

Drug and Mental Health Court Support for the Criminal Offender

SUMMARY

The Orange County Drug Courts and the Dual-Diagnosis Court are successful models for a needed Mental Health Court. About five people can be treated and processed through existing Drug Courts for the equivalent cost of incarcerating one person for one year. Mental Health Courts are operating successfully in San Bernardino and Riverside Counties and they are representative of the planned Mental Health Court in Orange County. All of these courts are referred to as Specialty Courts and operate within well-defined guidelines.

The success of these Courts depends largely upon the support of the County. Personnel from Probation, Public Defender, District Attorney, and the Health Care Agency provide assistance to the Courts in accomplishing its objectives. The Orange County departments and agencies currently involved with the support of Specialty Courts are faced with budget cuts. Specialty Courts involve more labor-intensive support than conventional courts but they significantly lower recidivism rates. Financial and personnel support for Specialty Courts by County agencies should not be reduced during this financial retreat. Funding should be maintained for the support of these three court programs, because they serve the community effectively, and result in an overall cost savings to Orange County. County General Fund money is well spent on the support of Specialty Courts consisting of the current Drug Courts (6), Dual-Diagnosis Court (1), and planning for a Mental Health Court (1).

INTRODUCTION

Many people entering our Orange County Court System are homeless, mentally unstable repeat offenders. These offenders following arrest enter the criminal justice system through the Court process. They start in the Criminal Court where they are often arraigned, tried or transferred to one of the available Specialty Courts that offer programs for special mental or addiction treatments.

The Orange County Specialty Courts, consisting of Drug and Dual-Diagnosis Courts, aid in lowering recidivism. Therefore, the number of crimes being committed decreases. Resulting benefits are difficult to quantify, but include reductions in property damage, less thievery to support habits, and fewer jail beds to accommodate the offenders.

Drug Court is designed primarily as an outpatient treatment program for those adults unable to function appropriately in society. However, it has been necessary to place some offenders into residential treatment for stabilization. Drug Court Partnership funds support annual costs for 8 residential substance abuse treatment beds providing 2,920 bed days annually for felony drug court participants. The Dual-Diagnosis Court is totally

funded under Proposition 36 and provides outpatient and residential services, as well as mental health support services only to Proposition 36 participants. A person re-entering the community who is no longer costing the community becomes an asset. Increased self-sufficiency and changes in the offender's lifestyle also produce considerable savings to the community by reducing incarceration costs.

METHOD OF STUDY

The method of study was to review selected agency and departmental court support procedures to determine if improvements can be achieved, without sacrificing support needed for the offender to achieve a higher degree of self-sufficiency.

This study also examined the impacts of mental health to crime, and the affects of mental conditions on the trial, as well as the pre and post-trial support coordination.

- Observed the Felony, Drug Courts, and Substance Abuse and Crime Prevention Act (SACPA) Proposition 36 and Dual-Diagnosis Courts, within Orange County, and Mental Health Courts in San Bernardino and Riverside counties to review the type of support personnel that are involved with sustaining the court operations.
- Discussed the overall problems concerning persons who are involved with criminal activities that are also influenced by mental health conditions with affected Orange County groups who are handling or have handled mental health related cases.
- Met with or obtained information from representatives of various Orange County departments or agencies [i.e., Superior Court Judges, the District Attorney's Office, Law Enforcement Agencies, Probation Department, Health Care Agency's (HCA) Alcohol and Drug Abuse Services, HCA Behavioral Health Services (BHS), HCA Correctional Mental Health, the Public Defender's Office and the Drug Courts and SACPA Oversight Committees] in order to understand their procedures, policies and how the entities work together to achieve reductions in recidivism.
- Visited holding and treatment facilities involved in the cycle to observe current processes.
- Identified County funding sources currently being used for court support.
- Identified changes in the approaches used by County support entities and the possibilities to lower the overall caseload on the courts.

BACKGROUND

The focus of this study is on the support provided to the courts by County departmental agencies involved with mental health related cases in a variety of courtroom situations as depicted in Table 1. The Proposition 36 SACPA Court is shown for reference only in this study.

