

Arkansas Community Correction



## Adult Drug Court

A specially designed court docket that employs a program designed to reduce drug use relapse and criminal recidivism among defendants and offenders through risk and needs assessment, judicial interaction, monitoring and supervision, graduated sanctions and incentives, treatment and various rehabilitation services.

# Arkansas Adult Drug Court Recidivism Study / Cost Benefit Analysis

*Measuring Recidivism and Performance  
November 2014*

## I. BACKGROUND

### INTRODUCTION

Operation of the Nation's first drug court began more than twenty years ago as a way to address the increasing number of drug-related court cases. As of March 1, 2012, there were 2,231 adult drug court programs operating in the United States.<sup>1</sup> With the ever expanding increase in adult drug courts, there are a number of variations of the courts but most are established on central criteria and principles: drug courts are intended for offenders with chemical dependency issues facing the possibility of prison or long-term incarceration.

Drug Court Programs are an interdisciplinary judicial process for diverting an offender who has demonstrated dependence on alcohol or illegal drugs into a strenuous treatment program that requires treatment and counseling, frequent drug tests, employment, and regular court appearances.<sup>2</sup> Because of their intensive substance abuse treatment programs, drug courts are not ideal for everyone; however, for a number of participants wanting to become sober and end the revolving door of the criminal justice system, drug courts provide significant benefits.

When compared to traditional courts, Arkansas adult drug courts have demonstrated the ability to increase offender likelihood of successful rehabilitation by:

- Providing drug related support services,
- Providing ancillary services,
- Requiring mandatory and random drug testing,
- Delivering stringent supervision and involvement by the drug court team, and
- Offering incentives and sanctions.

---

<sup>1</sup> BJA Drug Court Technical Assistance/Clearinghouse Project, "Drug Court Activity Update," (Washington, DC: American University, Justice of Programs Offices, March, 2012) pg. 1.

<sup>2</sup> Arkansas Judiciary, *Drug Court Programs*, 2013, pg.1

## ARKANSAS ADULT DRUG COURTS

The first adult drug court emerged in Pulaski County Arkansas in 1994. Currently Arkansas has a total of forty-three (43) adult drug courts. During the reporting period for this project, Fiscal Year (FY) 2009, there were a total of forty (40) adult drug courts (See Table 1, pg.3). Although the implementation of drug courts is a fairly new concept within Arkansas's judicial system, the State has seen a considerable increase in the number of adult drug courts since its inception.

Drug courts are typically defined as special courts given responsibility to handle cases involving substance-abusing offenders through comprehensive supervision, drug testing, treatment services and immediate sanctions and incentives.<sup>3</sup> Drug courts were established as an alternative to traditional courts when dealing with drug-using offenders in their communities while utilizing programs and services aimed at assisting them with their drug dependences.

**DRUG COURT STAFF.** The courts' personnel staffs are comprised of highly specialized teams consisting of the judge, court staff, a prosecutor, a public defender or private attorney representing the offender, a probation or parole officer and drug a counselor.<sup>4</sup> Collaborative efforts are made between the criminal justice and drug treatment professionals with an elaborate balance of authority, supervision, support, and encouragement for the offender. The teams are structured by presiding judges that are actively involved throughout the continuum of care during the drug court process.

**DRUG COURT DESIGN.** Drug courts' structured intervention is in response to both the availability of local resources, such as treatment modalities and ancillary services, and to drug problems of particular concern to that community. With the design of the court at the discretion of the judge, there is not a standard design for the Arkansas drug courts. However, there are certain criteria that have been established and must be followed by each drug court. Courts adhere to a set of ten

---

<sup>3</sup> *What is a Drug Court?*, Superior Court of California, County of Alameda, Drug Court Services Department, <http://www.alameda.courts.ca.gov/dcs/whatisdcs.html> (last visited Mar., 2013).

<sup>4</sup> *What is the Division of Drug Courts?*, Arkansas Judiciary, <https://courts.arkansas.gov/courts/circuit-courts/drug-court-programs> (last visited Mar., 2013).

(10) recommended key components<sup>5</sup>, developed by the U.S. Department of Justice, which provide guidance for operating effective courts. The components are a series of inter-related functions that provides needed coordination and seamless collaboration by ensuring: 1) clients are linked to relevant and effective services; 2) all service efforts are monitored, connected, and in synchrony; and 3) pertinent information gathered during assessment and monitoring is provided to the entire drug court team in real time.<sup>6</sup> In order to receive drug court funding, Arkansas drug courts must comply with these components.

The courts are also charged with adopting one of the three drug court models designated for the courts: pre-adjudication, post-adjudication and a hybrid model that includes both pre/post-adjudication. In the pre-adjudication model, the offender enrolls in drug court without entering a guilty plea or going through the trial process.<sup>7</sup> If there is successful completion of the program, charges are dismissed. If offenders fail to complete the program, however, they proceed to the traditional court model. Offenders entering drug courts under post-adjudication plead guilty and face a suspended sentence while they participate in the drug court.<sup>8</sup> If the offender fails to complete the program as part of the suspended sentence, a prison sentence is imposed. The hybrid model is a merger of both the pre- and post-models. In this model, offenders enter a plea that is held in abeyance while they complete the program.<sup>9</sup> As with pre-adjudication, charges are dismissed after successful completion of the program. However, if the offender fails, the deferred plea is entered and a sentence is imposed resulting in incarceration.

As with national data, the post-adjudication model (80.0%) is the model most highly favored by Arkansas judges, followed by the pre-adjudication model (7.5%) and the hybrid model (12.5%) respectively. Data obtained from the Administrative Offices of the Courts indicate that the majority of the State's drug courts' average caseload

---

<sup>5</sup> U.S. Department of Justice, Office of Justice Programs, Drug Courts: The Second Decade 3 (2006)

<sup>6</sup> National Drug Court Institute, Drug Court Case Management: Monograph Series 7, 2006

<sup>7</sup> America's Problem-Solving Courts: The Criminal Costs of Treatment and the Case for Reform pg. 16 (2009)

<sup>8</sup> America's Problem-Solving Courts pg. 16 (2009)

<sup>9</sup> Ibid., pg.16

capacity is approximately 50 - 55 participants.<sup>10</sup> Table 1 below shows the type of court by judicial district.

**Table 1: 2013 Adult Drug Court Participants by Location and Type**

Judicial Circuit	Court Name	Location	Court Type <sup>11</sup>	Number of Study Participants
1st	St. Francis County Drug Court	Forrest City	Post-Adjudication	7
2nd	Greene County Drug Court	Paragould	Post-Adjudication	21
2nd	Crittenden County Drug Court	West Memphis	Hybrid	15
2nd	Craighead County Drug Court	Jonesboro	Post-Adjudication	28
3rd	3rd Judicial Drug Court - Lawrence County	Walnut Ridge	Post-Adjudication	9
3rd	3rd Judicial District Drug Court	Pocahontas	Post-Adjudication	8
3rd	3rd Judicial District Jackson County Drug Court	Newport	Post-Adjudication	10
4th	Washington/Madison County Drug Court and Treatment and Diversion Court (Ozark Recovery Center)	Fayetteville	Post-Adjudication	118
5th	5th Judicial District Drug Court Treatment Program	Russellville	Hybrid	26
5th	5th Judicial District Drug Court Treatment Program	Clarksville	Hybrid	11
6th	6th Judicial District Drug Court	Little Rock	Post-Adjudication	49
7th	7th Judicial District Drug Court	Malvern	Post-Adjudication	22
8th North	8th Judicial District-North	Hope	Pre-Adjudication	15
8th South	8th Judicial District-South	Texarkana	Post-Adjudication	15
9th East	9th-East Judicial District Drug Court	Arkadelphia	Post-Adjudication	23
9th West	9th West Judicial District Drug Court	Nashville	Post-Adjudication	15
10th	10th Judicial District Drug Court	Monticello	Post-Adjudication	23
11th East	Arkansas County Drug Court Treatment Program	Stuttgart	Post-Adjudication	3
11th West	11th Judicial District West Drug Court, Jefferson County	Pine Bluff	Post-Adjudication	34
12th	Sebastian County Drug Court	Fort Smith	Pre-Adjudication	71
13th	Columbia County Drug Court	Magnolia	Post-Adjudication	33
13th	13th Judicial District, 4th Division, Union County Drug Court Program	El Dorado	Post-Adjudication	26
13th	13th Judicial District Ouachita County Drug Court	Camden	Post-Adjudication	4
14th	14th Judicial Circuit Drug Court	Harrison	Post-Adjudication	11
14th	14th Judicial District Drug Court	Mountain Home	Post-Adjudication	5
15th	Logan/Scott County Drug Court, 15th Judicial District Court	Booneville	Post-Adjudication	12
15th	Conway County Drug Court, 15th Judicial District Court	Morrilton	Hybrid	13
15th	Yell County Drug Court Program	Danville	Pre-Adjudication	13
16th	16th Judicial District Drug Court, Cleburne County	Heber Springs	Post-Adjudication	14
16th	16th Judicial District Drug Court, Stone County	Mountain View	Post-Adjudication	16
17th	17th Judicial District Drug Court	Searcy	Post-Adjudication	9
18th East	18th Judicial Circuit-East Drug Court	Hot Springs	Post-Adjudication	27

