

The Future of Treatment Courts: Building on Success, Adapting to Change

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Stage 1

A New Model



The Early Years: A Revolutionary Approach

- Court-supervised treatment
- Ongoing judicial monitoring
- Multidisciplinary team
- Non-adversarial approach
- Incentives and sanctions
- Generally, a pre-plea model

The Early Years

- Rapid expansion
 - 1989: Miami (first adult drug court)
 - 1992: Phoenix
 - 1994: Federal funding begins
 - 1997: 370 treatment courts nationally
 - 2007: 1,000+ treatment courts nationally
 - Today: 3,000+ treatment courts nationally

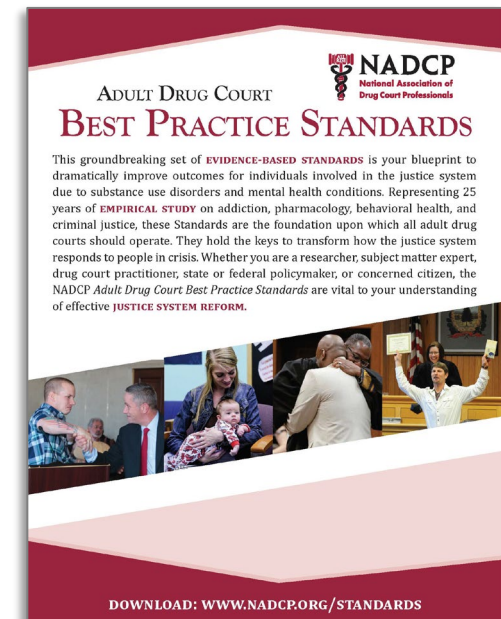
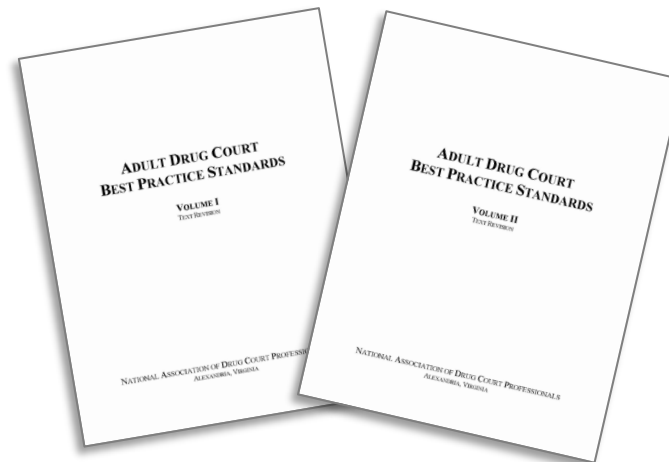
Stage 2

Treatment Courts Work



Treatment Courts Work

- 30 years of treatment court model refinement
 - Ten Key Components (1997)
 - Tons of research (e.g., NIJ's Multi-Site Adult Drug Court Evaluation, 2011 (23 courts in 6 states))
- Adult Drug Court Best Practice Standards
 - Volume 1 (2013)
 - Volume 2 (2015)



Stage 3

Fidelity to the Model



Fidelity to the Model

- Adherence to best practices
 - Identifying the most appropriate offenders (high-risk/high-need)
 - Routing them to treatment court quickly
 - Providing evidence-based treatment and services
 - Using evidence-based supervision and behavior modification techniques
 - Getting good results
- Statewide fidelity programs
 - State certification
 - Peer review

Stage 4

A New Wave of Reform



- In recent years, several ripples have converged into a new wave of justice system reform
 - Upstream approaches/shrinking the system
 - Criticisms of the treatment court model
 - Spotlight on poor treatment court practices

- Growing recognition that justice system involvement can **cause harm and worsen outcomes**

Disruption of support systems

+ Imposition of trauma

Harm to individuals/communities and
higher likelihood of reoffending

Upstream Approaches/Shrinking the System

- Overwhelming evidence that jail is:
 - Ineffective
 - Harmful
 - Expensive



Upstream Approaches/Shrinking the System

- But it's not just jail...probation, intensive monitoring, drug testing, etc. all raise similar concerns
- Technical violations drive ~15-25% of jail admissions
- Volume of obligations make failure likely for many people

Upstream Approaches/Shrinking the System

- Jail reduction efforts (e.g., Justice Reinvestment Initiative, Safety and Justice Challenge)
- Criminal law reforms
 - New York (2009)
 - California (2014)
 - Utah (2015)
 - Oregon (2020)

