
CHAPTER 3

State statutes for oversight of local drug court calls for a commitment from two branches of government and multiple agencies

Emphasis on keeping operations local has lead to ad hoc development of drug courts.

Development of drug courts in Wyoming has been rapid but hardly systematic. Locally and voluntarily formed, drug courts at present are diversely structured and just as differently operated. New drug courts were started with minimal statutory indication of how the state would oversee its investment or coordinate local efforts. Our research indicates that funding drug courts, by itself, has not lead to formation of a uniform program statewide. Instead, there has been ad hoc development of 23 separate drug courts and any initial expectation that they would consistently report outcomes has not materialized.

Nationally, states are considering more fully integrating drug courts into state government.

Many of the stakeholders we interviewed said the Legislature needs to decide whether or not it wants drug courts as part of the standard criminal justice system, and if so, then they say it should fund them accordingly. Such a decision parallels a new phase nationally in which other states are considering whether drug courts should be institutionalized; they are considering doing so by more fully integrating drug courts into statewide agencies and by clarifying and standardizing their operations. This requires finding a balance between “top-down” and “bubble up” approaches, in order to maintain the engagement of current stakeholders.

We recommend that the Legislature consider authorizing a steering committee to review different administrative models, and report recommendations for a comprehensive state administrative structure. Such efforts will require full inclusion of the judicial branch since many judicial stakeholders feel they were not adequately consulted or involved in discussions prior to establishment of drug courts in Wyoming.

Figure 3.2 Structural and procedural characteristics of state-funded Wyoming drug courts

Court Name	Date 1st Admitted Offenders	Target Population	Level of Judiciary	Level of Offenses Covered	Judicial Representative Performing Hearings	Sentencing Structure
Albany County	July-04	Adults	Circuit	Misdemeanor	Judge	Post, PPPA
Big Horn County	August-02	Juveniles/Families	District	Delinquency, CHINS, Abuse/Neglect	Judge (Cir. and Dist.)	Post
Campbell County 1	February-02	Adults	District	Felony, Misdemeanor	Judge	Post, DP
Campbell County 2	June-04	Juveniles	District	Delinquency (misdemeanor)	Judge	Post, DP
Fremont County 1	January-02	Adults	Circuit	Felony, Misdemeanor	Judge	Post
Fremont County 2	August-02	Juveniles	District	Delinquency (misdemeanor)	Circuit Judge and Comm.	Post
Johnson County 1	March-04	Juveniles	Circuit	Delinquency (misdemeanor)	Judge	Post, DP
Johnson County 2	March-06	Adults	Circuit	Misdemeanor	Judge	Post, DP
Laramie County 1	October-01	Adults	Circuit	Felony, Misdemeanor	Judge	Post, DP
Laramie County 2	N/A	Adults (DUIs)	Circuit	Misdemeanor	Judge	DP
Lincoln County	April-00	Adults	Circuit	Felony, Misdemeanor	Judge	Post
Natrona County	January-02	Adults	Circuit	Felony, Misdemeanor	Judge	Post
Park County	February-02	Adults	District	Felony, Misdemeanor	Judge	Post, DP
Sheridan County 1	May-98	Adults	Circuit	Felony, Misdemeanor	Magistrate	Post, DP
Sheridan County 2	June-99	Juveniles	Circuit	Felony, Misdemeanor	Magistrate	Post, DP
Sweetwater County 1	August-05	Adults	Circuit	Felony, Misdemeanor	Judge	Post, DP
Sweetwater County 2	NA	Families	District	Delinquency, CHINS, Abuse/Neglect	Judge	Post, DP
Teton County 1	April-04	Adults/DUI	Circuit	Felony, Misdemeanor	Judge	Post
Teton County 2	September-05	Families	District	Delinquency, CHINS, Abuse/Neglect	Judge	Post
Tribal 1	July-05	Adult	Tribal	Felony, Misdemeanor	Judge	Post, DP
Tribal 2	July-01	Juveniles	Tribal	Delinquency (misdemeanor)	Judge	Post, DP
Uinta County	November-97	Adults	Circuit	Felony, Misdemeanor	Judge	Post
Evanston	January-02	Juveniles	Municipal	Delinquency (misdemeanor)	Judge	Post, DP, DI&S