Table 1: Courts Observed by the Grand Jury

Type of Court	Violent Crimes Charges	Non-Violent Crimes Charges	Drug Charges	Mental Health Issues
Criminal	X	X	X	X
Proposition 36 SACPA*		X	X	X
Drug Court*		X	X	
Dual-Diagnosis*, **		X	X	X
Mental Health* San Bernardino, Co		X		X
Mental Health* Riverside Co.	X	X		X

*Specialty Courts

**Sub-set of Proposition 36

Mental Health And Substance Abuse Problems

Many persons charged in the criminal justice system have serious mental health and/or substance abuse problems. Their lifestyle is a cycle of events leading to jail, treatment, release, and illegal drugs, other criminal activity and back to jail. While incarcerated, they undergo detox from illegal drug use and are forced to abstain. They are clean when put on probation and released back into the community, and may also be on approved medication at the time of release from custody. However, in time, prescribed medication is not taken which leads to self-medication using illegal drugs, and to committing crimes to obtain them. The mental health offender's condition usually lowers his or her ability to cope with situations.

Orange County has not received the necessary funding from the State to keep some of the mandated programs operating without augmentation by County funds. A similar non-mandated example of the State's action occurred on September 28, 2002 when the Governor signed AB 1421 into law, which directly related to Orange County's problems treating the mentally ill. According to the author, the bill contains no money to cover treatment cost. Continued support and planning using County funds is necessary for Drug and Mental Health Court programs.

Successful Court Support

According to a report by Elizabeth Piper Deschenes, Ph. D. et al. "In 1995, a pilot drug court program was implemented in the Superior Court in Santa Ana, which has now expanded to all of the Justice Centers within Orange County." This report is a history of Orange County successes in the first five years of the Drug Court program. Support by the various agencies and departments to the courts in Orange County is the key to success. However, if this support is to be continued or expanded, it requires that funding be maintained at current or higher levels. The Deschenes report goes on to say, "There appears to be good integration and coordination between the various agencies involved, including the court, probation, and the treatment provider (the County's Health Care Agency's Division of Alcohol and Drug Abuse Services)." Significantly, the report also states that, "In comparing the 'success' rates, we conclude that the Drug Court Program is more likely to reduce illegal drug use and associated criminal behavior than Probation"¹ (without treatment).

Programs that involve more coordinated evaluations and assessments by all parties concerned do improve the offender's ability to lead a more productive lifestyle and benefit society. "Drug Courts channel non-violent drug offenders into outpatient treatment programs in lieu of incarceration...for less cost and reduced pressure on overcrowded jails...they have been effective in many ways, insofar as achieving: (1) high retention of program participants; (2) reduced recidivism and crime rates; (3) reduced workload for the courts and law enforcement agencies; and (4) monetary savings associated with reduced incarceration and other criminal justice expenses."²

San Bernardino County Mental Health Court, initiated in late 1997, has a Supervised Treatment After Release (STAR) program that is based upon "a broad array of focused mental health services to select individuals referred by the Mental Health Court."³ A qualified multidisciplinary support team must work closely together from the first encounter, at the time of arrest, through the diagnosis, the court process and the ultimate treatment to make the support work well.

A San Bernardino County Sheriff's Department representative reports that "An offender with mental health problems is six times more likely than others to return to the courts because of his propensity for crime."⁴ "Proper treatment reduces recidivism by as much as 90% in San Bernardino County. It is a matter of priority when it comes to money for the Mental Health programs, and in their case the San Bernardino County Board of Supervisors has given Mental Health Treatment a high priority."⁵

Riverside County has been operating a Mental Health Court since January 4, 2001. The Riverside and San Bernardino Courts have the common thread of using a strong and well-coordinated support effort for diagnosis and treatment of the person.

Riverside County works under the umbrella of a Memorandum of Understanding (MOU)⁶ that coordinates the roles and responsibilities of all court and key support personnel involved. This MOU includes the Superior Court, Department of Health,

Public Defender, District Attorney, and the Probation Department for services associated with the Riverside County Mental Health Courts. Orange County uses operational agreements (similar to MOUs) for existing courts but will need one for a Mental Health Court.

Riverside County has a full time support clerk, assigned to the Judge. This aids greatly in the coordination of all personnel, keeping up on funding sources, recording statistics, aiding in locating beds for persons needing sustained treatment, or other solutions to problems encountered by the Judge of the Court. This support allows the Judge on occasion to accommodate up to 100 cases per day.

“Unlike most Mental Health Courts, which accept only misdemeanors or minor felonies, like petty theft, Riverside County’s court has no limitation on the charges. Defendants charged with violent crimes are accepted because they are most in need of treatment and most likely to injure someone if not treated.”⁷ Even with the severe conditions of these defendants, about 90% of them are continuing to remain in the treatment program. Success in this case is measured by ‘No New Crimes’ being committed during the time the defendant is under court direction.

Grand Jury members observed the success of the Riverside and San Bernardino County Mental Health Courts. The success of these courts can be attributed largely to the hard work of the court staff and County Departments with strong backing from the community and the Board of Supervisors (BOS).

Support of Mental Health Courts.

