
CHAPTER 1

Background

What is a drug court?

Drug courts, along with juvenile courts, are perhaps the most celebrated and publicly visible examples of the therapeutic justice model in operation. A drug court is not a specific level of court within the judicial branch of government. Rather, it is a process through which a wide array of state and local government resources can be focused on a criminal offender whose primary behavioral problem is substance abuse.

Drug courts involve collaboration between criminal justice and treatment service professionals.

Collaborative in nature, drug courts are cross-jurisdictional, involving efforts of many individuals in the criminal justice and treatment professions. Working together, professionals guide an offender through evaluation, structured therapy, skills development, intense supervision, and monitoring within a courtroom setting. The goal is to rehabilitate the offender (see Figure 1.1 on the next page for description of a model drug court process).

Drug courts are locally formed and run.

In Wyoming, creation of a drug court is a local option and participation is voluntary for judges. Drug courts have been established within municipal, circuit, district, and tribal courts. As of March 31, 2006, 23 drug courts in 13 counties and the Wind River Indian Reservation had been awarded state grants. At that time, 21 were actively admitting offenders while two had not yet started to admit offenders.

About 400 offenders now participate in drug courts.

Most drug courts are set up to handle adults, although a few specialize in handling juvenile or family cases. Since the first Wyoming drug court was established in Uinta County in FY '98, 1,644 offenders have been admitted; on March 31, 2006, 417 offenders were actively participating. Participation is also voluntary for offenders, although they must meet locally established qualifications for admittance.

Model drug court components and process	
<p>Who manages and operates a drug court?</p> <p>Drug courts are labor-intensive, requiring members of the local management committee to devote their time and expertise to the supervision and therapies aimed at individual offenders. Adherence to the non-adversarial, team concept for the following local team members suggests a successful drug court will emerge:</p> <ul style="list-style-type: none"> • Judges are the central authority figures in the process. They oversee an individual offender's progress throughout treatment in regularly scheduled hearings, and impose incentives and sanctions with the advice and recommendations of the team to assist offenders in rehabilitation. • The drug court coordinator is selected by the team and is responsible for day-to-day administration and oversight. • Probation/supervision services provide data on offenders that informs court decisions regarding incentives (rewards) and sanctions (punishments) based on observed behaviors, collected drug samples, etc. • Treatment providers meet frequently with drug court offenders both individually and in groups to discuss the offenders' addictions, help alter their thought processes, and teach decision-making or coping strategies. • Defense and prosecuting attorneys provide legal input to the management teams under the same auspices as in a regular courtroom: the defense advocates for the best interests of the client, and the prosecutor pursues the state's interests of justice and public safety. 	<p>How do drug courts work?</p> <p>In addition to general and daily monitoring of offenders while in drug court, two central processes occur for the team to formally address offenders' progress, relapses, or other actions. These are the team staffing (staff meetings) and the formal courtroom hearings.</p> <p>Staff Meetings: Typically, local drug court management committees meet weekly or semi-monthly to discuss the progress of individuals in the drug court. They discuss offenders according to their status or the phase they are at in drug court. Each offender's case is considered. Sanctions and rewards are determined, depending on positive or negative actions since the last meeting.</p> <p>Examples of incentives include: less restrictive probation terms, coupons for local restaurants or movies, or an allowed excursion or home visit (for juveniles). Possible sanctions include: writing an essay to the judge, set hours of community service, or brief stays in jail. The management committee often votes on incentives and sanctions to recommend to the judge.</p> <p>Hearings: Courtroom hearings for drug court offenders happen directly after staff meetings on a weekly or semi-monthly basis, and may or may not be open to the public to observe. In the hearing, the judge has each drug court participant approach the bench, and they discuss the offender's behavior during the preceding week.</p> <p>The judge brings up any issues brought to his attention through the drug court team and levies any sanctions or awards as appropriate. Often, the number of days an individual had remained sober is given particular attention, with each participant receiving a round of applause from persons in the courtroom.</p>

Source: LSO summary of professional literature and observations.

Generally, drug courts involve deferred sentencing plus individual counseling, group sessions, and other forms of treatment; monitoring (such as unannounced urinalyses); regular attendance at court sessions; employment requirements; living restrictions; payment of fees and other forms of restitution; and skills

development. Few persons successfully complete their drug court

commitment in less than a year.