Upstream Approaches/Shrinking the System

- Court-based diversion
 - Buffalo C.O.U.R.T.S. program
 - Brooklyn Justice Initiatives
- Prosecutor-led diversion
 - Missoula's Calibrate diversion program
 - NYC's Project Reset
- Police and police/community diversion
 - Law Enforcement Assisted Diversion (LEAD)
 - CAHOOTS

Upstream Approaches/Shrinking the System

- Bail/pretrial supervision reform
 - Numerous states have eliminated or curtailed the use of cash bail
 - Backlash in some places, but evidence does not support criticisms
- Community-based violence prevention programs
- Lots more

Criticisms of the Treatment Court Model

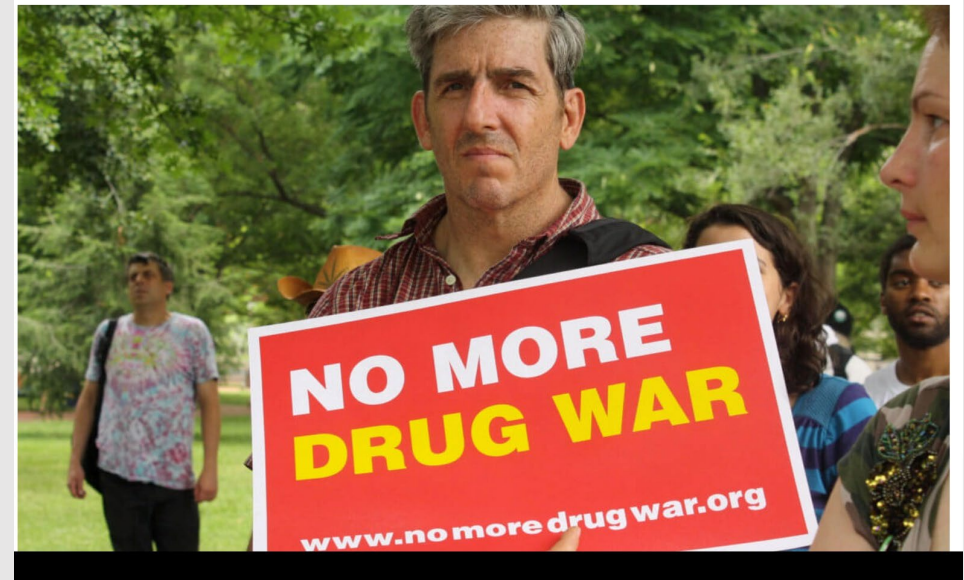
- Some common criticisms of the treatment court model:
 - Coercive
 - Overly punitive
 - Contrary to health-focused approach
 - Replicate racial disparities in the larger justice system
 - Dominate available treatment resources and can make voluntary treatment harder to get

- These and other critiques have led some prominent voices to call for the elimination of treatment courts

Why It's Time to Abandon Drug Courts

By Miriam Krinsky and Leo Beletsky | March 5, 2021

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Spotlight on Poor Treatment Court Practices

- Hard truth: The treatment court model is complex and not easy to implement well
- Best practice standards are lengthy and highly technical
- Takes time to get good at this
- Ongoing training is needed to stay sharp

Spotlight on Poor Treatment Court Practices

- Some ongoing practice concerns include:
 - Accepting the wrong population
 - Overuse of jail sanctions
 - Inappropriate medical decisions
 - Fines and fees
 - Inadequate training
 - Lack of support from key stakeholders

So, What's Next?

- To recap, there's a new wave of reform happening
 - Upstream approaches/shrinking the system
 - Criticisms of the treatment court model
 - Spotlight on poor treatment court practices
- What does this all mean for the future of treatment courts?

Stage 5

The Future of Treatment Courts



The Future of Treatment Courts

- Let's remember, treatment courts are **THE** evidence-based practice
- When done right, treatment courts improve treatment outcomes, decrease reoffending, reduce the use of jail, and save money
- The answer is not to pull back on treatment courts
- It's to revitalize treatment courts to **strengthen practice** and **reduce harm**

- **Focus resources on high-risk/high-need individuals facing significant prison time**
 - Treatments courts are the most effective intervention for high-risk, high-need individuals facing significant prison time
 - However, they are not appropriate in most other cases
 - Lower-risk, lower-need individuals and those facing less punitive sentences should be off-ramped from the justice system earlier
 - To this end, jurisdictions should build prearrest and pretrial diversion programs