Objectives of the current Drug Courts⁸ can be used in planning for Orange County departmental support of the future Mental Health Court to:

- Reduce participant contacts with the criminal justice system.
- Reduce costs associated with criminal case processing and re-arrest.
- Promote self-sufficiency and empower offenders to become productive and responsible members of the community.
- Introduce or provide participants an ongoing process of recovery designed to achieve total abstinence from illegal drugs.
- Provide ancillary services as needed, to include but not limited, to vocational training, literacy training and family counseling.

Programs that meet these objectives will benefit the individual, the County and the State. Existing Drug Courts are models for the future Mental Health Court support. Some of these program benefits are:

- Participants are under close supervision, counseling, and have frequent probation hearings which helps motivation.
- Medication is effective under close monitoring.
- Frequent drug testing can be effectively accomplished when under a minimum of a 12 month controlled program.
- Reduced crime, vandalism and felonies against the community can be realized if treatment is maintained after release on probation.
- Lowered recidivism

A description of the key aspects of the Orange County Drug Court Model Program is provided in Appendix A⁹. This is a preliminary report of data generated by the Health Care Agency (HCA). Drug Court attendance is considered to be voluntary. This represents a significant difference in the attitude of the persons in the programs.

Drug Court stresses personal responsibility including mandatory employment and rewards for completing each phase of the program. This is instrumental in lowering recidivism. The Countywide range of success for Drug Court is quoted from a low of 87% to a high of 89% with recidivism of only 11% to 13%. This Drug Court program produces better results than any program employing only incarceration .

The support staff from the departments involved are now sharing large amounts of data via the computer among the public defenders, the treatment providers, probation, clinicians, and the Health Care Agency (HCA) to further streamline the effectiveness and minimize impacts on the programs.

Support for Drug and Mental Health Courts.

On October 29, 2002, a Dual-Diagnosis Court was initiated for eligible SACPA participants.¹⁰ This Dual-Diagnosis Court has a capacity to oversee and support treatment of 70 persons identified by the HCA as having one or more mental health diagnoses in addition to their drug and/or alcohol diagnoses. A mental health care coordinator, deputy district attorney, probation officer, public defender, and a psychiatrist are being used to support this court. The courts and the supporting personnel are in general qualified to provide a capability to support a full fledged Mental Health court. On December 31, 2001 the OC Superior Court submitted an Application for Federal Assistance for a

Discretionary Grant Program to Support a Mental Health/Dual-Diagnosis Court Implementation Project. Although it was not funded, numerous OC agencies, departments and universities (See list of letters below) were strongly in favor of this court and indicated how they could provide the necessary support.

Letters to the Director of Drug Court Program Office in Washington D.C in Support of a Federal Grant sent by:

- OC Chief Probation Officer, dated December 24, 2001.
- OC Presiding Judge, dated December 10, 2001.
- OC County Executive Officer, dated December 10, 2001.
- OC Senior Assistant District Attorney, dated December 27, 2001.
- OC Sheriff, dated December 27, 2001.
- OC Public Defender, dated December 17, 2001.
- OC Director of Health Care Agency, dated December 19, 2001.
- OC Director of Instruction and Student Services, Santa Ana College, dated December 21, 2001.
- Professor of the Department of Criminal Justice, California State University at Long Beach, California, dated December 13, 2001

A key position of Chief of Operations, in the HCA/BHS is currently unfilled, but is included in the Strategic Plan approved by the BOS. This person is required to plan and lead the support needed for all of the existing and future Mental Health and Alcohol and Drug Services related efforts and to coordinate the diverse county programs.

Mental Health Courts offer additional values to the community and although untested in Orange County, have many strong advocates.

Funding for Specialty Court Support

The ultimate success of continuance of these Specialty Courts is largely dependent upon funding from the State and support from the County. Time is of the essence. It is crucial that support from the Orange County General Fund be continued at the current levels if not at higher levels.

The current level for the Drug Court support from the General Fund is about \$0.5 million, for Fiscal Year (FY) 2002-2003¹¹.

FINDINGS:

Under *California Penal Code* Section 933 and Section 933.05, responses are required to all findings. The Orange County 2002-2003 Grand Jury has arrived at six findings:

1. The support provided by Orange County departments and agencies contributes to the success of the Drug and Dual Diagnosis Programs. There is also a plan for a Mental Health Court Program that will require additional support.
2. The funding reductions by the County for the support of the Orange County Specialty Courts during this period of budget reductions and increasing caseloads, will jeopardize their success.
3. A need exists to support Mental Health cases involving adults with mental health conditions within the Criminal Justice System.
4. An Operational Agreement between County and Court does not exist for the planned Mental Health Court.
5. Available residential treatment care facilities (beds) to accommodate the Drug Court and Mental Health Court Operations are in short supply.
6. A Chief of Operations within Behavioral Health Services is a critical need for coordinating Mental Health support throughout the Orange County Court system.

