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FACT SHEET ON DRUG COURTS

There is a great deal of confusion and misinformation about Drug Courts. What are they? Who is eligible for them? This fact sheet will provide answers to some of the most asked questions about Drug Courts.

What Are Drug Courts?

A Drug Court is a special court given the responsibility to handle cases involving less serious drug-using offenders through a supervision and treatment program. These programs include frequent drug testing, judicial and probation supervision, drug counseling, treatment, educational opportunities, and the use of sanctions and incentives.

Are All Drug Courts the Same?

The design and structure of Drug Court programs are developed at the local level, to reflect the unique strengths and needs of every community. Many sectors of the community are integrally involved in the planning process including criminal justice, treatment, law enforcement, courts, education and anti-drug coalitions.

Why Do We Need Drug Courts?

The connection between drug addiction and crime is supported by numerous statistics. 50-70 percent of all crimes at the state and local level are drug-related, committed by individuals that test positive for drug use at the time of arrest. The cycle of drug use and criminality cannot be broken under the current revolving door system, where those arrested for drugs are continually going in and out of the criminal justice system.

Drug Court programs bring the full weight of all intervenors (the Judge, Probation Officers, Prosecutors, Defense Counsel, Drug Testing, Rehabilitation & Treatment Specialists, Educators, etc.) to bear, forcing the offender to deal with his/her substance abuse problem (in many cases for the first time) or suffer the consequences. In addition, Drug Courts insure consistency in judicial decision-making, coordination of agencies and resources, cost-effectiveness through alternatives to prison time, efficient case management, and the accountability of the drug-using offender through drug-testing, frequent progress reports, and the use of progressive sanctions.

Are Serious Offenders Eligible for Drug Courts?

Most Drug Courts only work with drug offenders who have had no previous drug convictions or history of violence. Almost all drug courts exclude offenders charged with sales of drugs, possession for sale of drugs or other serious offenses. Finally, funding under the Crime Bill, excludes participation by any offender that has been charged with a violent offense or who has a prior conviction for a violent crime.

Do Drug Courts Save Money?

Incarceration of drug-using offenders cost a minimum of \$20,000 per year (and as much as \$50,000). The capital costs to build a prison cell is \$80-90,000. In contrast, the most comprehensive Drug Court System costs less than \$1,500 annually for each offender.

The California Drug and Alcohol Treatment Assessment (CALDATA) estimated a cost of less than \$8 per day for outpatient treatment which compares with estimates of \$50 to \$70 per day associated with jail time. The outpatient treatment programs utilized by drug courts is relatively inexpensive and has shown promise with criminal justice populations.

The Oakland Drug Court showed a direct economic effect upon the criminal justice system, with almost \$3 million in savings to county law enforcement agencies.

Will Drug Courts Provide More Jail Space for Violent Criminals?

With Three-Strikes-You're Out statutes proliferating, and long-term incarceration for serious offenders increasing, Drug Court programs are needed more than ever to free valuable prison space for violent criminals.

Are Drug Courts Another "Soft-on-Crime" Prevention Program?

Drug Courts across the country, rely on sanctions, including terms of incarceration and increased drug-testing and supervision, to respond to program failure. They provide comprehensive hands-on supervision and monitoring, and require far more contact with the Judicial personnel. In addition, the programs require participation in drug testing, educational and rehabilitation classes, (and often more time in custody) than have ever been required before.

Do Drug Courts Work?

Although Drug Courts are a relatively new criminal justice approach, preliminary data has been very favorable. An evaluation of the Miami Drug Court by the National Institute of Justice shows a 60 percent reduction in recidivism over a four-year period. An in-house evaluation of the Oakland Drug Court had a 44 percent reduction in felony recidivism after three years. Other studies in Portland, Oregon; Washington, D.C. and Chicago, Illinois have shown similar reductions in recidivism.

Supporting the Drug Court approach is the notion that treatment works. The recent CALDATA study showed a cost benefit of \$7 for every dollar spent on treatment. The savings realized by investing in treatment included reductions in crime. and health care costs. The study found a significant reduction in criminal activity during and after treatment (-20%), and especially in drug sales (-61%), and the use of a weapon or physical force (-71%).



National Assn. of Drug Court Professionals

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NADCP BACKGROUNDER

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Las Vegas, Nev.

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

The National Association of Drug Court Professionals (NADCP) is the principal organization of professionals involved in the development and implementation of treatment-oriented drug courts. Organized in 1994, its members include judges, prosecutors, defense attorneys, treatment service providers, educators, researchers and community leaders.

In its first year of operation, NADCP has provided several important services to Drug Court members including the following:

- A series of monographs on drug court related subjects
- Hosting NADCP's first National Training Conference attended by over 500 drug court professionals
- Distribution of a quarterly newsletter to over 3,000 individuals

Like the drug court organizers that created the organization, NADCP is in a unique position to serve the Drug Court field. Comprised of both practitioners and consultants, criminal justice and rehabilitative experts, NADCP has the expertise and ability to assist in the development of effective Drug Court programs.

NADCP is in the process of developing an extensive information database, and plans to serve as the national clearinghouse for drug court materials. The NADCP library will contain publications, videos and an electronic bulletin board. Other publications will include a quarterly newsletter, 3-4 page Drug Court strategy briefs and more in-depth monographs on Drug Court-related topics.

The organization will provide on-site technical assistance to members by professionals with experience in developing Drug Court programs. Education and training opportunities will be available through national and regional conferences. In addition, NADCP is planning to develop research and evaluation studies focused on assessment of Drug Court operation and impact.

NADCP provides an effective mechanism for sharing information in the emerging Drug Court field. NADCP is committed to providing serves that motivate its membership and further develops this criminal justice innovation.

Affiliated with

**Community Anti-Drug
Coalitions of America**

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**THE NATIONAL ASSOCIATION OF
CRIMINAL JUSTICE
COURT PROFESSIONALS**

1ST NATIONAL NADCP TRAINING CONFERENCE

**PROGRAM
OF EVENTS**

**Drug
Courts:
A New
Partnership!**

**Golden Nugget Hotel
Las Vegas, Nevada
January 8-11, 1995**



**Anti-Drug
Coalition of America**

**The National
Judicial Conference**

**The National
Police Association**

State Bar of California

**California Judicial
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National Association of Drug Court Professionals





National Assn. of Drug Court Professionals

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JANUARY 18, 1995

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Michael Judge
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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.

TO: THE PRESIDENT OF THE UNITED STATES
THE MEMBERS OF THE 104TH CONGRESS

FROM: NATIONAL ASSOCIATION OF DRUG COURT PROFESSIONALS

By: JEFFREY TAUBER, PRESIDENT

RE: PROPOSED AMENDMENTS TO THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

Attached for your information is a statement which was presented to the participants at the recent conference of the National Association of Drug Court Professionals (NADCP) held in Las Vegas, Nevada, January 8-11, 1995. This statement urges the retention of discretionary funding for Drug Court programs under the Act for the reasons stated.

Attached to the statement are signatures of individuals attending the conference representing approximately 90 communities throughout the United States. Although over 600 persons representing 45 states attended the conference, it was requested that only one person from a given community sign the document in order to demonstrate the geographical spread of support for these programs.

On behalf of the NADCP and its membership, we strongly urge that the White House and the Congress continue discretionary funding for these important programs by retaining Title V of the Act, and associated funding authorizations and appropriations, as originally passed.

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Coalitions of America

To the Office of the President and members of the 104th
Congress of the United States:

We, the participants in the 1995 Conference of the National Association of Drug Court Professionals (NADCP) recognizing the need for an effective approach to the pervasive problem of illegal drug use and related crime in our communities, and recognizing that drug courts, as defined in the U.S. Crime Bill must be an essential component of the criminal justice system, in that:

- They are structured enforcement systems utilizing mandatory drug testing and direct continuous monitoring and intensive supervision by a judge, making defendants accountable for their behavior; and
- They provide powerful protection to the community by reducing criminal recidivism; and
- They are a dramatically cost effective method of enforcing drug laws; and
- They are locally controlled systems combining efforts of law enforcement, prosecutors, judges, and the medical community to reduce the demand for illegal drugs in our communities; and
- They reserve prison space for violent offenders;

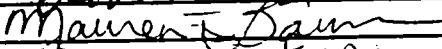
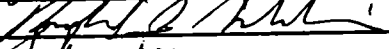
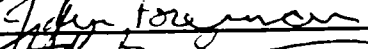
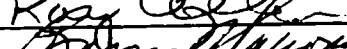
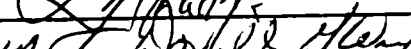
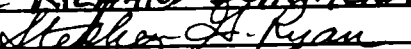
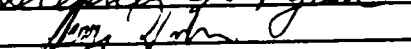
Do, THEREFORE, urge continued discretionary federal funding for the establishment, development and support of Drug Courts throughout the United States.

