

The Wyoming Department of Health
Mental Health and Substance Abuse Services Division
Report to the Governor and the Joint Labor, Health, and Social Services Interim Committee

Report on the Drug Court Program

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1. General Comments

The purpose of this section is to provide a brief history of the development of the Wyoming Drug Court Program and outline progress made by the Wyoming Department of Health (WDH), Mental Health and Substance Abuse Services Division (Division), the Wyoming Drug Court Panel, and the Wyoming Drug Court Steering Committee in the continuing enhancement of the Program.

In 2001, the Wyoming Legislature approved funding for drug courts through House Bill 82. Subsequently, Wyoming codified the formation, funding, and operation of drug courts into statute by enacting W.S. § 5-10-101 through 107. These statutes provide a basic outline for the development and funding of individual, local drug courts throughout Wyoming. The program is financed through the state general fund and tobacco settlement monies. The current budget is \$9,000,000 per biennium. There are now twenty-three (23) adult, juvenile, and family drug courts in Wyoming receiving state funding. Some also receive federal funding. The twenty-three (23) established drug courts operate at either the municipal, circuit, district, juvenile, or tribal level. Each local drug court operates independently in determining eligibility, procedure, incentives, and sanctions for participants.

2. Specific Requirements of Statute

This report is prepared and provided to certain legislative committees in compliance with W.S. 5-10-105(e) which states: "...The department of health, on behalf of the drug court panel, (shall) annually report to the governor and the joint labor, health and social services committee on the selected drug courts which receive funding. The report shall include an evaluation of the drug courts and a determination whether each drug court funded under this article is successful in meeting the objectives of this article."

The goals of the drug court programs funded under this article listed in W.S. 5-10-101 include: reducing alcoholism and other drug dependency among offenders; reducing recidivism rates in drug use and criminal activity; reducing the drug-related court workload; increasing the personal, familial, and societal accountability of offenders; and promoting effective criminal justice interaction and use of resources.

3. Impact/Consequences/Outcomes

Research and Evaluations of the Program

The Division has diligently initiated and conducted research on Wyoming Drug Courts. In 2004 and 2005, the Wyoming Survey & Analysis Center (WYSAC) conducted two (2) evaluations. The first evaluation analyzed individual drug court processes and provided a preliminary impact evaluation document, entitled "Drug Courts in the State of Wyoming: A Process and Outcome Evaluation" (October, 2004). The second evaluation analyzed the use of and adherence to the national "Key Components" and provided a preliminary assessment of the Division's outcome measures for the drug courts, "Drug Courts in Wyoming, FY 2005: Statewide and Local Evaluation, Report to the Wyoming Department of Health Substance Abuse Division" (September, 2005).

In May 2006, the Division contracted with the National Center for State Courts (NCSC) to conduct a statewide drug court evaluation on the operation and performance of Wyoming drug courts in relation to the performance measures established at the national level. In June 2007, the NCSC completed the evaluation and released the final report entitled, “Wyoming Drug Court Performance Measure Project for State of Wyoming Department of Health, Substance Abuse Division, Final Report” (NCSC Report). The NCSC Report commended Wyoming for adopting statewide performance measures and acknowledged that Wyoming as a national leader for doing so (NCSC Report, page 37).

This report established a base line for future evaluation and the identification of trends. It also provided recommendations regarding enhancement of the current system based on predictive factors identified through the study. The following is a summary of the results of Wyoming drug courts in relation to the performance measures.

Retention

The national goal of retention reflects the science that has shown that the best indicator of success in recovering from addiction is the length of time engaged in treatment. Drug court participants need to participate in treatment for a sufficient amount of time for the treatment to have the desired effect. Studies show that a minimum of three months is necessary for realizing some effect, while six to 12 months may be what is necessary for substantial reduction in drug use (NCSC Report, page 25). On the average, those who graduate from drug court spend more time in treatment than those who do not. The analysis of the cohort selected for this study indicates that 48% of adults admitted into drug courts graduated from the program, 17% were still active at the time of data collection, and 35% were terminated, withdrew, or absconded. Further analysis reveals those less likely to graduate did not have a high school or GED degree. Analysis also indicated that participants who were gainfully employed were more like to graduate than those who were unemployed. These indicators are important points for the local programs to consider as they continue to build and improve in the areas of education and employment.

