

# Midwestern Juvenile Drug Courts: Analysis & Recommendations

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## INTRODUCTION

Drug use extracts a high cost on America: the cost of suffering and unhappiness, particularly among the young; the cost of lost productivity at the workplace; and the cost of drug-related crime. Drug use is too costly for us not to do everything in our power, not just to fight it but to subdue it and conquer it.<sup>1</sup>

Over the last fifteen years, America's judicial system has been refining its latest weapon to subdue and conquer drug use among the nation's youth: the juvenile drug court.<sup>2</sup> A direct application of the widely popular adult drug court model developed in 1989,<sup>3</sup> juvenile drug courts are courts that focus solely on drug-related cases and the

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1. President Ronald Reagan, Remarks in the East Room of the White House (Oct. 27, 1986) (transcript available at <http://www.reagan.utexas.edu/archives/speeches/1986/102786c.htm>). With these words, President Ronald Reagan signed into law the Anti-Drug Abuse Act of 1986, a sweeping reform intended to fortify the nation's ongoing "War on Drugs."

2. Some sources claim that the first juvenile drug court was established on October 1, 1993, in Key West (Monroe County), Florida. *E.g.*, John Roman, Jeffrey A. Butts & Alison S. Rebeck, *American Drug Policy and the Evolution of Drug Treatment Courts*, in *JUVENILE DRUG COURTS AND TEEN SUBSTANCE ABUSE* 27, 50 (Jeffrey A. Butts & John Roman eds., 2004). Steven Belenko, a prominent contributor to drug court research, also asserts that the first juvenile drug court began in 1993. STEVEN BELENKO, NAT'L CTR. ON ADDICTION AND SUBSTANCE ABUSE AT COLUMBIA UNIV., *RESEARCH ON DRUG COURTS: A CRITICAL REVIEW* 2001 UPDATE 44 (2001). Government data, however, indicate that the first juvenile drug court did not appear until 1995. *See, e.g.*, BUREAU OF JUSTICE ASSISTANCE DRUG CT. CLEARINGHOUSE PROJECT, *SUMMARY OF DRUG COURT ACTIVITY BY STATE AND COUNTY: JUVENILE/FAMILY DRUG COURTS I* (2006), available at <http://spa.american.edu/justice/documents/2044.pdf>. Even though commentators cannot seem to reach an agreement on the date that juvenile drug courts first developed, they seem to agree that Florida was their birthplace. *See, e.g.*, Daniel M. Filler & Austin E. Smith, *The New Rehabilitation*, 91 *IOWA L. REV.* 951, 968–69 (2006) (crediting Circuit Judge John Parnham in Escambia County with creating the first juvenile drug court in 1995).

3. Florida civil division Judge Herbert Klein believed that the courts needed better ways to address the problems underlying the War on Drugs-induced increase in drug arrests, so he devised a treatment-centered system that he hoped would generate a long-term solution rather than a temporary stopgap. Judge Herbert Klein, *The Power of Connection: Fuel for Drug Courts*, Keynote Speech at the Florida Drug Court Conference 3–4 (1996). He envisioned a system of court-supervised drug treatment, something that had never before been attempted in the criminal courts. John S. Goldkamp, *The Drug Court Response: Issues and Implications for Justice Change*, 63 *ALB. L. REV.* 923, 926 (2000). Klein garnered the support of high-ranking officials in Florida, including State Attorney Janet Reno, JAMES L. NOLAN, JR., *REINVENTING JUSTICE* 39 (2001), and the nation's first drug court was born in the summer of 1989 at the

rehabilitation of drug-using juveniles. These specialty courts<sup>4</sup> do more than simply adjudicate offenders and dole out punishments. The National Association of Drug Court Professionals defines a drug court as one that is “given the responsibility to handle cases involving drug-using offenders through comprehensive supervision, drug testing, treatment services and immediate sanctions and incentives.”<sup>5</sup> Drug courts link supervision and treatment, exerting pressure on defendants to enter and remain in treatment long enough to realize lasting benefits.<sup>6</sup> The hallmark of drug courts is a team approach; effective drug courts “bring the full weight of all intervenors (e.g., the judge, probation officers, correctional and law enforcement personnel, prosecutors, defense counsel, treatment specialists and other social services personnel) to bear, forcing the offender to deal with his or her substance abuse problem or suffer the consequences.”<sup>7</sup> In short, they represent a complete departure from the standard adversarial criminal proceeding.

Unlike the original juvenile justice system, which embodied a distinctly different philosophy from the criminal justice system that gave rise to it,<sup>8</sup> juvenile drug courts “appear to have evolved directly from the adult drug court model . . . .”<sup>9</sup> Led by

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administrative order of Chief Judge Wetherington. Peggy Fulton Hora, William G. Schma & John T.A. Rosenthal, *Therapeutic Jurisprudence and the Drug Treatment Court Movement: Revolutionizing the Criminal Justice System's Response to Drug Abuse and Crime in America*, 74 NOTRE DAME L. REV. 439, 454–55 (1999). Though all sources attribute the drug court idea to Judge Klein, California state senator John Harmer introduced legislation to rectify what he termed the “pathetic ineptness” of the California courts in dealing with juvenile drug offenders nearly twenty years earlier, in 1970 and 1971. Richard L. Kassis, *Drug Rehabilitation: Is a Drug Court the Answer?*, 3 PAC. L.J. 595, 596 (1972). Like Klein, Harmer believed that the judicial system needed a specialized drug court designed to rehabilitate offenders. *Id.* at 605. Harmer’s purpose in introducing the (ultimately unsuccessful) bills was to “establish a drug court with the expertise and expanded resources which would enable it to effectuate meaningful drug rehabilitation rather than merely continuing to punish or ignore drug abuse.” *Id.* It is not clear whether Klein was aware of either Harmer’s proposed legislation or the book Harmer published that advocated similar reform.

4. Specialty courts employ a non-traditional model of case adjudication, “one that focuses on treatment and gives attention to the social issues of victims, the defendant, and the community.” Tamar M. Meekins, *Risky Business: Criminal Specialty Courts and the Ethical Obligations of the Zealous Criminal Defender*, 12 BERKELEY J. CRIM. L. 75, 76 (2007).

5. The National Association of Drug Court Professionals, Talking Points/Statistics on Drug Courts, <http://www.nadcp.org/whatis/generalTalkingPoints.html>.

6. NAT’L INST. OF JUST., SPECIAL REPORT, DRUG COURTS: THE SECOND DECADE 1 (2006).

7. Hora et al., *supra* note 3, at 452 (quoting THE NAT’L ASSOC. OF DRUG COURT PROF’L & THE OFFICE OF CMTY. ORIENTED POLICING SERVS., U.S. DEPARTMENT OF JUSTICE COMMUNITY POLICING AND DRUG COURTS/COMMUNITY COURTS: WORKING TOGETHER WITHIN A UNIFIED COURT SYSTEM app. B (1998)).

8. *See, e.g.*, Robert E. Shepherd, Jr., *The Juvenile Court at 100 Years: A Look Back*, 6 JUV. JUST. 13 (1999).

9. Roman et al., *supra* note 2, at 49. Many involved in the juvenile justice system advocate the development of more unique juvenile drug courts than those simply imitating their adult counterparts. *See, e.g.*, Office of Juvenile Justice and Delinquency Prevention, *An Evolving Juvenile Court: On the Front Lines with Judge J. Dean Lewis*, 6 JUV. JUST. 3, 7 (1999) (“Juvenile drug courts should not be developed as carbon copies of adult drug courts for the same reason that the juvenile court was created in the first place—children are developmentally different from adults.”); Anthony J. Sciolino, *Juvenile Drug Treatment Court Uses “Outside the*

pioneering districts in Florida and California,<sup>10</sup> many jurisdictions simply applied the popular adult drug court model to the juvenile drug court process. Districts taking this approach believed it would be a straightforward transformation aided by the more flexible procedural framework employed in the standard juvenile justice system.<sup>11</sup> These jurisdictions have had difficulty accepting, however, that simply adding the word “juvenile” to the pre-existing adult drug court model is not a practical course of action; implementing and maintaining juvenile drug courts presents unique challenges that the more simplistic adult drug court model did not anticipate.<sup>12</sup>

A large proportion of juvenile drug court participants have not “hit bottom” like their adult counterparts with longer histories of substance abuse have.<sup>13</sup> Consequently, the juveniles prove less receptive to rehabilitation techniques designed to treat adult addicts. Moreover, and more critically, juvenile drug courts have had difficulty directing their resources to the offenders most amenable to treatment; “[m]ost juvenile offenders—as with teenagers in general—use alcohol and marijuana only and very few could be described as addicted or dependent.”<sup>14</sup> Juvenile drug courts find themselves confronting family problems, often including parental substance abuse, which impede juvenile success at rehabilitation.<sup>15</sup> Addressing these familial and other negative peer influences represents perhaps the greatest impediment to success, since juveniles depend upon their families until they reach the age of majority.<sup>16</sup>

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*Box*” *Thinking to Recover Lives of Youngsters*, 74 N.Y. St. B.J. 37, 40 (2002) (“Because children are not just *short adults*, developing a juvenile drug court is a more complex task than developing an adult court.”) (emphasis in original). *But see* BUREAU OF JUST. ASSISTANCE, JUVENILE DRUG COURTS: STRATEGIES IN PRACTICE 6 (2003) (“It quickly became apparent that applying drug court principles to youth populations would not be as simple as replicating the adult model, and that a drug court for youth would look very different from one aimed at adults.”).

10. Florida and California had, respectively, four and two juvenile drug courts by October 15, 1996. DRUG CT. CLEARINGHOUSE AND TECHNICAL ASSISTANCE PROJECT, U.S. DEP’T OF JUST., JUVENILE DRUG COURTS: PRELIMINARY ASSESSMENT OF ACTIVITIES UNDERWAY AND IMPLEMENTATION ISSUES BEING ADDRESSED 2 (1996).