NAME (PRINT)	SIGNATURE	TITLE	COMMUNITY
GOLDSTEIN	[Signature]	JUDGE	MIAMI, DADÉ County FL
HENRY WEBER	[Signature]	JUDGE	JEFFERSON DISTRICT COURT Louisville, KY
Ronald J. Taylor	[Signature]	Judge	St. Joseph Michigan Drug Court
JACK LEHMAN	[Signature]	Judge	Las Vegas Nevada
Michael Smith	[Signature]	Psychiatrist	New York City
MURPHY	[Signature]	DIRECTOR SUBSTANCE ABUSE	MIAMI
Jeff Tamben	[Signature]	Judge	Oakland, Ca.
Bob & Bennett	[Signature]	Judge	AUSTIN, TEXAS
RUDOLPH A. NOZ	[Signature]	JUDGE	LOS ANGELES, CALIF
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Jay Salvage	[Signature]	Executive Director, Alcohol & Drug Board	Toledo, Ohio
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Carla Morales	[Signature]	Provider	San Francisco CA
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Ken Robinson	[Signature]	President CCI	Memphis TN
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Carla Luttrell	Carla Luttrell	Probation Agent	Kalamazoo, Michigan
Nancy McDonald	Nancy McDonald	Drug Court Program Coordinator	Kalamazoo, MI
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Bill Schmidt	Bill Schmidt	Therapist	San Luis Obispo, CA
Carol Radice	Carol Radice	Acupuncture / Prog. Director	San Luis Obispo, CA
Dan Krumm	Dan Krumm	Project Coordinator	Honolulu, Hawaii
Robert Boswell	Robert Boswell	Executive Director	BIRMINGHAM, AL
Deacon D. Dzierzanowski	Deacon D. Dzierzanowski	Program Director	Columbia, SC
Justine E. DeMuro	Justine E. DeMuro	Judge	Kansas City, MO
PAUL A. LOGLI	Paul A. Logli	State Attorney	Rockford, Illinois
JOHN H. ADAMS, SR.	John H. Adams, Sr.	Circuit Judge	Orlando, FL
MARTIN O. CONOLEY	Martin O. Conoley	SENIOR DEPUTY PROBATION OFFICER	SANTA BARBARA, CALIF.
Valerie A. Moore	Valerie A. Moore	Executive Director	Portland, OR
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Jane H. Martin	Jane H. Martin	Program Director - SA Services	Atlanta, GA
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Claudia Richards	[Signature]	SENIOR PUBLIC NOTICE ADVISOR	CSAT
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Rick Washorsky	[Signature]	Executive Director, Erie County Medical Center	Erie County, New York
Richard LaChapin	[Signature]	Outpatient Supervisor	OKla. City, OK
Eric Lewis	[Signature]	Dist. Court Program DRI	OK, OK
JACK WEHMAN	[Signature]	Judge, Drug Court	Jackson, Va.
Henry L. Altice	[Signature]	Director, Blue Ridge Community Services	Roanoke, Va.
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DAVID T. McEACHEN	[Signature]	SUPERIOR COURT JUDGE	ORANGE CO., CAL.

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Dr. Leo Karchian		Biomedical Consultant	Palo Alto CA
DONALD G. WINGENUS		ATTORNEY	San Bernardino, CALIFORNIA
SANDRA T. TRIKA		Judge Prob. Ct.	San Bernardino Cal.
ROSEEN M. SHARAT		Judge - Stockton Municipal Ct	Stockton CA.
Richard Schnackenberg		EXEC. DIR. UNISCOPE FOUND.	LAS VEGAS NV
STEPHEN G. RYAN		Presiding Judge	Las Cruces Municipal Ct. Las Cruces, NM
Garry Wishan		Conditional Discharge Program / Prob. Police Dept.	Palo Alto



A Substance Abuse Coalition For Metro Atlanta

Atlanta/Fulton County
Drug Court Technical Team
National Association of Drug Court Professionals

Training Conference Attendees

1. Captain John Youngblood, Fulton County Sheriff Department
2. Judge Deborah Greene, Atlanta Municipal Court
3. Marla Robinson Dixon, Fulton County Solicitor's Office
4. Mercer Lewis, Fulton County Superior Court
5. Michael McClain, Fulton County Public Defender's Office
6. Gloria Walker, U.S. Attorney's Office
7. Karen Webster, Fulton County Commissioner's Office
8. Marjorie Bush, St. Jude's Recovery Center
9. Robert Haness, Georgia Department of Corrections
10. Judge William Hill, Fulton County Superior Court
11. Jane Martin, Department of Human Resources, Division of MH/MR/SA
12. Elleen Yancey, Fulton County Department of MH/MR/SA
13. Seth Kirschenbaum, Atlanta Bar Association
14. David Anderson Hooker, Georgia Supreme Court Committee on Substance Abuse and Courts
15. Gary Byrd, Fulton County Alcohol and Drug Treatment Center
16. Chief Judge Isaac Jenrette, Fulton County Superior Court
17. Dr. Tammy Meredith Poulos, Applied Research Services
18. Dr. John Speir, Applied Research Services
19. Daniel Todd, Mission New Hope
20. Judge Barbara Harris

All the above support the
Petition

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'Reno: Addicts deserve 'a helping hand'

By DAVID HANCOCK
Herald Staff Writer

During the time she was being considered for the job of U.S. attorney general, former Dade State Attorney Janet Reno pointed with pride to Dade's Drug Court program, which she helped start in 1989.

At a Miami criminal justice conference, Reno said the program succeeds because it gives a measure of trust to addicts as counselors help them face their problems and find work.

"What the Drug Court is about, continues to be about, is people. It believes that people can be held accountable if they are given a helping hand," Reno said Wednesday night at the Biscayne Bay Marriott, where she spoke to hundreds of substance abuse workers and law enforcement agents from across the country.

Drug Court was started to give first-time offenders a chance to avoid prosecution by enrolling in a drug rehabilitation program for at least a year. In 1991, the program was expanded to include



PETER PORTILLA / Miami Herald Staff

DISCUSSING DRUG COURT: Dade Circuit Judge Herbert Klein and Attorney General Janet Reno on Wednesday at a Miami conference.

people with one to three arrests for nonviolent crimes. It has been the model for similar programs in 30 cities and counties.

Since 1989, more than 7,000 men and women have been diverted through the program. Of those who started in the program, 72 percent — about 5,040 —

have either successfully completed it or are still enrolled. The rest either fled or were arrested again, said Tim Murray, director of Metro-Dade's Office of Substance Abuse Control.

The program begins with an initial enrollment in a detoxification and rehabilitation program.

After finishing the detox stage, the offenders are released from jail and treated on an outpatient basis. They visit a treatment center usually every weekday, where they are counseled for drug abuse and other problems and steered toward vocational programs.

Those who are not performing well in the program are sent back to a judge, who urges them to get back on track. If they drop out, they are subject to prosecution.

The Drug Court has a high success rate for those who finish the program. About 89 percent have had a clean record for a year after their graduation, Murray said.

Reno said a key component of the program is the effort to find work for the participants. She said that element needs to be incorporated into a national drug abuse strategy.

"These people have to have the understanding there will be a job waiting for them. They have to know we'll bring them back into the mainstream of economic productivity. Otherwise, it isn't going to work."

D.C. PRETRIAL SERVICES AGENCY

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Superior Court Building B
Washington, D.C. 20001

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JOHN A. CARVER III, ESQ.
Director

JOYCE JIYOUNG BANG, ESQ.
Deputy Director

September 24, 1993

President Bill Clinton
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Dear Mr. President:

I am writing to invite you to the opening of a major criminal justice initiative here in the District of Columbia. Through a cooperative agreement with your administration (the Center for Substance Abuse Treatment – U.S. Department of Health and Human Services) the Pretrial Services Agency and the D.C. Superior Court are about to inaugurate a "drug court" along the lines of the program in Miami. We would be honored if you could join us for the event. Our schedule is still flexible – we can do it any time between October 18 and October 29.

This program represents a major change in the way courts have traditionally dealt with drug abusing defendants. It will involve a new role for the judge – one in which the "leverage" of the Court will be used to encourage (and if necessary, *enforce*) participation in drug treatment. The concept represents a "carrot and stick" approach. The "stick" will be made possible by frequent drug tests coupled with quick, structured, and escalating responses to positive tests. The "carrot" will take the form of immediate access to quality treatment services and a more favorable disposition of the criminal case if the defendant makes progress toward his or her recovery.

I am sure you receive (and must decline) many such invitations. Let me list six reasons why you should accept this one.

EXECUTIVE COMMITTEE

Honorable JUDITH W. ROGERS, Chief Judge, District of Columbia Court of Appeals, Chair • STEVEN E. BULLOCK, Esq. • Honorable NORMA HOLLOWAY JOHNSON, Judge, United States District Court for the District of Columbia • LYNDIA V. RICE, Esq. • Honorable ERIC R. LUGAST, Chief Judge, Superior Court of the District of Columbia • Honorable PATRICIA M. WALD, Circuit Judge, United

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President Clinton
September 24, 1993

First, this will be the first "drug court" demonstration project funded by your administration. It represents a major commitment to take the best of a number of innovative and promising ideas, and fashion them into a demonstration program from which we expect to learn a great deal.

Second, it is clear that our national drug control policy is under review. You and your chief drug policy spokespersons (Attorney General Janet Reno and Drug Policy Director Lee Brown) have signaled a shift in emphasis from interdiction to demand reduction. You have spoken eloquently on the need for adequate drug abuse treatment resources. Inaugurating this program will be an excellent vehicle for you to make a statement stressing your commitment to this approach.

Third, you are already familiar with the model and its potential. I know that you have spent a number of hours in the Miami "drug court". You have watched Judge Goldstein step out of the formal judicial role, and reach out to people in trouble. You have seen with your own eyes the impact this can have, when a person in authority -- perhaps for the first time -- shows some compassion for people with serious problems. We hope to build on the pioneering work done in Miami.

Fourth, as you know, substance abuse and all its associated problems (HIV infection, tuberculosis) exact enormous costs on our system of public health. As we begin our great national discussion on health care reform, you need to find ways to stress the link between substance abuse and health care costs.

Fifth, a brief appearance by you will demonstrate your support for your neighbors here in the District of Columbia.

And finally, the Court complex at Judiciary Square is within easy walking distance of the White House.

I do hope you will be able to join me, Chief Judge Ugast of the Superior Court, the United States Attorney, and officials from your administration as we "kick off" this demonstration project.

Sincerely,


John A. Carver

Project Design of the Superior Court Drug Intervention Project

Treatment Background

This proposed demonstration project represents an innovative approach to integrating substance abuse treatment into the criminal justice system. It represents a significant departure from the way things have been done in the District of Columbia but offers cost effective treatment programming specifically designed for the drug abusing criminal offenders coming through the D.C. Superior Court.

Traditional View

Traditionally, both in the District of Columbia and across the nation, the criminal justice community and the treatment community have not seen themselves as having much in common. The perception has been that the two communities do not share goals, terminology, or even a basic understanding of the nature of addiction. Judges frequently saw their role as one of neutral arbiter or impartial referee of disputes or crimes brought before them by lawyers. Their priorities were focused more on controlling their dockets, than addressing the behavior that may have brought defendants into the system in the first place. Speeding cases through the system was "good". If the defendant was soon back with a new charge, well, that was someone else's problem. While willing to make use of treatment programs, judges often harbored deep skepticism regarding their effectiveness. This distrust was often exacerbated when it appeared that treatment counselors were less-than-forthcoming when it came to providing the court with information on a client's progress. Referring agencies sometimes concluded that treatment programs were only interested in treating the "easy" cases -- the "cream of the

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crop" likely to enhance "success rate" statistics. Especially frustrating cases (i.e., criminal defendants exhibiting "anti-social" behavior) were, in the "professional" opinion of treatment specialists, not "amenable for treatment", and thus not deemed appropriate for the program.

