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Drug Courts: A Judicial Manual

Judge Jeffrey S. Tauber



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Drug Courts: A Judicial Manual

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Preface

The genesis of this Drug Courts manual began some five years ago when I was given the assignment of administering drug diversion cases in the Oakland court. I quickly learned that the existing system did little more than process the drug-using offender as quickly as possible. In looking for more effective ways to deal with the drug-using offender, I began a learning process that led to the initiation of Oakland's FIRST Drug Court and ultimately to the writing of this manual.

I am indebted to those criminal justice and drug treatment experts who have generously given of their time to my education and to this manual:

Dr. Douglas Anglin, Director of the UCLA Neuropsychiatric Institute; Dr. Steven Belenko, of the New York City Justice Agency; John A. Carver III, Director of the Washington, D.C. Pretrial Services Agency; Judy Green of the VERA Institute; Dr. Peter Greenwood, Director of the RAND Corporation Criminal Justice Program; Dr. Roger Peters, of the University of Florida; Dr. Michael Smith, Director of the Lincoln Hospital Drug Clinic; and Dr. Alex Stallcup, of Oakland.

I would like to acknowledge the special contributions of Judge Peggy Hora of the Hayward Municipal Court and Alameda County Deputy Probation Officer Frank Tapia, both of whom worked closely with me on this project over the past five years.

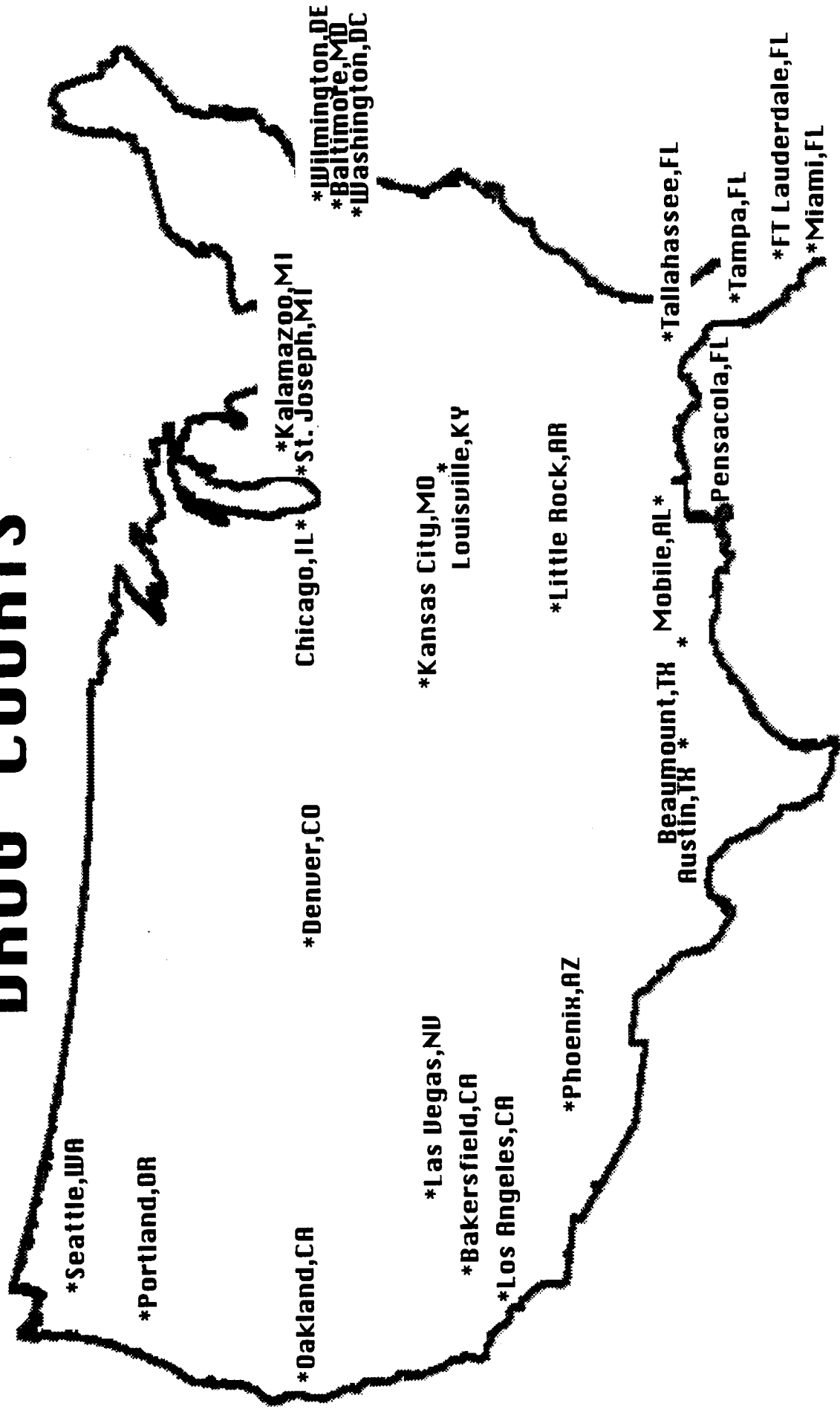
I would also like to thank the Board of Directors of the California Association of Drug Court Professionals for their support and encouragement: Judge Rudy Diaz, the newly elected President of the California Judges Association, Judge Tomar Mason of San Francisco, and Judge Barbara Beck of Santa Maria.

Lastly, this manual would not be possible without the extraordinary editorial and organizational gifts of Irene Hegarty and Ellen Matthews of the CJER staff.

Judge Jeffrey S. Tauber

The Drug Court symbol on the cover combines the gavel of the courts and the "medical snake" or "caduceus," the symbol of the healing professions. It is the logo of the National Association of Drug Court Professionals, and is used here with permission.

CURRENT DRUG COURTS



Drug Courts: A Judicial Manual

Viewed as a more effective approach to the drug abuse cases crowding the courts, Drug Courts have attracted interest from judges throughout the country. In this article, Judge Tauber shares his experience in setting up Oakland's FIRST program, explaining how Drug Courts work and the underlying principles that make them successful.

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INTRODUCTION

Drug Courts have become a major focus for criminal justice system reform in the United States. They are an important component of the President's drug strategy, slated to receive major funding under the Crime Bill before Congress (1.4 billion dollars is currently designated within the "Drug Court Program" section; see Appendix C1). It is estimated that there are approximately 30 existing Drug Courts and that there will be over 100 Drug Courts nationwide by the end of 1994.

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.)

Some have criticized Drug Courts as a radical and unwarranted departure for the courts. However, there is nothing radical or even particularly new about how a Drug Court works. Court procedures are adapted to reflect the realities of the offender's substance abuse (see §§2-5). A cost-effective approach to the use of sanctions and incentives is applied (see §11). Applying a direct, immediate, and personal approach to the drug offender, a Drug Court handles all drug rehabilitation cases in a jurisdiction from start to finish (see §§2-19). Leadership and focus is provided by a single Drug Court judge and dedicated program staff (see §§20-24). Coordinated programs are created where all participants (not just the offender) are held accountable for their performance (see §§30-34).

Interest in Drug Courts is growing as a number of innovative Drug Courts have reportedly achieved remarkable success in reducing the levels of drug abuse, incarceration, and criminal recidivism among drug-using offenders (see Appendix A for a summary of Drug Court programs nationwide). That interest is heightened by the realization that these same offenders clog our court calendars, strain our treasuries, and fill our jails and prisons. (According to a recent American Bar Association report, imprisonment of drug offenders alone increased by 327% between 1986 and 1991).

While drug courts are often associated with diversion programs (e.g., Miami, Oakland), they are also the basis for pretrial supervision programs (e.g., Bakersfield, Washington D.C.), probation programs (e.g., Phoenix), and combined diversion and probation programs (e.g., Baltimore, Denver).

It is important to remember that program success is the result of the extraordinary efforts of a number of participating agencies working within a coordinated Drug Court System (see §36). However, even where no Drug Court exists (or is needed), the application of the principles of successful court-ordered drug rehabilitation, as described here, will achieve significantly better sentencing and supervisory outcomes.

I. [§1] DESIGNING A REALITY-BASED DRUG REHABILITATION PROGRAM

It takes more than increased funding and full judicial support (although extremely important) to create an effective program. Successful court-ordered drug rehabilitation 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.

Most court-ordered drug rehabilitation programs suffer from the generally held belief that "nothing works" in the treatment of drug-using offenders. Unfortunately, that perception (although untrue) becomes a self-fulfilling prophecy when financially strapped communities inadequately fund court-ordered treatment programs and skeptical judges half-heartedly implement those same programs, often terminating an offender's participation upon the first sign of drug relapse.

Effective programs recognize that drug abuse is a serious, debilitating disorder; that relapse and intermittent progress are a part of most successful drug rehabilitations; that a drug addiction is not created overnight and cannot be cured overnight; that a drug user is most vulnerable to successful intervention when he or she is in crisis (i.e., immediately after initial arrest and incarceration); and that drug users are in denial and will do everything possible to avoid responsibility, make excuses for program failure, and evade the court and its programs.

C. [§8] Model Programs That Share Reality-Based Design Principles

Several jurisdictions across the country have developed successful court-ordered drug rehabilitation programs that recognize and work with (rather than against) the realities of drug usage. Although these programs often have substantially different program characteristics reflecting their individual circumstances (i.e., Miami, Fort Lauderdale, and Portland have replaced a Probation Department presence with direct court/treatment program linkages, while Oakland, Phoenix, and Kansas City use a court/probation partnership model), what is crucial is that they share the same underlying "reality-based" design principles.

The *Miami/Portland model* relies on the establishment of a special drug treatment provider that has sole responsibility for treatment and supervision, as well as drug testing. Both programs rely heavily on acupuncture as an adjunct to more traditional treatment modalities, and require daily drug testing and treatment during the first phase of the treatment program (which can last several weeks to several months). The judge makes final program decisions based on drug test results (in Miami, this is accessed through a computer screen at the bench), and other progress information supplied by the treatment provider. *Note:* Portland has a hybrid diversion program that requires participants to waive their right to a jury trial and stipulate to the physical evidence when entering the program (participants may withdraw from the program without sanctions within 15 days of entry).

The *Oakland/Phoenix model* relies on a combination of existing probation and community services to provide supervision and treatment to participants. The probation department provides drug education classes, drug testing, and weekly supervision groups, which fulfill some of the functions of treatment groups. Treatment services are delivered within the participant's local community. Contingency contracts offer structure for judicial decision-making, define success and failure, and inform all participants (including the court) as to what their responsibilities are during the program (see §§32–34 on contingency contracts).

The *Wilmington, Delaware model* relies on the structural framework provided by a TASC program. (TASC programs throughout the nation have established a methodology for the assessment and referral of offenders to appropriate treatment programs as well as providing case management, tracking, and coordination functions). The offender is referred to TASC for an immediate treatment assessment and is required to maintain frequent supervision contacts (including drug tests) with TASC personnel, while access to an appropriate treatment is facilitated. After treatment placement occurs, TASC works with treatment providers and others to ensure effective service delivery and continuity of services as offenders move through both the criminal justice and treatment systems.

A. [§2] What Is a Drug Court?

A Drug Court is a department to which defendants who are charged with drug offenses and who are eligible for court-ordered drug rehabilitation — through probation, diversion, or pretrial supervision — are referred. See §§12–19. A single judge handles these cases from the time they are referred for drug rehabilitation to the conclusion of the program. Defendants are placed in rehabilitation programs with frequent monitoring and treatment requirements, for report back to the court under diversion, O.R., or probation status. Various features of this type of court, such as immediate intervention and comprehensive supervision, are discussed in §§3–7. Sanctions are discussed in §§11 and 13, and the judge's role is discussed in §§20–24. Drug Courts are set up in a number of different ways. Procedures used in Oakland's FIRST Program are set out in Appendix B.

B. Features of a Reality-Based Drug Rehabilitation Program

The following program parameters are recommended to help ensure that acceptable design and implementation standards are achieved. They are based on a review of the literature in the field, interviews with Drug Court professionals nationwide, and site visits to existing Drug Courts.

1. [§3] A Unified Drug Court

Reality: *If no single court accepts responsibility for a program's effectiveness, there will be no one accountable when it fails.*

Recommendation:

A single Drug Court judge and staff provide leadership and focus to the program.

- a. A single Drug Court judge and court staff handle all cases in the jurisdiction *referred for drug rehabilitation purposes* (but not necessarily all drug cases).
- b. The Drug Court judge and court personnel are assigned for at least a one-year term (optimally, for two years).
- c. The program takes a minimum of six months from placement to completion (whether the program involves pretrial supervision, diversion, probation, or other court-ordered program).

Rationale:

The advantages of a single drug court concept are:

- (1) Accountability remains with a single judge;
- (2) Responsibility for program effectiveness resides in a single court;
- (3) A single program focus promotes systemwide coordination and cooperation;
- (4) Consistency in judicial decision-making and program implementation is maintained;
- (5) Sufficient numbers of defendants in the courtroom (by analogy a critical mass) encourage effective courtroom learning;
- (6) Specialization promotes staff expertise and personal commitment to program success; and
- (7) The direct participation, personal involvement, and long-term commitment and leadership of the judge are encouraged.

Note: Virtually all existing Drug Courts use a Unified Drug Court Structure with a single court assigned to handle all drug rehabilitation cases in the system. It is expected that there will be considerable pressure on large urban jurisdictions to set up multiple drug court departments. For the reasons described above it should be resisted. Where it cannot be avoided, the number of drug court departments should be minimized by limiting Drug Courts to *cases referred for drug rehabilitation purposes only*. (The need for a single, focussed drug court department is especially great during initial design and implementation phases.)

2. [§4] Immediate and Upfront Intervention

Reality: *A drug addict is most vulnerable to successful intervention when he or she is in crisis (i.e., immediately after initial arrest and incarceration).*

Recommendation:

Intervention should be immediate and front-loaded.

- a. The program places at least 75% of participants in a supervision and treatment program within one 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 one month of placement.

- c. The program requires at least three contacts per week with supervision and/or treatment entities over the first three months of the program.

Rationale: Even the best-designed court-ordered drug rehabilitation program will be less than effective when intervention is delayed. Recognizing this, the Miami program transports the defendant by van directly from court to the treatment program to begin treatment. In Oakland, where offenders are typically placed in the program within one day of their release from custody, data shows that younger offenders so placed have substantially greater success (measured in recidivism rates and program completions) than those who are not. See Appendix B(5) for Oakland's three-year evaluation.

For the same reason, supervision and treatment should be front-loaded, to engage the participant early and often, giving the program and treatment the opportunity to take root. In Miami, offender contact with the program is required five times a week for the first three weeks, while in Oakland, an average of three contacts per week is required over the first ten weeks.

3. [§5] Coordinated, Comprehensive Supervision

Reality: *If there are gaps in program supervision, the drug-using offender will find and exploit them.*

Recommendation:

Supervision must be comprehensive and well-coordinated to ensure offender accountability.

- a. Drug testing is administered at least once a week over the first three months of the program.
- b. Supervision contacts are maintained on a weekly basis over the first three 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 during the first three months of the program.

Rationale: Few offenders enter the court's programs with rehabilitation on their minds. They are in denial, and are there primarily to beat the system and avoid incarceration. The challenge is to keep them in the program until sobriety and attitudinal changes can occur. This may be difficult to accomplish, since

the drug-using offender is often an expert at avoiding responsibility, making excuses for his or her failures, and evading the court and its programs.

The drug offender must be held accountable for his or her conduct if rehabilitation is to be successful. Offender accountability depends on strong connections between participating agencies, vigilant court-monitoring procedures, frequent drug testing, and a coordinated, hands-on approach to supervision and treatment. A court-ordered program must build a chain-link fence around the drug-using offender, made up of frequent supervision contacts and drug testing, direct access to full information on the drug offender's progress, immediate responses to program failures, and frequent progress report hearings before a single Drug Court judge and permanent staff. (Oakland allows a maximum of 90 days, Miami no more than 60 days between progress report hearings.)

4. [§6] Long-Term Treatment and Aftercare

Reality: A drug addict is not created overnight, and therefore cannot be cured overnight.

Recommendation:

The drug-using offender needs intensive long term treatment and aftercare.

- 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 supervisory 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 three months of the program.

Rationale: Drug addiction is a serious, debilitating disease that demands intensive long-term treatment (Miami and Oakland participants average approximately one year to graduation). An initial treatment assessment is the first step in determining the appropriateness of a treatment plan. That assessment may take place at the time the offender enters the program or after placement in the program (when program performance itself is used as an assessment tool).

Treatment preferably begins in a medically supervised jail drug detoxification unit. For most, however, a community-based nonresidential treatment program is the initial treatment experience. More costly residential treatment

spaces are generally reserved for those who have not responded well to non-residential treatment.

Participating treatment programs should be selected and periodically evaluated for effectiveness. Depending on the availability and effectiveness of existing treatment programs (and financial feasibility), treatment programs can be created specifically to work with the drug-using offender. In Miami, treatment programs that were specially designed to provide acupuncture treatment (as well as more traditional treatment modalities) have shown excellent results when used in conjunction with a well-designed court-ordered rehabilitation program.

Without adequate aftercare, offenders' sobriety may be short-lived as they face the same problems that contributed to their drug usage in the first place. Aftercare should include ongoing drug treatment and counseling as well as educational opportunities, job training and placement, and health and housing assistance.

5. [§7] Progressive Sanctions and Incentives

Reality: *Relapse and intermittent progress are part of most successful drug rehabilitation.*

Recommendation:

The court must apply a patient, flexible approach to monitoring compliance.

- a. Less serious drug-using offenders are referred to a court-ordered supervision and treatment program, with dismissal of the drug charges (or other substantial program incentives) contingent on successful participation in the program.
- b. Drug usage while in the program and/or failure to participate should result 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: In most cases, progress toward rehabilitation will be slow-starting and fitful, with sobriety taking hold over a period of months. This requires patience and a consistent, yet flexible, hands-on approach to the monitoring of the offender's progress toward sobriety.

Progressive sanctions and incentives are appropriately applied in response to program failure and success, and should be applied incrementally to move the participant steadily toward sobriety. (See §§10–19.)

The *Washington D.C. model* is unique in the nation, as it handles drug treatment and rehabilitation through its pretrial services agency. Eligible offenders continue in pretrial status while they are provided with supervision, drug testing, and treatment through the pretrial services agency or through a specially created in-house treatment provider. The program is enhanced by state-of-the-art drug testing facilities and computerization, which can provide drug test results on the judge's computer screen within 10 minutes of the test. Judicial decision-making depends on a schedule of sanctions that flow from failed program participation and/or positive drug tests. Upon successful completion of this pretrial program, the offender is allowed to plead to a lesser offense and avoid prison.

D. [§9] Designing a Local Program

Communities are generally better served when they develop programs that reflect local financial and political circumstances, while incorporating "reality-based" design principles. Rather than attempting to replicate another jurisdiction's program, a jurisdiction should maximize local "ownership" and commitment by developing systems that reflect the strengths and resources (as well as the needs) of its local community.

Judges should look to existing Drug Court models for ideas but remember that all existing programs reflect their own circumstances (and compromises) and may not be easily or profitably adopted by other jurisdictions. A new Drug Court should be open to features and options existing programs may not have considered, since all Drug Court models are relatively new and continue to evolve and adapt.