11. *Id.*

12. This is not to say that juvenile drug courts needed to be completely divorced from their adult counterparts. Indeed, today’s juvenile drug courts are indistinguishable in some fundamental ways. For instance, both strictly supervise their participants and use a variety of treatment, social services, and legal sanctions to motivate drug offenders to halt their substance abuse. *See* Jeffrey A. Butts & John Roman, *Drug Courts in the Juvenile Justice System*, in JUVENILE DRUG COURTS AND TEEN SUBSTANCE ABUSE, *supra* note 2, at 1, 7–8.

13. DRUG CT. CLEARINGHOUSE AND TECHNICAL ASSISTANCE PROJECT, *supra* note 10.

14. Butts & Roman, *supra* note 12, at 16. “Judging from the sheer number of youth who try drugs during their teen years, it is obvious that the majority of juvenile drug users are able to control their own behavior, avoid the consequences of prolonged drug abuse, and have adult lives free of serious substance abuse problems.” Jeffrey A. Butts, Janine M. Zweig & Cynthia Mamalian, *Defining the Mission of Juvenile Drug Courts*, in JUVENILE DRUG COURTS AND TEEN SUBSTANCE ABUSE, *supra* note 2, at 137. The dilemma for juvenile drug courts is how to identify—and rehabilitate—the minority of juvenile drug users who are the most likely to fall into a continued pattern of substance abuse. This problem, and various approaches juvenile drug courts have taken to address it, will be discussed at length, *infra* Part I.B.

15. DRUG CT. CLEARINGHOUSE AND TECHNICAL ASSISTANCE PROJECT, *supra* note 10.

16. The prominent role of parents (and other family members or adult role models) in juveniles’ lives “creates an element of complexity that does not exist in adult drug court

Juvenile drug courts are also plagued by structural challenges inherent in the drug court treatment model, many of which were amplified when the model was imposed upon the juvenile justice system. The biggest structural concern for post-*Gault* juvenile drug courts<sup>17</sup> remains the maintenance of defendants' constitutional rights in light of the drastically altered roles of court personnel. Juvenile drug courts are particularly inept in this regard: the juvenile drug court in Delaware County, Ohio, does not even include a defense attorney on its drug court team.<sup>18</sup> The additional responsibilities given to judges and prosecutors in the drug court setting can also be problematic.

The difficulties juvenile drug courts face are further compounded by the somewhat unusual method by which they are implemented and a general lack of communication between courts in close geographic proximity. Juvenile drug courts are typically grassroots reforms,<sup>19</sup> initiated, designed, and implemented by local "street-level bureaucrats,"<sup>20</sup> usually judges, probation officers, lawyers, and social workers.<sup>21</sup> Indiana is one of only a handful of states with a judicial body that actively supervises its drug courts.<sup>22</sup> Even with this oversight, no evidence suggests that the state's three juvenile drug courts communicate with or seek to learn from one another.<sup>23</sup>

Aside from their adherence to the key components and benchmarks outlined in *Defining Drug Courts: The Key Components*,<sup>24</sup> locally developed courts often share little similarity, even at their basest levels and even across geographically proximate jurisdictions. For instance, the Howard County (Kokomo), Indiana, juvenile drug court team includes a Department of Child Services representative who facilitates treatment

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models." Shelli Balter Rossman, Jeffrey A. Butts, John Roman, Christine DeStefano & Ruth White, *What Juvenile Drug Courts Do and How They Do It*, in *JUVENILE DRUG COURTS AND TEEN SUBSTANCE ABUSE*, *supra* note 2, at 55, 57. Juvenile drug courts have developed many different ways to manage parental involvement in treatment and court proceedings. *Id.* Juvenile drug courts struggle to strike a balance between fostering accountability for parents and other adults and ensuring that they do not create new problems within what are frequently fragile family situations. *See id.* at 58.

17. *In re Gault*, 387 U.S. 1 (1967). The Supreme Court's decision in *Gault* mandated procedural safeguards in delinquency proceedings. The Court held that juveniles had constitutionally protected rights to notice, counsel, appellate review, confrontation and cross-examination of witnesses, and transcribed proceedings. The privilege against self-incrimination was also extended to juvenile delinquency proceedings.

18. *See* DEBORAH KOETZLE SHAFFER & EDWARD J. LATESSA, *DELAWARE COUNTY JUVENILE DRUG COURT PROCESS EVALUATION* 25 (2002).

19. Roman et al., *supra* note 2, at 49.

20. Filler & Smith, *supra* note 2, at 954.

21. *See id.*

22. Kentucky and Maine also provide substantial state oversight.

23. Indeed, it seems that individuals seeking to develop a drug court frequently neglect to examine what works—or does not work—in their own backyard. Don Travis, the Howard County (Indiana) Juvenile Drug Court Coordinator, modeled the Howard County court on a juvenile drug court in San Diego, California, rather than using the newly established drug court in Vanderburgh County, Indiana, for inspiration (or even information). *See* Telephone Interview with Don Travis, Howard County Juvenile Drug Court Coordinator and Chief Probation Officer (Dec. 18, 2007) (on file with author).

24. THE NAT'L ASSOC. OF DRUG CT. PROF'LS DRUG COURT STANDARDS COMM., *DEFINING DRUG COURTS: THE KEY COMPONENTS* (1997), *available at* <http://www.nadcp.org/docs/dkeypdf.pdf>.

services and liaises with juveniles' families.<sup>25</sup> Conversely, the Tippecanoe County (Lafayette), Indiana, team lacks such a member (deemed "invaluable" by a Howard County drug court official).<sup>26</sup> However, its team includes a pharmacy consultant from Purdue University who educates and motivates juveniles and their families.<sup>27</sup>

The Vanderburgh County (Evansville), Indiana, juvenile drug court requires participants to progress through four phases of treatment;<sup>28</sup> just across the state line in Christian County, Kentucky, participants need only progress through three phases of treatment.<sup>29</sup> These discrepancies are not necessarily problematic in and of themselves. Difficulties tend to arise only when juvenile drug courts become entrenched in their own methods and fail to reconsider implementing processes and procedures that may be more effective.

Despite these structural impediments and design and operational challenges, juvenile drug courts appear to be here to stay. There are currently 442 juvenile drug courts operating in all fifty states, the District of Columbia, Puerto Rico, Guam, and the Northern Mariana Islands.<sup>30</sup>

Indiana, which has more specialty courts than all but seven states,<sup>31</sup> has embraced the trend with relative caution, however. Indiana's state legislature did not formally endorse drug courts until 2002;<sup>32</sup> the state's first juvenile drug court, in Vanderburgh County, did not open its doors until November 2002.<sup>33</sup> Currently, Indiana's ninety-two counties contain only three juvenile courts: one in Vanderburgh County (Evansville), one in Howard County (Kokomo), and one in Tippecanoe County (Lafayette).<sup>34</sup> All

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25. Telephone Interview with Don Travis, *supra* note 23.

26. *Id.*

27. See NPC RESEARCH, INDIANA DRUG COURTS: TIPPECANOE COUNTY JUVENILE DRUG TREATMENT COURT PROCESS EVALUATION FINAL REPORT 16 (2007).

28. See NPC RESEARCH, INDIANA DRUG COURTS: VANDERBURGH COUNTY JUVENILE DRUG COURT PROGRAM PROCESS EVALUATION FINAL REPORT 10 (2007).

29. See MATTHEW HILLER, DANIELLE MALLUCHE, BARBARA PATTERSON, BECCA ABENSUR, VALERIE BRYAN & LESLIE DUPONT, UNIV. OF KY. CTR. ON DRUG AND ALCOHOL RESEARCH, CHRISTIAN COUNTY JUVENILE DRUG COURT IMPLEMENTATION EVALUATION 10 (2003). All of Kentucky's nineteen juvenile drug courts share this phase structure. KENT. CT. OF JUST., JUVENILE DRUG COURT, <http://courts.ky.gov/stateprograms/juveniledrugcourt/>.

30. BUREAU OF JUST ASSISTANCE DRUG CT. CLEARINGHOUSE, DRUG COURT ACTIVITY (2007), available at <http://spa.american.edu/justice/documents/1966.pdf>.

31. See David L. Harvey III, Note, *Theories of Therapeutic Evolution for Juvenile Drug Courts in the Face of the Onset of the Co-Occurrence of Mental Health Issues and Substance/Alcohol Abuse*, 19 J.L. & HEALTH 177, 182 n.29 (2005) (citing C. WEST HUDDLESTON III, KAREN FREEMAN-WILSON & DONNA L. BOONE, PAINTING THE CURRENT PICTURE: A NATIONAL REPORT CARD ON DRUG COURTS AND OTHER PROBLEM-SOLVING COURTS IN THE UNITED STATES 6 (2004)).

32. See IND. CODE § 12-23-14.5 (2002). Drug courts began as a grass-roots movement within the judicial branches of most states. See Filler & Smith, *supra* note 2, at 952. Although Congress authorized federal funding for drug courts in 1994, Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 108 Stat.1793, most states did not adopt statutory provisions regarding drug courts until after the courts had already developed organically within their courts.

33. NPC RESEARCH, *supra* note 28, at 5.

34. See IND. JUD. CTR., DRUG COURT DIRECTORY 2-3 (2007), available at <http://www.in.gov/judiciary/pscourts/docs/dc-directory.pdf>.

three operate under the aegis of the Indiana Judicial Center, the governmental agency responsible for oversight of the state's judicial system.<sup>35</sup> Nevertheless, each uses markedly different strategies and procedures in its operations. More surprisingly, given the prevalence of juvenile drug courts in the neighboring states of Illinois,<sup>36</sup> Kentucky,<sup>37</sup> and Ohio,<sup>38</sup> Indiana's juvenile drug courts remain resolutely distinct from their Midwestern counterparts. In some instances, the ingenuity and isolation of Indiana's juvenile drug courts has proved beneficial; in others, however, the free-standing nature of Indiana's juvenile drug courts has greatly limited their potential.

