

Who should go to drug court?

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Who should go to drug court?

Dr. Fred Cheesman

Dr. Doug Marlowe

Hon. Robert Russell

Welcome

Question during the presentation?

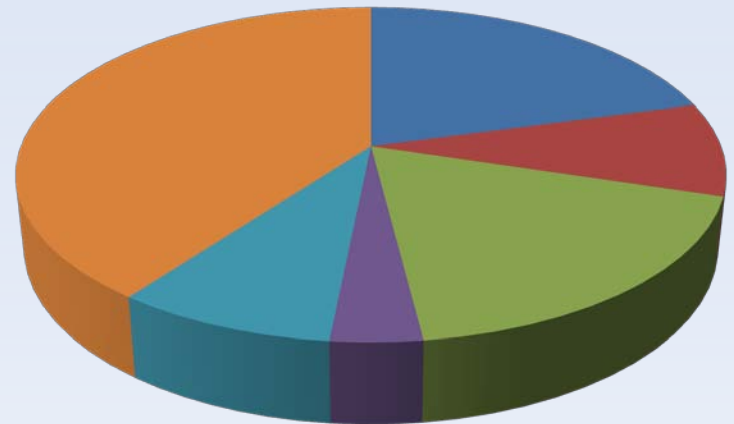
Use the chat window on the lower left corner of the web meeting window.

Introductions

- **Dr. Fred Cheesman**, Principal Court Research Consultant at the National Center for State Courts
- **Dr. Doug Marlowe**, Chief of Science, Law & Policy for NADCP and Senior Scientist at the Treatment Research Institute
- **Judge Robert Russell**, presiding judge of the Buffalo Drug, Mental Health Court, and Veterans Courts

Today's Participants: A Snapshot

- 99 Court Administrators
- 43 Judges
- 87 Probation Officers
- 17 Researchers
- 41 Treatment Providers
- 190 Other Professions (program managers, coordinators, directors, etc.)



Research Questions

1. Should every drug-involved offender go to Drug Court?
2. Should serious offenders go to Drug Court?
3. Should participant selection be based on the informal perceptions of “odds” of success?
4. Who should go to Drug Courts?

Relevant Issues

- Drug Court is a scarce and precious resource that should be used in a manner that maximizes its benefits to participants and society in general.
- Many drug courts are under-capacity suggesting that their admissions criteria need to be revised.
- Drug courts are reluctant to admit serious offenders into their programs, in part out of fear that any new crimes committed by such an offender participating in drug court will provide very unfavorable publicity for the court.

Poll

Which type of drug-involved offenders should go to Drug Court?

- High-Risk Offenders
- Low-Risk Offenders
- All Offenders

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Research Question 1: Should every drug-involved offender go to drug court?

- Drug-involved offender: An offender whose offense is either directly related to illicit substance abuse (e.g., possession) or indirectly related (e.g., larceny to support drug addiction).
- Not necessarily
- “It might be most effective or cost-efficient to reserve drug courts for high-risk offenders and assign low-risk individuals to less intensive and less costly probation or pre-trial monitoring programs. Alternatively, it might be advisable to refer most or all drug offenders to drug court programs, but to assign them to different “service tracks’ within the drug court based upon an assessment of their risk status and clinical needs.”*

*(Marlowe, Festinger, Dugosh, Lee, and Benasutti, 2007).

How is “risk” defined?

Typically, in most CJ applications,
risk=probability of offending or re-offending*

*(see, e.g., BJA’s FY 2011 Adult Drug Court Competitive Announcement)

Poll

The Drug Court model has been shown to have the largest effects for participants who were:

- Younger
- Male
- Early onset of substance abuse
- Prior felony convictions
- None of the above
- All of the above

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Prognostic Risk

- Prognosis for success in standard rehabilitation services*
 - Not the same as risk for violence, dangerousness, or re-offending
- Most reliable and robust risk factors for predicting failure in standard interventions include:
 - a younger age during treatment (especially younger than age 25);
 - male gender;
 - early onset of substance abuse or delinquency (especially by early adolescence);
 - prior felony convictions;
 - previously unsuccessful attempts at treatment or rehabilitation;
 - a co-existing diagnosis of antisocial personality disorder (ADP); or
 - a preponderance of antisocial or drug-using peers or associates

* (Marlowe, in press)

Is Prognostic Risk related to Risk of Re-offending?

