

PAYNE COUNTY DRUG COURT INC:
A STRUCTURAL AND PROCESSURAL
EVALUATION
OF THERAPEUTIC JURISPRUDENCE

By

JESSE WILLIAM BADOE

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Truman State University

Kirksville, Missouri

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Thesis Approved:

Dr. Duane Gill

Thesis Adviser

Dr. Ron Thrasher

Dr. Michael Long

Dr. Sheryl A. Tucker

Dean of the Graduate College

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To God be the glory. Romans 8: 37-39

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CHAPTER I

INTRODUCTION

Statement of the Problem

Over the past three decades jail and prison systems in the United States have experienced unparalleled growth, much of which can be attributed to drug-related crime. While the incarceration rates for both violent and non-violent offenders have increased significantly and systematically over this period of time, the number of persons incarcerated for drug offenses has increased exponentially (Heck, 2006). Currently, most inmates are in prison to some extent because of substance abuse, with approximately 60 percent of individuals arrested for most types of crimes testing positive for illicit drugs at their time of arrest (Taxman, 2007). Substance abuse refers to any pattern of harmful use of any substance for mood-altering purposes. About 80 percent of offenders abuse drugs or alcohol, while nearly 50 percent of jail and prison inmates are clinically addicted (Nolan, 2008).

The main problem arises because imprisonment has little extent on drug abuse. Between 60 to 80 percent of drug abusers commit a new, typically drug-driven, crime after release from prison, and approximately 95 percent return to drug abuse after release from prison (Nolan, 2008). Drug courts represent a potential answer to this problem. Drug courts are judicially-supervised court dockets that construct a more suitable balance between the need to protect community safety and the need to improve public health and well-being (Harrell, 2005). Drug courts embody the need for treatment and the need to hold people accountable for their actions.

Description of the Research Process

This research is a case study of Payne County Drug Court Inc. It explores whether problem solving courts can be truly therapeutic while operating within the boundaries of the criminal justice system which is legalistic, rational, and skewed towards punishment and away from rehabilitation. More specifically, this study examines the degree to which a particular drug court is therapeutic and, subsequently, the degree to which the drug court addresses the participants' basic human needs. This thesis defines the term 'basic human needs' in line with Abraham Maslow; they are defined as needs referring to both the physiological well being and safety/sense of security of the participants (Maslow, 1954). This study addresses the research question: does the drug court process promote rehabilitation by seeking to therapeutically address basic human needs of program participants? This research observes an understudied dynamic by examining the process and structure of the drug court program itself, instead of focusing on outcome measures of effectiveness.

This project is exploratory and descriptive in nature. Currently, the vast majority of existing research on drug courts is quantitative and addresses predominantly one question: do drug courts work? The bulk of the extant literature seeks to measure this by determining whether drug courts are effective in reducing recidivism, reducing substance abuse and providing cost-beneficial alternative to traditional court processing (Taxman, 2007). This study utilizes qualitative techniques; data was collected from three sources (semi-structured interviews, textual analysis, and participant observations) and analyzed to determine the extent to which the structure and process of the drug court program therapeutically meets the basic human needs of the drug court participants.

What is a Drug Court?

Drug courts emerged in the late 1980s in response to the ‘war on drugs’ and the rapidly increasing felony drug caseloads that strained the nation’s courts and overflowed both jails and prisons (Harrell, 2005). The first drug court was established in Miami, Florida, in 1989, with the goal of reducing substance abuse and criminal behavior while also freeing the court and corrections systems to handle other cases (Taxman, 2007). These programs are designed to use a court’s authority to reduce crime by changing a defendant’s substance abuse behavior. Under this concept, defendants are diverted to drug court programs in which they agree to participate in judicially monitored substance abuse treatment, with the possibility of having their charges reduced or dismissed upon completion (Marlowe, 2005).

Most drug courts operate through a form of involuntary treatment or legal coercion, which according to the National Institute of Drug Abuse (NIDA) can be effective (Harrell, 2005). By providing a structure that links supervision and treatment,

drug courts exert legal pressure on defendants to enter and remain in treatment long enough to realize benefits (Heck, 2006). Drug court programs rely on a combination of judicial supervision and substance abuse treatment to motivate defendants' recovery. The purpose of this is to reduce recidivism and substance abuse among offenders, and increase their likelihood of successful reintegration into the community through early judicially supervised treatment, mandatory periodic drug testing, and the use of appropriate sanctions and other continuous rehabilitative services (DeLeon, 1998). Drug courts transform the roles of both criminal justice practitioners and drug treatment providers. Judges preside over drug court proceedings, called status hearings, monitor defendants' progress with mandatory drug testing, and prescribe sanctions and rewards as appropriate in collaboration with prosecutors, defense attorneys, treatment providers, and others (Goldkamp, 2003). Because the judge works to keep participants engaged in treatment, treatment providers can effectively focus on developing a therapeutic relationship with the participant. In turn, treatment providers keep the court informed of each participant's progress, so that rewards and sanctions can be provided (Taxman, 2007).

Drug court programs can vary in terms of the substance abuse treatment required and the role of specific drug court team members. Most programs offer a range of treatment options and generally require a little more than one year of participation before a defendant completes the program (Goldkamp, 2003). All drug courts are based on diversion, pretrial/presentence, post-adjudication, or probation revocation strategies, in which the judge exercises authority to defer case disposition if a defendant agrees to participate in drug court (Harrell, 2005). On successful completion of the program, case

processing may end with dropped charges, vacated or reduced sentences, or rescinded probation (Marlowe, 2005). Even though individual jurisdictions have shaped their drug court programs to fit local circumstances, the same process and key components remain almost universally intact throughout. The 10 Key Components of the drug court model (as established by The National Association of Drug Court Professionals Drug Court Standards Committee and the U.S. Department of Justice's Office of Justice Programs) can be summarized as follows:

“(1)early identification and placement in treatment; (2)access to a continuum of drug treatment and rehabilitative services; (3)a non-adversarial approach; (4)regular and ongoing judicial monitoring and interaction with participants; (5)defendants' increased accountability through a series of graduated sanctions and rewards; (6)frequent mandatory drug testing; (7)a coordinated response to participants' compliance; (8)and a partnership between treatment providers, probation, law enforcement, the courts, and community-based organizations; (9)continuing interdisciplinary education to promote effective planning, implementation, and operation; and lastly, (10)partnership with public agencies to generate locale support and enhance effectiveness of the program”.

The objective of drug court programs is to treat the underlying problems of addiction among drug offenders and eliminate participants' future drug use and crime. Although the drug court program emphasizes treatment, drug courts require completion of a more intensive program than other probation sentences (Harrell, 2005; Rubin, 2005; Swern, 2007).

The overall growth and popularity of drug courts and problem solving courts represents a significant addition to the United State's criminal justice system. With such growth comes a corresponding need to evaluate such programs. This thesis serves as a case study of Payne County Drug Inc. in which the drug court process is evaluated in terms of therapeutic jurisprudence. This chapter identified a problem (a lack of process evaluations conducted on drug courts), provided clarity on what a drug court is, and identified the goals of the research project. Chapter two deals with the theoretical foundation of drug courts and the drug/crime relationship. It serves to theoretically locate and frame the goals and objectives of drug courts and the drug court process. Chapter three deals with the qualitative methodology and techniques used in evaluating the drug court, these are mainly: textual analysis, participant observations, and semi-structured interviews. This chapter also addresses implementation fidelity and the creation of a logic model. Chapter four offers a description of the drug court, and offers discussions of the therapeutic nature of the court in both process and structure, the therapeutic nature of the case manager, and the therapeutic nature of the drug court discourse. Chapter five, the conclusion, summarizes the research process and findings while identifying recommendations (both for the program and future research) and limitations of the research.

CHAPTER II

REVIEW OF THE LITERATURE

Introduction

This chapter provides a synopsis and discussion of the literature reviewed for this thesis. It begins with a brief discussion of the fundamental need for drug courts, which is born out of the relationship between drugs and crime. This chapter then moves to a synopsis of previous literature, which predominantly focuses on outcomes rather than process, and methodological concerns with previous research are addressed. The next portion of this chapter theoretically positions drug courts within crime theory, criminology, and legal theory. It offers a discussion of deterrence theory, rational choice theory, social learning theory, labeling theory, and therapeutic jurisprudence relating all of these perspectives to the structure and process of drug courts.

Drugs and Crime

Though traditional studies on drug addiction support the notion that drug addiction leads to predatory crime as a way of life, their findings and theories have been continually challenged (DeLeon, 1998). Most notably, there has been considerable debate as to whether the criminality of the addict preceded or is merely a consequence of the drug addiction. This argument is typically explored from three angles: (1) drug use leads to crime, (2) crime leads to drug use, and (3) other factors (such as social context or predispositions) lead to both drug use and crime. Drugs are related to crime in multiple ways. Most directly, it is a crime to use, possess, manufacture, or distribute drugs classified as having a potential for abuse. Drugs are also related to crime through the effects they have on the user's behavior. An increase in violence, aggression, and impulsive indulgences, and risk taking are typical with drug users; these characteristics are also commonly found with those committing illegal activities (U. S. General Accounting Office, 1997). Another dimension of drug-related crime is committing an offense to obtain money (or goods to sell to get money) to support further drug use.

The drug/crime relationship is difficult to quantify for several reasons. First, most crimes result from a variety of personal, situational, cultural, and economic factors; even when drugs are a cause, they are likely to be only one factor among many (Harrell, 2005). Another issue with quantifying the relationship between drugs and crime deals with the definition of what is meant by "drug-related", which varies from study to study (Nolan, 2008). Some studies interpret the mere presence of drugs as having causal relevance whereas other studies interpret the relationship more narrowly (Rosenberg, 2001; Hakim, 2003). Reports by offenders about their drug use may exaggerate or minimize the

relevance of drugs; while most drug-use measures (such as urinalysis) are limited to only very recent drug use (Casey & Rottman, 2003).

Incarcerated offenders are often under the influence of drugs when they committed their offenses (U. S. General Accounting Office, 1997). The National Institute of Justice (NIJ) Arrestee Drug Abuse Monitoring (ADAM) Program measures drug use among arrestees by calculating the percentage of arrestees with positive urine tests for drug use. Data collected from male arrestees in 2008 in 55 cities showed that those testing positive for any drug ranged from 42.5 percent to 77.8 percent (Hakim, 2003). Previous research shows that male arrestees charged with drug possession or sales were among the most likely to test positive for drug use, while female arrestees charged with prostitution, drug possession, or sales were among the most likely to elicit a positive test result. Males and females arrested for stolen vehicles, robbery, and burglary also had high positive rates (U. S. General Accounting Office, 1997).

Despite the questions or debate over the requirements necessary to claim causation, a few conclusions can still be made about the relationship between drugs and crime. The evidence indicates three major conclusions: (1) drug users are more likely than nonusers to both commit and be arrested for committing crimes; (2) that arrestees frequently were under the influence of a drug at the time they committed their offense, and (3) that drug use generates violence (Rosenberg, 2001; Hakim, 2003; Lilly & Cullen, 1995).

Drug Court Effectiveness

In the United States there are more than 2,400 drug courts, with at least one located in every state, and more than 1 million people have successfully graduated from

drug court programs (Nolan, 2008). In large part, due to the rapid growth and perceived effectiveness of drug courts, much attention, inquiry, and researched has followed. As previously mentioned the majority of drug court literature focuses on identifying and measuring the quantifiable effectiveness of drug courts such as recidivism or cost effective measures. Evaluations based upon principles of scientific rigor, rather than anecdotal conjecture, have not been conducted with any regularity until recently (Harrell, 2005). Though much drug court evaluation research has been conducted, overall the findings remain mixed.

After an extensive 2005 review of the scientific literature, the Government Accountability Office concluded drug courts significantly reduce crime compared to the alternatives (Finn, 2006). Subsequent research also found that drug courts significantly reduce drug use and crime, and do so in a morecost effective and rehabilitative manner than jail, prison, probation, or treatment alone (Nolan, 2008).

The most rigorous and conservative scientific meta-analyses have all concluded that drug courts significantly reduce crime by as much as 35 percent compared to other sentencing options (Finn, 2006). Research has found that drug courts are six times more likely to keep offenders in treatment long enough for them to receive thebenefits that correlate with an increased success rate(Finn, 2006). This is because drug court participants not only receive the treatment and other services they require to stay clean and lead productive lives, but they are also held accountable by a judge for meeting their obligations to society. This “forced accountability” is a major focal point in the mark of a successful drug court program. When offenders are not regularly supervised by a judge and held accountable for keeping their obligations, 70 percentdrop out of treatment

prematurely and few successfully graduate (Taxman, 2007). Drug courts significantly improve accountability and treatment outcomes. In a nationally representative study, the average recidivism rate was only 16 percent in the first year after leaving the program and 27 percent after the second year. This is compared to recidivism rates for conventional probation, in which 46 percent commit a new offense and over 60 percent commit a probation violation within the first two years (Taxman, 2007; Nolan, 2008).

The most extensive meta-analysis of drug courts in the United States was conducted by Belenko (2003), in association with the U.S. General Accounting Office. Much of the existing literature on drug courts either overlaps or expands on the work of Belenko. Various methodological flaws or erroneous oversights have been identified in these efforts, but due to the nature of the population under investigation, resolutions or more effective means of addressing such concerns have not been implemented. Less than two percent of the quasi-experimental designs or random assignments that utilized a comparison group were found to be valid (Finn, 2006). Nearly half of the quasi-experimental designs made no attempt to statistically control for differences between drug court and comparison participants, and a common comparison group, drug court drop-outs, has a bias favoring the drug court condition (Rubin, 2005). Many of these studies also compared only drug court graduates to a comparison sample, which often inflated the overall effect of the intervention. The higher quality quasi-experimental designs, which made comparisons between all drug court participants as a cohort (whether or not they graduated) and a statistically similar comparison group, produced findings consistent with the overall perception of drug courts. The majority of studies

found support for drug courts and observed reductions in reoffending among the drug court participants relative to the comparison participants.

According to a number of evaluations and American University's national drug court survey, most drug courts provide close supervision of offenders through regular court hearings, mandatory frequent drug testing, and regular reports from treatment providers (Rubin, 2005). Though degree of supervision is often thought of and researched as a response to either the severity of the initial drug abuse or plea arrangement, it can also be in response to the number and/or quality of treatment service providers. Diversion and post-adjudication drug court models that either dismissed charges or expunged a conviction from an offender's record upon graduation appeared more effective than courts with mixed approaches and no uniform incentive for the completion of the court's requirements; however, these drug courts often have more stringent supervision requirements and judicial contingencies (Harrell, 2005). Marlowe (2008) found that a clear set of judicial contingencies can increase the amount of treatment received, this in turn causes drug court participants to believe that there will be consequences for failure to participate in treatment. A single provider arrangement may increase the communication between the drug court and the service provider, which in turn enhances the court's supervision of the drug offender's progress, including earlier detection of program failures. The single treatment provider approach may increase the coordination of services or help ensure that an effective set of services is provided. Meta-analytic data suggests that drug courts that used a single drug abuse treatment provider had slightly larger effects, on average, than those drug courts that used multiple drug abuse treatment providers (Swern, 2007). This serves as verification that the effectiveness of the drug

court program depends in part on the effectiveness of the services provided to the drug court clients.