II. [§10] SMART PUNISHMENT: A PRAGMATIC SENTENCING PHILOSOPHY

"Smart punishment" is the imposition of the minimum amount of punishment necessary to achieve the twin sentencing goals of reduced criminality and drug usage. It relies on the use of progressive sanctions, the measured application of a spectrum of sanctions, whose intensity increases incrementally with the number and seriousness of program failures.

A judge who uses extended incarceration as the only sanction for drug usage, like a carpenter who shows up at a jobsite with only a hammer, does not have the tools to get the job done. The Drug Court judge carries intensive supervision, counseling, educational services, residential treatment, acupuncture, medical interventions, drug testing, and program incentives, as well as incar-

ceration in his or her tool box.

The problem with the incarceration of drug-using offenders is not in its use but in our overdependence upon it. Incarceration works for drug-using offenders — by providing the offender with the opportunity to detox from drugs; as a deterrent, by presenting the offender with the stressful, anxiety-producing experience of incarceration; and by coercing drug-using offenders to enter and complete rehabilitation programs.

The use of extended periods of incarceration, however, does not appear to increase the value of incarceration and may, in fact, be counter-productive to sentencing goals. Because two aspirins relieve a headache, it does not follow that 10 aspirins will do a better job.

Extended incarceration may disrupt whatever stability exists in a drug-user's life (needed for successful drug rehabilitation), initiate the drug user into a criminal lifestyle, and reduce the deterrent effect of incarceration, thus limiting the effectiveness of court-ordered rehabilitation.

A. [§11] Progressive Sanctions

A judge who does not respond forcefully to the drug user's poor performance may be setting the offender up for failure. The message conveyed is that failure is neither serious nor important to the court, so why should the offender be concerned?

There must be immediate and direct consequences for all conduct. Sanctions follow violations and are applied as close to the time of failure as possible. This calls for frequent court hearings to monitor the offender and mete out sanctions. A patient, measured, and consistent, yet flexible approach to the different kinds of program failure moves the offender steadily toward sobriety:

Inadequate participation. Less serious violations, such as inadequate participation in a court-ordered program, call for sanctions that start with the intensification of supervision, treatment, and/or a single day's incarceration. Those sanctions increase incrementally (i.e., 1 day, 2 days, 4 days, etc.) with continued violations. *Note:* In the nomenclature of the Drug Court, the offender is *recycled* into the program after spending at least one day in custody.

Program failure. At the other end of the spectrum, complete program failure (represented by an offender's termination from diversion after a failure to appear (FTA) for a progress report hearing) calls for a substantial period of incarceration (at least one week) to detox the offender as well as to deter the offender from future program failure and/or drug usage. *Note:* In the nomenclature of the Drug Court, the offender is *reinstated* into the program after spending at least one week in custody. (The judge may wish to limit the number of reinstatements back into the program, i.e., one week for a first FTA, two weeks for a second, final termination for a third failure.)

Continued drug usage. The author's experience suggests that while it is appropriate to punish inadequate participation and/or program failure with incarceration, continued drug usage is effectively dealt with by increasing supervision, testing, and/or treatment requirements, ultimately culminating in residential treatment.

B. [§12] Diversion and Other Incentive Programs

Drug rehabilitation is at best a difficult, demanding, and lengthy process. In order to motivate defendants to complete that process it is necessary to offer them substantial incentives, as well as disincentives, to do so. Encouragement and appreciation, as well as tangible incentives (such as those listed below) should be given to participants for positive behaviors.

A diversion program (statutory or otherwise) provides a powerful motivational tool for drug rehabilitation, offering the defendant the opportunity to work toward a complete dismissal of a felony drug charge. In California, for example, drug diversion is statutorily mandated for eligible defendants, diverting less serious offenders from the criminal justice system into a supervision and treatment program administered by the county probation department.

1. [§13] Penal Code §1000 Diversion

Diversion under Pen C §§1000–1000.5 is available for defendants who have been charged with simple possession of certain controlled substances (see Health & S C §11350, 11357, 11377), planting and cultivation of marijuana for personal use (Health & S C §11358), and certain other drug offenses. Pen C §1000(a). The person who is diverted does not suffer a criminal conviction. Pen C §1000.5(a). The judge may require the payment of an administrative fee, as part of an enrollment fee in a diversion program, not to exceed \$500. Pen C §§1001.15, 1001.16. Reduction of the fee may provide the basis for an incentive. The court must consider ability to pay and no defendant may be denied diversion based on inability to pay. Pen C §§1001.15(a), 1001.16(a).

2. [§14] Eligibility

In order for a defendant to be eligible for diversion all of the following conditions must be met under Pen C §1000(a):

- (1) No prior controlled substance conviction;
- (2) Offense charged did not involve a crime of violence;

- (3) No evidence of a narcotic or dangerous drug violation other than a violation of the offenses listed;
- (4) No prior record of the defendant for probation or parole revocation without subsequent completion;
- (5) No previous diversion within five years;
- (6) No prior felony conviction within five years.

The court should set the diversion hearing at the time of arraignment. Pen C §1000(b).

3. [§15] Grant of Diversion

On determination of eligibility, the defendant is referred to the probation department or the court may summarily grant diversion if the defendant has consented and waived speedy trial rights. Pen C §1000.1(b). The probation department prepares a report on the defendant's suitability for the court, which must make the final determination as to whether the defendant should be placed in a diversion program. The report should take into consideration such matters as the defendant's age, employment and service records, educational background, community and family ties, prior controlled substance use, and treatment history. Pen C §1000.1(b). Statements made by the defendant to the probation officer in connection with the preparation of this report cannot be used against the defendant in later criminal proceedings. Pen C §1000.1(c).

The court must hold a hearing to consider the probation department's report. Pen C §1000.2. Diversion may be ordered for a period ranging from six months to two years. Pen C §1000.2. Reduction in the term of diversion may provide the basis for an incentive. If the court does not order diversion, the case continues in the manner of any criminal proceeding.

4. [§16] Completion of Diversion

Diversion can be terminated and criminal proceedings reinstituted if the court finds that the divertee is not satisfactorily performing in the assigned program, is convicted of a misdemeanor reflecting a propensity for violence, or is convicted of a felony. Pen C §1000.3. Due process requires a hearing before a person's participation in diversion can be terminated. *Kramer v Municipal Court* (1975) 49 CA3d 418, 424, 122 CR 672.

Once a diversion program is completed, the divertee obtains the following benefits under Pen C §1000.5(a):

- (a) The arrest on which the diversion was based is deemed never to have

occurred;

- (b) The divertee in response to any question about his or her record may respond that he or she was not arrested or diverted;
- (c) No license or other benefit may be denied the individual because of his or her participation in the diversion program except that under Pen C §1000.5(b), the divertee must disclose the arrest in context of an application for employment as a police officer and under Pen C §1000(d), an administrative agency may take discipline a licensee or deny an applicant a license for violation of Health & S C §11368 (forged or altered prescription).
- (d) The case on which diversion is granted must be dismissed on successful completion (Pen C §1000.3).

5. [§17] Nonstatutory Diversion

Around the state, nonstatutory diversion programs offer dismissal for completion of a rehabilitation program. In Oakland, for example, the Mentor Diversion Program, instituted by the District Attorney's office and the superior court, places young adult offenders with limited criminal histories who are charged with sale of drug offenses (Health & S C §§11351, 11351.5 and 11352) into a mentor program, matching young offenders with adult role models who work with the offenders over the course of the program in one-on-one relationships. If the offender is successful after a year-long intensive program, criminal charges are dismissed.

6. [§18] Non-Diversion Incentives

Hybrid diversion programs that do not offer a complete dismissal are common (i.e., offering to reduce felony convictions to misdemeanors), but provide less incentive for participants to succeed. Even where a diversion program is not available, significant incentives can be offered to offenders through the innovative application of probation terms (i.e., offering participants reductions in the length, intensity, or cost of probation supervision). See Appendix C(7) for a suggested probation-based program.

C. [§19] Oakland's FIRST Diversion Program: One Example of a Smart Punishment Model

The results of an effective "smart punishment" model should be an increase

in successful program completions and a decrease in criminal recidivism and days spent in custody.

As an example, in Oakland's FIRST Drug Diversion Program, progressive sanctions and incentives are applied through the utilization of contingency contracts that spell out the positive, as well as the negative, consequences of the offenders' actions. Through such contingency contracts, offenders gain control of their rehabilitation and are held directly accountable for their conduct. (See §§32–34 on contingency contracts.)

Oakland's FIRST Drug Diversion Program has achieved approximately twice the successful program completions of the previously existing program, while reducing both felony recidivism and the number of days participants spend in custody by approximately one-half. Because Alameda County is able to rent its unused jail space to neighboring counties, Alameda County earned over two million dollars over the first three years of the program that began in January 1991. (See Appendix B for a description and evaluation of the FIRST Drug Court program.)

III. [§20] THE JUDGE'S ROLE IN A DRUG COURT: A NEW JUDICIAL INTERVENTION STRATEGY

There is a persistent belief in the judicial community that a drug-using offenders' failures while under court supervision are willful and deliberate and consequently ought to be dealt with severely. Unfortunately, this belief minimizes the compulsive nature of drug abuse and exaggerates the offender's ability to refrain from continued drug usage (as well as the court's ability to coerce abstinence).

The Drug Court judge needs to recognize the limitations of judicial coercion as a drug rehabilitation tool and must reject the notion that program failure is necessarily the result of the willful defiance of judicial authority (and therefore, punishable as a kind of contempt of court). In its place, Drug Court judges have adopted a new pragmatic judicial intervention strategy. That strategy relies on the development of an ongoing, working relationship between the judge and the offender and the use of both positive and negative incentives to encourage compliance.

In a Drug Court, communications between judge and offenders become crucial. By increasing the frequency of court hearings, as well as the intensity and length of judge/offender contacts, the Drug Court judge becomes a powerful motivator for the offender's rehabilitation.

A. [§21] Making a Personal Connection

The judge's interaction with the offender in court can help motivate the

drug offender to comply with the rehabilitation program. For example, the judge should

- Let offenders know what is expected of them and how much the judge appreciates their success or is disappointed at their failure.
- Express the belief that they can (and will) succeed if they work at it. The judge should remind them, above all, that they are in control of their rehabilitation (and their case) as they are in control of their lives.
- Be less the dignified, detached judicial officer. This is the judge's opportunity to reach the offender, to show concern as well as toughness.
- Treat each offender as a person and an individual (i.e., avoid talking to offenders as a group).
- Don't lecture the offender, but engage him or her in conversation (as a rule, for not less than 1 minute, nor more than 3). The goal is to make a connection, and not let the offender sleepwalk through the court hearing.

B. [§22] The Drug Court as Theater

A Drug Court judge performs on the courtroom stage before an audience full of offenders. As appropriate, the judge assumes the role of confessor, task master, cheerleader, and mentor, in turn exhorting, threatening, encouraging and congratulating the participant for his or her progress, or lack thereof. The judge should

- Use the symbolism and the authority of the office to reach the entire audience, impressing upon them the importance of their cases, the judge's deep and abiding interest in them, and the very real consequences of success or failure.
- Direct remarks to the audience, reinforcing the idea that everyone is in this together and can learn from each other's successes and failures.
- Shape the calendar as if it were a play, with a beginning, a middle, and an end. The judge is the storyteller. Through the people who appear before the court and their interaction with the judge, staff, and the audience, the story (and promise) of the program is told.

- Use the court hearing to educate the audience on the potential consequences of the program. *In-custody offenders who have failed in the program should always be seen first before a full audience of offenders.* Those appearing for progress reports should be heard before those who are to be granted diversion, with successes (dismissals should be greeted with applause, congratulations, and a diploma) and failures (short-term remands into custody) prominently displayed.

Note: Uncertainty of outcome after a remand, and its accompanying anxieties, can be a useful motivator for both offender and audience. The judge should consider ordering the offender into custody without stating any disposition until later, at a hearing out of the presence of the audience.

C. [§23] Responding to Success and Failure

It is not necessary that one be an expert in behavior modification to be an effective Drug Court judge (although some basic knowledge of behavioral theory would be helpful). Drug Court judges rely on their common sense knowledge of what works in motivating people (e.g., as a parent, etc.).

Positive reinforcement is better than negative reinforcement, but both are useful and important in shaping behavior. Drug Court judges around the country regularly hand out diplomas, tee shirts, key chains and other memorabilia to successful program participants. For many offenders, a drug court graduation is the only graduation they have ever attended. The judge should not be afraid to make a big deal of it, shaking the graduates' hands and thanking them for their hard work. The audience can be included in the event. For example, the judge might ask the graduates to "turn around and tell the audience how your life has changed." The judge should make it a celebration, leading the audience in applause.

On the other hand, it is important for the audience to see sanctions meted out for program failures. Responding to failure requires a sense of balance. The judge should admonish offenders for their failures, while at the same time expressing belief in them and in their ability to succeed. Program failures (as well as remands into custody) should be handled early in the calendar so that all offenders can see the consequences of failure. Remember that a single day's incarceration (or even part of a day) can be an extraordinary motivator for both offender and audience.

D. [§24] The Drug Court Environment

A successful Drug Court depends on the willingness of the judge and court staff to work as a team. Prosecuting and defense attorneys should avoid confrontations in court and work together to sell the program to potential

offenders. The defense attorney (literally and figuratively) takes a step back, rarely getting between the judge and the offender. The prosecuting attorney adopts a conciliatory position. All staff see their job as the facilitation of the offender's rehabilitation.

Seemingly unimportant details of the court environment can have a substantial impact on the program's effectiveness. Small intimate courtrooms, with good acoustics and clear sightlines, help to involve offenders and audiences, achieving much better results than the more traditional courtrooms that keep the audience at a distance. If the members of the audience cannot hear the judge, they are not going to pay attention. Everyone should be able to hear, even in the back of the courtroom; if necessary, microphones can be used for both the court and the offender.

IV. SETTING UP A DRUG COURT

A. [§25] The Importance of Judicial Leadership

A Drug Court provides direction and focus through the leadership of a single judge. Such focused leadership ensures consistency in judicial decision making and program implementation, coordination and accountability of participating agencies and staff, and cost-effectiveness through direct calendaring and efficient case management.

Judges often tend to regard any judicial activity outside the courtroom with suspicion. The truth is, however, that judges can only be as effective in their courtrooms as the systems they build outside that courtroom will allow. For example, in Oakland, more than one third of defendants failed to appear for their diversion eligibility hearing when that hearing was held 6 to 8 weeks after their arraignment and release from custody. It did not matter how fair, competent, or effective the judge was in court (or, for that matter, how effective the program was), when the defendant failed to appear in court to be placed in the rehabilitation program. With the advent of the FIRST Diversion Program, the delay between arraignment and diversion eligibility hearing was reduced from six weeks to a single day, facilitating the immediate intervention in the offender's drug usage. Consequently the failure to appear rate dropped from approximately 36% to 3%.

Judges are in a unique position to provide effective leadership in promoting coordinated drug control and treatment efforts, both within the criminal justice system and in their local communities. 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.

Traditionally, judges have played the passive role of objective, impartial referee, only reluctantly stepping beyond the boundaries of their own courtroom. However, when the fair and effective administration of justice is threatened (as in this case by an exploding drug problem), judges have the responsibility to come forward and become leaders and active participants in the organization, design, and implementation of coordinated criminal justice and community-wide drug control efforts.

1. [§26] The Judge as Initiator

The judge should take the initiative, bringing the necessary agencies (and other interested parties) together for a coordinated review of current court procedures and programs. The review should determine how existing systems work (or fail to work) and develop a systemic vision of how a Drug Court and court-ordered rehabilitation program would function. Finally, the project is moved forward by setting timelines and monitoring the program's development and implementation.

It is not uncommon for there to be considerable resistance to any proposal to change existing systems. The judge should not be discouraged by the reluctance of some to change, remembering that important innovations do not come easily, but require persistence as well as vision to succeed.

2. [§27] Sharing Power

Judicial leadership involves more than a willingness to lead. It means looking beyond traditional relationships to the forming of innovative partnerships that feature collaboration in decision-making, sharing of resources, and coordination of efforts.

It is crucial that all program staff participate fully in the design and implementation of the program since nothing will defeat the program more surely than a reluctant bureaucracy. Probation and/or other program staff must share in the ownership of the program and understand that program success is in both their institutional and personal interest. Such staff commitment to program success is one of the most valuable assets a Drug Court program can have.

3. [§28] The Judge as Program Advocate

It is a mistake to delay starting the program until all funding is secured. Instead, the court should accept responsibility for the financial viability of the program, developing the best program possible with the resources already on hand. Existing systems can be adapted; existing agencies can be enlisted, and existing staff converted to this purpose. Federal, state, or private grants can

provide additional funding sources, but the court cannot rely on them (remember, grants generally last for just a few years). Over time, with program success, the court will be able to attract additional funding and move towards the model program it envisions.

The judge should get to know local government officials and make sure that they know about the program. This may require lobbying the County Executive and/or Board of Supervisors for continued financial and political support. Local agencies looking to slash budgets often cut rehabilitation programs first. It will take a concerted and coordinated effort to maintain the program in difficult times.

Programs that cannot show immediate and direct results lose out at budget time. Keeping statistical information on the program is essential. If possible, independent professionals should be consulted to evaluate such key areas as participant successes (graduations), criminal recidivism (new arrests), and incarceration rates (days spent in custody). Often, local universities or research institutes will provide this for little or no cost. If not, the Drug Court staff should do it.

It is important for the judge to develop good relations with local print and electronic media representatives, making sure that they are aware of program successes and sharing the credit with all parties involved. The more agencies and staff responsible for program success, the more there will be to fight for the program's survival.

4. [§29] The Pen C §1000(c) Referral Requirement — An Opportunity To Initiate a Drug Court System

All referrals to diversion granted after January 1, 1995 must be made only to programs that have been certified by the county drug program administrator or to programs that provide services at no cost to the participant and have been deemed by the court and county drug program administrator to be credible and effective. Pen C §§1000(c), 1000.2.

This amendment places responsibility on the court, along with the county administrator, to determine which treatment programs are acceptable. With this mandate, a drug court judge could convene a meeting of criminal justice, treatment, and other organizations to consider the development of treatment program criteria as a preliminary step to building a drug court system.

Note: The date of statutory authorization presents some need for immediate action.

B. [§30] Structural Accountability

Government agencies tend to see their interests narrowly and be distrustful of other agencies, resentful of outside pressures, and jealous of their prerogatives. For a court-ordered drug rehabilitation program to be effective, participating agencies must be able to look beyond those narrow interests, i.e., distributing information freely, collaborating in decision-making, sharing resources, and coordinating their efforts.

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 change or energies flag). It is crucial, therefore, to develop permanent structures that will ensure continued program coordination, stability, and effectiveness over time.

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. 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 on, and responsible to the others.

1. [§31] Characteristics of a Structurally Accountable Program

(a) A Unified Drug Court

A single Drug Court judge and dedicated court staff (handling all cases referred for drug rehabilitation from start to finish) provides the focus for program design, implementation, and monitoring.

(b) Co-Funding

Shared responsibility as to funding decisions (and planning) for the program promotes an integration of function and sense of responsibility for the total program.

(c) Interagency Planning

Full interagency and personnel participation in the design and implementation of the program promotes agency and personal commitment to, and ownership of, the program.

(d) Program Procedures and Guidelines

The setting of clear procedures and guidelines, describing program requirements and consequences informs all participants (including offenders) as to what is expected of them.

