

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

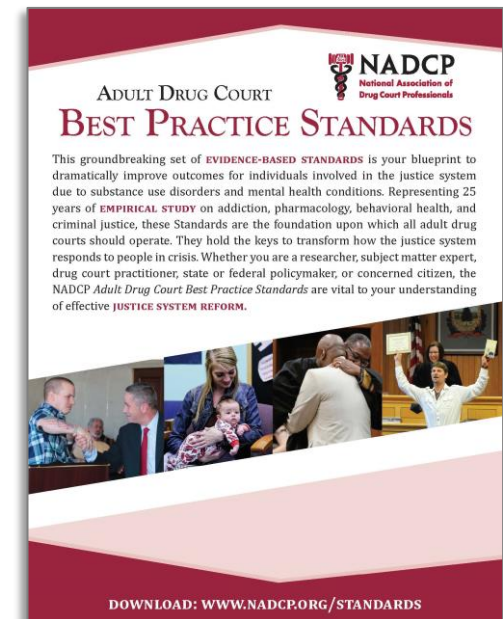
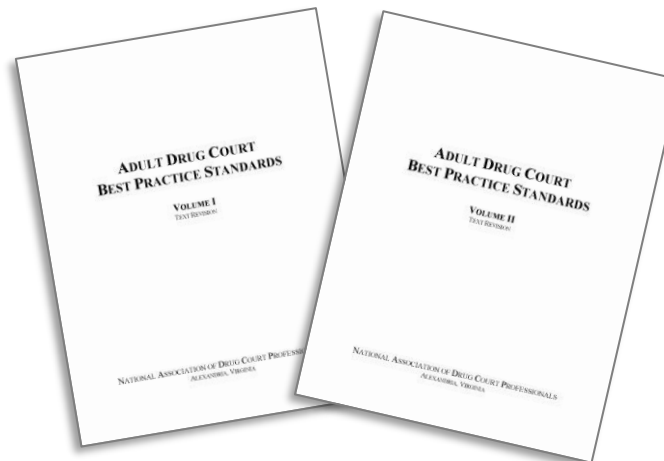
Stage 2

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



- 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

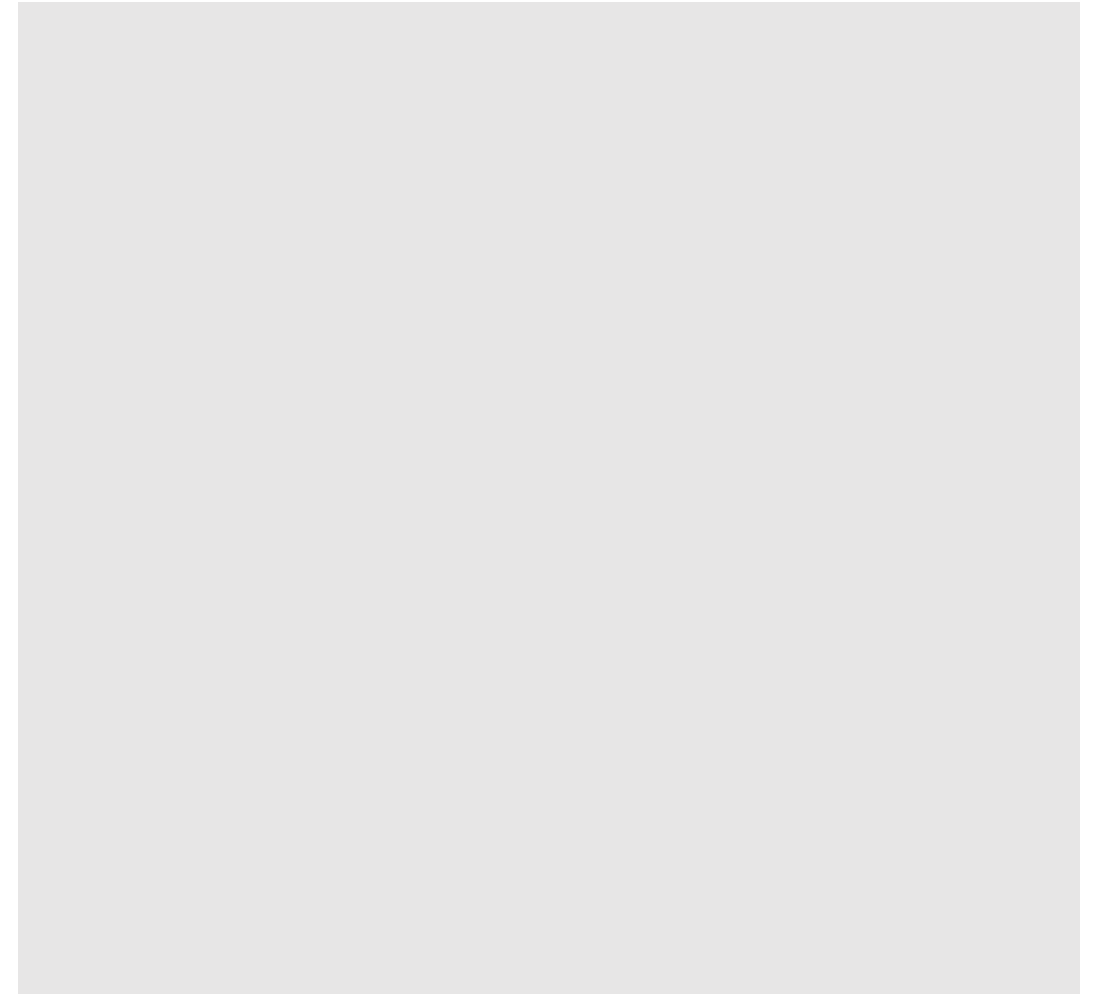
- Bail/pretrial supervision reform
 - Numerous states have eliminated or curtailed the use of cash bail
 - Backlash in some places, but evidence does not support criticisms
- Community-based violence prevention programs
- Lots more