This Note will outline and evaluate the challenges that juvenile drug courts face and comment on the strategies that such courts in Indiana and other comparable Midwestern states, Illinois, Kentucky, and Ohio, use to address them. Advocating for a more experience-based and adaptive drug court model, it will then highlight the best practices that could be applied to the two juvenile drug courts Indiana plans to open in Vigo County (Terre Haute) and in Porter County (Valparaiso).<sup>39</sup> Part I begins by delineating and describing the primary challenges that juvenile drug courts face and discussing some of the various strategies Midwestern courts use to address them. Part II examines the integral members of the drug court team—family members, the judge, the prosecutor, and the defense attorney. It also examines the roles of these team members in the juvenile drug court process. Part II further comments on specific

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35. About the Indiana Judicial Center, <http://www.in.gov/judiciary/center/about.html>.

36. Illinois, like Indiana, has only three juvenile drug courts. See Illinois Attorney General Lisa Madigan, Drug Courts, <http://www.ag.state.il.us/methnet/fightmeth/courts.html#Anchor-Doe-48634>. The Illinois juvenile drug court that this Note refers to is the Peoria County Juvenile Drug Court. Peoria County is demographically similar to the Indiana counties that have or are planning juvenile drug courts. The Census Bureau estimated Peoria county's population at 182,495 in July 2006. U.S. Census Bureau, Geographic Comparison Table: Illinois—County, <http://tiny.cc/txVzz>. As of July 2006, the population estimates for Indiana's juvenile drug court counties were 173,356 in Vanderburgh county; 160,105 in Porter county; 156,169 in Tippecanoe county; 103,009 in Vigo county; and 84,500 in Howard county. U.S. Census Bureau, Geographic Comparison Table: Indiana—County, <http://tiny.cc/uJM2a>.

37. Kentucky has nineteen juvenile drug courts. See KENT. CT. OF JUST., *supra* note 29. This Note cites information from the Campbell County Juvenile Drug Court and the Christian County Juvenile Drug Court. Campbell County, located near the Cincinnati Metro area, has an estimated population of 86,866. U.S. Census Bureau, Geographic Comparison Table: Kentucky—County, <http://tiny.cc/sMIXr>. Christian County, located in more rural western Kentucky, is home to 66,989 people. *Id.* These two juvenile drug courts were chosen for analysis because of their interesting policies, readily available information, and their similarities to many of Indiana's counties.

38. Ohio's eighty-eight counties are home to twenty-three juvenile drug courts. See Ohio Dep't of Alcohol and Drug Addiction Servs., Ohio Drug Courts, <http://www.odadas.ohio.gov/GD/Templates/Pages/ODADAS/ODADASPrimary.aspx?page=4&TopicRelationID=256&Content=1478>. This Note looks at the juvenile drug courts in Cuyahoga and Delaware Counties, which have populations of 1,314,241 and 156,697, respectively. U.S. Census Bureau, Geographic Comparison Table: Ohio—County, <http://tiny.cc/jFadv>. Delaware County was selected primarily because of its demographic and geographic similarities to Indiana's counties, while Cuyahoga County was selected mainly because of its large size. Government officials may have had to come up with interesting methods to efficiently solve standard drug court problems.

39. See IND. JUD. CTR., *supra* note 34, at 7–8.

challenges created by juvenile drug courts' abolition of the adversarial system and compares the approaches taken by various Midwestern courts to alleviate these concerns. It also evaluates the addition of other team members and proposes an ideal drug court team. The final Part concludes.

I. RISING TO THE CHALLENGE: OBSTACLES TO THE SUCCESS OF JUVENILE DRUG COURTS AND THE STRATEGIES MIDWESTERN JUVENILE DRUG COURTS USE TO OVERCOME THEM

A. *The Unique Circumstances of Youth Drug Use and Abuse*

The different circumstances of drug-using youth present the most fundamental impediment to the successful application of the adult drug court model. "Although youth may rely upon substances to function, they are seldom addicted to alcohol and other drugs in the traditional sense, and they use alcohol and other drugs for reasons vastly different from those of adults."<sup>40</sup> While adults often use drugs in response to stress and increased responsibilities,<sup>41</sup> juveniles may use alcohol and drugs to have fun with their peers, to experiment, or simply to cure boredom or anger.<sup>42</sup> More than half of all students have tried at least one illegal drug by their senior year of high school.<sup>43</sup> Survey results from 2002, however, indicate that only three percent of the general juvenile population exhibits signs of substance dependence, and only six percent qualify as drug-abusers.<sup>44</sup> Indiana posts similar numbers; only 5.3% of Indiana twelfth graders reported daily marijuana use in 2007, while 4.6% reported daily alcohol consumption.<sup>45</sup> The 2002 national survey indicated that roughly one quarter of juveniles between the ages of twelve and seventeen reported using at least one illegal drug in the previous year; "these numbers suggest that three in four [juvenile] users of illegal substances are neither abusing nor dependent on drugs."<sup>46</sup>

Drug court programs that follow the adult model seek to transform juveniles' behavior,<sup>47</sup> but doing so is unnecessary if the juveniles who enter the intense

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40. BUREAU OF JUST. ASSISTANCE, *supra* note 9, at 8.

41. ALEXANDRE LAUDET, NAT'L DEV. AND RESEARCH INST., INC., REASONS FOR INITIATION AND MAINTENANCE OF DRUG USE AND ALCOHOL USE BY DUALY-DIAGNOSED INDIVIDUALS, *available at* <http://www.ndri.org/ctrs/itsr/reasons.html>.

42. R. GASSMAN, M.K. JUN, S. SAMUEL, E.V. MARTIN, J. LEE, J.D. AGLEY, A.M. ATHAVALE, R.U. CHOI, N.K. DEWITT, N.L. ICKES, H.J. LIM, F. MAWANDA, E.A. MUELLER, S.J. PARK, S. J. PELTO-WHEELER, M.L. RODITIS, H. SHIN, D.C. SMITH, N.R. SMITH & T.J. WELLS, ALCOHOL, TOBACCO, AND OTHER DRUG USE BY INDIANA CHILDREN AND ADOLESCENTS: THE INDIANA PREVENTION RESOURCE CENTER SURVEY, *available at* [http://www.drugs.indiana.edu/publications/survey/indianaSurvey\\_2007.pdf](http://www.drugs.indiana.edu/publications/survey/indianaSurvey_2007.pdf).

43. Butts et al., *supra* note 14, at 138. Almost seventy percent of Indiana's twelfth graders reported that they had used alcohol, and nearly forty percent admitted to using marijuana. GASSMAN ET AL., *supra* note 42, at 76.

44. Butts et al., *supra* note 14, at 155-56.

45. GASSMAN ET AL., *supra* note 42, at 79.

46. Butts et al., *supra* note 14, at 156. The overall rate of illicit drug use among people aged twelve or older has been stable since 2002. DEP'T OF HEALTH AND HUMAN SERVS., RESULTS FROM THE 2006 NATIONAL SURVEY ON DRUG USE AND HEALTH: NATIONAL FINDINGS 16 (2007).

47. Filler & Smith, *supra* note 2, at 979.

rehabilitative programs do not have the degree of drug problems their adult counterparts do.<sup>48</sup> Most of the Midwestern juvenile drug courts this Note examines subscribe to the intense rehabilitative model. Vanderburgh County's juvenile drug court seems to follow a model for adult addicts rather than juvenile dabblers: participants in juvenile drug court must attend Alcoholics Anonymous (AA) or Narcotics Anonymous (NA) meetings, presumably with adult addicts, up to four times per week.<sup>49</sup> The juvenile drug courts in Campbell and Christian Counties (Kentucky) mandate similar levels of AA and NA participation,<sup>50</sup> as does the court in Delaware County, Ohio.<sup>51</sup> The Cuyahoga County juvenile drug court takes the AA/NA requirement one step further by requiring participants' family members to attend Al-Anon or Families Anonymous meetings as well.<sup>52</sup> Only Tippecanoe County has taken a more youth-centered (and likely more effective) approach: the drug court team, in conjunction with a local treatment provider, has created a teens-only NA group. The group is open to all community youths and is not mandatory for drug court participants.<sup>53</sup> Tippecanoe's process seems the most likely to provide valuable rehabilitation to non-addicted children who are vulnerable to continued drug abuse. However, like the other Midwestern juvenile drug courts examined here, it must also confront an issue that still plagues juvenile drug courts: identifying and targeting the youths most likely to benefit from its innovative programming.

### *B. Targeting the Right Population*

Adult drug courts explicitly target offenders who demonstrate evidence of substance abuse or dependence. But the population targeted by juvenile drug courts is less precisely articulated. The broad, vague eligibility requirements for admission into the Vanderburgh County juvenile drug court typify the eligibility requirements of juvenile drug courts across the region and country. Juveniles may participate if they "are an adjudicated delinquent, do not have a history of violent convictions, [and] do not have a history of dealing convictions."<sup>54</sup> Juveniles need not face drug-related charges to be eligible if there is reason to believe that they have a substance abuse issue.<sup>55</sup> The

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48. In 2006, there were more drug users over the age of twenty-six (11.4 million) than in the twelve- to seventeen-year age group (2.5 million) and eighteen- to twenty-five-year age groups (6.5 million) combined. DEP'T OF HEALTH AND HUMAN SERVS., *supra* note 46, at 19.

49. See NPC RESEARCH, *supra* note 28, at 10.

50. See HILLER ET AL., *supra* note 29, at 11; MATTHEW HILLER, EGLE NAREVIC & CARL LEUKEFELD, CTR. ON ALCOHOL AND DRUG RESEARCH, CAMPBELL COUNTY JUVENILE DRUG COURT EVALUATION 25 (2001) [hereinafter CAMPBELL COUNTY EVALUATION].

51. See SHAFFER & LATESSA, *supra* note 18, at 5.

52. DEBORAH KOETZLE SHAFFER, EDWARD J. LATESSA, JENNIFER PEALER & CHARLENE Y. TAYLOR, CUYAHOGA COUNTY JUVENILE DRUG COURT PROCESS EVALUATION 6 (2002).

