

**A NATIONAL STRATEGY FOR
THE CO-FUNDING OF UNIFIED DRUG COURT SYSTEMS:
PROPOSAL FOR LEGISLATIVE ACTION**

**by Judge Jeffrey S. Tauber
Oakland-Piedmont-Emeryville Municipal Court
661 Washington Street
Oakland, California 94607
(510) 268-7638**

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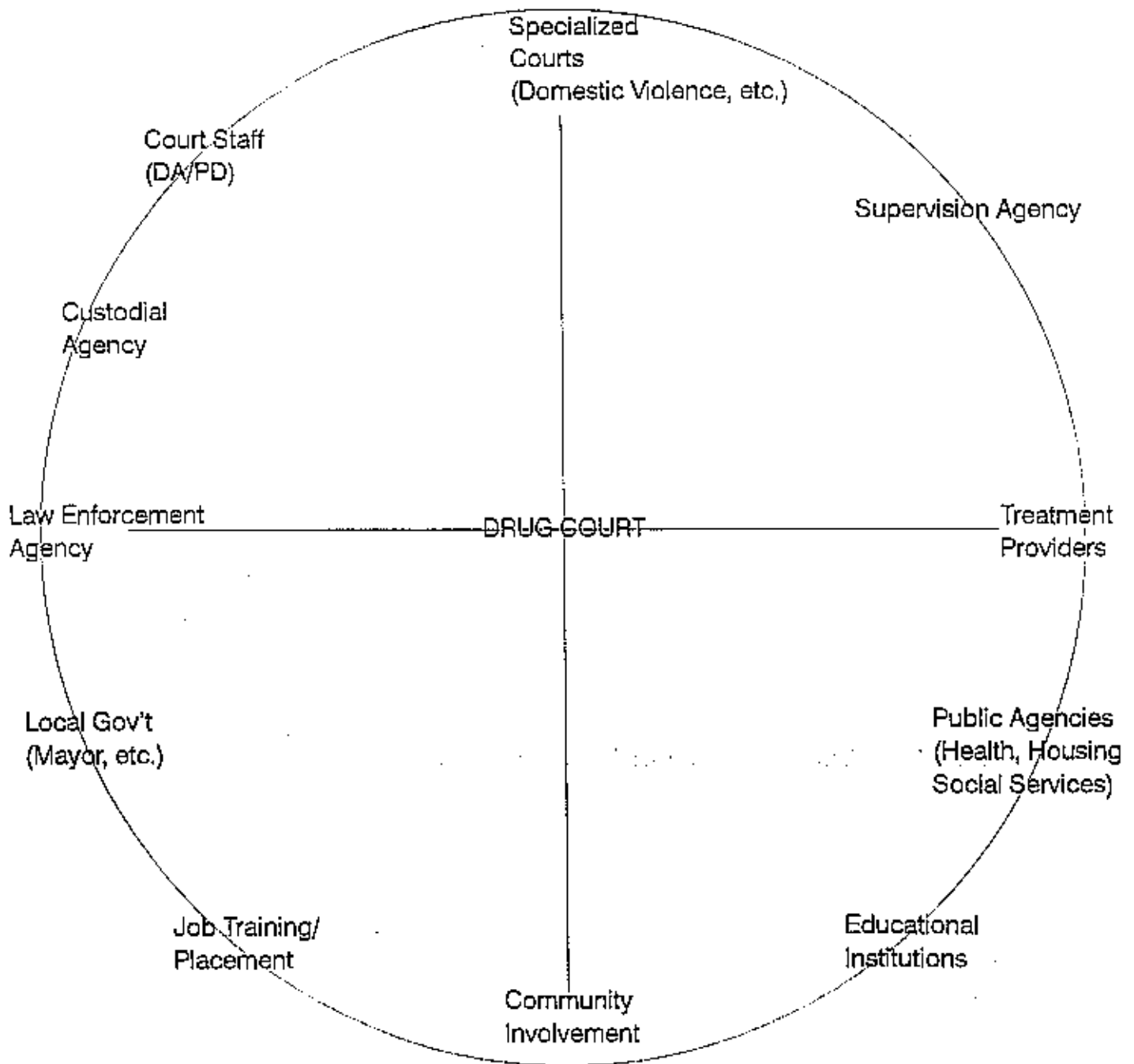
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*Judge Tauber is the initiator of Oakland's Drug Court, the FIRST Drug Diversion Program (Fast, Intensive, Report, Supervision and Treatment). The FIRST Drug Diversion Program is a collaborative effort of the Oakland Municipal Court, the Alameda County Probation Department, District Attorney's Office and Public Defender's Office. The FIRST Diversion Program was presented with the 1992 Public Employees' Roundtable Award for "Outstanding County-Run Public Service Program in the Nation."