In summary there is a significant amount of literature that focuses on drug courts. The review of literature for this thesis observed a variety of research designs (e.g., experimental, quasi-experimental, and qualitative), which focused on a limited number of outcome measures (e.g., recidivism, substance abuse, treatment retention, overall “quality of life,” and employment), and resulted in mixed findings regarding effectiveness. Some researchers concluded that drug court participation led to a significant reduction in recidivism, while others concluded that drug court participation did not result in a significant reduction in recidivism. Much of these discrepancies can be attributed to methodological differences or flaws (Rubin, 2005). Overall, of the methodologically sound evaluations observed for this study, it was found that drug court participants have lower recidivism rates and reduced drug use (Wolf, 2001). In general, drug court graduates are less likely to be rearrested and have lower substance abuse rates than other groups. If drug court participants do reoffend, they usually do so after a longer period of time (Nolan, 2008). However, throughout the vast majority of the reviewed literature there is, at best, a very limited discussion on the theoretical foundations of drug courts.

Theoretical Foundations

The purpose of this portion of the thesis is to frame and theoretically locate drug courts within the existing body of literature. Drug court proponents have acknowledged that with the inception of the first drug court model, theory was not a major factor.

Although there is no clear overarching theoretical perspective that expressly links to the

drug court movement, elements of various criminological theoretical perspectives have clearly influenced the structure and process of drug courts.

Deterrence

Perhaps the most widely used criminological theory in relation to drug courts is deterrence theory. Cesare Bonesana Marchese de Beccaria is widely known as the father of criminal justice and the father of the Classical School of Criminology. But perhaps the most important title attributed to Beccaria is the father of deterrence theory. He was one of the originators of the classical school of criminology which is said to have originated with the publication of his works *On Crimes and Punishments* in 1764 (Tibbetts and Hemmens, 2010). The impact of Beccaria's work on the working ideology of the U.S. system of justice cannot be overstated and is a major force in the implementation and process of contemporary drug courts.

Prior to Beccaria's work on deterrence theory, the common wisdom on the issue of human destiny was that it was chosen by God. At the time, governments and society generally believed that people were born either good or bad, and as such, little could be done to alter them away from their predisposition. Beccaria went against the grain of his time. He believed that individuals make rational calculated decisions regarding their behavior, and that this calculated equation can be manipulated to prevent the criminal from inflicting new injuries on society and to deter others from similar acts. His belief was that the threat of punishment can be used to convince individuals that the costs of crime outweigh the benefits one might receive. Beccaria identified two forms of deterrence: specific and general. Specific deterrence refers to punishments given to an individual that are meant to prevent or deter that particular individual from committing

crime in the future. General deterrence refers to punishments given to an individual that are meant to prevent or deter other potential offenders from engaging in such criminal activity in the future (Barkan, 2009).

Beccaria's writings were the first to call for a set punishment for a given offense, without consideration of the presiding judge's personal attitudes or the defendant's background. He also believed that the true measure of crimes is the harm done to society (Barkan, 2009). Thus, anyone who committed a given act against society should face the same consequence regardless of the intent. Deterrence theory is premised on the belief that individuals will engage in criminal behavior if they do not fear apprehension and punishment. Beccaria suggested three characteristics of punishment that would make a significant difference in whether the individual decides to commit a criminal act they are celerity (swiftness), certainty, and severity.

The first reason Beccaria recommended swiftness of punishment was to reform a system that was severely lacking. At the time he wrote, some defendants were spending many years awaiting trial. Beccaria wrote "the more promptly and the more closely punishment follows upon the commission of a crime, the more just and useful it will be" (Beccaria, 1764:364). The second reason he recommended swiftness of punishment was related to the deterrence aspect of punishment. Beccaria proposed the idea that people build an association between the pains of punishment and their criminal acts. Because of this he believed that the individual would not link the sanction with the violation they committed if the punishment was not swift. He argued in essence that crime and punishment should come to always be considered together, one as the cause, and the other as the inevitable effect (Beccaria, 1764). He foresaw both the efficient operations

and deterrent nature that swift punishment presents. Despite the common sense aspects of making punishments swift, swiftness has been the most neglected of the three elements of Beccaria's deterrence theory in terms of modern empirical research (Tibbetts and Hemmens, 2010).

Beccaria considered certainty of punishment to be the most important quality of punishment. In *On Crimes and Punishments* (1764) he writes "even the least of evils, when they are certain, always terrify men's minds". "The certainty of punishment, even if it be moderate, will always make a stronger impression than the fear of another which is more terrible but combined with the hope of impunity". Both of these statements have come to be supported by modern empirical research. Unfortunately, certainty is the least likely characteristic of punishment to be enhanced in modern criminal justice policy (Tibbetts and Hemmens, 2010). Over the last few decades, the risk of criminals being caught and arrested has not increased.

In the same vein, Beccaria asserts that any punishment that largely exceeds the reasonable punishment for a given crime is inhumane and may lead to further criminality. He believes that for punishment to attain its end, the evil which it inflicts has only to exceed the advantage derivable from the crime in a marginally significant manner (Barkan, 2009). The overarching goal is to prevent individuals from engaging in crime by implementing swift, certain, and severe punishments, and thus impacting their decision making process. In the drug courts, offenders are viewed as in need of being held responsible for their actions including crimes. This theory argues that laws, or in this case the structure of rewards and sanctions themselves, and the enforcement of laws, should be designed in such a way so as to produce and maintain a positive relationship between

criminal behavior and punishment. It is believed that if participants are aware and knowledgeable of the negative impact their addiction has had on their lives and they are aware that violation of program rules are met with certain and severe sanctions, they will be less likely to relapse.

Rational Choice

Rational choice theory emerged out of deterrence theory. It is based on the assumptions of hedonism, rationality, and free will. Hedonism refers to the claim that human beings are motivated by the pursuit of pleasure and the avoidance of pain. From a legal perspective, hedonism can be conceptualized as the pursuit of pleasure through the maintenance of law abiding behavior and the avoidance of pain through legal and penal sanctions (Barkan, 2009). Rationality refers to an individual's capacity to make good, sound, logically based judgments. Free will refers to an individual's ability to consider various courses of action and then select the one that is most desirable or in their best interest (Clear, 2007).

A noted point of concern is the heavy reliance on the assumption that all individuals are capable of making rational choices (Tibbetts and Hemmens, 2010). Rational choice theory combats this concern by presenting the idea of the hedonistic calculus. Hedonistic calculus refers to a rational calculation based upon each individual's own perspective that measures the legal penalty and likelihood of getting caught against the potential pleasure and gain to be had by committing the criminal act. It places an individualized subjective lens on each calculation of the risk of pain versus the potential pleasure. If the probable gain outweighs the probable legal penalties then it is likely that the individual will commit the criminal act. However, if the probable legal penalties

outweigh the probable gain then it is likely that the individual will not commit the criminal act.

There are two main ways that rational choice theory has influenced drug courts. First, the entire drug court process is contingent upon participants taking individual responsibility for their drug use and addiction. Second, in order to remain in compliance with the drug court program, participants must agree to remain sober during their term of enrollment. Drug courts provide sanctions and rewards that skew the hedonistic calculus to favor pro-social and law abiding behavior. Fischer (2003) strongly implies that addiction can be overcome by sufficient moral and personal strength, discipline, and will power. Within the drug court there are components of the recovery process that focus on increasing participants' sense of willpower and discipline, while individual attention is given to increase personal strength. Several of these components will be presented in a later chapter.

Social Learning Theory

Social learning theory can be thought of as an extension of Sutherland's differential association theory. In his theory, Sutherland suggests that a person engages in criminal behavior "because of an excess of definitions favorable to violation of law over definitions unfavorable to violation of law" (Sutherland and Cressey, 1974: 75).

Sutherland believed that these definitions were formed in several different ways. In short, he believed criminal behavior is a product of normal social learning through interaction in primary groups, such as friends or family. While Sutherland focused on the differential associations present in different social environments, other theorists, such as Akers, focused on the learning processes of deviant and non-deviant behavior. However, it is

pertinent to note that Sutherland did suggest that all of the mechanisms that are involved in any other learning were also part of the process of learning criminal and anticriminal behaviors (Sutherland and Cressey, 1974: 75).

Social learning theory is based on the assumption that criminal behavior is learned through interaction with one's social environment as well as through interaction and communication with other individuals (Akers, 2000). Within the learning process, individuals are most likely to model behavior observed by others with whom they identify. Through a symbolic interactionist lens, they learn when to repeat or discontinue a given behavior by gauging the response elicited by others, in terms of positive and negative influences.

Social learning theory argues that there is no inherent difference between criminals and non-criminals; rather both groups have endured the same learning process but have internalized and interpreted their experiences differently (in terms of norms and values and consequently right and wrong, or what is acceptable and unacceptable). The theory suggests that social reinforcements determine whether any behavior is repeated, therefore involvement in crime depends on exposure to social reinforcements that reward such activity (Barkan, 2009). However, unlike situational crime prevention, the theory ignores the opportunistic nature of crime (Jeffery, 1990)

Social learning theory has influenced the way that drug court practitioners approach the treatment process. The re-socialization process involves the use of drug treatment programs, individual counseling, group counseling, and social support groups, focusing on definitions unfavorable to drug use and changing response consequences so as to move people away from the use of drugs (Fischer, 2003). The strategy is that by

providing participants with coping skills, education, employment, access to treatment resources, and individualized attention from professional drug court team members that these skills can be used to replace negative definitions that led to crime or substance abuse.

The peer aspect of the re-socialization process significantly enhances the learning process by giving participants the opportunity to model behavior of others they identify with. The therapeutic potential of the courtroom can be exploited in a drug treatment court through simple changes to procedures such as the court schedule.

“By allowing new defendants to appear last, they are given the opportunity to see other defendants who have successfully completed the program and turned their lives around; this can potentially help the new defendant in visualizing successful completion of the program and a better life” (Harrell, 2005).

Labeling Theory

Labeling theory is rooted in the notion that individuals who have been labeled deviant or criminal often subscribe to or identify with these labels and use these labels to create their self identity. However, labeling theorists argue that no behavior is inherently criminal; it views deviance as the creation of social groups and not the quality of some act or behavior (Becker, 1963).

“Deviance is not a quality of the act the person commits, but rather a consequence of the application by others of rules and sanctions to an ‘offender’. The deviant is one to whom that label has successfully been applied; deviant behavior is behavior that people so label (Theories of Crime pg 351).

According to Becker (1963), because deviance is simply rule breaking behavior that is labeled deviant by persons in positions of power, it is more important to study the differing labels put on the rule-breakers than the rule breaking behavior itself.

Labeling theory suggests that the actual label of ‘criminal’ is based on how a person is perceived or defined, as opposed to whether or not the individual has actually committed an act that has been defined as criminal.

Labeling theory has influenced how drug court practitioners view program participants, as well as the drug court process itself. Special attention has been paid to the labeling of participants in an attempt to re-socialize participants in such a way as to encourage them to view themselves as responsible, law abiding, and successful individuals and to live a drug and crime free life. Even though drug courts were designed and implemented without an express foundation in criminological theory, several theories have been presented that play an important role in the process and structure of the drug court model. One major theory that has not yet been discussed deals with the impact that the law has on the emotional life and psychological wellbeing of individuals involved in the justice system. This theory which argues that “the law must look to the relationship between itself and the social effects it creates” is referred to as therapeutic jurisprudence (Harrell, 2005).

Therapeutic Jurisprudence

Drug courts are considered therapeutic because of the emphasis on substance abuse treatment, rather than the more traditional criminal justice interventions which do not focus on a “cure” (Condelli and DeLeon, 2003). Drug courts merge competing perspectives on the causes of substance abuse and addiction. The criminal justice model

views drug addiction as one of many antisocial behaviors manifested by criminals, whereas the medical model views it as a chronic and relapsing disease (DeLeon, 1998). At its roots, the drug court model is premised on a behavioral model; the behavioral model focuses on operant conditioning, meaning behavior is a consequence of reinforcements and punishments (Skinner, 1950). On one end of the spectrum, under a classical Beccarian approach (which emphasizes certainty of punishment, swiftness in response to criminal action, and appropriateness to the precipitating action) the courts traditionally use legal sanctions, including incarceration, both to punish drug-involved offenders and to deter them from further criminal activity (Adler, 2009). On the other end, the treatment community emphasizes therapeutic relationships to help treat the disease of addiction by motivating addicts to reduce their dependence on drugs, change their behavior, and take control of their lives. With such a broad spectrum, drug courts have the capabilities to facilitate the needs of a very diverse population.

Both restorative and community justice approaches are related to problem solving techniques that offer the field of therapeutic jurisprudence potential strategies for achieving curative outcomes. Restorative justice emphasizes repairing the harm caused by crime, while community justice refers to crime prevention and set the enhancement of community quality of life as a goal (Lilly & Cullen, 1995). Such rehabilitative measures are often the result of community and court collaborations. There are many social scientists and lawyers who argue that drug courts are presently and unknowingly applying therapeutic jurisprudence principles to the problems of drug and alcohol addicted defendants to encourage treatment seeking behavior and reduce crime (Condelli and DeLeon, 2003). Therapeutic jurisprudence is the study of the role of law as a

therapeutic agent (DeLeon, 1998; Harrell, 2005). It suggests that during the development of the law, society should consider theories, philosophies, and findings from various disciplines and fields. It proposes sensitivity to the consequences of law, and requires observation into whether the law's anti-therapeutic consequences can be reduced, and its therapeutic consequences enhanced, without violating due process and other justice values. By shaping the law in this fashion society can combine a perspective focused on justice and equality, an ethic of care, healing, and a response to need (Harrell, 2005). The drug court movement can be seen as an evolutionary step towards the real world application of such theories, demonstrating that therapeutic effects can result from judicial actions (Hora, 2002). It was because of this belief that drug courts were specifically designed to use the authority of the drug court judge to increase offender compliance with drug treatment (U. S. General Accounting Office, 1997).

Therapeutic jurisprudence claims that attending to the individuals as well as the issues involved in a case leads to more effective dispositions. Within these broad parameters, therapeutic jurisprudence can be functionally implemented on different levels. First, therapeutic jurisprudence can be practiced by judges when interacting with the individuals involved in a particular case. In many cases, the underlying therapeutic jurisprudence orientation of a judge directs the attention beyond the specific dispute before the court and toward the needs and circumstances of the individuals involved in the dispute (Condelli and DeLeon, 2003). Second, therapeutic jurisprudence may be practiced at the organizational level of the court, through special court programs or specialized courts, by "devising new procedures, information systems, and sentencing options and by establishing links to social service providers to promote therapeutic

outcomes” (DeLeon, 1998). A drug court, for example, represents therapeutic jurisprudence on the organizational level; it employs new and innovative procedures, information systems, sentencing options, and partners with several service providers in the community for the individualized benefit of the drug court participants. Lastly, for some areas of law and court policy, the practice of therapeutic jurisprudence principles requires changes to State statutes or to court rules, policies, or procedures that apply across courts including court order, supervision, probation and law enforcement practices.

In this chapter a review of the literature has been presented. Though the overall effectiveness of drug courts is difficult to quantify, due to inconsistencies or misrepresentative data, the evaluations are still seen as beneficial to society. Most of the literature presented focused on the outcomes of drug court participation rather than the process. This thesis focuses on the process and structure of the drug court program to identify the extent to which it promotes rehabilitation by seeking to therapeutically address basic human needs of program participants. The two research questions are as follows: (1) in what ways is therapeutic jurisprudence evidenced in both the structure and practice of the drug court? And (2) in what way is the drug court operating more or less therapeutically than the current written structure (i.e., How does the drug court structure impact therapeutic jurisprudence of the drug court)?

CHAPTER III

METHODOLOGY

Introduction

Though there is evidentiary support for the claim that drug courts reduce recidivism and increase treatment retention, too few drug court program evaluations identify the underlying implicit theories that seek to explain the drug court's effectiveness. This thesis provides a qualitative evaluation to explain the linkages of various mechanisms of the drug court and therapeutic jurisprudence. Because the objectives of a drug court program is to treat the underlying problems of addiction among drug offenders and to eliminate participants' future drug use and crime, particular emphasis is put on both drug court structure and process of program completion (Finn, 2006; Rubin, 2005; Taxman, 2007). Because all drug courts are based on the same core principles this thesis evaluates Payne County Drug Court Inc. on the nationally established 10 Key Components of drug courts through a therapeutic jurisprudential lens.