<sup>10</sup> Arkansas Monthly Drug Court Report (October, 2014)

<sup>11</sup> Court types were derived from the Report the 90<sup>th</sup> Arkansas General Assembly, September 2013

Judicial Circuit	Court Name	Location	Court Type <sup>11</sup>	Number of Study Participants
18th West	DCC Post-Adjudication, 18th West Judicial Drug Court, Intensive Outpatient	Mena	Post-Adjudication	19
19th West	DCC 19th Judicial District	Bentonville	Post-Adjudication	70
20th	20th Judicial District Drug Court Program	Conway	Post-Adjudication	23
21st	Crawford County Drug Court	Van Buren	Post-Adjudication	36
22nd	Saline County Adult Drug Court	Benton	Post-Adjudication	21
23rd	23rd Judicial District Drug Court	Lonoke	Post-Adjudication	13
16 <sup>th</sup>	16 <sup>th</sup> Judicial District Drug Court	Batesville	Post-Adjudication	7
19 <sup>th</sup>	19 <sup>th</sup> Judicial District Drug Court	Berryville	Hybrid	4

**ELIGIBILITY AND DURATION.** Participation in a drug court is determined by the drug court team consisting of the defense attorney, prosecuting attorney, counselor and the judge, who gives final approval. Conditions that may allow for drug court participation are that the offender has a substance abuse/addiction disorder; an offender is facing a felony charge that is not an excludable offense; medium risk to high risk needs offender; and offender agrees to participate in the program. Each drug court has designated stages of completion referred to as phases (orientation, intermediate, pre-advanced, and advanced). However, some courts may select a fifth phase as well which focuses on aftercare. As the offender advances through the different phases, the intensity of treatment and expectations of behavior changes.<sup>12</sup>

Each Arkansas drug court is unique, including the definition of graduation and when it occurs, but all courts have a minimum duration of participation of 12 months. Graduation is the reward for the successful completion of the program and the goal is for the offender to remain drug free and arrest free during their time in the program. Drug court offenders are required to participate in a number of activities, such as but not limited to hearings set by the judge, individual and group counseling sessions, 12-step meetings, drug testing, and home visits. Each activity will allow for the team, including the judge, and the drug court team to monitor the progress of each participant in order to attain successful graduation. As with activities, ancillary services are viewed as an essential component of drug courts. Psychosocial

<sup>12</sup> Arkansas Drug Court Operational Fact Book, Arkansas's Administrative Offices of Drug Courts, 2006, pg. 2

education, referrals to outside agencies (education, job placement, and housing) and community services are some of the most common ancillary services offered to and utilized by drug court participants.

A complication arises when comparing drug courts in that the “point” at which a participant is considered a graduate varies widely from court to court. For example, one court may consider the final phase to be aftercare so that when a participant completes the therapeutic portion of the program before the final phase they are a graduate. The participant in this scenario moves on to the final phase with reduced activities but is still considered under drug court supervision. In another court, the participant may be required to complete all phases, including after care, in order to be considered a graduate.

This variation in the definition of “graduate” leads to challenges in determination of successful drug court participation. ACC’s recommendation is that all courts use the term graduated only after a participant has finished the drug court program and is finishing the three year probation term; however, this standard has not been adopted by all courts.

Generally, drug court participants are placed on three years of probation when admitted into drug court to provide sufficient time to complete the program.

**INCENTIVES AND SANCTIONS.** There are a number of immediate sanctions and incentives that may be issued to the offender to ensure successful completion of a drug court program. Compliance to drug court rules and positive behavior result in the award of incentives such as waiver of court fees, reduction in court appearances, praise from the judge, and dismissal of the client’s court case. Incentives valued by the participant are usually awarded by the courts if the offender:

1. Is performing satisfactorily in drug court;
2. Is benefiting from education, treatment and rehabilitation;
3. Has not engaged in criminal conduct; or
4. Has not violated the term and condition of drug court.<sup>13</sup>

---

<sup>13</sup> National Drug Court Institute, *Model State Drug Court Legislation: Monograph Series 5*, 2004, pg. 8

If participants are non-compliant, sanctions, also described as “smart punishment” are issued by the court.<sup>14</sup> Sanctions, such as verbal warnings, jail days, demotion in phase, and additional community service hours are not used as punishment but as methods to change behavior. Sanctions are imposed if the court finds that the offender:

1. Is not performing satisfactorily in drug court;
2. Is not benefiting from education, treatment and rehabilitation;
3. Has engaged in new criminal activity;
4. Has engaged in conduct rendering him/her unsuitable for the program;
5. Has otherwise violated the term and condition of drug court; or
6. Is for any reason unable to participate.<sup>15</sup>

Repeat and serious offenses could possibly lead to the removal of a participant from a drug court program. Both sanctions and incentives serve as additional guidance for the participants and are used to keep participants actively engaged in treatment.

**SUMMARY.** By combining drug treatment with ongoing judicial supervision, drug courts seek to break the cycle of addiction, crime, and repeat incarceration. While practice varies widely from court to court, the basics for all drug courts are clear: addicted offenders participate in treatment; their progress is monitored by a drug court team and participants engage in direct interaction with the judge to respond to progress and setbacks with an associated range of incentives and sanctions. The successful participants generally have the charges against them dismissed or reduced and only those who fail receive jail or prison sentences.

---

<sup>14</sup> Thomas Asbury, 2001, as cited in America’s Problem-Solving Courts (2009)

<sup>15</sup> National Drug Court Institute, *Model State Drug Court Legislation: Monograph Series 5*, 2004, pg. 8



## DRUG COURT STUDY SIGNIFICANT FINDINGS

Below is a compilation of findings to be highlighted by this drug court study:

- Arkansas's drug courts have a high degree of support, credibility, and impact on recovery and sobriety. They have a high graduation rate, are well-conceived and reflect practices that meet or exceed national standards.
- A great deal of differentiation exists among the drug courts in Arkansas from pre and post adjudication courts to policies on the number of failures and revocation rules. With these varied policies, it is difficult to compile results statewide and even more challenging to compare these results with other state or national studies.
- Incarceration rates for the study group (FY 2009 drug court intakes) were higher (27.7%) than the control cohort (sample of FY 2009 non-drug court probation intakes) rate (19.7%). In contrast, the re-arrest rate was lower in the drug court cohort (38.3%) than the control cohort (39.8%).
- Data showed that 59.7 percent of the FY 2009 participants graduated from the drug court programs. By gender, 68.5 percent of females graduated and 55.0 percent of males graduated.
- The total FY 2009 drug court intake cohort averaged a length of stay (LOS) of 23.4 months. Graduates averaged a LOS of 24.7 months, 14.4 percent longer than non-graduates who averaged 21.6 months.
- Of the non-graduate group, 19.1 percent did not have a positive drug test while 37.1 percent of the graduate group did not have a positive drug test. Non graduates tested positive for THC/Marijuana and Heroin most frequently.
- Graduates and non-graduates had a similar percentage of cases which tested positive for less than three drugs. However, graduates had a significantly lower number of cases that tested positive for three or more drugs.
- Only 4.3 percent of drug court graduates were revoked to prison within three years of starting drug court supervision.

- Arkansas Drug Courts have admitted a large percentage of low risk offenders in the program. National Standards call for high risk and medium risk only offenders to be admitted in the drug court program. This best practice should be adapted in the State.
- It is also recommended that future iterations of this report attempt to focus on individual drug courts. By individually measuring results by court over time, patterns may start to emerge and best practices will be identified.