Responses to Findings 1- 6 are required from the Board of Supervisors and the District Attorney.

Responses to Findings 1- 6 are requested from the County Executive Officer, the Orange County Public Defender, the Probation Department, and the Health Care Agency.

RECOMMENDATIONS

In accordance with *California Penal Code* Section 933 and Section 933.05, each recommendation must be responded to by the government entity to which it is addressed. These responses are to be submitted to the Presiding Judge of the Superior Court. Based on the findings, the 2002-2003 Orange County Grand Jury recommends:

1. Development of a public information plan to emphasize the importance and the success of the Orange County Specialty Courts and support to the public to obtain broader community awareness. (Finding 1)
2. Consider placing a higher priority on the allocation of Orange County funds to maintain the support for the Specialty Courts. (Finding 2)
3. Consider taking immediate action to allocate County funding to include support for a program for adults with mental health conditions within the Criminal Justice System. (Finding 3)

4. Prepare an Operational Agreement or its equivalent, for the planned Mental Health Court to establish the basis for needed department or agency support. (Finding 4)
5. Develop a detailed plan to overcome the shortage of available 'beds' needed to accommodate and to provide treatment for the present and planned Specialty Court defendants. (Finding 5)
6. Consider filling the vacant position of Chief of Operations in the Behavioral Health Services. (Finding 6)

Responses to Recommendations 1-6 are required from the Board of Supervisors and District Attorney based upon Findings 1-6.

Responses to Recommendations 1-6 are requested from the County Executive Officer, the Orange County Public Defender, the Probation Department and the Health Care Agency based upon Findings 1-6.

Endnotes

- 1 Success of Drug Courts in Orange County California: Process and Outcome Evaluations ; Final Report Executive Summary for OC Superior Courts: by Elizabeth P. Deschenes, Ph. D. etal. Issued July 27,2001
- 2 1996-1997 Orange County Grand Jury: Management Audit of the Orange County District Attorney, prepared by the Grand Jury in conjunction with Price Waterhouse and issued June 30, 1997.
- 3 San Bernardino County Mental Health Court Packet received October 25, 2002.
- 4 San Bernardino County Sheriff Representative during presentation at San Bernardino Jail Facilities, November 13, 2002.
- 5 Judge from San Bernardino County Speaking on Mental Health Courts Satellite Broadcast of November 14, 2002.
- 6 Riverside County Department of Health Care Memorandum of Understanding Dated November 9, 2001.
- 7 Unique Features of Riverside County's Mental Health Court received November 20, 2002.
- 8 Orange County Participant's Hand Book for OC Coordinated Drug Courts; issued May 2001
- 9 Information provided by Health Care Agency staff as abstracted from the annual report of December 31, 2001 and updated as of October 8, 2002.
- 10 SACPA First Quarter Report by HCA for Fiscal Year 2002-2003; Mental Health (Dual Diagnosis) Court.
- 11 Information provided by Health Care Agency staff as abstracted from the annual report of December 31, 2001 and updated as of October 8, 2002.

APPENDIX A KEY ASPECTS OF THE ORANGE COUNTY DRUG COURT PROGRAM

(as of October 8, 2002)

This data was prepared by and provided by the Health Care Agency staff to show the key aspects associated with the Orange County Drug Courts. This Drug Court serves as a model program for the support of the recently initiated Dual-Diagnosis Court and for the Mental Health Court, now in planning.

<u>Aspects</u>	<u>Drug Court Program</u>
<p>Background</p> <p>History</p>	<p>The Orange County Superior Court Drug Court program began in March 1995 at the Central Justice Center in Santa Ana. The program expanded to all the other jurisdictions in the County over the next several years. The Harbor Justice Center, Newport Beach, was the final jurisdiction implemented, in July 2000.</p> <p>Drug Court is a collaborative effort bringing the justice and treatment communities together in a partnership.</p> <p>Participating agencies include the Orange County Superior Court, the District Attorney's Office, the Public Defender's Office, the Probation Department, the Health Care Agency's Alcohol and Drug Abuse Services, the Sheriff's Department and local law enforcement agencies.</p> <p>There is a Drug Court Oversight Committee that meets regularly, providing continuity and policy decisions. A Standards Manual and Memorandum of Understanding signed by all participating agencies provide operational guidelines.</p>
Lead Agencies	<ul style="list-style-type: none"> • Orange County's Drug Court Oversight Committee
Purpose, goals, objectives	<ul style="list-style-type: none"> • Reduce participant contacts with the criminal justice system. • Reduce costs associated with criminal case processing and re-arrest. • Promote self-sufficiency and empower substance abusers to become productive and responsible members of the community. • Introduce participants to an ongoing process of recovery designed to achieve total abstinence from illicit/illegal drugs. • Provide ancillary services as needed, to include, but not limited to vocational training, literacy training & family counseling.

