

**Department of
Community Correction**



**Arkansas Drug Courts: Impacts on Prison
Population, Costs, Community Benefits and
Future Challenges**

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Overview

Since the first drug court was established in Florida in 1989, numerous government agencies and other researchers have studied the components, savings, and outcomes from drug court operations across the nation. Such courts bring the judges, prosecutors, and defense attorneys together with probation staff and drug counselors to work with the offenders whose crimes are related to alcohol and/or drug abuse, in an effort to address the offenders' addictions while protecting the safety needs of the community.

National research shows that participants in drug court treatment programs have lower re-arrests and re-convictions than comparison groups, and lower recidivism rates while in the programs. Furthermore, all programs have reported a positive net savings from reductions in recidivism and avoided costs to potential victims, weighed against the costs of staffing drug courts. Recognizing the potential financial savings and social benefits of drug courts, Arkansas expanded from one (1) drug court in 1994 to 28 at the end of the 2005 fiscal year, and 37 by June 2006.

The 28 drug courts in existence in Arkansas in 2005 have different types of adjudication, requirements, and program qualification criteria; however, all seek to serve their varied and unique communities. The courts range from pre-adjudication (the participant admitted to the drug court without charges being filed) to post-adjudication (participant charged, found guilty, and is sentenced to drug court) to post plea diversion (the participant is charged, found guilty, but can avoid a criminal record through drug court participation). All courts require extensive supervision, drug testing, individual therapy, group therapy, employment and/or community service.

Through December 31, 2005, 28 courts provided treatment for 1,312 individuals with 614 having completed the program.

The National Findings on Drug Court Impacts and the Need for Drug Courts in Arkansas

A recent report issued by the Office of National Drug Control Policy in December 2004 discusses the national costs associated with drug abuse. The report, *The Economic Costs of Drug Abuse in the United States, 1992-2002*, states that the national economic cost of drug abuse in 2002 was estimated at \$180.9 billion, representing the use of medical health and justice system resources to address drug use, as well as costs associated with lost productivity from disability, death, and withdrawal from the workforce.

A Federal Bureau of Investigation data from 1992 through 2002 shows the national impact of arrests associated with drug abuse by the type of offense committed. Nationally, over 30% of all burglaries and larceny-thefts have been attributed to drug abuse, as has 27% of robberies, and almost 16% of all homicides.

Table 1
Federal Bureau of Investigation National Statistics
Type and Percent of Offenses Attributed to Drug Abuse

Type of Offense	Percent Attributed to Drug Abuse		Type of Offense	Percent Attributed to Drug Abuse
Burglary	30.0%		Prostitution	12.8%
Larceny-Theft	29.6%		Motor Vehicle Theft	6.8%
Robbery	27.2%		Aggravated Assault	5.1%
Homicide	15.8%		Other Assaults	5.1%
Stolen Property	15.1%		Forcible Rapes	2.4%

Clearly the impact of drug abuse in the criminal justice system is staggering. Arkansas is not immune from the spread of drug abuse and criminal activity associated with its use, manufacture, and distribution. An example of the spread of criminal activity

associated with drug manufacturing is the spread of methamphetamine laboratories. According to the Arkansas State Crime Lab, since 1993 the number of clandestine laboratories involved in the manufacture of methamphetamine has risen exponentially, from 16 labs in 1993 to over 1,200 in 2004.

Since June 2002, the number of inmates at the ADC has increased from 12,435 (including county jail backup) to 13,243 on June 30, 2005.¹ Individuals confined at the DCC increased from 964 to 1,281 residents during that same time period with an additional 538 offenders waiting to be transferred to a DCC facility. The number of Arkansans under community supervision increased from 41,715 on June 30, 2002 to 47,113 on June 30, 2005, a 13% increase in three years. A total of 62,175 offenders were either incarcerated in a State correctional facility or under community supervision on June 30, 2005. This population would qualify as the 10th largest county in the state of Arkansas. This does not include offenders discharged from probation or parole.