## **II. PROJECT DESCRIPTION**

### **PROJECT SCOPE**

The purpose of this Arkansas Community Correction (ACC) study was to determine if drug courts have a noticeable effect on recidivism and sobriety. Act 570 of 2011 added a section to the Arkansas Drug Court Act to evaluate success by the rate of recidivism of all drug court participants, including those who do not graduate. The study focuses on the analyses of performance measures, their outcomes, and a cost benefit analysis of the drug court program versus the traditional probation and parole community supervision approach.

This study does not include any offenders in the SWIFT and HOPE court programs. A separate study is being conducted on those programs.

### **DATA SOURCES**

The data sources utilized were ACC's electronic Offender Management Information System (eOMIS) and the Arkansas Crime Information Center's (ACIC) Arkansas Uniform Crime Reporting (UCR) Program. ACC personnel are active members of drug court teams and are responsible for gathering and entering data on each drug court participant. eOMIS serves as the State's offender tracking system designed to collect data in support of comprehensive statewide operations of offender management including offenders in prison, on probation, on parole or in any other supervision/incarceration status. The data collected includes offender demographics, offense, prior criminal history, current treatment needs, family history, health and mental health history, treatment placement and outcome, court

reported violations, and termination status of drug court participants. To ensure data validity, a number of data fields established in eOMIS require mandatory entry. For special data needs, the ACC used SharePoint for the coordination of data collection not included in eOMIS. The UCR Program provided data on arrests. ACC was responsible for data mining including data extraction and providing guidance on policy information and drug court practices in Arkansas. JFA Associates performed analysis on the data available to make recommendations and present significant findings.

## **PROJECT METHODOLOGY**

**DEMOGRAPHICS.** Electronic data was gathered from 40 pre-adjudication, post-adjudication and hybrid courts in twenty-three Judicial Districts to evaluate the impact of drug courts. The study group consisted of all drug court participants entering Arkansas drug courts during FY 2009 (July 1, 2008 – June 30, 2009). The drug court participant sample for the study consisted of 899 offenders. For the cohort study, a control group, consisting of 1,723 randomly selected offenders, was identified from all other probation intakes from the same period that had a similar criminogenic background as the drug court cohort.

A similar criminal background was chosen to avoid bias that might endow the control group with traits favorable to a positive outcome. Three variables were used to compare the FY 2009 drug court cohort to the FY 2009 probation intake population to generate the control group sample: previous history of criminal activity, most serious offense, and average term of supervision.

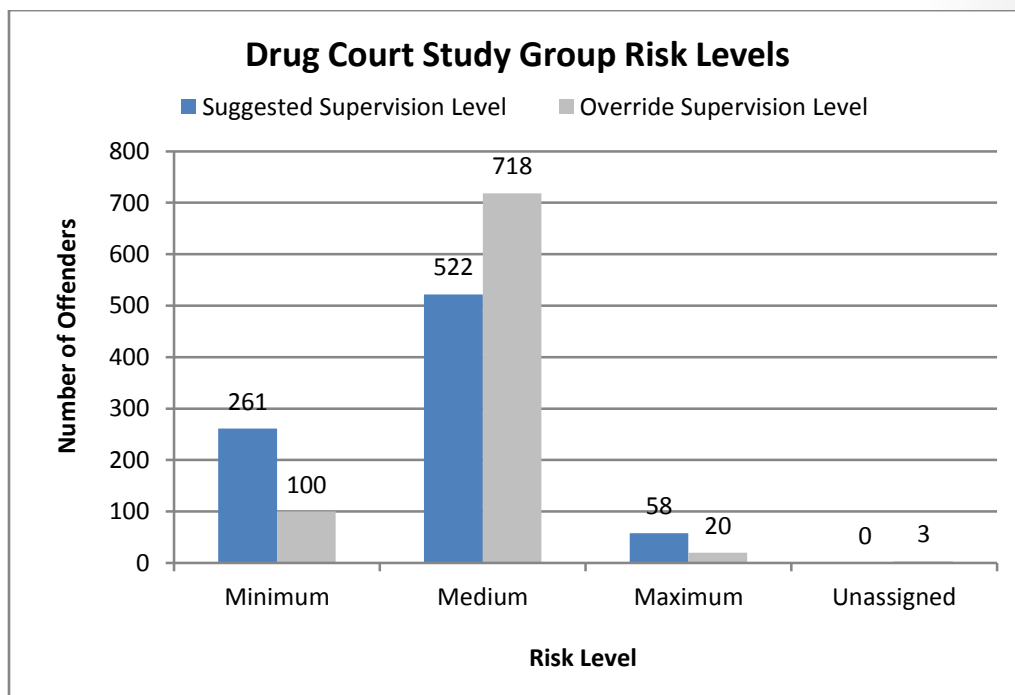
Previous history of criminal activity was measured by the presence of any previous commitment information. The most serious offense was defined as the offense that most influenced the sentence length of the offender. Finally, the term of supervision specified the maximum sentenced probation supervision time the offender received.

These three factors were chosen because they highly influence the probability that an offender will/will not violate the terms of their supervision. Certain crimes, for

example property related crimes<sup>16</sup>, are historically associated with higher recidivism rates. Traditionally, offenders with no previous criminal record are less likely to recidivate than offenders with a history of criminal activity<sup>17</sup>. Lastly, length of probation sentence was used because offenders with longer supervision times are more likely to violate supervision than an offender that is supervised for a shorter period of time.

**RISK PROFILES.** Of the 899 offenders, only 841 had a risk level assigned within 90 days of intake. ACC policy allows for the adjustments to risk levels suggested by risk assessment tools. Examples of override reasons include more or less actual crime, mental health needs, and gang activity. Both suggested and overridden risk levels were collected for the study group only. The risk distribution is shown in Table 2 below.

**Table 2: FY 2009 Drug Court Risk Levels**



<sup>16</sup> Durose, Matthew R., Alexia D. Cooper, and Howard N. Snyder, *Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010*, Bureau of Justice Statistics Special Report, April 2014, NCJ 244205.

<sup>17</sup> US Sentencing Commission, *Recidivism and the "First Offender"*, Release 2 of Research Series on the Recidivism of Federal Guideline Offenders, US Sentencing Commission, May 2004.

Per the National Association of Drug Court Professionals Adult Drug Court best practices drug court participation should be targeted toward high risk and high need offenders and should not include offenders whose assessment is minimum risk<sup>18</sup>. Data shows that of the 261 offenders originally assigned a risk of minimum, 161 had their risk level overridden to medium for participation in the program. Almost three quarters of the rated offenders had no override to their risk level. One hundred (100) offenders, however, remained in the program at a minimum risk level. These offenders should not have been allowed participation in the program.

**GROUP CHARACTERISTIC PROFILES.** The study group and the control group were compared demographically by age, gender, race/ethnicity, and other factors to ensure that no outlying characteristics would influence the comparison. Both groups were examined for a three year period from the date of supervision intake. Supervision intake for the drug court cohort was set as the supervision begin date under a drug court while the control group supervision start was set at the intake date to probation.

Table 3 summarizes the characteristics of the Arkansas drug court participants and the control group selected.

**Table 3: FY 2009 Drug Court Intakes versus Control Cohort**

Characteristic	Study Group		Control Cohort	
	N = 899	%	N = 1,723	%
Gender				
Female	317	35.3%	509	29.5%
Male	582	64.7%	1,214	70.5%
Race				
Black	173	19.2%	602	34.9%
White	708	78.8%	1,078	62.6%
Hispanic/Mexican	8	0.9%	36	2.1%
Other/unknown	10	1.1%	7	0.4%
Employment at Intake				
Full time	252	28.0%	468	27.2%
Part time/School/SSI	188	20.9%	440	25.5%
Unemployed	456	50.7%	803	46.6%
Other/Unknown	3	0.3%	12	0.7%

<sup>18</sup>National Association of Drug Court Professionals: "Adult Drug Court Best Practice Standards Vol. 1", [<http://www.nadcp.org/sites/default/files/nadcp/best-practice-standards/index.html>], page 5, 2013.