53. See NPC RESEARCH, *supra* note 27, at 14.

54. NPC RESEARCH, *supra* note 28, at 7. The Vanderburgh County Juvenile Drug Court follows the post-adjudication model; where a juvenile must be adjudicated as a delinquent to be eligible for participation. As is the case in many juvenile drug courts, however, the juvenile's adjudication is expunged upon successful completion of the nine-to-twelve-month program. Vanderburgh County: Juvenile Division, Vanderburgh Juvenile Court, <http://www.vanderburghgov.org/Index.aspx?page=527>.

55. Vanderburgh County: Juvenile Division, *supra* note 54.



criteria that law enforcement officials use to determine whether such an issue exists are usually not publicized.<sup>56</sup> Vanderburgh County excludes from juvenile drug court only juveniles charged with relatively serious crimes.<sup>57</sup> By definition, all the eligible participants face some delinquency offense charges, and many undoubtedly stand to benefit from some judicial intervention. Nevertheless, their substance use approximates that of other non-delinquent youth of the same age;<sup>58</sup> the difficulty lies in detecting the youths most likely to continue down the substance abuse path.<sup>59</sup>

Juvenile drug courts that operate using these or similarly vague admission criteria inadvertently provide services to youth who do not have serious substance use problems. This practice effectively wastes scarce judicial resources—both money and time—to “rehabilitate” children who never had any sort of serious problem in the first place. Indeed, “[i]t will never be feasible or wise to provide court-sponsored substance abuse treatment for every juvenile that tries illegal drugs.”<sup>60</sup>

Those who plan and develop juvenile drug courts recognize this issue. A government-published framework for planning, implementing, and operating a juvenile drug court highlights “Clearly Defined Target Population and Eligibility Criteria” as the third of its sixteen recommended strategies.<sup>61</sup>

Some jurisdictions that have attempted to more narrowly define their juvenile drug court target populations have not fared better. Illinois, for instance, automatically excludes any juvenile who “denies his or her use of or addiction to drugs” or “does not demonstrate a willingness to participate in a treatment program.”<sup>62</sup> On the surface,

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56. In Vanderburgh County, juveniles that are suspected substance abusers are “accessed [sic] by an agency of their choice and must complete whatever educational or drug treatment program [that] is deemed necessary.” *Id.* A few of the standard diagnostic instruments include the Global Assessment of Individual Needs, the Substance Abuse Subtle Screening Inventory (better known as the SASSI), and the Comprehensive Addiction Severity Index for Adolescents. *See Butts et al., supra* note 14, at 167.

57. *See NPC RESEARCH, supra* note 28, at 45. As is the case with adult drug courts, funding for juvenile drug courts is contingent upon the exclusion of “violent” offenders from the programs. In Vanderburgh County, juveniles charged with any “crime of violence” as defined by Indiana Code section 35-50-1-2 are excluded. *Id.*

58. *See Butts et al., supra* note 14, at 159–60 (“If virtually any contact with an illicit drug is enough to qualify a youth for juvenile drug court . . . [then] the proportion of substance abuse and dependence among juvenile drug court clients could be quite close to the prevalence rate among youth in general.”).

59. Interestingly, the prosecutor—not a more appropriately trained member of the drug court team—may be the default decision maker in this respect. Judge Brett Niemeier, who spearheaded the development of the Vanderburgh County juvenile drug court, observed that admission to drug court is “not limited too much” because “the prosecutor can always make an appropriate charge.” Telephone Interview with Brett J. Niemeier, Vanderburgh Superior Court Juvenile Division Judge (Jan. 3, 2008) (on file with author). Niemeier suggested that if the prosecutor thought a juvenile accused of dealing drugs would benefit from participating in juvenile drug court, he or she could simply file a lesser charge and divert the youth into drug court. *Id.* Similarly, the prosecutor could adjust a charge slightly upward to keep an otherwise qualified but apparently nonreceptive youth out of drug court. Effectively, then, the prosecutor holds the power to decide which juveniles receive which services.

60. Butts et al., *supra* note 14, at 175.

61. BUREAU OF JUST. ASSISTANCE, *supra* note 9, at 17–19.

62. 705 ILL. COMP. STAT. 410/20(b)(3), (4) (2007).

these requirements would seem to exclude the juveniles who indicate little danger of future substance dependence while directing drug court resources to those juveniles who can truly benefit from them. However, in juvenile drug courts that follow the post-adjudication model—those in which an offender must be adjudicated delinquent or plead delinquent before becoming eligible—these stringent requirements are in practical effect rendered moot.<sup>63</sup> Defendants may plead guilty or delinquent to offenses to enter drug court without full knowledge of what doing so might mean.<sup>64</sup> By pleading guilty, defendants implicitly acknowledge their use of (or possession of, or addiction to) drugs. Further, they signal their willingness to participate in the court-prescribed treatment plan, marching unimpeded through the statutory barriers intended to restrict their entry into the program. Children are especially vulnerable to such coerced entry into drug court for at least three reasons. First, they are subject to the will of their parents and other family members. Second, they may not possess the developmental capacity to understand the rights they waive by entering a plea agreement.<sup>65</sup> Finally, they may not fully appreciate the arduous nature of a rehabilitation program.<sup>66</sup>

Coercion by parents could be a problem in the Tippecanoe County juvenile drug court. The court explicitly denies juveniles a vote as to whether they desire to participate in the program, characterizing participation as court-ordered rather than optional.<sup>67</sup> However, Tippecanoe juvenile drug court officials make a point of considering parents' opinions when deciding whether to admit a juvenile into drug court.<sup>68</sup> This consideration makes some sense in light of the importance of family support to the success of participants. Yet it raises the likelihood that unwilling juveniles, as well as those not in need of treatment, will participate.

The eligibility and target population definition problems faced by most juvenile drug courts are further compounded by most courts' fiscal dependency on grant money. The federal and state grants that provide significant portions of the courts' resources often come with strings attached. For instance, 42 U.S.C. § 3797u-7 requires drug courts that receive grants from the federal government to "submit to the Attorney General a description and an evaluation report."<sup>69</sup> Presumably, juvenile drug courts

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63. All of the juvenile drug courts considered here, with the exception of Delaware County, appear to follow the post-adjudication model. Delaware County's juvenile drug court includes a "treatment in lieu" of adjudication option, which appears to be used only under rare circumstances. See SHAFFER & LATESSA, *supra* note 18, at 12.

64. For a hyperbolic but entertaining illustration of this problem, see Tamar M. Meekins, "Specialized Justice": *The Over-Emergence of Specialty Courts and the Threat of a New Criminal Defense Paradigm*, 40 SUFFOLK U. L. REV. 1, 4–6 (2006).

65. Cf. BARRY C. FELD, CASES AND MATERIALS ON JUVENILE JUSTICE ADMINISTRATION 297–98 (2d ed. 2004) (describing Professor Thomas Grisso's empirical findings that most juveniles comprehend neither the language nor the legal concepts contained in their *Miranda* rights and thus may not be able to waive their constitutional rights in a "knowing and intelligent" manner).

66. The recent glamorization of drug use and rehabilitation by celebrities may affect children's judgment in this regard. See KARL WITTY, THE NAT'L COLLABORATING CTR. FOR DRUG PREVENTION, THE EFFECTS OF DRUG USE BY CELEBRITIES UPON YOUNG PEOPLE'S DRUG USE AND PERCEPTIONS OF USE, <http://www.drugpreventionevidence.info/web/Celebrities244.asp>.

67. See NPC RESEARCH, *supra* note 27, at 10.

68. *Id.*

69. 42 U.S.C. § 3797u-7 (2000).

prefer to submit favorable reports in satisfaction of this requirement.<sup>70</sup> “Favorable reports” would be those that justify the disbursement of the grant by demonstrating an effective rehabilitation program.

The reporting requirement thus implicitly encourages an expansion of the scope of eligibility for juvenile drug court programs. The expansion of eligibility—referred to as “net widening”<sup>71</sup>—demonstrates that the government’s funds help a wide swath of the population. There is also some incentive for juvenile drug courts to restrict the matriculation of the widened pool of eligible candidates. Children with a genuine substance dependence or other underlying issue will more likely “fail” at rehabilitation than those who had no problem in the first place, which would reflect poorly on the drug court’s success rate.

Juvenile drug courts therefore confront a Catch-22 of sorts. “To be cost-effective and socially responsible, [they] must focus their treatment resources on those delinquent youth least able to control their own behavior and most at risk of prolonged and harmful substance abuse,”<sup>72</sup> but there are few ways for them to effectively restrict entry to all but this narrow subset of youth. Moreover, if they are successful in restricting admissions, they may disqualify themselves from receiving adequate funding in the future.

Only two of the juvenile drug courts that this paper examines seem to have found ways around the Catch-22. Cuyahoga County employs the most stringent—and effective—eligibility screening process. “[U]nwillingness to participate in the program” is a valid reason for exclusion from drug court,<sup>73</sup> as is a finding of severe mental health problems.<sup>74</sup> Moreover, Cuyahoga County’s juvenile drug court boasts a very impressive number of truly addicted participants, particularly given their small numbers in the youth population.<sup>75</sup> Seventy-eight percent of drug court participants were diagnosed as “chemically dependent” as of 2002, and most of the remaining participants (fifteen percent) were diagnosed with “chemical abuse issues.”<sup>76</sup>

Delaware County also uses a unique method to focus its treatment resources efficiently. Juveniles referred to drug court can enter the program on one of three tiers or tracks.<sup>77</sup> Track I caters to juveniles who abuse drugs or alcohol but do not yet require outpatient services. Track II targets juveniles demonstrating more serious substance abuse or the beginnings of dependency. Finally, Track III is designed to help juveniles who suffer from both substance abuse and mental health issues.<sup>78</sup> Requiring

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70. Cf. Morris B. Hoffman, *The Drug Court Scandal*, 78 N.C. L. REV. 1437, 1489–90 (2000) (noting that “few [drug courts] have been able to resist the temptation to compile unrealistically optimistic statistics in some form or another” and lamenting the “host of statistical defects” that often plague drug court self-assessments).