THE CIRCLE OF DRUG COURT SYSTEM PARTICIPANTS



A GLOSSARY OF DRUG COURT SYSTEM PARTICIPANTS:

A Unified Drug Court System is a circular system, with each part of the system linked to, dependent upon, and responsible to the others.

A Unified Drug Court. Providing direction and focus through the leadership of a single judge; insuring consistency in judicial decision making and program implementation, and the coordination and accountability of all participants through the handling of all drug rehabilitation cases by the same judge and court staff.

Specialized Courts. (Domestic Violence, Drunk Driving, Family and Juvenile Courts). Working closely with the Drug Court; providing each other with information essential for the comprehensive, direct, and immediate supervision of offenders.

Supervision Agency. Probation, parole, and/or other supervisory agencies maintain continuous contact with offenders and provide frequent reports on the offender's progress.

Treatment Providers. Providing treatment to offenders; communicating complete and timely drug testing and other information on the offender's participation.

Public Agencies. Providing health services, social services, and housing services so that offenders can begin the process of re-entry into society.

Educational Institutions. Providing educational services to participants.

Community Participation. (Bar Association, Citizen Anti-Drug Coalitions, etc.) A monitor of program effectiveness and advocate for the program; involved in systemic decision-making.

Job Training/Placement. Providing the skills as well as the jobs, to enable participants to take control of their lives.

Local Government. (Mayor, county government, etc.) Providing oversight and, local government involvement in the system.

Law Enforcement. Providing information to the system on community drug usage and program success. Offenders must initially report to a beat officer and maintain contact; failure to participate or other problems are communicated directly to the beat officer for follow-up.

Custodial Agency. Providing separate facilities, as well as drug and alcohol education and treatment services for participants remanded into custody. Offenders released from custody are directly linked-up with supervision, treatment, and law enforcement agencies.

Court Staff. The District Attorney and Public Defender (and/or Defense Attorney) work as a team, to facilitate the program. They jointly determine initial eligibility.

INTRODUCTION

A National Funding Strategy is needed that uses funding incentives to encourage local government agencies to coordinate their activities, and plan within their government systems as well as within their local communities.

Drug usage is the single greatest engine for crime in the United States. Yet the response of local government to the drug offender has been largely fragmented and unfocused.

There is a great deal of talk of the importance of coordination, but willingness to work together, to share information and resources, and to develop a coordinated, comprehensive plan is lacking in most jurisdictions.

Part of the responsibility rests with both Federal and state governments' failures to coordinate their own responses to the problem of drug abuse. Federal and state funding for drug control and treatment efforts comes from different agencies and departments (within each government) with different missions and goals, who historically have been unable to coordinate their own efforts or effectively promote coordination at the local levels. As a result, local agencies follow their own narrow interests, supported by (and promoting) their individual constituencies. Those constituencies, in turn, compete for rather than cooperate in the use of limited resources.

Typical is the prosecuting attorney, given authority to distribute anti-drug resources within its jurisdiction, who limits their distribution to the law enforcement community;

Or the supervisory agency awarded a large federal grant to develop a rehabilitation program that refuses to listen to members of its own advisory board set up to facilitate coordination with other participating agencies;

Or the community-coalition that is regarded as a meddling outsider by government agencies;

Or the treatment provider who refuses to do drug-testing or provide information on drug using offenders in their program to the courts, because their funding comes from a non-law enforcement source;

Or the county-wide anti-drug planning committee that is largely ignored by government agencies because it has no funding authority;

Or the judge who eyes any coordinated anti-drug system suspiciously as a limitation on his or her "Judicial Discretion."

What is missing is not necessarily additional funding, but the intelligent use of the funding that is available to promote local coordination efforts.

I. THE IMPORTANCE OF A UNIFIED DRUG COURT SYSTEM

All government programs require the effective operation of participating agencies. But because the task involved in the rehabilitation of drug-using offenders is an extraordinarily difficult one, a higher degree of competence, coordination, and accountability is required of both program personnel and the structures they create.