With regard to juveniles, 45% of the cohort graduated, 30% were active at the time of data collection, and 25% were terminated, withdrew, or absconded. The findings indicated that juveniles receiving outpatient services fare better than those receiving inpatient services. The study admits that those referred to inpatient care probably suffer from more severe substance abuse problems and may be less likely to see success in the same amount of time as those with less severe problems. However, this finding helps local programs better identify more appropriate participants who will benefit the most from each type of intervention.

Sobriety

Sobriety is an important performance measure for drug courts, as it “...fosters offender rehabilitation, public safety, and offender accountability” (NCSC Report, page 28). Adult graduates maintained an average of 356 days of continuous sobriety, in comparison to the 205 days for participants who were terminated or withdrew. Juvenile graduates maintained an average of 231 days of continuous sobriety, compared to 201 days for those who were terminated or withdrew. This is important to note because research shows that longer periods of sobriety

between relapses are associated with continued reductions in use. The average number of positive drug tests administered was 2.1% for adults and 8.2% for juveniles. Adult and juvenile participants who had more arrests during the year prior to their participation also had a higher than average percentage of positive drug tests than offenders with lower numbers of arrests. NCSC recommends local programs identify these clients earlier and provide increased supervision accordingly.

In-program Recidivism

The expectation of drug courts is that participants will have low rates of in-program recidivism compared to other sentencing options (such as probation or community-based treatment). “The combination of judicial supervision, treatment, and rewards and sanctions that uniquely characterize drug courts are expected to lower recidivism, a finding that is supported by research” (NCSC Report, page 31). Adult participants who were terminated had in-program recidivism rates that were double those of graduates (27.9% vs. 13.7%, respectively). Graduating juveniles had a recidivism rate of 27.9%, compared to the nearly double rate of 51.4% shown by juveniles who were terminated. The majority of the in-program re-offenses were misdemeanors (see NCSC Report, pages 31-32). Analyses of the types and numbers of re-offenses by adult participants indicated that those who abused drugs other than alcohol or marijuana were at a higher risk of re-offending and should be identified and supervised accordingly (NCSC Report, page 36).

Units of Service

The National Institute of Justice (2006) found that treatment services “must be delivered in sufficient dosage to drug court participants to be effective (pg. v), hence the reason for using units of service as a performance measure. The NCSC concludes that the various service types and average dosage of services vary from court to court, making analysis difficult. They suggest implementing policies, procedures, and documentation for uniform and consistent reporting of units of services. The Division has complied with this suggestion, taking the first steps in defining what is meant by a unit of service and has trained all drug courts in this area.

Funding and Reimbursements

The Drug Court Panel and Division have taken a proactive approach by developing a funding formula for easy calculation and allocation of funds. For FY2008, the drug court funding requests exceeded the Division budget by almost \$1,000,000.00. This is the first time since the creation of the program that the Drug Court Panel made funding awards for less than what was requested by the courts. The excess in requests is a result of the legislature’s decision to lift the statutory cap of \$200,000 in a budget footnote to the 2007-2008 biennial budget. Courts were able to ask for more than \$200,000 of state funding to expand and enhance their programs. The panel was forced to reduce the requests of the courts and chose to fund the courts at their 2007 level, minus 9% to balance the budget.

To address this shortcoming, and budget more effectively, the Division has been working to develop and implement a funding formula. In May 2007, the Drug Court Steering Committee also recommended that the Division establish by rule and regulation a funding formula based on an amount per client. The Division has been advised by the Attorney General that they currently have sufficient rule making authority to adopt a funding formula. Accordingly, the Division is

now working with the Drug Court Panel to begin drafting rules addressing the funding formula, as well as updating rules. The draft document will then be reviewed with local drug court teams and other stakeholders to seek their input prior to the formal rule promulgation process.