Source: LSO summary of drug court data and grant applications.
 Judicial Representative Abbreviation: Comm. = Court Commissioner
 Sentencing Structure Abbreviations: Post = Post-plea or post-adjudication; DP = Deferred Prosecution; PPPA = Post-Plea, Pre-Adjudication;
 DI&S = Deferred Judgment and Sentencing

Local drug courts vary greatly in their structure and operations

Although a few drug courts were already operating by 2001, new ones formed more quickly once HB 82 was enacted. WDH and the State Drug Court Panel do not guide or control the development and expansion of drug courts, aside from disbursing money as authorized by this act. Figure 3.2 lists excerpts from the drug court statute, highlighting the many aspects of operations and management controlled at the community level.

Figure 3.2

Selected statutes illustrating local “ownership” of drug courts

- **W.S. 5-10-104(a):** a *local* drug court management committee shall be established by each *local* drug court.
- **W.S. 5-10-104(c):** All members shall be residents of, or practicing in the county or counties served by the *local* drug court.
- **W.S. 5-10-104(d):** Each *local* drug court management committee shall manage the funds received from the drug court account, meet any reporting requirements of the department of health, and appoint a drug court coordinator or program manager *who shall be responsible for administration and oversight of the court* and will be the primary contact for *outside* agencies.
- **W.S. 5-10-105(a):** Requests for new or continued funding of drug courts may be submitted annually by any *local* drug court management committee to the drug court panel on dates set by the department of health.
- **W.S. 5-10-105(e):** The department of health shall, on behalf of the drug court panel, annually report to the governor and the joint labor, health, and social services committee on the *selected drug courts which receive funding*.
- **W.S. 5-10-107(a):** *Each drug court* shall establish conditions for referral of proceedings to the court consistent with drug court office *guidelines*. Any proceeding accepted by the drug court program for disposition *shall be upon agreement of the parties*.

Source: Wyoming Statutes.

Wyoming drug courts have many personnel, resource, and operational differences.

Differences among drug courts include the court level at which they are placed, who participates on local management teams (for example, what “type” of judge), and whether defense counsel is included. In addition, resources available to work with offenders vary greatly. We also found wide variation among individual drug courts as to target offender populations, the status and organizational location of local drug court coordinators, and how judges address important legal concerns. Figure 3.1 (opposite page) shows the 23 state-funded drug courts that operate currently

Figure 3.3

Average cost per day and average cost per admitted, terminated and graduated offender, FY '03 – '06