While a number of innovative Drug Courts have reported remarkable success in reducing the levels of drug abuse, incarceration, and criminal recidivism among drug-using offenders, it is important to remember that their success is the result of the extraordinary efforts of a number of participating agencies.

The problem of drugs and crime are far too pervasive for any single agency to deal with effectively. The most basic Drug Court design requires the daily communication, cooperation, and linkage of judge and court staff, supervising agency, treatment providers, and prosecution and defense bar. Attributing the success of a Drug Court to the Drug Court judge is like saying the safety record of a jet airliner is the sole responsibility of the pilot (leaving out the crew, mechanics, air flight controllers, etc.).

A. Drug Courts as the Focus of an Anti-Drug System

A Unified Drug Court System presents us with the opportunity to coordinate a wide range of anti-drug strategies; from rehabilitative to treatment services, probation and parole, education and job training, and police services.

The courts stand in a unique position among service agencies; at the fulcrum, where service agencies meet. Participating agencies are used to working closely with or under the supervision of the courts. In fact, the court is the only place that some agencies (such as police and treatment) ever have significant contact. Even agencies that are hostile and uncooperative with each other, work effectively and cooperatively within the court's orbit.

Judges too, have a special position in their communities that make Drug Courts the most logical place to focus anti-drug efforts. Judges have the political influence, the ties to government agencies, the moral authority, the perceived fairness and impartiality, and the expertise and focus necessary to bring leadership to coordinated anti-drug efforts. While traditionally reluctant to step beyond the boundaries of their own courtrooms, there is a growing realization by the judiciary that their active participation and leadership is crucial to the successful organization, design, and implementation of coordinated Anti-Drug Systems.

B. Modern Communications Technology: Essential Linkages

Unified Drug Courts System represent a marriage of the traditional court model described above and modern Management Information Systems. Information Systems enable the court to be a fully informed (and therefore a fully involved) participant in the monitoring and supervision of large numbers of drug-using offenders as they move through the courts and court-ordered rehabilitation systems.

Drug Courts mark a turning back of the judicial clock to a time when judges ran their own calendars and were responsible for their court's operations, defendants had to answer directly and immediately to the judge for their conduct, and the judge monitored the defendant's progress as the case moved slowly and purposefully through the judicial system.

The Courts have been forced to move away from that level of personal involvement because of an overwhelming workload, replacing it with an expedited case management model which relies on segmented case management, sentencing guidelines, negotiated pleas and other strategies to speed up the process.

The results have been predictable and disastrous. Court, Probation, Prosecution, and Defense personnel accept responsibility for only a small segment of an offender's case (often dozens of judicial, probation, prosecution, and defense personnel see an offender over the course of a single case). No one has or is expected to take a larger view of the offender (or the system) because everyone has been given piecemeal authority.

The drug-using offender quickly learns how to work within that framework and acts accordingly, manipulating and/or evading the court and program personnel. (Ironically, even when successful, the expedited management approach does little more than speed up the revolving door from our courts to our jails and prisons, and then back again.)

Management Information Systems offer us the possibility of developing a truly effective systemic approach to the drug-using offender. For example, the Washington D.C. Drug Court has created a sophisticated, computerized communications system that provides the court with up to the minute on-line information on a drug using offender's program participation, court appearances, drug testing, criminal record, treatment history and personal data.

For the first time, we have the information we need to deal effectively with the drug-using offenders as an individual. Information Systems allow us to intervene immediately with appropriate rehabilitative services, monitor offender participation, quickly respond to program failure and success, and provide the personal judicial supervision needed for a successful Drug Court.

C. Coordinated Systems: The Next Generation

A Unified Drug Court System is a circular system, with each part of the system linked to, dependent upon, and responsible to the others. (See Diagram on Page 3).

The next generation of Unified Drug Court Systems will build upon the successes of existing Management Information Systems (already in place in jurisdictions like Washington, D.C. and Miami, Fla.). They will provide all participating agencies (not just the courts) with relevant information on drug-using offenders. New and more effective relationships will now be possible between participants.

Information systems will connect each participant directly to the others, without the necessity of using the courts as an intermediary.

Supervision and treatment agencies will be able to directly communicate the special needs of participating offenders to public agencies (providing health, housing, educational and social services). Those same public agencies will provide immediate and direct information on the drug-using offender to supervision and treatment agencies.

Modern communications systems will allow us to directly link Drug Courts to other specialized courts (Domestic Violence, Drunk Driving, Family and Juvenile courts).