Local Program Accountability

The Division has hired an Interagency Coordinator and Drug Court Coordinator to ensure compliance with the contracts between the Division and each Drug Court Program. The Division plans to schedule “on-site” visits to each location to ensure compliance and accountability by addressing and reviewing fiscal processes, confidentiality, and adherence to the rules and statutes.

Provider Certification

The Division contracts with individual drug courts that meet the eligibility requirements and satisfactorily complete grant applications. The Division rules require that the drug court provide a cash and in-kind match; apply or show effort to apply for federal funds prior to application for state funds; complete national drug court training; complete six hours of annual training; provide a comprehensive range of levels of care and treatment services; and submit evaluations. The Division plans to work with the Wyoming Drug Court Association to develop a training curriculum and training series for local courts and their team members in order to meet the training requirements listed in rules and statutes.

CMS/MIS and Data Reporting

The Division requires data collection and reporting by the drug courts. On July 1, 2006, the Division launched a new case management and data reporting system (CMS/MIS). The case management system lacks policies and procedures for use at the local level, as well as consensus on the system’s ability to manage and report data. The Division recognizes this weakness and corrections are underway to address it. The Division has identified a “minimum required data set” that is necessary to continue measuring performance on the national performance measures. The Division will work with local courts to define how that data will be consistently gathered and reported (i.e., by surveying all courts as to current definitions and then creating a “definitions guide” for all courts to use when entering data into the CMS), followed by a written user manual for reference. Local drug court coordinators have also identified opportunities to make the system more user-friendly and aid in the collection and reporting of the data. The Division will begin addressing these suggestions immediately after policies and procedures on the minimal data set are complete.

Drug Court Steering Committee

In 2007, the Legislature created the Steering Committee to “...study administration of drug courts” and “...to help create a more uniform administration of drug courts in the state.” (See *Enrolled Act No. 94*). The Steering Committee is composed of members of the Wyoming Senate and House of Representatives, the Drug Court Panel, judges, a prosecuting attorney, a defense attorney, and a representative of the University of Wyoming’s Criminal Justice Department. The legislation creating the Steering Committee directed the Committee to review and make recommendations on several topic areas, including: structural models, alternative adjudication procedures, CMS, the funding model, collaboration between agencies, drug court participation by county, and the best means to increase drug court participation by counties not participating

due to revenue issues and performance measures. The Steering Committee held meetings on April 18, May 24, and June 26, 2007. In August, 2007, the Committee submitted a report to the Joint Judiciary Committee on Drug Court Recommendations, "Report to the Joint Judiciary Committee on Drug Court Recommendations" (August, 2007). The Report was reviewed by the Joint Judiciary Interim Committee on August 23, 2007.

The recommendations provided by the Drug Court Steering Committee are as follows:

- The Committee recommends that only joint powers boards, municipal, or county governments be allowed to apply for and receive funding for a drug court. The joint powers board, municipal, or county government would be the employer of any drug court administrative staff. All contractual relationships concerning the drug court will be with the local entity that applied for funding. The only joint powers boards that could apply would be comprised of counties and/or municipalities, or a combination of a county and municipality.
- The Committee recommends that District Court Commissioners, who act as the drug court judge, have the same ability as Circuit Court Magistrates to sanction (within parameters) without asking a supervising judge. The Committee also supports that magistrates act as drug court judges and that circuit court judges may preside over district court cases that appear in drug court.
- The Committee recommends striking from Section 1(c)(ii) of Enrolled Act No. 94 the words "Alternative adjudication procedures" and replace with "Use of alternative court officers."
- The Committee recommends requiring alternative court officers to be trained in drug court process and principals if they will be presiding over any drug court hearings.
- The Committee recommends that WDH shall establish by rule and regulation a funding formula that includes a base amount in addition to an amount per client, and discontinue the current grant program. WDH has requested an Attorney General opinion on whether current statute allows the Department of Health to promulgate rules for a funding formula. If the Attorney General determines that the statute does not provide the authority, the Committee recommends an amendment to current statute authorizing and directing WDH to promulgate rules for a funding formula.
- The Committee recommends repealing the funding cap of \$200,000, as set forth in W.S. 5-10-102(b).
- The Committee recommends allowing the Drug Court Steering Committee to expire in 2008 and allow the Drug Court Panel to continue in its current form. The Committee stated that a high level of agency cooperation already exists.
- The Committee recommends not increasing the number of drug courts until funding is stabilized with a funding formula.