Characteristic	Study Group		Control Cohort	
	N = 899	%	N = 1,723	%
<b>Highest Level of Education at Intake</b>				
High school diploma or higher	586	65.2%	890	51.7%
Less than high school	295	32.8%	678	39.3%
Unknown	18	2.0%	155	9.0%
<b>Age at Intake</b>				
Under 18	2	0.2%	5	0.3%
18-28	474	52.7%	678	39.3%
29-39	239	26.6%	542	31.5%
40-51	155	17.2%	391	22.7%
52-62	28	3.1%	94	5.5%
63-70	0	0.0%	10	0.6%
Over 70	1	0.1%	3	0.2%
<b>Previous Criminal History at Intake</b>				
<b>No</b>	<b>493</b>	<b>54.8%</b>	<b>965</b>	<b>56.0%</b>
<b>Yes</b>	<b>406</b>	<b>45.2%</b>	<b>758</b>	<b>44.0%</b>
<b>Marital Status at Intake</b>				
Divorced	25	2.8%	241	14.0%
Married	160	17.8%	381	22.1%
Separated	6	0.7%	94	5.5%
Single	660	73.4%	807	46.8%
Other/Unknown	48	5.3%	200	11.6%
<b>Most Serious Offense at Intake</b>				
<b>Assault</b>	<b>5</b>	<b>0.6%</b>	<b>0</b>	<b>0.0%</b>
<b>Battery/domestic viol.</b>	<b>9</b>	<b>1.0%</b>	<b>0</b>	<b>0.0%</b>
<b>Robbery</b>	<b>5</b>	<b>0.6%</b>	<b>0</b>	<b>0.0%</b>
<b>Sex crime</b>	<b>2</b>	<b>0.2%</b>	<b>0</b>	<b>0.0%</b>
<b>Other violent</b>	<b>4</b>	<b>0.4%</b>	<b>0</b>	<b>0.0%</b>
<b>Breaking + entering</b>	<b>20</b>	<b>2.2%</b>	<b>23</b>	<b>1.3%</b>
<b>Burglary</b>	<b>38</b>	<b>4.2%</b>	<b>35</b>	<b>2.0%</b>
<b>Theft</b>	<b>105</b>	<b>11.7%</b>	<b>292</b>	<b>16.9%</b>
<b>Forgery/fraud</b>	<b>58</b>	<b>6.5%</b>	<b>92</b>	<b>5.3%</b>
<b>Advertise drug paraphernalia</b>	<b>105</b>	<b>11.7%</b>	<b>144</b>	<b>8.4%</b>
<b>Drug sale</b>	<b>25</b>	<b>2.8%</b>	<b>44</b>	<b>2.6%</b>
<b>Man/Delv/Poss Drugs</b>	<b>385</b>	<b>42.8%</b>	<b>812</b>	<b>47.1%</b>
<b>Possession drug/paraphernalia</b>	<b>30</b>	<b>3.3%</b>	<b>55</b>	<b>3.2%</b>
<b>Weapons</b>	<b>2</b>	<b>0.2%</b>	<b>0</b>	<b>0.0%</b>
<b>Other property</b>	<b>28</b>	<b>3.1%</b>	<b>65</b>	<b>3.8%</b>
<b>Other non-violent</b>	<b>69</b>	<b>7.7%</b>	<b>161</b>	<b>9.3%</b>
<b>Unknown</b>	<b>9</b>	<b>1.0%</b>	<b>0</b>	<b>0.0%</b>
<b>Probation Sentence</b>				
<b>1 year or less</b>	<b>120</b>	<b>13.3%</b>	<b>233</b>	<b>13.5%</b>
<b>2 years</b>	<b>192</b>	<b>21.4%</b>	<b>151</b>	<b>8.8%</b>
<b>3 years</b>	<b>288</b>	<b>32.0%</b>	<b>636</b>	<b>36.9%</b>
<b>4 years</b>	<b>34</b>	<b>3.8%</b>	<b>148</b>	<b>8.6%</b>
<b>5 years</b>	<b>202</b>	<b>22.5%</b>	<b>434</b>	<b>25.2%</b>

Characteristic	Study Group		Control Cohort	
	N = 899	%	N = 1,723	%
6 years	18	2.0%	51	3.0%
7 years	4	0.4%	17	1.0%
8 years	1	0.1%	5	0.3%
9 years	0	0.0%	1	0.1%
10 years or more	36	4.0%	47	2.7%
Unknown	4	0.4%	0	0.0%

**CRIMINAL HISTORY.** The drug court cohort and control cohort have a similar representation of persons with a previous history of criminal activity.

**MOST SERIOUS OFFENSE.** Excluding drug offenses, the two cohorts had a relatively similar make up when most serious offense was examined. As expected, the drug court cohort had a much larger representation among drug offenses.

**PROBATION SENTENCE.** The drug court cohort and control cohort have a similar representation by probation sentence when sentences are collapsed into two categories: a sentence of 3 years or less and a sentence greater than 3 years.

### III. DRUG COURT PERFORMANCE REVIEW

The role of drug courts is to reduce criminal behavior by reducing drug dependency. The components of the performance review served to establish if the Arkansas drug court system is successfully reducing drug dependency and relapse. Typical variables related to successful reduction of drug use in drug court programs include the number of judicial status hearings, judicial praise recognition, drug testing, substance abuse treatment and supervision leverage through sanctions. Because of limited availability of data and resources, only a few measures of performance were available for examination. The following section discusses the results of the measures tested and addresses factors where data was not available.

#### PERFORMANCE STANDARDS

Performance measurement and data collection were based on requirements from the Public Safety Improvement Act of 2011, recommendations from the National Center for State Courts, and Arkansas Statewide Technical Assistance Project: Development of Statewide Drug Court Performance Measures (March 2008), the Administrative Office of the Courts.

The selected performance measures were computed from intake to drug court until exit from the program. These performance measures include recidivism, retention, sobriety, and treatment units of service.

**RECIDIVISM.** While the behaviors of drug dependent offenders lend themselves to a criminal lifestyle, other factors also contribute to recidivism. As discussed before, these are primarily related to criminal history. Recidivism in this study is an important performance measure for the overall drug court supervision process. This study provides two measures of recidivism: re-arrest and incarceration.

Recidivism is defined as a criminal act that results in the re-arrest, re-conviction, or return to incarceration of a person with or without a new sentence during a three-year period following the person's intake to supervision.<sup>19</sup> Re-arrest is defined as any arrest (felony or misdemeanor) occurring after the drug court/probation intake date

---

<sup>19</sup> Arkansas Act 1030 of 2013, pg. 1.



and before the three year follow up period. Within the data collected, a re-arrest event is triggered by the first arrest date within the follow-up period.

Incarceration is defined as any incarceration occurring after the drug court/probation intake date and before the end of the three year follow up period that results in incarceration to prison or an ACC community correction center. A placement in a Community Correction Center for short-term treatment is not the result of a new conviction or revocation and is not considered an incarceration for this study.

The recidivism rates for the FY 2009 drug court intakes are compared to the control group cohort as a measure of the success of drug court supervision versus “standard” supervision.

**RETENTION.** Retention was measured by length of stay of program participants who graduated versus those who did not graduate. Non graduates include persons who were terminated/unsuccessful, or exited the program by some other means including transfer, voluntary withdrawal or discharge of sentence. Retention was calculated as a percentage of the number of people who completed the drug court program divided by those who enter the program during the study time frame.

**SOBRIETY.** Sobriety was measured by the percent of drug tests failed during and after drug court participation. For this study, all drug screenings, both positive and negative, were documented. Data allowed for the average number of failed tests that a drug court participant incurred during the drug court program. For the purpose of this study, a baseline of 30 days after intake was used to allow sufficient time for drugs to leave the participant’s body before utilizing test results.

**TREATMENT SERVICES.** Treatment services offered to drug court participants during their time enrolled in drug court were analyzed for benefits. Units (hours) of service were used to document all services provided by drug court programs.

The data from these performance measures were used to gauge consistent and meaningful recidivism impacts across a large number of sites over the three-year

tracking period to determine successful graduation from drug courts, continued sobriety, and reduced criminal activity.

## **RESULTS OF PERFORMANCE REVIEW**

**RECIDIVISM RESULTS.** One of the major indicators of success of a drug court program is recidivism. Policing strategies, prosecutor practices, and parole and probation policies, along with other variations across the criminal justice system, cause different kinds of drug courts to have varying rates of recidivism. Variations in recidivism rates for separate drug courts may also be related to the level of criminality targeted by the court's admission criteria or the court's size, location, intensity of service provision, and planned duration of the program. Because of the limited data available, detailed analysis of these characteristics and their impact on recidivism for the various drug courts in Arkansas is not possible.