Court Name	FY '06	FY '05	FY '04	FY '03	Overall (FY '03 - '06, through March 31, 2006)			
	Average cost per day	Average cost per day	Average cost per day	Average cost per day	Weighted average cost Per day	Average cost per offender (weighted average length of stay)	Average cost per terminated offender (weighted average cost per day x average non-completer length of stay)	Average cost per graduated offender (weighted average cost per day x average graduate length of stay)
Albany County Adult	\$58.10	\$81.73	-----	-----	\$69.14	\$12,911	\$20,326	\$29,564
Big Horn County Family	Data Incomplete							
Campbell County Adult	\$38.63	\$42.24	\$19.76	-----	\$32.37	\$8,965	\$8,933	\$15,212
Campbell County Juvenile	\$112.99	\$110.33	\$108.14	\$130.86	\$114.83	\$16,191	\$31,349	\$58,220
Fremont County Adult	\$14.14	\$14.74	\$14.22	\$18.30	\$15.12	\$7,619	\$6,833	\$7,996
Fremont County Juvenile	\$41.56	\$37.33	\$39.19	-----	\$39.10	\$9,853	\$13,762	\$13,723
Johnson County Juvenile	Too few admitted and completed offenders							
Johnson County Adult	Too few admitted and completed offenders							
Laramie County Adult	\$31.20	\$41.53	\$42.73	-----	\$38.29	\$25,233	\$11,296	\$16,426
Laramie County DUI	No offenders admitted							
Lincoln County Adult	\$41.24	\$42.14	\$45.72	\$51.02	\$44.95	\$23,957	\$8,944	\$17,529
Natrona County Adult	\$21.00	\$25.40	\$31.01	\$39.62	\$28.16	\$10,474	\$7,180	\$12,839
Park County Adult	\$46.64	\$53.87	\$56.73	\$60.43	\$54.74	\$14,069	\$11,660	\$30,272
Sheridan County Adult	\$30.55	\$18.22	\$29.86	\$53.79	\$29.82	\$6,859	\$8,469	\$12,227
Sheridan County Juvenile	\$98.92	\$59.10	\$135.77	\$127.33	\$95.05	\$25,283	\$34,028	\$40,966
Sweetwater County Adult	Too few admitted and completed offenders							
Sweetwater County Family	No offenders admitted							
Teton County Adult/DUI	\$38.81	\$129.42	\$1,206.09	-----	\$98.37	\$15,444	\$20,461	\$40,725
Teton County Family	Too few admitted and completed offenders							
Tribal Adult	Data not individualized							
Tribal Juvenile	Data not individualized							
Uinta County Adult	\$25.75	\$26.14	\$21.97	\$24.69	\$24.61	\$7,653	\$5,069	\$10,262
Evanston Juvenile	\$81.40	\$77.84	\$68.88	\$49.18	\$67.46	\$20,913	\$12,008	\$24,691
Statewide	\$34.77	\$36.24	\$34.55	\$41.21	\$36.22	\$13,216.07	\$9,695.75	\$15,799.52
Adult Courts	\$29.01	\$31.33	\$27.86	\$33.18	\$30.09	\$11,587.81	\$7,840.56	\$13,398.13
Juvenile/Family Courts	\$70.94	\$60.82	\$71.04	\$85.06	\$69.87	\$17,442.12	\$21,061.31	\$27,375.01

Source: LSO analysis of drug court data and grant applications.

Note: Costs for each drug court include both state drug court grant funds and the local matching funds declared by each court in grant applications submitted to the Division (see Appendix G for the detailed methodology used to calculate these costs).

at the district, juvenile, circuit, municipal court, and tribal court levels, and the levels of criminal offenders they accept. Some other differences include:

Drug courts utilize post-plea or post-adjudication sentencing.

- Certain drug courts concentrate on misdemeanants but may also take in felons; the opposite is true of other courts that concentrate on felons but also accept some misdemeanants.
- Some drug courts appear to tailor their operations toward a more specific type of offender; among these “specialized” courts are the juvenile drug courts, family drug courts, and DUI courts.
- Drug courts use a range of sentencing options and procedures: most operate as a post-plea/post-adjudication court, but some employ other methods such as deferred and suspended sentences upon completion of drug court.

Judge and defense counsel team membership varies

A judge (or magistrate or commissioner) oversees each drug court’s operations.

Within the diverse court structures and locations, judicial and defense counsel participation differ. Drug courts have formed mainly at the circuit and district court levels, where practices vary from having a full-time, state-paid judge who oversees the court, to drug courts that pay for a magistrate or commissioner to handle team meetings and drug court hearings. The variety extends to use of defense counsel: both state-paid public defenders and drug court-paid private attorneys work as defenders in drug courts. The costs of paying for a separate judge or defender, versus using services already available through the courts or the State Public Defender’s Office, can reduce a drug court’s budget for treatment services.