- The Committee recommends deleting the five goals listed in W.S. 5-10-101(a) and replacing them with the national outcome measures. The national outcome measures are:

Participant retention and graduation
Participant recidivism
Participant sobriety
Units of service provided to participants

- The Committee requests that the Joint Judiciary Interim Committee consider updating W.S. 5-10-101 through 107 through the legislative process to provide for drug court procedure and structure. The Committee maintains that the legislative process would be the most appropriate forum to gather comment from numerous stakeholders and therefore develop a procedure and structure that reflects input from a broader constituency.
- The Committee also recommends that the Joint Judiciary Interim Committee commission a study that researches the performance of Wyoming drug courts in relation to other sentencing options, such as probation, boot camps, etc. The Committee recognizes that drug court research indicates a level of success within the drug court program but there is little research comparing it to other options. In an effort to invest dollars in programs that demonstrate positive outcomes, the Committee encourages the Joint Judiciary Interim Committee to sponsor legislation funding a longitudinal project studying the efficacy of numerous sentencing options and the types of offenders they best serve, including drug courts.
- The Committee suggests that the Joint Judiciary Interim Committee entertain legislation appropriating funding to the Department of Corrections to provide for one probation officer per every 20 drug court clients.

Additional recommendations included:

- Allow judges to require completion of a drug court as a term of probation.
- Provide judges with the ability to impose sanctions in a drug court for violations of the conditions of that drug court.
- Provide for a hearing prior to termination of a client in drug court.
- Require that the legal status of all drug court client cases shall be post-adjudication, W.S. 7-13-301 deferral or consent decree.
- Modify current statutes to allow for an extension of probation for up to three years for participants in a drug court and parallel language added to consent decrees.
- Modify current statute to allow probation for misdemeanor crimes and consent decrees to be greater than one year (and not more than three) if participating in a drug court.

4. Statistical Information

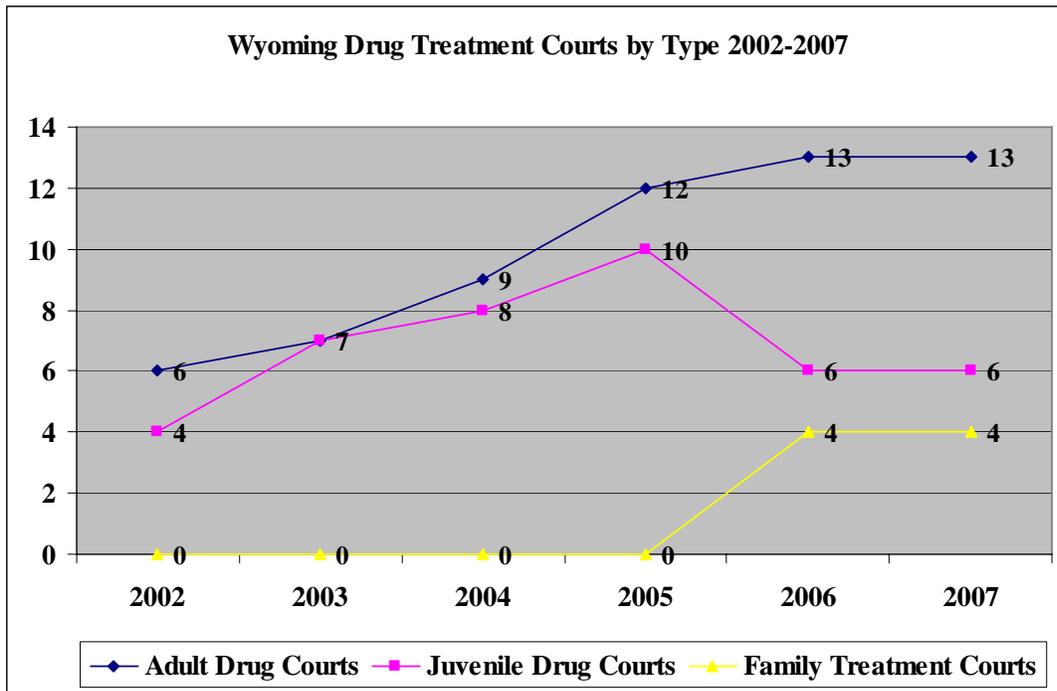
In addition to the findings reported by the NCSC formal evaluation of Wyoming Drug Courts (published in 2007, cited above), some operational court data is gathered on a quarterly basis. These data (from FY2007) are described below. The data represent the quarterly reports submitted by 14 adult courts, seven juvenile/youth courts, and one family court.