By statute drug courts are a sentencing option, not a separate level of court

Statute calls drug courts a “sentencing option” for judges.

The Legislature approved funding of drug courts in 2001 through House Bill 82 (see the 2006 program evaluation report *HB 59: Substance Abuse Planning and Accountability*, for more explanation of both bills). Wyoming was one of the first states in the nation to codify drug courts into its statutes. W.S. 5-10-101(a)(i) states that the legislative intent for drug courts is to enable access by addicted offenders to needed treatment services. Wyoming’s drug court statute is located in Title 5, Courts (W.S. 5-10-101 through 107; see Appendix A). It defines drug courts as a sentencing option for judges; drug courts are not a separate level of the judicial branch, such as circuit, district, or juvenile courts.

Statute prescribes both state and local responsibilities for drug courts

The Division creates rules for the grant process used to fund drug courts.

Wyoming Department of Health (WDH): The WDH through the Substance Abuse Division (Division) is responsible for managing the state’s drug court funds. It takes a local, voluntary initiative to form a drug court and most apply for state funds, which historically have been limited to a maximum of \$200,000 per court. The Division enters into contracts with individual drug courts and has issued rules governing annual grant applications, the funding process, and drug court eligibility requirements. Rules require that local drug courts:

- Provide cash and in-kind matching funds totaling 25 percent of requested state funds.
- Apply, or show an effort to apply, for federal funds prior to applying for state funding.
- Complete national drug court trainings of team members prior to receiving state funds, and thereafter complete six hours of drug court-specific training annually.
- Have available a comprehensive range of treatment services and levels of care.
- Complete evaluations of the effectiveness and fiscal status of

operations.

The Division has one staff member to process grant applications and track awards.

WDH designates one staff position, the State Drug Courts Coordinator (state coordinator), within the Division to direct state efforts in three primary areas: funding, working with other Division staff to ensure providers are certified, and reporting. Statute requires WDH to make funding recommendations to the State Drug Court Panel (see below) and to certify treatment providers; it limits payment of state funds by drug courts to certified providers only. Statute also requires WDH to gather data and report annually to the Governor and the Joint Labor, Health, and Social Services Committee on drug court effectiveness.

The State Drug Court Panel makes final funding decisions, based on Division recommendations.

State Drug Court Panel: The Panel makes final grant funding decisions. Its members include representatives from several governmental entities affected by and involved in drug courts: the Board of Judicial Policy and Administration, the Governor's Substance Abuse and Violent Crime Advisory Board, and the departments of Health, Family Services, Corrections, the Attorney General, and the state Public Defender. The Panel meets periodically to discuss and decide on local drug court grant applications.

Local drug court teams administer and oversee each drug court.

Local Drug Courts: By statute, each local drug court must have its own management committee, also referred to as "the team" by many stakeholders. Its members include a presiding judge, defense counsel and prosecutor, a monitoring officer, and a representative of the drug court's treatment personnel. These five may select additional members such as municipal and county law enforcement officers, DFS caseworkers, or at-large community members. The teams, facilitated by their own local drug court coordinators, establish drug court policies and procedures, offender admission criteria, and graduation requirements for their courts.

Based on recent (May 2006) applications and funding decisions by the State Drug Court Panel, the state has one municipal, thirteen circuit, seven district or juvenile, and two tribal drug courts. Of the 23, seven are juvenile drug courts, and these also have been set up within the different levels of courts.

National drug court guidelines are part of the drug court statute.

Statute requires use of the national “Key Components” by drug courts

The federal government played a key role initially in spreading the word about the potential of drug courts, providing start-up funding, and setting guidelines. Although it has no programmatic authority over state drug courts, initial federal funding was linked to core principles called *Defining Drug Courts: The Key Components (The Key Components)*, published by the National Association of Drug Court Professionals. These ten components outline guidelines for structure, operations, and performance benchmarks when setting up local drug courts. They have been widely adopted by local drug courts across the nation (see Appendix B for the complete list of components).

The state helped fund drug courts even before the 2001 enactment of HB 82.

Appropriations come from different funding sources and separate legislation

Wyoming’s original drug courts, Uinta Adult and Sheridan Juvenile Drug Courts, started in FY ’98 with federal grant funds, which were further supplemented with state funds from the Governor’s Substance Abuse and Violent Crime Advisory Board. Direct legislative funding of drug courts began in July 2001 with HB 82, which gave statutory authority for drug courts and authorized \$1.5 million for annual grants. This appropriation went to WDH, and since then the Substance Abuse Division has made biennial budget requests for funding.