(e) Setting a Mission and Goals

Court and staff develop and agree on program goals that they can work towards and measure their progress against.

(f) Periodic Review

Interagency review of the program permits continuous evaluation of program and agency effectiveness, troubleshooting for problems and the maintenance of inter-agency relationships.

(g) Hands-on Vertical Participation

The offender is seen by the same agency personnel throughout the process promoting personal responsibility and commitment to the offender's progress.

(h) Developing Partnerships

Participating agencies look beyond traditional relationships, redefining their roles, and sharing in decision-making formerly reserved to a single agency.

(i) Data Collection

The collection of pertinent data is essential in determining whether the goals of the program are being met, and in planning for new ones.

(j) Full Access to Program Information

Complete access to information on the work of participating agencies allows them to better understand each other's role and work together more effectively.

(k) Direct Linkages

Developing mechanisms for the face-to-face meeting of all participants (including offenders) promotes the monitoring of the offender's progress and the work product of staff.

(l) Personnel Incentives

Providing incentives for the effective performance of work done and rewards for the special contributions of individuals, promotes staff commitment, innovation and productivity.

2. [§32] Contingency Contracts: A Structurally Accountability Feature

A contingency contract is developed cooperatively by the Drug Court

judge, the supervision and treatment staff, and other participating agencies. It sets out the standards of and consequences for offender conduct during the program. Both positive and negative behaviors are rewarded or penalized according to the number of rehabilitative tasks completed. For example, in Oakland's FIRST Diversion Contingency Contract (initially designed by Alameda County Probation Officer Frank Tapia), the number of points achieved under the contract reflect the number of rehabilitative tasks completed. Over the life of the program, that point total translates into rewards (where diversion may be reduced from 24 months to as little as 6 months, and the diversion fee reduced from \$220 to as little as \$20) or sanctions (where the court increases the intensity of supervision, treatment and/or remands the offender).

a. [§33] Accountability

All participants are responsible for the creation of the contingency contract, and accountable to each other for its effective operation. In designing a contingency contract, participants share the responsibility of establishing treatment and supervision requirements (traditionally the province of the supervision and treatment staff). Similarly, by creating a contingency contract that sets out the consequences of the offender's conduct, participants share in the making of sentencing decisions (formerly the court's sole responsibility).

The contingency contract is the structural cornerstone of the program, providing ground rules that reduce confusion and confrontation over program implementation while promoting long term program stability and effectiveness (even with personnel changes). The contract makes the offender accountable for his or her behavior. Importantly, the court, supervision agency, and other participating agencies have also committed themselves to the terms of the contingency contract, making themselves accountable to the offender and to each other for the contract's promised consequences. (See Appendix B for contingency contracts and progress report exemplars used in the FIRST Program.)

b. [§34] Empowerment

In a structurally accountable program, the flip side of accountability is empowerment. The contract spells out the consequences of compliance and noncompliance at its very beginning, motivating offenders to take control of their own rehabilitation (this also allows the court to be more realistic in its demands and expectations, as offenders make their own decisions about levels of participation and their resulting consequences). In effect, the offender is given the opportunity to become a participant rather than a self-described victim of the program.

Similarly, by making participants accountable for the program, they become responsible for program success. This change may involve a major shift in how staff view their jobs and themselves (hallmarks of agency culture). For some, the change may be seen as threatening their job security and/or identity and may be met with resistance. Eventually, many will see it as an opportunity to fulfill the professional goals they embraced at the beginning of their careers. Finally, when staff see themselves as partners in the program, morale and productivity will improve, as staff efforts are recognized and their initiative and creativity are encouraged.

C. Access to Funding

Availability of funding is important to both the design and implementation of a Drug Court System. However, it will not produce program success if the design is inadequate or the implementation weak.

Note: As of July 1, 1994, the following information is current.

1. [§35] Federal Funding

Starting in January 1995 and continuing through 1999 (if the federal Crime Bill passes), it is expected that \$1.4 billion will be available to jurisdictions across the country to develop and implement Drug Court Systems. Jurisdictions that wish to access those funds should begin their design development as soon as possible.

The Crime Bill will likely distribute *discretionary funds*. That means that all jurisdictions will compete for them on the basis of merit; no jurisdiction or state will be entitled to funding automatically. It therefore becomes critical for local jurisdictions to understand what federal authorities — in this case, the Department of Justice — are looking for in grant applications. For information, contact:

Thomas Albrecht
Discretionary Grants Program
Bureau of Justice Assistance
U.S. Department of Justice
633 Indian Avenue, N.W.
Washington, D.C. 20531
(202) 514-5947

a. [§36] A Coordinated Drug Court System

There is reason to believe that collaboration of affected organizations in the design of the program as well as in its implementation will be considered very

important in grants issued under the Crime Bill. That assumption is partly based on the language of the Crime Bill itself (see Appendix C(1)), which provides, in part,

An application for a grant under this subtitle shall:

Section 1042(d)(4) — identify related government or community initiatives which complement or will be coordinated with the proposal.

Section 1042(d)(5) — certify that there has been appropriate consultation with all affected agencies, and that there will be appropriate coordination with all affected agencies in the implementation of the program.

This analysis is also based on the general consensus among government and non-government professionals alike that coordinated and comprehensive systems that link government agencies with each other and their communities are the only way to affect the drug-using offender. Such Drug Court Systems provide for shared decision-making, system-wide linkages, and co-funding of all parts of the system. Those jurisdictions that can show a systemic plan linking all affected criminal justice, treatment, and community organizations will likely be in the best position to receive funding.

b. [§37] A Unified Drug Court

It is generally acknowledged that a "Drug Court" is a designated court that is referred all drug cases for rehabilitation purposes within a given jurisdiction. It is reasonable to assume that programs that feature unified Drug Court structures will be given priority for funding.

Note: Discretionary funding from the Center for Substance Abuse Treatment (CSAT) within the U.S. Department of Health and Human Services will also be available for the treatment side of a Drug Court system. For further information, contact:

Nick Demos
Office for Treatment Abuse and Mental Health Administration
U.S. Department of Health and Human Services
5600 Fishers Lane
Rockwall II, 10th Floor
Rockville, MD 20857
(301) 443-6533

2. State and Local Funding

a. [§38] Criminal Justice Funds

State funding of Criminal Justice anti-drug programs has traditionally been made available from "pass through" moneys from Federal Criminal Justice Drug Block Grants (known as the Edward Byrne Block Grant program). In the past, the California Office of Criminal Justice Planning (OCJP) has not opted to fund rehabilitation programs. That situation has apparently changed, with OCJP's development of a Drug Court funding option for local jurisdictions. See Appendix C(2). A judge who wishes to access OCJP funds should request to become a member of the county OCJP committee (these committees rarely have judicial representation).

Note: OCJP funding may be less important in the future as the Clinton administration has moved to reduce the approximately \$400 million in block grants by more than two-thirds, cutting back OCJP grants that had been distributed in California. For more information, contact:

Gina Harrington
Office of Criminal Justice Planning
1130 K Street, Sacramento, CA 94814
(916) 323-7720

b. [§39] Treatment Funds

State funding for the treatment side of a Drug Court program may also be available from the California Department of Alcohol and Drug Programs. These funds are typically made available locally through a county Alcohol and Drug Program Administrator, and are largely made up of "pass through" moneys from the federal Department of Health and Human Service Center for Substance Abuse Treatment (CSAT). It is advisable for the judge to meet with the county Alcohol and Drug Program Administrator to discuss funding (and linkages) in setting up a Drug Court system. (See §29 on the Pen C §1000(c) referral requirement.)

3. [§40] Foundation Grants

Numerous foundations and private corporations make funding available for drug treatment and criminal justice purposes. Some of the most prominent are:

Edna McConnell Clark Foundation
Judy Green
250 Park Avenue, Suite 900
New York, NY 10177-0026
(212) 551-9100

Robert Wood Johnson Foundation
Ruby Hearn or Paul Jellinek
College Road East
P.O. Box 2316
Princeton, NJ 08543

State Justice Institute (SJI)
David Tevlin
1650 King Street, Suite 600
Alexandria, VA 22314
(703) 684-6100

National Center for State Courts (NCJC)
Sally Hillsman
300 Newport Avenue
Williamsburg, VA 23185
(804) 253-2000

4. [§41] Private Contributions

In New York City, the Midtown Community Court's innovative computerized court and community-based supervision and treatment programs are substantially funded by corporate contributions. (See Appendix C(4).) For further information, contact:

John Feinblatt, Coordinator
Midtown Community Court Project
314 W. 34th Street
New York, NY 10019
(212) 484-2700

Judge Jack Lehman, who presides over the Las Vegas Drug Court, has set up a nonprofit corporation to seek and accept funds to supplement treatment, education, and other services provided to defendants in his drug court program. For more information, contact:

Judge Jack Lehman
Las Vegas District Court
200 S. 3rd Street
Las Vegas, NV 89155
(702) 455-4668

THE CIRCLE OF DRUG COURT SYSTEM PARTICIPANTS

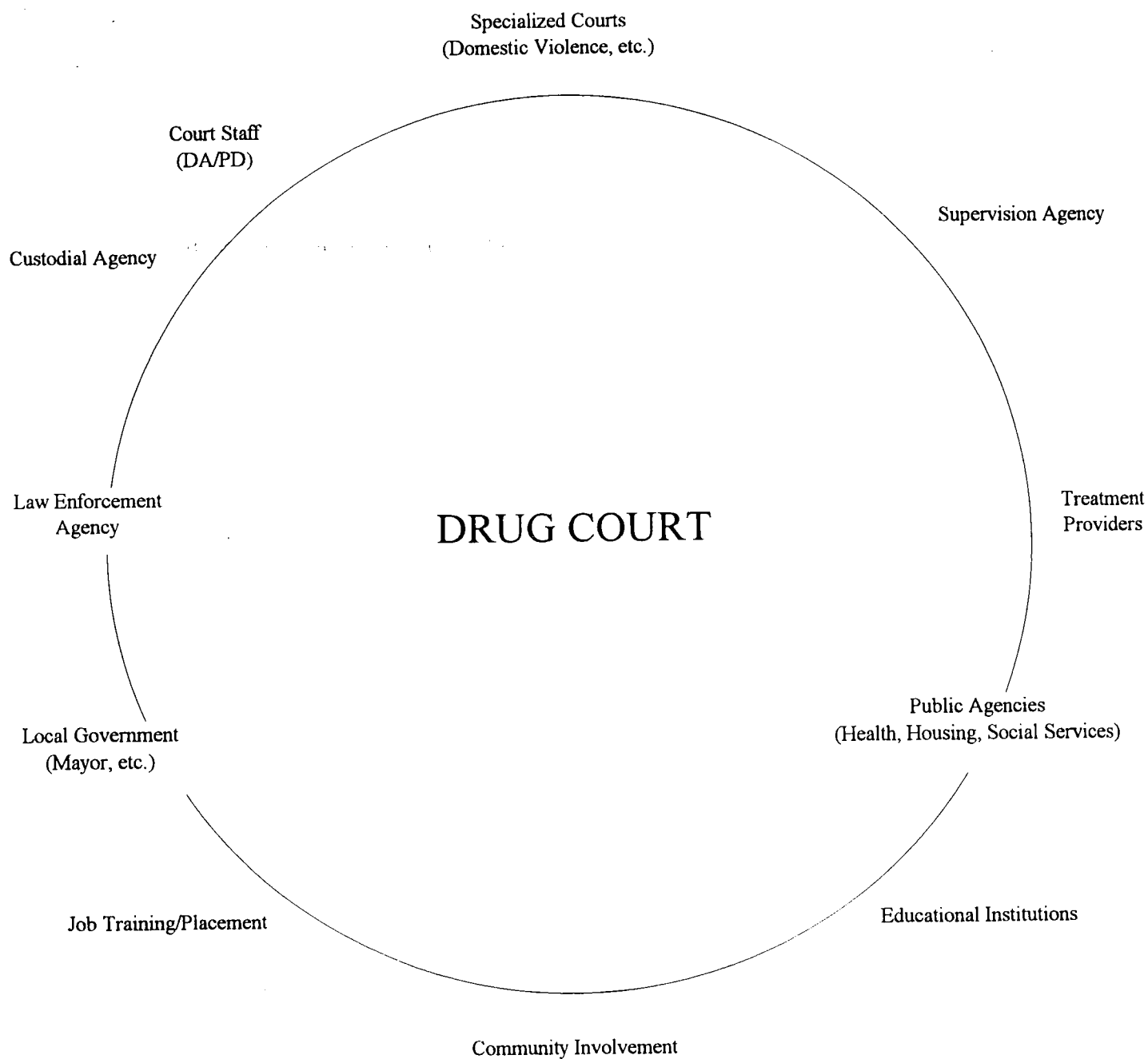


Figure 1

V. [§42] THE NEXT STEP: 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. A Unified Drug Court System provides 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 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 judge alone 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 Unified Drug Court System is a circular system, with each participant linked to, dependent upon, and responsible to the other. See Figure 1 for a diagram of Drug Court participants.

A. [§43] 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.

Unified Drug Court. Provides direction and focus through the leadership of a single judge, ensuring 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 a single court.

Specialized courts (Domestic Violence, Drunk Driving, Family and Juvenile Courts). Work 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. Community colleges and other educational institutions provide educational services to participants.

Community participation. (Bar Associations, 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.

B. [§44] Drug Courts as the Focus of an Anti-Drug System

The courts stand in a unique position among service agencies; they are at the fulcrum, where service agencies meet. Participating agencies are used to working closely with or under the supervision of the courts. Judges, too, have a special position in their communities that make Drug Courts the logical place to focus anti-drug efforts. 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.

C. [§45] Modern Communications Technology: Essential Linkages

A Unified Drug Court System represents a marriage of the traditional court model 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.

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 offender's program participation, court appearances, drug testing, criminal record, treatment history, and personal data. (See Appendix A.)

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.

D. [§46] Coordinated Systems: The Next Generation

The next generation of Unified Drug Court Systems will build upon the successes of existing management information systems, already in place in the Washington, D.C. Drug Court and New York City's Midtown Community Court. See Appendix C(4). They will provide all participating agencies — not just the courts — with relevant information on drug-using offenders.

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 (modelled after Drug 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. *Note:* Juvenile Drug Courts are being planned in several jurisdictions, while Domestic Violence Courts are already in place in Miami and other locales. For more information, contact: Cindy Lederman, Domestic Violence Court, 1351 N.W. 12th Street, Miami, Fla 33125, (305) 547-7876.

Relationships between previously uncooperative or disconnected 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 offender's progress (or lack thereof) in the community.

E. [§47] Development of Systemwide Funding Structures: Co-Funded Systems

In the future, it will be necessary to create strategies that persuade local government agencies (and their staffs) that their personal and institutional interests depend on the success of coordinated systems. The best — 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 do not see coordination (i.e., the sharing of resources) as being in their interests. For those who believe their funding to be 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. By requiring coordination and the sharing of resources as a condition of funding, program success (and continued funding) would become a shared goal of participating agencies.

In a *Co-Funded Anti-Drug System*, resources are allocated to the system as a whole, relying on the system's participants to distribute resources effectively within the system. Co-funding is intended to promote an integration of functions and a sense of responsibility for the entire system. It creates institutional commitment to a broader mission than departments and agencies

have traditionally embraced (on the part of funding agencies, as well as those funded). See Appendix C(3).

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 provide "community judging," linking up with their local communities, through immediate, personal, and direct court services.

Drug Courts afford us the opportunity to treat drug-using offenders in their communities with minimal incarceration, criminal recidivism, and cost. However, with that opportunity comes this challenge: If we don't carefully and intelligently design and implement these programs, we may fulfill the prophecy of the naysayers "that nothing works for drug-using offenders."

We need to develop *Drug Court Systems* that feature *Unified Drug Courts* structured upon *Reality-Based Design Principles*, and *Structurally Accountable Programs* that hold all participants (not just the offender) accountable.

Not every judge is an appropriate candidate to (nor wishes to) preside over a Drug Court. Ideally, a drug court judge should be a strong leader, with enthusiasm for the court's mission, an ability to think systemically, a talent for motivating others, and a willingness to be a hands-on participant in the process. Optimally, a judge should make a substantial commitment to the Drug Court of two years or more.

For those who accept the challenge, the Drug Court offers judges the opportunity to be truly effective in reducing both the criminality and drug usage of offenders. While it requires a willingness to work outside the confines of the typical judicial role, a Drug Court represents one of the most challenging and exciting innovations in the criminal justice system in a long time.

APPENDIX A

SUMMARY OF DRUG COURTS NATIONWIDE*

Alameda County (Oakland), California

Oakland's FIRST (Fast, Intensive, Report, Supervision, Treatment) Program directs less serious felony drug offenders into treatment administered by the County Probation Department. Diversion is generally granted within one day of a defendant's release from custody, and lasts for up to two years. The FIRST Program uses progressive sanctions to reward program compliance and punish noncompliance, with the severity determined by the seriousness of program failure. Treatment includes group probation sessions, educational sessions, regular urinalysis, and a community counseling program. Successful program participation results in the reduction to as little as 6 months in the diversion term and the dismissal of the defendant's case.

Contact:

Judge Jeffrey Tauber
Oakland-Piedmont-Emeryville Municipal Court
661 Washington Street
Oakland, CA 94607
(510) 268-7638

Bakersfield Municipal Court, California

Misdemeanor defendants with a drug or alcohol problem who are not eligible for PC §1000 are identified at arraignment by experienced probation officers. They are referred to the Mental Health Evaluation Officer who works in the court. The Substance Abuse Court is not "offense specific" and the judge or court staff make the only determinations regarding eligibility. Defendants who agree to participate plead guilty, waive time for sentencing, and are scheduled to appear in the Substance Abuse Court within one week. The initial referral also directs each defendant to begin an individualized treatment protocol. Thereafter, in frequent intervals ranging from one week to one month, the defendants appear in the Substance Abuse Court where their performance in treatment is monitored by volunteer Substance Abuse Counselors, the Evaluation Officer, and the judge. Program failures involve a series of graduated sanctions. When the defendant has satisfied the individualized

*These program descriptions come from the following publications (among other sources): "Special Drug Courts" (November 1993), by Steven Belenko and Tamara Dumanovsky, and "Drug Case Management and Treatment Intervention Strategies in the State and Local Courts" (March 1991), by Caroline S. Cooper and Joseph A. Trotter. Both are excellent reference materials and can be obtained by contacting the Bureau of Justice Assistance Clearinghouse, Box 6000, Rockville MD 20850, 1-800-688-4252; FAX #301-251-5212.

program requirements, sentence is imposed with the treatment success in mind.

Contact:

Judge Frank Hoover
Bakersfield Municipal Court
1215 Truxtun Avenue
Bakersfield, CA 93301
(805) 861-2411

Baltimore, Maryland

Defendants charged with non-violent drug or drug-related offenses are assessed for program eligibility. Defendants participate pursuant to agreements and are placed either on probation or on diversion. Defendants are assigned to dedicated treatment slots and receive a wide range of human services to augment treatment. Program duration lasts approximately one year. Incentives and graduated sanctions are utilized by the court to motivate behavior.