- Yes, there is a direct relationship: Offenders with high prognostic risk are also at high risk of re-offending and offenders with low prognostic risk are at low-risk for re-offending
- Why? Drug offenders do not receive appropriate dosages of substance abuse treatment in most traditional Criminal Justice interventions
- Nationally, about two-thirds of drug offenders are re-arrested for a new crime within three years of release from prison and about half are convicted of a subsequent crime or are re-incarcerated
- Between 50-70% of probationers fail to comply adequately with conditions for drug testing and attendance in drug treatment**

*(Lanagan and Levin, 2002)

** (e.g., Glaze, 2002)

Is Prognostic Risk related to Risk of Re-offending?

- Marlowe, DeMatteo, and Festinger (2003) estimated that half of drug-involved probationers and parolees do not receive a minimally adequate dosage of drug treatment (3 consecutive months), less than 20% receive a reasonably sufficient dosage (6 to 12 months), and less than 10% attain a sufficient interval of continued sobriety (12 months or more)
- Long-tenure in substance abuse treatment predicts better outcomes.*

*(Simpson, Joe, and Brown, 1997)

(Question for Marlowe)

What extra value does an assessment of an offender's "prognostic risk" add to the admission decision in contrast to a decision based on risk of re-offending alone?

Drug Court Produces Largest Effects for High-Risk Offenders

The Drug Court model has been shown to have the largest effects for participants who were relatively younger, had more prior felony convictions, were diagnosed with antisocial personality disorder (ASPD), or had previously failed in intensive dispositions.

Poll

Could Drug Court be harmful to low-risk offenders?

- Yes
- No
- Maybe

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Drug Court May Be Harmful to Low-Risk Offenders

“Placing non-addicted or low-risk offenders into residential programs, for example, has been associated with significantly poorer outcomes and higher recidivism rates.* Perhaps spending time with addicted peers unduly normalizes the drug-using lifestyle, or perhaps treatment requirements may interfere with participants’ engagement in productive activities, such as work, school, or parenting. Regardless of the rationale, it is clear that providing too much treatment is not only a potential waste of precious resources; it can lead to what are called *iatrogenic effects*, in which outcomes are made worse.”**

*(Lowenkamp and Latessa, 2005)

** (Marlowe, in press)

(Question for Judge Russell)

Please give an example of high risk offender who succeeded in drug court. On the other hand, have you ever observed drug court exerting an “iatrogenic effect” on a participant? If so, would you please describe the characteristics of the this participant?

RNR (Risk-Needs-Responsivity) Model

- **Risk Principle:** Match the level of service and supervision to the offender's likelihood to re-offend
- Higher Risk = More Intervention
 - = More structure
 - = More Supervision
 - = More of your resources*
- **Need Principle:** Assess criminogenic needs and target those needs with treatment and interventions
- **Criminogenic needs:** Dynamic or *changeable* factors that contribute to the likelihood that someone will commit a crime**
 - Anti-social attitudes
 - Antisocial friends and peers
 - Anti-social personality pattern
 - Family and/or marital factors
 - Substance abuse
 - Lack of education
 - Poor employment history
 - Lack of pro-social leisure activities

*(Duran and Eisenberg, 2011)

** (Duran and Eisenberg, 2011)

RNR (Risk-Needs-Responsivity) Model

- **Responsivity Principle:** Match the service with the offender's personality, motivation, and ability, taking demographics (age, gender, and ethnicity) into account*
- **RNR Model:**
- The RISK principle tells us WHO to target
- The NEED principle tells us WHAT to target
- The RESPONSIVITY principle tells us HOW to target
- **What does an RNR model for Adult Drug Courts look like?**

*(Andrews, Bonta, and Wormith, 2006)

Substance Dependence or Addiction

- Addicted or dependent individuals commonly suffer from cravings or compulsions to use illicit drugs or alcohol and may experience painful or uncomfortable withdrawal symptoms whenever they attempt to become abstinent
- The latter symptoms reflect a form of neurological or neuro-chemical damage to the brain that requires formal intervention*