71. NAT’L INST. OF JUST., *supra* note 6, at 17; *see also* Butts et al., *supra* note 14, at 142.

72. *Id.* at 137.

73. SHAFFER ET AL., *supra* note 52, at 18.

74. *Id.* Campbell County’s juvenile drug court also screens potential participants for severe mental illness. *See* CAMPBELL COUNTY EVALUATION, *supra* note 50, at 26. Some juveniles with mental illnesses are permitted to participate, but most are referred to other appropriate programs. *Id.*

75. *See supra* notes 40–46 and accompanying text.

76. SHAFFER ET AL., *supra* note 52, at 19–20.

77. SHAFFER & LATESSA, *supra* note 18, at 6.

78. *Id.*

juveniles to select a track focused on the severity of the abuse both allows juveniles to receive an appropriate level of treatment and allows the government to use limited resources more efficiently.

### C. Motivating Participants

Even if juvenile drug courts identify appropriate participants, the next hurdle they face is equally daunting: juvenile drug courts must motivate recalcitrant youths to progress through the entire drug court process. Research has confirmed that young adults referred to drug treatment by the courts are less likely than adults to regard their drug use as a problem. Consequently, these young adults have poorer treatment outcomes than their older counterparts.<sup>79</sup> For example, an extensively studied and often-emulated juvenile drug court in Maricopa County, Arizona, boasted a paltry program completion rate of only thirty percent in 2004.<sup>80</sup> Though some juvenile drug courts like the Delaware Juvenile Drug Court Diversion Program have much higher completion rates,<sup>81</sup> the typical completion rate in juvenile drug courts hovers much closer to that attained in Maricopa County.<sup>82</sup> By contrast, more than two-thirds of adult drug court participants successfully complete their prescribed courses of treatment.<sup>83</sup>

These generally disappointing completion rates come in spite of juvenile drug courts' continual and self-conscious efforts to motivate participants to complete treatment. Juvenile drug courts' use of rewards and sanctions is one of the more theoretically sound practices to which they adhere. Deterrence theory, which holds that people are reasonably rational and will respond to the costs and benefits attached to alternate courses of action,<sup>84</sup> forms the bedrock of the (usually graduated<sup>85</sup>) reward and sanction schemes many drug courts use. In many juvenile drug courts, particularly those of the post-adjudication variety, juveniles who complete drug court are rewarded with the dismissal of the original charges that landed them in drug court.<sup>86</sup> In some jurisdictions, drug court graduates are rewarded with the expungement of their entire

79. See *Referred Youth Have Poorer Outcomes in SA Treatment*, BROWN U. DIG. OF ADDICTION THEORY & APPLICATION, May 2004, at 4, 4–5.

80. Nancy Rodriguez & Vincent J. Webb, *Multiple Measures of Juvenile Drug Court Effectiveness: Results of a Quasi-Experimental Design*, 50 CRIME & DELINQ. 292, 306 (2004).

81. This program has a 64.9% completion rate. Helping America's Youth, Delaware Juvenile Drug Court Diversion Program, <http://guide.helpingamericasyouth.gov/programdetail.cfm?id=104>.

82. Michigan, for instance, had a forty-three percent juvenile drug court completion rate on average in 2005. Michigan Courts, Specialized Court Programs, <http://courts.michigan.gov/scao/services/tcs/spec.htm>. The Beckham County Juvenile Drug Court in Oklahoma posted a thirty-three percent completion rate. DAVID WRIGHT & BOB CLYMER, OKLA. CRIMINAL JUSTICE RES. CTR., BECKHAM COUNTY JUVENILE DRUG COURT: PHASE II ANALYSIS AND EVALUATION 3 (2002).

83. NAT'L INST. OF JUST., *supra* note 6.

84. See, e.g., JOHN KAPLAN, ROBERT WEISBERG & GUYORA BINDER, CRIMINAL LAW CASES AND MATERIALS 32 (5th ed. 2004) (excerpting JAMES Q. WILSON, THINKING ABOUT CRIME 117–21 (rev. ed. 1983)).

85. See Rossman et al., *supra* note 16, at 89.

86. See *id.* at 87 (comparing and contrasting the incentives used by six representative juvenile drug courts).

delinquency record.<sup>87</sup> Juvenile drug courts also use rewards to acknowledge good behavior and progress while participants take part in the program. Indeed, they “must reward cooperation as well as respond to noncompliance” to satisfy the sixth key component of the drug court model.<sup>88</sup>

Although some believe that “[t]he positive incentives valued most highly by drug court participants, both juvenile and adult, seem to be the handshake and words of encouragement from the judge,”<sup>89</sup> most juvenile courts also distribute more tangible rewards.<sup>90</sup> Vanderburgh County distributes items ranging from candy bars to more expensive items such as movie theater and laser tag gift cards.<sup>91</sup> Vanderburgh County, like the other counties that mandate AA or NA participation, also distributes “sobriety chips” to commemorate appropriate milestones.<sup>92</sup> Peoria County (Illinois) has a unique reward system, in which participants receive “points” that they can accumulate to purchase tangible rewards.<sup>93</sup> Other jurisdictions use scholarships, gift certificates, and prize drawings to motivate youth.<sup>94</sup> Juvenile drug courts attempt to make the rewards effective on two levels: juveniles who receive them should take pride in their accomplishments, and those who did not meet reward criteria are “challenged to work harder in the program to earn one.”<sup>95</sup>

Juvenile drug courts wield sticks as well as carrots; they often rely on sanctions and penalties to reinforce their expectations when rewards do not sufficiently motivate participants.<sup>96</sup> Sanctions also ostensibly serve two purposes: they hold juveniles accountable for their behavior while concurrently reinforcing core aspects of the program.<sup>97</sup> Sanctions range from warnings to community service to electronic monitoring or physical detention.<sup>98</sup> Some juvenile drug courts, like the ones in

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87. *Id.* (describing the incentives used in Missoula, Montana’s juvenile drug court).

88. THE NAT’L ASSOC. OF DRUG COURT PROF’LS DRUG COURT STANDARDS COMM., *supra* note 24, at 23.

89. DRUG CT. CLEARINGHOUSE AND TECHNICAL ASSISTANCE PROJECT, U.S. DEP’T OF JUST., JUVENILE AND FAMILY DRUG COURTS: AN OVERVIEW 12 (1998).

90. Tippecanoe County, however, generally favors intangible rewards that are directly tied to the program. For instance, participants can be rewarded with a relaxation of their curfew, decreased drug testing, or even early graduation from the drug court program. *See* NPC RESEARCH, *supra* note 27, at 21. Christian County also uses a program-based rewards program. *See* HILLER ET AL., *supra* note 29, at 19–20. One of the more innovative and seemingly motivational rewards used in Christian County is the “participant of the month” designation. *Id.*

91. Telephone Interview with Brett J. Niemeier, *supra* note 59.

92. *See* NPC RESEARCH, *supra* note 28, at 18.

93. GUIDELINES FOR PEORIA COUNTY DRUG COURT 6 (2006), *available at* <http://www.peoriacounty.org/probCourt/files/get/Juvenile%20Probation/DrugCourt.pdf>. The *Guidelines* explain that Peoria County uses the point system to reward individual progress above and beyond what is required of all drug court participants. *Id.* They also explain that the points are tracked weekly by each juvenile’s case manager, who can use the points (or lack thereof) as teaching and motivational tools. *See id.*

94. *See* NPC RESEARCH, *supra* note 28, at 49 (listing rewards that have been used in U.S. drug courts).

95. Sciolino, *supra* note 9, at 42.

96. Rossman et al., *supra* note 16, at 89.

97. *Id.* at 90.

98. *See id.* at 90–92 (outlining various sanctions imposed by six representative juvenile

Tippecanoe and Vanderburgh Counties, also use financial sanctions, which help alleviate their funding burdens while simultaneously punishing youths who misbehave.<sup>99</sup> In extreme cases, the court will eject youths from the programs.<sup>100</sup>

Despite their severity, the threat of these consequences does not seem to motivate youths to progress through the program, particularly those for whom drug court itself serves as a sanction. Penalties may even motivate the youths to rebel further. For example, two Arizona youths, Miguel R. and Jose J., recently appealed court orders mandating their participation in juvenile drug court. They argued that “involuntary participation will not effect rehabilitation.”<sup>101</sup> The threat of relatively severe sanctions also undermines the rehabilitative mission of juvenile drug courts. In fact, defense attorneys often advise clients against participating because the consequences associated with their clients’ statistically likely failure frequently exceed those imposed by the clients’ original offenses.<sup>102</sup>

## II. IT TAKES A VILLAGE: THE JUVENILE DRUG COURT TEAM

### A. Family

Juvenile drug courts rarely define their target populations effectively, and these courts have difficulty keeping those who enroll in treatment for the duration necessary to realize lasting results.<sup>103</sup> However, juvenile drug courts continue to proliferate.<sup>104</sup> One possible explanation for the continued popularity of juvenile courts, and, paradoxically, a key source of their difficulties, is the connection with and appeal to juvenile offenders’ families. Parents of juvenile offenders often seek out treatment for their children, and drug court, with its rehabilitative connotations, may provide a significantly more respectable<sup>105</sup> option from their perspective than other alternatives.<sup>106</sup> In other cases, parents may feel unable to handle their troubled children

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drug courts).

99. See, e.g., NPC RESEARCH, *supra* note 27, at 21.

100. Rossman et al., *supra* note 16, at 90–92.

101. *In re Miguel R.*, 63 P.3d 1065, 1069 (Ariz. Ct. App. 2003). The appeals were unsuccessful.