Contact:

Judge Jamey H. Weitzman
District Court of Maryland for Baltimore City
5800 Wabash Avenue
Baltimore, MD 21202
(410) 764-8714

Berrien County (St. Joseph), Michigan

Treatment services for Drug Court defendants are provided by the Berrien County Health Department. Under the Berrien County Drug Court Program guidelines, treatment intervention begins as early as the second day after arrest for defendants released pretrial (approximately 60%), and within 30 days of arrest for all eligible defendants as either a condition for diversion, deferred prosecution, or probation. A variety of treatment modalities are used, depending upon the severity of the defendant's treatment needs, including regular urine testing, one-on-one counseling, group therapy and, where warranted, in-patient treatment.

Contact:

Judge Ronald-Taylor
Circuit Court
811 Port Street
St. Joseph, Michigan 49085
(616) 983-7111 ext. 8386

Broward County (Fort Lauderdale), Florida

Broward County's Drug Court is a pretrial intervention program for first-time felony drug offenders. Those eligible are immediately diverted into a designated court and treatment program, which includes acupuncture, urinalysis, counseling, fellowship meetings, education, vocational training, and aftercare.

Regularly scheduled court appearances monitor a system of rising interventions in which more intensive supervision and treatment are ordered following relapse. Continued relapses may result in a few days in jail to months in residential community or jail-based treatment facilities. Success is rewarded with applause, doughnuts, and momentos inscribed with the Drug Court slogan, "I'M 2 GOOD 4 DRUGS," and, after one year, graduation and dismissal of charges.

Contact:

Judge Robert J. Fogan
Broward County Courthouse
201 Southeast 6th Street
Fort Lauderdale, FL 33301
(305) 831-7095

Clark County (Las Vegas), Nevada

Non-violent defendants charged with non-sales offenses are given the option to participate in the program. Participants are sent to an independent clinic "Choices Unlimited" which provides acupuncture and counseling sessions. The treatment provider provides information to the Court prior to each defendant's appearance relating to the number of counseling sessions conducted and the number of positive and/or negative drug urinalyses. Defendants have access to GED training or, if already completed, to vocational training for non-minimum wage jobs. Program is one year in length.

Contact:

Judge Jack Lehman
Las Vegas District Court
200 S. 3rd Street, Dept. X
Las Vegas, Nevada 89155
(702) 455-4668

Cook County (Chicago), Illinois

A special Fast Track Calendar relies on an expedited management process to achieve earlier treatment intervention for eligible defendants. Graduated sanctions are used for probation violations arising out of noncompliance with treatment program requirements. These sanctions entail the defendant's commitment to the local jail for brief periods of time (increasing in length for subsequent violations) and/or increasing the intensity of treatment services. The Chicago TASC program is the principal provider/coordinator of treatment services.

Contact:

Judge Michael Getty
Cook County Circuit Court
1560 Sandburg Terrace #1104
Chicago, IL 60610

(312) 890-3183

Dade County (Miami), Florida

Dade County's Drug Court channels defendants arrested on felony drug possession charges into its court-run Diversion and Treatment Program. The program lasts one year and provides treatment and case management services including counseling, acupuncture, fellowship meetings, education, and vocational services, combined with strict monitoring through urine testing and regular court appearances. Defendants who successfully complete the program have their cases dismissed.

Contact:

Timothy Murray

Director

Metro Dade Office of Substance Abuse Control

111 NW 1st Street, Suite 2740

Miami, FL 33128

(305) 375-2676

Denver, Colorado

Denver's drug court program has three tracks: (1) A deferred judgment track for first-time offenders, (2) a community supervision and treatment track for those defendants not qualified for the first track and who do not pose a risk to public safety in a community setting, and (3) a delay reduction track for those individuals who are probably unsuited for community-based sanctions. The Denver drug court utilizes the judge-centered treatment and supervision model, with rewards and graduated sanctions as motivational tools to ensure compliance. Early intervention, assessment, motivational intervening, and offender-treatment matching form the crux of the treatment philosophy. Both traditional and nontraditional treatment methodologies are used, with the court making referrals to a wide variety of treatment providers. On-line real-time treatment information is supplied to the court through computers and Zon terminals.

Contact:

Judge William Meyer

City & County Building

1437 Bannock

Courtroom 7

Denver, Colorado 80202

(303) 640-2711

Escambia County (Pensacola), Florida

The program was initially designed for first offender defendants charged with drug possession who can be referred for pretrial diversion and treatment involving substance abuse treatment, regular urinalysis, and educational and

vocational assistance which, if successfully completed, results in dismissal of their charges. Since the program began, it has expanded its services to defendants on probation who are deemed to be good candidates for the treatment services offered. Treatment services in each county are provided by a private nonprofit organization, with referrals to local county social service agencies, as appropriate. The treatment program extends for a twelve-month period.

Contact:

Judge John Parnham
First Judicial Circuit Court
190 Government Center
Pensacola, Florida 32501
(904) 436-5733

Jackson County (Kansas City) Missouri

The Jackson County Drug Court program is designed to identify persons with substance abuse problems which appear to have played a role in the commission of their current offense and to offer them the opportunity of participating in a deferred prosecution treatment program. Defendants appear before the Drug Judge every three weeks initially and then return to court periodically thereafter.

Contact:

Claire C. McCaskill, Prosecutor
Jackson County Prosecutor's Office
415 E. 12th Street, 11th Floor
Kansas City, Missouri 64106
(816) 881-3366

Jefferson County, Kentucky

Defendants charged with drug-related offenses can enter the Drug Diversion Court. The program includes meditation, optional acupuncture, group and individual treatment, along with remedial education, vocational training, case planning, and court supervision through a three-phase program. Entry into the program is conditional upon prosecutorial approval and medical screening. Successful completion of the program results in dismissal of the underlying criminal charge.

Contact:

Judge Henry Weber
Jefferson District Court
Hall of Justice
Louisville, Kentucky 40202
(502) 595-4610

Jefferson County (Beaumont), Texas

A description of the program was not available at the time of publication.

Contact:

Judge Walton Sekaly
Longfellow Building
Beaumont, TX 77706

Kalamazoo County (Kalamazoo), Michigan

Nonviolent female offenders with substance abuse problems who are charged with substance abuse offenses and who would otherwise face possible incarceration in jail or prison are eligible to enter the prison diversion program. All participants appear biweekly before the Drug Court judge. Treatment services include a variety of modalities, depending upon the individual client's needs, including intensive outpatient, standard outpatient, and sheltered stabilization (residential). Assistance is also provided with other support needs including housing, child care, and personal and family subsistence.

Contact:

Judge William G. Schma
Circuit Judge
227 West Michigan Avenue
Kalamazoo, Michigan 49007
(616) 383-8947

King County (Seattle), Washington

To be eligible for the Drug Diversion Court (DDC), defendants must be charged with possession of a controlled substance and have no other pending felonies. They must also have no prior convictions for sex and violent offenses. If defendants choose to enter the program they must waive their right to speedy trial and jury trial. If they complete the program, the charges are dismissed. If they do not complete the program, there is a trial to the judge based on stipulated facts. Treatment occurs in three phases of decreasing intensity of services. The components of the treatment plan include assessment, case coordination, judicial review (monthly), individual and group counseling, urinalysis, acupuncture, self-help groups, and referrals to a variety of other services and programs.

Contact:

Judge Rick Martinez
King County Superior Court
516 Third Avenue
Seattle, WA 98104
(206) 296-9299

Leon County (Tallahassee), Florida

Defendants with drug possession charges can enter a pretrial treatment program supervised by the Court which, if successfully completed, results in the dismissal of their case. Treatment services include individual and group counseling, drug treatment, including treatment for persons incarcerated in the local jail. Acupuncture is provided five days a week initially. In addition to the treatment services, public health, education, vocational training, job development, and placement assistance are also available.

Contact:

Judge Philip Padovano
Second Judicial Circuit
Leon County Courthouse, Room 365D
Tallahassee, Florida 32301
(904) 488-3615

Los Angeles County, California

The Los Angeles County Drug Court provides a comprehensive program of court-supervised treatment for non-violent felony drug offenders. Each defendant's criminal history is reviewed by the Probation Department's Pre-trial Services Division for Drug Court eligibility. It is estimated that the Program could accommodate as many as 250 participants during the first year. The Drug Court provides an integrated structure of treatment and rehabilitative services, which include: urinalysis, acupuncture, individual and group substance abuse counseling, educational and vocational training, and narcotics/alcoholics anonymous meetings. The Program includes three phases of graduated treatment interventions and, if necessary, short-term residential treatment in the community and/or County Jail Drug Treatment Program. Treatment is provided by a private contractor working in close coordination with the court. The Drug Court provides frequent monitoring of the defendant by the judge, as the defendant completes each phase of the program.

Contact:

Judge Stephen A. Marcus
Los Angeles County Building
210 W. Temple Street
Los Angeles, CA 90012
(213) 974-6037

Maricopa County (Phoenix), Arizona

The program targets probation-eligible defendants convicted of their first offense for drug possession, have minimal substance use history and limited prior participation in treatment, and are in need of drug education, substance abuse outpatient counseling and drug monitoring. Persons eligible for the program must not pose a serious risk to the community, be in need of drug education/substance abuse counseling on an outpatient basis, and have no other

identifiable treatment issues which would retard and/or prevent completion of the program.

Contact:

Judge Sue Bolton
Maricopa County Courthouse
201 W. Jefferson Street
Phoenix, AR 85003

Mobile, Alabama

Treatment currently consists of acupuncture, frequent drug testing, counseling and education. Most treatment services have been provided under contract by a local hospital. Two treatment/sanction tracks are available: one for community-based treatment, the other to provide for split-sentencing with some incarceration in addition to the community-based treatment. One facility will be established to provide the treatment, counseling, drug testing, case management, etc. and serve as a day-reporting center. Defendants are charged \$100 per month for treatment costs.

Contact:

Judge Braxton Kittrell, Chief Judge
Thirteenth Judicial Circuit
County Courthouse
Mobile, Alabama 36602
(205) 690-8474

Multnomah County (Portland), Oregon

In Multnomah County's S.T.O.P. (Sanction, Treatment, Opportunity, Progress) Program, defendants charged with felony possession of a controlled substance can participate voluntarily in this treatment program, which lasts approximately one year. The program, much of which is tailored to suit the individual needs of each participant, is divided into four phases. In addition to monthly status hearings, the program includes random urinalysis, acupuncture, group counseling, and concludes with a Life Management and a Guidance Phase, to ensure easy transition out of the program. Participants also are required to attend Narcotics Anonymous and/or Alcoholics Anonymous meetings. Defendants who successfully complete the S.T.O.P. Program have their criminal indictments dismissed.

Contact:

Judge Harl Haas
Multnomah County Courthouse
1021 SW 4th Avenue, Room 512
Portland, OR 97204-1405
(503) 248-3052

New Castle County (Wilmington), Delaware

The program uses multiple case processing tracks for drug cases, with a special effort to provide early treatment to less serious offenders and expedited management for all drug cases. The TASC program provides treatment services to offenders at all stages of the criminal justice process.

Contact:

Judge Richard S. Gebelein
1020 N. King Street
Wilmington, Delaware 19801
(302) 577-2400

Polaski County (Little Rock), Arkansas

The S.T.E.P. pretrial diversion program targets adult non-violent first offenders charged with simple possession of a drug or paraphernalia. The S.T.E.P. program diverts the defendant at the first appearance in court after arrest. The magistrate orders the transfer of the defendant to S.T.E.P. no more than five days after arrest. At S.T.E.P. the waiver of rights and the program are explained, forms signed, and eligibility confirmed. That same day physical and psychological exams are made and an assessment of treatment needs is completed. Treatment is primarily outpatient in three phases over a period of one year. Upon completion of the program, the original charge is dismissed.

Contact:

Judge Jack Lessenbury
715 W. 2nd Street
Little Rock, Ark 72201
(501) 376-6655

Tampa, Florida

A description of the program was not available at the time of publication.

Contact:

Judge Dennis Alvarez
801 East Twiggs Street
Tampa, Fla 33602
(813) 272-5022

Travis County (Austin), Texas

The Travis County Drug Diversion Court is a deferred prosecution program for defendants charged with felony drug possession under 10 grams. Potentially eligible defendants are identified by the Pretrial Services department which refers them to the Court for further screening. Upon release from jail, defendants are further screened by the district attorney and, if approved, can enter the program. The defendant then appears before the Drug Court Magistrate and signs a program agreement, along with the magistrate, district attorney and public defender. Persons entering the program do not enter a plea.

Contact:

Judge Joel B. Bennett
Travis County Drug Diversion Court
316 W. 12th Street
Austin, Texas 78701
(512) 476-8596

Washington, D.C.

Washington D.C.'s Drug Intervention Project, of the Superior Court of the District of Columbia, requires judges to oversee and encourage defendants' participation in drug treatment through incentives and immediate consequences for failure to comply. Along with this intervention, the project centralizes treatment services in the courts. The project includes a Graduated Sanction regimen, in which sanction severity increases by the number of positive drug test results, and an Enhanced Treatment Program with four levels of intervention ranging from drug testing, day treatment, and a residential substance abuse treatment program.

Contact:

John A. Carver III
Director
D.C. Pretrial Services Agency
400 F Street N.W.
Washington, DC 20001
(202) 727-2911

APPENDIX B

OAKLAND'S "FIRST" DRUG COURT

- (1) Description of FIRST Program
- (2) FIRST Drug Diversion Action/Decision Flowchart
- (3) Diversion Eligibility/Pretrial Services Report
- (4) FIRST Contingency Contracts and Progress Report Exemplars
- (5) Three-Year Evaluation of FIRST Program
- (6) "Sometimes Speed Works," *San Francisco Daily Journal*, January 14, 1994.
- (7) Proposal for a Probation-Based FIRST Drug Court Program

APPENDIX B

OAKLAND'S "FIRST" DRUG COURT

(1) Description of F.I.R.S.T. Program (as of Jan. 1992)

PHASE I. THE DIVERSION PLACEMENT

DAY 1

Felony drug defendants are arraigned in the Felony Master Calendar Court.

A packet of information is compiled by the District Attorney's Office prior to the defendant's appearance in the court. This consists of:

- (1) a declaration of eligibility;
- (2) a police report; and
- (3) a RAP sheet and/or CII Report (county and state criminal histories)

At the time of arraignment, the District Attorney determines initial statutory eligibility. If the defendant is determined to be eligible, the judge requests a combined OR (release without bail) and diversion project report (see Appendix B(3)) sent to the "Drug Court" for a diversion referral and attorney and plea hearing on the following day.

DAY 2

At an afternoon Diversion Referral/Attorney & Plea hearing in the Drug Court, the defendant is interviewed by both Pretrial Service personnel for a diversion recommendation (and OR release recommendation if necessary) and by the Public Defender regarding representation.

Important: Before a defendant can be granted Diversion (or recycled/reinstated into Diversion), he or she must be released from custody and ordered to return to court the following morning for the grant of Diversion and the initial probation session.

DAY 3

Before the morning calendar, a probation officer reviews the Diversion/OR report prepared the previous afternoon and makes a recommendation as to the defendant's appropriateness for diversion. That recommendation is considered by the district attorney, public defender (or other defense counsel) and the court, before the court's decision is made.

Each of four Phase II probation officers under the supervision of a Unit Supervisor is assigned one week a month to receive all diversion referrals for the week. The probation officer's caseload is limited to approximately 25 defendants per month (a caseload of approximately 50 defendants) who are scheduled to graduate to Phase III at the ten-week progress report hearing.

The probation officer acts as the court officer (during the one-week referral period) and appears in court on a monthly basis when his or her own cases are before the court. This allows the probation/court officer to report to the court directly on the divertees' progress (as well as return a defendant who has performed poorly to court at the five-week progress report hearing).

PHASE II. THE TWO-MONTH INTENSIVE EVALUATION AND SUPERVISION PHASE

Each morning, at the time defendant is granted Diversion, defendants are ordered to report immediately to the named probation officer for an initial group orientation session (approximately five defendants per day). Divertees are briefed by their court-assigned Probation Officer on the rules and regulations of the FIRST Drug Diversion Contract.

Over the next ten weeks, the divertee is responsible for completing 22 separate tasks under the contract.

- o reporting to the probation officer for a single assessment interview (the second week) and attending five group probation sessions (6)
- o attending four Drug education and one AIDS class (5)
- o taking three random urine tests with negative results (3)
- o registering with a community counseling program in the program's 2nd week and participating in it over the course of the program (7)
- o making one payment toward a \$220 diversion fee (1)

At the ten-week Progress Report hearing, the divertee's performance in Phase II is reviewed, as well as his or her compliance with the Phase II Contingency Contract (see Appendix B(4)).

Those divertees who have satisfactorily fulfilled their obligations are granted whatever incentives their performance calls for under the contract (up to a 9-month reduction in the 24-month diversion term and up to a \$100 reduction in the \$220 diversion fee). The divertee is then graduated to Phase III and ordered to immediately report to his or her Phase III probation officer for an orientation session.

Those divertee's who have performed inadequately may be: (1) given a 5-week extension to complete the Phase II program (where the divertee has not completed the drug education and/or counseling requirements); (2) recycled through Phase II with a 5-week further progress report (which may include a limited period of incarceration) or (3) assigned to individual probation supervision because of special problems (i.e., mental disorders or learning disabilities).

PHASE III. THE FINAL SUPERVISION AND TREATMENT PHASE

During the three-month Phase III period, a defendant is responsible for completing 24 separate tasks under the Phase III contract:

- attending eight group probation sessions
- seeing the probation officer twice individually
- taking four random urine tests with negative results
- participating in community counseling for eight weeks
- making two diversion fee payments

At the first three-month Phase III Progress Report hearing, the divertee's performance is reviewed as well as his or her compliance with the Phase III Contingency Contract (see Appendix B(4)).