Local resources vary and may contribute to inequities accessing needed services for drug court offenders

Certain types of

In addition to differences in whether courts use state-paid judges and defense counsel or pay for them from their own budgets, other available funds and resources dedicated to each court vary widely by community and offender emphasis. Figure 3.3 (opposite page) breaks down the costs-per-day for operating the courts, and also shows the cost per active, terminated, and graduated offender (based on actual average lengths of stay in drug court).

Generally, the Division is unable to explain or justify this range in cost per day and cost per offender. However, some disparities may

offenders require more intensive services.

be explained by the fact that juvenile courts tend to have higher costs than adult courts, since they may also be providing services to a juvenile's family. Similarly, felony offenders and those with co-occurring addictions tend to require more intensive treatment at higher cost than misdemeanor substance-abusing offenders.

State funds or state-paid personnel account for 48% of locals' matching funds.

The Division has not yet defined eligible types of local matching funds; currently, each court claims various local and additional state sources for the 25 percent local in-kind and cash match. For example, in FY '07 grants (awarded May 5, 2006), applicants claimed they would provide \$3.7 million in local cash and in-kind matching funds to support their courts. Upon further review, we identified \$1.8 million (48 percent) of these matching dollars as other state funds or state-paid personnel dedicated to the local drug courts.

The Division and local drug courts have not reached consensus on a funding formula.

The Division and local drug court stakeholders acknowledge these contentious issues; they have attempted recently to clarify eligible local matching funds and devise a state-level funding strategy, or formula, to allocate grant funds. However, these efforts have not resulted in consensus. Overall, LSO staff analysis indicates that different communities have a variety of resources to use in their drug courts beyond the state grant, so that participating offenders of one drug court may be at a disadvantage compared to another for accessing the range of supervision and treatment services needed for their rehabilitation.

Individual drug court processes are not consistent

Three procedural elements of local drug courts illustrate other inconsistencies among them: admissions criteria, assessments, and treatment methods used.

Admission criteria National guidelines suggest targeting non-violent addicted offenders, and for the most part, Wyoming's drug courts appear to follow that path. However, judges told us that accepting only non-violent offenders unnecessarily restricts a drug court's ability to provide treatment to those who need it, such as for addicts also involved in domestic violence. Several courts noted that they make exceptions in selecting offenders to include some charged with a violent crime.

Not all drug courts use the ASI assessment as required in Division rules.

Assessments Despite Division rules requiring, at a minimum, the use of the Addiction Severity Index (ASI) assessment tool to screen eligible adult offenders, we learned that not all courts are using this assessment tool and meeting this requirement. Further, WYSAC's 2005 evaluation noted at least two courts that were not using the ASI as a continuing measure of treatment progress of offenders. Juvenile drug courts may also use other age-appropriate assessments, but are not required to do so by drug court rules.

Offenders' treatment is dependent on available services, more than on their needs.

Treatment Drug courts use an assortment of approaches to treatment. Frequently, a participant's treatment is dependent more on the availability of local resources and the coordinator's ability to marshal treatment resources, than on what coordinators and judges believe is needed. Additionally, current research indicates truly addicted offenders have different treatment needs from other substance-abusing offenders. Mixing addicted and abusing offenders in the same drug court may complicate the process of levying incentives and sanctions effectively, as well as make it more difficult to determine what modes of treatment are needed in a community.

Status of local drug court coordinators is unclear, and their duties differ from court to court

Drug court coordinators have unclear lines of authority in statute; at least two major issues have arisen regarding their status, the first being an employment and accountability issue: Who holds the coordinators responsible for the activity in their courts, and for whom do they work? The second is a legal status issue: Who is liable if a local coordinator's actions or drug court proceedings are challenged in court?

Local coordinators may be employed by counties, as contract employees, or by a non-profit organization.