- A total of 602 people (514 adults, 83 juveniles, and 5 family court) potential participants were screened.
 - 344 people (293 adults, 49 juveniles, 2 family court participants) of those screened were accepted into drug court, a 57% acceptance rate overall.
- The total number of participants served across all four quarters was 1708 (a duplicated count).
 - Adult courts: 1,363 persons served
 - Juvenile courts: 329 persons served
 - Family courts: 16 persons served
- The courts reported that 744 family members were served.
 - Adult courts: 315 family members served
 - Juvenile courts: 402 family members served
 - Family courts: 27 family members served
- Wyoming's drug court system graduated 190 participants.
 - Adult courts: 166 graduates
 - Juvenile courts: 24 graduates
- Approximately 120 participants exited the program for reasons other than graduation. These reasons included: participants referred to diversion, failure to complete program requirements (leading to termination), and temporary suspension into inpatient treatment, etc.
 - Adult courts: 87 participants exited
 - Juvenile courts: 31 participants exited
 - Family courts: 2 participants exited
- According to court reports, there were 10 drug-free babies born to drug court participants.
 - Adult courts: 6 drug-free babies born
 - Juvenile courts: 4 drug-free babies born
- Courts reported administering over 30,000 drug tests.
 - 11, 230 urinalysis (UA) tests were completed on-site.
 - 4,661 confirmation UA tests were completed.
 - 8,858 "other testing devices" tests were reported; these included EBTs, breathalyzers, Alcosensors, saliva, BAs on home visits, etc.
- 906 positive drug tests were reported.
 - Adult courts: 634 positive drug tests
 - Juvenile courts: 271 positive drug tests
 - Family courts: 1 positive drug test