Even within the justice system, there was little if any continuity in providing treatment for the individual. A defendant on pretrial release would "start over" in treatment once he or she was convicted and placed on probation. Post conviction assessments and supervision plans would be made without regard to information developed at other points in criminal case processing. Drug-dependent offenders quickly identified these "holes in the net" exploiting them in the interest of continuing their use of drugs.

For their part, treatment programs, too, often felt their efforts were being thwarted by the justice system. Adopting a medical model of disease, treatment providers were quick to fault judges for failing to understand the chronic and relapsing nature of addiction. They often experienced a certain role conflict with court referrals, on the one hand seeking to build trust and rapport with the client, and on the other, responsible for notifying the referring agency (or judge) of program violations. Some counselors viewed judges and lawyers as having no legitimate place in the treatment of a medical condition, believing that they should have a free hand in the "patient's" treatment until it was clear that they could not work with the individual. In short, the relationship between courts and treatment programs was dichotomous and dysfunctional.

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Emerging View

Other jurisdictions experienced similar problems between the criminal justice system and the substance abuse treatment community. In the past five years, some jurisdictions have adopted a different view of the Court's role, the treatment provider's role, and the way in which these two disciplines can work together. It is becoming increasingly evident that there *are* shared goals, and that there is great potential for the two systems to work more effectively in tandem. Many judges have been overwhelmed by the futility of speeding defendants through the system, only to see them again and again with more new charges. Treatment providers no longer see drug addiction in criminal defendants in simplistic terms as a "medical" problem, but see it as a complicated medical/ psychological/ social set of problems associated with criminal behavior. Moreover, there is an increasing realization (backed up by empirical evidence) that court ordered "coerced" treatment can mean longer retention in treatment, which in turn results in better outcomes. For this concept to work most effectively, treatment should be viewed as a long term process, as the defendant moves through a series of points in the criminal justice process. Treatment needs will vary. Aftercare is essential, given the chronic and relapsing nature of drug addiction in this population. There must be an unbroken continuum, involving pretrial services, probation, corrections, and parole supervision. There must be accountability and information sharing. Each step in the *criminal* process should enhance the *treatment* plan. The Court must exercise its authority wisely, rejecting the "all or nothing" response of the past, and taking the time to apply graduated and immediate consequences to change behavior.

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Creating the Vision

This demonstration project seeks to institutionalize the best of the emerging thinking on court-ordered drug intervention. Success will be measured by procedures designed to reduce drug usage and criminality. The program will incorporate a number of features never before fully implemented, either here or elsewhere. Briefly, the program elements are:

- **Immediate intervention**

The first phase of the intervention begins at arrest with a pre-arraignment drug test. Demonstration program subjects will be known immediately, and randomly assigned to one of the three court calendars/ project cells. The period from arrest to felony arraignment (approximately 30 days) will be used for screening and assessment.

- **Judicial Involvement**

The judge will be an integral part of the treatment plan for the defendant. Judicial participation will take the form of court orders requiring treatment, and regular review of treatment progress. While the Court will *not* be involved in assessments, it will oversee participation in the treatment plan. A series of incentives, rewards, or sanctions will be employed to encourage — indeed, insist upon — participation.

- **Frequent Urinalysis Testing**

Frequent drug testing is essential for this kind of program. Currently, judges do not receive consistent, reliable, and timely results of defendants placed in any of the numerous local treatment programs. In response to this difficulty, all testing will be conducted by the Pretrial Services Agency and linked electronically to the courtrooms. Depending on the court calendar assignment, positive tests will result in either immediate, graduated consequences or assignment to more intensive treatment.

- **Drug Offender Accountability**

No longer will judges experience the frustration of having to make decisions based on inadequate information from treatment providers. In a significant departure from previous practices, the Court will have on-line, in-the-courtroom computer access to all drug test results and all treatment progress and participation records. Software development for this project is nearly complete, and the hardware has been installed in the courtrooms. There will be regular court hearings convened solely for the purpose of reviewing the defendant's treatment progress.

- **Emphasis on Treatment**

In the past, the Court's priorities have been to *reduce delay* and get the cases out of the court system. In a reversal of this thinking, the priority will now be to maintain jurisdiction for a sufficient period to have maximum effect on the defendant's treatment progress. Sentencing may be deferred, based on the treatment needs of the defendant.

- **Maintaining Quality Control of Treatment Services**

Many judges have expressed skepticism as to the quality of treatment services provided by the city's network of programs. Centralizing treatment services in the court complex and incorporating specific quality control protocols will permit much greater oversight of the quality of treatment.

- **Building a Continuum of Treatment Services**

As a result of this project, existing linkages will be reinforced to build a seamless continuum of treatment services for criminal justice drug offenders. The Pretrial Services Agency (PSA), the Correctional Treatment Facility (CTF), the Probation and Parole Resource Center (PPRC) and the Alcohol and Drug Abuse Services Administration (ADASA) are pooling resources and expertise to ensure a consistent, integrated treatment response for each individual.

- **Court-based treatment services**

All outpatient services will take place in the Court complex. This will enhance program operations in several ways. Defendants can be escorted to the program, and will no longer "get lost" while trying to reach a remote location. All testing services will be performed on-site, facilitating instantaneous access by judges and treatment counselors of results. The "role conflicts" of treatment staff having to play the "enforcer" will be a thing of the past, as everyone will understand that *all* tests and *all* treatment events will be automatically accessible by the Court. No longer will counselors have to wrestle with the question, "how many positives are tolerated before the judge is informed."

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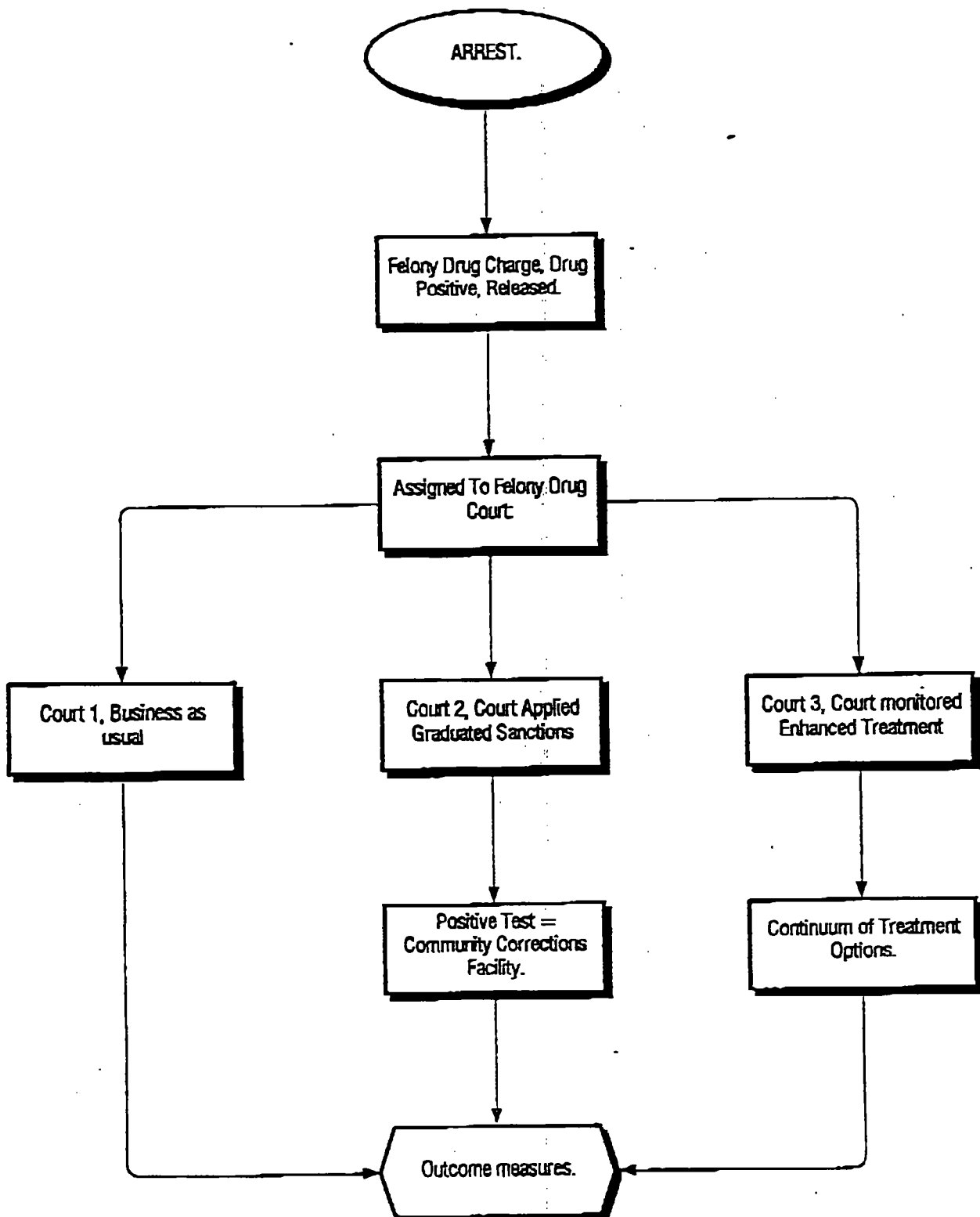
- **Range of Services**

A treatment program located in the court complex, coupled with linkages to existing criminal justice resources, will facilitate the introduction of a broad range of services designed to deal not only with addiction, but with the range of related social deficits criminal offenders exhibit.

Project Implementation

Currently, felony drug cases, are randomly assigned to one of three "master drug calendars" at the defendant's first appearance. The target group for this demonstration project consists of defendants who were released from custody at the first appearance and who tested positive for drug usage during lockup. The three "master drug courts" will serve as three cells for evaluation purposes. One court will act as a control. This court will continue with present practices with drug using defendants receiving services currently available: drug testing by PSA with reports to the Court and referral to ADASA. The second Court or cell will utilize a "Graduated Sanctions" regimen and the third Court will employ a "Enhanced Treatment" regimen. (See chart) Defendants will be followed through the three cells and be given assessment interviews at specified times.

