

An Inside Look At Drug Court

By: Myles B. Schlam, J.D., CCJAP

As a Clinical Treatment Consultant and Criminal Justice Addictions Professional, my job is to assess each client in the Criminal Justice system and to determine the best treatment option for that individual. A good deal of my time is spent in the Circuit Drug Court. Defendants are diverted into the Circuit Drug Court when they have been charged with a Felony possession of Narcotics or over 20 grams of marijuana. When a defendant is diverted into Drug Court, there are certain procedures and protocols. Here is a description of what typically occurs when a Defendant enters Drug Court in Broward County:

When the Defendant first appears in Drug Court the Judge will ask if there are any legal issues. The State Attorney then has the opportunity to object to the Defendant being admitted to Drug Court if they are a habitual offender or if the Defendant is charged with Trafficking or Delivery or Attempted of either one. If there are no objections and the Defendant is accepted into Drug Court, they will be assigned to a PTI (Pre-Trial Intervention) Officer to whom he or she must report to once a month. They will be subject to urine drops at these visits and PTI will report at each status hearing whether Defendant has attended and the results of the urinalysis.

Most defendants will be placed into the County Sheriff's Department Treatment Program. There are three phases to the program and the length of the program is designed to be one year, although defendants often are set back due to relapses or other forms of non-compliance, including lack of payment of fees for treatment and court-costs. When Drug Court clients finally graduate, the Court will dismiss the charges against them. This is called "deferred prosecution" which then becomes a Dismissal. At that point, the client may be eligible for either a sealing or expungement of their criminal record, depending on their prior arrest history and other factors.

On Phase I, the Defendant must attend treatment 4 days per week for an hour each night. On Phase II, they must attend only 2 days per week and on Phase III only once a week. Phase I is generally for the first month of the program, although as stated, a client can be held on a phase longer as a result of relapses, non-com-

pliance or Counselor Judicial discretion. A higher level of care may be recommended by BSO include a 28-day residential program, a 30-day in-custody program, a 90-day in-custody program or some combination of residential and out-patient treatment. The ultimate decision will be made by the Judge. The Judge may order, in addition, that the Client attend a certain number of AA/NA meetings per week and bring sign-in sheets to Court as proof of attendance. That is usually something that is



suggested in any event. The Defendant usually must report to the Court at a Status Hearing once a month, but the Judge can order shorter or lengthier resets at his or her discretion.

If a Defendant wishes they may "opt-out" of Drug Court and fight their case on Legal grounds in another Felony Division. If they are found Guilty in another Division, they may be adjudicated and sentenced to jail time or felony probation. They will not be eligible for Sealing or Expungement of record, unless the adjudication is withheld, they are acquitted of the charges or the case is Nolle Prossed or dismissed for some other reason.

What most Defendants do not know, and are not usually told, is that they have alternatives to the County Treatment Program. There are many excellent private as well as not-for-profit treatment facilities which will provide treatment that will meet all the Drug Court requirements. These clients will receive more individualized attention to their unique individual needs. Many Drug Court Clients are dually-diagnosed which means they have co-occurring

disorders. The County-run facilities are not usually equipped to address these issues due to low funding and budget issues and staff who are overburdened with astronomic case-loads and are paid very little. Don't get me wrong. Some County facilities do an excellent job, considering the limited resources they have and tremendous case-loads. However, it is literally impossible for them to give the same level of care that can be provided in a more intimate, private setting.

The private treatment programs are usually much more flexible and accommodating towards the clients because they can afford to be. The County run programs are over-booked and under-funded. There are waiting lists which can exceed 6 weeks just to be admitted into certain County programs. In the mean time, the Judge may order that the client wait "in-custody" until a bed becomes available. Furthermore, some clients are under the impression that the County programs are free. This is a fallacy. Fees will accumulate and may be in excess of several hundred dollars when all is said

and done. The Defendant's case will not usually be dismissed until all fees and court costs are paid.

Most of the private treatment facilities accept most major insurance providers as payment. Others even accept Medicare, Medicaid, or sliding scales for self-pay clients. When a client elects to attend a private treatment program in lieu of County Treatment, the Judge will usually order the client to that facility for a certain length of time. The program must be approved by the Court. The County Treatment will be deleted from the order. Any client wishing to by-pass the County Treatment program in lieu of alternate treatment programs should be advised by a Professional Treatment Consultant as to what his or her best options will be. The Treatment Professional will guide the client through the process and make the necessary recommendations to the Court.

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