A form of triangulation which utilizes three methodological techniques (textual analysis, participant observations, and semi-structured interviews) is used in this study to answer the following research questions: (1) in what ways is therapeutic jurisprudence evidenced in both the structure and practice of the drug court? And (2) in what way is the drug court operating more or less therapeutically than the current written structure (i.e., How does the drug court structure impact therapeutic jurisprudence of the drug court)?

Process Evaluation

As the creation of drug courts across the country has steadily increased in the past several years, a corresponding need to evaluate the effectiveness and impact of these programs, particularly with respect to structure and process, has arose. Traditionally, drug court research has incorporated three types of analyses: process evaluation, cost savings analysis, and impact (outcome) evaluations. The most common has been outcome evaluations; these evaluations measure the overall effectiveness of a particular drug court. Process evaluations can be used to give more meaning to the findings of an outcome evaluation. Process evaluations are tools often used by programs for improvement. This type of evaluation examines and describes the drug court as it has actually been implemented, and usually includes basic descriptive information about the participants and program operations (Patton, 2002). By providing a glimpse into the workings of a drug court program, and identifying the extent to which the program is reaching the population it is targeted to serve, process evaluations utilize both form and function. Meaning, the landscape and boundaries of the program are drawn, while the functional use, including intended and unintended uses, are identified. This evaluation is focused on the how and why of drug court activity; it serves as an attempt to describe key indicators,

such as how the drug court program has been implemented, whether it is meeting its operational goals and objectives, the characteristics of offenders who participate, and the services provided.

Process evaluations are descriptive surveys of program and participant characteristics that observe the progression, dynamic nature, and the variety of experience within the operating procedures (Rogers, 2000). The primary purpose of this type of evaluation is to give a “snapshot” of the drug court program and the participants enrolled in the program. Process measures are used to examine issues related to the implementation of the program. More specifically the evaluation determines how well the current written structure of the drug court program aligns with its current operations while gauging the level of therapeutic jurisprudence in both the structure and process of the program. Evaluation research is commonly defined using three important constructs: approach, analysis, and utility (Davidson, 2005). With this set pretext, this particular study evaluates common elements as identified by the National Research Advisory Committee (NRAC), these include: program goals, target population, substance abuse treatment, and court processes. The qualitative methodological techniques of textual analysis, semi-structured interviews, and participant observations are used to address these elements.

Textual Analysis

Textual analysis is a widely used qualitative research technique. Text-based analysis of organizational events provides a means by which empirical filtration and measurement of theoretical constructs can occur (Truex, 1996). This in turn provides a means for examination and comparison of differing frames of reference.

A conventional and a direct approach of analysis were used in this study, this allows for a systematic objective analysis of the text data and one which codes for the observed theoretical framework. Textual analysis was conducted for the purposes of obtaining demographic information regarding program participants and to determine which program requirements were standard for all participants. This provides information about which requirements were ordered based upon individual participant needs. Assignment of participants to the same standardized requirements throughout the program is an indicator of one that is non-individualized and therapeutically deficient. Per suggestion of the interim drug court coordinator, the new employee handbook and policy and procedures manuals were analyzed in order to identify and describe the current written structure of the drug court. These texts proved helpful because they laid out the process and goals of the drug court succinctly.

The documents were coded in terms of structural items, process items, and therapeutic jurisprudence. Structural items included: organizational charts and duties, structural affiliates, optional tracks of drug court progression, and any structural goals. Process items included: the responsibilities and duties of the drug court staff, desired flow of the drug court progression, and the routine of handling procedures separate from addressing the needs of the participants. It also included any administrative goals. Therapeutic items included: duties of the staff that were directed towards addressing the needs of the participants, the routine of handling procedures that address the needs of the participants. It also included any goals of the participants. This information is used in the creation of an accurate logic model based on the written operating procedures of the drug court.

In order to evaluate if the program is operating as planned, a logic model was developed. Davidson (2005) defines a logic model as a “diagram that illustrates the cause-and-effect mechanism(s) by which a program meets (or is supposed to meet) certain needs (or achieve certain effects)” (369). Creating a program theory or logic model provides clarity on which processes and structures are essential to the drug court operations as well as which questions and evaluation strategies would validate the conceptual framework. This logic model identifies the program elements, the immediate outcomes that can be expected, and the ultimate outcomes or overall goals of the program. This logic model has been developed through a therapeutic jurisprudential lens, and serves as how the drug court is supposed to work in theory; this “program theory” is then compared to the practice of the actual drug court through a process called implementation fidelity.

Implementation Fidelity

Implementation fidelity refers to how well a program is implemented in comparison with the original program design (Rogers, 2000). Implementation fidelity has been operationalized in this study to mean faithfulness of drug court to follow the implementation of the program as intended by the program developers and the 10 Key Components. Process fidelity was first formally recognized in the 1970s and observes five components of effective implementation fidelity. The five measurements of implementation fidelity are (1) adherence to the program, (2) dose or exposure, (3) quality of program delivery, (4) participant responsiveness, and (5) program differentiation (Dane & Schneider, 1998). Research indicates a correlation between these five implementation fidelity measures and successful practice, although many studies

assess program outcomes and fail to examine any aspect of implementation (Domitrovich & Greenberg, 2000).

Determining if the program is implemented as designed is critical to the validity of the program evaluation (Durlak, 1998). Meaning, a study cannot make connections between the program and outcomes, or determine how or why the program works, without knowing how well the program was actually conducted. Without knowing if the program is operating as intended both positive and negative results produced from the program cannot be viewed as valid. Program records, primarily new employee handbooks, policy and procedures manuals, and documents in which funds are requested, were gathered to determine the level of implementation fidelity and to assess perceptions of the program. This process was used to determine if the program is being implemented correctly, and if not, it can serve to help identify obstacles to successful implementation and assist the program in overcoming these problems.

This type of evaluation is important for several reasons. This research will enable the program's staff to gain insight into the program. Evaluating how a program meets its stated goals is important to assess the strengths and weaknesses of the program in order to improve the program and its outcomes. With this, program staff will be able to evaluate their progress and modify the program if necessary. Evaluating the program will also allow administrators to make educated decisions about the program and determine if the program is deserving of additional funding, as well as serve as a model for success for other drug courts. This type of evaluation will help program staff identify what they do well, the objectives they are meeting, and what needs to be improved. Advancing the literature on drug courts programs, with particular regard to implementation, will assist in

providing additional resources to this important body of knowledge ultimately aiding in reducing and preventing substance abuse and criminal behavior.

Description of Logic Model

As previously mentioned, a logic model was developed through a therapeutic jurisprudential lens, and for the purposes of this study will serve as the program theory. Chen (2005) explains that one should examine the foundation of the program in question through the lens of existing scientific theory or the stake holder implicit theory. A therapeutically re-conceptualized version of the 10 Key Components of the drug court model will serve as the program elements, which is the largest portion of the logic model. Immediate outcomes are what short-term changes result from the implementation of the program. Intermediate outcomes are what long-term changes result from the implementation of the program. The ultimate outcomes are the specific program goals that the drug court is trying to achieve. Chen (2005) defines goals as an explanation of why a program exists in terms of addressing both problems and unmet needs; they are used to communicate the programs aspiration or purpose. These are all linked to the program elements and evidenced through the logic model. A visual representation of the logic model can be found in figure 1.

Program Elements

The 10 Key Components can be observed and operationalized through a therapeutic lens. What follows is the theoretical rationale behind the development of the program elements of the logic model. The program elements are based off of the NADCP (1997) and the works of Fulton Hora (2002), which deals with breaking down the

components and observing the impetus and essence of each component individually and then as a collective.

Key Component #1 urges that documents in drug treatment courts be collaboratively developed, reviewed, and agreed upon. This helps participants understand exactly what is expected and what constitutes successful completion. Within the legal system, ignorance is not an excuse of the law. However, many defendants often claim a lack of knowledge about the law or rules in place for which they have broken. This component helps the defendant to not only feel informed of the rules, but also to develop the belief, from the very beginning of the program, that the drug court program and staff are not “out to get them”, but rather to help.

Key Component # 2 can be summarized as the prosecution and defense counsel using a non-adversarial approach promote public safety while protecting participants’ due process rights. It has been suggested that the traditional paradigm of the courtroom, which typical presents a win/lose dichotomy based on the merits of the case at hand, can be antitherapeutic. Retribution and/or restitution, often termed justice, are the primary goals of traditional courts; the entire adversarial process is set aside in drug treatment courts, so that the participant’s recovery and law-abiding behavior is the only focus (not the merits of the pending case or even punishment). This represents a therapeutic means of treatment and protection of due process and public safety.

Key Component #3 can be summarized as early identification of eligible participants and prompt placement in the drug court program. There is a considerable body of research that suggest the trauma of an arrest is an opportune time to intervene in a drug user’s life, it is because of this that prompt and swift placement in drug treatment

courts is highly recommended (Hartley, 2001). Even though it may be seen as therapeutic to force the defendant into a plea quickly, given the extremely serious potential penalties in case of failure, this therapeutic goal must take a back seat to a more important principle, long-term recovery. Initiating the defendant into treatment system that they are not prepared to succeed or advance in can be antitherapeutic.

Key Component #4 suggests that drug courts should provide access to a continuum of drug (including alcohol) and related treatment, and rehabilitation services. This holistic approach is an example of a legal rule that is therapeutic. Key component #4 suggests that drug courts should recognize that alcohol and other drug-use-related problems are complex and are influenced by a variety of social and cultural experiences, therefore participants in drug treatment courts are to be offered a continuum of care based on an individualized assessment (NADCP, 1997). In order to properly identify the needs of the defendant interdisciplinary evidence-based research about treatment, such as the latest techniques to address “stimulant abuse,” is used in drug treatment courts (Hora, 2002)

Key Component #5 mandates that abstinence is monitored by frequent alcohol and other drug testing. Urine testing has a therapeutic effect that is two-fold. First, it has the effect of promoting honesty and a frank discourse between the participant and the treatment team, including the judge. In this sense, urine testing is not for the purpose of catching the defendant, but rather for measuring treatment effectiveness, making necessary adjustments, and allowing the defendant to be a responsible and honest advocate for their own recovery. It is with this mindset of promoting honesty that the policy to punish a defendant who is honest about their drug use before urine testing less

harshly than a defendant who lies or tampers with urine testing was constructed. The second therapeutic effect of urine testing comes from positive reinforcement from the drug court staff, including the judge, and the incremental breaking of addiction evidenced by the urine analysis results. Not only does the supervision of the drug court catch participants when they do wrong, it also catches them when they do right.

Key Component #6 states that a coordinated strategy should govern drug court responses to participants' compliance. Cessation of drug use is the ultimate goal of drug court treatment, however courts must recognize that addiction can be a relapsing condition in which continued use is not uncommon. Therapeutic strategies aimed at preventing the return to substance use are employed throughout the term of the program. These include graduated sanctions with increased severity for continued use and increased reward for continued cooperation (NADCP, 1997). The therapeutic balance between punitive measures and program support is important for the participant's recovery.

Key Component #7 highlights the essential role that ongoing judicial interaction with each drug court participant plays in program success. The role of the judge is transformed from a moderator to an active therapeutic agent that promotes healing through the law. In this sense both the judge and the participant experience therapeutic benefits by frequent and ongoing judicial interaction in drug treatment courts.

Key Component #8 notes that monitoring and evaluation measures the achievement of program goals and gauges effectiveness. An assessment of a courts' cultural competence in dealing with that group and the corresponding strive to raise retention appropriate levels is fairly common. Only with rigorous evaluations and

constant assessment can drug treatment courts, be seen as more than just “feel good” experiments (Hora, 2002). This thesis mirrors previous process evaluations in its aim, but extends the body of work by operating through a therapeutic jurisprudence paradigm.

Key Component #9 deals with effective drug court planning, implementation, and operation promoted through continuous interdisciplinary education. Interdisciplinary education has been a key focal point for successful drug court operations since its origin. Because of the unique nature of the drug court judicial education often refers to the entire drug court team, meaning attorneys, probation officers, treatment providers, administrators, and other professionals. Education about addiction theory as well as therapeutic jurisprudence is necessary for a successful drug treatment court operation, as it lays the foundations for therapeutic means of addressing issues involving the rehabilitation of drug court participants.

Key Component #10 involves enhancing participant opportunities and performance through the forging of partnerships between drug courts, public agencies, and community-based organizations. This component is therapeutic because it offers the participants an opportunity to attempt to give back and regain a connection with the community they previously committed a crime against. This process has been shown to generate much local support in that the acceptance of an offender back into the community helps to establish the offender’s identity and social bonds as part of the community rather than a deviant or “other”.

Participant Observation

Participant observation is a qualitative methodological technique that aims to gain a close/intimate familiarity with a given group of individuals and their practices through

an intensive involvement with people in their natural environment (Babbie, 2007). As a participant observer I was granted access into weekly drug court review sessions, group counseling sessions, weekly staff meetings, and case manager meetings. Though access to environments where drug court participants' social interactions, values, and beliefs could readily be observed the focus of the observations were on the drug court staff.

Clearance to shadow the drug court staff in their daily work process was given by the drug court (see figure 2) and found to be a satisfactory form of consent by the Institutional Review Board at Oklahoma State University. Nevertheless, informed consent was still collected from the shadowed staff member (see figure 3). Key Component #1 of the NADCP key components is that the participants take an active role in their recovery process. Overt observations of Payne County Drug Court Inc.'s bi-weekly drug court review sessions, weekly staff meetings, case manager meetings, and group counseling sessions were conducted to determine the extent to which the dialogue exchanged between staff members and participants focus on process-oriented issues (court dates, phase requirements, procedural issues) versus individual human needs (housing, child care, transportation, health care, mental health, relationships issues, etc.). These observations provide information on whether or not basic human needs are being discussed between drug court staff and participants.

Addressing the basic human needs of the participants can be seen as therapeutic, and addressing their needs through the legal structure of the program can be seen as therapeutic jurisprudence. Field notes were used to collect data for the purpose of description and measurement of the process/therapeutic dichotomy. Basic human needs were observed and coded for in accordance with Gill's (1996; 1999) structure of human

needs, which is strongly based off of Maslow's Hierarchy of Needs. The five categories are (1) Basic material goods/services; (2) a sense of security; (3) meaningful human relationships which lead to the development of a positive self-identity; (4) meaningful participation in socially valued productive processes; and (5) self-actualization (Gill, 1996; 1999). These observations are conducted with the hopes that observed interactions will be more therapeutic, focusing on basic human needs, than process or procedurally oriented. Another purpose of these observations is to get first hand experiential knowledge of how the drug court actually operates. See figure 5 for observation protocol.

All observed sessions and meetings were held in the Payne County Drug Court office building, with the exception of the weekly drug court sessions, which were held in Payne County Courthouse. Participant observations provided the strongest qualitative data in regards to the therapeutic nature of the drug court process. The therapeutic aspects of the participant observations are addressed in the subsequent chapter in relation to the therapeutic nature of the court, the case manager, and the discourse.

Semi-structured Interviews

Semi-structured in-depth interviews were used to gain insight and data for this thesis. Semi-structured interviews are interviews that have a formalized, but limited, set of guideline questions which allow freedom and flexibility for the researcher to probe (Chen, 2005). Because of this methodology, I was permitted to follow topical trajectories within the interview conversation to address and identify areas that I had previously overlooked. Following the form of a process evaluation, there was a collaboration between myself, as the principle investigator, and the drug court coordinator in the qualitative subject selection process. The subject selection method falls under purposive

or judgmental sampling. Babbie (2007) defines purposive sampling as a type of nonprobability sampling in which the units to be observed are selected on the basis of the researcher's judgment about which ones will be the most useful or representative. Any individual employed by the observed drug courts with the appropriate job title meets the criteria for selection in this study.