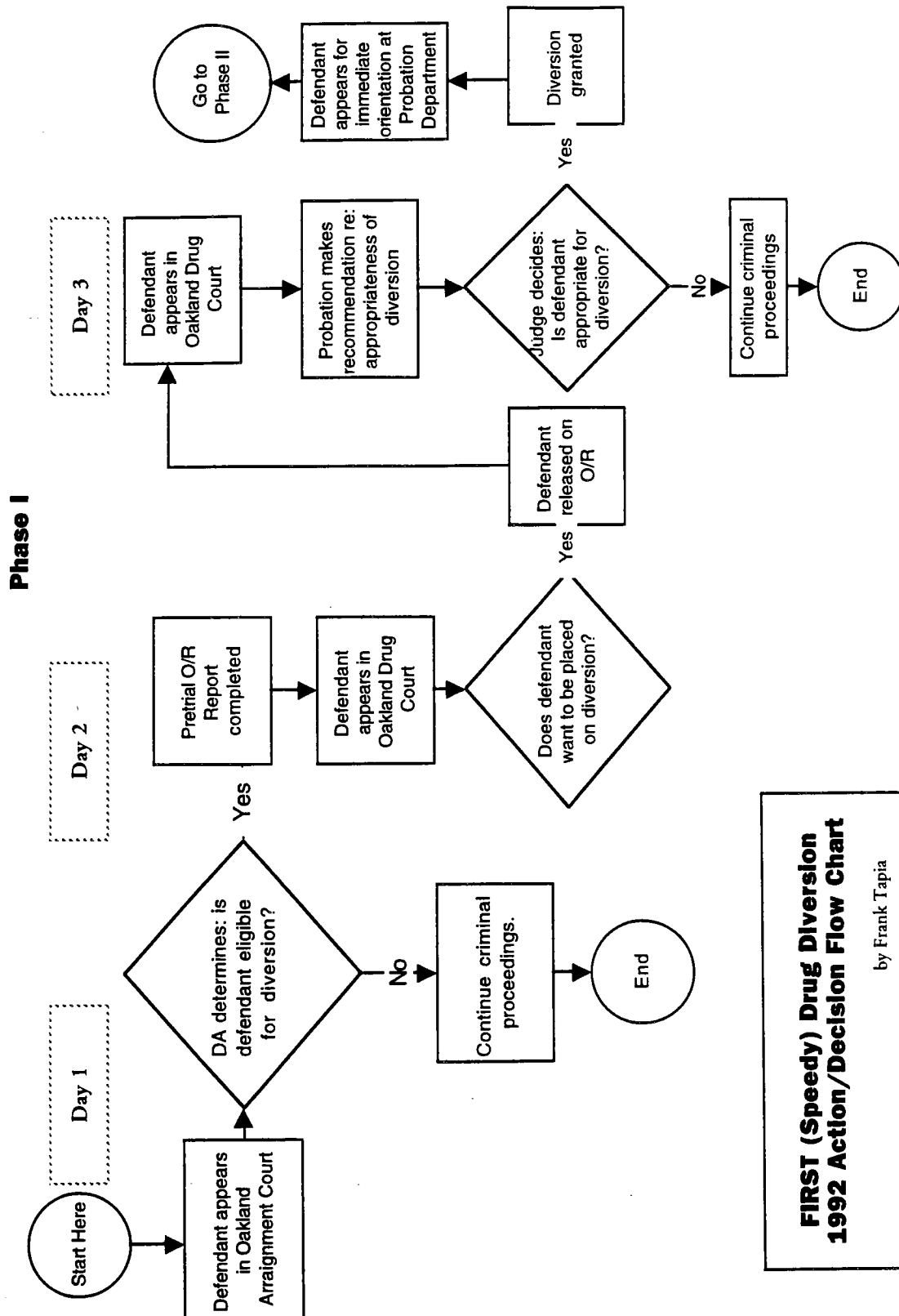
Those divertees who have satisfactorily fulfilled their obligations are granted whatever incentives their performance calls for under their contract (up to a 9-month reduction in the 24-month diversion term and up to a \$100 reduction in the \$220 diversion fee). This may mean that the divertee has earned a dismissal under Penal Code Section 1000 or that he or she has their

case continued the standard 3-month period for a further progress report.

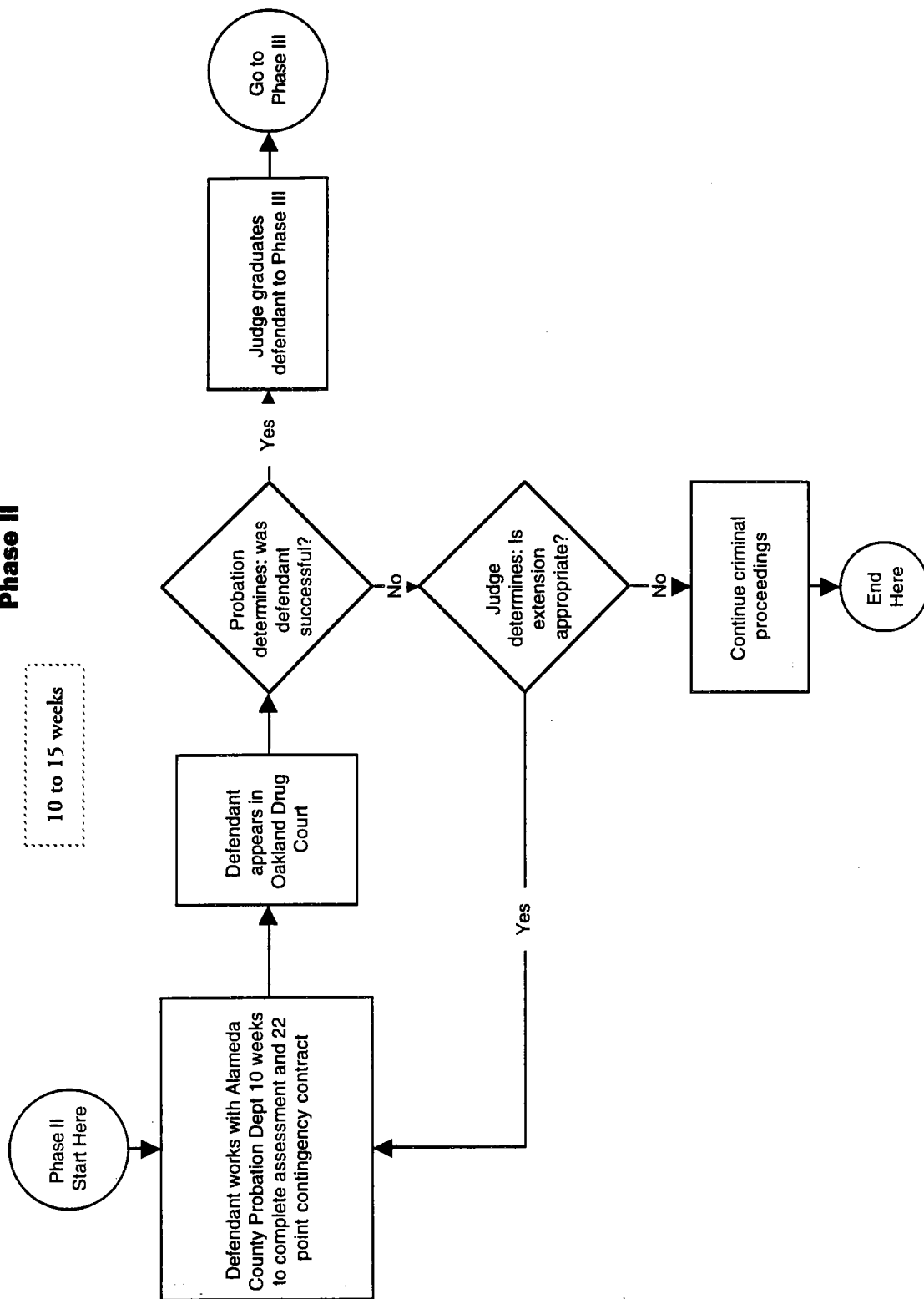
Those divertees who have performed inadequately may be: (1) recycled through Phase III with a further progress report in 5 weeks (which may include a limited period of incarceration); or (2) terminated from the Diversion Program and have criminal proceedings reinstated.

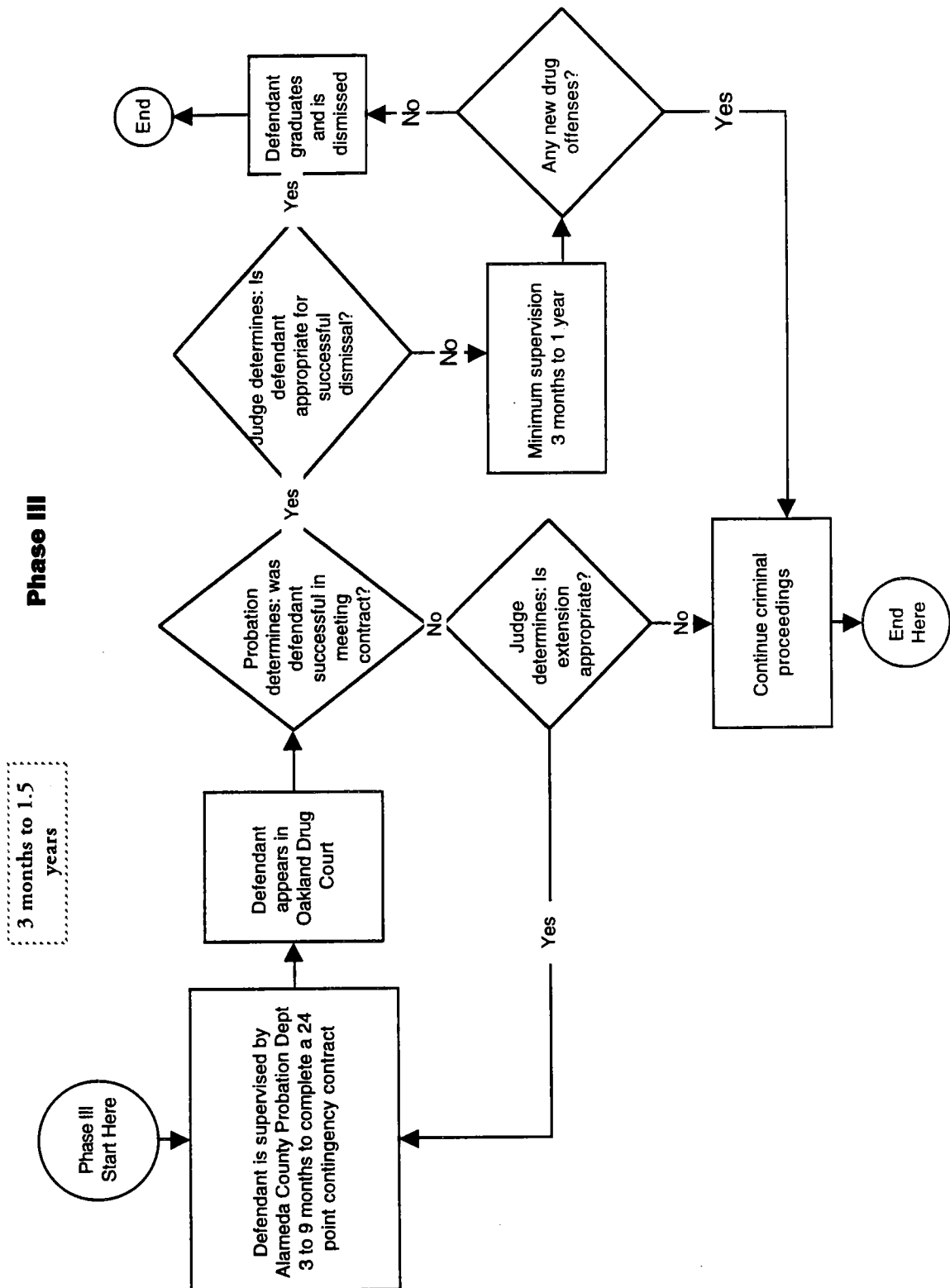
APPENDIX B (Cont.)

(2) FIRST Drug Diversion Action/Decision Flowchart



Phase II





APPENDIX B (Cont.)

(3) Diversion/Eligibility Pretrial Services Report

P.D.: Yes ☐ No ☐

\$ _____ Bail

Arrest Report # _____

ALAMEDA COUNTY PROBATION DEPARTMENT PRETRIAL SERVICE DEFENDANT REPORT

Date/Time Interviewed _____

Last Name	First	Middle	Age	DOB	Sex	Race	PFN
AKA				Docket		CEN	
Present Charges		Court	Dept.	Cl. Date & Time		CII	

Arrest Date: _____ Time: _____ Surrendered: Yes ☐ No ☐ Warrant ☐ Direct Arrest ☐

PROBATION/PAROLE SUMMARY	Active Probation A <input type="checkbox"/> J <input type="checkbox"/>
	Inactive Case <input type="checkbox"/>
	Active Parole <input type="checkbox"/>
	Active CYA <input type="checkbox"/>
P.O.: _____	No Record <input type="checkbox"/>
Comments: _____	

COMMUNITY/PERSONAL DATA	HOW LONG IN COUNTY?	HOW LONG IN BAY AREA?	Verified By
Present Address	Phone	How Long	
Prior/Alternate Address	Phone	How Long	
Living with	Relationship	Marital Status	Supporting: Spouse <input type="checkbox"/> Other <input type="checkbox"/>
			Children <input type="checkbox"/> Parents <input type="checkbox"/>
Relative In Area	Relationship	Address	Phone
Reference In Area	Relationship	Address	Phone
Current Employer/School	Location	Phone	Duties
			F.T. <input type="checkbox"/> How Long P.T. <input type="checkbox"/>
Previous Employer	Location	Phone	Duties
			F.T. <input type="checkbox"/> How Long P.T. <input type="checkbox"/>
Welfare	U.I.B.	Work. Comp.	S.S.I.
			Other
			Total
			Education Level

IMMEDIATE PERSONAL AND MEDICAL PROBLEMS (Including Drugs, Alcohol, Detox, Psychiatric, Housing)

TYPE OF PROBLEM	DURATION	PRESENT TREATMENT/MEDICATION	TREATMENT REQUESTED
1.			
2.			
3.			
4.			

DRUG DIVERSION			
CORPUS	CII	JUVIS	By Def. Statement
<input type="checkbox"/> Prior Drug Conviction? <input type="checkbox"/> Prior Drug Diversion? <input type="checkbox"/> Prior Felony within 5 years? <input type="checkbox"/> Revoked/Sentenced Prob. or Parole? Willing to complete program? _____			
Classes <input type="checkbox"/> AIDS <input type="checkbox"/> Outpatient <input type="checkbox"/> Inpatient <input type="checkbox"/> Medication <input type="checkbox"/> Based on the information provided above, the following recommendation is made: Grant <input type="checkbox"/> Denial <input type="checkbox"/> Cont. for further report <input type="checkbox"/> by: _____ Deputy Probation Officer			

Interviewer Comments: _____

Interviewer/Location _____ Position Number _____

cc: Court File, Probation file, D.A., P.D., or Counsel (attach A.R. and CORPUS)

APPENDIX B (Cont.)

(4) FIRST Contingency Contracts and Progress Report Exemplars

ALAMEDA COUNTY PROBATION DEPARTMENT SPEEDY DRUG DIVERSION TEN WEEK CONTRACT (PHASE II - ASSESSMENT)

You have been granted Drug Diversion for 24 months and will have a Court appearance scheduled in 10 weeks. The purpose of this Court date is to inform the Judge whether you have successfully completed Phase II of the Drug Diversion Program.

During the next 10 weeks, you are responsible for completing the following:

- 6 See your Probation Officer at least 6 times.
- 5 Attend 4 Drug Education and 1 AIDS Education class at the Probation Center.
- 3 Take urine tests. 1 point for each negative test. Maximum of three points.
- 1 Register with a community counseling agency.
- 6 Participate in counseling. 1 point for each week of participation (Maximum of 6 points).
- 1 Make 1 payment toward \$220 fee.
- 22

The above equals 22 different tasks that you will be responsible to complete by your next Court date. You must complete all Drug/AIDS Education classes and attend a specified number of community counseling sessions in order to graduate to Phase III.

THE FOLLOWING POINT TOTALS WILL RESULT IN THESE SPECIFIC RECOMMENDATIONS:

22 points: Continue on diversion, REDUCE TIME TO 15 MONTHS AND REDUCE FEE TO \$120. (Reduction of 9 months and \$100)

18-21 points: Continue on diversion, REDUCE TIME TO 18 MONTHS AND REDUCE FEE TO \$145. (Reduction of 6 months and \$75)
MUST HAVE 2 NEGATIVE URINE TESTS.

14-17 points: Continue on diversion, REDUCE TIME TO 21 MONTHS AND REDUCE FEE TO \$170. (Reduction of 3 months and \$50)
MUST HAVE 1 NEGATIVE URINE TEST AND MUST BE REGISTERED FOR COMMUNITY COUNSELING.

11-13 points: Continue on diversion. (Must be registered for community counseling.)

10 points or less:

- a) Continue on diversion; time in custody
- b) Termination from diversion; reinstate criminal proceedings

IF YOU FAIL TO APPEAR FOR COURT, THE JUDGE WILL REVOKE YOUR O.R., FORFEIT BAIL AND ISSUE A BENCH WARRANT.

PHASE II

TWO MONTH SUMMARY DRUG DIVERSION REPORT

On October 29, 1992, [REDACTED] was referred to the Probation Department for Report and Modification pursuant to a grant of diversion under Section 1000 of the California Penal Code.

_____ Conviction record attached X No known prior H&S convictions

PERFORMANCE DURING FIRST TWO MONTHS OF DIVERSION SUPERVISION

Number Tasks Possible	Number Satisfactorily Completed	Comments
<u> 6 </u> REPORTING	<u> 6 </u>	_____

<u> 5 </u> IDAP	<u> 5 </u>	_____

<u> 7 </u> PROGRAM	<u> 7 </u>	<u>Def. referred to Terra Firma on 11-10-92. He registered with program on 11-11 & has attended weekly sessions since then.</u>

<u> 3 </u> TESTING	<u> 3 </u>	<u>Def. tested negative for cocaine on 11-9 & 11-24 and 12-7-92.</u>

<u> 1 </u> FEE PAYMENT	<u> 1 </u>	ORDERED: <u>\$220.00</u> PAID: <u>\$20.00</u>
		BALANCE: <u>\$200.00</u>
	<u> 22 </u> TOTAL	PHASE: _____

DEFENDANT'S SELF-REPORTED DRUG HISTORY:

- (a) Drug(s) of Choice: Cocaine and alcohol, specifically beer and rum.
- (b) Frequency of Use: The defendant reports that he began using cocaine in March 1991 and that from May to August of that year he used daily. He uses cocaine once every other week currently. The defendant reports that he drinks beer daily and rum on the weekends. He admits that he has had problems in personal relationships because of his drinking.
- (c) Latest Usage: Cocaine--on or about December 8, 1992.
Alcohol--unreported.

DRUG DIVERSION CONTRACT
PHASE III

You have been continued on Drug Diversion and have a Court date scheduled to review your progress on _____,

_____, and _____ Day
Date Time

Before your next Court date, you are responsible for completing this list of tasks. With each task you earn the following points:

Points:

- 8 See your Probation Officer for eight weekly group meetings.
- 4 Take four urine tests with negative results.
- 2 Make payments toward your fee. If you pay \$25 of the amount ordered, you get 1 point. If you pay \$50, you get 2 points.
- 8 Continue weekly participation with a community counseling/drug treatment program. (If you do not do so, you will have to repeat Phase III and risk reinstatement of criminal charges.)
- 2 Keep 2 individual appointments with your Probation Officer.

24 Total Possible Points

THE FOLLOWING POINT TOTALS WILL RESULT IN THESE SPECIFIC RECOMMENDATIONS:

22-24 points (and all clean tests): Continue on diversion, reduce time by NINE (9) MONTHS, REDUCE FEE BY \$75. No further reporting to Probation Officer, unless you ask for help.

19-21 points (and at least 3 clean tests): Continue on Diversion, reduce time by SIX (6) MONTHS, REDUCE FEE BY \$50.

16-18 points: Continue on Diversion, REDUCE TIME BY THREE MONTHS, REDUCE FEE BY \$25. Attend monthly Probation appointments and tests.

13-15 points: Continue on Diversion, repeat Phase III, 24 point program.

12 points or less: Repeat Phase III, 24 point program, PLUS A MINIMUM OF ONE (1) DAY IN JAIL.

IF YOU DO NOT COME TO COURT on your Court date, the recommendation will be to terminate diversion, reinstate criminal proceedings, and issue a bench warrant for your arrest.

About Urine Testing:

- o A missed test counts as a dirty test.
- o An insufficient sample to test will count as a dirty test.
- o If you have 2 or more dirty tests, your Probation Officer will evaluate (with you) whether you need more help (such as acupuncture to help you with craving, a medical detox, a residential program, or a more intensive counseling program). The Judge may also decide that time in custody is necessary to help you stop using.