Table 2

County Population Estimates and the Number of Inmates and Offenders under Community Supervision

County	Population Estimate (July 1, 2003)
Pulaski	364,567
Washington	169,683
Sebastian	117,252
Faulkner	92,060
Garland	91,188
Saline	87,554
Jefferson	82,889
White	69,981
Total Inmates and Offenders Under Community Supervision	62,175

With an FBI report indicating that the percentage of crimes committed against people and property ranging from 5% to 30%, a reduction in arrests associated with drug

abuse would result in savings in the criminal justice system. Given the daily costs associated with incarceration of offenders in an ADC or DCC facility of no less than \$16,425 per year, a 10% reduction across the board in both ADC and DCC facilities would mean 1,506 fewer inmates and reductions in associated incarceration costs. Similarly, a 10% reduction in the community supervision population would result in 4,711 fewer offenders under supervision per year. ²

It may be that drug courts are already having this diversionary effect upon the ADC/DCC inmate census. Project reports prepared by JFA & Associates, for the ADC have undergone a revision in the starting population base for prison growth projections since 2002. Table 3 shows that between the 2002 and 2004 projection, the starting base projection indicates very little change, although the prison population was projected to increase each year. By 2004, the starting base projection had increased by only 156 offenders and the impact over time shows a shift to lower growth projection estimates. The projection shifted in the 2003 report corresponding with the increase in drug courts from 2 in 2001 to 9 in 2003.

The FY 05 report, including the projections for 2005 through 2015, indicates a projected growth of 3.1% annually, or an annual growth of 480 inmates per year. With additional drug courts coming on line in FY 06, future reports should continue to reflect decreases in the projection because of new drug courts being operational. However, without significant changes in court capacity, the ability to maintain a zero growth in inmate capacity will not exist once courts reach their maximum capacities.

Table 3
 JFA and Associates Arkansas Prison Population Projections
 Fiscal Years 2002 – 2005

	2002 Projection	2003 Projection	2004 Projection	2005 Projection	Number of Drug Courts In Operation
2001	-				2
2002	12,730				8
2003	13,221	13,363			9
2004	13,628	13,985	13,330		28
2005	14,065	14,307	13,642	13,484	28
2006	14,522	14,741	14,171	13,724	37

The Demographics of Drug Court Participants and Diversion Impact

When individuals are “active” drug court participants, offenders are under DCC supervision and have routine, almost daily, contact with their drug court probation officer (PO) and/or drug counselor. As part of the therapeutic program, offenders are monitored by the PO for drug usage and any change in their living and work arrangements and educational programming. Offenders have routine, scheduled meetings with the drug court counselor. When offenders have completed the therapeutic component of drug court, they are no longer considered an active drug court participant, even if some may have an extension of supervision to follow before they are discharged by the court.

As the number of drug courts increased from one court in 1994 to 28 in 2005, the number of participants in courts rose dramatically. At the end of December 2005, there were 1,202 active offenders in DCC drug courts around Arkansas. This is an increase of 601 active clients in the caseload since July of 2002 when the Drug Court Program began its expansion to additional judicial circuits. This reflects a caseload increase of 100% in 2 ½ fiscal years. ³

In addition, the 1,202 active drug court participants in December 2005 are diversions from the already overcrowded prison system. Since ADC/DCC capacities are limited, the operation of the drug courts diverts offenders from county jail backup and ADC/DCC census. As Table 4 shows, the December active caseload of all drug courts had 1,202 participants and the county jail backup for ADC and DCC was 948. When the total number of drug court participants are reviewed with the estimated percentage of diversion from incarceration had the drug courts not been an option, county jail backup could have increased by 781 offenders, from 948 to 1,729.⁵

The impact that drug courts have on prison populations would not necessarily result in a long term decrease in the prison populations. JFA and Associates continue to project an increase in the prison populations. Current growth projections for the prison population show an annual increase of 480 offenders a year from 2005 through 2015. While the expansion of drug courts across Arkansas keep county jail backup and prison growth stable for a period of time, the slowing growth factor would end as drug court client bases and program capacities stabilize. The only means to continue the impact of slowing prison growth would be the continued expansion of drug courts and the program capacity.