Specialized courts that provide strong supervision, treatment and rehabilitation services will closely coordinate their monitoring of the offender, as well as his or her interaction with spouse, children and other effected family members.

Relationships between uncooperative or even mutually hostile agencies will be created that were not possible before.

Rehabilitation or treatment providers will have the ability to directly communicate with a community-involved beat police officer for assistance in contacting an absent program participant or checking on his or her whereabouts. Similarly, the beat officer will be able to directly communicate with Supervision agencies and treatment providers about the offenders progress (or lack thereof) in the community.

II. THE IMPORTANCE OF FEDERAL AND STATE FUNDING INCENTIVES:

Recommendations for the Funding of Structures that Promote Coordination

It is necessary to create strategies that persuade and convince local government agencies (and their staffs) that their personal and institutional interests depend upon the success of coordinated systems. The best and perhaps only way to promote such commitment to joint programs and shared goals is to make sure that coordination is in the financial interest of the participants.

While coordination is crucial to the success of all anti-drug initiatives, the truth is that many local agencies don't see coordination as being in their interests. For those who believe their funding secure, coordination may be seen as a threat to that funding. For others whose funding is more tentative, there is often a sense of suspicion and mistrust of the resources and influence of more powerful agencies. The results, when coordination is attempted at all, are often weak and limited in scope.

Federal and state departments and agencies rarely use their funding powers to effectively compel local agencies to plan or coordinate their efforts within their respective fields, let alone across the spectrum of agencies; from criminal justice to health, to education, to social services. By requiring coordination of anti-drug systems as a condition of funding, program success (and continued funding) would become a shared goal of participating agencies.

Structural Accountability: Where Structure is Accountable for Program Effectiveness:

It is not enough to merely demand coordination of participating agencies. Structures must be mandated whose design and implementation promote coordination, stability, and effectiveness over the life of the program.

While strong leadership and individual commitment may initially create a climate conducive to coordination, over time programs unravel and agencies tend to revert to accustomed ways (when personnel changes or energies flag). It is crucial, therefore, to use funding incentives to promote permanent structures that insure continued program coordination.

Where such structures exist, it can be said that the program is "*structurally accountable*"; that is, its very structure is accountable for continued program coordination, stability, and effectiveness. In a *structurally accountable* system, participating agencies share program responsibilities and are accountable to each other for program effectiveness, with each participant directly linked to, dependent upon, and responsible to the others.

The "Co-funding of Anti-Drug Systems" represents such a structure. Through Co-funding, resources are allocated to the system as a whole, relying on the system's participants to coordinate the distribution of resources within the system. Because continued funding depends on the success of the system as a whole, the success of the entire system becomes a priority for all.

A. The Co-Funding of Unified Drug Court Systems

Recommendations:

(1) Funding is made to the Unified Drug Court System directly and then distributed to the system participants by the participants themselves.

A Suggested Model for a Co-Funded System

- a. Funding decisions for the system are made by a Steering Committee comprised equally of criminal justice and non-criminal justice participants.
- b. All funding decisions require a 2/3 vote of the full Steering Committee .
- c. The judge who presides over the Drug Court acts as a non-voting chair of the Steering Committee. The Judge selects steering committee members from the following categories.

Prospective Criminal Justice Members: District Attorney, Sheriff, Defense Bar Representative, Police Agency Representative, Probation and/or Parole Representative.

Prospective Non-Criminal Justice Members: Treatment Provider, Health Department Representative, Education Representative, Social Services Representative, City or County representative, Community Representative.

Rationale:

The co-funding of Anti-Drug Systems is intended to promote an integration of functions and sense of responsibility for the entire system. It creates institutional commitment to a broader mission than departments and agencies have traditionally embraced.

To that end, the model co-funded system described above requires a 2/3 majority for funding decisions, to promote consensus and cooperation. Similarly, the Judge is made a non-voting chair to promote the perception that he or she is the non-aligned leader of the system.

Note: To the extent possible, Departments and Agencies (such as the federal governments' HHS and Justice Departments) should jointly fund Unified Drug Court Systems.

B. Co-Funding Through a Community-wide Planning Process

Recommendations:

1. Approval of federal and/or state anti-drug funding requests must be "consistent with a communitywide anti-drug plan" developed by a planning committee composed of local government and community anti-drug coalition members.

2. Approval of federal and/or state anti-drug funding requests are made at public hearings before that same planning committee.