Superior Court Drug Intervention Program



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This demonstration project is envisioned as a five year exercise. Because of the need to finalize procedures, hire staff, and prepare program space, the Graduated Sanctions cell will begin accepting clients at the beginning of month 3 of the project and the Enhanced Treatment cell will begin accepting defendants one month later at the beginning of month 4. The two "new" cells will accept defendants into the program for a 48 month period. As defendants will be in the program for six months, the delivery of program services will continue for up to six months after the last defendant has been placed in the Enhanced Treatment cell. Due to the way in which defendants will be entering the program more defendants will require treatment services during the second year. As the number of defendants in the program decreases there will be a corresponding decrease in treatment service costs and program staffing levels.

Project Evaluation

The program manager has been working closely with the staff of the CSAT Office of Scientific Analysis and Evaluation. Further details about the evaluation process will be forthcoming as the design is developed with the continued assistance of the Evaluation Branch.

Graduated Sanctions Regimen

Based on a review of a case-based research file containing all drug felony cases charged between June 30, 1992 and December 31, 1992, it is anticipated that this Drug Calendaring Court will receive approximately 480 defendants who will be released on non-financial release and have tested positive at arrest. As part of this cell, all of these defendants would be required to participate in drug testing on a twice weekly basis as a condition of release.

10/5/93

TO: BRUCE REED, JOSE CERDA

FROM: LIZ BERNSTEIN

SUBJECT: Possible D.C. crime event at the new "Drug Court" initiative opening

Purpose

We have been under increased pressure, both internally and externally, to respond to the recent upsurge of violent crimes in the District. While some have pitched ideas ranging from a visit to a recently victimized elementary school to a one-on-one visit to the mother of the latest victim (a 4-year-old girl), I think this drug court opening fits best into our overall strategy for several reasons:

It has the appeal of being tough on crime while also personalizing --and showing compassion for-- the treatment of drug-related crime to prevent recidivism;

There is a clear relationship between substance abuse and the enormous health care costs associated with its problems;

This is the first project of its kind to be funded by our administration.

Background

This program has evolved out of a cooperative agreement with HHS (Center for Substance Abuse Treatment), the Pretrial Services Agency, and the D.C. Superior Court. It is similar to a program already implemented in Miami.

The primary idea behind this initiative is to radically change the way the criminal justice process and the drug treatment process interact with one another. In this "drug court", the leverage of the judicial system will be used to encourage and enforce participation in drug treatment. The emphasis will be on cost effective treatment programming specifically designed for the drug abusing criminal offenders coming through the D.C. Superior Court.

Components of the plan include:

Treatment based on viewing drug addiction in criminal defendants as not only a medical problem but as a complicated medical/psychological/social set of problems associated with criminal behavior.

Immediate intervention, with testing done at the time of the arrest.

An enhanced role for the judge, with oversight over the participation in the

treatment plan.

Frequent drug testing, with a computer linkup to the courtrooms of not only the results but all treatment progress and participation records.

Emphasis on the quality and continuity of the treatment process.

The project is projected to last about five years, with each defendant's involvement in the program lasting about six months.

Participants

The President, Lee Brown, (Reno?), Jay Carver (Pretrial Services Director), a D.C. Superior Court Judge, and Mayor Kelly.

Crime Stats: Washington, D.C.

So far this year (1993):

- ◆ 352 people have been homicide victims (it was 338 this time last year):
 - Half of those homicides are linked directly to drugs - down from 60% a few years ago;
 - 70% of the homicides occur in and around public housing complexes;
- ◆ The homicide rate has increased 92% in ten years (from 183 in 1983 to 352 in 1993);
- ◆ 1,500 people have been victims of nonfatal shootings;
- ◆ 4,800 robberies have been reported:
 - More than 300 small businesses have been robbed (compared to 523 in all of 1992);
- ◆ From 1983 to 1991 (latest year available), the violent crime rate has increased from 1,985.4 per 100,000 to 2,453.3, a 24% increase;
- ◆ D.C. General expects to handle more than 1,000 gunshot victims this year, mostly males ages 14 to 30.

Comments/Editorials on Calling out for the National Guard in Washington, D.C.

There have been cries and debate about putting the National Guardsmen on District streets for four years now. The police department has responded to the killings with all manner of strategies: Operation Clean Sweep, Operation Fight Back, and special squads with federal agents. [WP, 10/3/93]

Currently, the D.C. National Guard provides 50 volunteers - out of a force of 3,700 to help fight drugs. According to D.C. National Guard Maj. Mike Milord, the mayor has not made a formal request for more help. [WP, 9/30/93]

Courtland Milloy:

"Mayor Kelly (in reaction to the wave of crimes in the District last week) used the occasion to bemoan her inability to call out the National Guard. Never mind that Kelly merely needed to ask her friend Bill Clinton to mobilize the Guard. That is, if she really thought that weekend soldiers could do any good." [WP, 10/3/93]

William Raspberry:

"I believe we need to deal with the depression and despair of our young people -- their joblessness, their hopelessness, their empty vision of the future. But I also believe that none of this is possible unless our children's homes and schools and playgrounds are safe places. We've got to do what it takes to make our cities safe again: with federal help and with federal troops, if necessary.

If we can deploy American soldiers in Mogadishu to protect the Somali people from violent "war lords," is it beyond reason to deploy a few hundred troops here, at least until the streets are calm enough for ordinary law-enforcement to take over? [WP, 10/29/93]

Mayor Sharon Pratt Kelly was preoccupied yesterday with the city's concern about shootings, some of which have occurred recently in stores as well as on neighborhood streets. She and Police Chief Fred Thomas met privately with Lee Brown, director of the Office of National Drug Control Policy, to discuss how the federal government can help the District.

Thomas said the National Guard has long been a part of the city's anti-crime efforts, and helps protect and light up corners of neighborhoods patrolled by Orange Hat citizen groups. He said the Guard will expand its role under the new initiative by helping on roadblocks in high crime neighborhoods and in other support roles. [WP, 9/29/93]

Criticism of Clinton's lack of reaction to crime in D.C.:

Mary McGrory:

"President Clinton, who, like so many presidents before him, promised to be a citizen of the Federal City, has been a disappointment.

Granted there isn't much he can do to stop the gun-toting maniacs who infest the capital...but he could minister to the victims and survivors.

Someone must be telling him he doesn't have to be president of D.C., too.

(His actions) might have lessened the feeling that D.C. is two cities: One, the comfortable, white affluent, relatively safe enclaves, and the other, the black ghettos where people are trapped in their homes and children have to learn at an early age to dodge bullets. [WP, 10/5/93]

SAN FRANCISCO Daily Journal

Wednesday, November 24, 1993

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

Drug Czar Lauds Oakland Court as Solution

■ The FIRST Diversion program is what the Clinton administration wants nationwide, Lee Brown says.

By Michael Moline
Special to the Daily Journal

Programs like Oakland's model drug court will be the key to the Clinton administration's efforts to control drug abuse and violent crime, the nation's top drug policy official said during a visit to the program Tuesday.

Lee Brown, director of the Cabinet-level Office of National Drug Control Policy, sat in during a morning court session while a string of drug offenders appeared before Municipal Judge Jeffrey Tauber.

Later, Brown told reporters that the comprehensive new anti-drug strategy he'll deliver to President Clinton in February will draw heavily upon the example of programs like Oakland's,

which treats the drug epidemic as a medical as well as a criminal problem.

"This program is very similar to what we are trying to do at the federal level," Brown said. "It presents an alternative to the traditional system — one that we support."

Later, he said in a short speech to judges, lawyers, and city and county officials from around the Bay Area that the new crime bill before Congress will promote similar efforts.

"It's like we copied you or you copied us," Brown said. "When people are on the same wavelength, it means we must be going in the right direction."

Brown said the key to the program is that it uses the court and probation system to steer drug defendants into treatment, keeping close watch over their progress and using both the threat of prison and the promise of a clean criminal slate to keep them on the right path.

Participants — mostly first offenders facing felony possession charges — are funneled into the diversion program, usually within 24 hours

of their initial arraignment. They must complete an intensive regimen of drug education and therapy, undergo frequent testing, pay court fees and report frequently to their probation officers.

The program can take up to two years, but participants can reduce that time by keeping all their appointments and keeping "clean." If an offender isn't doing well, the frequent reporting means officials know about it right away, before the "divertee" can slip through the cracks.

The program assumes many participants will backslide, but a positive drug test won't necessarily mean failure, unless they are also missing court dates or probation appointments, skipping counseling sessions or simply not trying.

Several participants graduated from the program as Brown looked on Tuesday. They got a handshake from Tauber, a round of applause from other participants and a certificate.

Several other participants who weren't doing so well were hauled off to jail.

"This is not about the court trying to beat you
Continued on Page 7



XIANG XING ZHOU/Daily Journal

LEE BROWN — "This program is very similar to what we are trying to do at the federal level."

Drug Czar Praises Oakland Court As Model Program for the Nation

Continued From Page 1

Tauber told one participant. "This is about you taking control of your life and surviving."

Brown said the national strategy will similarly "recognize drug dependence for what it is: a chronic, recurring disorder requiring treatment and aftercare."

He estimated drug and alcohol abuse costs Americans \$170 billion each year. Tauber, has estimated the Oakland program has saved \$3 million in two years.

"It's difficult to estimate with any precision exactly what savings will result from treating drug-dependent offenders in Oakland. But I have spent a good deal of time with the president addressing health-care reform and can tell you that we know the cost of not treating those addicted to drugs and alcohol," Brown said. "We can't afford not to treat those who need it."

Brown, who did his post-graduate work at the University of California, Berkeley, served as police chief in Atlanta, New York and Houston before being chosen by Clinton to be the nation's third "drug czar." Clinton has cut back on the office's funding, but has elevated its director to Cabinet rank.

Brown said drug policy will be a cornerstone of the administration's overall domestic agenda, paired with efforts to create jobs, reform health care and curb youth violence by offering alternatives to gang life. He said the policy will pay special attention to heavy drug users, and will promote "certain, swift and appropriate punishment for drug offenders."

He said Clinton's approach to the "drug war" is informed by his experience with his brother, Roger. As governor of Arkansas, Clinton personally approved Roger's arrest on cocaine charges.