102. Rossman et al., *supra* note 16, at 92.

103. The general consensus is that substance abusers must remain in treatment for about twelve months to realize lasting results. NAT’L INST. OF JUST., *supra* note 6, at 1. The program designs of many juvenile drug courts, however, do not always conform to this recommendation. See, e.g., SUPREME COURT TASK FORCE ON TREATMENT-BASED DRUG COURTS, REPORT ON FLORIDA’S DRUG COURTS app. b (2004) (providing a chart of drug court capacities, eligibility requirements, and program durations). Minimum participation times in Florida’s juvenile drug courts range from four to eighteen months. Juvenile drug courts in Indiana have equally diverse program lengths. Vanderburgh County’s program lasts only seven months. NPC RESEARCH, *supra* note 28, at 5. Tippecanoe County’s is twelve to eighteen months in length. NPC RESEARCH, *supra* note 27, at 5.

104. See *supra* note 30 and accompanying text.

105. Cf. Hillary B. Farber, *The Role of the Parent/Guardian in Juvenile Custodial Interrogations: Friend or Foe?*, 41 AM. CRIM. L. REV. 1277, 1277–78 (2004) (illustrating how an upset parent may quickly endorse police recommendations despite their serious consequences).

106. Prospective drug court participants can, in many cases, be referred by their parents. See,

and thus support whatever the court suggests.<sup>107</sup> Contemporary juvenile justice legislation has incorporated some parents' desires for involvement (and others' reluctance to be involved) into the juvenile justice system. Such legislation grants juvenile courts automatic jurisdiction over the parents of arrested children and requires parents to closely monitor their children's progress.<sup>108</sup> Juvenile drug courts have further encouraged parental involvement by holding hearings later in the day to accommodate working parents,<sup>109</sup> conducting bilingual proceedings, and even providing transportation so parents can participate in treatment with their children.<sup>110</sup> However, parental involvement, while potentially useful in enhancing the child's chances of success in juvenile drug court,<sup>111</sup> often negatively impacts the functioning of juvenile drug courts.

Many juveniles enrolled in drug courts have parents with substance abuse problems. Because juveniles rely on their parents and family unit for physical, financial, and moral support,<sup>112</sup> children with substance-abusing parents are unlikely to succeed in treatment unless their parents address their own problems. Thus, juvenile drug courts have no real choice but to widen their treatment aims to encompass the whole family. This expansion dilutes courts' focus on the juvenile's situation while increasing the financial costs and logistical complexities of successful treatment time. Indeed, the Campbell County juvenile drug court expands its focus to the siblings of participants, mandating their participation in the treatment.<sup>113</sup>

Well-meaning parents without substance abuse or other issues can also impede the efficient functioning of juvenile drug courts.<sup>114</sup> Primarily, the difficulty stems from parental over-involvement in the attorney-child relationship. While parents and other family members undoubtedly have roles to play in helping shape juveniles' experiences with their lawyers—in some cases securing private representation, in

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e.g., NPC RESEARCH, *supra* note 28, at 7.

107. *In re Miguel R.*, 63 P.3d 1065, 1070 (Ariz. Ct. App. 2003) (“[T]he juvenile’s mother asked for help for her son and indicated her willingness to participate in the program.”).

108. Cf. Kristin Henning, *It Takes a Lawyer to Raise a Child?: Allocating Responsibilities Among Parents, Children, and Lawyers in Delinquency Cases*, 6 NEV. L.J. 836, 856–57 & 857 nn.123–28 (2006) (describing jurisdiction over parents and citing to several state statutes). One example of this legislation can be found in Indiana, which requires all people residing in the same household as a delinquent child to participate in court proceedings. DRUG CT. CLEARINGHOUSE AND TECHNICAL ASSISTANCE PROJECT, *supra* note 10, at 7.

109. All of the drug courts examined here hold their hearings at 4:00 p.m. or later. Some make exceptions to the attendance requirements for juveniles and parents who need to be at work.

110. Rossman et al., *supra* note 16, at 84. The Christian County juvenile drug court is not as accommodating with regard to transportation. Access to reliable transportation is a prerequisite to enrollment in juvenile drug court. See HILLER ET AL., *supra* note 29, at 10.

111. See Janet Gilbert, Richard Grimm & John Parnum, *Applying Therapeutic Principles to a Family-Focused Juvenile Justice Model (Delinquency)*, 52 ALA. L. REV. 1153, 1155 (2001) (“[S]trengthening and empowering [the] famil[y] may prove to be the most effective strategy for the juvenile court system, regardless of the type of case before it.” (quoting Judge Leonard P. Edwards, *The Juvenile Court and the Role of the Juvenile Court Judge*, JUV. & FAM. CT. J., vol. 2, at 1, 40 (1992)) (alterations in original).

112. Henning, *supra* note 108, at 839.

113. See HILLER ET AL., *supra* note 29, at 27.

114. *But see* Henning, *supra* note 108, at 843–44 (citing studies that document several benefits stemming from active parental involvement).

others helping the lawyer more effectively deal with a child's specific circumstances—they may also hinder the child's representation. Most parents lack formal legal training and possess minimal knowledge about the rights afforded to accused juveniles.<sup>115</sup> Parents therefore may encourage their children to plead delinquent and enter a drug treatment program in the hopes that the court will drop or expunge the juvenile's charges.

Additionally, "parents often view the interference of the child's lawyer as a critique of their own competence and success as a parent"<sup>116</sup> and may advocate for the most rapid resolution of the issue without considering longer term impacts on them and their child. These problems may be more acute when parents have paid for a private lawyer<sup>117</sup> or if the parent learns that he or she must pay for the child's participation in drug court.<sup>118</sup> Additionally, juvenile drug courts are characterized by their team-oriented approach to rehabilitation,<sup>119</sup> which almost surely heightens the risk of inappropriate parental involvement because parents understandably want to join the team seeking to help their child.<sup>120</sup>

### B. Adversarial No More

The team-driven approach to rehabilitation used by drug courts also fundamentally alters the ordinarily adversarial relationships among participating parties. The typical drug court team comprises the drug court judge, an assigned prosecutor, a public defender or a private defense attorney, a probation officer, and various treatment providers.<sup>121</sup> Rather than acting in opposition to one another, as they do in ordinary courtroom settings, members of the drug court team make collective decisions regarding the course of each juvenile's proceedings and support each other in the courtroom.<sup>122</sup> Each member of the team still performs elements of his or her traditional role, but these elements are either widely expanded (in the case of the judge) or drastically curtailed (in the case of the attorneys). The danger for juvenile drug courts lies in the very real possibility for devolution to the pre-*Gault* model of juvenile

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115. See Catherine J. Ross, *Implementing Constitutional Rights for Juveniles: The Parent-Child Privilege in Context*, 14 STAN. L. & POL'Y REV. 85, 107–08 (2003).

116. Henning, *supra* note 108, at 854.

117. See Nancy J. Moore, *Conflicts of Interest in the Representation of Children*, 64 FORDHAM L. REV. 1819, 1844–47 (1996).

118. See NPC RESEARCH, *supra* note 27, at 19. Participants in Tippecanoe County's juvenile drug court are expected to pay for their own drug screening tests, as well as drug court and probation fees. *Id.* Participants and their parents both expressed frustration with this policy. One participant even lamented the fact that he or she was "going to owe so much money it's scary." *Id.* at 38.

119. See, e.g., THE NAT'L ASSOC. OF DRUG CT. PROF'LS DRUG COURT STANDARDS COMM., *supra* note 24, at 15 ("In other words, drug court is a comprehensive therapeutic experience. . . . The treatment and criminal justice professionals are members of the therapeutic team.").

120. Parents are given some opportunity to become involved in the drug court process in Tippecanoe County. The drug court team allows families to schedule "family staffing" meetings with the team on a first-come, first-served basis to discuss any concerns they are having. See NPC RESEARCH, *supra* note 27, at 17–18.

121. *Id.* at 15.

122. Rossman et al., *supra* note 16, at 85–87.



justice: one that grants the judge virtually unchecked discretion and lacks both prosecution- and defense-based procedural safeguards for defendants.

### 1. Judges

Juvenile drug court judges ordinarily champion the principles of therapeutic and restorative justice that underlie the drug court model.<sup>123</sup> Accordingly, they eagerly embrace their expanded roles and attendant responsibilities. Judges in the juvenile drug court system trade their typical role of “objective arbitrator” for one of mentor and advisor,<sup>124</sup> both to the drug court team and the defendant. They become proactive participants who closely track the progression of all their cases by holding frequent status hearings.<sup>125</sup> Judges commonly speak directly to defendants in these open court hearings.<sup>126</sup> Because of their direct involvement with (and personal investment in) each case, drug court judges wield a significant amount of power in the courtroom. They also have many more uncontested opportunities to “take advantage of the courtroom theater to surface individual issues that permit them to make a broader point and leverage peer pressure for use in other cases.”<sup>127</sup>

While in some regards the expanded scope of judicial duties can promote accountability for and pride in drug court outcomes,<sup>128</sup> the potential for the abuse of this power presents a significant countervailing consideration. For instance, judges can improvise and experiment in an open court setting, and they occasionally slip into therapeutic roles for which they wholly lack qualification.<sup>129</sup> In some extreme cases this can lead to unintended and adverse consequences for vulnerable juveniles and their families.<sup>130</sup> If helping juveniles and their families is the main aim of juvenile drug

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123. *Id.* at 60.

124. Bryan S. Oathout, *Texas Needs More Drug Courts*, 8 SCHOLAR 69, 81 (2005).

125. Sciolino, *supra* note 9, at 39.

126. Rossman et al., *supra* note 16, at 84.

127. *Id.*

128. See Sciolino, *supra* note 9, at 44 (“Working with these wonderful kids, gradually building rapport with them, breaking down barriers and earning their trust, becoming their surrogate father figure, struggling with them through their lows, celebrating their highs, is a tremendously fulfilling experience.”).