Table 4 below compares the re-arrest and incarceration rates of the study group and the cohort probation offenders. Incarceration rates for the study group were higher for the study group (27.7%) than the control cohort (19.7%). In contrast, the re-arrest rate was lower in the drug cohort (38.3%) than the control cohort (39.8%). For both groups, females consistently have a lower re-arrest and incarceration rate than males.

**Table 4: A Comparison of Re-arrest and Incarceration Rates for the Study Group and Cohort Group**

Characteristic	Study Group			Control Cohort		
	N = 899	% Incarceration	% Re-arrest	N = 1,723	% Incarceration	% Re-arrest
Base	899	27.7%	38.3%	1,723	19.7%	39.8%
Gender						
Female	317	22.4%	32.5%	509	16.5%	32.8%
Male	582	30.6%	41.4%	1,214	21.0%	42.7%
Race						
Black	173	40.5%	52.6%	602	16.6%	42.4%
White	708	25.0%	35.2%	1,078	21.4%	38.9%
Hispanic/Mexican	8	25.0%	37.5%	36	19.4%	22.2%
Other/unknown	10	0.0%	10.0%	7	14.3%	42.9%
Employment at Intake						
Full time	252	18.30%	34.1%	468	16.0%	35.9%
Part time/School/SSI	188	24.50%	35.6%	440	15.9%	39.3%
Unemployed	456	34.20%	41.4%	803	24.0%	42.8%
Other/Unknown	3	33.30%	66.7%	12	8.3%	0.0%
Highest Level of Education at Intake						
High school diploma or higher	586	29.2%	37.5%	890	17.0%	37.9%
Less than high school	295	26.4%	41.0%	678	24.3%	43.5%
Unknown	18	0.0%	16.7%	155	14.8%	34.2%
Age at Intake						
Under 18	2	100.0%	100.0%	5	60.0%	40.0%
18-28	474	32.7%	44.5%	678	22.9%	45.4%
29-39	239	22.6%	33.5%	542	20.1%	40.2%
40-51	155	20.6%	29.0%	391	15.3%	30.7%
52-62	28	21.4%	17.9%	94	10.6%	36.2%
63-70	0	0.0%	0.0%	10	20.0%	20.0%
Over 70	1	0.0%	100.0%	3	0.0%	33.3%
Previous Criminal History at Intake						
No	493	24.3%	36.1%	965	16.7%	34.5%
Yes	406	31.8%	40.9%	758	23.5%	46.4%
Marital Status at Intake						
Divorced	25	16.0%	18.0%	241	16.2%	36.5%
Married	160	18.1%	28.1%	381	18.4%	38.8%
Separated	6	16.7%	50.0%	94	30.9%	41.5%
Single	660	30.6%	40.3%	807	20.4%	41.1%
Other/Unknown	48	27.1%	47.9%	200	18.0%	39.0%
Most Serious Offense at Intake						
Assault	5	60.0%	80.0%	0	0.0%	0.0%
Battery/domestic viol.	9	66.7%	44.4%	0	0.0%	0.0%
Robbery	5	40.0%	80.0%	0	0.0%	0.0%
Sex crime	2	100.0%	100.0%	0	0.0%	0.0%

Characteristic	Study Group			Control Cohort		
	N = 899	% Incarceration	% Re-arrest	N = 1,723	% Incarceration	% Re-arrest
Base	899	27.7%	38.3%	1,723	19.7%	39.8%
Other violent	4	25.0%	50.0%	0	0.0%	0.0%
Breaking + entering	20	65.0%	45.0%	23	47.8%	65.2%
Burglary	38	52.6%	71.1%	35	71.4%	82.9%
Theft	105	37.1%	47.6%	292	19.9%	41.1%
Forgery/fraud	58	29.3%	37.9%	92	27.2%	47.8%
Advertise drug paraphernalia	105	30.5%	33.3%	144	20.8%	39.6%
Drug sale	25	28.0%	24.0%	44	18.2%	68.2%
Man/Delv/Poss Drugs	385	17.9%	30.4%	812	17.1%	35.3%
Possession drug/paraphernalia	30	20.0%	46.7%	55	29.1%	50.9%
Weapons	2	0.0%	50.0%	0	0.0%	0.0%
Other property	28	39.3%	42.9%	65	18.5%	35.4%
Other non-violent	69	30.4%	44.9%	161	9.3%	32.3%
Unknown	9	0.0%	44.4%	0	0.0%	0.00%
Probation Sentence						
1 year or less	120	20.8%	38.30%	233	9.4%	40.8%
2 years	192	33.3%	42.70%	151	14.6%	47.0%
3 years	288	28.5%	37.50%	636	18.2%	37.3%
4 years	34	20.6%	29.40%	148	29.1%	37.8%
5 years	202	28.7%	36.60%	434	25.8%	41.5%
6 years	18	27.8%	50.0%	51	21.6%	41.2%
7 years	4	50.0%	50.0%	17	29.4%	47.1%
8 years	1	0.0%	100.0%	5	20.0%	20.0%
9 years	0	0.0%	0.0%	1	100.0%	100.0%
10 years or more	36	11.1%	27.8%	47	12.8%	31.9%
Unknown	4	50.0%	50.0%	0	0.0%	0.0%

In this study, two drug court jurisdictions, the 6<sup>th</sup> Judicial District (Pulaski County) Drug Court and the Magnolia Drug Court were identified as having policies that may negatively influence the recidivism rates for the FY 2009 drug court cohort. To mitigate this, four recidivism evaluations will be presented: all FY 2009 drug court intakes, 6<sup>th</sup> Judicial District (Pulaski County) intakes, Magnolia intakes, and all other intakes. Further, these rates will be compared to the control group cohort.

Table 5 shows recidivism rates by re-arrest and incarceration for graduates and non-graduates. Table 6 shows the recidivism rates for the control cohort.

**Table 5: Recidivism by Graduate versus Non Graduate – Drug Court Cohort**

Drug Court	Non Graduates		Graduates		Total		
	% Incarcerated	% Re-arrest	% Incarcerated	% Re-arrest	% Incarcerated	% Re-arrest	Number of Cases
All FY 2009 Drug Court Intakes	62.4%	61.6%	4.3%	22.5%	27.7%	38.3%	899
- 6th Judicial District	24.3%	70.3%	0.0%	16.7%	18.4%	57.1%	49
- Magnolia	56.3%	56.3%	0.0%	5.9%	27.3%	30.3%	33
All other districts	67.3%	60.8%	4.5%	23.2%	28.3%	37.5%	817

**Table 6: Recidivism – Control Cohort**

% Incarcerated	% Re-arrest	Total Cases
19.7%	39.8%	1,723

Nationally, drug courts have a broad range of recidivism rates. Overall, Arkansas drug court intakes in FY 2009 had a 27.7 percent incarceration rate and a 38.3 percent re-arrest rate. A study by the Government Accountability Office reported the percentages of drug court program participants re-arrested were lower than their comparison group members by 6 to 26 percent.<sup>20</sup>

The 6<sup>th</sup> Judicial District had a relatively low incarceration rate and a relatively high re-arrest rate compared to other drug courts. The control cohort had a lower incarceration rate than all groups except the 6<sup>th</sup> Judicial District, which had a higher re-arrest rate than the control group. This indicates that the 6<sup>th</sup> district is more reluctant to incarcerate an offender even if re-arrested. The higher drug court incarceration rate could be a reflection of the higher level of supervision that drug court cases undergo. This study only focuses on one year of intake data. Follow-up studies over the next five years will solidify the incarceration rate comparison.

<sup>20</sup> *Adult Drug Courts: Studies Show Courts Reduce Recidivism*, Washington, DC: Government Accountability Office, Dec. 2011, GAO-12-54, pp 19-20.

Table 7 provides recidivism by gender for the Drug Court cohort and Table 8 provides recidivism by gender for the control cohort.

