

## **Drug Court as Diversion for Youthful Offenders**

### **Juvenile Drug Courts in Hawaii: A Policy Brief**

#### **Introduction**

The problem of drug abuse among the general population in the United States began to escalate in the 1980s with the crack cocaine epidemic. The impact of this epidemic not only affected the social welfare and the health of these individuals and their families; but impacted on the criminal justice system as well. Arrests, prosecutions, and incarceration of drug offenders dramatically increased and severely strained the courts, jails and prisons. In an effort to address this problem, the concepts of therapeutic jurisprudence were developed – that justice and treatment practitioners have the same goals for substance abusers. Out of this partnership the drug court concepts were conceived, formulated and implemented.

Although the increase in alcohol and drug use among juveniles peaked later than the adult population, by 2000 half of the students reported alcohol use, more than one-fourth of high school students were marijuana users, 9.5 percent had used cocaine by the end of high school, and 14.6 percent had used inhalants. Because there is strong evidence of an association between alcohol and drug use and delinquent behavior of juveniles, it is not surprising that the number of juvenile drug offense cases processed during 1995 was 145 percent greater than 1991 (U.S. Department of Justice, 2003).

Juvenile court judges found that dealing with substance abusing juveniles within the traditional court systems often meant long waiting lists for treatment, disjointed service delivery, lack of family engagement, and no input into the nature or extent of treatment. Consequently, in the mid-1990s innovative juvenile courts started the drug court dockets that focused on the problems of substance abuse among juveniles.

Building on the success of adult drug courts, juvenile courts have emerged as a promising model for addressing the multiple problems of drug-involved youths. In general, juvenile drug courts share many of the attributes of the adult drug court model; however differ in significant ways. In a juvenile drug court the drug addiction is not the focus – prevention of addiction is addressed. Participants also confront other related problems including chronic truancy, underachievement in school, family conflict, gang involvement, and delinquency (U.S. Department of Justice, 2003). Currently in Hawai'i, there is one Juvenile Drug Court operating in

Honolulu County and one being planned for the Kailua-Kona District in Hawai'i County (American University, 2003).

### **Philosophy of Juvenile Drug Courts**

The mission of the Hawai'i Juvenile Drug Court (JDC) is to reduce the harm in the community by providing comprehensive treatment opportunities to adolescents. The current program looks specifically at the child offenders. While it is the child that the program seeks to help by engaging the client in a drug abuse intervention, it cannot be understated that one of the ulterior motives of the program is to help stem the rising tide of Hawaii's burgeoning incarcerated population. The Family Courts in Hawai'i currently have over 5,000 adolescents on probation; thereby overloading the probation officers who serve these adolescents. Often these juveniles with major drug problems are not in treatment and continue to re-offend until they end up in prison. Of the 5,000 adolescents in Hawai'i that need treatment, about 1,500 will receive any kind of treatment. (M.R. Browning, Esq., personal communication, October 15th, 2003).

The JDC program is an abstinence based model and accepts relapse as part of the recovery process. The JDC program gives the juveniles the opportunity to be part of the treatment team by giving them the chance to be responsible for their own choices in having a part in their recovery. The program encourages life changes instead of allowing the juvenile to get around the court process. Juvenile Drug Court participants undergo long-term treatment and counseling, sanctions, incentives, and frequent court appearances. Successful completion of the treatment program results in dismissal of the charges, reduced or set aside sentences, lesser penalties, or a combination of these sanctions. Most importantly, graduating participants gain the necessary tools to rebuild their lives. Some professionals within the field have stressed that the JDC program should take a Multi-Systemic Therapy (MST) view in treating these adolescents. MST is a family/home based program that supervises parents in helping them to better monitor and communicate with their children. MST has been successfully used in drug treatment programs previously, but due to budget restrictions, this therapy is not currently part of the JDC program in Hawai'i. (G. Chung, personal communication, October 15th, 2003).

When providing treatment to the adolescent, the program relies on a large group of professionals to holistically address the problem together. The problems of drug abuse and crime are too broad for any single agency to tackle alone, drug courts rely on the daily communication and cooperation of the judges, court personnel, probation officers, and treatment providers. Most providers stress the importance

of having parent/guardian involvement in the JDC program. It requires parents of a drug abusing teen to refrain from using alcohol or drugs in the house, and the judge may also require the parents to undergo treatment if there are substance abuse issues. Family therapy is another component of this holistic approach that enables the parents to receive support and training on how to better structure the home environment to help their child. In terms of making parents responsible for their child's progress, the drug court supports and encourages parents, sometimes threatened with jail time, or removal of their children by the Child Protective Services system in order for parents to make changes that will benefit the lives of their children. Parents have to engage in weekly hearings at court with the judge, which enables the court to monitor the parent's progress.

Because the drug court is so new, and Hawai'i JDC has graduated only 13 individuals, the issue of cultural sensitivity has not yet been explored. It will undoubtedly become an issue that will need to be addressed as the program expands.

### **Processes of the Juvenile Drug Courts in Hawaii**

The mission of the Juvenile Drug Court (JDC) is to reduce substance abuse and criminal behavior among juveniles and empower juveniles and families to support a positive lifestyle by providing strength-based intensive intervention and rehabilitation services tailored to the needs of families and each individual juvenile. (Seventh Judicial District-Juvenile Drug Court, 2001). The JDC will focus on gender specific, culturally competent judicial treatment services in a warm environmental setting in order to help juveniles overcome problems with substance abuse.

