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Criminal
Justice

Treatment-Based Drug Court: A Team Approach to Criminal Justice

Answers for life.

SIEMENS

Syva has been a leading developer and manufacturer of drugs-of-abuse tests for more than 30 years.

Now part of Siemens Healthcare Diagnostics, Syva® boasts a long and successful track record in drugs-of-abuse testing, and leads the industry in the production of enzyme immunoassays. In addition to drugs-of-abuse assays, Syva has been a key player in the development and manufacture of therapeutic drug monitoring assays.

Syva products are sold in more than 45 countries worldwide.

Introduction

Judges, prosecutors, public defenders, and treatment professionals all over the United States are hailing treatment-based drug courts as the most important innovation in criminal justice in 50 years. Drug courts work; and because of their success, they are spreading. Drug courts help communities by helping drug users reclaim their lives and become productive citizens.

Drug offenders who go the traditional route of arrest, trial, probation and/or jail have a high rate of recidivism. They are among the most expensive of offenders because they cycle in and out of the criminal justice system. In contrast, those who graduate from the new drug courts are kicking their habits and getting out of the criminal justice system once and for all.

Drug courts are often established with no special funding. A true grass-roots movement, they are springing up all over the country, as word of their effectiveness spreads. The people who see the need for drug courts are finding innovative ways to start them and keep them going.

Potential for savings is enormous

Compared to the cost of a single arrest-and-trial event in a traditional court, drug court, with its intensive program of treatment and other initial costs, may appear to be the more expensive of the two. However, when overall costs are weighed, drug court turns out to be a huge bargain. While the traditional court system does little or nothing to correct the recidivism of drug users, the drug-court program is constructed to halt the cycle of drug abuse and permanently remove costly, repeat offenders from the system. The cost savings of drug court are realized after the program is over, and the participant does not re-enter the criminal justice system.

Drug courts take a new approach

The year-long drug-court approach combines aggressive treatment with frequent court appearances. When the drug-court programs were new, they generally admitted first-time arrestees only. However, when their effectiveness became evident, they were expanded to concentrate on repeat drug offenders.

Drug courtrooms are different

The drug-court philosophy differs from the philosophy of traditional court, where the court officers represent and argue different sides of an issue. In drug-court programs, judges, public defenders, prosecutors, and treatment providers discard adversarial roles. In drug court, they are members of a team that is dedicated to one purpose—helping the drug user kick his or her habit permanently.

While the traditional courts tend to rush defendants through the system as fast as possible, drug courts are designed to keep defendants in the system long enough for their drug problems to be treated effectively. These defendants will appear frequently for at least a year, seeing the same officers of the court at every appearance.

Relationships in drug court go beyond the ordinary

The dominant relationship in drug court is between the defendant and the judge. In traditional court, the judge rarely addresses a defendant directly—usually only to pass sentence. In drug court, the defendant and the judge will form an ongoing relationship.

It is the judge who will enforce the defendants' attendance at counseling and treatment; who calls them to account for dirty urine tests, or for not trying hard enough. It is the judge who decides when they need to spend a night in jail or a week in detoxification. When abstinence and effort are sustained, it is the judge who decides whether or not they can have fewer court appearances. And finally, the judge will decide when it is time for them to graduate from the program.

Defense attorneys stay in the background

In traditional court, the job of the defense lawyer (usually a public defender) is to advocate for his or her client; but in drug court, the defense attorney will stay in the background.

Working in the drug-court arena can present a ticklish situation for a public defender faced with making recommendations contrary to the accepted conventions. For instance, although entering drug court does not constitute a guilty plea, the assumption of guilt is implicit when a client agrees to enter the program. Also, since judgment is deferred for the length of the program, the clients waive the right to a speedy trial. This is due to the advice of attorneys, whose job it is to get their clients out of the system as quickly as possible.

In working with the drug court, public defenders have to be careful not to compromise their duty as defense attorneys. Many say they can work comfortably within the drug-court parameters, because ending drug addiction and having felony charges dropped are in their clients' best interests.