Drug court funds do not come from one specific and continual source or simply through the WDH budget request: Tobacco Settlement Funds have constituted slightly more than 50 percent of state funding since FY ’02. As Figure 1.2 indicates, the state has appropriated \$24.6 million in General and Tobacco Settlement Funds for drug courts.

Figure 1.2

**Appropriations for drug courts by funding source and legislation
FY '02 – '08**

Appropriation Method (session year approved)	Funding Source	FY '02 ¹	FY '03 - '04	FY '05 - '06	FY '07 - '08
HB 82 (2001)	General Funds	\$1,500,000	\$3,000,000	\$3,000,000	\$3,000,000
HB 59 (2002)	Tobacco Settlement Funds		\$3,400,000	\$3,400,000	\$3,400,000
SAD Budget (2005, 2006)	Tobacco Settlement Funds			\$1,300,000	\$1,400,000
HB 91 (2006)	General Funds				\$1,200,000
Subtotal	General Funds	\$1,500,000	\$3,000,000	\$3,000,000	\$4,200,000
Subtotal	Tobacco Settlement Funds	-----	\$3,400,000	\$4,700,000	\$4,800,000
Total (\$24,600,000)	All Funds	\$1,500,000	\$6,400,000	\$7,700,000	\$9,000,000

Source: LSO analysis of Division and LSO information.

¹ HB 82 (2001) was in effect only for the second half of the FY '01 – '02 biennial budget cycle.

From FY '02 through the most recent FY '07 grant application and funding cycle, the Drug Court Panel has allocated \$17.4 million in state funds to local drug courts (see Appendix C for detail on state funds dedicated to drug courts since FY '02). The remaining funding has either been spent on WDH administrative costs (limited by statute to 10 percent of appropriations), or has been reserved for FY '08 drug court applications.

***Local drug courts
rely primarily on
state grants and
state-funded
personnel.***

The total cost of drug courts to the state is not fully represented by the amount of grant funding plus local match amounts. Other state agencies dedicate personnel to serve local drug courts and incur additional costs, such as the Department of Corrections for probation officers. Some state-paid personnel work in local drug courts as an extension of their normal duties, such as judges, prosecutors, public defenders, and the Department of Family Services caseworkers. WDH has not quantified these additional costs, nor did we attempt to do so.

Wyoming drug courts expanded rapidly after the passage of HB 82

The first drug court was founded in Florida in 1989, and since then drug courts have expanded rapidly across the nation. According to a recent GAO report, there were approximately 1,200 drug courts operating in the United States as of September 2004, with an additional 500 in the planning stages.

Each drug court targets either adult or juvenile offenders.

In Wyoming the number of state-funded drug courts grew rapidly after 2001, with the total now numbering 23 (see Appendix D for a map showing locations). Figure 1.3 shows the expansion of the number and types of state-funded drug courts by their offender emphasis: adult, juvenile, family, and DUI offenders.

Figure 1.3

Drug courts receiving state funds FY '98 – '07¹

Court Type	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Adult	2	2	3	3	8	8	9	10	13	13
Juvenile		1	1	1	3	5	6	7	7	6
Family									2	3
DUI									1	1
Total	2	3	4	4	11	13	15	17	23	23

Source: LSO analysis of Division information.

↑ HB 82 (2001) passed

¹ Sweetwater County Family and Laramie County DUI Courts were awarded funds in FY '06, but had not yet admitted offenders as of March 31, 2006.

Drug courts supervise and treat many different types of offenders

About half of all admitted offenders graduate drug court.

From the inception of the first drug courts in FY '98 through March 31, 2006, a total of 1,644 individuals have been admitted to Wyoming drug courts. On March 31, 2006, the number of offenders actively participating in drug courts was 417. Of the individuals who are no longer active, 606 (51 percent) have completed the process, or “graduated,” while 581 (49 percent) have been terminated or discharged from drug court for failing to comply with drug court requirements.

Overall, 1,172 males and 472 females have been admitted to drug

courts (see Appendix E on individual courts and characteristics of their offender populations). Figure 1.4 shows an annual summary of offenders admitted, graduated, and terminated, for state-funded drug courts.