THE MUNICIPAL COURT OF THE OAKLAND-PIEDMONT JUDICIAL DISTRICT
COUNTY OF ALAMEDA, STATE OF CALIFORNIA

SPEEDY DIVERSION REPORT

PROGRESS REPORT: PHASE: III

DEFENDANT: [REDACTED] Date of Hearing: [REDACTED]
Dept. No.: [REDACTED]
CEN No.: [REDACTED]
PFN No.: [REDACTED]
Docket No.: [REDACTED]

OFFENSE: HS 11350(A) F

Diversion Order made in Dept. No. [REDACTED] by Judge [REDACTED] on [REDACTED]. Length of diversion [REDACTED] months, reduced to [REDACTED] months.

PERFORMANCE ON DIVERSION:

<u>Points Possible</u>		<u>Points Earned</u>	<u>Comments</u>
<u>8</u>	GROUP SESSIONS	<u>8</u>	
<u>2</u>	INDIVIDUAL APPTS.	<u>2</u>	
<u>4</u>	DRUG TESTS	<u>4</u>	All tests were clean.
<u>8</u>	PROGRAM	<u>8</u>	Defendant has shown proof of regular attendance at the Narcotics Education League. The defendant attends that program twice a week.
<u>2</u>	PAYMENTS	<u>2</u>	BALANCE: We believe that the defendant has paid the required \$50. However, the Central Collections computer does not even have the defendant listed. Therefore, we are unable to check their records. We have asked the defendant to bring proof of payment to Court.
<u>24</u>	TOTAL	<u>24</u>	

COMPLETED IDAP: X YES NO

415/VOLUNTEER WORK COMPLETED: YES NO X NOT ORDERED

APPENDIX B (Cont.)

(5) A THREE-YEAR EVALUATION OF THE FIRST PROGRAM

It should be noted that the results of the Oakland evaluation are remarkably similar to those of the other three Drug Courts that have done evaluations after at least two years of operation. Further information on Fort Lauderdale, Miami, and Portland Drug Court Evaluations can be obtained directly from those courts (see Appendix A).

AN EXECUTIVE SUMMARY*

Over the first three years of the Diversion program, the Oakland Court has monitored performance records, as well as county-wide arrest, custody, and bench warrant data for those initially placed in the FIRST program (in January and February 1991). Every indicator studied shows nearly twice the success over the program that existed before the F.I.R.S.T. program.

Fifty percent of those referred to the F.I.R.S.T. program completed the program and earned a dismissal of felony drug charges as opposed to 29 percent of those the previous year (an 84 percent increase in successful dismissals). Both the rate of new felony arrests and the number of days spent in custody reflect a reduction of 44 percent over the previous program's performance.

As part of the evaluation design, those placed in the F.I.R.S.T. program within 3 days of Arraignment (the Speedy Diversion group) were compared to those who were not (the Non-Speedy Diversion group). Significantly, the percentage of successful dismissals for those in the Speedy group rose to 93 percent over the previous year while felony recidivism was reduced by 48 percent.

More surprising was the effect immediacy had on younger offenders (18-30 years old). While in 1990, older, more mature divertees (those 31 years old and up had a 35 percent completion rate) did substantially better than their younger counterparts (a 22 percent completion rate), the exact opposite was

*The Importance of Immediate and Intensive Intervention in a Court-Ordered Drug Rehabilitation Program: An Evaluation of the F.I.R.S.T. Drug Diversion Program at Two Years, was presented to the President's Commission on Model State Drug Laws in Philadelphia, PA on March 10, 1993. To obtain an updated copy of this report, please write to the California Association of Drug Court Professionals, c/o Judge Jeffrey Tauber, 661 Washington Street, Oakland, CA 94607, or call (510) 268-7638.

true in the 1991 F.I.R.S.T. group. Sixty-seven percent of younger offenders successfully completed the Diversion program and were awarded dismissals in the 1991 Speedy Diversion group as opposed to a 39 percent dismissal rate for older divertees in the same 1991 Speedy Diversion group and a 22 percent completion rate for younger 1990 divertees (more than three times the success rate of younger 1990 participants).

In the 1991 F.I.R.S.T. program, the rate of felony recidivism for younger offenders in the Speedy Diversion group was .75 per divertee, 31 percent less than younger non-Speedy divertees (1.04), and about one-half the rate of recidivism of younger offenders in the 1990 group (1.50).

This data would appear to contradict the conventional wisdom that older drug users can benefit most from court-ordered drug rehabilitation programs. On reflection, however, it would confirm much of what we know about youthful offenders; that they respond to structure and immediacy and have a greater need for both than older persons.

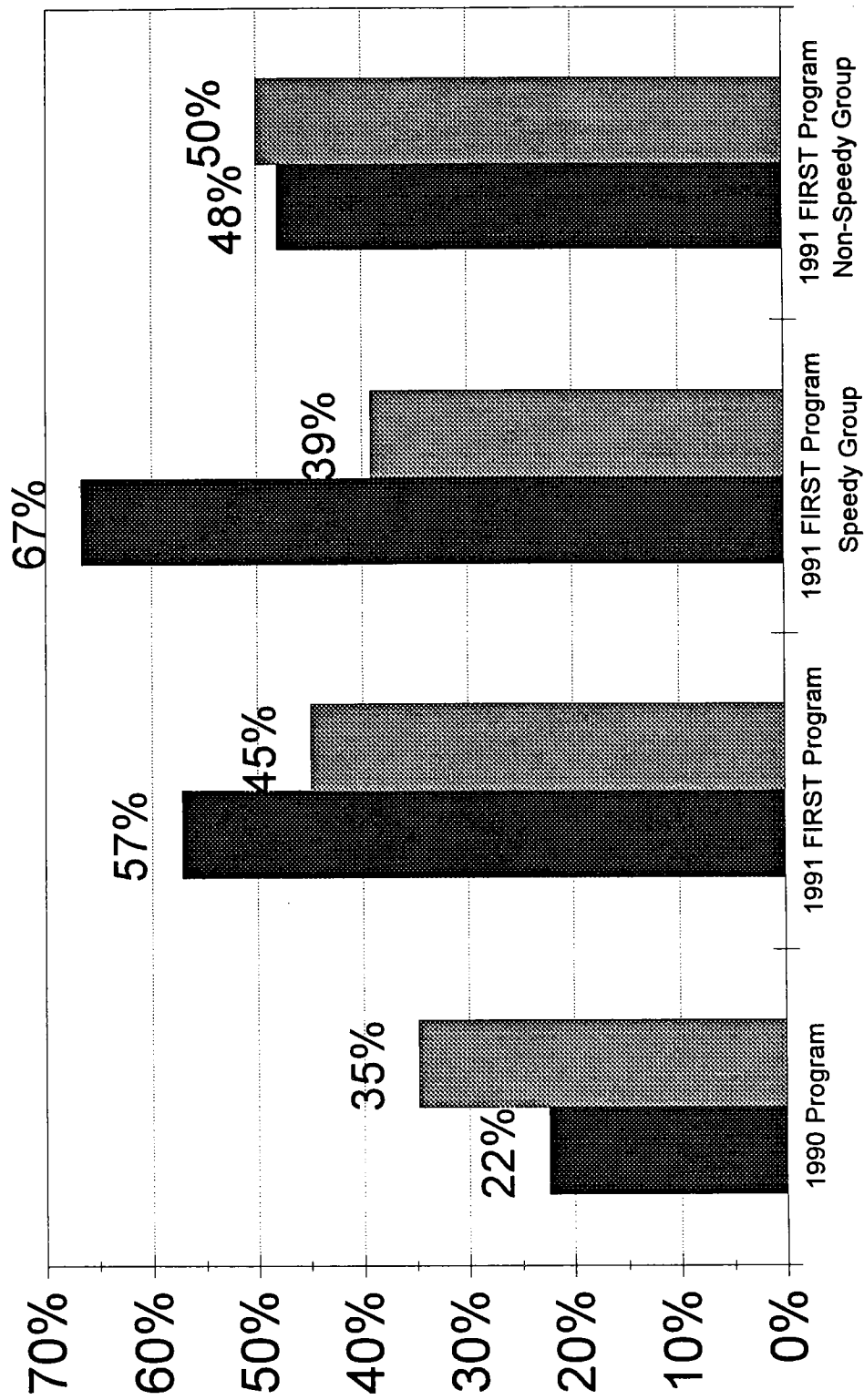
Finally, it should be noted that the success of Oakland's F.I.R.S.T. program* has meant a substantial reduction in the workload of judges, court staff, sheriffs' deputies, public defenders, district attorneys, and other criminal justice personnel.

The savings to the Alameda County Sheriff's Department alone is substantial, as over 40,000 fewer days in custody were accrued by participants (who entered the FIRST program in 1991) over the next three years. Significantly, in 1991, the Alameda County Sheriff's Department has been able to rent unused jail cells to San Francisco (as well as the U.S. Immigration Service) at \$60.80 per day. Based on that amount, we can estimate the F.I.R.S.T. program's value to the Alameda County Sheriff's Department at over \$2.5 million (for those who entered the program in 1991 alone) during the three-year period since the program began.

*The FIRST Diversion Program has been presented with the 1992 Public Employees' Roundtable Award for "Outstanding County-Run Public Service Program in the Nation," and in 1993, the California Administrative Office of the Courts' Ralph G. Kleps Award for "Excellence in Innovative Court Administration."

Program Successfully Completed

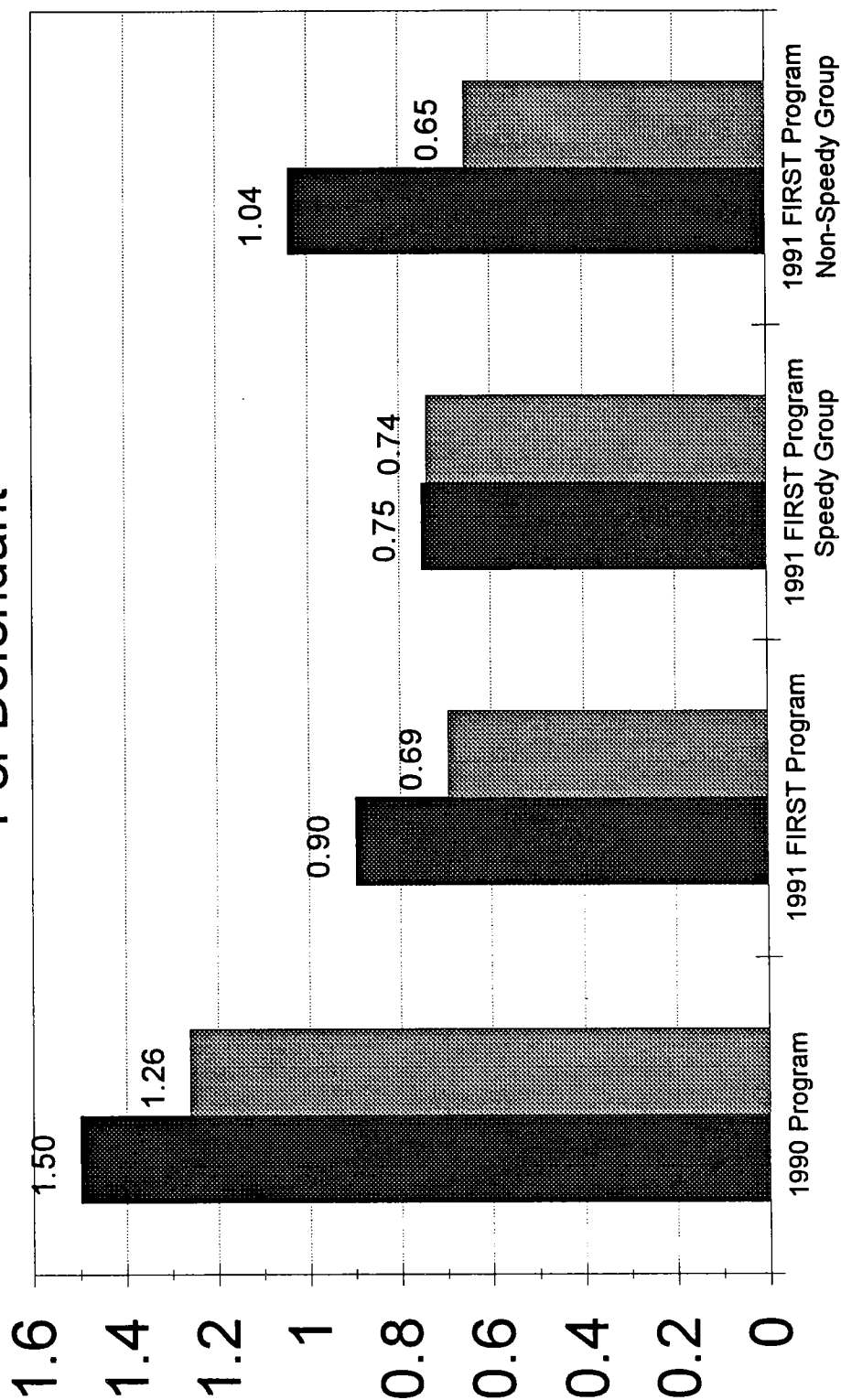
Within the 24 month Diversion Program



■ 18-30 Year Olds ■ 31-45 Year Olds

Average Number of New Felony Arrests within 36 months of Arraignment

Per Defendant



■ 18-30 Year Olds ■ 31-45 Year Olds

(6) "Sometimes Speed Works," *San Francisco Daily Journal*, January 14, 1994.

SAN FRANCISCO

Daily Journal

Tuesday, January 14, 1992

Official Newspaper of the
San Francisco Municipal, Superior and
United States Northern District Courts

Sometimes, Speed Works

In Oakland, Drug
Rehab Starts Fast —
And Shows Promise

By Michael Moline
Special to the Daily Journal

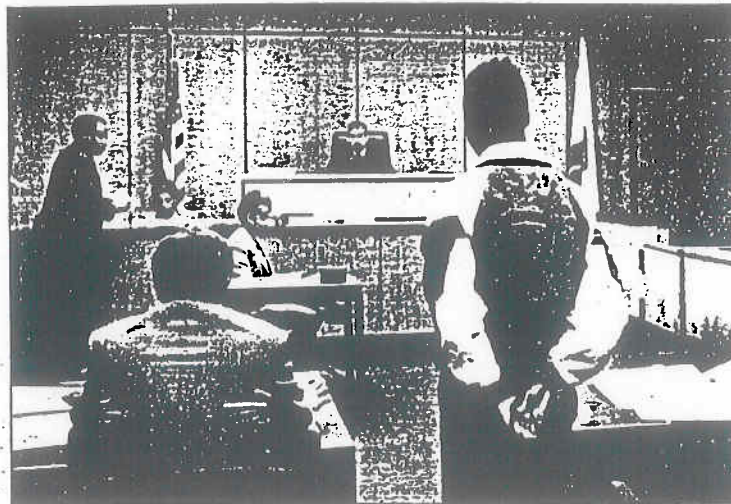
Anywhere but Oakland, someone like Yvette might be in prison by now. Or worse.

Arrested on a drug charge, she has been offered a chance for rehabilitation.

Unfortunately, Yvette has been missing her mandatory counseling sessions again. Although she'd have likely been bounced out of many drug diversion programs by now, Oakland runs its diversion program rather differently from most other places.

"People don't become addicts overnight, and we're not going to be able to break them of their addictions overnight," said Municipal Court Judge Jeffrey Tauber. "You have to take the long view, working with people as they

Continued on Page 8



CRISTINA TACCONE / Daily Journal

IN DEPARTMENT 3 — Judge Jeffrey Tauber conducts a hearing to determine progress made by a participant in the drug diversion program.

Oakland's Drug Plan Starts Fast, Moves Ahead

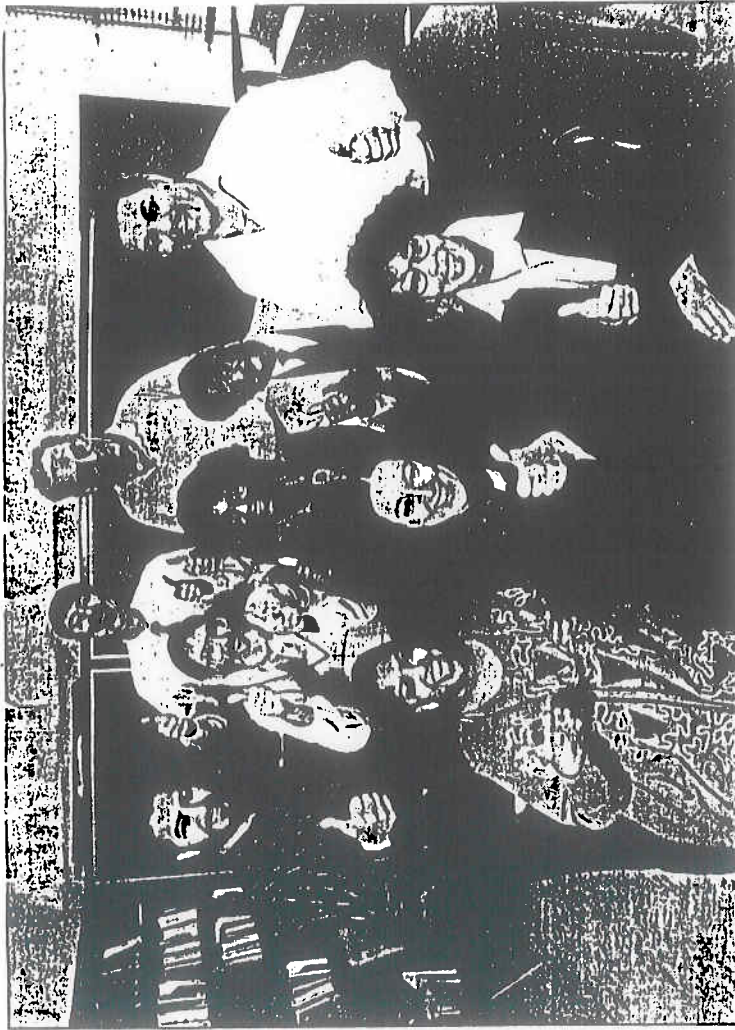
Continued From Page 1

work their way through their addictions." For the past year, Tauber has been experimenting with a new approach to drug diversion that, among other features, assumes people fighting addictions to crack cocaine or other powerful drugs will suffer relapses. The judge and the Alameda County Probation Department drew upon some of the latest academic thinking to fashion their program.

Yvette will pay for her backsliding with a few hours in jail. But she won't be kicked out of the diversion program, at least not yet.

"This is the first program I have seen that really treats the war on drugs as a medical problem and not just a criminal problem," said Assistant Public Defender Elizabeth Campos. "It gives the message that this is not an easy drug to kick, and they are not alone as they try to purge themselves of their addiction."

It's called "speedy diversion." First-time drug offenders are steered into the program within days of their arraignments, then subjected to up to two years of intensive scrutiny by Tauber and the Probation Department.



CRISTINA TACORNE/Daily Journal

POSITIVE APPROACH — Giving the diversion program the thumbs-up sign are members of the Alameda County Probation Department. Front row, from left: Dianne Doss, Kathleen Callahan, Sonja Tadeo. Middle row, from left: Frank Tapia, Al Shaqueeta, Beverly Harris, Credell Carter, John Ramirez. Top row: Robert Archer, left, and James Avery.

Only a year into the experiment, it is still too early to declare it a breakthrough. But the preliminary results encourage the experts.

Where 60 percent of the participants in standard drug diversion programs fall by the wayside within the first year, only 30 percent fail in that period under the speedy diversion program. Recidivism is nearly 50 percent below standard diversion as measured by new arrests after a year.