- **Eliminate the ban on violent crimes**
 - Drug treatment courts have historically excluded individuals charged with violent crimes
 - This approach is not rooted in evidence
 - In fact, individuals charged with violent crimes are often the high-risk, high need individuals who stand to benefit most from treatment court
 - Local jurisdictions should open drug treatment courts to this population
 - Note: Intimate partner violence poses special concerns

- **Leave treatment to the professionals**
 - Only the participant's treatment provider and physician should make treatment and medical decisions.
 - Provide individually tailored treatment plans designed by clinical professionals
 - Never require a participant to undergo a level of treatment that is not clinically appropriate
 - Allow participants to use all three FDA-approved medications for opioid use disorder as medically prescribed
 - Recognize that addiction is often driven by underlying trauma, and ensure that treatment services are trauma responsive

- **Eliminate racial and ethnic disparities**
 - Commit to identifying and addressing racial disparities in access, sanctions, graduation, and long-term outcomes using data
 - Offered culturally responsive treatment and recovery support services, such as H.E.A.T., a manualized treatment approach for young Black men (prainc.com/heat-afrocentric-holistic-recovery)
 - Train team members in how to serve participants in a culturally relevant manner
 - Identify individual decision points that may contribute to disparities and develop measures to alleviate disparate outcomes at those points

- **Reduce the use of jail sanctions**

- Jail is a traumatic experience, even in small doses, and it often has a counterproductive effect on recovery and recidivism
- Jail frequently interferes with treatment plan
- Understanding these facts, treatment courts should use jail sparingly
- Don't use jail as a sanction for continued drug use
- Never use jail to “help” a participant until a treatment bed opens
- Possible uses of jail: when a participant commits a new crime but will continue in the program

- **Think beyond legal leverage**
 - Legal leverage has played a central role in the treatment court model by motivating participation and program compliance
 - New justice system reforms like decriminalization or reclassification of drug offenses are removing some of this leverage
 - Use these changes as an opportunity to shift toward a more strengths-focused approach that elevates incentives over sanctions, prioritizes strong therapeutic relationships, and centers procedural fairness
 - Treatment courts can move away from the threat of jail and toward the promise of help with fewer strings attached

- **Expand measures of success**
 - Treatment courts should reexamine how they measure success
 - Rates of reoffending and cost savings should not be the only indicators
 - Maintaining a job, completing school, strengthening family, addressing health issues, and serving as a peer mentor are important benchmarks as well
 - Partner with qualified researchers to create expanded performance measures, and evaluate the true impact of treatment court programs on the well-being of individuals, families, and communities

Conclusions

- Times are changing; new reform movements are afoot
- Treatment courts must adapt by strengthening practice and reducing harm
- The future of treatment courts is bright if we all work to continue improving model

NADCP Resources



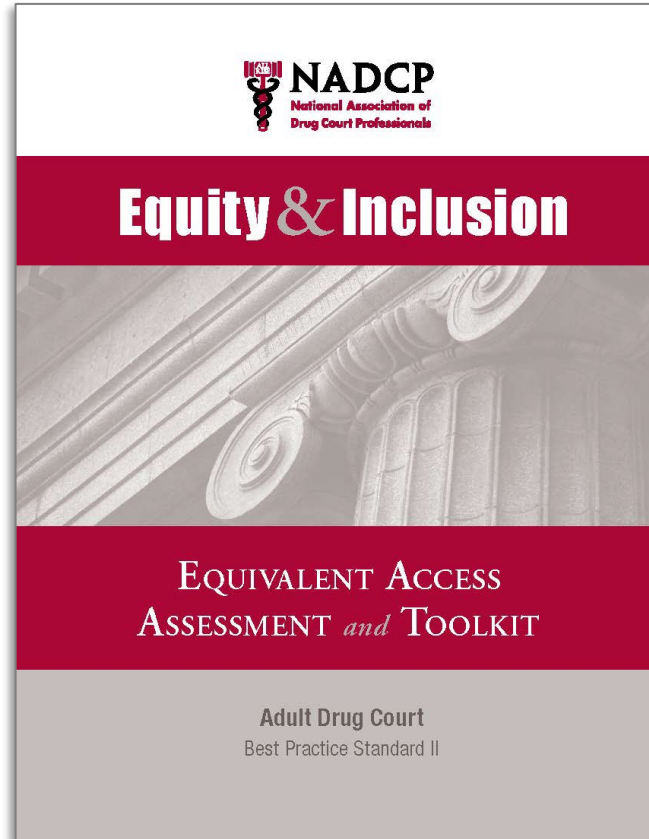
**TREATMENT COURT
PRACTITIONER TOOL KIT**


Model Agreements and Related Resources to
Support the Use of Medications for Opioid Use Disorder