Table 4
 Correctional System Census, Capacity,
 Drug Court Participants and County Jail Backup
 On December 31, 2005⁷

	Census	Backup	Participants	Total
ADC	12,496	507	-	13,138
ADC Rated Capacity	12,297	-	-	12,297
Over (Under) Rated ADC Capacity	202	507	-	709
DCC	1,416	441	-	1,857
DCC Rated Capacity	1,415	-	-	1,365
Over (Under) Rated ADC Capacity	1	441	-	442
Drug Courts	-	-	1,202	1,202
Drug Courts Diversion	-	-	781	781
Total Projected Census	13,912	948	781	15,641

Community Benefit – Community Service and Employment

As part of the drug court program, offenders are required to perform community services or to seek and retain employment. Courts vary in their use of community service by offenders. Some courts use community service only as a sanction for inappropriate behavior. Rule infractions cannot include drug or alcohol usage and usually involve tardiness or absences from group or individual therapy sessions, failure to address treatment plan activities, or missing required outside groups (NA/AA meetings). Other courts require a basic amount of community service to be performed by the court participants regardless of their employment status. Other courts require a minimum number of community service hours per week until the offender gains employment.

Community service usage in drug courts serves several purposes. As previously noted, community service is used as a negative sanction for violation of the rules regarding offender behavior. Some courts use community services to provide unemployed offenders outside, non-drug related activities in a work environment, and to create a drive to seek regular paid employment. Also, some courts use community service as a means for the offender to repay the community for some of the costs associated with the judicial process and damage the offender has done to the community-at-large.

Community service opportunities and arrangements vary according to the Judicial Circuit and to the resources available to the court. In some offices, community service is limited to services provided at the probation and parole office or the county courthouse. Other activities include clean-up at the local animal shelter, assisting the area parks staff in preparing the baseball fields and stands prior to the baseball season, assisting Habitat for Humanity or other non-profit organizations, volunteer groups, and performing clean up duties at the conclusion of the county fair or other special community events.

According to DCC data, drug court participants performed at least 11,143 community service hours in FY 05. With drug court expansions that started in early FY 06, as well as drug courts making changes to their participant expectations, the number of hours should continue to increase. In the first 6 months of FY 06, participants contributed 6,652 hours of community service.⁸

Table 5
Drug Court Community Service Hours
and Associated Fiscal Impact

	Hours Performed	Fiscal Value*
FY 05	11,143	\$57,386
FY 06 (through December)	6,652	\$34,258
FY 06 Annualized	13,304	\$68,516

* at minimum wage

Each court also establishes expectations regarding the participant's employment activities while in court. The starting period for employment varies from drug court to drug court depending upon the employment resources in each judicial circuit. Allowances are made for individuals who are attending school as long as fees are kept current and progress in the education program is evident. To measure progress in educational programs, offenders have been ordered to produce copies of reports and test scores and to present final grades at the end of the term.

Courts regard employment as a step in the process of removing the individual from a non-productive lifestyle, which might lead back to criminal or drug activities, to a more mainstream orientation. Employment is seen as a means to remove the individual from welfare and allows the offender to meet financial obligations. Employment during the time an offender is in court is monitored routinely, and program graduation may be postponed if employment is not obtained and maintained.

Employment requirements of the courts also create an economic benefit within the community. In addition to meeting family financial responsibilities, each participant is using employment wages to purchase goods and services, to pay taxes, and to provide for the needs of the family.