Interviews were requested in person orally, the date and time for the interview fell to the discretion of the interviewee. Though there was no formal script or flyer (aside from the informed consent document) recruited subjects were informed of the benefits of participating in the evaluation and the role that their affiliation with the drug court has was emphasized. They were also notified that though their participation is recommended by the program director it is still completely voluntary. All interviews were held in the drug court treatment center, in either the coordinator or assistant coordinator's office.

Three interviews were conducted with key members of the drug court team including the drug court coordinator, case manager, and clinical counselor. Each interview lasted approximately forty-five minutes to one hour. The interview questions were predominantly fact finding in structure, but also included questions to gauge latent and manifest levels of therapeutic jurisprudence or therapeutic tendencies of the actions of the drug court staff (see figure 6). The interviews were recorded and transcribed. The transcription data was used to identify and describe operation practices as they actually occur. This information was then compared with the textual analysis of the current drug court policy and procedures, and also with the logic model, to distinguish which practices are/are not in accordance with the program structure. Furthermore, with themes of therapeutic jurisprudence, human needs, and process-oriented issues being coded for

within the transcription, this study also identifies the effectiveness of those practices that are outside the written confines of the drug court program.

Semi-structured interviews are useful for this analysis because it provides insight to the actual operation process of the drug court. An ethnographic approach could also provide this information, but for the purposes and time constraints of this particular study, semi-structured interviews are more appropriate. However, because the participant observations occurred concurrently with the semi-structured interviews, I was able to ask ethnographically informed questions in an interview setting.

This chapter has presented the qualitative methodologies that are used in this process evaluation. Observations and interviews were conducted in order to gain a fuller understanding of the actual operating procedures while gauging the existence of therapeutic practice on both a structural and individual level. Textual analysis, resulting in the creation of a therapeutic logic model, is then used to compare the operating process to the written structure of the drug court. The data and analysis are presented in the next chapter.

CHAPTER IV

DATA ANALYSIS & FINDINGS

Introduction

In order to address the research questions: (1) in what ways is therapeutic jurisprudence evidenced in both the structure and process of the drug court? and (2) in what way is the drug court operating in relation to its formally written structure, data were collected from three sources: textual analysis, semi-structured interviews, and participant observations. This chapter begins with program descriptions that summarize the eligibility, phases, and requirements of the Payne County Drug Court Program. A summary of the structure and process of the drug court is presented in regards to immediate, intermediate, and ultimate outcomes in the form of a logic model. Finally, the data that emerged from observations of drug court review sessions, staff meetings, case manager meetings, and group counseling sessions, as well as interviews with key members of the drug court staff are summarized in order to answer the research questions. Discussions of the therapeutic nature of the court, case manager, and discourse of the drug court are also presented.

Program Description: Program Eligibility

The first policy type to be observed is program eligibility. Eligibility requirements should reflect a policy determination by community officials about which population of drug offenders has the best chance for recovery and represents the least risk to public safety (Rempel&Destafano, 2001). Screening defendants to determine eligibility for a drug court program generally includes screening them for legal and clinical eligibility. More inclusive eligibility criteria mean that a greater number of individuals may be eligible to enter the program, which may require more treatment providers at an increased expense to the community.

Program eligibility can be further segmented into two sub-sections, paper eligibility and clinical eligibility. An early stage review of current case information and criminal history is referred to as a paper screen for eligibility (Heck, 2006). It is useful because defendants typically reach drug courts through various points in case processing and through a variety of sources; a paper screen for eligibility provides an easy, efficient, and only mildly intrusive means of validating potential candidates for a clinical assessment and participation in the drug court. What follows is a description of the drug court referral process and the program structure in operation within the Payne County Drug Court Program located in Stillwater, Oklahoma. Eligible participants enter the drug court program in one of four ways: (1) as a diversion participant, (2) as a condition of the original probation sentence, (3) as a condition of a probation violation sentence, or (4) as a condition of release from prison.

This particular drug court was established in the 1990s and the criteria have evolved over time to meet the needs of the local community. The target populations for

the drug court are those that meet several specific criteria. First, the offender can be referred to the program by themselves, defense counsel, judge, arresting officer or district attorney's office, following approval of participation by the district attorney's office. Second, the offender must have committed an offense that relates to substance abuse and either: admit to having, appear to have, or be known to have a substance abuse problem or addiction. Third, an offender cannot have a violent offense that is restricted by the Oklahoma Supreme Court within the past 10 years (any violent offenses restricted by the Supreme Court must be reviewed and approved by the Drug Court team prior to admittance into the program). Persons meeting this requirement are not eligible for this program. Likewise, if either the district attorney's office or the sentencing judge/drug court judge do not approve of the offender, or if the offender is unwilling or unable to voluntarily participate in the program then they may be excluded and declared non-eligible for participation in the drug court program.

Due to the focus of drug courts, it is suggested that this process is not for all individuals charged with criminal activity. The existing restrictions as to who is and is not eligible to participate in the drug court further supports the notion that drug courts are designed for a specific segment of the population. The following is a list of eligibility criteria for the drug court program in respect to charge severity, charge type, criminal history and probation violation. Eligible arraignment charges include: violation, DUI's, non-drug misdemeanor, drug possession felony, and property related crimes. As identified by the interim drug court coordinator, those who are not eligible for the program are those who "need more of a structure or more of a mental health element as the main source of support" which is out of the direct efforts and limits of the drug court.

However the drug court does not exclude individuals with co-occurring disorders, they, as well as offenders with a history of criminal violence and prior felony convictions, are addressed on a case by case basis at the discretion of the drug court team.

Once eligibility is determined, drug court program staff must meet with a potential participant to discuss the program requirements and determine whether they have a substance abuse problem. Since this is a post plea program, a jail or prison alternative is established in advance of participation. Generally the participants' sentences are differed or suspended contingent on completion of the program. The most common jail or prison alternatives are 5, 7, and 10 years although plea types have been known to range up to 20 years suspended. Potential participants acknowledging a substance abuse problem and agreeing to participate in the program enter a guilty plea on the pending charges and are admitted into the drug court program. After a defendant is found "paper eligible" the clinical counselor of the drug court team will conduct a clinical assessment. The usual purpose of screening is to identify cases that warrant more careful evaluation to confirm an implied diagnosis. This drug court utilizes the Substance Abuse Subtle Inventory Screening III (SASSI) and the Addiction Severity Index (ASI) to identify the status of a participant in a pretest/posttest manner, and also to determine the most effective treatment modality. The Substance Abuse Subtle Screening Inventory (SASSI) is constructed to detect substance use disorders with a high degree of validity regardless of respondent honesty or motivation (Rosenberg, 2001). Addiction counselors have commonly reported preferring the SASSI to other screening instruments because of its purported ability to circumvent denial (Hakim, 2003).

Program Description: Phases

Though the program structure is set up to take approximately 12 months, completion of the program typically takes 13 to 16 months. Actual enrollment in the drug court program begins with the offender verbally agreeing to participate in the drug court program. Once a participant has been accepted into the program, they are given and asked to sign a drug court diversion agreement which stated that they would meet the program rules. Such rules included attendance of all program sessions in a punctual manner, to demonstrate non-violent behavior, and to behave in ways that are appropriate. The objective of the rules is for the participants to sustain a treatment environment, to develop socially accepted behavior, and to develop accountability for their actions. The verbal agreement prior to the signing of the Drug Court Diversion Agreement allowed prospective participants an opportunity to agree and be accountable for meeting the program's rules; this served as the first step for the participants in their treatment.

The program consists of five phases. Participants must successfully complete all five phases in order to graduate from the program. After orientation, the signing of their contract, clinical assessment, and hair follicle tests (to establish a comparative level or standard of drug use) participants begin with Phase I of the program, which is a minimum of 12 weeks in length. While in Phase I, drug court participants must do the following: take assessments (Substance Abuse Subtle Screening Inventory³ and the Addiction Severity Index), meet with their assigned case manager on at least a weekly basis, submit to random urine screens at least three times per week, submit to home visits, complete orientation and drug education class, attend at least 12 Alcoholic's Anonymous and/or Narcotic's Anonymous type self-help sessions, and appear in court every week for the court review sessions. Phase I client-participants must also establish a payment plan for

restitution (if applicable) and the Drug Treatment Court fee. In order to transition to Phase II, participants must be alcohol and/or drug free for a minimum of 90 days and have successfully completed the aforementioned requirements of Phase I.

Phase I, Phase II and Phase V are 12 weeks in length while Phase III and Phase IV are 8 weeks in length. The requirements and processes of Phases I through IV are the same, with court attendance being reduced to a biweekly rate, beginning with Phase III. The primary differences between the phases are the group therapy topics and electives that are offered and required. The electives offered include: relapse prevention, healthy family, anger resolution, job readiness, MENS 12 step group, rehabilitation, and living in balance. In essence the description of Phase I describes the processes that occur in Phase II, III, and IV excluding frequency of court appearances and mandatory group counseling sessions.

Phase V is different than the previous phases. In Phase V participants experience a reduction in their case management meetings, drug testing, and court appearances which are reduced to only once a month. Participants join in a 12 week peer ran group rather than picking up another elective or individual counseling. Perhaps the most unique feature is the Phase V project. The project is to be completed by the participant and is designed to help the community in three ways. The Phase V project requires the participants to develop their own project that will 1) be completed to benefit the community, 2) save another non-profit agency money, and 3) benefit an agency or organization that otherwise would not have received assistance. The Phase V project is outcome oriented and draws a distinction between its goals and community service. Previous examples of successful Phase V projects include collaborations with Big

Brothers and Big Sisters of America sponsoring a youth project and youth day in the park with food and games, or collaborations with the local Meals on Wheels program and holding a food drive.

Program Description: Requirements, Sanctions and Rewards

The requirements for each of the five phases are comprehensive in nature and focus on an array of issues (abstinence, employment, education, restitution, treatment etc). Like many others, this drug court utilizes incentives and/or sanctions that increase or decrease the duration of an individual's treatment program to encourage adherence to treatment and court rules. Rewards are established to serve as an incentive to remain abstinent and in compliance with the program requirements, and to tangibly reward participants for a job well done, as opposed to merely saying “good job”. Conversely, sanctions were established to serve as a deterrent from using drugs, violating program requirements, and to reinforce the importance of remaining abstinent and violation free. Jail or prison sanctions are used to remove participants who are using drugs/alcohol from their current environment in hopes that they will be able to “sober up/dry out” during the time confined. Sanctions are also utilized to deter participants from violating program rules. The theory of specific deterrence suggests that a participant will be less likely to commit program violations in the future for fear of being sanctioned again. Moreover, in line with general deterrence, it is believed that having participants witness other participants being sanctioned for program violations will also serve as a deterrent.

Despite this study’s emphasis on therapeutic jurisprudence and rehabilitation within the structure and process of the drug court, there are also clear elements of retribution, deterrence, and incapacitation. Specific program components that exemplify

the elements of retribution, deterrence, and incapacitation include: sending participants to jail for positive, missed, or late urine screens; and assigning community service work hours for being late to a case management and/or treatment appointment. However, all of these actions are intended to support program goals, mainly to get the participant through treatment successfully. Successful completion of the program results in a defendant who will not repeatedly enter and exit the criminal justice system at significant costs to the court system.

Therapeutic Nature of the Court

The extent to which the structure and process of the drug court model served to therapeutically address the needs of the participants is another research question. One method of assessing whether drug courts are therapeutic is to examine the extent to which the structure and process of the program meet the basic human needs of the participants. A summary of the structural and processural components of the drug court program that address the basic human needs of the participants are presented in the following section.

As previously stated the drug court program is a 12 month program (minimum) that is divided into five phases. The requirements for each of the five phases are comprehensive in nature and focus on an array of issues including employment, education, restitution, and treatment. During the term of enrollment participants are supposed to receive from the drug court team members the support, guidance, structure, and encouragement necessary to be successful. The team is also supposed to identify individual needs and ensure that these individuals are referred to appropriate service providers. The 12 month time frame was a minimum and it was openly acknowledged by professional members of the drug court team that the majority of drug court graduates

take typically 13 to 16 months to graduate (this is often times because of financial difficulties rather than performance issues), as this is seen as the minimum amount of time necessary to effect meaningful change in the lives of participants. However, the literature of successful drug courts appears to actually have a lengthened program, typically 20 to 24 months (Marlowe, 2008). The rationale is the belief that the extended period of time provides additional support for participants who have come to rely on the rigidity of the program and the degree of accountability expected of all drug court participants.

As shown in figure 1 and figure 2, the operational structure and process of the drug court followed and expounded upon the written structure of the drug court. The drug courts' implementation of the urine analysis drug tests can be seen as a prime example of this. During the observations and interviews the integrity of the structural component of the urine screen schedule was mentioned or alluded to often. The structure of the urine screen schedule was such that participants "could not get away with old habits" over the course of the program. While they may have been able to get away with using for short periods of time, the likelihood that they will be able to continue to get away with using is diminished significantly by the color system. Drug court participants are assigned one of five colors and are obligated to call a "hotline" telephone number everyday (including holidays) to hear the color of the day. If the color announced corresponds with the color assigned to the drug court participant they have until the close of business that day to report and produce a sample for a drug test. The assignment of colors and the days in which they are announced is completely random. Because of this an individual will not only have to submit samples weekly but also may have to submit urine samples on a daily

basis. Key Component #5 mandates that abstinence is monitored by frequent alcohol and other drug testing; Payne County Drug Court Inc. goes above and beyond the call of this structural component in an individually therapeutic way.

As noted, the practice of therapeutic jurisprudence principles can occur at any point on a continuum that ranges from one judge in one case to an entire State court system. The court process can actually become part of the treatment process in a therapeutic way. This was evidenced through the written structure of the drug court, and furthered by the observed process of the weekly drug court meetings.

Payne County Drug Court's design of the courtroom process itself reinforces the defendant's treatment. The court set up its daily calendar so that "first- time participants appearing in Drug Court are the last items on the session agenda". This gives them an opportunity to see the entire program in action, and know exactly what awaits them when they begin participation. The drug court program ushers graduates first in order to impart a sense of hope to the new and continuing program participants who may experience hopelessness at the beginning of the process. The court may then devote the next portion of the calendar to defendants who enter the court in custody. This procedure is designed to convey to all participants the serious nature of the court and the gravity of the defendant's situation. This demonstrates that a violation of rules may not get a defendant ejected from the program, but the court may use jail time as a form of "smart punishment" to get the defendant to conform to treatment protocol. All of these procedures are founded on the therapeutic ideal that every aspect of a drug court can and should have a powerful impact on the success of the defendant in treatment. The

application is enhanced by a single structure drug court system, such as Payne County Drug Court, which deals with both treatment and supervision.

Single Structure of the Drug Court

The single structure of the drug court system positively effects the drug court operations in several different ways, most notably in terms of monitoring, sanctions/rewards, and immersion for complete treatment. Extensive monitoring creates an environment of perceived detection; judicial responses change participants' perceptions of the costs and benefits of substance abuse; continual positive regard by the drug court team creates an atmosphere of support; group support from community network keeps the participants engaged in the drug court; concepts and tools learned become activated when participants stop using. The structure of the single drug court system promotes accountability on the part of the defendant and the court in trying to combat the defendant's addiction. During the term of enrollment, participants are supposed to receive, from the drug court team members, the support, guidance, structure, and encouragement necessary to be successful. The team is also to identify individual needs and ensure that these individuals were referred to and follow-up with the appropriate service providers. A checklist of the core competencies of both a treatment provider and a community supervision provider was created from previous literature and the written goals of the drug court (see figure 7). The drug court scored 8/8 as a treatment provider and 7/7 as a community supervisor provider on the checklist created for this project. The checklist items observed both functional roles and therapeutic potential.