**Table 7: Recidivism by Gender – Drug Court Cohort**

Drug Court	Females		Males	
	% Incarcerated	% Re-arrest	% Incarcerated	% Re-arrest
All FY 2009 Drug Court Intakes	22.4%	32.5%	30.6%	41.4%
6th Judicial District	0.0%	45.5%	23.7%	60.5%
Magnolia	12.5%	12.5%	32.0%	36.0%
All other districts	23.5%	32.6%	31.0%	40.3%

**Table 8: Recidivism by Gender – Control Cohort**

Females		Males	
% Incarcerated	% Re-arrest	% Incarcerated	% Re-arrest
16.5%	32.8%	21.0%	42.7%

Again, for both males and females, the 6<sup>th</sup> Judicial District had a relatively low incarceration rate and a relatively high re-arrest rate compared to other drug courts.

Females in the control cohort had a lower incarceration rate than all FY 2009 drug court female intakes. Among males, the control cohort had a lower incarceration rate but a higher re-arrest rate. This study only focuses on one year of intake data.

Table 9 provides recidivism by specific drug court and Table 10 provides recidivism by drug court type.

**Table 9: Recidivism Drug Court**

Judicial Circuit	Court Name	Location	% Incarceration	% Re-arrest
1st	St. Francis County Drug Court	Forrest City	0.0%	42.9%
2nd	Greene County Drug Court	Paragould	19.0%	33.3%
2nd	Crittenden County Drug Court	West Memphis	26.7%	26.7%
2nd	Craighead County Drug Court	Jonesboro	42.9%	60.7%
3rd	3rd Judicial Drug Court - Lawrence County	Walnut Ridge	22.2%	22.2%
3rd	3rd Judicial District Drug Court	Pocahontas	12.5%	25.0%
3rd	3rd Judicial District Jackson County Drug Court	Newport	40.0%	40.0%
4th	Washington/Madison County Drug Court and Treatment and Diversion Court (Ozark Recovery Center)	Fayetteville	21.2%	41.5%
5th	5th Judicial District Drug Court Treatment Program	Russellville	34.6%	61.5%
5th	5th Judicial District Drug Court Treatment Program	Clarksville	9.1%	45.5%
6th	6th Judicial District Drug Court	Little Rock	18.4%	57.1%

Judicial Circuit	Court Name	Location	% Incarceration	% Re-arrest
7th	7th Judicial District Drug Court	Malvern	40.9%	36.4%
8th North	8th Judicial District-North	Hope	20.0%	46.7%
8th South	8th Judicial District-South	Texarkana	20.0%	33.3%
9th East	9th-East Judicial District Drug Court	Arkadelphia	26.1%	39.1%
9th West	9th West Judicial District Drug Court	Nashville	26.7%	33.3%
10th	10th Judicial District Drug Court	Monticello	60.9%	17.4%
11th East	Arkansas County Drug Court Treatment Program	Stuttgart	33.3%	0.0%
11th West	11th Judicial District West Drug Court, Jefferson County	Pine Bluff	26.5%	50.0%
12th	Sebastian County Drug Court	Fort Smith	33.8%	32.4%
13th	Columbia County Drug Court	Magnolia	27.3%	30.3%
13th	13th Judicial District, 4th Division, Union County Drug Court Program	El Dorado	19.2%	19.2%
13th	13th Judicial District Ouachita County Drug Court	Camden	50.0%	25.0%
14th	14th Judicial Circuit Drug Court	Harrison	27.3%	72.7%
14th	14th Judicial District Drug Court	Mountain Home	40.0%	20.0%
15th	Logan/Scott County Drug Court, 15th Judicial District Court	Booneville	0.0%	16.7%
15th	Conway County Drug Court, 15th Judicial District Court	Morrilton	30.8%	30.8%
15th	Yell County Drug Court Program	Danville	23.1%	30.8%
16th	16th Judicial District Drug Court, Cleburne County	Heber Springs	35.7%	7.1%
16th	16th Judicial District Drug Court, Stone County	Mountain View	56.3%	50.0%
17th	17th Judicial District Drug Court	Searcy	55.6%	55.6%
18th East	18th Judicial Circuit-East Drug Court	Hot Springs	33.3%	37.0%
18th West	DCC Post-Adjudication, 18th West Judicial Drug Court, Intensive Outpatient	Mena	5.3%	15.8%
19th West	DCC 19th Judicial District	Bentonville	21.4%	45.7%
20th	20th Judicial District Drug Court Program	Conway	13.0%	26.1%
21st	Crawford County Drug Court	Van Buren	36.1%	38.9%
22nd	Saline County Adult Drug Court	Benton	33.3%	23.8%
23rd	23rd Judicial District Drug Court	Lonoke	38.5%	38.5%
16 <sup>th</sup>	16 <sup>th</sup> Judicial District Drug Court	Batesville	57.1%	42.9%
19 <sup>th</sup>	19 <sup>th</sup> Judicial District Drug Court	Berryville	25.0%	50.0%

Table 10: Recidivism Drug Court Type

Court Type	N	%	% Incarcerated	% Re-arrest
<b>Base</b>	<b>899</b>		<b>27.7%</b>	<b>38.3%</b>
Pre-Adjudication	99	11.0%	30.3%	34.3%
Post Adjudication	735	81.8%	27.3%	38.2%
Hybrid	65	7.2%	27.7%	44.6%

**RETENTION.** Graduation from the drug court program is crucial to the success of an offender under supervision. Data showed that 59.7 percent of the FY 2009 participants graduated from the drug court programs. By gender, 68.5 percent of females graduated and 55.0 percent of males graduated. Table 11 provides the graduation rate for the FY 2009 drug court intakes by gender.

**Table 11: Successful Graduates by Gender**

Cohort	Non Graduates		Graduates		Total
	N	%	N	%	
All FY 2009 Intakes	362	40.3%	537	59.7%	899
Female	100	31.5%	217	68.5%	317
Male	262	45.0%	320	55.0%	582

The length of stay is also a key measurement of a drug court program’s success. The retention rate indicates the percentage of participants who either graduated or remained active in the drug court program one year or longer after entering drug court. Retention is necessary to keep drug court participants in treatment long enough to realize an effect.

Table 12 details the average length of stay on drug court supervision for the FY 2009 intake cohort by graduates versus non graduates. The total cohort averaged a LOS of 23.4 months. Graduates averaged a LOS of 24.7 months, 14.4 percent longer than non-graduates who averaged 21.6 months. At the end of the study period, 537 graduated and 362 did not graduate.

**Table 12: Average Time on Drug Court Supervision for FY 2009 Intakes**

Cohort	Non Graduates Average LOS (months)*		Graduates Average LOS (months)		Total Average LOS (months)
	N	%	N	%	
Average Length of Stay on Drug Court Supervision	362	21.6	537	24.7	23.4



Table 13 provides greater detail concerning length of time on drug court supervision. The majority of non graduates were on drug court supervision for less than 12 months while the vast majority of graduates had a LOS over 24 months. No data was available on the reason for drug court supervision termination or reason for non graduate failure.

**Table 13: Average Time on Drug Court Supervision for FY 2009 Intakes by Category**

Length of Stay Category*	Number Non Graduates	% Non Graduates	Number Graduates	% Graduates	Number Total	% Total
Under 12 months	103	28.5%	42	7.8%	145	16.1%
12-18 months	75	20.7%	158	29.4%	233	25.9%
19-24 months	40	11.0%	99	18.4%	139	15.5%
Over 24 months	92	25.4%	216	40.2%	308	34.3%
No release date	52	14.4%	22	4.1%	74	8.2%
Total	362	100.0%	537	100.0%	899	100.0%

\*Note: "No release date" indicates that the offender had not been released from drug court supervision prior to the end of the 36 month study period.

**SOBRIETY.** Sobriety was measured by the percent of failed drug tests during and after drug court participation to provide information on offender rehabilitation, public safety, and offender accountability. Participants are required to submit frequent and random drug tests which are then used to monitor sobriety. Testing is dependent and adjusted according to the time an offender has been in the program. As time progresses, the offender is tested less frequently.<sup>21</sup> All drug court specimens were collected by drug court staff.

**SOBRIETY 1: IN-PROGRAM.** Data was gathered on the number of drug tests administered and the positive test results during active program participation. Table 14 details the drugs for which the graduates and non graduates tested positive most frequently. Of the non graduate group, 19.1 percent did not have a positive test while 37.1 percent of the graduate group did not have a positive test. Non graduates tested positive for THC/Marijuana and Heroin most frequently. According to a study

<sup>21</sup> National Drug Court Institute, Model State Drug Court Legislation: Monograph Series 5, pg.

released by the National Institute of Justice (NIJ) in 2006 that evaluated multiple drug court sites, the national average for positive drug tests during drug court supervision was 76.0 percent.<sup>22</sup> Arkansas' total drug court cohort for FY 2009 had a positive drug test rate of 68.0 percent, lower than the national average.