"Simply put, drug-dependent offenders would not likely enter or remain in treatment without criminal justice pressure," Brown said.

Roger Clinton "never would have sought treatment [for his cocaine problem] on his own," Brown said. "Probably, going through the criminal justice system saved his life."

Oakland's FIRST Diversion program — for "fast, intensive, report, supervision and treatment" — claims a recidivism rate of about half that for traditional diversion programs featuring less-intensive monitoring of participants.

He said Clinton views the drug problem as part of a broader pattern of social ills, including the lack of jobs, poor schools, inadequate health care and housing, and the general erosion of public safety.

"What we have to do is to provide hopefulness, so that people can see a future," he said.

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 TACCONE/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, Kath-

leen Callahan, Sonja Tadeo. Middle row, from left: Frank Tapia, Al Shaquette, 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 fail 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.

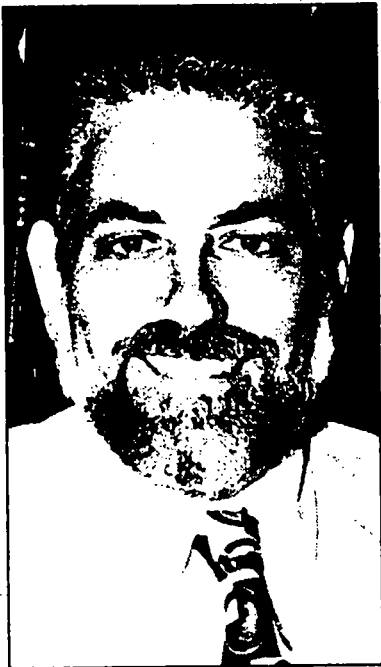
She is given back her belt and the red handkerchief she knots tightly across her scalp. Then, she is permitted to leave, clinging unsteadily to another chance.

LOS ANGELES Daily Journal

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915 East First Street, Los Angeles, CA 90012 213/229-5300

Profile



Jeffrey S. Tauber

Judge
Alameda County Municipal
Court

Elected: June 1988

Career Highlights: Alameda County Municipal Court commissioner, 1985-88; private practice, Oakland, 1976-85; Alameda deputy public defender, 1976; Santa Clara deputy public defender, 1974-76; Ralph Nader and the Natural Resources Defense Council, 1971-72

Law School: Boston University, 1971

Age: 48

Wednesday, August 17, 1994

Official Newspaper of the
City of Los Angeles and
the County of Los Angeles

Judge Advocates Drug Diversion

He Hopes His Theories
Will Be Used Nationwide

By Mark Blumberg
Special to the Daily Journal

OAKLAND — Practically all his life, Jeffrey S. Tauber has thought of ways to change the system. Now his theories may be put into practice throughout the United States.

As a college student, Tauber formed an environmental law organization; as a Municipal Court commissioner he made a number of changes to streamline the county system. As a judge he created Alameda Municipal Court's first drug court, which became the second in the country and eventually attracted the attention of the Clinton Administration.

The result: Tauber was asked to co-author President Clinton's national "crime bill." The measure narrowly was defeated last week by Republican lawmakers, who oppose a ban on assault weapons.

Tauber had put his ideas regarding drug crimes into practice when he be-

came the first judge to sit in the county's drug court in mid-1990. He not only sought and received the funding but designed the approach for the new court.

While in the assignment, Tauber formed a new drug diversion program, which drastically reduced the time it took for defendants to be accepted into diversion. The so-called Speedy Diversion Program also involves frequent visits with a probation officer, drug and AIDS education, counseling, drug testing and the requirement that each defendant make one payment toward the diversion fee.

Those who are placed in the program, who are young, are three times more successful than people who were in the old diversion program," says Tauber, 48, who was elected to Alameda Municipal Court in Oakland in June 1988.

In November, President Clinton sent drug czar Lee Brown to visit the drug court. Later, Brown told reporters that the new drug diversion strategy he would present to Clinton would draw heavily from programs like Oakland's. The crime bill had sought \$1.3 billion to create drug courts throughout the United States.

Though he currently runs a department exclusively devoted to driving violations, Tauber still actively campaigns to change the way drug offenders are processed by the court system. He frequently lectures around the United States about the need for new drug programs. And he recently became president of the new National Association of Drug Court Professionals, a Virginia-based educational and lobby group that advocates the need to increase the number of treatment-based drug courts.

1a
SAN FRANCISCO

Daily Journal

Wednesday, November 24, 1993

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

Drug Czar Lauds Oakland Court as Solution

■ The FIRST Diversion program is what the Clinton administration wants nationwide, Lee Brown says.

By Michael Moline
Special to the Daily Journal

Programs like Oakland's model drug court will be the key to the Clinton administration's efforts to control drug abuse and violent crime, the nation's top drug policy official said during a visit to the program Tuesday.

Lee Brown, director of the Cabinet-level Office of National Drug Control Policy, sat in during a morning court session while a string of drug offenders appeared before Municipal Judge Jeffrey Tauber.

Later, Brown told reporters that the comprehensive new anti-drug strategy he'll deliver to President Clinton in February will draw heavily upon the example of programs like Oakland's,

which treats the drug epidemic as a medical as well as a criminal problem.

"This program is very similar to what we are trying to do at the federal level," Brown said. "It presents an alternative to the traditional system — one that we support."

Later, he said in a short speech to judges, lawyers, and city and county officials from around the Bay Area that the new crime bill before Congress will promote similar efforts.

"It's like we copied you or you copied us," Brown said. "When people are on the same wavelength, it means we must be going in the right direction."

Brown said the key to the program is that it uses the court and probation system to steer drug defendants into treatment, keeping close watch over their progress and using both the threat of prison and the promise of a clean criminal slate to keep them on the right path.

Participants — mostly first offenders facing felony possession charges — are funneled into the diversion program, usually within 24 hours

of their initial arraignment. They must complete an intensive regimen of drug education and therapy, undergo frequent testing, pay court fees and report frequently to their probation officers.

The program can take up to two years, but participants can reduce that time by keeping all their appointments and keeping "clean." If an offender isn't doing well, the frequent reporting means officials know about it right away, before the "divertee" can slip through the cracks.

The program assumes many participants will backslide, but a positive drug test won't necessarily mean failure, unless they are also missing court dates or probation appointments, skipping counseling sessions or simply not trying.

Several participants graduated from the program as Brown looked on Tuesday. They got a handshake from Tauber, a round of applause from other participants and a certificate.

Several other participants who weren't doing so well were hauled off to jail.

"This is not about the court trying to beat you

Continued on Page 7



XIANGXING ZHOU / Daily Journal

LEE BROWN — "This program is very similar to what we are trying to do at the federal level."

Drug Czar Praises Oakland Court As Model Program for the Nation

Continued From Page 1

down," Tauber told one participant. "This is about you taking control of your life and surviving."

Brown said the national strategy will similarly "recognize drug dependence for what it is: a chronic, recurring disorder requiring treatment and aftercare."

He estimated drug and alcohol abuse costs Americans \$170 billion each year. Tauber has estimated the Oakland program has saved \$3 million in two years.

"It's difficult to estimate with any precision exactly what savings will result from treating drug-dependent offenders in Oakland. But I have spent a good deal of time with the president addressing health-care reform and can tell you that we know the cost of not treating those addicted to drugs and alcohol," Brown said. "We can't afford not to treat those who need it."

Brown, who did his post-graduate work at the University of California, Berkeley, served as police chief in Atlanta, New York and Houston before being chosen by Clinton to be the nation's third "drug czar." Clinton has cut back on the office's funding, but has elevated its director to Cabinet rank.

Brown said drug policy will be a cornerstone of the administration's overall domestic agenda, paired with efforts to create jobs, reform health care and curb youth violence by offering alternatives to gang life. He said the policy will pay special attention to heavy drug users, and will promote "certain, swift and appropriate punishment for drug offenders."

He said Clinton's approach to the "drug war" is informed by his experience with his brother, Roger. As governor of Arkansas, Clinton personally approved Roger's arrest on cocaine charges.

"Simply put, drug-dependent offenders would not likely enter or remain in treatment without criminal justice pressure," Brown said.

Roger Clinton "never would have sought treatment [for his cocaine problem] on his own," Brown said. "Probably, going through the criminal justice system saved his life."

Oakland's FIRST Diversion program — for "fast, intensive, report, supervision and treatment" — claims a recidivism rate of about half that for traditional diversion programs featuring less-intensive monitoring of participants.

He said Clinton views the drug problem as part of a broader pattern of social ills, including the lack of jobs, poor schools, inadequate health care and housing, and the general erosion of public safety.

"What we have to do is to provide hopefulness, so that people can see a future," he said.

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WEDNESDAY
NOVEMBER 24, 1993

Jose Mercury News

Alameda County drug court is a national model

BY RAOUL V. MOWATT
Mercury News Staff Writer

OAKLAND — It's a rare courtroom where defendants often leave with huge grins and to the sound of applause. It's rarer still that the law enforcement officials leaving those courts are just as pleased.

But on Tuesday, President Clinton's "drug czar," Lee Brown, found one courtroom that fits that description: a novel East Bay

drug court in which minor drug offenders are put in a diversion program that keeps them from going back to jail.

The program, started two years ago by Municipal Court Judge Jeffrey Tauber, has received national acclaim, and supporters boast that it reduces the chance of drug offenders being rearrested and saves the county and city more than \$3 million.

Brown, director of the Office of

National Drug Control Policy, was visiting Oakland to outline anti-drug strategies. He said the Clinton administration would work to support similar courts on the federal and state levels.

"What we have to understand is we have to do something different," he said. "What we have done so far has not worked. The drug courts are not the panacea, but it's one in a spectrum of programs" to implement.

State law allows people with no felony convictions in the previous five years and no prior drug convictions to participate in diversion programs, which leave them with clean criminal records upon completion.

Supporters of the Oakland program say it is unusual in that participants start attending counseling sessions shortly after they are arrested. The program's underlying philosophy is that the

sooner people are given help, the more likely they will take it.

After studying participants from the program's first year, organizers found that participants between 18 and 30 years old their chances of being rearrested for a felony in the two years following their arraignment cut by almost two-thirds. Those between 31 and 45 saw their chances decline by just over 40 percent.