*(Marlowe, in press)

Drug Court Programs and Alternative Service Tracks

	HIGH PROGNOSTIC RISK	LOW PROGNOSTIC RISK
Substance Dependence or Addiction	<p>Standard Drug Court Track (10 Key Components)</p> <ul style="list-style-type: none"> • Status calendar • Formal treatment • Pro-social habilitation • Compliance is proximal • Medication where indicated and prescribed 	<p>Alternate Track (Treatment emphasis)</p> <ul style="list-style-type: none"> • Noncompliance calendar • Formal treatment • Treatment is proximal • Medication where indicated and prescribed
Clinical Diagnosis		
Substance Abuse	<p>Alternate Track (Accountability emphasis)</p> <ul style="list-style-type: none"> • Status calendar • Prevention services • Pro-social habilitation • Abstinence & compliance are proximal 	<p>Diversion Track</p> <ul style="list-style-type: none"> • Noncompliance calendar • Prevention services • Abstinence is proximal

Does Adaptive Programming Lead to Better Outcomes?

What is the evidence that differential case management based on assessments of prognostic risk and a clinical diagnosis of addiction/substance dependency leads to better outcomes?

- Marlowe, Festinger, Dugosh, Lee, and Benasutti (2007) provide experimental evidence that assigning high-risk drug court participants (those with (1) an antisocial personality disorder or (2) a history of drug abuse treatment) to a schedule of bi-weekly judicial status hearings provides improved outcomes relative to similar offenders randomly assigned to the standard schedule of hearings or assigned to hearings on an as-needed basis.

Marlowe, Festinger, Dugosh, Lee, and Benasutti (2007)

- Results confirmed that high-risk participants graduated at a higher rate, provided more drug-negative urine specimens at 6 months post-admission, and reported significantly less drug use and alcohol intoxication at 6 months post-admission when they were matched to bi-weekly hearings as compared to the usual schedule of hearings or hearings on an as-need basis.
- Low-risk offenders were randomly assigned to either as-needed hearings or the standard schedule of hearings. Low-risk participants performed equivalently regardless of the schedule of hearings.

(Questions for Marlowe & Russell)

- Should every drug offender go to Drug Court?
 - **Question for Doug:** How can drug courts assess prognostic risk and clinical diagnosis?
 - **Question for Judge Russell:** Do you encounter cases exceptional to the framework articulated by Dr. Marlowe? Can you please describe an example of such a case?

Poll

When should an assessment of prognostic risk and a clinical diagnosis be made?

- Prior to drug court admission
- After drug court admission

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When Should an Assessment of Prognostic Risk and a Clinical Diagnosis be Made?

Before admission to drug court

*(Marlowe, in press)

Alternatives to Drug Court for Low-Risk Drug Offenders

- A conceptual model for Secondary Prevention Services for clients who are low risk in drug courts was articulated by DeMatteo, Marlowe, and Festinger (2006)
- Key Elements
 - Interfere with the reinforcing properties of drugs
 - Increasing the aversive consequences of drug use
 - Increasing involvement with drug-incompatible peers and activities

Alternatives to Drug Court for Low-Risk Drug Offenders

- DTAP (Drug Treatment Alternative –to-Prison) Program, Brooklyn, NY
- Created by DA Hynes in October 1990
- Key Elements
 - Targets felony-level offenders with at least one prior felony
 - Provides substance abuse treatment under a deferred sentencing model
 - Participants must plead guilty to a felony prior to their admission into the program

Alternatives to Drug Court for Low-Risk Drug Offenders: DTAP

Key Elements

- Treatment Alternatives for a Safer Community (TASC) performs the clinical screening and assessment of all defendants who are initially identified by an assistant DA as potential DTAP candidates
- Program includes an initial residential placement in a therapeutic community then case management by TASC

Poll

The more serious the offenders' backgrounds, the greater the effects of drug court turn out to be.

- True
- False

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Research Question 2: Should serious offenders go to Drug Court?