Not all drug court participants are unemployed at the time they enter drug court. A number of drug court participants were working – at professional positions, as recognized business leaders, at skilled trades and even general labor – at the time of their arrest and/or during the program. Some drug court activities may pose difficulties in juggling court requirements and work schedules, such as complying with drug testing and counseling sessions.

Community Benefit – Fees and Fiscal Responsibility

Drug courts are not free. Drug courts also demand participating offenders be responsible for all aspects of their lives, including the payment of outstanding fees and

other outstanding fines. As part of the application and review process for drug court participation become a participant in the court, each offender is informed of the basic costs he/she is expected to meet.

During the course of review and admission to the court, each offender's background is thoroughly reviewed and any outstanding municipal fines or payments are also expected to be paid. Offenders are also expected to meet their child support and victim restitution obligations, especially once they begin working. By the time an offender is admitted to the drug court program or is ready to graduate, all outstanding costs have been addressed.

Future Challenges for Arkansas Drug Courts

Caseload Size and Time/Effort

The efforts of drug courts are time consuming for both the offender and drug court team members, some of whom are meeting almost daily with the offender. Time and effort are more intensive for both groups at the start of an offender's commitment to drug court. Unannounced drug testing can be up to 3 times a week with no advanced notification. The requirement for attending groups can be from 1 to 4 times per week and at least an hour of individual therapy with the drug court counselor. Preparing documents for court team review can consume up to 8 hours per week.

During the interview process with drug court teams, the DCC staff and other drug court team members who met with the evaluation group were asked about the maximum caseload that could be handled by the counseling staff without negatively impacting the efforts of the program. Given the amount of staff counseling and recording efforts, the team response to the maximum caseload size typically ranged from 25 to 30 offenders, depending upon supervision levels. In December 2005, the caseload for the drug courts ranged from 43% to 226% of capacity.

Judicial Effort

Judicial effort was also surveyed. Due to docket assignments and other caseloads, drug court team meetings are held as the docket allows – sometimes during lunch or breaks in the circuit judge’s calendar. The drug court team meetings and offender appearances before the bench are not standard across the state, however, most courts try to meet once a week.

Most drug court teams meet to discuss client progress and any problems that developed since the last meeting of the court prior to the drug court being called to order. Information is provided to the circuit judge for discussing progress and/or problems. Depending on the number of offenders in the drug court, the staff meetings run from 2-4 hours. This review is in addition to the judge’s time required to run the court. Also, offender problems often intervene in other scheduled judicial duties and activities throughout the week.

Circuit judges reported that drug court activities were more time-consuming than earlier anticipated and that time-consuming interaction with offenders is critical for the court to work properly. Regular meetings are critical to understanding the offender’s problems and seeking resources that help to keep the offender in the community, drug and crime free. Incentives provided by the court during the contact with the judge provide reinforcement for positive participant behavior. On an average, Arkansas drug court judges spend an additional 5 hours a week on the bench to handle the program activities.

Resources: Office, Staff, and Community

Arkansas drug courts also face challenges in available resources for office space and staffing. The demand for additional courts and the expectation of their functionality within a short period of time creates planning and resource allocation issues. DCC offices need sufficient room to address clinical treatment issues with drug court activity,

such as group and educational meetings for approximately 20 individuals. Yet DCC leased spaced and fiscal constraints seldom allow for expedient expansion.

Likewise, effective drug court operations are dependent upon quality staff committed to the long term benefits of the program and the tools necessary to achieve the goals of the court. Expansion of the court would require an increase in the staff, especially drug court counselors and probation officers. Yet some areas in the State lack drug treatment counselors to address basic needs, much less an expansion of the court. Recruiting in some areas is difficult because of the rural location of the court. Areas of the State that border adjoining states find salary to be an issue in recruiting and retaining staff. The current salary, when compared to salaries paid in surrounding states, is insufficient to retain employees.