See DRUG CZAR, Page 4E

J.S. drug control director visits model program in Oakland

DRUG CZAR

from Page 1B

"What they've found is that when people are in crises like being arrested, they're more susceptible to doing whatever you want to do," said Sorja Tateo, a deputy Alameda County probation officer. "But when you wait six weeks, the scariness of jail is gone."

Defendants sign contracts that reward them with points for completing such tasks as attending drug and AIDS education classes, passing urine tests and meeting with their probation officers.

And the more points people earn, the less time and money

they will have to spend on the program. By earning perfect scores, participants stand to have their two-year period of supervision slashed to six months — and the \$220 fee reduced to \$46.

On Tuesday, with Brown and several reporters looking on, Tauber ran his courtroom with an unusual combination of compassion, strictness and efficiency. The court calendar is structured so that people just starting the program watch as those further along are rewarded — or punished — for their behavior.

First was Florence Dominguez, who lives with her mother in Fremont. She turned 33 on Tuesday, and Tauber lavished praise on her as a birthday gift.

"You've been just about perfect over the last few months," he told her before sending her further in the program.

She was about to walk a couple of blocks away to meet her new probation officer for the first time. On her way out, she said, "All right!" and hugged her present officer twice.

Dominguez has been a drug addict and alcoholic all her life, and said she's sampled all narcotics at least once. She was arrested in Oakland on Sept. 7 for possessing a quarter-gram of heroin. Thanks in large part to the program, she said she hasn't had a drink or a hit since.

"This is like a blessing in dis-

guise," she said enthusiastically. "This is God's will."

She said the difference between the drug diversion program and the many other courts she's been in for drug offenses is that people really seem to care. "They don't tell me stuff putting me down, cussing at me," she said. "They just come at me right."

Other cases went before Tauber, with many defendants earning applause from observers for their progress.

The contracts account for relapses and allow for second chances. Those who fail to earn enough points can repeat each of the three stages of the program once. People kicked out for not

earning enough points can be reinstated once. And failing a drug test doesn't mean automatic dismissal.

For instance, Tauber addressed the type of defendant the program strives to reach: a woman who was arrested on two drug charges within days of each other as she was starting the program.

"Since then, you've been an exemplary diveree," he told her. "When we see you again in three months, I'm going to have the pleasure of dismissing both cases."

Another man tested positive for drugs about a week and a half ago. "It's clear to me and it should be clear to you that you

need to work to change," Tauber said.

But for one case, there was no kindness in Tauber's voice. He ordered a man in a gray suit taken into custody for failing to meet his probation officer and for testing positive for drugs in August.

At one point, he addressed seven people who are just beginning the program. He first pointed to the public exit to the courtroom, then to the door where a sheriff's deputy had taken the man moments before.

"You've got to decide if you're going to walk through that door with a new lease on life, or if you're going to walk through that door in custody and facing three years in state prison," the judge said soberly.

FROM OAKLAND MUNI. 5102687695

TO:

202 456 7028

NOV 25, 1993

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P.04

San Francisco Chronicle

THE LARGEST DAILY CIRCULATION IN NORTHERN CALIFORNIA

WEDNESDAY, NOVEMBER 24, 1993

U.S. May Adopt Oakland's Innovative Drug Program

By Judy Ronningen
Chronicle Correspondent

The nation's drug czar said yesterday in Oakland that he intends to increase treatment opportunities for addicts and reduce the demand for drugs that are pouring into low-income neighborhoods.

Lee Brown, director of national drug control policy for President Clinton, visited an Oakland Municipal Court program that puts offenders into counseling instead of jail and said it is a model program for the administration's new drug strategy.

"It's as if you copied us, or we

copied you," he told a gathering of judges, probation officers and other court personnel.

Brown, a former Houston police chief and New York City po-

***The drug czar said
he wants to change
mandatory
sentencing laws***

lice commissioner, said drug treatment would be offered as a part of the proposed Clinton health plan, reflecting the administration's

view that drug abuse is as much a health problem as a criminal problem.

He said federal drug programs will target hard-core users of cocaine and heroin rather than recreational drug users. Brown estimated that 80 percent of illegal drugs are used by hard-core addicts.

Brown said the strategy is to reduce demand for drugs by making sure treatment is available to those who want it — and using the criminal justice system to prod people into participating.

One man who graduated yesterday from the drug diversion

program in Oakland, in front of Brown and a gaggle of reporters and photographers, said fear of going to jail kept him in the program and off drugs.

"I had never been of the belief that drugs were the answer, but getting arrested really made me reconsider my way of life," said the Oakland man, who asked that his name be withheld because of the stigma of being known as a drug user.

The Alameda County court program involves about 1,200 people a year. It requires offenders to take drug and AIDS classes through the

PROGRAM: Page A17 Col. 2



BY MICHAEL MACOR/THE CHRONICLE

National drug czar Lee Brown praised Oakland's drug diversion program during a visit

PROGRAM: U.S. May Borrow from Oakland

From Page A15

probation department, participate in community drug treatment and pass regular urine tests.

Successful graduates are half as likely to be rearrested for another felony, compared to other first-time drug offenders, according to Municipal Court Judge Jeffrey Tauber, who oversees the program. For graduates under 30, rearrests are down by two-thirds.

One graduate yesterday unsuccessfully tried to complain to Brown about the volume of drugs

entering black neighborhoods. The 45-year-old Oakland man said he believes the federal government looks the other way while international drug smugglers bring drugs into minority communities.

But Brown, who was sworn in in July, said he had already visited Central American countries to continue the effort to stop drugs before they cross U.S. borders. He said the government has seized 330 tons of illegal drugs in the past year.

The drug czar said he also intends to try to change mandatory

sentencing laws that send young black men to prison for possession of crack cocaine, while offenders caught with the same amount of powdered cocaine — used more by the white middle class — can get jail time or probation.

Brown told Oakland city officials and drug treatment professionals yesterday afternoon that he opposes legalizing drugs.

"As sure as night follows day, it will lead to more addiction, more crime and more degradation in our low-income communities," he said.

U.S. drug czar studies Oakland's diversion program

Officials developing new policy
after ending war on drugs

By Cecily Burt
Craig Stants
STAFF WRITERS

The nation's drug czar came to Oakland Municipal Court Tuesday to see first-hand how a local drug diversion program might become a model for the Clinton Administration's strategy to control illegal drug use.

Lee P. Brown's visit to Oakland's award-winning drug court was part of a whirlwind tour that also included a Probation Department orientation session for seven drug offenders who had appeared in court and joined the diversion program only minutes earlier.

Brown, a former New York City police commissioner, took over as the director of the Office of National Drug Control Policy in July and is scheduled to submit a comprehensive drug control strategy to Congress in February.

However, Brown already has reshaped at least the federal government's rhetoric, abandoning the "war on drugs" talk of earlier administrations in favor of a greater emphasis on treatment, rehabilitation and education. Today, about 80 percent of the money that the U.S. spends to control drug abuse goes to law enforcement approaches.

"We don't believe the government should declare war on its own people," Brown told a community forum at the Lakeside Park Garden Center later in the day.

And he said what he saw Tuesday was exactly what the administration's interim drug control strategy calls for: reducing the demand for drugs, and with it reducing street violence, through a combined effort of law enforcement, education, counseling and treatment programs targeted at hard-core drug abusers.

"You've made clear your willingness to divert from business as usual to function as a team in the interest of both public safety and public health," he said. "And, significantly, you have built the infrastructure and staff necessary to identify, refer, treat, monitor and report on the progress of drug-depen-

dent offenders."

Brown said one element that will not be part of the administration's drug strategy is legalization, which he called "the moral equivalent to genocide."

And he pledged more dollars to local governments that merge criminal justice efforts with drug treatment and education programs, such as Alameda County's FIRST Drug Diversion Program.

"Those types of programs are cost effective in the long run because the drug problem affects the health care system. It also overwhelms the criminal justice system, impedes the learning process and makes the streets unsafe," he said.

Brown called drug use "America's problem," because it no longer knows racial or geographic boundaries. But he did not ignore the fact that most of the offenders filtering through the drug court were minorities.

"Minorities are more likely to use crack cocaine and whites are more likely to use powder. Five grams of crack cocaine equals a prison sentence but five grams of powder cocaine equals probation," he said. "So prisons get darker and darker. That's a disparity that must be addressed."



RON WESTERMAN — Staff

President Clinton's drug czar, Lee Brown, sits in on an Oakland drug trial during part of his visit to the Bay Area on Tuesday.

Court-run program puts drug offenders in treatment, not jail

By DONNA WASICZKO
Staff writer

OAKLAND — Several times each weekday, the rare sound of applause spills out of a sixth-floor courtroom into the hallway of the Oakland-Piedmont-Emerlyville Municipal Court.

The courtroom has been transformed into a sanctuary and source of help for people who have become drug-addicted and entangled in the criminal justice system.

Oakland's "drug court," one of several across the country, is aimed at merging the usually opposed goals of criminal justice and drug treatment into a court-managed drug abuse treatment program.

FIRST, — for fast, intensive, report, supervision and treatment — began in 1991 and has cut in half the rate of repeat offenders, according to the court.

Drug defendants who stand before Oakland Municipal Court Judge Jeffrey Tauber are often surprised when he looks up from their case files into their eyes, asks them how they're doing and waits for an answer.

If they join the growing number who have completed the program, their reward includes a personal handshake from the judge and a round of applause.

"This program is not about your jumping through hoops for me or anyone else," Tauber told a defendant who appeared before him Tuesday. "It's about you taking control of your life."

Lee P. Brown, director of the federal Office of National Drug Control Policy, visited Oakland's drug court Tuesday and found it a departure from "business as usual."

"Significantly, you have built the infrastructure and staff necessary to identify, refer, treat, monitor and report on the progress of drug-dependent offenders," Lee said.

His office has just released the report "Breaking the Cycle of Drug Abuse," which advocates rehabilitating, rather than punishing, drug offenders.

Diversion, sanctioned by the California Penal Code, allows some defendants accused of committing some nonviolent felonies to participate in education and counseling programs to rehabilitate them. If they successfully complete the court-ordered requirements, the charges are dismissed, and no convictions appear on their records.