With a single drug court system this appears to be done more easily because treatment and supervision are both in-house. This affords the drug court team members

the opportunity to develop meaningful invested relationships with the participants, and increases the likelihood of the immersion of the participants in the therapeutic rehabilitative process. The structure of the drug court program is such that participants are heavily enmeshed in the recovery community outside of the drug court as well. This program component was included for the purposes of establishing a larger support system and increasing the resources available to all participants. Another positive result of this component is the establishment of a sense of community among the drug court participants themselves. Perhaps the most significant benefit of a single structure drug court system is the opportunity to have a drug court participant driven treatment regimen as opposed to a program driven one. This allows for more diversity in terms of solving different problems with different solutions.

Payne County Drug Court Inc. provides both treatment and supervision; they work very closely with community and nonprofit organizations in the community to help create and strengthen social bonds outside of the drug court. The arms of the drug court stretch through mental health assistance organizations, like Edwin Fare, employment and vocational staffing/training agencies, and the Department of Corrections to name a few. Participants begin in the Payne County Drug Court Program and if “their needs exceed the courts capabilities to help them” their status is paused and they are transferred to inpatient care. The drug court utilizes all of its resources to find a participant the best and most appropriate inpatient, outpatient, or rehabilitative care available throughout the state. More locally, and in-house, the drug court has partnered with DRS Vocational Rehab to help participants find employment. Employment for drug court participants is a sort of double edged sword, on one hand employers like to hire drug court participants

because they know that they will be drug tested frequently and that their time outside of work is structured, on the other hand other employers immediately say ‘no’, because they do not want that type of person affiliated with their company. Either way, the drug court always has DRS packets on hand, and actively seeks out potential hires, assist them in filling out the packets, and even write letters of recommendation when applicable.

The drug court team is responsible for the operation of the drug court and the facilitation of a sober crime free life; drug court team members are fully committed to the mission of the drug court. They are advocates for effective incentives and sanctions for program compliance and failure, knowledgeable regarding addiction and the differing cultures associated with it, and they maintain and monitor successful daily operations. The team is comprised of a drug court judge, a clinical director, a counselor, an assistant district attorney, an administrative assistance, and an operations/case manager. Although currently there is no formal drug court coordinator, there is a temporary interim drug court coordinator in the position. This evaluation was conducted during this transitional state of the drug court. It appeared that one-on-one case management appointments were the key to meeting participants’ basic human needs. Case management appointments provide an opportunity for the case manager and participants to develop rapport with each other, during which time they discussed any needs/issues that may have arisen and what is going on in their lives.

Therapeutic Nature of the Case Manager

A critical element for the research was the degree to which the structure and process of drug courts meet the basic human needs of participants. There has been a

general consensus that the drug court does meet the basic human needs of the participants. Case manager visits are scheduled on a weekly basis, in Phase I, and are reduced to a bi-weekly occurrence by Phase III. The primary purpose of these meetings are to “checkup” on the participants. The drug court case manager at this particular drug court focuses on the verification of residence, financial stability or progress (including budgets, bill payments, income, and receiving a steady paycheck), pursuing a job or education, and basic human needs. The assessment of the current life conditions and circumstances of the participant is typically conducted through a less formal conversation prior to the assessment of the participants’ court compliance. The case manager reviews attendance and obedience to program requirements, discusses clinical issues and the participants response to the group and individual counseling sessions, and offers the participant the opportunity to express their (dis)satisfaction with the program and reflect on the lessons and skills learned during the previous week.

Most of the case manager meetings began with a very informal conversation. I found the recall of the case manager both interesting and impressive. She would remember goals, relationships, difficulties, struggles, achievements, and other fairly personal details, addressing them with the participants in an informal manner. The conversation and relationship between the drug court participant and the case manager resembles more of a friendship or familial relationship than a court appointed supervisory relationship. This was the case for the majority of case manager meetings observed.

There was a time in almost every meeting where the tone shifted from one full of warmth and care, to one that was direct, cut and dry, and fact oriented. When the case manager asked “have you relapsed since your previous sample” there was no sense of

empathy, but rather an authority that suggested it was better to tell the truth than to lie.

The case manager explained:

“It’s about helping them out. The best way to do that is by finding out what they need, but even more so [it’s] about keeping them honest. These are all good people. But when you are dealing with users [substance abusers] you have to be careful that you don’t become an enabler or become their fix. I mean, our main goal is not to get them clean; it is to help them get themselves clean. When I say ‘fix’ I mean we can’t be so soft or understanding that we become their coping mechanism, or source of validation, when they are not doing what they are supposed to. They need something to make them ‘feel good’, and we will do that – when they do good. If we [make them feel good] when they are in violation of the program then we have become their fix.”

The case manager often makes recommendations to the drug court team and judge about the severity and type of sanction/reward offered. The type of information (and level of detail) collected from the case manager meetings provide the case manager with a unique opportunity to knowledgably and therapeutically detect and address the needs of the participants prior to making recommendations. Particularly during the group counseling sessions, it was readily apparent that the flexibility of the case manager and counselor in allowing the human needs to be part of the discourse was critical to the overall therapeutic nature of the process. Furthermore, per observations, it appeared that the interpersonal skills, personalities, and life experiences of the drug court team appeared to be integral components to the overall operation of the program. It became evident that the level of case manager involvement was not uniform for all drug court

participants. The depth and breadth of involvement varied to correspond with the individual needs of the participants.

“I think there are certain case managers that just deal with the issue of drug and alcohol use and program compliance, and that’s where it stops. But then there are other case managers, like myself, who really try and get involved in every aspect of our clients’ [participants’] lives, every aspect of their recovery, and I think we touch on their individual human needs.”

It is due to personal involved meetings like this that case managers are able to identify variables or techniques that help their participants achieve successes that may often be overlooked. A comment made by the case manager in regards to treatment strategy based off of drug of choice (which is supported in the literature) illustrates the insight gained from the personal interaction between the case manager and the participant.

“The drug of choice, I don’t feel like it’s the core reason they are here. If they do not have the family structure – good, bad, or indifferent, they can’t do it – they can’t do it alone. The staff is only able to do so much due to boundary issues, so they need an outside support structure, which is why we encourage them to [attend] AA and NA so that they can find that support through a sobriety family. Whether my addiction is alcohol or cocaine, that would be more of an individual type or on the treatment side of things, but how they are approached in the program as a whole would be the same. We have found that treatment or at least our underlying form of treatment is used to treat the root of addiction irrespective of the addictive substance, to some degree”.

The drug court case manager also focused on the larger goal of the drug court to stop the revolving door phenomenon, which exists in large part because of the strong correlation between addiction and criminal behavior.

“I don’t know exactly how well we’re doing, although we do evaluate that, but yeah, recidivism has declined. I don’t know how many of the people who graduated from the drug treatment court do not re-offend, by which I mean drink [alcohol] or use [drugs] again. But there is no question that there are other ways in dealing with these folks that drug treatment courts are successful. The revolving of going to prison, coming back out, and committing a crime again [has been reduced]...About the people coming out of prison and the barriers they face, we try to do something to try and help these folks, just in very elemental ways to get them be successful.

Despair perpetuates the addictive cycle. Many participants are convinced they’re going to fail because they have not experienced success ever in their lives or in quite some time. Over the course of their enrollment in drug court, it is believed that the participants begin to develop a sense of responsibility to themselves and others and ownership of their decisions and behaviors through the system of rewards and punishments. This in turn leads to the formation of a new and improved self image for the participants. Part of the case manager’s discussion focused on the drug court process and how the various components help to strengthen participants’ self image. Because recovery is much more involved than just being sober and drug-free, the work of the drug court is much more involved than monitoring participants’ use of substances.

“If I want them to learn something, it can be done through several different ways, and one of our most successful is through other participants in the program sharing. So, I think that’s very key to the part that I do with them. I don’t think you could ever under-estimate the time and importance of our case management sessions, and our work on individual issues. It’s not always the big things; sometimes it’s the little things or even recognition or acknowledgement of their talents and situations by somebody.”

Although the case manager spoke of the drug court process and participants in very individualized terms, she was not completely agreeable with the idea that a goal of the drug court is to meet the basic needs of the participants. She saw the drug court as a sort of hub port or training facility whereby participants can get the tools necessary to meet their own basic needs.

“We obviously address their need to address their substance abuse through all the obvious programs we have. We also address any mental health needs. I will refer someone to a mental health specialist for anything, it doesn’t even have to be related to drug abuse; it could be familial, marital, or anything. We also help people with obtaining jobs, job skills, medical referrals, psychiatric referrals, housing, food, nutrition, clothing, etc.”

Basic human needs can be met without the drug court, and the case manager believes it is not the drug court’s responsibility to meet those needs for the participants. However, because the structure of the drug court does focus on providing the tools needed to meet basic human needs, and because it provides structure and assistance with life situations, the drug court is an excellent place to be while one learns how to meet

their own basic needs. “Facilitating a process whereby clients become self-sustaining and self-sufficient will result in greater success than if clients’ needs are addressed without the client themselves playing an active role in the process.”

Therapeutic Nature of Discourse

The extent to which the discourse exchanged between the members of the drug court team and the drug court participants focused on process oriented issues versus therapeutic or basic human needs has been a central interest to this thesis. I argue that one method of assessing the therapeutic nature of drug courts is to examine the degree to which the discourse exchanged during drug court review sessions, weekly staff meetings, case manager meetings, and group counseling sessions exhibited therapeutic basic human needs language.

During the course of the observations it became evident that the nature of the discourse exchanged between the members of the drug court team and drug court participants was, in large part, determined by the nature of the proceedings. As previously mentioned, five categories were used during the development of field notes and observations, they are as follows: (1) Basic material goods/services; (2) a sense of security; (3) meaningful human relationships which lead to the development of a positive self-identity; (4) meaningful participation in socially valued productive processes; and (5) self-actualization (Gill, 1996; 1999).

Of these five categories, “basic material goods/service” and “meaningful human relationships which lead to the development of a positive self-identity” were the most common basic human needs discussed. These types of discussions occurred more often

by a vast majority and were ever present in both individual and group discourse. Discussions involving basic material goods/services focused on whether or not a participant had adequate food and shelter. When appropriate these discussions resulted in therapeutic ends, with referrals to the food pantry or other local service providers for assistance; likewise, those in need of shelter were often referred to the local shelter or organizations that provide emergency housing.

In terms of “a sense of security”, this need was typically addressed more through interaction than through specific dialogue. When being introduced to the drug court class as a researcher evaluating the drug court and its staff, immediately the participants would begin presenting the accolades of the counselor in the room. The overwhelming, though somewhat underlying, consensus was the belief that the counselor and drug court cared about each participant individually as a person. More than one participant mentioned their distrust for those within the criminal justice system, as well as the people who comprise the system, but they also mentioned how they trusted their case manager, counselor, and judge and how they trusted the program that they are in.

Establishing a level of trust allows for more therapeutic discourse to occur because of the increased level of comfortability and confidence. For participants who have not developed an established level of trust, the discourse is often focused on surface issues such as employment, childcare, and education. However, for those participants who do exhibit a level of trust, discourse is tailored to their needs and life situations which significantly enhances the therapeutic effectiveness of the court. Ensuring that clients are physically safe is another way by which the drug court can meet the basic human needs of the participants. The importance of participants’ physical safety was

exemplified when a female participant expressed concerns about her safety at home and in her neighborhood, the drug court notified the drug court police liaison who took special care to ensure her safety; once the appearance of a threat was determined by the police officer the participant and the case manager filled out the necessary restraining order paperwork to ensure her safety. The “discourse on meaningful human relationships which lead to the development of a positive self-identity” often times involved female participants and focused on a negative relationship with a significant other or an immediate family member.

In terms of developing a positive self-identity, the discourse focused on the role that low self-esteem plays in the cycle of addiction and the recovery process. These types of discussions were observed most often in the Phase I group counseling course, however, the importance of a positive self-identity was often addressed through both dialogue and action. It was remarkable to see the regularity of sincere compliments given by the drug court staff to the participants for a job well done, any form of improvement, or even in regards to non-drug court related issues like a nice haircut or smile.

Though discussion regarding “meaningful participation in socially valued productive processes” were lacking, when they did occur it was often times in the context of meeting program requirements (obtaining employment, successfully completing educational programs, etc.). Also, on occasion participants would generate conversation on socially productive processes, such as voting or attending civic events, and these conversations would then be facilitated by the staff member, though the staff member was not the one to introduce the topic.

In terms of self-actualization as a basic human need, there is an implicit discussion of this during the graduation ceremonies. Though this need was often addressed through the process of the drug court, it was also accounted for in the structure of the drug court. Through the structure and requirements for graduation participants must meet their basic needs to be successful. When they meet their own needs, or achieve program standards, drug court participants are individually acknowledged or rewarded in line with the written formal structure of the program.

Although rewards are often given on an individually relevant and therapeutic basis there is a formal structure or guidance. Verbal praise from the drug court team is a constant and although there is no formal recognition for 30 days clean and sober, there is formal recognition of a 90 days sober, completion of each phase, completion of Phase V clean, graduation of the program. Tangible rewards include phase completion certificates, actual graduation certificate, sobriety coin, gift cards to local stores, a 4x6 graduation card received in the courtroom in front of and by the judge so that it has more meaning, free T-Shirt, completion card, and the stay of either court costs or program operating costs. Select members of the drug court team are working on formal rewards for more positive events including finding employment, and the birth of a drug free baby, and educational achievements. The case manager is also working on getting graduation caps and gowns, because “this is the first time many of the participants have ever graduated anything”. The process of meeting one’s basic human needs and the achievement of this goal eventually leads to self-actualization.

Logic Model

Based on the observations, interviews, and textual analysis it can be concluded that although Payne County Drug Court was designed with a significant portion of therapeutic jurisprudence it appears that the drug court is operating in an even more therapeutic fashion than designed. Figure 1 shows a logic model which denotes the program theory and outcomes that are achieved through the structure and actual program operations. It presents the different ways therapeutic jurisprudence is evidenced in both the structure and practice of the drug court, and highlights different ways the drug court is operating more and less therapeutically than designed. In theory, the program elements should be addressed and outcomes achieved through both structure and process. An emphasis on process demonstrates behavior that is more therapeutic than the written structure of the drug court, while emphasis on structure demonstrates behavior that does not exceed the therapeutic written structure of the drug court, and can therefore be recognized for its underutilized therapeutic potential.

Figure 1.