Prosecutors work for rehabilitation

In the venue of drug court, instead of trying to get defendants into jail, the prosecutor agrees to act as part of a treatment program that will keep them out of jail. The prosecutor also will be present at the defendant's appearances over the course of the drug court program, and will work with the judge in dropping or lowering charges and fines upon completion of the program.

Because treatment takes some time to take hold, prosecutors have to be willing to look at relapses by the defendant in a new way, and, rather than press new criminal charges, accept what the judge decides. Where the traditional prosecutorial approach would be to eject relapsing defendants from the program and send them to jail, drug court prosecutors have to accept some level of relapse. They must ascribe to the philosophy that the treatment will take hold, and that it will result in the defendant's leaving the criminal justice system.

Treatment is supervised by the court

Although it is not unusual in a traditional courtroom for a judge to require treatment of a drug offender, the treatment is normally independent of the court. In drug court, the treatment provider is in full partnership with the court. The treatment program, which is integral to drug court, is designed by the court and is closely monitored by the court.

The treatment providers, like the defense attorneys, are in a delicate position regarding their relationships with clients. Ordinarily, strict rules of confidentiality govern what information the treatment provider can give the court. In drug court, clients must agree to waive some of these rights. For example, the results of urinalysis are reported to the drug court. However, personal information disclosed in counseling sessions remains confidential.

Court Officer	Traditional Role in Court	New Role in Drug Court
Judge	Administer justice quickly based on evidence presented by defense and prosecutor.	Work directly with defendants over the course of a year to get them through the drug-court program and off drugs permanently.
Prosecutor	Present evidence and get convictions.	Work with the judge to administer sanctions as needed; and possibly reduce criminal charges upon successful completion of the program. Help get the defendant off drugs and out of the system permanently.
Defense attorney	Get the client's charges reduced or dismissed. Get the client out of the criminal justice system as fast as possible.	Work with the court to keep the client in the system until the drug court program is completed and the client has kicked his or her drug habit.
Treatment professional	Work with a client, using the treatment provider's plan. Client's treatment is not coordinated with or reported to the court.	Work with clients, reporting to the court on their progress. Use a court-based treatment plan. Although areas of confidentiality are retained, participant gives permission for disclosure of progress to the court.

How does a participant qualify for a drug-court program?

The process for determining a defendant's eligibility for drug court begins at arrest. Pretrial Services goes to work to determine whether an individual is a good match for the program. Not everyone who is arrested for a drug offense is eligible for drug court. People with a history of violent crime, or who are arrested for drug trafficking, for example, do not qualify for drug-court programs.

As soon as possible, while the defendant is still in a state of shock over being arrested and jailed, he or she is brought before the judge and offered the chance to participate in drug court. It is at this

vulnerable juncture that defendants are most likely to admit to having a substance-abuse problem, and will enter the program. Many defendants are already desperate to get into treatment, and most jump at the chance to enter a drug-court program. In a majority of cases, they agree to pay a portion of their treatment costs. The amount that individuals contribute is based on their ability to pay.

Over the course of the next year, participants in drug court will find themselves in the center of an intensive, no-nonsense campaign to make themselves into upstanding, law-abiding, productive, sober citizens.

Rewards and sanctions reinforce reality

At the heart of the drug-court program is a system of rewards and sanctions. Because drug users are used to the state of unreality created by substance abuse, they must learn to grapple with reality. And, one of the realities they must learn is that their actions have consequences. In drug court, positive actions result in rewards, and negative actions result in immediate sanctions.

Sanctions take the place of the additional criminal charges that would be applied in traditional court. The severity of sanctions is up to the judge and increases with succeeding relapses. Sanctions can be triggered by positive drug-test results; submitting an adulterated or diluted urine sample, failure to take a scheduled urine test; unexcused absences from counseling or evaluation sessions; bad attitude; or failure to appear in court.

Sanctions may include the following requirements: attending additional 12-step meetings or counseling; submitting to more frequent urine tests; spending a day sitting in court listening to drug-court cases; performing community service; spending a night in jail; or spending extended time in jail.

At the same time, because the goal is for the person in the program to succeed, treatment requirements will intensify and may include daily participation in an outpatient program, or the completion of a long-term residential treatment program.