**Table 14: Most Frequent Drugs for Which FY 2009 Drug Court Intakes Tested Positive**

Most Frequent Drug Tested Positive For	Number Non Graduates	% Non Graduates	Number Graduates	% Graduates	Number Total	% Total
Alcohol	31	8.6%	40	7.4%	71	7.9%
Amphetamines	37	10.2%	29	5.4%	66	7.3%
Barbiturates	2	0.6%	3	0.6%	5	0.6%
Benzodiazepines	25	6.9%	27	5.0%	52	5.8%
Cocaine	35	9.7%	27	5.0%	62	6.9%
Creatinine	37	10.2%	90	16.8%	127	14.1%
Ecstasy	0	0.0%	5	0.9%	5	0.6%
Heroin/opiates	51	14.1%	69	12.8%	120	13.3%
Methadone	1	0.3%	1	0.2%	2	0.2%
Methamphetamines	2	0.6%	4	0.7%	6	0.7%
PCP	2	0.6%	0	0.0%	2	0.2%
Propoxyphene	0	0.0%	4	0.7%	4	0.4%
THC/marijuana	52	14.4%	37	6.9%	89	9.9%
Any positive	275	76.0%	336	62.6%	611	68.0%
No test data	18	5.0%	2	0.4%	20	2.2%
No positive results in program	69	19.1%	199	37.1%	268	29.8%
Total	362	100.0%	537	100.0%	899	100.0%

Table 15 compares the average length of stay in the program with the drug test results. Persons in the entire drug court cohort that had no positive tests averaged the shortest length of stay on drug court supervision.

<sup>22</sup> Shelli B. Rossman, John K. Roman, Janine M. Zweig, Christine H. Lindquist, Michael Rempel, Janeen Buck Willison, P. Mitchell Downey, Kristine Fahrney, *The Multi-Site Adult Drug Court Evaluation: Study Overview and Design*, The Urbane Institute & National Institute of Justice, November 2011.

**Table 15: Comparison Most Frequent Positive Drug to Average Length of Stay on Drug Court Supervision**

Most Frequent Drug Tested Positive For	Non Graduates	Graduates	Total
	Average LOS in Drug Court	Average LOS in Drug Court	Average LOS in Drug Court
Alcohol	27.5	30.3	29.1
Amphetamines	18.4	26.1	21.8
Barbiturates	24.3	32.0	29.0
Benzodiazepines	22.3	26.2	24.3
Cocaine	18.6	29.7	23.4
Creatinine	24.3	28.8	27.5
Ecstasy	n/a	24.8	24.8
Heroin/opiates	24.6	29.2	27.3
Methadone	18.7	31.6	25.1
Methamphetamines	22.8	23.8	23.5
PCP	36.0	n/a	36.0
Propoxyphene	n/a	22.3	22.3
THC/marijuana	24.0	27.7	25.6
Any positive	23.0	28.4	26.0
No test data	14.2	19.7	14.8
No positive results in program	18.0	18.4	18.3
Total	21.6	24.7	23.4

\*Note: persons not yet released from supervision were given a LOS of 36.0 months

Table 16 provides an overview of sobriety performance for the FY 2009 drug court intake cohort. The total cohort averaged 5.8 positive tests and tested positive 6.2 percent of the time. Graduates and non-graduates had a similar percentage of cases which tested positive for less than three drugs. However, graduates had a significantly lower number of cases that tested positive for three or more drugs.

**Table 16: Number of Drug Tests & Results**

Measure of Sobriety	Non Graduates	Graduates	Total
Average number of drug tests	74.1	108.0	94.3
Average number of positive tests	7.9	4.4	5.8
Average percentage of positive tests	10.7%	4.1%	6.2%
Number of participants testing positive for 3 or more drugs	116	106	222
Percent of total	32.0%	19.7%	24.7%
Number of participants testing positive for less than 3 drugs	159	230	389
Percent of total	43.9%	42.8%	43.3%

**SOBRIETY 2: POST-PROGRAM.**

Table 17 gives an overview of sobriety performance for the FY 2009 drug court cohort after leaving the drug court program. Graduates averaged less than 1 percent of positive tests post program during the three year follow-up period.

**Table 17: Number of Drug Tests & Results – Post Program**

Measure of Sobriety	Non Graduates	Graduates	Total
Average number of drug tests	3.8	1.2	2.2
Average number of positive tests	0.8	0.1	0.4

**UNITS OF SERVICE.** Drug courts vary on the amount or number of services which are available in their area. These variances are due, in part, to the court location (urban vs. rural), the lack of area residential treatment facilities, and waiting lists. Such limitations are often out of the court’s direct control. The dates that participants received outpatient or inpatient services were used, as well as the dates of referral for ancillary services made by the drug court staff, to determine treatment units of service. Units of service are counted as outpatient or ambulatory addiction-related services, inpatient addiction-related services and ancillary or non-addiction related services. Examples of some of the services most utilized by drug court participants are 12-Step programs, individual and group therapy sessions, tobacco use treatment, substance abuse treatment, life and social skills, and employment

preparation. At the conclusion of this study period, the total number of units of service received by each participant was accumulated by inpatient and outpatient services.

Table 18 shows graduates received more units of service than non graduates but averaged fewer units per month of supervision.

**Table 18: Comparison of Treatment Units between Graduates and Non-Graduates**

Performance Measure	Non Graduates	Graduates	Total
	N=301	N=440	N=741
Minutes of treatment	5,720.9	5,964.4	5,865.5
Treatment in units (hours)	95.3	99.4	97.8
Average Length of Stay (months) for persons with Treatment Units (hours)	22.3	26.3	24.7
Average Minutes per Month	256.5	226.8	237.5
Average Units per Month	4.3	3.8	4.0

In summation, performance highlights for the statewide drug court system include:

- The majority of FY 2009 drug court intakes graduated from drug court supervision.
- 37.1 percent of graduates had no positive drug tests over the course of their supervision.
- Only 4.3 percent of drug court graduates were revoked to prison within three years of starting drug court supervision.
- Drug court graduates that did have positive drug tests averaged only 4.4 positive drug tests while on supervision.
- Drug court graduates averaged fewer units of treatment than non-graduates, indicating that there is a component of the drug court supervision process beyond treatment that aids offenders in sobriety.

## IV. COST BENEFIT ANALYSIS

**COST BENEFIT ANALYSIS.** The bottom line for any program is whether its investment of additional resources put in the program is worth the added costs of operating such a program. A comprehensive cost-benefit analysis can help answer these questions but a simple cost-benefit assessment may only tell part of the story. A cost-benefit analysis can support whether there is a return on each dollar spent on the program over the cost of incarceration. A positive outcome indicates that taxpayers would have spent more on incarceration for offenders processed in a traditional court setting than they would in the drug court. The cost benefit outcome for this report utilizes a combination of diversion and recidivism as a measure of impact. Although a traditional and easily quantifiable measure of cost savings, this form of analysis fails to factor in more complex and harder to identify measures like social productivity, medical and mental health public service usage, government financial support reliance and broader criminal justice system costs like crimes committed and arrests. Strategies for identifying and quantifying such social impacts could be considered for future studies. It is recommended, however, that these be researched further and taken into account before making significant changes to drug courts in Arkansas.

### CALCULATING THE COST OF DRUG COURTS

The primary way that a drug court can save, or more correctly avert, state expenditures is to divert people who would have been incarcerated, had the drug court not existed. Additional cost savings can occur if there is evidence that persons going through the program have lower recidivism rates. To quantify these measures, two cost analysis estimates were calculated:

1. The *diversion* costs per day for a drug court participant compared to daily incarceration rates of the ADC, the daily incarceration rates for an ACC facility and ACC's daily probation supervision rate;
2. The *recidivism* cost impact associated with the difference between re-arrest and return to incarceration rates of drug court participants compared with regular probationers.

Quality assurance techniques were implemented to verify data integrity and reporting accuracy.