<p>Program Description</p>	<ul style="list-style-type: none"> • Minimum 12-month program with aftercare offered following completion of the program. • Non-traditional approach to criminal offenders who are addicted to drugs. • Partnership between criminal justice and drug treatment communities. • Structures treatment intervention around the authority and personal involvement of a single Judge. • Serves male and female adults. • Participants return to court every two weeks. • All participants have the same program requirements. • Progressive sanctions (including jail) and incentives imposed based on program compliance. • Participants are initially required to attend one individual counseling session per week, one group counseling session per week, Probation once per week, Court appearance every two weeks, drug test 3 times per week and attend 5 12-step meetings per week. Requirements lessen as a participant progresses through the program.
<p>Eligibility Criteria</p>	<ul style="list-style-type: none"> • Conviction of qualifying charge. • No prior conviction involving violence or weapon. • Acknowledge substance abuse problem. • Agree to minimum 1-year intensive treatment. • No weapon/violence in current case. • No prior conviction for serious/violent felony • No prior conviction for drug trafficking, sales or possession for sales. • Not currently on parole/formal probation – some exceptions. • Not under deportation procedure, or illegally in the U.S.
<p>Eligibility/ Suitability Screening Process</p>	<ul style="list-style-type: none"> • Potential eligibility determined by District Attorney. • Probation conducts eligibility screening and suitability screening. • HCA therapist conducts suitability screening. • Drug Court Judge makes final decision to accept/reject
<p>Community Supervision</p>	<ul style="list-style-type: none"> • Participants placed on formal probation assigned to an officer with a maximum of 50 per caseload. • 96-98% Felons

Treatment Services Provided	<ul style="list-style-type: none"> • Eligibility and suitability for the program is determined through screening conducted by HCA treatment staff and Probation. • Primarily outpatient treatment services provided in regional County operated clinics. • All participants have the same program requirements.
Successful Performance	<ul style="list-style-type: none"> • Meet all requirements of 3 phases of the program. • Application for graduation submitted by defendant. If granted, conviction on which probation was based will be set aside and Court will dismiss.
Location of Program	<ul style="list-style-type: none"> • Drug Court operates in each of the County's five judicial districts. • Treatment is available in all regions of the County.
Total # of People in Treatment as of 12/31/01	<ul style="list-style-type: none"> • 1,427 have received treatment services since March, 1995
Program Interaction Drug Court:SACPA	<ul style="list-style-type: none"> • The majority of individuals who qualify for Drug Court also qualify for Prop 36. For this reason, the Drug Court population decreased significantly when Prop 36 was implemented. This decrease was expected. • Drug Court has become the final step for some participants who were unsuccessful in the Proposition 36 program. This is because of the highly structured nature of Drug Court.
Funding Source	<ul style="list-style-type: none"> • State grants and Net County Cost

<p>Annual Cost</p>	<p>DRUG COURT PARTNERSHIP GRANTS AND DRUG COURT COMPREHENSIVE IMPLEMENTATION GRANTS WERE CUT BY THE GOVERNOR IN NOVEMBER 2001.</p> <p><u>Drug Court Partnership Grant</u> original allocation: July 1, 2001 to June 30, 2003: \$851,350 (\$425,675 per FY) Reduced Term and Amount: July 1, 2001-June 30, 2002: \$383,675 Distribution: <ul style="list-style-type: none"> • 45% Treatment • 24% Probation • 25% Courts for data entry • 6% drug testing </p> <p><u>Drug Court Comprehensive Implementation Grant</u> original allocation: January 2001 to December 2003: \$1,443,570 (\$721,785 per year) Reduced Amount: \$1,124,952 (\$562,476 per year) Distribution: <ul style="list-style-type: none"> • 54% treatment • 41% Probation, • 1% drug testing, • 2% aftercare services, • 1% jail beds </p> <p>DRUG COURT PARTNERSHIP ACT OF 2002 July 1, 2002 to June 30, 2003 \$408,875 per year. Distribution: <ul style="list-style-type: none"> • 70% treatment • 23% Probation • 7% drug testing </p>
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