129. Rossman et al., *supra* note 16, at 84. To be truly effective in therapeutic jurisprudence roles, judges must

understand how to convey empathy, how to recognize and deal with denial, and how to apply principles of behavioral psychology and motivation theory. They need to understand the psychology of procedural justice, . . . how to structure court practices in ways that maximize their therapeutic potential, even in such mundane matters as the ordering of cases in the courtroom to maximize the chances that defendants who are there awaiting their turn before the judge can experience vicarious learning.

Bruce J. Winick & David B. Wexler, *The Varieties of Therapeutic Experience Excerpts from the Second International Conference on Therapeutic Jurisprudence: Drug Treatment Court: Therapeutic Jurisprudence Applied*, 18 *TOURO L. REV.* 479, 482 (2002). Mastery of all these skills would seem to be a tall order even for individuals trained in the behavioral sciences.

130. Rossman et al., *supra* note 16, at 84–85. The consequences are not uniformly adverse. The judge in the Campbell County juvenile drug court observed that a high percentage of

courts, then drug court team members qualified in therapeutic practices should be able to intervene in the courtroom to provide a check on the typically less-qualified judges. The role of treatment counselor is an essential one in the drug court setting; the judge's public position in the courtroom may make him or her a sufficient person to assume such a role, but certainly not the necessary one.<sup>131</sup>

## 2. Prosecutors

The problem of prosecutors' double roles in the drug court process seems, upon examination, not to pose any more significant problem for juvenile drug courts than they do for adult drug courts. Prosecutors must balance competing interests when they charge (or decide not to charge) any defendant. Prosecutors often serve as elected officials whose re-election may depend on their conviction rates, yet they must adhere to the rules of evidence and satisfy threshold procedural requirements before levying charges against defendants. Prosecutors generally approach their roles with an adequate amount of objectivity. Moreover, even if they have difficulty acting objectively in a specific juvenile drug court setting, they can sever their drug court team and prosecuting functions and divide the roles between two separate actors. If a prosecutor demonstrates a bias in his or her drug court referrals because of his or her team member status, a different prosecutor could easily assume the gatekeeper role.

## 3. Defense Attorneys

Perhaps the most salient and least easily remedied problem that arises in the context of the drug court team is the proper maintenance of juvenile defendants' procedural rights. Defense attorneys are always included on the drug court team,<sup>132</sup> but their ability to truly advocate on behalf of their clients is limited at best. While some optimistic commentators characterize the defense attorney's role on the drug court team as "looking out for a client's . . . best life tactics,"<sup>133</sup> other observers cannot overlook the unfortunate fact that a drug court defense attorney "forgoes motions to suppress and other constitutional issues that may be helpful in getting the state to drop the charges."<sup>134</sup> Even more troubling, some juvenile drug courts so severely restrict the role of the defense attorney that he or she only appears with his or her client in court "when a program youth is rearrested and faces the possibility of new charges,"<sup>135</sup> or "when they fail to complete the program successfully."<sup>136</sup> Fortunately, all but one of

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female participants were pregnant. The judge directed pregnant participants to read and report on *What to Expect When You're Expecting* and to research the effects of drug use on their babies. The juvenile drug court now proudly boasts about the number of drug-free babies these practices have resulted in. See HILLER ET AL., *supra* note 29, at 38–39. The judge also spoke about the adverse effects drugs can have on pregnancy in open court before the youths' parents to ensure that they were also receiving the message. See *id.*

131. Joshua Matt, *Jurisprudence and Judicial Roles in Massachusetts Drug Courts*, 30 NEW ENG. J. ON CRIM. & CIV. CONFINEMENT 151, 167 (2004).

132. The one apparent exception to this rule is Delaware County's juvenile drug court. See *supra* note 18 and accompanying text.

133. Oathout, *supra* note 124, at 82.

134. *Id.*

135. Rossman et al., *supra* note 16, at 61.

136. *Id.* at 60 (describing the Jersey City, New Jersey, juvenile drug court).

the juvenile drug courts considered by this Note escape this most restrictive classification.

In the post-*Gault* juvenile justice regime, the Constitution guarantees juvenile defendants representation by counsel.<sup>137</sup> In the adversarial system, this means that an accused individual is entitled to an attorney who will “defend her client aggressively and completely, within the bounds of the law.”<sup>138</sup> Defense counsel in juvenile drug courts, however, simply cannot function in this traditional role.

When a defendant is found to be in need of treatment by the court, prosecutor, social workers, or case managers, the defense attorney is expected to behave in a way that falls in line with the treatment recommendation and to act in a way that supports and furthers the treatment goals.<sup>139</sup>

Although defense attorneys technically act in this manner only with the consent of their clients (or their parents, in many unfortunate cases),<sup>140</sup> the unavoidable fact remains that defendants usually must plead guilty (or delinquent) and waive several important procedural rights in order to gain admittance to drug court.<sup>141</sup>

In exchange for their pleas, defendants are offered the opportunity to participate in a treatment program and, concomitantly, the opportunity to have their charges dropped or reduced. If they decline to enter drug court, a stigma that may cloud the remainder of their proceedings in the ordinary juvenile system attaches.<sup>142</sup> Defendants, particularly juveniles, are likely to perceive these options as the only two available and, in the face of coercion readily acknowledged by drug court advocates<sup>143</sup> and pressure from their parents and family, may involuntarily plead delinquent.<sup>144</sup> Even more troubling, genuinely innocent juveniles will likely view drug courts as an attractive alternative to the near-certain chance<sup>145</sup> that a regular court would find them delinquent. They might therefore enter drug court merely to appease the system while simultaneously sapping it of resources that could be better directed to juveniles who actually need the court’s intervention.

There does not appear to be an easy solution to the defense quandary within the currently utilized juvenile drug court model.<sup>146</sup> On the contrary, drug courts have

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137. *In re Gault*, 387 U.S. 1 (1967).

138. Meekins, *supra* note 64, at 10.

139. *Id.* at 38.

140. Hora et al., *supra* note 3, at 479–80.

141. Trent Oram & Kara Gleckler, *An Analysis of the Constitutional Issues Implicated in Drug Courts*, 42 IDAHO L. REV. 471, 477–78 (2006). The authors note that in some cases, defendants in adult drug court may even be required to waive their right to counsel. *Id.* at 477.

142. *See id.* at 518.

143. *Id.* at 500–01.

144. The available assessment of Cuyahoga County’s juvenile drug court, which only accepts about a quarter of the individuals referred to it, does not provide information about what happens to the juveniles who decline to participate in juvenile drug court. *See* SHAFFER ET AL., *supra* note 52, at 18.

145. FELD, *supra* note 65, at 829.

146. One of the few solutions that may work is mandating confidential individual meetings between the participant and his or her attorney. Even this may be unfeasible in jurisdictions where participants predominantly utilize the services of a public defender, who may not be able

defined “a new criminal defense paradigm which puts a premium on a defender who does not vehemently assert the client’s wishes.”<sup>147</sup> This new paradigm, an “unfortunate byproduct of the positive benefits [associated with] specialty courts,” is an “indefensible change in our criminal justice system,” a tide that must be stemmed before it seeps into and pollutes other areas of the criminal law.<sup>148</sup>

#### 4. Other Team Members and the Ideal Team

Several Midwestern juvenile drug court teams consist of many members in addition to the judge (or magistrate),<sup>149</sup> prosecutor, defense attorney, and some sort of treatment provider. While many of these additional team members are location-dependent, like Tippecanoe County’s Purdue University-based pharmacy consultant, others, like Howard County’s Juvenile Drug Court Coordinator, can join any drug court team. This section discusses and evaluates the functions served by the “extra” team members present on Midwestern juvenile drug court teams and will propose a drug court team model that any of the existing or future Midwestern juvenile drug courts can replicate.

##### i. The Program Coordinator or Director

All of the juvenile drug courts considered in Indiana, Ohio, and Kentucky<sup>150</sup> have some sort of coordinator or director on their drug court teams. Grant money typically funds the coordinator positions; in Christian County, the coordinator is one of only two full-time juvenile drug court employees.<sup>151</sup> In most Midwestern juvenile drug courts, the program coordinator occupies a stand-alone position and takes responsibility for a variety of tasks, like training new drug court team members,<sup>152</sup> collecting data and statistics,<sup>153</sup> and managing cases.<sup>154</sup>

In Howard and Vanderburgh Counties, though, the program coordinator also acts as the chief juvenile drug court probation officer. In these counties, the probation office pays the coordinator’s salary, relieving the juvenile drug court of the burden of doing so.<sup>155</sup> However, these probation officers/coordinators have many more responsibilities than ordinary program coordinators do. In addition to oversight and data collection responsibilities, the Vanderburgh County probation officer/program coordinator monitors and meets with all juvenile participants regularly, conducts home visits, maintains case management files, and also liaises with local schools and vocational programs.<sup>156</sup> He is also “in charge” of deciding which juveniles should participate in

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to arrange convenient meetings with all of his or her clients.

147. Meekins, *supra* note 64, at 36–37.

148. *Id.*

149. Vanderburgh County’s juvenile drug court, for instance, is now run by Magistrate Renee Allen Cain. Telephone Interview with Brett J. Niemeier, *supra* note 59.