Employment and accountability Individual local solutions have been applied to coordinator employment issues, resulting in no consistency across the state. In some counties, the coordinator is a county employee with the benefits and legal protections commensurate with that status. In other counties, the coordinator is a contract employee or an employee of a separate non-profit organization formed by the drug court management team. Payment of a coordinator's salary can be out of grant funds from WDH, or they may be paid by a local government so that more grant dollars are available to cover treatment costs.

Local coordinators may not have liability protection.

Coordinator legal standing and liability The Attorney General's Office has issued an informal opinion on the question of legal immunities and protections for local drug court coordinators. The Office states that local coordinators enjoy different levels of immunity or liability protection depending on each one's employment status as defined by the local drug court structure; thus, any one coordinator may have different protections and liabilities when performing professional duties than others have.

The state cannot effectively monitor drug court processes or results

As the Legislature increasingly emphasizes the results and performance of drug courts, issues of state versus local control and concerns about diverse procedural practices are surfacing. Due to the wide variations among local courts, measuring performance and outcomes statewide has been challenging. The Division has struggled to establish a functional management information system; politically, it is proving difficult to define performance measures that fit all drug courts, given their different structures, target populations, and perceptions of success.

There is no local consensus on standardizing operations or adopting uniform accountability measures.

In the face of this diversity, there has been little direction from WDH and little agreement at the local level on how to standardize. Ironically, concern over increased accountability comes at a time when individual drug courts are more entrenched than ever, both financially and organizationally, in local communities. One coordinator phrased the challenge by saying each court is "fiercely" independent and they will "fiercely" defend themselves. Further compounding the problem, according to the Division, is that three drug courts are operating without any state funding and therefore oversight by the Division; nine additional communities may be planning to start drug courts (this many have inquired at the Division or have already gone through the federal training).

Relevant state standards have not been developed for two key functions of drug courts

We found general agreement that the three most important aspects in making drug courts successful are: substance abuse treatment of offenders, intensive supervision/probation, and intense and continued involvement of the judge to bring it all together. Statute

Division rules and authority cannot address probation practices and judicial processes.

requires substance abuse treatment providers to be certified, and HB 59 in 2002 required the adoption of standards by the Division. However, the drug court statute and Division rules do not and cannot address the other two legs of the stool. Inter-agency collaboration is needed to work out standards for intensive supervision and probation; similarly, judicial-executive collaboration is necessary to develop standards for judicial conduct and guidelines for handling drug court proceedings.

Many state entities contribute to drug court operations

No single entity has authority to oversee activities in the 23 separate, locally-run courts or to develop policy for a system. For example, in interviews with local stakeholders, we found that many hold a misperception that the executive branch, through either the state drug court coordinator, the Division, or the State Drug Court Panel, is responsible for making policy.

Drug court judges feel isolated, deal with legal and ethical concerns individually.

Having worked in consultation with the Judiciary to adopt non-funding related standards (see page 34), and having been unsuccessful in that effort, the Division does not believe it has authority to compel judges to follow standard executive branch procedures in operating drug courts. Statute does not give the Panel managerial or policy-making authority. We learned that under these circumstances, local drug court judges feel isolated: they do not answer to the state coordinator or the Panel, and absent policy guidance from the judicial branch, find it necessary to address legal and ethical concerns individually.

The state coordinator has limited authority to guide judges and drug

WDH, Division and State Coordinator We were told one of the main reasons WDH was selected to administer drug court funding was that this structure would provide linkages between drug courts and the Department's existing substance abuse treatment programs. WDH and the Division have some oversight authority for drug courts by virtue of statutory requirements to manage and account for funding, issue program guidelines, collect local self-evaluations, and report to the Legislature and Governor. However, drug court judges, who are leaders of the local teams, are part of a separate branch of government, the judicial branch. As an employee of an executive branch agency, the state drug court coordinator has

court processes. limited ability to oversee or direct judges in how to run their courts, other than through the grant funding process. Given their separate lines of authority, the state coordinator's approach to influencing judicial activities has been to seek change through education and consensus building.