Rationale:

With a few notable exceptions, local government agencies have not taken advantage of the extraordinary resources and energy that communitywide coalitions can bring to anti-drug efforts. To a significant extent, community coalitions are viewed as outsiders and meddlers. Bringing community coalition representatives to the funding table alongside government agencies will go a long way to correct those impressions and develop real community-wide coordination.

C. Co-Funding Management Information Systems

Recommendations:

1. The Federal Government should encourage the funding, acquisition, and development of computerized information networks for Unified Drug Court Systems.

Rationale:

Modern communications technologies now exists that allow the development of sophisticated, comprehensive, and coordinated systems linking a spectrum of anti-drug agencies and programs. Minimal federal funding for such relatively inexpensive computer technology (largely unavailable a few short years ago) will produce an extraordinary improvement in the linkage of previously isolated agencies and the coordination capacities of Unified Drug Court Systems.

D. Co-Funding Reality-Based Drug Court Programs

Successful Drug Court programs are based on an understanding of the physiological, psychological, and behavioral realities of drug abuse and are designed and implemented with those realities in mind. Existing Drug Courts (such as those established in Ft. Lauderdale, Miami, Oakland and Portland) share the same *Reality-Based Design Principles*.

Federal and state governments should assist jurisdictions willing to adopt the proven principles of effective Drug Courts, or face the possibility that poorly conceived and implemented programs will proliferate, discrediting both the Drug Court system concept and alternative sentencing in general.

The following Program Parameters are proposed (reflecting the existing design and structure of the Drug Courts noted above) to insure that minimal design and implementation standards are achieved.

Recommendations:

1. A Unified Drug Court

- a. A single Drug Court Judge and court staff handle all cases in the jurisdiction referred for drug rehabilitation purposes (note: but not necessarily all drug cases).
- b. The Drug Court Judge and court staff have committed themselves for at least one year to staff the program.
- c. The Program must run a minimum of 6 months from the participant's placement to program completion.

Rationale:

By focusing the court's drug-rehabilitation responsibilities in a single court, consistency of program implementation and judicial decision-making, as well as program coordination are promoted. The direct participation, personal involvement, and long-term commitment and leadership of the Drug Court Judge are critical to a successful Drug Court.

2. Immediate and Upfront Intervention

- a. The program places 75% of participants in a Supervision and Treatment Program within 1 day of the offender's initial release from custody.
- b. The offender is placed in the program by the Drug Court Judge and seen by that same judge at a progress report hearing within 1 month of placement.
- c. The program requires at least 3 contacts per week with supervision and/or treatment entities over the first 3 months of the program.

Rationale:

Even the best designed court-ordered drug rehabilitation program will be less than effective when intervention is delayed. Supervision and treatment should be front-loaded; to engage the participant early and often, giving the program and treatment the opportunity to take root.

3. Coordinated, Comprehensive Supervision

Recommendations:

- a. Drug testing is administered at least once a week over the first six months of the program.
- b. Supervision contacts are maintained on a weekly basis over the first six months of the program. (Note: such contact may be accomplished by a treatment provider).
- c. Progress reports before *the same Drug Court Judge and staff* are scheduled at a minimum, every month, over the first six months of the program.

Rationale:

The drug-using offender must be held accountable for his or her conduct, if rehabilitation is to be successful. Such offender accountability depends on strong connections between participating agencies, vigilant court monitoring procedure, frequent drug testing, and a coordinated hands-on approach to supervision.

4. Long-Term Treatment and Aftercare

Recommendations:

- a. Treatment must run for a minimum of six months.
- b. There must be at least one treatment session per week over the program's first six months. (Note: such treatment may also be accomplished by a supervising agency).
- c. Ongoing drug treatment and counseling, as well as educational opportunities, job training and placement, and health and housing assistance, are provided over the last 3 months of the program.

Rationale:

Drug addiction is a serious, debilitating disorder that demands intensive long-term treatment. Without adequate aftercare, an offender's sobriety may be short-lived when he or she faces the same problems that contributed to their drug usage in the first place.

5. A Progressive Sanctions and Incentives Program. (The Carrot and Stick Approach)

Recommendations:

- a. Less serious drug-using offenders are diverted from the Criminal Justice System into a Supervision and Treatment Program, with a dismissal of drug use charges following successful completion of the program.
- b. Drug usage while in the program results in increased supervision, treatment, drug testing and/or limited periods of incarceration (to detox the offender and deter him or her from further program failure).