Program Elements	Immediate Outcomes	Intermediate Outcomes	Ultimate Outcomes
Integration of alcohol/drug treatment services with criminal justice case management	Abstinence from drug/alcohol use	Increased participation within and attachment to the community	Decrease the burden drug/alcohol cases have on the justice system
Change in roles of key drug treatment court program participants	Greater access to drug/alcohol treatment services (NA/AA, individual/group counseling)	Decreased likelihood participants will recidivate	Rehabilitation of participants through behavior modification and cognitive reconstructing
Establishing collaborative linkages between criminal justice agencies and other social service agencies	Increased monitoring of participant's daily activities	Long term abstinence from drug/alcohol use	Decrease in long term costs incurred by the justice system and local community
Frequent alcohol/drug testing	Increased likelihood of participants obtaining employment and/or education	Increased likelihood participants will be self-sufficient (securing stable housing and employment)	Establishment of strong partnerships between justice system and local community agencies
Early identification of eligible participants	Attention focused on individual participant needs through the development of individualized treatment plans	Decrease in costs incurred by the justice system and local community	Establishment of a program that addresses individual participant needs
Utilization of graduated rewards and sanctions	Decreased likelihood participants will engage in criminal activity	Increase in knowledge regarding drug/alcohol dependency	Decrease the likelihood participants will recidivate
Direct supervision of participants by the presiding judge	Reduction in the burden drug/alcohol cases place on the criminal justice system	Meeting individual participants needs	Long term abstinence from drug/alcohol use
Personnel engage in continuing interdisciplinary education	Facilitate participants taking responsibility for their behavior		
Actively engage in evaluation efforts that focus on program effectiveness	Participants actively engage in recovery process		
Establish partnerships between the criminal justice system and local community agencies	Reduction in costs associated with processing drug/alcohol cases		
	Establishment of a less adversarial court process		

□ Process and structure

■ Predominantly process

□ Predominantly structure

Adherence to the program, dose or exposure, and quality of program delivery (see figure 1) were measurements utilized in the development of this model. An important caveat to this diagram is that it does not show the degree to which program theory or program processes combine to achieve a goal. Immediate outcomes such as “facilitate participants taking responsibility for their behavior”; intermediate outcomes such as “increased participation within and attachment to the community”; and ultimate outcomes such as “rehabilitation of participants through behavior modification and cognitive reconstructing” appear to be addressed uniformly through process and structure in the diagram, but that is not truly representative of the balance between the two. For example, the immediate outcome of “facilitate participants taking responsibility for their behavior” is satisfied by the structure of the rewards and sanctions of the program. However, within the structure, the degree to which the participants are encouraged to “open up”, “share”, and “be honest” in the court review sessions, group counseling sessions, individual case manager meetings, and even drug urinalysis tests goes above and beyond the call presented through the structure.

The data collected through textual analysis and participant observations suggests that although the drug court structure is therapeutically grounded it is the operating processes, facilitated by the drug court team, that most meaningfully implements therapeutic jurisprudence. Below is an approximation which deconstructs the degree to which outcomes attributed to a combination of process and structure can be observed individually and respectively.

Figure 2.

Immediate Outcomes	Intermediate Outcomes	Ultimate Outcomes
Greater access to drug/alcohol treatment services (NA/AA, individual/group counseling)	Increased participation within and attachment to the community	Rehabilitation of participants through behavior modification and cognitive reconstructing
Facilitate participants taking responsibility for their behavior	Decreased likelihood participants will recidivate	Establishment of strong partnerships between justice system and local community agencies
	Long term abstinence from drug/alcohol use	Establishment of a program that addresses individual participant needs
	Meeting individual participants needs	Decrease the likelihood participants will recidivate
		Long term abstinence from drug/alcohol use

Process and structure
 Predominantly process
 Predominantly structure

This model, and the previously addressed data, show support for the prevalence of process over structure in the achievement of outcomes. I argue that the effects of the processual extensions can be deemed as more significant or more meaningful to achieving the goal than the structural foundation it emerges from. Therapeutic jurisprudence is evidenced through both program structure and daily operations. The model demonstrates the structural integrity of the program, and deviations from the written structure predominantly favor further therapeutic ends, evidenced by the process. The drug court process promoted the rehabilitative ideal by seeking to address the basic human needs of participants. The drug court model seeks to embody the principles of rehabilitation both in terms of process and outcome. This is in large part due to the single system of the drug court. Nevertheless, as is the case for every observed area of this

evaluation, therapeutic jurisprudence is existent in the structure but extended through the process.

CHAPTER V

CONCLUSIONS

Introduction

The case study methodology chosen for this research allows one to draw conclusions and assess the degree to which this particular drug court program utilizes therapeutic jurisprudence. This thesis provides a more complete understanding of the therapeutic structure and process of the drug court. These conclusions and assessments are based upon the information collected from interviews, participant observations, and textual analysis. These findings can be utilized as a frame of reference or measuring tool for other drug court evaluations, but perhaps more importantly; these findings create the framework necessary to meaningfully evaluate the outcomes and effectiveness of Payne County Drug Court Inc.

The problem of drugs and crime continues to plague our society despite two decades of increased law enforcement and harsher mandatory sentences for drug offenders. Many diversion programs and special courts, like drug courts, have been found to be effective in their respective communities. With regards to drug courts, the needs of the community shape the final composition and efforts, it is for this reason that drug courts are not a mirror image of one another, but vary from jurisdiction to jurisdiction.

While the case study methodology chosen for this research does not allow for a generalization of the findings to all drug courts, it does allow one to draw conclusions and assess the degree to which the drug court program utilizes therapeutic jurisprudence. With the overall goals and objectives of the drug court program being to affect future crime by reducing recidivism and preparing its participants for a drug-free/crime-free life, this thesis project observes the process in which a particular drug court achieves this goal, rather than the rate at which the objective is met. This research operates as more of a process evaluation than an outcome evaluation.

Although the drug court program has the opportunity and potential to significantly influence participants' behavior, it is not possible to accurately evaluate the program's effectiveness without observing how the program is actually implemented and operating. For this reason the importance of continually evaluating and improving the implementation process of drug courts cannot be overstated. The purpose of this thesis research was to observe the existence and utilization of therapeutic jurisprudence in both the structure and the process of Payne County Drug Court Inc. Therefore, a qualitative approach was used because qualitative research attempts to explore program issues in

depth; it identifies what in a program theory works and studies the structures and processes that support the program theory.

While the vast majority of previous evaluation research is outcome oriented, focusing on either recidivism rates or cost efficiency, this research addresses an understudied dynamic by therapeutically observing the process and structure in which drug courts therapeutically operate. Conducting an evaluation on the actual outcomes of the drug courts without considering the process is typically referred to as a “black box evaluation” and is a noted shortcoming in the existent literature. This type of evaluation mostly focuses on the inputs and outcomes of an organization or program without trying to understand the mechanisms which lead to the outcomes (Rogers, 2000).

Whereas a “black box” evaluation accomplishes accountability requirements, this evaluation focusing on therapeutic jurisprudence explains drug court’s performance in light of its transformative processes and structures. According to Davidson (2005), it is essential to have “a program theory to unearth impediments in the causal mechanisms and determine that which is ‘working’ or ‘what is not working’ at a marginal level in order to facilitate a program’s targeted outcomes”. The main problem arises because black box evaluations neither consider the context of the program, which is how the program is designed, nor how the program is implemented; yet both the context and its implementation contribute to the end result. While maintaining an emphasis on therapeutic jurisprudence, this research seeks to serve as a bridge between the gaps of design, implementation, and outcome.

Therapeutic jurisprudence is a theoretical approach to criminal justice, with the underlying premise being that a legal rule (or drug court process) can and should be studied to determine whether or not it is benefiting the target population. Therapeutic jurisprudence takes seriously the role that processes play in outcomes and acknowledges the fact that processes can both positively and negatively impact the target population. Processes that negatively impact the target population are labeled as problematic and are sought to be modified. This is the foundation on which this program evaluation was conducted to address the black box and seek a better understanding of the structure and process of Payne County Drug Court.

After identifying the intent of the program and the principles of therapeutic jurisprudence it is evident that the structure and process in place uphold the original integrity of the drug court model. In speaking with the team members their understanding of the philosophy of therapeutic jurisprudence is evidenced by their approach to their daily tasks. If the team does not accept and/or operate in accordance with this philosophy, the integrity of the program will be jeopardized. This mindset, which dictates actions, allows for a member of the drug court team to be added or subtracted from the team without a significant shift in therapeutic effectiveness. It is because of this that the lack of a formal drug court coordinator was not deemed as a significant detriment to the success of the program.

The drug court staff is well qualified and quite capable of successfully managing their responsibilities. With combined decades of experience, numerous certificates and licenses, and degrees ranging from a masters in social work to a masters in clinical psychology, the staff's professional qualifications are substantial and their ability to meet

the needs of the participants are unquestionable. Though the drug court population faces severe and complicated problems beyond addiction (such as homelessness, unemployment, and low levels of educational achievement) the structure of the drug court accounts for these challenges through the breadth of its services. Drug courts are typically embedded in a network of community services to which they refer their clients. The effectiveness of the drug court program depends in part on the effectiveness of the services provided to the drug court participants. Payne County Drug Court Inc. is very well connected to resources both inside and outside of Payne County, which they make readily available to the drug court participants. However, all of the drug court team members, and many of the participants themselves, recognize that that participants “have to be ready to change” their lifestyle, thought processes, and actions in order to be successful. Regardless of what treatment is available if an attitude or willingness to change is not existent then failure is inevitable. It could increase efficiency and benefit morale of the drug court staff and participants if the drug court screening process was altered to screen for prospective participants who are ready to change.

RECCOMENDATIONS

Another recommendation can be made in regards to the discourse that occurs in the courtroom. When participants addressed the court and/or their peers they were able to articulate their thoughts, ideas, feelings, and experiences in very powerful ways.

Unfortunately, the opportunity to speak came at the very end of the process unless instructed by the judge to address the court at an earlier time. Hearing them speak about their experiences, life situations, thought patterns, struggles, successes, and dreams for the future was a truly humbling experience. It can be argued that having participants

address the drug court team and their peers more often would be an excellent way to develop a sense of community and accountability within the structure and process of the drug court. The emphasis on involving all professional and non-professional members of the court team in the drug court process embodies the notion of rehabilitation and therapeutic jurisprudence. Encouraging participants to work together and serve as resources for one another is something that is not found in the traditional criminal justice system, it embodies the therapeutic jurisprudential ideal through both what is done and how it is done.

A last recommendation is in regards to the Substance Abuse Subtle Screening Inventory (SASSI). The SASSI is constructed to detect substance use disorders with a high degree of validity; however, there is no independent empirical evidence that the SASSI is more sensitive, accurate, or less susceptible to falsification in screening for substance abuse disorders than simpler direct scales available in the public domain. No study has managed either to replicate the high sensitivity rates reported in the SASSI test manuals, or to demonstrate a unique additive contribution to accuracy from the SASSI indirect scales (Myerholtz and Rosenberg, 2007). It would therefore be cost-effective to use public domain screening instruments which are available free of charge and perform as well as the SASSI (Rosenberg, 2001). Ashman et al (2008) found that the brief MAST had higher accuracy, sensitivity and specificity than the SASSI in detecting lifetime diagnosis of SUD. The AUDIT was specifically developed and has been shown to be impervious to national differences, whereas independent studies suggest an over classification bias for the SASSI when used with ethnic minorities.

LIMITATIONS

As is the case with any research study there are several limitations that are pertinent to note. First, this research is a case study of one drug court program in a medium-sized Midwestern city. Consequently, these findings cannot be generalized to the larger population of adult drug court programs in the United States. Secondly, the magnitude of this project was affected directly by the time allotted for its completion. A grounded approach was used in the development of the methodology and to determine the scope of the project. Because of the time restrictions and resources available certain aspects of the drug court were not observed and certain methodologies were not used. Perhaps the most obvious under-emphasized and under-observed aspect of this study is the role of the judge.

The role of the judge has been identified as one of the most integral parts of a successful drug court; however, because of limited access, direct interviews with the judge were not possible. This can be seen as a serious limitation of the study. Interviews were conducted with the drug court team members that spend the most time with the participants. With the focus of this study being on therapeutic jurisprudence through structure and not on how successful is the drug court program and why, the judge's lack of input is not nearly as damaging as it would be in other outcome oriented studies.

Likewise, a more sound approach to identifying the perceived effectiveness of the drug court is to speak directly with the drug court participants themselves. Surveys and focus groups are two methods that could incorporate the meaningful voices of the participants into this study. A first-hand account of how participants believe their individual needs are being met and how therapeutic they believe the drug court is

operating would serve as an invaluable source of knowledge and data for the project; it would provide the voice of the drug court. Similarly, the incorporation and utilization of drug court participants in evaluating a program in which they are involved can be seen as therapeutic. Being provided the opportunity to critique and assess the structure and process of the drug court could not only provide a sense of inclusion for the participants, but increase their solidarity with the program and staff as well as their self worth, knowing their opinion is meaningful and has the potential to affect the program. Most importantly, the insight and recommendations that come from the drug court participants could potentially be more specific and direct, since they are coming from in-house as opposed to a third party evaluator, and therefore carry more weight.

Another necessary caveat deals with the responsibility of the researcher to account for their position within the research and the potential impact that it could have on the process as a whole. Despite the fact that the researcher either introduced himself or was introduced by a member of the drug court team before each interaction, it is possible that participants may have viewed the researcher as an outsider and therefore proceeded with caution when interacting with and around him. Though for the purposes of this research direct interaction with the participants was not of particular emphasis, it is a notable caveat that could have affected areas such as group counseling and individual counseling sessions. Although there is no suspicion that participants were overtly dishonest, there may be a degree of distrust, leading to the omission or skewing of details, because of the presence of a researcher.

CONCLUSION

Overall, this study finds in an effort to maximize the potential for a drug-addicted offender's recovery, drug courts use therapeutic jurisprudence in their internal structure, processes, and procedures to support the treatment regime of the offenders in their program. This research suggests that much of the success of a drug court can be attributed to appropriate (therapeutic) implementation practices. It also reinforces prior findings on implementation research and can be seen as a useful guideline for practitioners implementing a newly developed drug court or for the evaluation of therapeutic jurisprudence in an existing drug court. The more that is learned from process evaluations like this, the more practitioners will be able to improve the overall state of drug court program implementation.

This type of evaluation will also be useful in closing any disparity between a programs potential and the actual outcome. Accounting for these crucial findings could mean the difference between success and failure, or a law abiding citizen and a criminal. Patton (2006) states that “the principal purpose of evaluation is to produce information that can guide decisions concerning the adoption or modification of a program”. With the rapid spread of drug courts throughout the nation and their success, significant support for the applicability and effectiveness of drug courts exists. This thesis can be utilized as a frame of reference or measuring tool for other drug court evaluations. It also provides the necessary foundation to meaningfully evaluate the outcomes and effectiveness of Payne County Drug Court Inc. Many variables factor into the drug court experience and it is unclear which ones or combination of variables leads to successful and effective drug

court. Therefore, future research should address the limited awareness of why drug court programs work.

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APPENDICES

Figure 1.

Program Elements	Immediate Outcomes	Intermediate Outcomes	Ultimate Outcomes
Integration of alcohol/drug treatment services with criminal justice case management	Abstinence from drug/alcohol use	Increased participation within and attachment to the community	Decrease the burden drug/alcohol cases have on the justice system
Change in roles of key drug treatment court program participants	Greater access to drug/alcohol treatment services (NA/AA, individual/group counseling)		
Establishing collaborative linkages between criminal justice agencies and other social service agencies	Increased monitoring of participant's daily activities	Decreased likelihood participants will recidivate	Rehabilitation of participants through behavior modification and cognitive reconstructing
	Increased likelihood of participants obtaining employment and/or education	Long term abstinence from drug/alcohol use	
Frequent alcohol/drug testing	Attention focused on individual participant needs through the development of individualized treatment plans	Increased likelihood participants will be self-sufficient (securing stable housing and employment)	Decrease in long term costs incurred by the justice system and local community
Early identification of eligible participants	Decreased likelihood participants will engage in criminal activity	Decrease in costs incurred by the justice system and local community	
Utilization of graduated rewards and sanctions	Reduction in the burden drug/alcohol cases place on the criminal justice system	Increase in knowledge regarding drug/alcohol dependency	Establishment of strong partnerships between justice system and local community agencies
Direct supervision of participants by the presiding judge	Facilitate participants taking responsibility for their behavior		
Personnel engage in continuing interdisciplinary education	Participants actively engage in recovery process	Meeting individual participants needs	Establishment of a program that addresses individual participant needs
Actively engage in evaluation efforts that focus on program effectiveness	Reduction in costs associated with processing drug/alcohol cases		
Establish partnerships between the criminal justice system and local community agencies	Reduction in costs associated with processing drug/alcohol cases	Meeting individual participants needs	Decrease the likelihood participants will recidivate
	Establishment of a less adversarial court process		
			Long term abstinence from drug/alcohol use

■ Process and structure

■ Predominantly process

■ Predominantly structure

Figure 2.