By Tauber's estimate, his program's recidivism rate could translate into as many as 1,000 fewer arrests per year for drugs or drug-related crimes. That would represent a savings of \$300,000 per year in arrest costs alone, not counting the savings in court time, salaries and incarceration.

Applied statewide, it's been estimated speedy diversion might reduce California's prison population, currently more than 100,000, by 5,000 to 10,000 inmates.

Then there's the savings in individual lives.

Ask Sonja Tadeo, a probation officer who works with the "divertees" during their first 10 weeks in the program.

"You get a chance to see in a short 10 weeks some of your work making a difference in someone's life," Tadeo said.

"They're really walking a tightrope," she said of her clients. "To be able to pull them on your side is really nice."

The project is called FIRST Diversion — for fast, intensive, report, supervision and treatment. Like standard diversion, it steers qualified defendants into drug rehabilitation instead of jail.

In Alameda County the potential participants are numerous. The Probation Department estimates that more than 80 percent of its clients have a serious substance abuse problem.

Besides gaining freedom from their addictions, successful participants' criminal records are expunged. The option is typically reserved for people facing three-year prison terms on their first felony drug possession charge, though sometimes dealers held on reduced charges qualify. They must show no other felony convictions in the past five years.

That still leaves about 100 people eligible each month in Oakland.

The chief innovation is the dispatch with which defendants are steered from arraignment into the diversion program. That can take 12 weeks under standard diversion. Here, it's two days.

They are immediately asked to sign "incentive-sanction contracts" detailing what is expected of them — and what they may expect in return.

Defendants often feel victimized and want to beat the system, Tauber said, adding that he hopes to counteract that by getting them into the program while the trauma of arrest and the memory of jail is

still fresh.

"Our approach is to give these people control of their own program: This is your chance to take control of your life and your case. If you do well in this program, that contract tells you exactly what you're going to get," Tauber said.

This mix of promise and responsibility is "the only way to be effective in supervising offenders in the community," according to Peter Greenwood, a criminal justice expert with the Rand Corp., the Santa Monica think tank.

"Getting the client to agree to a contract appears to be an essential step in getting him or her to own [up to] their behavior and stop making excuses," Greenwood said in a recent report.

In the first 10 weeks the idea is to stabilize participants — to test whether they can perform very basic tasks such as keeping appointments or even last the block-and-a-half walk from court to the Probation Department without someone watching them, said probation supervisor Kathleen Callahan.

They must meet their probation officer four times, attend four classes on drugs and one on AIDS, submit to two drug tests with negative results, register and participate in a community counseling program and make one payment toward the \$220 diversion fee.

In phase two, a more intensive attack on the addiction itself begins. Again, there are regular drug tests, group and individual sessions with probation officers, weekly community counseling sessions and more payments toward the diversion fee.

Participants progress or backslide depending on how well they meet each requirement. Flagrant no-shows might be tossed out of the program and back into court to face the original felony drug charge. Do well, and the diversion period can be cut from two years to six months, and the fee reduced to as little as \$20.

"We have tried to set up a system where there is immediacy and some direction, and if they don't do what they're supposed to do, we know it immediately," Tauber said.

"Being comprehensive isn't enough. It also has to be immediate. That's what our experience seems to teach us."

Most people mix successes with setbacks. Positive drug tests are not uncommon — and not enough to get the participant drummed out of the program, as long as he or she shows other evidence of progress.

"The fact that we define the problem as the addiction rather than the offense means we can join with the client," said Callahan. "It becomes less adversarial and more collaborative between the system folks and the clients."

Take Yvette. In her 30s, but looking considerably aged, she has suffered several setbacks on the program. She has been

checking in with Tadeo, however — usually while escorting her troubled teen-aged son to his own court appearances.

"Even in a bleak case like that there are signs of improvement, as slight as they may be," Tadeo said.

Each participant's progress is measured before Tauber in open court, in full view of other participants. Approximately two dozen newcomers to speedy diversion are witnesses as Tauber has Yvette led away to a cell for breaking her contract. They also watch Tauber shake the hands of several others who fulfilled their contracts and send them away, their felony records washed clean.

"If you want someone to respond to a threat, let them see what happens to someone else," Tauber explains in his chambers. "If you want someone to respond to an incentive, it's important that they know what they're going to gain or lose by complying."

"I have to scare them and at the same time offer them encouragement and support, which at times is a very difficult thing to do."

"You can't be a patsy," Callahan said. "That's a very delicate stance, because there are folks trying who are so locked into their drug use and lifestyle that they are not going to extricate themselves."

But the successes are significant for probation officers, who through burnout frequently become collateral casualties of the war on drugs.

"It's a reawakening for some people who have been bludgeoned [by the system] for a long time," she said.

Tauber notes that his court sessions might take half the time under the old system. But in court, Tauber, 44, bearded and something of a fixture on the East Bay jazz club scene as a saxophone player, struggles for some personal connection with each participant. He jokes, commiserates, recommends acupuncture for their cravings, lectures that they still face three-year prison terms or orders them hauled off to jail, depending on the progress they're making.

"I'm not here to beat you down," he tells one man who has been testing positive for cocaine. "We are here to help you. If you're willing to accept that help and stop using crack, all things are possible."

The threat of a three-year prison term may be exaggerated. Because of prison overcrowding, a 30-day jail term is more likely for most people in the program, said Pat Cleary, who has been monitoring the cases for the district attorney's office.

Still, the program lets authorities keep close tabs on defendants. If a participant fails, it's likely to happen before the case gets too cold, making it easier to win convictions, she said.

And to the degree the program works, "it cuts down on the workload for the DA's

office," Cleary said.

"People very easily fall through the cracks and you don't hear about them for six months, that they are doing poorly," Tauber said. "Here, people doing poorly will come back before five weeks, or earlier if it's a serious problem."

That's what happened with Irving Bennett, a 43-year-old retiree on disability who discussed his flirtation with crack, his arrest during a street buy and subsequent experience on diversion in an interview.

"Judge Tauber told me one time that I tested positive and that if I was to be tested again I possibly could do some jail time," Bennett said.

That was in August. Bennett said he has been clean since, and is due to graduate from diversion in April. He plans to continue in drug counseling, in the hope of helping others:

"You open your eyes up and see what's happening, and you can deal with the system."

Sometimes the process presents conflicts for public defenders like Campos — as when when a client is clearly addicted and might benefit by the program, but the state's criminal case is weak.

"My job isn't to be their social worker, it's to be their lawyer," Campos said.

Yet, she added, "I've seen people really get themselves clean and straight."

Tauber is scheduled to rotate out of Department 3, the drug court, during the year, and another judge will take his place. He will still supervise the program, which he hopes will be extended to include followup care, including job training.

The next step is to try to replicate the program elsewhere. Dade County, Fla., authorities have already reported success with a similar strategy featuring intensive use of acupuncture against addicts' cravings.

A delegation from Phoenix, Ariz., is due in Oakland later this month to review speedy diversion. They are considering working with Rand's Greenwood in emulating the program in Maricopa County.

The stakes are more intimate for Yvette, brought back before Tauber after spending the day in jail, a purple and lavender windbreaker thrown across her shrunken shoulders. As she wrings her hands, she explains feebly that she's been holed up in her East Oakland motel room, afraid to go out.

"It's not like I don't want to go try to help myself, get it all over with," she tells the judge.

Tauber refers her to a counseling program. "They can help you with your addiction and problems," he says.

She is given back her belt and the red handkerchief she knots tightly across her scalp. Then, she is permitted to leave, clinging unsteadily to another chance.

APPENDIX B (Cont.)

(7) Proposal for a Post-Conviction FIRST Drug Court Program

I. The Plea

[Day 1] The Master Calendar Arraignment Court

- (a) Drug offenders are arraigned on the regular master arraignment calendar.
- (b) The charging Deputy District Attorney designates which defendants are eligible for FIRST probation.
- (c) Those eligible defendants are put over to the next day in Drug Court.

[Day 2] The Drug Court

- (a) All cases where defendants decline to participate or where defendants are deemed not eligible or suitable are returned to the Master Calendar.
- (b) District Attorney and Defense Counsel negotiate the offenses to be plead to.
- (c) Plea taken and defendant sentenced (in the afternoon).

II. The Sentence

Conditions of Probation:

- (a) 4 years probation.
- (b) 60-day county jail (execution of sentence suspended).
- (c) \$1,000 fine.

Release to FIRST Probation Program

Defendant is released from custody after plea and sentence (in the p.m.) and ordered to appear immediately at the Probation Department to begin the FIRST Probation Program.

III. Contingency Contracts

A. Progress Reports:

Review of defendant's compliance at: 3 weeks
8 weeks
13 weeks
and every 3 months thereafter.

B. Incentives (at each progress report hearing):

- (1) 4 years probation reduced by 3, 2, or 1 month per progress report (based on points earned).
- (2) \$1,000 fine reduced by \$100, \$75, \$50 per progress report (based on points earned).
- (3) The intensity and frequency of probation contacts are reduced based on points earned and the completion of each phase.

(The maximum reduction of probation would be to 24 months and \$100.)

C. Sanctions:

- (1) If less than 1/2 required behaviors completed: Defendant is remanded to custody for 1, 2, 3, or 4 days at each progress report hearing (based on points earned).
- (2) 14 days in custody for Failure to Appear (FTA) at a progress report hearing with a bench warrant issued (BWI).

IV. Termination From Program

A. Unsuccessful Participation:

The sentence equals 60 days plus credit for time served (CTS).

Failure in the program is defined as the third FTA for a progress report hearing (with BWI).

B. Probation Violation Based on a New Offense:

The sentence is open to the court.

The District Attorney has the option to file probation violations based on a new criminal offense on the regular Probation Violation calendar.

APPENDIX C
FUNDING SOURCES

- (1) Excerpt From HR 4092 (Federal Crime Bill) — Drug Court Funding
- (2) California OCJP Drug Court Funding Option
- (3) Model Co-Funding Structure for Drug Court Systems
- (4) Corporate-Funded New York City Midtown Community Court

APPENDIX C

(1) Excerpt From HR 4092 (Federal Crime Bill) — Drug Court Funding

Subtitle E—Drug Courts

SEC. 1041. GRANT AUTHORITY.

The Attorney General may make grants to units of State and local government, and to other public and private entities, for programs that involve continuing judicial supervision over specified categories of persons with substance abuse problems, and that involve the integrated administration of other sanctions and services including—

- (1) testing for the use of controlled substances or other addictive substances;
- (2) substance abuse treatment;
- (3) diversion, probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress; and
- (4) programmatic or health related aftercare services such as relapse prevention, education, vocational training, job placement, housing placement and child care or other family support services.

SEC. 1042. ADMINISTRATION.

(a) CONSULTATION.—The Attorney General shall consult with the Secretary of Health and Human Services and any other appropriate officials in carrying out this subtitle.

(b) USE OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this subtitle.

(c) REGULATORY AUTHORITY.—The Attorney General may issue

regulations and guidelines to carry out this subtitle, including specifications concerning application requirements, selection criteria, duration and renewal of grants, evaluation requirements, matching funds, limitation of administrative expenses, submission of reports by grantees, recordkeeping by grantees, and access to books, records, and documents maintained by grantees or other persons for purposes of audit or examination.

(d) **APPLICATIONS.**—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subtitle shall—

- (1) include a long-term strategy and detailed implementation plan;
- (2) explain the applicant's inability to fund the program adequately without Federal assistance;
- (3) certify that the Federal support provided will be used to supplement, and not supplant, State and local sources of funding that would otherwise be available;
- (4) identify related governmental or community initiatives which complement or will be coordinated with the proposal;
- (5) certify that there has been appropriate consultation with all affected agencies, and that there will be appropriate coordination with all affected agencies in the implementation of the program;
- (6) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and
- (7) describe the methodology that will be utilized in evaluating the program.

SEC. 1043. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

(a) **TECHNICAL ASSISTANCE AND TRAINING.**—The Attorney General may provide technical assistance and training in furtherance of the purposes of this subtitle.

(b) EVALUATIONS.—In addition to any evaluation requirements that may be prescribed for grantees, the Attorney General may carry out or make arrangements for evaluations of programs that receive support under this subtitle.

(c) ADMINISTRATION.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, in collaboration with the Secretary of Health and Human Services, or through grants, contracts, or other cooperative arrangements with other entities.

SEC. 1044. AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated \$280,000,000 in each of fiscal years 1995, 1996, 1997, 1998, and 1999 to carry out this subtitle.

APPENDIX C (cont.)

(2) California OCJP Drug Court Funding Option

This is excerpted from: "Anti-Drug Abuse Enforcement Program Guidelines," pp. 33-35 (April 1994), Office of Criminal Justice Planning, 1130 "K" Street, Suite 350, Sacramento, CA 95814.

Special Drug Court

This strategy is designed to provide court-ordered drug rehabilitation programs under the Drug Diversion Statute for eligible defendants under California Penal Code Section 1000. Treatment-oriented drug courts should be highly selective of offenders. The strategy is aimed at diverting less serious drug offenders from the criminal justice system into a supervision and treatment program administered by the county probation department. This strategy must address the following elements: concentrate drug case expertise and focus in one court room to promote consistent judicial decisions and coordinated program implementation; link defendants to community-based drug treatment programs; address other defendant needs through case management by the assigned probation officer and court staff; reduce drug use and recidivism; relieve pressure on non-drug caseloads; and increase overall trial capacity. Treatment-oriented drug courts should exclude defendants charged with drug sales, delivery or trafficking unless a minor role in the transaction or an underlying drug addiction is clearly driving their participation in drug selling. This strategy must demonstrate a strong and consistent commitment from the court administrator, chief judge, prosecutor, public defender and probation officer to maintain support for the program. These individuals must have a fixed assignment to the special drug court for at least one year to allow for staff to develop expertise about anti-drug enforcement, felony drug cases, drug abuse and drug treatment, and assist in establishing a mutually productive outcome. The goal of this strategy is to divert less serious drug offenders from the criminal justice system into a supervision and treatment program administered by the county probation department and to provide highly structured drug rehabilitation and successful intervention in a defendant's drug usage.

Phase I - Immediate Intervention

Initially, a defendant will be placed in Phase I of this strategy. During Phase I, the defendant will be required to: immediately attend an orientation session with the assigned probation officer; attend five group probation sessions, attend drug education classes and at least one AID's class; and register with a community counseling program. After the defendant has successfully completed six months of Phase I, with the discretion of the supervising probation officer, the defendant may be placed in Phase II.

Phase II - Intensive Supervision

This phase is the intermediate stage of the strategy. The defendant will still have the same requirements as Phase I; however, less frequent. At the end of the phase, if the defendant successfully completes the diversion program and is able to complete three months in Phase II without relapse, criminal charges are dismissed and the offense (including the arrest) is erased from his criminal record.

Phase III - Aftercare

This is the final stage of this strategy. The defendant will continue to receive drug treatment, counseling in educational opportunities, and job training for an additional three months.

OBJECTIVES

Immediate Intervention

Objective 1:

Phase I

During the grant year, document the number of defendants court-ordered to drug rehabilitation for six months as measured by:

- a) the number of defendants who meet the assigned probation officer immediately after placement (orientation session);
- b) the number of defendants who meet with a Drug Court Judge within one month of placement;
- c) the number of defendants who attend five group probation sessions;
- d) the number of defendants who attend drug education classes and one AID's class;
- e) the number of defendants who register with a community counseling program;
- f) the number of defendants who receive a minimum of two personal contacts per week;
- g) the number of defendants who receive a minimum of two urine tests per week;
- h) the number of defendants who meet the Drug Court Judge at monthly progress report hearings;

- i) the number of defendants who complete the drug treatment program of Phase I; or
- j) the number of defendants who fail to complete the drug treatment program of Phase I.

Intensive Supervision

Objective 2:

Phase II

During the grant year, defendants successfully completing Phase I of treatment will be placed in a three month Phase II treatment program as measured by:

- a) the number of defendants who enter Phase II treatment;
- b) the number of defendants who receive two personal contacts per month with the probation officer;
- c) the number of defendants who receive urine tests twice per month;
- d) the number of defendants who participate in weekly community counseling sessions; or
- e) the number of defendants who fail to complete Phase II treatment.

Aftercare

Objective 3:

Phase III

During the grant year, provide defendants who earned dismissal, with aftercare treatment and counseling, as measured by:

- a) the number of defendants who earned dismissal under California Penal Code Section 1000;
- b) the number of defendants who receive at least one treatment session per week for three months; and
- c) the number of defendants who receive counseling for educational opportunities and job training.

APPENDIX C (cont.)

(3) Model Co-Funding Structure for Drug Court Systems

Recommendation

Funding is made to the Drug Court System directly and then distributed to the system participants by the participants themselves (from law enforcement agencies to treatment providers).

A Suggested Model for a Co-Funded System

a. Funding decisions for the system are made by a ten (10) member 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 for 2 year terms.

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

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 (on the part of funding agencies, as well as those funded).

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.

APPENDIX B (cont.)

(4) Corporate-Funded New York City Midtown Community Court

MIDTOWN COMMUNITY COURT PROJECT FOUNDATION & CORPORATE SUPPORT

NAME

Times Square Business Improvement District
The Shubert Foundation
The New York Times Company Foundation
New York Telephone
Rockefeller Foundation
Digital Equipment Corporation
Booth Ferris Foundation
Morgan Guaranty Trust Company Charitable Trust
The League of American Theaters and Producers Inc.
The New York Community Trust
Capital Cities/ABC Foundation
Lazard Freres
Port Authority of New York and New Jersey
Time Warner
William S. Paley Foundation, Inc.
Fund for the City of New York
Primerica Foundation
The Chase Manhattan Bank
Loews Foundation
Louise and Sydney Frank Foundation, Inc.
Ply Gem Industries, Inc.
Rudin Management Co., Inc.
Mnuchin Foundation
The Bear Stearns Companies
Swiss American Securities
Arthur Andersen and Company
Percy Douglas
Estee Lauder Companies

The Community, the Court, and the Criminal Justice System at Work

To make justice constructive, effective, and understandable to the community, the Midtown Community Court uses the latest technology — from handwriting-reading, to document-storing scanning systems, statewide data networks, and easy-to-use graphical screen interfaces.

Courts of limited jurisdiction are struggling to respond to the complicated problems that affect neighborhood life. The Midtown Community Court gives judges and attorneys the information they need to match defendants to appropriate sanctions, such as community service, education, or drug treatment. Interviewers, using pen-based computers, gather information about the defendants' health, employment, and housing status.

Crowded court calendars, extended delays between arrests and arraignments, and the growing costs of defense services require courts to manage their business more aggressively. At the Midtown Community Court, all participants — the judge, prosecutor, defense attorneys, and social service staff — use the court computer system. Information is gathered only once. New court flow software flags cases that are awaiting their attention and allows court managers to identify backlogs in the movement of cases.

Court decision-makers need quick access to information collected by many agencies. The Court's computer system brings together data from the assessment interview, the police, and the District Attorney, and merges it with images of court documents and records of open cases, warrants, and the defendant's criminal history. Critical information is highlighted on a single computer screen, making it easy for the judge, the prosecutor, the defense attorneys, and the courts resource staff to make informed decisions.

When courts impose sanctions, offenders, victims, and the community need to know that they mean business. The Midtown Community Court's alternative sanction scheduling and tracking routine notifies the Court of the number of open community service slots, and when the next substance abuse group meets. It also makes it easy for the clerk to enter dispositions immediately. And it helps court staff monitor compliance, and lets the judge act quickly when defendants don't complete their sentences.