Written by:
Douglas B. Marlowe, JD, PhD
Senior Scientific Consultant
National Association of Drug Court Professionals



[MOUD Toolkit](#)



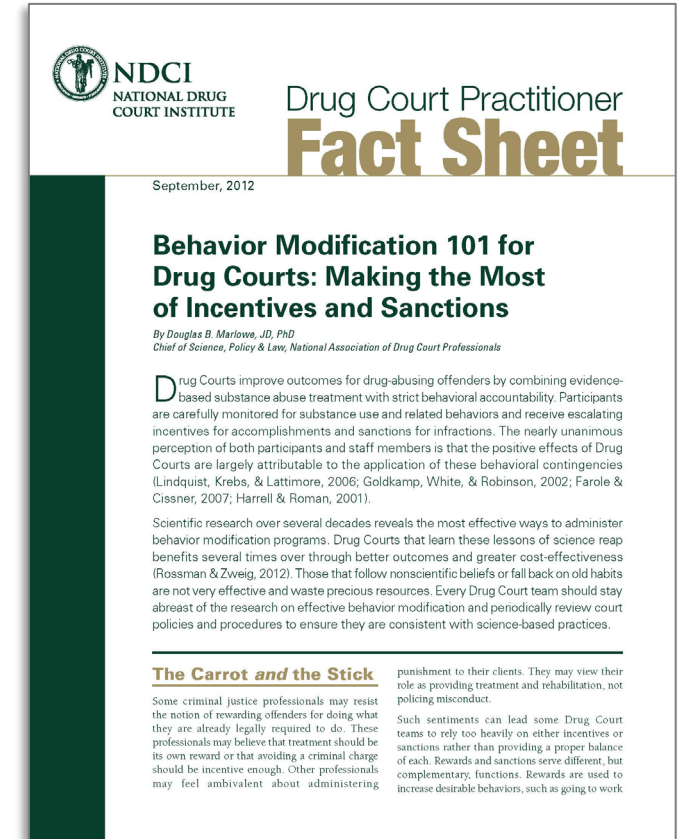
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Adult Drug Court
Best Practice Standard II

[Equity & Inclusion Toolkit](#)



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**Drug Court Practitioner
Fact Sheet**

September, 2012

**Behavior Modification 101 for
Drug Courts: Making the Most
of Incentives and Sanctions**

By Douglas B. Marlowe, JD, PhD
Chief of Science, Policy & Law, National Association of Drug Court Professionals

Drug Courts improve outcomes for drug-abusing offenders by combining evidence-based substance abuse treatment with strict behavioral accountability. Participants are carefully monitored for substance use and related behaviors and receive escalating incentives for accomplishments and sanctions for infractions. The nearly unanimous perception of both participants and staff members is that the positive effects of Drug Courts are largely attributable to the application of these behavioral contingencies (Lindquist, Krebs, & Lattimore, 2006; Goldkamp, White, & Robinson, 2002; Farole & Cissner, 2007; Harrell & Roman, 2001).

Scientific research over several decades reveals the most effective ways to administer behavior modification programs. Drug Courts that learn these lessons of science reap benefits several times over through better outcomes and greater cost-effectiveness (Rossman & Zweig, 2012). Those that follow nonscientific beliefs or fall back on old habits are not very effective and waste precious resources. Every Drug Court team should stay abreast of the research on effective behavior modification and periodically review court policies and procedures to ensure they are consistent with science-based practices.

The Carrot and the Stick

Some criminal justice professionals may resist the notion of rewarding offenders for doing what they are already legally required to do. These professionals may believe that treatment should be its own reward or that avoiding a criminal charge should be incentive enough. Other professionals may feel ambivalent about administering punishment to their clients. They may view their role as providing treatment and rehabilitation, not policing misconduct.

Such sentiments can lead some Drug Court teams to rely too heavily on either incentives or sanctions rather than providing a proper balance of each. Rewards and sanctions serve different, but complementary, functions. Rewards are used to increase desirable behaviors, such as going to work

[Training, fact sheets,
practice guides, and more](#)

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Justice For Vets

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