As noted in the 10 Key Components of Drug Courts, effective court operations integrate the judicial process with drug treatment. While the drug court counselor can address many issues during individual and group settings, there are offenders who require residential services. Access to a residential component is a significant issue with many Arkansas drug court judges, especially in areas with limited community based programs. A couple of drug courts have developed relationships with faith based organizations in their respective judicial circuits or with out-of-state providers that have accepted drug court offenders

However, outside the more urban areas of the State, when residential rehabilitation services are required many drug courts place the offender in a DCC facility under a probation term, plus confinement. Judicial opinion on the subject of DCC confinement versus non-DCC residential services is split. Some judges see a benefit to the restrictive nature of the DCC confinement since offenders can experience the impact of future incarceration while receiving treatment for their addiction issues. Confinement reinforces the “last chance” aspect of their behavior. Judges also report that offenders do not have the availability to “leave” the program until progress is complete or the sentence has been served. Other members of the judicial branch favored non-correctional

residential services if the services could last longer than 30 days and slots were available for immediate placement.

While the lack of residential services is a common issue with courts, other community resource needs have been identified by court personnel. Many courts reported access to transportation and housing or removal from the current residency as major issues. In non-urban areas, the large geographical area of the court combined with the offender's lack of transportation for individual counseling and group sessions, or immediate transportation for mandatory drug testing, prohibits otherwise qualified offenders from participating in the court. Likewise, courts reported limited access for individuals to move into shelters or to create other living arrangements as an issue for women and young offenders in households with a history of drug or alcohol abuse. Less urban areas may not have HUD housing, limited women's shelters or other alternative housing for individuals who need to be removed from an environment that supports or encourages drug use.

One of the largest community resources used by the drug courts is the network of self-help counseling groups, such as Alcoholics Anonymous (AA) or Narcotics Anonymous (NA). Every court requires participants to attend meetings of local AA/NA chapters, in some cases upwards of 3 times a week. These groups are self governed, depending upon the volunteer aspects of its members to maintain its momentum. These groups have a deep commitment to the recovery and privacy of its members and they have rules and expectations of participants regarding confidentiality, behavior and support.

There is some concern by counselors that smaller community groups might be deteriorating from the sudden influx of individuals unaware and uneducated in the expectations, behaviors, and values of the AA/NA groups. Requirement of offenders to attend regular substance abuse meetings without a recognized "sponsor" in the program is raising concern that effective groups will go "underground" or become exclusive as they attempt to isolate themselves from others who have not yet fully dedicated themselves to their sobriety. Arkansas drug courts should be aware of the dynamics of private groups

and each court should seek to introduce new members to these organizations in the least disruptive manner as possible.

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Notes

1. ADC daily census statistics are from the 12:01 a/m ADC Daily Count report received showing the number of inmates in and rated capacity of each ADC facility and the number of offenders in County Jail backup.
2. Costs are calculated at \$45 per day multiplied by the number of rated beds and the number of days in the year. The ADC Cummins unit had a rated bed capacity of 1,550 inmates as of December 2005. This capacity does not include 50 temporary beds.
3. The July 2002 caseload statistics are taken from the monthly reports submitted by the drug courts.
4. The number of active drug court participants for December 2005 is taken from the monthly reports submitted by the drug courts. County jail backup figures are from the ADC Daily Census report.
5. The Electronic Offender Management Information System (e-OMIS) maintains offender records for individuals under to probation or parole supervision and includes information regarding drug court participation, e.g., graduation from the program. The total program participants' compilation of offenders in e-OMIS and a manual reports.
6. The ADC and DCC census figures and the number of offenders in backup are from the daily census reports generated by each agency. Program participants for the drug courts reflect the total number of participants and monthly court statistics reported by each court.
7. Information regarding community services and employment requirements were provided in a special survey completed by each court in December 2005.
8. Community service hours are taken from monthly reports (Number 408) e-OMIS. Depending upon the court, not all community service hours may be entered into the system.
9. Active court caseload statistics are taken from monthly reports submitted by DCC drug court program staff

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