State Drug Court Panel and Governor's Board The drug court statute specifically and narrowly restricts the State Drug Court Panel's role to making funding decisions regarding local drug courts' grant applications. Panel members acknowledge a need for more standards, policies, and quantifiable outcomes to come from the state, and they have begun discussions to define terminology and establish funding priorities. However, the Panel has no administrative or policy-making authority to direct drug courts toward satisfying statutory purposes and goals.

The Governor's Board has requested more consistent drug court data.

The Governor's Substance Abuse and Violent Crime Advisory Board's (Governor's Board) receives WDH drug court reports and has a representative on the State Drug Court Panel. It has also gone beyond those roles in participating in the administration of drug courts: the Governor's Board was directly involved in drug court funding prior to FY'02, and has recently requested more standardized outcome measures from them.

Corrections and the State Public Defender provide personnel to local teams.

Other State Agencies: In addition to reviewing grant applications, the State Drug Court Panel member agencies also support local drug court operations with personnel and funding. For example, the Department of Corrections dedicates nine full-time probation officers exclusively to drug courts, and an estimated 80 percent of drug court offenders are represented by the Public Defender's Office. Locally, team members find it necessary to adjust or alter their traditional professional roles in order to contribute to the collaborative decision-making process typical of drug courts. This was described as "...everyone has to give up a bit of power or control" for the good of the team and offender.

Judicial opinions are mixed, but judicial stakeholders perceive they had little impact on how statute and local courts developed

Judges' interactions with drug court offenders are integral to offender progress.

According to drug court research, a judge's regular interaction with offenders is both the most valued incentive (i.e. the judge's praise) and the most sobering sanction (i.e. reprimands) for offenders during their time in drug court. However in Wyoming, broad-based judicial support for drug courts has not developed even though they have been created across the state and exist within different levels of Wyoming's courts. The Center for Court Innovation holds that a primary building block for beginning to institutionalize drug courts is having stakeholder agreement on the concept and process.

The judiciary was not sufficiently included in early drug court discussions.

Drug courts have engendered controversy within the Wyoming judiciary since they were first proposed. Several judges and knowledgeable observers maintain that input from the Judiciary was not sufficiently solicited at the early stages of drafting the drug court statute. Key stakeholders mentioned they were not consulted until statutory language had been proposed and appropriations were already attached.

Judges may be beginning to find common ground on drug courts

Ethical and constitutional concerns fuel judicial reservations about drug courts.

After interviewing numerous judges, both participants and non-participants in drug courts, we believe many are coming to agree that further definition of drug and problem-solving courts should be considered cautiously. Early in 2006, all levels of the Wyoming Judiciary endorsed a resolution calling for a thorough discussion before further modifying or changing statute. Such discussions are indicated because statute leaves open to interpretation by each individual drug court certain important ethical and constitutional concerns. These issues, summarized in Figure 3.4, include: separation of powers between the executive and judicial branches; jurisdictional, due process, and appeals procedures, as well as ex parte communications.

Figure 3.4**Selected judicial concerns about drug courts**

Separation of Powers: The mere fact that state-level drug court funding is managed by WDH and the Division, while the courts manage the legal process and sentencing of offenders, creates confusion as to where each branch's authority ends and the other's begins. Nationally, the Conference of State Court Administrators notes support for some sharing of powers among the branches of government, but it also asserts that policy decisions dealing with the actual administration of justice are the primary power of the judicial branch.

Jurisdiction, Due Process, Appeals: Jurisdictional questions have arisen in that some cases typically heard in one court under one set of principles and procedures may be processed at a different level of court functioning under a different set of principles and procedures. An example would be a juvenile referred from the district-level juvenile court to a circuit or municipal juvenile drug court. Related issues include when individual offender rights may be secondary to drug court functions and authority, and what the appeals process is if offenders wish to contest drug court (i.e. – sanction) or probation revocation decisions, especially at the district court level.