**DIVERSION COSTS.** For the purpose of this report, diversion costs were estimated by comparing the costs of an offender serving in a drug court program with the costs that offender would have incurred if the drug court program was not available. In order to calculate these costs, assumptions were made regarding costs of programs and likelihood of non-drug court placement. Tables 19-21 summarize each step of this cost estimation.

**Table 19: FY 2009 Drug Court Cohort Costs by Type of Court**

<b>Drug Court Commitments</b>	<b>Number</b>	<b>Cost per Day</b>	<b>LOS (months)</b>	<b>Total Cost</b>
Pre-Adjudication	99	\$12.75	27.0	\$1,037,333
Post-Adjudication	735	\$12.75	23.5	\$6,703,079
Hybrid	65	\$12.75	17.4	\$438,916
<b>Total</b>	<b>899</b>	<b>\$12.75</b>	<b>23.4</b>	<b>\$8,179,328</b>

Table 19 calculates the total cost associated with all FY 2009 admissions, based on the 899 cases admitted to any drug court in Arkansas in FY 2009 and the type of drug court for each county specified in Table 1. LOS was calculated from the FY 2009 drug court cohort based on admission and release dates. A total of 74 offenders were part of the FY 2009 drug court cohort but were not released as of the end of the three year follow up period. A length of stay to date of the maximum follow up period of 36 months was used for these cases. Due to the way various drug courts are administered, costs per day can vary significantly. Therefore, the cost utilized represents the average statewide cost of drug court participation. Total costs for the FY 2009 admission cohort of drug court participants totaled just over \$8 million for the duration of their drug court program or an average of \$9,098 per participant.

**Table 20: FY 2009 Drug Court Cohort Simulated Costs by Type of Court**

Drug Court Commitments	Number	Weighted Cost per Day	Weighted LOS (months)	Total Cost
Pre-Adjudication	99	\$ 1.64	29.9	\$ 147,761
Post-Adjudication	735	\$59.33	11.4	\$15,211,030
Hybrid	65	\$52.23	13.7	\$ 1,191,441
<b>Total</b>	<b>899</b>	<b>\$52.46</b>	<b>13.6</b>	<b>\$16,550,232</b>

Table 20 simulates the total costs of the FY 2009 drug court admissions cohort if no drug court program was available. Weighted average costs per day of probation, ACC and ADC are presented in each of the three drug court categories and were provided for FY 2009 (\$1.64/day probation, \$59.33/day ADC and \$52.21/day for ACC). Average length of stay is also presented as a weighted average of all cases within the pre-adjudication, post-adjudicated and hybrid groups. Both the weighted average for cost per day and LOS were generated by averaging proportional counts and the associated data points. Hence, more frequently occurring data points are represented as contributing more to the average than others. Data points going into each of the weighted averages came from the FY 2009 drug court cohort, data available from EOMIS extract files and the Arkansas Sentencing Commission annual report.

**Table 21: FY 2009 Drug Court Summary Costs**

Drug Court Commitments	Low Estimate	Total Cost Difference	High Estimate
Pre-Adjudication		\$ 889,572	
Post-Adjudication		- \$8,507,951	
Hybrid		-\$ 752,525	
<b>Total</b>	<b>-\$5,713,784</b>	<b>-\$7,618,379</b>	<b>-\$9,522,974</b>

Table 21 presents a summary calculation of impact on diversion costs associated with the FY 2009 drug court cohort. A high and low estimate is applied to the calculation cost savings in an effort to calculate the true marginal cost. The 25 percent high and low range also accounts for the degree of uncertainty surrounding the assumptions built into these estimates.



**RECIDIVISM COST ESTIMATES.** For the purpose of this report, recidivism costs are estimated by comparing the costs associated with either an increase or decrease in recidivism due to the drug court program. To compare these measures, a three year follow up period was established for the FY 2009 drug court cohort and FY 2009 probation control cohort. The 6<sup>th</sup> judicial district and the Magnolia Drug Court were excluded from the recidivism analysis due to their revocation policies. The remaining drug courts in Arkansas showed a slightly higher incarceration rate and a slightly lower re-arrest rate than a comparable group of offenders serving on regular probation. A detailed summary of the recidivism results is presented in Table 3 of this report.

Table 22 below summarizes the re-arrest and recidivism rates associated with the FY 2009 drug court versus the FY 2009 control cohort.

**Table 22: FY 2009 Drug Court and Probation Control Cohort Recidivism Impact**

<b>FY 2009 Impact N = 817</b>	<b>Re-arrest Rate</b>	<b>Incarceration Rate</b>	<b>Re-arrest Numeric Impact</b>	<b>Incarceration Numeric Impact</b>
Drug Court Participants*	37.5%	28.3%	306	231
Control Cohort	39.8%	19.7%	325	161
<b>Total</b>			<b>-19</b>	<b>70</b>

\*Drug Court Cohort numbers exclude the 6<sup>th</sup> judicial and Magnolia drug courts

Based on the rates established from the three year follow up period, the recidivism impact would total 19 fewer arrests and 70 more incarcerations sometime during the three year time period.

**Table 23: FY 2009 Drug Court and Probation Control Cohort Recidivism Impact**

<b>Incarceration</b>	<b>Offenders</b>	<b>Projected LOS (months)</b>	<b>Actual Cost per Day</b>	<b>Total Cost</b>
Sent to ACC	31	7.8	\$53.01	\$ 390,142
Sent to ADC	39	16.2	\$60.19	\$1,160,177
<b>Total</b>	<b>70</b>			<b>\$1,550,631</b>

Table 23 combines the numeric impact of the incarceration rates, the average cost of housing an offender in either ACC or ADC, and the imposed incarceration sentence to produce the cost impact over the three year follow up period.

Table 24 utilized data available from the FY 2009 drug court cohort and average cost per day in custody to arrive at a total cost of an additional \$1.5 million in costs associated with an increased recidivism rate for FY 2009 drug court participants.

Data is unavailable to estimate the savings associated with fewer re-arrests from the FY 2009 drug court cohort group. Since it is a relatively small number of re-arrests, the impact of this reduction is negligible and not factored into this cost estimate analysis.

**Table 24: FY 2009 Drug Court Cohort Recidivism Costs**

	<b>Low Estimate</b>	<b>Average Cost Difference</b>	<b>High Estimate</b>
<b>Incarceration total</b>	\$1,162,973	\$1,550,631	\$1,938,289

A high and low estimate is applied to the calculated cost savings in an effort to calculate the true marginal cost. The 25 percent high and low range also account for the degree of uncertainty surrounding the assumptions built into these estimates.

**Table 25: FY 2009 Drug Court Cohort Total Costs Estimates**

	<b>Low Estimate</b>	<b>Average Cost Difference</b>	<b>High Estimate</b>
<b>Total FY 2009 Drug Court Cost Impact</b>	-\$4,163,153	-\$6,455,406	-\$8,360,000

Based on the above listed assumptions, Table 25 combines the cost savings associated with diversion and increased costs associated with higher recidivism. The net results of costs of all drug court participants in FY 2009 provides a savings ranging between 4 and just under 8.4 million dollars.

#### IV. CONCLUSIONS AND RECOMMENDATIONS

Arkansas's drug courts have a high degree of support, credibility, and impact on recovery and sobriety. They have a high graduation rate, are well-conceived and reflect practices that meet or exceed national standards. The next generation of drug courts across the nation is increasing their use of research and other locally available data to inform decisions about participation, programming and supervision. In other words, they are fine-tuning their ability to match offenders to the appropriate court, treatment and supervision strategies. Arkansas is already on the path for this next level of implementation.

A great deal of differentiation exists among the drug courts in Arkansas from pre and post adjudication courts to policies on number of failures and revocation rules. With these varied policies, it is difficult to compile results statewide and even more challenging to compare these results with other state or national studies. Adding a cost estimate analysis for statewide comparison is even more challenging, as not every court operates in the same manner, making costs vary widely from court to court.

The drug court system within Arkansas is firmly established and as this report details, shows real benefit in its high graduation rate and increased sobriety of graduates post program. In order to understand these benefits and provide real insight into successes and best practices among drug courts in Arkansas, it is recommended that future iterations of this report attempt to focus on individual drug courts. By individually measuring results by court over time, patterns may start to emerge and best practices will be identified that provides the greatest overall results in criminal justice savings as well as participant sobriety and social betterment.