staff and counselors.

Drug court implementation incentives by government level

Seven survey items explored incentives made available from governmental sources during the development and implementation of drug court programs. A comparison of judge and administrator perceptions was of particular interest to the current evaluation. As such, Table 4 dichotomizes the results along positional lines. Essentially, judges and administrators similarly reported that incentive sources were varied across governmental lines, with federal, state and local government all providing some degree of support. Respondents did indicate, however, that a majority of incentives were attributed to a singular government source with respect to two distinct incentives. One, federal government was credited with providing more than one half of staff training. Two, state government was identified as providing a majority of the drug court association benefits. In general, federal agencies or actors served as the prevailing source for four (of seven) incentives: 1) matching funds, 2) grant funds, 3) staff training, and 4) staff technical assistance. Likewise, state government appeared to offer the greatest assistance with three incentives: 1) advisory boards, 2) data collection and evaluation support, and 3) drug court association. Local government was not at all regarded as a primary incentive source.

Table 4. Incentives during the development and implementation of drug court program

	Federal		State		Local	
	J	A	J	A	J	A
	%		%		%	
Matching funds	37	34	20	33	20	28
Grant funds	49	47	22	39	12	16
Advisory board	4	2	27	34	4	2
Staff training	61	58	35	44	18	13
Staff technical assistance	39	52	33	36	20	8
Data collection and evaluation support	16	14	33	31	14	25
Drug court association	25	28	49	58	6	6

Note: J (Judges, n = 49), A (Administrators, n = 64).

Percentages have been rounded to the nearest whole number.

Chi-square computations revealed no statistically significant differences within each governmental level.

Both judges (38%) and administrators (54%) ranked grant funding as the most important incentive, with staff training (28%) and matching funds (18%) ranked second and third. Administrators reported similar (but reversed) importance levels: matching funds (23%) and staff training (15%). Lastly, administrators regarded the local judiciary (40%) as the government actor most supportive of drug court implementation. This is not surprising, though, considering that judges primarily serve as administrators' direct supervisors. Administrators also praised the implementation support received from district attorneys (10%) and state judicial administrations (10%). Conversely, judges were more varied with their support perceptions, with five governmental actors all receiving within nine percentage points as most supportive: local elected officials (20%), local judiciary (16%), district attorney (14%), local mental health advocates (14%), and defense attorneys (11%).

Drug court implementation obstacles by government level

Fifteen survey items explored obstacles from governmental entities which served as hindrances to the implementation of drug court programming. A comparison of judge and administrator perceptions was of particular interest to the current evaluation. As such, Table 5 dichotomizes the results along positional lines. Essentially, both judges and administrators reported that federal, state and local governments were not generally problematic to the implementation of their drug court programs. With that understanding, obstacles that were identified tended to be housed within local government. Specifically, drug court judges and administrators each identified local government as the greatest obstacle with respect to 87% (13 of 15) of the explored potential hindrances. Overall, the two remaining obstacles were attributed to state government (vague laws, vague policies/regulations). It should be noted, though, that drug court judges (but not administrators) also regarded state government as the greatest obstacle

Table 5. Hindrances to implementation of drug court program

	Federal		State		Local	
	J	A	J	A	J	A
	%		%		%	
Vague laws	2	2	16	16	2	8
Vague policies/regulations	2	3	16	13	8	11
Conflict w/agency policies	0	0	12	5	12	23
Lack of political support	6	5	14	13	25	22
Lack of support from directors	6	5	6	8	14	11
Lack of funding sources	27	27	41	30	37	44
Poor allocation of funding	10	13	22	13	18	27
Lack of staff training	4	6	14	14	16	22
Lack of administrative support	2	6	6	11	18	16
Lack of belief in drug court	2	3	12	5	33	27
Interagency conflict	2	2	2	3	20	14
Lack of interagency cooperation	2	3	4	5	18	22
Lack of interagency communication	2	3	4	5	25	19
Lack of technical assistance	2	5	14	13	20	14
“Nothing works” belief system	4	3	14	6	20	27

Note: J (Judges, n = 49), A (Administrators, n = 64).

Percentages have been rounded to the nearest whole number.

Chi-square computations revealed no statistically significant differences within each governmental level.

for two additional areas (lack of funding sources, poor funding allocation). Meanwhile, federal government was not identified as a primary obstacle source for any area of interest, and achieved double-digit accusation in only two areas (lack of funding sources, poor funding allocation).

Survey participants also were requested to state what they regarded as the greatest obstacle to effective drug court implementation. Both judges (55%) and administrators (40%) ranked lack of funding the greatest single obstacle. The second greatest obstacle among judges was a lack of belief in the drug court model (15%); administrators cited a lack of political support (11%). Along a similar line, judges specifically singled out local law enforcement (28%) and drug offenders (17%) as the two groups most resistant to drug court implementation. Administrators agreed that law enforcement (17%), along with the general public (17%), served as a large impediment to drug court implementation.

Discussion and Conclusion

The present study examined drug court program implementation. Its scholarly value lies in its examination of the implementation of an experimental public policy tool. As a result, this project contributes to a growing body of literature about drug court implementation processes. The study yielded some interesting findings regarding the sampled drug court personnel. A portrait of the drug court respondents revealed that judges and administrators tended to be white, male, approximately 50 years of age, and primarily managed post-plea drug courts for the last five years. More importantly, judges and administrators significantly differed with regard to drug court activities and highest education. Essentially, administrators did not generally possess a law degree (as did judges), and spent much more time handling drug court matters.

Findings revealed that drug court respondents were active during implementation stages, primarily securing assistance from federal and state government. Administrators, though, were

most active in requesting technical assistance and pursuing grant funding, while also spending more time consulting with other drug court administrators, local elected officials, district attorneys, and mental health administrators. As such, it appears that most judges allow administrators a reasonable degree of work autonomy to pursue drug court goals and objectives.

Judges and administrators also acknowledged that most funding originated with the federal government, yet still noted that lack of funding sources and poor funding allocation were major hindrances to effective implementation of their drug courts. Heck and Roussell (2007) note that federal funding eventually diminishes for implemented drug courts, at which point states become the primary funding source. Given that state government was regarded as an extremely poor funding source during the implementation phase, it is reasonable to presume that political pressure must be applied to state legislatures to increase funding in light of negative perceptions regarding local government support. Otherwise, drug courts must become self sufficient with offender participation fees. This too seems a difficult avenue, though, considering that most judges and administrators expressed concerns about the referral process to their treatment court, and the declining participation rates when viewed as too stringent.

Though not a focal point, it also seems noteworthy that drug court administrators in this study held significantly higher perceptions of drug court program success than did their judicial counterparts ($t = 2.09, p < .05$). Overall, then, the findings of this study indicate that drug court administrators seem to be more optimistic about the successful implementation of drug court programs (though it is plausible that the differences instead relate to court dynamics), while concurrently exerting more effort to accumulate training, increase funding, and consult with government (primarily local) actors. Given that judges have higher priorities and delegate a large portion of their drug court responsibilities to appointed administrators (especially with increases

in client volume and juvenile offenders), continued delegation of these drug court responsibilities appears a wise course of action.

In conclusion, future efforts should be made to expand the study to a greater number of drug court programs throughout the country. Inclusion of additional programs would increase sample size and provide greater geographic representation (allowing comparison among geographic regions). The authors also suggest comparing the perceptions of judges and administrators within the same courts to ensure that differences are not the product of court dynamics; thus allowing for a more meaningful comparison of the administrative philosophies of judges and administrators.

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