Drug courts take diversion one step further. In Oakland, a team that includes Tauber, some probation officers and attorneys handle all the cases. Defendants who agree to diversion must take drug education classes, attend group and individual counseling, submit to drug-testing and check in regularly with their probation officers.

The FIRST program is based on the principle that intervention should be immediate, so offenders enter the program within an hour of their first court appearance and begin treatment immediately. Those monitoring the program provide vigilant supervision and award points to defendants who follow the rules.

Successful participants receive tangible rewards and incentives during their treatment, including reductions in their diversion sentences and fees. If they complete all requirements, they receive a diploma.

Those just beginning the program learned much as they waited for their turns on Tuesday. Some defendants getting their diplomas described the joy of kicking their habits. Tauber questioned others who were only partially successful. One man who did not follow the rules was taken into custody.



Office of Policy Development
United States Department of Justice
10th and Constitution Ave. NW
Washington, D. C. 20530

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FROM: Grace

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Total Pages (excluding this cover): 17

Additional Message:

FYI.



U.S. Department of Justice

Office of Justice Programs

OPD RECEIVED

Washington, D.C. 20531 95 JAN 12 PM 5:16

January 12, 1995

MEMORANDUM TO: Kevin R. Jones
Deputy Assistant Attorney General
Office of Policy Development

FROM: Paul Kendall *P.K.*
Acting General Counsel

Lila Sultan *LS*
Attorney Advisor

SUBJECT: Formal Submission of OJP Regulation No. 1014
"Drug Courts"

We are submitting OJP Regulation No. 1014, "Drug Courts," for your formal review and for transmission to the Office of Information and Regulatory Affairs at OMB. Please contact this office if you need any additional information.

Thank you for your assistance.

cc: Bob Hinchman

Billing Code: 4410-18-P

January 12, 1995
4:42pm

DEPARTMENT OF JUSTICE

Office of Justice Programs

28 C.F.R. Part 93

[OJP No. 1014]

RIN 1121-AA26

Drug Courts

AGENCY: U.S. Department of Justice, Office of Justice Programs.

ACTION: Proposed Rule.

SUMMARY: This notice announces a proposed rule and requests comments on the Drug Court Program as authorized by Title V of the Violent Crime Control and Law Enforcement Act of 1994. This rule gives general guidance regarding the program and specifically delineates the prohibition on participation by violent offenders. Detailed program guidelines and application

materials for the Fiscal year 1995 Drug Court Program will be available in early 1995.

DATE: All comments must be received by [insert 30 days from date of publication in the FEDERAL REGISTER].

ADDRESS: All comments should be addressed to Reginald L. Robinson, Deputy Assistant Attorney General, Office of Justice Program, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT: The Department of Justice Response Center at 1-800-421-6770 or (202) 307-1480.

SUPPLEMENTARY INFORMATION:

Overview of Title V-Drug Courts

Federal discretionary grants are being made available under the Violent Crime Control and Law Enforcement Act of 1994, Title V, Public Law 103-322, 108 Stat. 1796 (September 13, 1994), 42 U.S.C. 3796ii-3796ii-8 [hereinafter the "Act"] to states, units of local government, Indian tribal governments, and state and local courts for assistance with drug court programs. The Act gives the Attorney General and, through statutory authority contained in the Omnibus Crime Control and Safe Streets Act, an authorized designee (in this case the Assistant Attorney General

for the Office of Justice Programs), the authority to make grants to the above mentioned entities for drug court programs that involve continuing judicial supervision over non-violent offenders with substance abuse problems and the integrated administration of sanctions and services including: (1) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervised release or probation for each participant; (2) substance abuse treatment for each participant; (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, offender management, and aftercare services such as relapse prevention, health care, education, vocational training, job placement, housing placement, and child care or other family support services for each participant requiring such services.

Section 50001 of Title V of the Act requires that regulations be issued to ensure exclusion of violent offenders from these funded programs. This proposed rule responds to that requirement. To more fully develop and define the grant program and to provide direction and guidance to potential applicants, program guidelines will be issued subsequent to the publication of this proposed rule. This Supplementary Information section is intended, in part, to elicit comment on a broad range of issues

relevant to the development and implementation of those program guidelines.

Statement of the Problem

More than half of all individuals brought into the criminal justice system have substance abuse problems. Many of these individuals are non-violent offenders who repeatedly cycle through the court, corrections and probation systems without help to change their behavior. The underlying problem of such non-violent substance abusing offenders frustrates and inhibits judicial effectiveness. All too often, the non-violent drug offender faces little certainty of punishment and represents a long term recurring problem for both the criminal justice system and society.

In too many cases, the criminal justice system fails to subject non-violent, drug abusing offenders to intervention measures that provide the mix of services and sanctions necessary to change their behavior or, if necessary, coerce abstinence. Some courts and prosecutors, however, have cost-effectively addressed the problem through the use of treatment drug courts. Their results suggest that "drug courts" can significantly enhance the offender's opportunity to break the cycle of substance abuse and crime. Those who are coming into contact

with the criminal justice system for the first time may be particularly susceptible to effective early intervention.

Indeed, research and evaluation demonstrate that the "drug court" approach is effective in reducing both drug abuse and drug-related crime. The Drug Court discretionary grant program of Title V seeks to support the development of innovative measures that provide courts additional resources to assure certainty of punishment for drug abusing offenders through the integrated administration of services and sanctions, including close supervision and coerced abstinence.

The Violent Crime Control and Law Enforcement Act of 1994

The Department of Justice (Department) recognizes that no single model exists for an effective drug court. To the contrary, the Department believes there may be a variety of valid approaches that deal effectively with non-violent offenders with substance abuse problems. Consequently, the Drug Court grant program will maintain flexibility in providing funds to support the development of a variety of initiatives that coordinate treatment and coerced abstinence.

The Department also recognizes the great diversity in the structure and operation of state and local courts and criminal justice systems. Hence, the Department is committed to a

flexible approach that allows jurisdictions to tailor local initiatives to best suit their needs and local conditions. Program flexibility, however, is necessarily balanced by statutory requirements concerning the design and administration of the funded programs. Accordingly, Drug Court programs that receive grant awards must:

- exclude violent offenders from program participation;
- include a long-term strategy and detailed implementation plan;
- explain the applicant's inability to fund the program adequately without federal assistance;
- use federal support to supplement, and not supplant, State, Indian Tribal, and local sources of funding that would otherwise be available;
- identify related governmental or community initiatives which complement or will be coordinated with the proposal;
- consult with all affected agencies and insure that there will be appropriate coordination with all affected agencies in the implementation of the program;

- certify that participating offenders will receive continuing judicial supervision by one or more designated judges with responsibility for the drug court program;
- specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and
- describe the methodology that will be used in evaluating the program.

Consistent with Congressional intent, program evaluation will be crucial. Grant recipients will be required to cooperate with a national evaluation team throughout their involvement with the program. Recipients will also be required to provide for independent evaluation of the impact and effectiveness of their funded programs. The following issues will be especially important in determining whether programs receiving grants under this initiative are effective: (1) reduction in recidivism rates of program participants, (2) maintenance of acceptable substance abuse treatment completion rates among program participants, (3) decreased drug use by program participants, and (4) maintenance of a cost effective program in relation to the overall criminal justice system.

FY 1995 Drug Court Initiative

The Fiscal Year 1995 Department of Justice Appropriations Act, Public Law 103-317, has allocated \$29 million for the Drug Court grant programs. Eligibility of applicants to receive grants will be based on requirements of the statute and these regulations, as well as assurances and certifications specified in detailed program guidelines and application materials that will be available in early 1995 for the Fiscal Year 1995 Drug Court initiative.

While detailed program guidelines will follow the publication of this notice of proposed rulemaking, the Department has made some broad programmatic decisions upon which it welcomes comment. Three types of funding will be available under this program during Fiscal Year 1995. First, planning funding will be available for those jurisdictions that express interest in initiating a drug court, but have not engaged in the comprehensive planning necessary to make such a program successful. Second, jurisdictions currently operating drug court programs may seek funding to expand, enhance, or augment these ongoing efforts. Finally, for those jurisdictions that have engaged (or are currently engaged) in a comprehensive drug court planning process, funding may be available to implement the plans their efforts have produced.

Call For Comments Concerning The Drug Court Initiative

Substance abuse-related offender case management is primarily a state and local issue; thus, the Drug Court grant program contemplates collaboration between federal and state and local agencies. State and local government officials were involved in Congressional hearings and meetings that guided the development of this legislation and will continue to be involved as the Department moves forward in developing this regulation, establishing policy guidance, and implementing program guidelines. At this time, comments are welcome regarding the basic program design requirements described in Section 93.4 of the proposed rule, and to the entire scope of the program.

Administrative Requirements

This regulation has been drafted and reviewed in accordance with Executive Order 12866, § 1(b), Principles of Regulation. This rule is not a "significant regulatory action" under Executive Order 12866, § 3(f), Regulatory Planning and Review, and, accordingly, this rule has not been reviewed by the Office of Management and Budget.

The Assistant Attorney General for the Office of Justice Programs, in accordance with the Regulatory Flexibility Act (5 U.S.C. § 605(b)), has reviewed this regulation and, by approving

it, certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

List of Subjects

Grant Programs, Judicial Administration.

For the reasons set out in the preamble, Title 28, Chapter 1, of the Code of Federal Regulations is proposed to be amended by adding a new Part 93, Subpart A as set forth below.

PART 93--PROVISIONS IMPLEMENTING THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

Subpart A--Drug Courts

Sec.

93.1 Purpose

93.2 Statutory Authority

93.3 Definitions

93.4 Grant Authority

93.5 Exclusion of Violent Offenders

Subpart B-- [Reserved]

Authority: 42 U.S.C. 3796ii-3796ii-8.

Subpart A--Drug Courts

§93.1 Purpose.

This part sets forth requirements and procedures to ensure that grants to States, State courts, local courts, units of local government, and Indian tribal governments, acting directly or through agreements with other public or private entities, exclude violent offenders from participation in programs authorized and funded under this part.

§93.2 Statutory Authority.

This program is authorized under the Violent Crime Control and Law Enforcement Act of 1994, Title V, Public Law 103-322, 108 Stat. 1796, (September 13, 1994), 42 U.S.C. 3796ii-3796ii-8.

§93.3 Definitions.