Figure 1.4

Annual drug court census, FY '98 – '06 ¹

Fiscal Year	Admitted	Graduated	Terminated
1998	38	0	6
1999	65	13	24
2000	92	24	30
2001	76	50	36
2002	160	35	49
2003	276	75	75
2004	259	123	90
2005	298	134	112
2006	228	111	93
Unknown	15		
Total	1,507	565	515

Source: LSO analysis of drug courts' data.

¹ Data analysis covered through March 31, 2006 for this evaluation; since tribal data could not be analyzed by fiscal year or by individual, it is not included in this figure.

Drug courts focus on misdemeanor and/or felony cases.

Depending on local community preferences, individual drug courts serve different types of offenders. Some limit participants to misdemeanants, some focus on juveniles or families, and others accept felons; one court will soon concentrate only on DUI offenders.

The national drug court experience was fueled by local initiatives

In the past 15 years individuals across the nation have pushed for acceptance and development of the drug court concept, community by community. The push to create drug courts has emphasized two points: first, that drug courts as a treatment modality work to accomplish the goal of rehabilitating offenders; and second, that drug courts are a less expensive alternative to incarceration.

Recognizing these advantages, the U.S. Department of Justice Drug Courts Program Office in the mid 1990's fostered the rapid

Federal grants

fostered the rapid expansion of drug courts nationwide.

nationwide expansion of drug courts through a grant program aimed at stimulating local initiative and commitment to drug courts. The grants, like other federal efforts, concentrated on providing funds for local operations, and did not emphasize the development of state regulatory or administrative oversight systems. Further, federal statutes do not define what drug courts are, nor do they require states to fund them.

Recent statewide evaluations begin to point toward positive drug court outcomes

The Division has contracted with WYSAC for two drug court studies.

The Division contracted with the University of Wyoming's Survey and Analysis Center (WYSAC) to conduct statewide drug court evaluations in 2004 and 2005 (see Appendix F for the executive summary of each report). The first report focused on the processes used by individual drug courts and provided a preliminary impact evaluation. Acknowledging that drug courts vary in their operations, WYSAC also found that drug court participants and their families believe drug courts are working well. Their findings, based on surveys of offenders, showed that offenders generally feel the drug court positively impacted their lives.

WYSAC's 2005 evaluation began to look at drug court outcomes.

The second WYSAC evaluation (2005) focused on local drug courts' use of and adherence to the national *Key Components* and gave a preliminary look at outcome measures adopted by the Division for drug courts. Overall, the evaluation concluded that drug courts are a cost-efficient alternative to incarceration and that while preliminary calculation of the national outcome measures is problematic, data shows drug courts may be effective in holding offenders accountable. For example, the report noted that in FY '05, 98 percent of all urinalysis tests for drug court participants proved negative.

Although these evaluations are limited to analyzing narrow, single-fiscal year timeframes, and use largely survey information from stakeholders and offenders to provide a snapshot of drug courts in the state, they provide a beginning for more comprehensive evaluation of drug courts in the future. In addition, we note that fully half of the 12 recommendations from the 2005 evaluation point to the need for a more comprehensive state oversight role in such areas as offender referral processes, drug testing, and

performance measurement.

Emphasizing local initiative has hampered development of a statewide program

Statute does not address the significant role of the judiciary in administering drug courts.

During research, LSO noted the high enthusiasm exhibited by stakeholders involved with drug courts. That support notwithstanding, this report goes beyond individual success stories and anecdote to focus on several issues having to do with administrative accountability at the state level. We identified a fundamental problem in Wyoming's drug court statute: it states clear goals, provides the executive branch with a mechanism for distributing funding, and requires reports on effectiveness. However, statute does not distinguish how administration, oversight, and performance evaluation of locally established drug courts will occur insofar as they involve a separate branch of government, the judicial branch.

Chapter 2 examines the Division's role in helping gather relevant data and in developing a functional case management system to support current and future funding decisions. Chapter 3 identifies the great diversity and variety among local drug courts, a set of circumstances that has not been conducive to broad stakeholder buy-in (i.e. – the Wyoming judiciary) or clear policy and system development. These issues represent obstacles to evaluating the long-term impact of drug courts in meeting local needs and achieving state goals.