Immediate Outcomes	Intermediate Outcomes	Ultimate Outcomes
Greater access to drug/alcohol treatment services (NA/AA, individual/group counseling)	Increased participation within and attachment to the community	Rehabilitation of participants through behavior modification and cognitive reconstructing
Facilitate participants taking responsibility for their behavior	Decreased likelihood participants will recidivate	Establishment of strong partnerships between justice system and local community agencies
	Long term abstinence from drug/alcohol use	Establishment of a program that addresses individual participant needs
	Meeting individual participants needs	Decrease the likelihood participants will recidivate
		Long term abstinence from drug/alcohol use

Process and structure
 Predominantly process
 Predominantly structure

Figure 3.

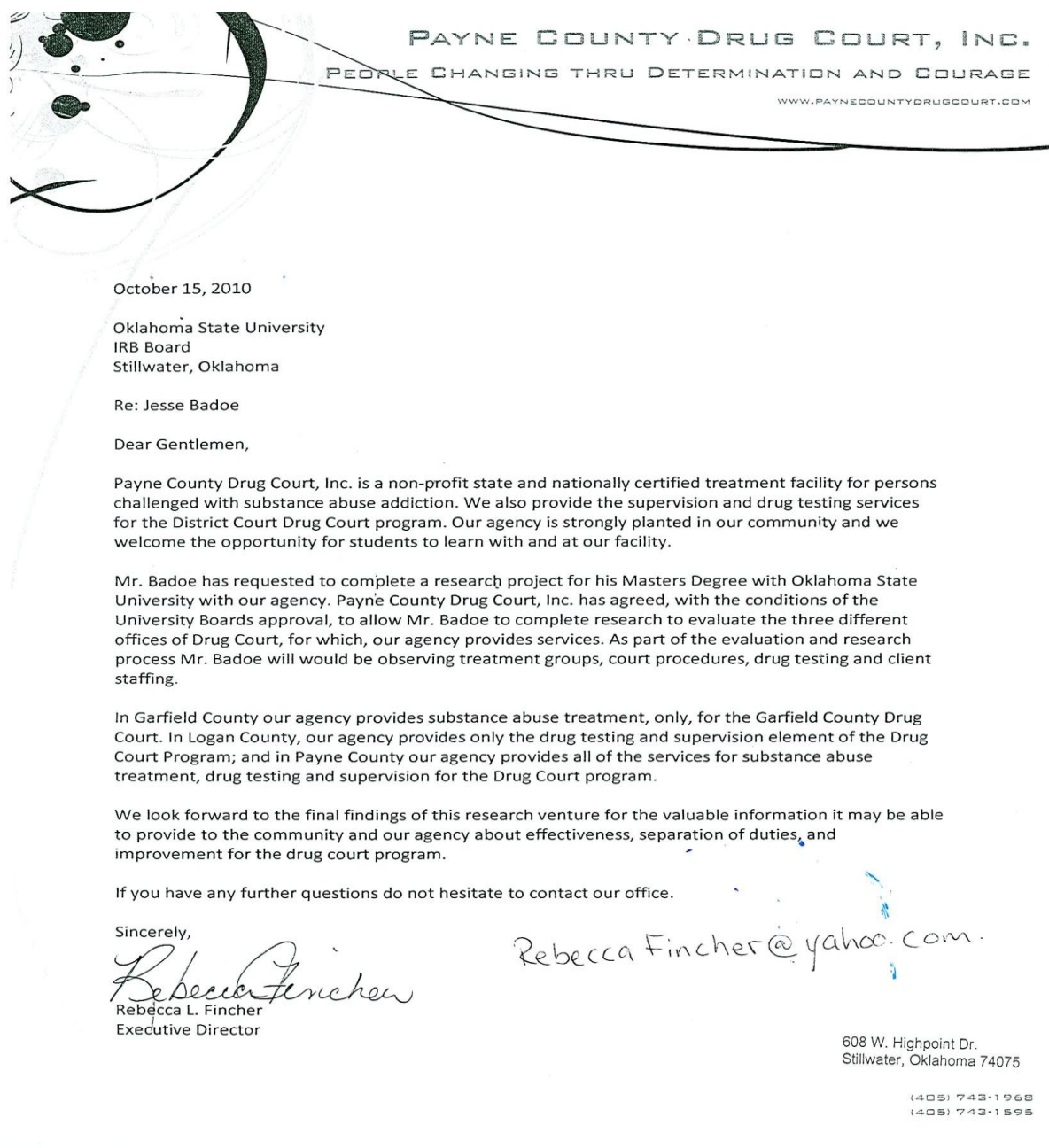


Figure 4.

Oklahoma State University Institutional Review Board

Date: Monday, November 01, 2010
 IRB Application No AS10100
 Proposal Title: The Oklahoma Payne County Drug Court Evaluation

Reviewed and Processed as: Expedited

Status Recommended by Reviewer(s): Approved Protocol Expires: 10/31/2011

Principal Investigator(s):

Jesse Badoe 4614 E. 143rd St. Bixby, OK 74008	Duane A. Gill 431 Murray Stillwater, OK 74078
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The IRB application referenced above has been approved. It is the judgment of the reviewers that the rights and welfare of individuals who may be asked to participate in this study will be respected, and that the research will be conducted in a manner consistent with the IRB requirements as outlined in section 45 CFR 46.

The final versions of any printed recruitment, consent and assent documents bearing the IRB approval stamp are attached to this letter. These are the versions that must be used during the study.

As Principal Investigator, it is your responsibility to do the following:

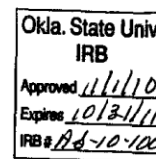
1. Conduct this study exactly as it has been approved. Any modifications to the research protocol must be submitted with the appropriate signatures for IRB approval.
2. Submit a request for continuation if the study extends beyond the approval period of one calendar year. This continuation must receive IRB review and approval before the research can continue.
3. Report any adverse events to the IRB Chair promptly. Adverse events are those which are unanticipated and impact the subjects during the course of this research; and
4. Notify the IRB office in writing when your research project is complete.

Please note that approved protocols are subject to monitoring by the IRB and that the IRB office has the authority to inspect research records associated with this protocol at any time. If you have questions about the IRB procedures or need any assistance from the Board, please contact Beth McTernan in 219 Cordell North (phone: 405-744-5700, beth.mcternan@okstate.edu).

Sincerely,



Shelia Kennison, Chair
 Institutional Review Board



INFORMED CONSENT DOCUMENT

Project Title: **Evaluation of a Midwestern County Drug Court**

Principal Investigator: **Jesse Badoe** **Oklahoma State University**
Masters in Sociology

Advisor: **Duane Gill** **Oklahoma State University**
Professor and Head of Sociology

WHAT IS THE PURPOSE OF THIS STUDY?

This report will analyze and evaluate the impact of three drug courts in order to address the difference that The Oklahoma Payne County Drug Court has made and could make in individual lives and the community, thus answering the research questions: How successful is The Oklahoma Payne County Drug Court? And why is it so successful?

WHAT IS THE PURPOSE OF THIS FORM?

This consent form gives you the information you will need to help you decide whether to be in the study or not. Please read the form carefully. You may ask any questions about the research, the possible risks and benefits, your rights as a volunteer, and anything else that is not clear. When all of your questions have been answered, you can decide if you want to be in this study or not.

WHY AM I BEING INVITED TO TAKE PART IN THIS STUDY?

You are being invited to take part in this study because you have been identified as part of the Payne County, Garfield County, or Logan County Drug Court Team and Staff.

WHAT WILL HAPPEN DURING THIS STUDY AND HOW LONG WILL IT TAKE?

You will be asked a series of interview questions about your role and responsibilities in the drug court. Select participants will be asked hypothetical scenario questions. You are not obligated to answer any question and have the freedom to end the interview at any time of your choosing. If you agree to take part in this study, and do so completely, your involvement will last for approximately 45 minutes. If you are a participant holding the titles of drug court coordinator, drug court director, judge, or attorney, your interview may be recorded with your full knowledge and consent. The recorded information will be transcribed by the principal investigator within 14 days of the interview, and the recordings will be destroyed immediately after they are transcribed.

WHAT ARE THE RISKS OF THIS STUDY?

There are no known risks associated with this project which are greater than those ordinarily encountered in daily life.

WHAT ARE THE BENEFITS OF THIS STUDY?

Through this research, participating individuals may gain personal insight into the significance and impact of their daily work efforts in the lives of both individuals and society. By detailing the design and processes of specific Oklahoma Drug Courts, while measuring their efficiency and effectiveness, a more comprehensive understanding of successful (and not successful) treatment techniques can be reached. With this understanding, strategies and conditions can be positively manipulated to make attempts more likely to be successful, thus breaking the cycle of addiction, crime, and repeat incarceration. The benefits of this research have the opportunity to extend outside of the specific Oklahoma drug courts studied, having a more national effect.

WILL I BE PAID FOR PARTICIPATING?

You will not be paid for being in this research study.

WHO WILL SEE THE INFORMATION I GIVE?

The information you provide during this research study will be kept confidential to the extent permitted by law. To help protect your confidentiality, identification code numbers will be used on data forms. The coded data will be kept in a password-protected computer file, and stored in a locked filing cabinet.

This study is not completely confidential if published; however, if the results of this project are published your identity will not be made public. All information discussed in relation to this study will be done in aggregate; only the principal investigator and the advisor will have access to any identifying information.

DO I HAVE A CHOICE TO BE IN THE STUDY?

If you decide to take part in the study, it should be because you really want to volunteer. You will not lose any benefits or rights you would normally have if you choose not to volunteer. You can stop at any time during the study and still keep the benefits and rights you had before volunteering.

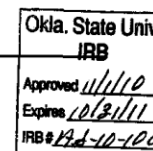
You will not be treated differently if you decide to stop taking part in the study.

WHAT IF I HAVE QUESTIONS?

If you have questions about the research study itself, you may contact the principal investigator, Jesse Badoe at (918)853-2083 or jesse.badoe@okstate.edu or the research advisor, Dr. Duane Gill at 405-744-6104 or duane.gill@okstate.edu.

If you have questions about your rights as a research volunteer, you may contact the Oklahoma State University Institutional Review Board (IRB) Chair

Dr. Shelia Kennison,
219 Cordell North,
Stillwater, OK
74078, 405-744-3377
or irb@okstate.edu



Your signature indicates that this research study has been explained to you, that your questions have been answered, and that you agree to take part in this study. You will receive a copy of this form.

I have read and fully understand the consent form. I sign it freely and voluntarily. A copy of this form has been given to me.

Participant's Name (printed): _____

Signature of Participant

Date

I certify that I have personally explained this document before requesting that the participant sign it.

Signature of Researcher

Date

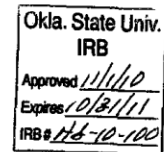


Figure 5.

Observational Protocol

Event:	
Observer:	Time:
Length of the activity:	Time of write up:
<p>Key components (National Association of Drug Court Professionals, Drug Court Standards Committee, January 1997)</p> <ol style="list-style-type: none"> 1. Integration of AOD treatment with judicial case processing 2. Insuring non-adversarial approach while protect due process rights 3. Early identification and placement 4. Access to the continuum of treatment and service 5. Abstinence monitoring 6. Coordinated strategy responsive to compliance 7. Ongoing judicial interaction 8. Monitoring and evaluation of courts' goals and effectiveness 9. Interdisciplinary education in planning, implementation and operations 10. Build partnership and networks across service delivery community 	<p>Logic Model (Taylor-Powell, 1996)</p> <ol style="list-style-type: none"> 1. Situation 2. Priorities 3. Inputs(stakeholders investments) 4. Activities(What is done) 5. Participation (Who is reached) 6. Outcomes: <ol style="list-style-type: none"> a. Short term (Learning) b. Medium term (Actions) c. Impact (Conditions) 7. Assumptions 8. External Factors
Descriptive Notes (Observation)	Reflective Notes (Observer's Comments)

Figure 6.

Drug Court Surveys

A) Arraignment Charges and Criminal History

1. *Eligible arraignment charges:*

Please check all eligible arraignment charges.

- Violation
 - DWI or DUI
 - Non-drug misdemeanor
 - Drug possession misdemeanor
 - Drug possession felony
 - Drug sales felony
 - Property-related
 - Other (please specify each type)
- 2. Are defendants ever eligible *strictly* as a result of a probation violation?
If yes, can probation violators be eligible due to a *technical violation, new arrest, or either* one?
- 3. Are defendants eligible if they have one or more prior felony convictions?
- 4. Are defendants eligible if they have a history of criminal violence?
If no, how does your court define a history of violence? (E.g., Does your court only exclude prior violent felony convictions, or does your court exclude select violent misdemeanor charges as well?)
- 5. Are there other eligibility limitations based on charge or criminal history (e.g., arraignment on an “A” felony)?

B) Other Participation Requirements

1. Which of the following additional reasons might preclude formal drug court participation?
 - No discernible drug addiction
 - Defendant deemed to lack sufficient motivation or lack treatment readiness
 - Defendant deemed to lack sufficient community ties or other social assets
 - Defendant refuses to participate
 - D.A.’s discretion due to suspected major drug trafficking
 - D.A.’s discretion due to suspected high “flight risk” defendant
 - D.A.’s discretion due to weak criminal case (e.g., not jail-bound)

Medical or mental health reasons
Other (please specify each reason)

2. *Discernible addiction criteria:*

- a. Which of the following factors influence the determination of whether defendants have a discernible drug addiction?
 - Drug test results
 - Reported drug use history
 - Reported drug treatment history
 - Professional judgment of person conducting the assessment
 - Contact with family member, friend, employer, or other acquaintance
 - Other (please list).
- b. Are defendants who heavily use marijuana only eligible (or must they have an additional addiction to cocaine, heroin, methamphetamine, etc.)?
- c. Are defendants who heavily use alcohol only eligible (or must they have an additional addiction to cocaine, heroin, methamphetamine, etc.)?

C) Initiating Drug Court Participation

1. Is participation *pre-plea* or *post-plea*?
If the answer differs for different participants, what affects whether a given participant begins pre- or post-plea?
2. If at least some participants enter *pre-plea*, do any of these participants ever plead guilty to an offense partway through treatment?
If yes, why might this happen?
3. *Plea type* (answer *only if* participants enter post-plea):
Please check all possible plea types.
 - Violation
 - Misdemeanor
 - First felony
 - Predicate felony (pleads to a felony and has one or more prior felony convictions)
 - Other (please specify)
4. *Jail or prison alternative:*
Is a *jail or prison alternative* established in advance of participation? (A jail or prison alternative is a sentence that will be imposed if a participant fails the drug court.)
 - a. If yes, how long is the *most common* jail or prison alternative for each plea type used in your court (misdemeanor, first felony, predicate felony, etc.)?
 - b. Are the jail or prison alternatives ever changed partway through participation?
If yes, why might this happen?
 - c. Do the jail or prison alternatives tend to *differ* from sentences that *would have been imposed* if the cases were prosecuted in the normal fashion? How do they differ?
5. *Program mandate:*
What is the minimum required time to graduation?

If this minimum varies for different groups of participants, please give the minimum for each relevant group.