Ex Parte Communications: In some drug courts, the judge participates in team staffing to discuss the merits of the case. In some drug courts, the judge participates in the team staffing without the presence of the defendant, the defense counsel, or prosecution counsel. Some concerns have to do with: (1) not having legal representation when the team discusses an offender's situation; (2) the judge's role as a team member in deciding what sanctions to recommend; (3) the judge's ability to render an impartial decision, if present for team discussion; and (4) outside the court, families may approach judges to discuss an offender's case, also compromising judicial impartiality.

Source: LSO summary of stakeholder interviews and document review.

WDH and the Board of Judicial Policy and Administration attempted to set state standards for drug courts, but were unsuccessful

The Board of Judicial Policy and Administration concluded drug courts are not "courts."

Stakeholders told us that standards, rules, or guidelines are needed to help bring more consistency into drug courts across the state. The continued absence of statewide standards may relate to the unclear organizational status of drug courts: Statute indicates they are a "sentencing option" as defined under the Courts (Title 5), and in 2003, the Board of Judicial Policy and Administration in concert with the Division attempted to adopt judicial rules of procedure. The Board concluded that drug courts are not actually courts in the same sense that municipal, circuit, district, and juvenile courts are and the rules were not adopted. The Board's reasons for holding this position are similar to judicial concerns summarized in Figure 3.4.

The absence of approved judicial rules that would clarify how drug courts are, or are not, part of the judicial system contributes to the

ambiguity. The Judiciary requested WDH and the Division to extract administrative aspects which had been in the proposed judicial rules, but they have yet to do so. Figure 3.5 lists areas of drug court operations stakeholders mentioned could benefit from statutory change or development of state standards and guidance.

Figure 3.5

Areas that can benefit from rules or guidance

Judicial concerns	Separation of powers, treatment of juveniles, jurisdiction, due process, appeals, ex parte communication, fundraising
Probation concerns	Drug court versus regular probation procedures, caseload for drug court probation officers
Local coordinators' concerns	Employment status, liability due to uncertain and inconsistent local drug court structures (non-profits, local government entities)
Others' procedural concerns	Drug court admissions criteria, graduation standards and requirements, drug testing standards and protocols, training, required treatment components and standardized rates, standard waiver documents and practices

Source: LSO summary of stakeholder interviews and document review.

Nationally, experts and practitioners recognize the need to institutionalize drug courts

Clear administrative structure and authority are needed for a statewide drug court program.

The federally-driven initiative to create local drug courts bypassed broad state government involvement that might have defined and standardized important aspects of drug court functioning. Wyoming set up a decentralized implementation strategy that mimicked the federal strategy and emphasized local decision-making and control. However, research indicates an administrative structure with clear authority is essential for a statewide drug court program; institutionalizing drug courts into a statewide system provides stability for the function and assists in meeting program goals. In order to do this, a state needs to establish both an oversight responsibility and the authority to hold local drug courts accountable.

Defined state-level structure may promote the sustainability of drug courts

The Bureau of Justice Assistance and the National Drug Court Institute have developed model drug court legislation that stresses “the importance of structure,” including “clearly defining” aspects

of state-level drug court administration. In general, clear lines of authority should provide the chief state administrator sufficient clout and influence to compel adherence to the state standards and policies.

How to integrate drug courts into state government is a concern in many states.

In a 2004 study called *The Future of Drug Courts: How States are Mainstreaming the Drug Court Model*, the Center for Court Innovation (Center) noted that the central issue currently facing drug courts nationwide is the challenge of institutionalization.

Intuitively, institutionalization and promoting drug courts as a fully integrated program, rather than as an experimental project, appears to conflict with the local, flexible nature of their origins. But the Center emphasizes that “drug courts will not survive for long unless they are institutionalized,” and that “the movement has as much, if not more, to fear from excessive fidelity to the model.”