Courts serve every citizen, whether victim, juror, witness, defendant, or member of the public. The Midtown Community Court's electronic suggestion box gives each citizen the chance to communicate with criminal justice officials through touch-screen technology. It involves the community in the Court and reminds the Court of the concerns of the community.

Public confidence in the courts is undermined by the inability of victims, witnesses, defendants and their families, and community members to get the basic information they need about cases. The Midtown Community Court is committed to making public information easily accessible. A network of large TV monitors displays in easily understandable terms the Court's daily calendar, together with the estimated time of arraignment, and the outcome of cases that have already been heard.

Summary Screen for Judges and Attorneys

Community Court Assessment Evaluation Summary

Case: PL 1854585 | Name: THOMAS W PARKER | Age: 38 | Sex: M | Language: ENGLISH | Room: 4B

Prior RECORD: [Grid with checkboxes for various offenses]

Substance Abuse: [Grid with checkboxes for various substances]

Health: [Grid with checkboxes for various health conditions]

Employment/Support History: [Grid with checkboxes for various employment and support factors]

Compliance History: [Grid with checkboxes for various compliance factors]

Depression Agreement Status: Not Agreed

Reference Coordinator Comments: Five weeks community service at NYC Library.

(Click On The Icon To Get More)

Buttons: Add, Edit, Print, Run, Exit, Defendant, Blinden Size

For additional information, click on any box or on above

Community Court Electronic Suggestion Box

Midtown Community Court Electronic Suggestion Box

To Whom Do You Want This Suggestion To Be Sent? (Push The Buttons To Select And Unselect)

You need more evidence...

Buttons: Defendant, Prosecutor, Judge, Clerk, Community, Other

John Williams

Phone: (212) 343-8800

Address: 1200 Broadway

City: New York State: NY Zip: 11200

Buttons: OK, Cancel

The Electronic Judicial Desktop At The Midtown Community Court

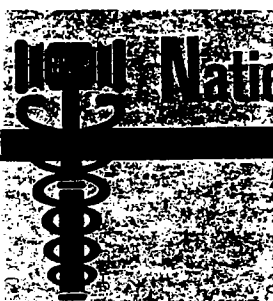
Community Court Assessment Evaluation Summary: Defendant																														
Docket Number: 93C001021	Charge: PL165.15(03)	Attorney: Karen Ottenstein, Defense	Age: 18 Sex: M Lang: English CJA Recommend: 																											
Incident Information Arrest Time: 11:50 PM Arrest Location: 42/BAVE BTH N62 Arrest Date: 11/10/93 Arresting Officer: TEDESCHI JAMES		Rap Sheet <div style="border: 1px solid black; padding: 5px; text-align: center;"> <<<<<<< CRIMINAL HISTORY >>>>>>> </div> <table border="1"> <thead> <tr> <th>ARREST INFORMATION</th> <th>ARREST/ARRAIGNMENT CHARGES</th> <th>DISPOSITION AND RELATED DATA</th> </tr> </thead> <tbody> <tr> <td>ARR DT/PL 11-10-93</td> <td>-- ARREST --</td> <td>NO DISPOSITION REPORTED</td> </tr> <tr> <td>NYCPD MIDTOWN 5</td> <td>INTENT/FRAUD OBT TRANS W/O PAY</td> <td></td> </tr> <tr> <td></td> <td>PL 165.15 SUB 03</td> <td>COURT OF ARRAIGNMENT:</td> </tr> <tr> <td>CRM DATE: 11-10-93</td> <td>CLASS A MISD NCIC 2699</td> <td>CRIM CRT NEW YORK</td> </tr> <tr> <td>CRIME PLACE:</td> <td></td> <td></td> </tr> <tr> <td>NEW YORK TRANSIT</td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> </tr> <tr> <td>ARJN/AGT M03094253</td> <td></td> <td></td> </tr> </tbody> </table>		ARREST INFORMATION	ARREST/ARRAIGNMENT CHARGES	DISPOSITION AND RELATED DATA	ARR DT/PL 11-10-93	-- ARREST --	NO DISPOSITION REPORTED	NYCPD MIDTOWN 5	INTENT/FRAUD OBT TRANS W/O PAY			PL 165.15 SUB 03	COURT OF ARRAIGNMENT:	CRM DATE: 11-10-93	CLASS A MISD NCIC 2699	CRIM CRT NEW YORK	CRIME PLACE:			NEW YORK TRANSIT						ARJN/AGT M03094253		
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NEW YORK TRANSIT																														
ARJN/AGT M03094253																														
Complaint § 165.15(3) Theft of Services the defendant, with intent to obtain railroad, subway, bus, other public transportation service without payment of the charge therefor, or with intent to avoid payment of the lawful fare for such public transportation service which was rendered, did or attempt to obtain such service, or avoid or attempt to avoid therefor by force, intimidation, stealth, deception, false tampering, or by the unjustified failure to pay. offense was committed under the following circumstances: onent states on information and belief, the source of which is reporting deposition(s) of Police Officer Tedeschi #5670 to be with this instrument, that defendant committed the above stated offense: ice Officer Tedeschi #5670 observed the defendant enter the authority system without permission or authority, and without the required fare, by doubling up through a turnstile with person. <div style="text-align: right;">93 001021</div>		<div style="text-align: center;"> <input type="button" value="Any Warrant"/> <input type="button" value="Search for:"/> </div> <div style="text-align: center;"> <input type="button" value="Any Arrest"/> <input type="button" value="Any Conviction"/> <input type="button" value="Find Prior"/> </div>																												
Prior Record Court Warrants: Court Orders: Probation: Parole: 		Disposition Information Disposition Agreement Status: Not Yet Conferred Resource Coordinator: Community Service - Low Supervision Comments: 																												
Substance Abuse Any Prior Treatment: Any Prior Use: Y Any Current Treatment: 		Disposition Entered By Docket Number: 93C001021 Disposition: ADD UNDER CPL 170.55 ADJOURNED 06/01/1994 APAR6 Sentence: CS 1 DLS																												
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APPENDIX D
RESOURCE GUIDE

- (1) National Association of Drug Court Professionals — Bylaws, Article I
- (2) California Association of Drug Court Practitioners — Bylaws
- (3) Technical Assistance Resources
- (4) Bibliography

APPENDIX D

(1) National Association of Drug Court Professionals



EXECUTIVE COMMITTEE

President:

Judge Jeffrey Tauber
Oakland-Piedmont
Emeryville Municipal Court
Oakland, Calif.

Vice President:

Claire McCaskill
Jackson County Prosecutor
Kansas City, Mo.

Secretary:

Judge Jamey Weitzman
District Court of Maryland
Baltimore, Md.

Treasurer

Chief Judge Eugene N.
Hamilton
Superior Court of the
District of Columbia
Washington, D.C.

Members-at-Large:

Judge Joel B. Bennett
Travis County
Drug Diversion Court
Austin, Texas

Michael Judge
Public Defender
Los Angeles, Calif.

Judge Jack Lehman
Las Vegas District Court
Las Vegas, Nev.

Timothy Murray
Director, Metro Dade Office
of Substance Abuse Control
Miami, Fla.

National Assn. of Drug Court Professionals

701 N. Fairfax Street • Alexandria, VA 22314

(703) 706-0563 • (703) 706-0565 FAX

FOR IMMEDIATE RELEASE
May 10, 1994

CONTACT: Judge Jeffrey Tauber
(703) 706-0563

DRUG COURT JUDGES AND TREATMENT PROFESSIONALS LAUNCH NEW NATIONAL ASSOCIATION

The National Association of Drug Court Professionals (NADCP) was formed today for the purpose of promoting and advocating for treatment-based drug courts. Judges, prosecutors, defense lawyers, and other drug court professionals from over 30 communities met to establish their new national association. These individuals have been the catalyst for the organization of Drug Courts in their communities that place drug offenders into treatment and rehabilitation programs as part of comprehensive anti-Drug systems.

The mission of NADCP is to reduce substance abuse, crime and recidivism by promoting and advocating for the establishment and funding of Drug Courts. The association hopes to accomplish this by providing technical assistance and support to communities interested in developing drug courts.

This association is being formed at a time when both the House and Senate versions of the Crime Bill call for significant funding to be authorized for treatment-based drug courts. NADCP plans to lobby members of Congress in support of these Crime Bill provisions.

"Drug Courts are an innovative approach to the problems of drug-related crime, recidivism and prison overcrowding," declared Judge Jeffrey Tauber, the newly elected President of NADCP. "Our association will work to ensure that drug courts receive the necessary funding in the crime Bill, and that communities have the help they need in setting up these programs."

NADCP is working in collaboration with Community Anti-Drug Coalitions of America (CADCA) to develop their national association. CADCA represents over 1400 community coalitions working to address drugs and violence at the grassroots level.

Affiliated with Community Anti-Drug Coalitions of America

NATIONAL ASSOCIATION OF DRUG COURT PROFESSIONALS
(NADCP)

ARTICLE I

ORGANIZATION

Section 1. Name. The name of this corporation is the National Association of Drug Court Professionals, hereinafter referred to as NADCP.

Section 2. Mission Statement. The NADCP seeks to reduce substance abuse, crime and recidivism by promoting and advocating for the establishment and funding of Drug Courts and providing for collection and dissemination of information, technical assistance, mutual support to association members. A "Drug Court" is a court specifically designated to administer cases referred for judicially supervised drug treatment and rehabilitation within a jurisdiction.

Section 3. Purpose. The purpose of NADCP is to:

- (a) reduce substance abuse, crime and recidivism,
- (b) promote and advocate for the establishment and funding of effective Drug Courts in the United States,
- (c) provide technical assistance and mutual aid to association members,
- (d) stimulate development of other judicially supervised treatment programs, in cases where appropriate,
- (e) collect, provide, and disseminate information related to the purposes of the organization.
- (f) perform such other related activities to accomplish the stated goals and objectives.

Section 4. Powers. The powers of NADCP in addition to the ordinary powers are as follows:

- (a) To solicit, receive and hold money and property, both real and personal, by gift, contribution, bequest, transfer, devise or otherwise; to hold, use operate, mortgage, sell and dispose of the same for the objects and purposes herein described, and to disburse funds and other property held by it to organizations conducted for health, welfare and character building purposes for their use, operation and maintenance in the accomplishment of such purposes.
- (b) To invest and reinvest funds received, and to use such funds and the income therefrom and from other property of NADCP for its operating and other expenses and for the other purposes herein specified; to purchase, hire or otherwise acquire, hold or sell, convey, lease, encumber and otherwise dispose of and deal in and with all kinds of property, real and personal; to borrow money, defray indebtedness, and to secure the

same by mortgage, pledge or otherwise; to contract for the services of employees, agents and others and to pay them reasonable compensation; and to do all other acts and things not prohibited to a Corporation organized under the laws relating to nonprofit corporations, which are necessary, desirable or appropriate to the accomplishment of the objects and purposes of NADCP. All checks, or demands for money and notes of NADCP shall be signed by such officer or person as the Board of Directors may designate.

(c) No part of the net revenue of NADCP shall inure to the benefit of any private shareholder or any individual. The property of NADCP is irrevocably dedicated to charitable purposes and upon liquidation, dissolution or abandonment of the organization, after providing for the debts and obligations thereof, the remaining assets will not inure to the benefit of any private person but will be distributed a nonprofit fund, foundation or corporation which is organized and operated exclusively for charitable purposes and which has established its tax-exempt status under Sections 501(c)(3) and 509(a)(1), (2) or (3) of the Internal Revenue Code of 1986 (or the corresponding section of any future Internal Revenue law).

(d) The NADCP shall do any and all lawful acts and things which may be necessary, useful, suitable or proper for the furtherance of accomplishment of the purposes and powers of the Corporation, and shall exercise all powers possessed by corporations of similar character, including the power to own, lease, contract for the purchase and sale or, and to mortgage or otherwise encumber, real and personal property.

Section 5. Definition. A "Drug Court" is a court specifically designated to administer cases referred for judicially supervised drug treatment and rehabilitation within a jurisdiction.

Section 6. Recognized Principles. Drug Courts reflect the following nationally recognized principles, tailored to the needs of individual jurisdictions:

- (a) A specifically designated court for direct judicial supervision of substance abuse treatment and rehabilitation.
- (b) Immediate referral to and intervention by a court directed supervision and treatment program.
- (c) Frequent substance abuse testing and supervision contacts with the court.
- (d) Comprehensive drug treatment and aftercare.
- (e) Graduated sanctions and incentives.

APPENDIX D (cont.)

(2) California Association of Drug Court Practitioners — Bylaws

**"THE CALIFORNIA ASSOCIATION OF DRUG COURT PRACTITIONERS"
BYLAWS**

Adopted: March 19, 1994
San Francisco, California

I. Membership

Membership is open to all criminal justice, treatment and law enforcement professionals and others interested in the development of effective Drug Courts in the State of California.

II. Definition of a Drug Court

A court specifically designated to receive and handle all Drug Rehabilitation cases within a jurisdiction.

III. Mission Statement

- (A) To promote and advocate for the establishment and funding of effective Drug Courts in the State of California.
- (B) To provide information, technical assistance, and mutual aid to association members.
- (C) To reduce the drug usage, criminality and incarceration of drug-using offenders in California.

IV. Recognized Principles

Drug Courts reflect the following nationally recognized principles, tailored to the needs of individual jurisdictions:

- (A) A single designated court is referred all drug rehabilitation cases.
- (B) Immediate referral to and intervention by a supervision and treatment program.
- (C) Frequent drug testing and supervision contacts.
- (D) Comprehensive drug treatment and aftercare.
- (E) Graduated sanctions and incentives.

APPENDIX D (cont.)

(3) Technical Assistance Resources

American Association of Probation and Parole

Provides technical assistance and information on probation and parole systems and related court-ordered treatment programs.

Contact:

Tim Mathews
Council of State Governments
Ironworks Pike
P.O. Box 11910
Lexington, KY 40578
(606) 231-1939

American Bar Association Special Committee on the Drug Crisis

Provides technical assistance on Drug Courts and linkages to local Bar Associations and other community groups.

Contact:

Robin Kimbrough
ABA Special Committee on the Drug Crisis
1800 M Street, N.W.
Washington, D.C. 20036
(202) 331-2275

American University Justice Programs Office

Provides technical assistance on Drug Court or other court-related programs.

Contact:

Caroline Cooper and Joe Trotter
American University
Justice Programs Office
4400 Massachusetts Ave., N.W.
Washington, D.C. 20016-8159
(202) 885-2875

Community Anti-Drug Coalitions of America (CADCA)

Provides assistance to community anti-drug coalitions (and affiliated with the National Association of Drug Court Professionals).

Contact:

Jim Copple
701 North Fairfax Street
Alexandria, VA 22314-2045
(703) 706-0560

Criminal Justice Research Institute

Provides evaluative services and operations review and consultations.

Contact:

John Goldcamp
Criminal Justice Research Institute
520 N. Delaware Avenue
Suite 304
Philadelphia, PA 19123
(215) 627-3766

Join Together

Provides training for community-court leadership nationwide with special expertise in setting up coordinated government and community anti-drug systems.

Contact:

Roberta Leis
Join Together
441 Stewart Street, 6th Floor
Boston, Mass 02116
(617) 437-1500

Justice Management Institute

Provides special expertise on court management issues (including court-ordered drug rehabilitation programs).

Contact:

Barry Mahoney
Justice Management Institute
1301 Pennsylvania Street
Denver, CO 80203
(303) 831-7564

National Center for State Courts (NCSC)

Provides technical assistance and some funding for a spectrum of court programs and services.

Contact:

Marilyn Roberts
National Center for State Courts
1110 North Globe Road, Suite 1090
Arlington, VA 22201
(703) 841-0200

National Development and Research Institute, Inc.

Provides program evaluations, operational review, and analysis.

Contact:

Dr. Douglas Lipton
NDRI
11 Beach Street
New York, NY 10013
(212) 966-8700

New York City Criminal Justice Agency

Provides information and evaluative services to New York City's courts, as well as other court systems.

Contact:

Steven Belenko
New York City Criminal Justice Agency
305 Broadway
New York, NY 10007

RAND Corporation

Studies the effects of drugs on the criminal justice system and society; develops criminal justice programs and evaluations of them.

Contact:

Peter Greenwood
RAND Corporation
1700 Main Street
P.O. Box 2138
Santa Monica, CA 90406-2138
(310) 393-0411

TASC Resource Center

Provides technical assistance and information on TASC (Treatment Alternatives to Street Crime) programs that work with Drug Courts.

Contact:

Bob May
National Consortium of TASC Programs (NCTP)
444 N. Capitol Street, N.W.
Suite 642
Washington, D.C. 20001
(202) 783-6858

UCLA Neuropsychiatric Institute

Provides studies and evaluations of the effects of drug abuse on the offender and the criminal justice system.

Contact:

Douglas Anglin
UCLA Neuropsychiatric Institute
1100 Glendon Ave., Suite 763
Los Angeles, CA 90024-3511
(310) 825-9057

VERA Institute

Provides evaluations of criminal justice programs and studies of criminal justice issues nationwide.

Contact:

Judy Greene
VERA Institute
377 Broadway
New York, NY 10013
(212) 334-1300

APPENDIX D (cont.)

(4) Bibliography

Publications

- Belenko, Steven and Dumarovsky, Tamara, "Special Drug Courts," Nov. 1993, Bureau of Justice Assistance Clearinghouse, Box 6000, Rockville, MD 20850.
- Cooper, Caroline and Trotter, Joseph, "Drug Case Management and Treatment Intervention Strategies in the State and Local Courts," March 1994, Bureau of Justice Assistance Clearinghouse, Box 6000, Rockville, MD 20850.
- Falco, Mathea, *The Making of a Drug-Free America: Programs That Work*. Time Books, Random House, 1992.
- Finn, Peter and Newlyn, Andrea, "Miami's Drug Court: A Different Approach," June 1993, U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, Washington D.C. 20531.
- Goldcamp, John and Weiland, Doris, "Assessing the Impact of Dade County's Felony Drug Court," U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, Washington, D.C. 20531.
- Haas, Harl and Shrunk, Michael, "Portland's S.T.O.P. Program: An Early Drug Intervention and Case Management Program," Jan. 1993, Multnomah County Courthouse, 1021 S.W. 4th Avenue, Room 512, Portland, OR 97204.
- Tapia, Frank, "Summary of the FIRST Drug Diversion Program, Dec. 1993, Alameda County Probation Department, 400 Broadway, Oakland, CA 94607.
- Tauber, Jeffrey, "The Importance of Immediate and Intensive Intervention in a Court-Ordered Drug Rehabilitation Program: An Evaluation of the F.I.R.S.T. Drug Diversion Program at Three Years, May 1994.
- Tauber, Jeffrey, "Community Judging: A National Strategy for the Development of Coordinated Drug Court Systems," May 18, 1994, presented to the United Nations Conference on Communities in the Global Drug Problem, New York City.
- Tauber, Jeffrey, "Drug Courts: Treating Drug-Using Offenders Through Sanctions, Incentives," *Corrections Today*, Vol. 56, No. 1, Feb. 1994, American Corrections Association, Inc.

Film

Informational films can be obtained from the following jurisdictions (for contact information, see Appendix A):

Fort Lauderdale, Fla.
Miami, Fla.
Oakland, Ca
Portland, Or