6. What marks the official start of drug court participation: pleading guilty to an eligible offense, signing a contract, or both?
7. Are some defendants treated on a trial basis *before* becoming formal participants?
 - a. If yes, in what situations might this be done?
 - b. If yes, for what reasons might defendants *not* become participants after the trial period, and what might you check as the reasons for non-participation in the *Treatment Application*?
8. Do you have a required orientation that all drug court participants must attend? If yes, please describe (e.g., what is covered, length of orientation, etc.).

II. TREATMENT POLICIES

1. Roughly how many treatment providers are used by your drug court?
2. Do you ever refer participants to detox at the outset of treatment? Why might you do this?
3. *Treatment modality:*
Does your drug court ever refer participants to the following treatment modalities?
 - Long-term residential (three months or longer)
 - Short-term residential (up to three months)
 - Intensive outpatient (all day / at least 5 days per week)
 - Outpatient (½-day, evenings only, or only several days per week)
4. What criteria are used to determine a participant's *initial* modality? Please rank the following on a 1-3 scale (1 = not important at all, 2 = somewhat important, 3 = very important).
 - Addiction severity
 - Primary drug of choice
 - Criminal justice factors (e.g., charge, criminal history)
 - Residential stability / homeless status
 - Employment or educational status
 - Level of family / household support
 - Staff professional judgment
 - Contact with family member, friend, employer, or other acquaintance
 - Other (please list)
5. Are participants sometimes switched from one modality to another during participation? If yes, which is the most typical switch (inpatient to outpatient or outpatient to inpatient)?
6. Please describe your court's methadone policies. For example, does methadone use restrict drug court eligibility in any way? And is methadone allowed during treatment?
7. Does your drug court provide *onsite* educational, vocational or employment programs or services?
8. Does your drug court ever refer participants to *offsite* educational, vocational, or employment programs? If yes, please indicate which type(s).

III. COURT SUPERVISION

A) Staff

1. How many dedicated staff are assigned to the following positions?
 - Drug court judge
 - Project director or coordinator
 - Clinical director
 - Assistant district attorney
 - Defense attorney
2. If you have a project director, coordinator, or clinical director, do the persons filling any of these roles have an M.S.W. or other clinical credentials?

B) Intensity of Supervision

1. For each of the three forms of court supervision listed just below, do you have a schedule of supervision levels?
 - Frequency of case manager or probation officer visits
 - Frequency of court appearances before the drug court judge
 - Frequency of drug tests
2. *Case manager visits* (answer if applicable):
 - Which of the following occurs during a typical case manager or probation officer visit? Please feel free to add any description that you think would be helpful.
 - Reviewing program attendance and compliance information
 - Reviewing program requirements
 - Individual therapy / discussing clinical issues in detail
 - Discussing employment or vocational issues
 - Discussing physical or mental health issues
 - Discussing entitlements or other service needs
 - Other (please list)

C) Phases of Treatment

1. Is your program organized into *phases of treatment*?
 - Could you describe the requirements of each phase?
2. If your program does *not* use phases, is there any plan to use them in the future?
3. Are participants ever *demoted* from a higher to a lower phase?
 - If yes, why this might occur?

D) Infractions and Sanctions

1. *General policies*:
 - Do you have a written schedule defining which sanctions accompany given infractions?
 - a. If yes, is the schedule always used, or does the judge sometimes exercise discretion?
 - b. If you do *not* have a schedule, how are sanctions decided in each potential instance?

2. Below is a list of infractions. For each, will the Judge impose a sanction *all of the time (A)*, *some of the time (S)*, or *never (N)*? If the infraction triggers automatic program failure (F), please indicate this. Please do *not* consider verbal admonishment a sanction for this purpose.

Positive drug test for marijuana

Positive drug test for alcohol

Positive drug test for other illegal drug (e.g., heroin, cocaine, methamphetamine, etc.)

Failure to appear at scheduled drug test

Tampering with drug test

Rule-breaking at treatment program

Unexcused absence at treatment program

Several unexcused absence at treatment program since last court appearance

Late arrival at case manager visit, drug test, or court appearance

Absconding from program / voluntary return on warrant

Absconding from program / involuntary return on warrant

New violent arrest

New drug arrest

Other new nonviolent arrest

3. Does the judge *frequently (F)*, *infrequently (I)*, or *never (N)* use each of the following?

Verbal admonishment

Writing assignment (e.g., essay, journal entry, or letter)

Jury box or remain in court

Court supervision (e.g., increase in drug tests, or court appearances)

Daily court appearance required

Assignment to short-term detoxification program (e.g., 3-10 days)

Assignment to short-term (e.g. 30-day) inpatient rehabilitation program

Assignment to long-term inpatient program

Community service

Short jail sanction: 1-7 days

Mid-length jail sanction: 8-15 days

Long jail sanction: 15-30 days

Electronic monitoring

Zero tolerance (i.e., warning that next infraction triggers automatic sanction)

Other sanction (please specify sanction)

4. Is there a point at which participants face automatic failure after the next infraction or the next infraction of a certain type? If yes, please describe.

E) Achievements and Rewards

Below is a list of achievements. Which ones are *typically* recognized and/or rewarded?

30 days clean / no sanctions

90 days clean / no sanctions

Completed requirements of residential treatment program

CompletedPhaseOne

CompletedPhaseTwo

Birth of drug-free baby
 Entered school or vocational program
 Completed school or vocational program / obtained G.E.D.
 Obtained employment
 Other (please specify achievement)

F) Warrants

1. What events, if any, would lead the drug court judge to issue a warrant?
2. Are participants able to reenter the program after returning from a warrant?
3. Do you close a participant's case if a participant has been out on a warrant for a certain time (please indicate how long)?
 If yes, which closed reason(s) do you use from the *Treatment Application*? Also, if yes, could the case be reopened if the participant returns?
4. Do you have a special warrant squad or special officer(s) that works with the drug court to find participants who are out on a warrant?
5. Do participants automatically fail after a certain number of warrants?
 If yes, how many?

G) Decisions During Treatment

Please take a moment to describe which staff members are involved in making the following kinds of decisions: phase promotion, sanctions, rewards, changes in supervision level, or whether to fail a participant for a particular infraction. If offsite treatment providers play a key role in making any of these decisions, please indicate this as well.

IV. PROGRAM COMPLETION

A) Graduation

1. What are your graduation requirements?
2. At the time of graduation, must participants have completed all requirements of their offsite treatment program, or is it only necessary to have completed the internal graduation requirements of the drug court?
3. After graduation, what happens to the pending criminal charges?
4. *In-program achievements:*
 Do you track any of the following, either during participation or as part of an exit interview?
 Obtained G.E.D.
 Began educational program
 Began vocational program
 Received employment
 Gave birth to drug-free baby
5. Once a participant is listed as a graduate in the *Treatment Application*, can that status ever change to failure (e.g., due to violating the conditions of a conditional discharge)?

If yes, why might it change, and how would this be recorded in *the Treatment Application*?

B) Failure

1. Upon failure, are participants always given a *predetermined* sentence?
2. If sentence is *not* predetermined:
 - a. Can participants argue the underlying case, potentially leading to a dismissal of the charges?
 - b. What are the *most common* sentences that tend to be imposed? If there are different categories of participants that tend to receive different sentences, please indicate this.

D) Aftercare

For program graduates, do you provide any aftercare services or alumni programs?

E) Repeat Cases

After a participant definitively graduates or fails, if that participant subsequently returns to the drug court on an entirely new criminal case, can the participant be re-admitted? If yes, is data on the new case entered in the *Treatment Application* by the participant's old name or case id number, or is a new case initialized and assigned a new case id? (For data collection purposes, it is helpful to initialize a *new* case.)

V. IMPLEMENTATION ISSUES

1. Have there been major challenges or barriers to implementation that arose during either the planning phase or initial year of drug court operation? Please describe.
2. Does your jurisdiction have any other program(s) for criminal defendants with a drug addiction (e.g., DTAP, TASC, etc.)? If so, how do you divide cases between the drug court and these other programs?

VI. RESEARCH AND EVALUATION

Has a process evaluation been completed on your program? Have any other evaluations been conducted? If so, please attach a copy of any evaluation reports.

Figure 7.

Drug Court Community Supervision Core Competencies

A drug court community supervision officer actively monitors drug court participants outside of the drug court setting including conducting home and job visits. All client contact is documented and visits logged to help encourage positive participant behavior.

Competency 1: Participates fully as a Drug Court team member, committing him or herself to the program mission & goals and works as a full partner to ensure their success.

OPERATIONAL DRUG COURT

- Assists in executing all participant waivers and contracts
- Execute criminogenic risk needs assessment and assessments on-going and ensure that case plan is developed and modified based upon the assessments.
- Share the criminogenic risk needs assessment with the team.
- Advocates for prompt incentives and sanctions in response to client behavior
- Maintains up-to-date record of participant performance
- Attends and participates in client staffings by providing progress reports, making recommendations, and identifying supervision and ancillary services needed.

Competency 2: Provides coordinated and comprehensive supervision so as to minimize participant manipulation and splitting of program staff. Develop post program services, client outreach, Mentor programs and Alumni Associations.

OPERATIONAL DRUG COURT

- Coordinates continuum of care through regular contact with treatment provider.
- Advocates for continuum of care beyond treatment continuum to be inclusive of other community-based sources.

Competency 3: Develops effective measures for drug testing and supervision compliance reporting that provide the team with sufficient and timely information to implement incentives and sanctions systems.

Operational Drug Court

- Conduct home and field visits using strength's based approach.
- Collect alcohol and drug testing in accordance with policy and report results to team in a timely fashion.
- Recommend appropriate incentives and sanctions based upon information gleaned from supervision.

- Continually assess and review supervision and drug testing protocols and terms and conditions of supervision/probation regularly to ensure they are still working for the target population.

Competency 4: Coordinates the utilization of community-based services such as health and mental health services, victims' services, housing, entitlements, transportation, education, vocational training, job skills training and placement to provide a strong foundation for recovery.

Operational Drug Court

- Makes on-going referrals for target population that is consistent with the treatment case plan.

Competency 5: Is knowledgeable about addiction, alcoholism, and pharmacology generally and applies that knowledge to respond to compliance in a therapeutically appropriate manner.

OPERATIONAL DRUG COURT

- Continues to participate in on-going cross training to remain knowledgeable about addiction, alcoholism, and pharmacology.
- Utilize motivational interviewing techniques when interacting with the target population.
- Note relapse triggers and behaviors in the target population and report in a timely manner to the team.

Competency 6: Is knowledgeable of gender, age and cultural issues that may impact the offender's success.

Operational Drug Court

- Continues to participate in on-going cross training to remain knowledgeable about gender, age and cultural issues of the community and target population.

Competency 7: Contributes to the team's efforts in the community education and local resource acquisition **AND** Contributes to the education of peers, colleagues and judiciary in the efficacy of Drug Courts.

Operational Drug Court

- Acts a spokesperson to community leaders and organizations.
- Acts a spokesperson to peers, colleagues and the judiciary.

- Provides statistical information to use for grant writing or other funding acquisition.

DRUG COURT TREATMENT PROVIDER CORE COMPETENCIES

A drug court treatment provider provides rehabilitative therapy sessions, drug screening, case management and monitoring for drug court participants in keeping with the holistic recovery of the drug court participant.

Competency 1: Participates fully as a Drug Court team member, committing him or herself to the program mission and goals and works as a full partner to ensure their success.

OPERATIONAL DRUG COURT

- Attends regularly scheduled staffings
- Provide information regarding drug court participant's progress to each team member
- Productively communicates with team so each member can make informed choices regarding drug court participants
- Protects integrity of drug court program by providing competent treatment
- Remains abreast of best practices of the field.
- Maintains up-to-date record of participant performance

Competency 2: Ensures that the participant receives the highest level of care available, at a reasonable cost, by all contracted and ancillary service providers. Develop post program services, client outreach, mentor programs and alumni associations

OPERATIONAL DRUG COURT

- Conducts regular quality assurance of all treatment and ancillary services
- Performs case autopsy on charts of participants who are discharged from the program as method of quality improvement
- Creates treatment environment that is encouraging and restorative
- Maintains competent staff
- Regularly reviews all client charts and maintains up-to-date record of participant performance

Competency 3: Ensures that offenders are evaluated in a timely and competent process and that placement and transportation are effectuated in an expedited manner.

OPERATIONAL DRUG COURT

- Promptly processes referrals to drug court by completing treatment screens efficiently
- Secures assistance from ancillary services as needed for participants

Competency 4: Develops effective measure for drug/alcohol testing and treatment progress reporting that provide the team with sufficient and timely information to implement incentives and sanctions systems.

OPERATIONAL DRUG COURT

- Implements random system of screening for drug court participants
- Conducts visually monitored screens for each participant
- Maintains up-to-date records of all screens
- Shares information regarding screens with all team members

Competency 5: Assists in providing advanced training in substance abuse, addiction and treatment methodologies so as to provide the team with a meaningful basis to implement incentives and sanctions systems and design program protocols and procedures.

OPERATIONAL DRUG COURT

- Provides ongoing training to all team members
- Supports most therapeutic application of incentives and sanctions

Competency 6: As part of the Drug Court team, in appropriate non-court settings (i.e. staffing), the treatment provider advocates for effective incentives and sanctions for program compliance.

OPERATIONAL DRUG COURT

- Assures incentives and sanctions are given on a consistent and fair basis
- Recommends therapeutic incentives and sanctions
- Considers client behavior and shares relevant information with team
- Continues to attend training opportunities to inform team members about cultural competence (shows knowledge of gender, age and cultural issues that may impact the offender's success)

Competency 7: Is knowledgeable about addiction, alcoholism and pharmacology generally and applies that knowledge to respond to compliance in a therapeutically appropriate manner.

OPERATIONAL DRUG COURT

- Continues to research effective treatment modalities
- Conducts regular quality assurance
- Actively participates in staffings
- Attends all court sessions and staffing (help maintain communication and updated knowledge of addictive behavior)

Competency 8: Contributes to education of peers, colleagues and judiciary in the efficacy of Drug Courts **AND** Contributes to the team's efforts in community education and local resource acquisition.

OPERATIONAL DRUG COURT

- Maintains integrity of drug court program through quality assurance
- Disseminates information about drug court as frequently as possible

VITA

Jesse William Badoe

Candidate for the Degree of

Master of Science

Thesis: PAYNE COUNTY DRUG COURT INC: A STRUCTURAL AND
PROCESSURAL EVALUATION OF THERAPEUTIC JURISPRUDENCE

Major Field: Sociology

Biographical:

Education:

Completed the requirements for the Master of Science in Sociology at
Oklahoma State University, Stillwater, Oklahoma in December, 2011.

Completed the requirements for the Bachelor of Science in Justice Systems at
Truman State University, Kirksville, Missouri in May, 2009.

Experience:

Graduate Teaching Assistant: Oklahoma State University
Program Coordinator: City of Tulsa

Professional Memberships:

City of Perkins Juvenile Advisory Board: Juvenile Treatment Officer
Black Graduate Student Association: Vice President
Sociology Graduate Student Association
Graduate and Professional Student Government Association

Name: Jesse William Badoe Date of Degree: December, 2011

Institution: Oklahoma State University Location: Stillwater, Oklahoma

Title of Study: PAYNE COUNTY DRUG COURT INC: A STRUCTURAL AND
PROCESSURAL EVALUATION OF THERAPEUTIC
JURISPRUDENCE

Pages in Study: 109 Candidate for the Degree of Master of Science

Major Field: Sociology

Scope and Method of Study: This thesis was a qualitative case study of Payne County Drug Court that utilized textual analysis, semi-structured interviews, and participant observations.

Findings and Conclusions: This thesis found that the Payne County Drug Court utilizes therapeutic jurisprudence in both its structure and process.

ADVISER'S APPROVAL: Type Adviser's Name Here