The juveniles are referred by Family Court, prosecutor and public defender's offices, the police, the Health Department and other agencies. Previously these juveniles would be put on probation and ordered into outpatient or residential substance abuse counseling with infrequent checks, this program is much more intensive. One of the major requirements is that an adult participates with them at every level: the individualized drug treatment programs, family counseling, the sanctions and incentives, and appearances before the judge.

There are four phases in the JDC program. The initial phases of the Juvenile Drug Court intervention are intensive, gradually transitioning into less intensive intervention as the participant progresses. The four phases are:

- Phase I - Stabilization, Orientation, Assessment and Family Intervention

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- Phase II - Family Treatment Focused on Sobriety, Self-Esteem, and Improved Family Communications
- Phase III - Transition Focused on Peer Relationships, Decision Making, and Educational/Vocational Issues
- Phase IV - Aftercare

Throughout the program, participants are linked with appropriate specialized and supplementary services. The court may also impose additional requirements (Seventh Judicial District-Juvenile Drug Court, 2001). Parents, probation officers, public defenders, therapists and the judge randomly and frequently monitor the participants in the eight-month Juvenile Drug Court program. A participant may be discharged from the program if he/she is a habitual offender of the JDC rules and regulations. The most serious violation, a new arrest, does not automatically terminate a participant from the program. If the charge is of a violent nature, and the state files the charge, the program participation will be terminated and referred to the prosecutor's office.

In order to complete the Juvenile Drug Court Program juveniles must complete all four phases of the program (refer to previous section), participate in the program for no less than 11 months, complete court sanctions, and achieve program goals (vocational and educational). The average length of time for completion of the Juvenile Drug Court Program is 15 months. Forty juveniles have participated in the Drug Court Program since its opening two years ago. Of the 40 juveniles, 13 juveniles graduated, 13 juveniles were terminated, and 5-6 more juveniles are expected to graduate in November 2003.

After a juvenile completes the Juvenile Drug Court program, an evaluator from the judiciary court tracks his/her progress for 16 months. In other states, an aftercare program is put into place for Juvenile Drug Court graduates. Aftercare can be defined as, are-integrative services that prepare out-of-home placed juveniles for reentry into the community by establishing the necessary collaborative arrangements with the community to ensure the delivery of prescribed services and supervision. (Gies, 2003).

The Hawai'i Juvenile Drug Court Program has received \$900,000 in federal block grants from the U.S. Department of Justice to provide services for juveniles with substance abuse problems (Shapiro, 2001). Unfortunately, there are no financial incentives for success available for the Juvenile Drug Court Program.

## **Evaluation**

The retention rate for this type of program ranges between 65 and 85 percent depending on what individual program is examined ( Drug Court Clearinghouse and Technical Assistance Project, 1999). Estimates by the Office of National Drug Control (2003) state that recidivism rates are as low as 16 percent one year after completion of the program and 27 percent after two years; this is less than half the percentage of those incarcerated for drug offenses. Encouragement, intensive treatment, and supervision are three key factors to drug court success rates (An Honest Chance, 2002). Indicators show that approximately 80 percent of drug court participants nation wide either return to or continue full time school, a considerably larger number than for non-participants, and this is due the emphasis the drug court programs puts on developing and maintaining constructive relationships with local schools (U.S. Department of Justice, 2001). Alternatives to the drug court exist in the form of substance abuse treatment programs, family counseling, family services, and of course imprisonment in juvenile correction facilities, but none have shown the same success rate as the drug court programs (U.S. Department of Justice, 2001).

There are a few policies changes that have recently taken place which have impacted the Hawai`i Juvenile Drug Court. According to the National Conference of State Legislatures (2003), legislation enacted in Hawai`i in 2001 established a diversion program for adult drug offenders. This set the stage for a similar program involving adolescent offenders. Additionally, listed in the Juvenile Justice Enactments, 2003, is the Hawai`i Bill (HB 1022). This bill authorizes the court to expunge a juvenile arrest record once the juvenile has become an adult if the juvenile was counseled and released by the police (National Conference of State Legislatures, 2003).

This law gives the police the authority to work with a hands-on approach to their community. Additionally, it allows the courts the discretion to expunge the record of any adult who had a minor incident with the law, as a juvenile. These policy changes appear to be an effective way of curtailing a juvenile's criminal issues during the preliminary phase and present as an intervention to recidivism. These changes seem to be positive steps toward dealing with juvenile drug offenders in a structured, therapeutic manner.

## **Conclusion**

The increasing rates of substance use and abuse among juveniles have had a tremendous impact on the health and social welfare of these youths and their families. With arrests, prosecutions, incarceration, and recidivism increasing, the impact has also been felt by the criminal justice system. To address these multi-

system problems, the concept of therapeutic jurisprudence was developed in the form of Juvenile Drug Courts with a philosophy of prevention of addiction, youth and family involvement to making life changes, and a multi-systems holistic approach.

Hawai`i established its first Juvenile Drug Court in 2001 in which 40 youths and their families have participated and 13 have graduated. Nationally, Juvenile Drug Courts have been successful in that 80 percent of participants return to school; however, the program in Hawai`i has yet to be evaluated to determine recidivism of its participants or the long term effectiveness of the program. It will be imperative that the Juvenile Drug Courts be comprehensively evaluated for effectiveness as a diversionary alternative as well as for cost-effectiveness.

We believe, based on the early national results of the Juvenile Drug Courts, that this type of therapeutic jurisprudence as a diversion to incarceration should continue as a viable alternative to providing our youths with a second chance to become productive citizens.

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