- Serious Offender: An offender charged with a violent offense, or with a history of violent offenses, or with an extensive history of arrests and convictions.
- The more serious the offenders' backgrounds, the greater the effects of drug court (in such areas as offenders' compliance with supervision, offender recidivism, offender substance abuse and offenders psychosocial functioning) turn out to be.
- "The average effect of Drug Court is estimated to be approximately twice the size for serious high-risk offenders.*

*(Lowenkamp and Latessa, 2005; Fielding, Tye, Ogawa, Imam, and Long, 2002)

Research Question 2: Should serious offenders go to Drug Court?

“Serving serious offenders in drug court results in greater cost savings for taxpayers. Drug courts that serve more serious offenders are estimated to return 50 percent greater cost benefits to their communities.* Drug Courts that have expanded their eligibility criteria to accept drug-addicted individuals charged with non-drug crimes (such as theft and property crimes) have yielded nearly twice the cost savings as those accepting only drug-possession offenders.” **

Marlowe (in press)

* (Bhati, Roman, and Chalfin, 2008)

** (Carey, Finigan, and Puksta, 2008)

Research indicates that Serious Offenders can be Successfully Served in Drug Court

- Two drug court studies provide evidence that offenders with prior violent offenses should not be “systematically excluded from the opportunity to participate in the unique combination of treatment and supervision offered in drug court programs.”*
 - Drug court located in New Castle County (Wilmington), Delaware
 - Saum, Scarpitti, and Robbins (2001) found that the number of prior charges was more predictive of the *probability of graduation* from drug court than any history of prior violent offenses while Saum and Hiller (2008) found similar results when examining the same sample of offenders for their *probability of recidivism* three years post drug court participation.

*(Saum and Hiller, 2008)

Research indicates that Serious Offenders can be Successfully Served in Drug Court

- Multi-Site Adult Drug Court Evaluation (MADCE) found evidence of a positive effect of a violent history on offender responsiveness to drug court intervention suggesting that “the preexisting restriction of many drug courts to nonviolent offenders does not necessarily represent an evidence-based practice.*
 - Drug courts in this study were especially likely to produce a reduction in criminal behavior among offenders with a history of violence—indicated by a self-reported prior violent conviction ($p < .001$).

*(Rempel and Green, 2011)

(Questions for Marlowe & Russell)

- Should serious offenders go to Drug Court?
 - **Question for Doug:** Should drug courts admit offenders with a high risk of criminal recidivism?
 - **Question for Judge Russell:** Where do you draw the line, in terms of seriousness, for accepting candidates into your drug court program?

Poll

Should participant selection in drug courts be based on the informal perception of perceived “odds” of success?

Yes

No

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Research Question 3: Should participant selection be based on informal perceptions of “odds” of success?

- MADCE argues against this common practice of “cherry-picking” or “creaming”
- “...drug court appears to be equally effective for everyone, and, that the mechanisms of effectiveness are the same for all participants. That is while we did find evidence that some subgroups (such as younger participants or participants with ASPD) have worse outcomes, those attributes do not moderate the drug court effect. Put another way, while we find evidence that those groups do worse than average, they appear to have similar improvements as other participants, thus do less worse than they would have without drug courts. **This finding argues against the common drug court practice of skimming, or attempting to identify ex ante a population that is at a lower risk of recidivism.**

*(Green and Rempel, 2011)

MADCE argues against the common practice of “cherry-picking” or “creaming”

- “However, the broader finding that emerges from this study is that drug courts do not demonstrate clearly greater or lesser effects across different sub-categories; hence, efforts to limit drug court eligibility to narrow offender sub-populations may be counter-productive, restricting the opportunity to practice from populations that might otherwise benefit.”*
- “Rather than highlighting a need for selective targeting, our results strongly support increasing the numbers of offenders who can enroll.”**

*(Rempel and Green, 2011)

*(Rempel and Green, 2011)

Conclusions:

Who should go to drug court?

- Offenders with a high prognostic risk for failure in standard rehabilitation services and who have been diagnosed as being substance dependent or addicted should get all 10 key components
- Low-risk and non-addicted offenders have the most to lose from participating in a traditional Drug Court curriculum
- Don't systematically exclude offenders with prior violent offenses; consider each individual case on its own merits
- Don't attempt to "cherry-pick" offenders for participation in drug court on the basis of an informal, apriori assessment of their probability of succeeding in drug court.

Research to Practice Project

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