150. Information about the composition of Peoria’s juvenile drug court team was unavailable.

151. See HILLER ET AL., *supra* note 29, at 9.

152. See NPC RESEARCH, *supra* note 27, at 15.

153. See CAMPBELL COUNTY EVALUATION, *supra* note 50, at 22.

154. See HILLER ET AL., *supra* note 29, at 9.

155. Telephone Interview with Don Travis, *supra* note 23.

156. See NPC RESEARCH, *supra* note 28, at 14.

juvenile drug court; the other team members provide him with recommendations, but he serves as the final decision maker on the matter.<sup>157</sup>

#### ii. The Probation Officer

In a few other Midwestern juvenile drug courts, probation officers are separate members of the juvenile drug court teams and have somewhat more limited responsibilities. In Tippecanoe County, the probation officer supervises and monitors drug court participants through regular meetings.<sup>158</sup> He also acts as a liaison between the juveniles, who meet with him regularly, and the rest of the juvenile drug court team, alerting the team to participants' concerns, missteps, and drug screening results.<sup>159</sup> The probation officers in the Delaware County juvenile drug court simply perform their ordinary duties and keep the other members of the team apprised of developments.<sup>160</sup> The juvenile drug courts in Cuyahoga, Campbell, and Christian Counties do not appear to include probation officers on their drug court teams.<sup>161</sup> Instead, the Cuyahoga County juvenile drug court employs several "case managers," who seem to serve essentially the same functions as Tippecanoe County's probation officers.<sup>162</sup>

#### iii. The School or Community Services Liaison

Most juvenile drug courts strongly emphasize the importance of education.<sup>163</sup> To ensure that drug court participants truthfully inform the court about their educational pursuits, drug court teams frequently include school liaisons. Some juvenile drug courts, like the one in Vanderburgh County, include a school representative on a limited basis. The Vanderburgh County juvenile drug court team includes a representative of the local high school, but she mainly keeps the other team members informed about drug court participants' educational progress.<sup>164</sup> She attends team staffing meetings but does not participate in courtroom hearings or other treatment protocols.<sup>165</sup> The Howard County school representative plays a similar role.<sup>166</sup> In Cuyahoga County, the case managers perform the school representative function.<sup>167</sup> This method seems somewhat inefficient, however, since each case manager must

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157. Telephone Interview with Brett J. Niemeier, *supra* note 59. Of course, the probation officer/director's decision is affected by the prosecutor's charging decision.

158. NPC RESEARCH, *supra* note 27, at 15.

159. *See id.*

160. *See* SHAFFER & LATESSA, *supra* note 18, at 20.

161. *See* HILLER ET AL., *supra* note 29, at 9; CAMPBELL COUNTY EVALUATION, *supra* note 50, at 22; SHAFFER ET AL., *supra* note 52, at 3.

162. *See* SHAFFER ET AL., *supra* note 52, at 3. These case managers also supervise drug court participants' families and mediate between the juvenile drug court and the local schools. *Id.*

163. For example, the Tippecanoe County juvenile drug court will occasionally delay participants' drug court graduations to ensure that they are supervised while they complete their high school or vocational educations. NPC RESEARCH, *supra* note 27, at 27.

164. *See* NPC RESEARCH, *supra* note 28, at 14.

165. *See id.*

166. Telephone Interview with Don Travis, *supra* note 23.

167. SHAFFER ET AL., *supra* note 52, at 21.

familiarize him or herself with multiple schools, administrators, and policies. In Tippecanoe County, the education representative does not work for the local schools or the juvenile drug court. Instead, she directs a local children's home and works with the drug court team to conduct educational assessments, facilitate interactions with local schools, and identify appropriate educational resources for the juvenile drug court to utilize.<sup>168</sup>

Juvenile drug courts also interact frequently with the communities they serve, whether to solicit financial support or to provide community service. To facilitate and maintain these relationships, most Midwestern juvenile drug court teams include some sort of community representative. Vanderburgh County's team includes a representative from the County Office of Family and Children.<sup>169</sup> The team relies on this member to recommend community-based services for the participants and their families, as well as to make recommendations about treatment placement.<sup>170</sup> Howard County's team has a similar member, a representative from the Department of Child Services.<sup>171</sup> The team values her knowledge of social programs and ability to secure participants' placements in various treatment facilities.<sup>172</sup> The focus of Tippecanoe County's Juvenile Programs Coordinator is somewhat broader. Rather than simply facilitating interactions between the drug court and publicly supported community organizations, she oversees community enrichment activities and promotes the juvenile drug court in the community.<sup>173</sup> She also tries to garner financial support from local businesses and, incongruously, supervises juvenile drug court participants who are on house arrest.<sup>174</sup>

#### iv. The Ideal Team

Although each juvenile drug court team is composed (and its members titled) differently, it is clear that a successful drug court team must fill several key roles. At a minimum, each team needs someone to supervise, facilitate, and maintain data on drug court operations. In most cases, this duty falls to the judge or drug court coordinator. Each team also needs to have the appropriate legal counsel: a prosecutor and a defense attorney. Treatment providers, whether counselors (as in Vanderburgh County), clinicians (as in Delaware County), or even the treatment center itself (as in Campbell County), are also integral members of the drug court team. For juvenile drug courts with limited budgets or capacities, these four team members are the only ones absolutely necessary.<sup>175</sup>

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168. NPC RESEARCH, *supra* note 27, at 15.

169. *See* NPC RESEARCH, *supra* note 28, at 15.

170. *Id.*

171. Telephone Interview with Don Travis, *supra* note 23.

172. *Id.*

173. *See* NPC RESEARCH, *supra* note 27, at 16.

174. *See id.*

175. The Christian County juvenile drug court only has two funded staff positions—treatment coordinator and case specialist. The other juvenile drug court team members, including the judge, attorneys, treatment providers, police officers, and county clerks, volunteer their time to the drug court. HILLER ET AL., *supra* note 29, at 9. However, relying on volunteers can be risky; for instance, they may need to abandon their duties abruptly and are likely to be

In an ideal situation, however, there is much to be said for larger, more diverse juvenile drug court teams. On a team like Tippecanoe County's, responsibility for large tasks is broken into manageable amounts and divided among team members who possess the special skills necessary to complete the tasks efficiently. The team members also represent a variety of interests and may be more able to see the full picture of each juvenile's progression through treatment. Because their responsibilities are divided, there is also less chance that they will become overwhelmed with work or be able to impart their personal beliefs onto the operation of the juvenile drug court.

Moreover, the Tippecanoe County drug court team makes exceptional use of local resources. Though all the Midwestern counties examined—with the exception of Christian County—house or are located near at least one large university, Tippecanoe County is the only one that taps the resources available at these institutions. By including a pharmacy consultant on its juvenile drug court team, Tippecanoe County not only educates participants but also builds a lasting relationship with Purdue University. Thus, the ideal juvenile drug court team in these jurisdictions would include a member from the local university community who could provide some expertise valuable to the team. It also would include representatives from the local schools and community agencies, as most already do, to provide participants with a full spectrum of services.

A larger team composed of several specialists may also be less likely to fall victim to the dangers inherent in the drug court model. As James Madison recognized in 1788, "a double security arises to the rights of the people"<sup>176</sup> when a team is centralized but its functions are divided. "The people" in this situation are the juvenile participants, and "the rights" are the juvenile participants' rights to effective counsel. Defense counsel on a large team may feel less pressure to enroll clients than those working exclusively with the prosecution. They also may have more time—while other team members coordinate plans or carry out their own drug court activities—to counsel their clients about the pros and cons of entering juvenile drug court. Juveniles confronted by individuals from throughout the community might more easily realize the gravity of waiving their rights and consider more carefully the consequences of entering drug court.

Additionally, having a school coordinator or other community member on the team may motivate a juvenile to progress through drug court treatment. The likelihood that the juvenile will encounter a team member during his or her day-to-day activities increases as the size and scope of the drug court team increases, and juveniles who see team members outside the courtroom context may feel more accountable or more willing to reach out if they face difficulties. Moreover, juveniles' families may be more receptive to the drug court's unusual methods if familiar faces from the community are encouraging them to help their children and themselves.

The main drawbacks to large drug court teams are the lack of funding availability and general inconvenience. As more professionals join the drug court team, operations become increasingly—and often prohibitively—expensive. One innovative solution to this problem would involve combining the juvenile drug courts of several proximate counties.<sup>177</sup> With centralized juvenile drug court operations, the resources and pool of

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difficult to replace if they do. They will also have other professional and personal duties and may not always be able to give precedence to their drug court responsibilities.

176. THE FEDERALIST NO. 51, at 321 (James Madison) (Isaac Kramnick ed., 1987).

177. This solution is not without precedent. Indiana's Dearborn and Ohio Counties shared a

team members available would greatly expand. Jurisdictional and financial disputes would have to be settled, but if juvenile drug courts were condensed in the past, there seems to be no reason why they could not be condensed again. The lack of convenience would be more difficult to address; as more members join a drug court team, it becomes more difficult for them all to get together to staff each case. Including non-justice-system members, like school or community liaisons who may have more inflexible schedules, only compounds the convenience problem. However, drug court team staffings, unlike hearings, do not need to be conducted during normal business hours. A once-weekly evening meeting would serve to ameliorate the convenience issue.

#### CONCLUSION

The eight juvenile drug courts this Note has considered all claim to be effective. They all claim to strive for the same results—namely, the successful treatment of at least some substance-abusing juveniles in the communities they serve—but too often neglect to consider the paths the others have taken in their quests. Each of the drug courts considered has incorporated some innovative and interesting processes and ideas into their drug court operations, but they all have done so independently of one another. Each locally developed juvenile drug court has struggled with the challenges that every juvenile drug court faces alone, even though all of them could stand to improve by adapting some ideas perfected in other locations. Even if a drug court is financially unable to experiment with its structure or operation, fresh ideas already proved feasible are only a phone call or short drive away; Midwestern juvenile drug courts should take advantage of one another's experiences to develop more effective methods of rehabilitating substance-abusing juveniles.

Despite the challenges they face and their reluctance to learn from one another, juvenile drug courts remain the most viable option for addressing the needs of substance-abusing youth. As Indiana seeks to implement two additional juvenile drug courts, it should consider—and adopt—the innovative approaches that juvenile drug courts throughout the Midwest have taken to overcome the challenges inherent in the juvenile drug court model. Most importantly, it should strive to develop and train diverse drug court teams that fully utilize the resources in their communities.

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juvenile drug court in the late 1990s, The Health Foundation of Greater Cincinnati, Dearborn and Ohio Counties Prosecutor's Office, <http://www.healthfoundation.org/grants/organizations/dearbornprosecutor.html>, and Campbell County used to share its juvenile drug court resources with neighboring Kenton and Boone Counties. See CAMPBELL COUNTY EVALUATION, *supra* note 50, at i.