Rationale:

A drug addict is not created overnight, and therefore cannot be cured overnight. Drug rehabilitation is at best a difficult, demanding, and lengthy process. In order to motivate defendants to complete the process, it is necessary to offer them substantial positive as well as negative incentives to do so.

Conclusion

The development of Drug Courts is part of a trend toward criminal justice programs that respond directly to, and are involved directly with their communities. Programs such as community policing (pioneered by then Houston Police Chief Lee Brown) emphasize community outreach, problem solving and empowerment and rely on strong linkages between government and community organizations for their effectiveness. In a similar fashion, Drug Courts (providing "Community Judging") link up with their local communities, through immediate, personal, and direct court services.

Drug Courts are proving themselves to be an important innovation in the Criminal Justice approach to the drug-using offender. But they have the potential to be a great deal more.

In the future, Drug Courts will provide a natural focus for the organization of community wide anti-drug systems.

Management Information Systems will offer us the tools to deal effectively with the large numbers of drug-using offenders within Unified Drug Court Systems.

And the Co-Funding of Unified Drug Court Systems will create new and different relationships between partners who look beyond their own narrow interests; distributing information freely, collaborating in decision-making and resource-allocation, and sharing in a common, drug-free vision of their communities.

We have the opportunity to redefine the way both federal and state governments work with local anti-drug systems. Through the enactment of innovative anti-drug legislation, both federal and state governments can help bring competing local anti-drug interests together for the benefit of their entire communities.

Appendix A

A PROPOSAL FOR THE ESTABLISHMENT OF A FEDERALLY-FUNDED DRUG COURT RESOURCE CENTER

This administration has drawn the nation's attention to the importance of providing alternative sanctions to imprisonment for less serious criminal offenders. Drug-using offenders, in particular, can be treated more cost-effectively in their communities through coordinated Criminal Justice and Community Drug Control Systems, such as Unified Drug Court Systems.

While local communities should be encouraged to create programs that reflect their individual circumstances, the Federal Government can play an essential role in their development by funding a Drug Court Resource Center that provides technical assistance, promotes the adoption of effective design strategies, and provides information on how to implement Unified Drug Court Systems.

Without such national leadership and assistance, many of these fledgling alternative sentencing programs may fail, resulting in a return to a less hospitable national climate for alternative sentencing. Such a center (whether in or out of the Federal Government) dedicated to assisting communities in developing effective Drug Control programming, would help insure their successful design and implementation.

Responsibilities of a Drug Court Resource Center:

- (1) To encourage effective Coordinated Drug Court Systems through the development of Federal funding incentives.
- (2) To develop national guidelines for effective Drug Courts and Drug Control Programming based upon objective design evaluations.
- (3) To facilitate the monitoring and evaluation of Drug Courts Systems across the country and prepare an annual report on their status.
- (4) To provide technical assistance to local and statewide criminal justice systems on the development of effective Coordinated Drug Court Systems:
 - (a) Consult with government officials on state and local levels
 - (b) Develop written and/or video instructional materials
 - (c) Develop training programs for Judges and other professionals on how to effectively develop their own programs.
- (5) To articulate a National Drug Court Systems Policy and promote it through a national educational program.

Appendix B

A PROPOSAL FOR THE ESTABLISHMENT OF A NATIONAL ASSOCIATION OF DRUG COURTS

The start-up of Drug Courts across the nation presents us with the opportunity to develop an effective Association to represent the interests of Drug Courts and Drug Court Systems.

Such an association could serve its membership year round through officers who could speak for the membership on important issues and represent the membership before government bodies, by acting as a clearinghouse for research and other relevant information on Drug Courts and Court-Ordered Rehabilitation Programs, and by creating ongoing committees to work on Drug Court related issues (and report back to the Association).

Among the specific tasks that could be performed would be:

- (1) Encouraging government funding of Drug Court Systems.
- (2) Providing a forum for the discussion of Unified Drug Court Systems.
- (3) Educating the public on the importance of Unified Drug Court Systems.
- (4) Sponsoring nationwide conferences and educational seminars for Drug Court participants.
- (5) Developing standards for the design and implementation of Unified Drug Court Systems.
- (6) Promoting the systemic evaluation and monitoring of Unified Drug Courts Systems.

Ultimately, A National Association of Drug Courts would be an important tool for Drug Court programs (and their staffs), providing information, support, and assistance for their important work.