- (a) "State" has the same meaning as set forth in Section 901(a)(2) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended.
- (b) "Unit of Local Government" has the same meaning as set forth in Section 901 (a)(3) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended.

(c) "Assistant Attorney General" means the Assistant Attorney General for the Office of Justice Programs.

(d) "Violent offender" means a person who either--

(1) is currently charged with or convicted of an offense during the course of which:

(i) the person carried, possessed, or used a firearm or other dangerous weapon; or

(ii) there occurred the use of force against the person of another; or

(iii) there occurred the death of, or serious bodily injury to, any person;

without regard to whether proof of any of the elements described herein is required to convict; or

(2) has previously been convicted of a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm.

§93.4 Grant Authority.

- (a) The Assistant Attorney General may make grants to States, State courts, local courts, units of local government, and Indian tribal governments, acting directly or through agreements with other public or private entities, for programs that involve:
- (1) continuing judicial supervision over offenders with substance abuse problems who are not violent offenders, and
 - (2) the integrated administration of other sanctions and services, which shall include--
 - (i) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervised release or probation for each participant;
 - (ii) substance abuse treatment for each participant;
 - (iii) 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

(iv) programmatic, offender management, and aftercare services such as relapse prevention, health care, education, vocational training, job placement, housing placement, and child care or other family support services for each participant who requires such services.

(b) Applications for grants under this program shall be made at such times and in such form as may be specified in guidelines or notices published by the Assistant Attorney General. Applications will be evaluated according to the statutory requirements of the Act and the programmatic goals specified in the applicable guidelines. Grantees must comply with all statutory and program requirements applicable to grants under this program.

§93.5 Exclusion of Violent Offenders.

(a) The Assistant Attorney General will ensure that grants to States, State courts, local courts, units of local

government, and Indian tribal governments, acting directly or through agreements with other public or private entities, exclude violent offenders from programs authorized and funded under this Part.

- (b) No recipient of a grant made under the authority of this Part shall permit a violent offender to participate in any program receiving funding pursuant to this Part.
- (c) Applicants must certify as part of the application process that violent offenders will not participate in programs authorized and funded under this Part. The required certification shall be in such form and contain such assurances as the Assistant Attorney General may require to carry out the requirements of this Part.
- (d) If the Assistant Attorney General determines that one or more violent offenders are participating in a program receiving funding under this part, such funding shall be promptly suspended, pending the termination of participation by those persons deemed ineligible to participate under these regulations.

- (e) The Assistant Attorney General may carry out or make arrangements for evaluations and request information from programs that receive support under this part to ensure that violent offenders are excluded from participating in programs hereunder.

Subpart B-- [Reserved]

Laurie Robinson, Assistant Attorney General
Office of Justice Programs

Drug
Courts

Miami 'Drug Court' Demonstrates Reno's Unorthodox Approach

By Michael Isikoff and William Booth
Washington Post Staff Writers

After undergoing three years of drug treatment and filling hundreds of little plastic cups with his urine, former cocaine addict Richard Scott stood before the Dade County, Fla., judge and graduated from one of the most extraordinary courtrooms in America.

"Okay, guys, Richard made it," the judge said. "Let's give him a hand."

And so Courtroom 2-11 burst into applause as dozens of Scott's fellow addicts, as well as jailers, clerks, treatment coordinators and the

prosecutor herself celebrated Scott's nine months of drug-free living.

If the scene looks more like a group therapy session than traditional justice for drug violators, it was designed that way—thanks in large part to the efforts of Dade County State Attorney Janet Reno, President Clinton's choice for attorney general.

A four-year-old experiment that offers non-violent offenders the chance to receive rehabilitation rather than jail, the Dade County "Drug Court" has been hailed by some criminal justice experts as a national model. In the view of some lawyers and associates, it is also a prime example of Reno's willingness to

adopt innovative approaches to the criminal justice system.

"For a tough, law and order prosecutor to say 'let's take a chance and develop a program to treat felony offenders' was at the time unheard of, and it's still pretty rare right now," said John Goldkamp, a Temple University criminal justice professor who has been conducting a Justice Department-funded study of the Drug Court. "But this thing has sparked such a favorable reaction that courts [across the country] are imitating it in whole or in part. . . . It's turning into a movement."

Since she was nominated last week to be the nation's top legal officer, Reno has been

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"Guys, Richard made it," the judge said, giving him a hand. Courtroom 2-11 burst into applause for Scott's fellow addicts, as well as for the court clerk, treatment coordinators and the

prosecutor herself, celebrated Scott's nine months of drug-free living.

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Since she was nominated last week to be the nation's top legal officer, Reno has been

portrayed by many as an unconventional prosecutor who defies precise definitions. A generally liberal Democrat in a county that has turned increasingly Republican, Reno has walked a delicate political tightrope for years. While saying she is personally opposed to the death penalty, for example, Reno and her office have vigorously pursued capital punishment and won verdicts mandating executions of 72 defendants.

Yet her admirers note that Reno also has explored alternatives that might be considered heresy to more traditional prosecutors. Just this year, for example, Reno's office

See RENO, A8, Col. 1

Miami 'Drug Court' Demonstrates Reno's Unconventional Approach

RENO, From A1

launched a pilot program patterned after the Drug Court for misdemeanor domestic violence cases. Husbands accused in some domestic disputes—such as slapping their wives or throwing a salad plate across the dinner table—are offered the option of undergoing counseling and therapy as an alternative to criminal prosecution.

"She's more interested in breaking the cycle of crime," said Kathy Fernández Rundle, Reno's chief assistant. "With those who are dangerous, putting them away and keeping the community safe."

But she believes we can't stay in our old traditional pigeonhole.

In many ways, the Drug Court has been Reno's most ambitious experiment. It was hatched in the late 1980s at a time when Miami was engulfed by an onslaught of crack cocaine and attendant crime. Police sweeps would bring in as many as 200 new drug violators a night in the county jail. "They'd walk out the door, go back on the streets and return to what they were doing," Rundle recalls.

Reno sold local judges, police and the public defender's office on the idea of a special court offering treatment. Drug offenders arrested for possession, who normally would face sentences of no more than a year in county jail, would be offered an alternative. They could enter a yearlong, strictly regimented drug treatment program and then get their arrest records wiped clean if they successfully complete it.

When the drug program began, it was designed only for first-time, nonviolent offenders. "It was virgins and Boy Scouts," said Tim Murray, director of Dade County's Office of Substance Abuse Control. But since then, the program, which costs an

estimated \$1.3 million, has expanded substantially. Now offenders with multiple drug possession arrests are accepted. So are defendants charged with other nonviolent felonies, such as burglary or car theft, if drug abuse is suspected as a factor.

County officials say they are encouraged by the results, although the final verdict is far from in. Since March 1989, more than 3,200 offenders have "graduated" from the treatment program. Initially, county

"It's turning into a movement."

—John Goldkamp,
Temple University professor

officials claimed that more than 90 percent remained "arrest free," an astoundingly high number compared with traditional recidivism rates. More recently, they have acknowledged that the figure has dropped to 60 percent—and that does not count the large numbers who drop out early in the program.

Nevertheless, the program carries other advantages. Compared with \$17,000 to keep a drug offender in county jail, the treatment program costs about \$600 per year, officials said. "It's a concept that makes a lot of sense. It's cost-effective and it appears to work," said Murray.

The idea has met some skepticism, to be sure. Miami police working narcotics cases privately grumbled at first that it was a waste of time. More recently, some conservatives have expressed concern that expansions could open the way for offenders with a violent past to slip into the program and escape

punishment. "You have to watch that kind of program," said Paul McNulty, a former senior Justice Department official. "I'd be very concerned if offenders found their way in if they had any history of violence in any way."

But Murray said there have been no "notorious" incidents so far of Drug Court graduates committing violent acts once they are back on the streets. And in the meantime, the program is attracting attention from prosecutors and court systems nationally.

About 25 cities and counties, including Oakland, Calif., Portland, Ore., and Brooklyn, N.Y., have adopted versions of the Drug Court, and scores of others, including the District and Los Angeles, are considering it.

One visitor who showed an early interest was Bill Clinton, who two years ago was brought into Courtroom 2-11 by his brother-in-law, Hugh Rodham, the Dade County public defender who works in the Drug Court.

"He was very curious and asked a lot of questions," said Murray. "I thought he was just Hugh's brother-in-law. At one point, I said, 'So what did you do for a living, Bill?' and he said, 'I'm the governor of Arkansas.'"

Murray recalls that Dade County officials sought federal funds for the program, only to be rebuffed by Bush administration officials, including drug policy director William J. Bennett, who were "more interested in interdiction and punitive sanctions" than expanding treatment.

That attitude now seems likely to change. The Clinton administration this week proposed \$800 million to expand treatment programs. The Drug Court could be a prototype for merging treatment into the justice system. In announcing Reno's nomination last week, Clinton twice mentioned the "nationally acclaimed" Drug Court as an example of Reno's successes.

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"Orestes, why don't I just send you to prison and you can stay there 'til you get out and then you can commit suicide. Why don't we just

In Dade County's Co

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Judge Goldstein offers advice in a heart-to-heart conversation with Elias Baez, right, one of those passing through his experimental Miami Drug Court.

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BY C.W. GRIFFIN FOR THE WASHINGTON POST

In Dade County's Courtroom 2-11, Judge Stanley Goldstein prods, praises and scolds drug defendants ushered before him.

do that? Wouldn't that be easier?"
Judge Stanley Goldstein asked one
young curly-haired cocaine addict
who failed to show for court, and so
was picked up by what Goldstein
calls his "taxi service," a police
squad car.

Orestes said no; he requested
another chance and Goldstein gave
him one. He was sent to a special
unit in the county jail for addicts

and told to come back to court in
three weeks.

"Don't screw up, babe," Goldstein
warned. "Don't mess with me. If
you don't give a rap, then I don't
give a rap."

On any given day, Goldstein lec-
tures defendants about dumping ad-
dicted girlfriends and cleaning up
their acts, about how to party with-
out drugs and the importance of

keeping with the program, of not
giving up on themselves.

"Look," Goldstein said during a
recess. "Whatever we were doing
for the last 30 years, it wasn't
working. There had to be another,
better way. Janet Reno had the
good sense to see that."

*Booth reported from Miami. Isikoff
from Washington.*

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