Rewards for progress and positive behavior are just as important as sanctions for relapse and negative behavior. As drug-court participants progress, and experience successes, the number of urine tests and court appearances can be decreased. At the end of successful completion of the drug-court program, reduction of felony charges to misdemeanor charges may be possible. In certain cases, the prosecutor's office will drop all drug charges from the books.

Treatment programs are long-term and intense

The goal of the treatment program is permanent abstinence from drugs. Drug-court treatment regimens last for at least a year. They are more intensive at the beginning, and typically include attendance at group and individual counseling, family counseling, and Narcotics and Alcoholics Anonymous meetings. Urine tests are mandatory, and acupuncture treatment often times is an option. The treatment program is closely supervised by the court.

Participants learn about denial and defenses, and the medical and psychological effects of substance abuse. Treatment helps them to develop coping skills, so that they can handle the crises of everyday life without resorting to substance abuse.

The vocational and educational assistance given as part of drug court is especially important, as many of the people in the program are under-educated and unemployed. Helping them to enter the job market is vital to their sustained recovery.

Successful treatment takes time

Drug courts recognize that successful treatment of drug addiction takes time and that some level of relapse, particularly in the early stages, is inevitable. The drug-court program requires that participants be held accountable for relapses through the immediate imposition of sanctions, but does not impose further criminal charges.

When a relapse occurs, it is important for all parties involved, especially the participant, to understand

that a short-term lapse does not mean failure. Generally, at this point, the judge will intensify the treatment regimen.

EMIT® drugs-of-abuse tests are a vital part of treatment

EMIT drug-screening tests are vital in maintaining discipline in the program. A drug-test result is the primary objective means of judging the participant's progress and, as such, is one of the most important elements of a drug-court program. Participants soon find that they cannot deny drug use or manipulate the system when faced with a positive test result. Just as important, when they say they are drug free, a negative test result is equally powerful testimony of their perseverance.

At the beginning of a participant's drug-court journey, it is not uncommon for them to have a drug test every day. As they progress in the program, the number of required tests decreases.

Acupuncture treatment is gaining wide acceptance

Acupuncture is widely used in drug-court treatment programs. Participants and providers report that this ancient Chinese medical technique of inserting needles at specific points in the body reduces cravings and eases withdrawal symptoms.

Drug courts with access to an acupuncturist usually offer acupuncture as an optional part of the treatment program. General acceptance of acupuncture use varies from jurisdiction to jurisdiction.

Drug courts owe their existence, in large measure, to the creative thinking of prosecutors, public defenders, judges, and treatment providers. It is not just the defendants who benefit from seeing the same court officers on a regular basis. The court officers also experience positive benefits from actively participating in a successful program. It is not uncommon for any of these professionals to state that drug court has been among the most satisfying experiences of their careers.

The success of drug courts has spawned other specialty courts, such as domestic-violence courts and gun courts. What all of these courts have in common, is their departure from the traditional adversarial approach to criminal justice. In these courts, prosecutors, defense lawyers, and judges are concentrated, not on winning a case, clearing a docket, or serving justice in the strictest sense, but, rather, on helping participants to stop their destructive behavior and make their lives productive.

A number of organizations are available to help set up drug courts, and to give assistance to existing drug courts. For more detailed information on drug- and other specialty courts, you may contact these organizations:

United States Department of Justice
Office of Justice Programs
Drug Court Programs Office
810 7th Street NW,
Washington D.C. 20531
202-616-5001

National Association of Drug Court Professionals
4900 Seminary Road, Suite 320
Alexandria, VA 22231
703-706-0563

Community Anti-Drug Coalitions of America
625 Slaters Lane Suite 300
Alexandria, VA 22314
703-706-0565

American Bar Association
Special Committee on the Drug Crisis
740 15th Street, N.W.
Washington, DC 20005-1019
202-662-1000

The American University
School of Public Affairs Justice Programs Office
4400 Massachusetts Avenue
Brandywine Bldg, Suite 100
Washington, DC 20016
202-885-2875