Recent study identifies successful administrative models for drug courts

Generally, drug court research supports establishing a comprehensive and well defined administrative structure in which policy-making authority is clear and well-communicated to all stakeholders. The Division recently commissioned a nationally recognized drug court research expert to examine oversight and administration issues and recommend changes for Wyoming.

A recent study states Wyoming has an “executive branch” model, since funding goes through WDH.

The report outlines three basic models for administering drug courts: executive branch, judicial branch, and a “hybrid” model involving collaboration between the executive and judicial branches. It found that many states have an oversight commission or advisory panel to assist in program management, but instead of recommending one model over the others, it indicated the general benefits and drawbacks of each. Figure 3.6 summarizes the models as described in the study; it placed Wyoming under the “executive branch model” since state funding for drug courts is appropriated to WDH.

Figure 3.6

Drug court administrative models advantages and disadvantages

Executive Model		Judicial Model		Hybrid Model	
Advantage	Disadvantage	Advantage	Disadvantage	Advantage	Disadvantage
Oversight ability for treatment and supervision already based in executive branch agencies	Judges feel isolated in operating drug courts	Improved financial stability	Administering a program through the judiciary creates conflict of interest if program is challenged; suit may go to federal court with state judiciary as defendant	Each branch has authority over its own structure	Difficulty defining the program's final authority
Judiciary lacks administrative experience in program management, especially in substance abuse treatment	De facto violation of the Constitution for the separation of powers	Improved accountability Improved legitimacy of drug courts	Judiciary is in the position of having to make clinical or treatment decisions for which they are not trained or inclined as a group to do	Each branch can oversee its primary responsibilities to provide accountability and legitimacy	
States Using Executive Model		States Using Judicial Model		States Using Hybrid Model	
Missouri, Washington, Wyoming		Arizona, Florida, Illinois, Minnesota, Louisiana, Virginia		California, Idaho	

Source: LSO summary of *Intergovernmental Relations and Drug Courts: Finding a Home for State Management of Local Judicially Driven Programs*, by Dr. Cary Heck and Aaron Roussell, National Drug Court Institute and University of Wyoming, 2006.

Recommendation: The Legislature should consider authorizing a steering committee to review different administrative models, and report recommendations for a comprehensive state administrative structure.

Because statute allows drug courts to develop and function for the most part independently of state prerogatives, local authorities are doing so in 23 rather different ways. The Legislature has delegated significant autonomy to locally-formed drug courts, and statute is silent on key

It is time to step

***back and reassess
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courts.***

aspects of drug court processes and concerns; the role of judges and probation personnel practices are two of those aspects. One study points out, “legislation must have teeth...it does not seem to be enough to simply define and provide funding for drug courts.” We believe it is time to step back and reassess the role of each major participant in drug courts.

***The drug court
steering committee
should include
members from all
levels of the
judiciary.***

The Legislature should consider appointing a steering committee to review successful administrative models from other states, and report to the Legislature with recommendations for improving the state-level structure for drug courts. In order to develop a shared understanding of terminology and clear lines of communication, the committee’s membership should be equally broad and inclusive of at least the following: members of the judiciary representing all court levels and including practicing and non-practicing drug court judges, members of the Legislature, and agency representatives from the State Drug Court Panel.

The steering committee’s charge could be two-fold, in that it could also be tasked to begin forging a common understanding of drug courts. For example, are they actual courts, another form of intensive supervised probation, purely treatment-related, or do they serve some other purpose or set of purposes? This greater definition should fit with the recommended administrative structure and placement of the program in state government.

***A stronger state
presence should
provide reasonable
uniformity, equity,
and accountability.***

The state needs to have sufficient and reasonable oversight authority over local drug courts to better ensure accountability for state funds, a more uniform and fair process, and the adoption of best practice treatment methods. Ultimately, if the Legislature desires this accountability, it needs to establish a stronger state administrative presence with regard to drug courts.