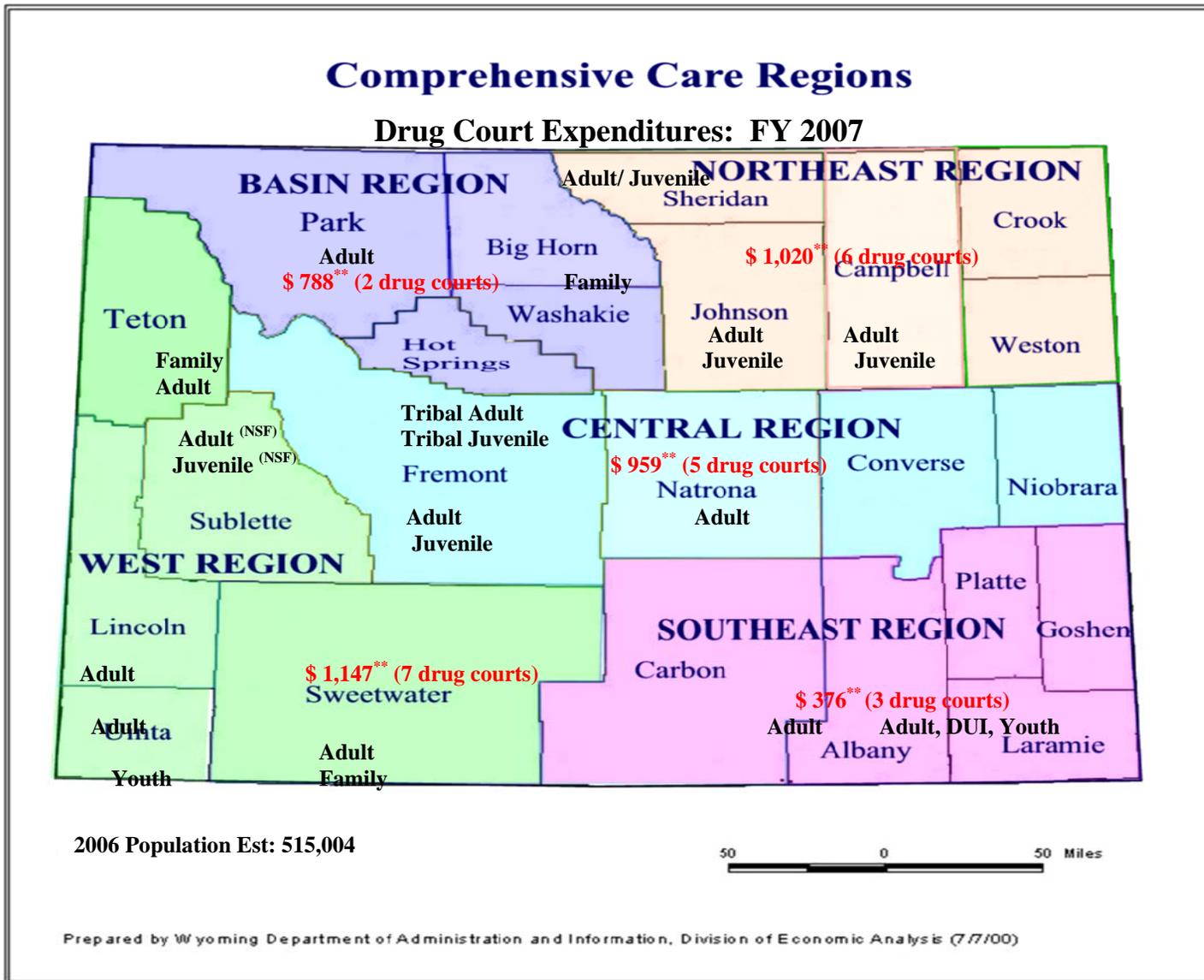
- With regard to units of service provided to participants (and their families), courts reported a total of 9,348 inpatient days and 102,110 outpatient hours of service to participants.
 - Adult courts: 7,645 inpatient days; 84,430 outpatient hours
 - Juvenile courts: 1,703 inpatient days; 17,363 outpatient hours
 - Family courts: 317 outpatient hours

The following graphical depiction shows the growth of the statewide Drug Court Program in Wyoming over a five-year period.

Wyoming Drug Courts 2002-2007



Drug Court Specific Expenditures FY 2007 by Region and Per Capita According to General Population Estimates



*Est. 2006 Population by Region: Basin (50,891) – West (102,006) – Northeast (87,638) – Central (122,682) – Southeast (151,786)

** Represents Expenditures per 100 persons according to Region
(NSF) = No State Funds

5. Recommendations

The Drug Court Steering Committee has broad representation and created a thorough list of recommendations for the Joint Judiciary Interim Committee. It is the Department's recommendation that the report be reviewed and its recommendations considered.

The Department also requests that the Wyoming Legislature consider the updates to the drug court rules (including the funding formula) when making appropriations to the drug court program.

6. Summation and Conclusions

The Wyoming Drug Court Program is ready to go to the next level in accountability. The program will continue to speak to its progress on the national outcome measures in relation to the baseline established in the NCSC report. A funding formula will give guidance to the Panel and Division in funding decisions and requests for appropriations. These actions, in combination with the recommendations of the Drug Court Steering Committee, will provide the stepping stones necessary to continue building the program.

7. Appendices

None