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

Criticisms of the Treatment Court Model

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



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

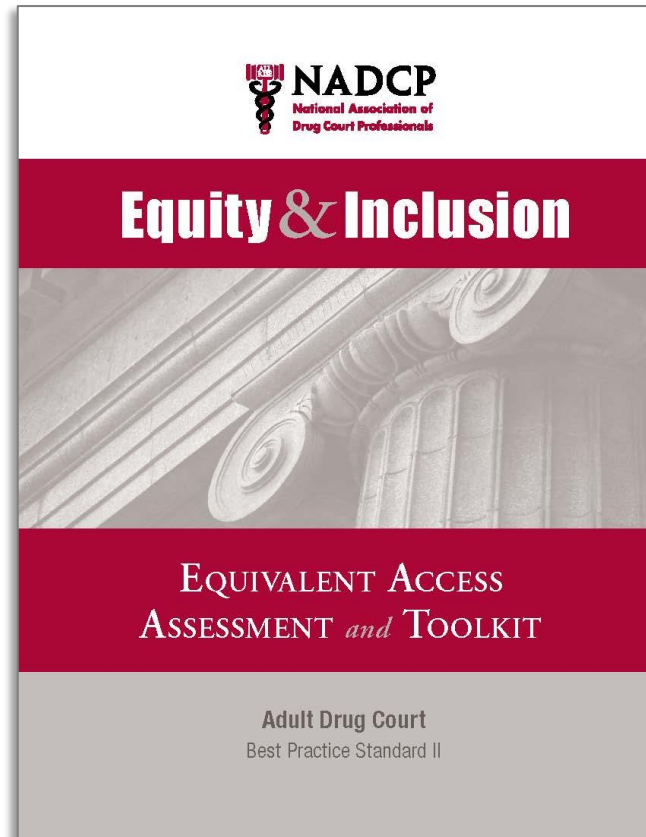
Conclusions

- 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

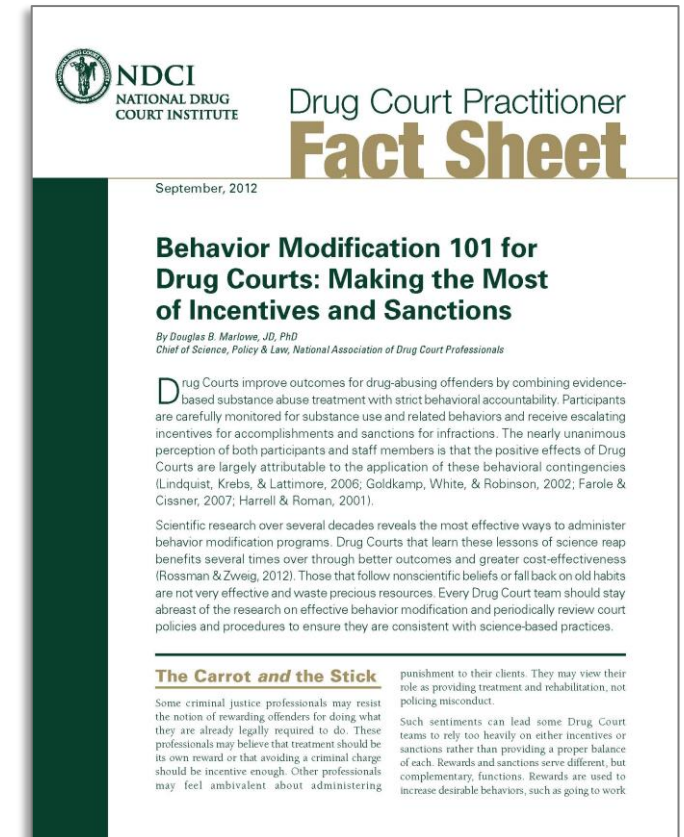
NADCP Resources



MOUD Toolkit



Equity & Inclusion Toolkit



Training, fact sheets, practice guides, and more

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