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Fact Sheet

Alternative Tracks In Adult Drug Courts: *Matching Your Program to the Needs of Your Clients*

Part Two Of A Two-Part Series

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Introduction

More than two decades of research indicates which types of adult offenders are most in need of the full complement of services embodied in the "10 Key Components" of drug courts (NADCP, 1997).[1] These are the individuals who are (1) substance dependent and (2) at risk of failing in less intensive rehabilitation programs. Drug courts that focus their efforts on these individuals—referred to as *high-risk/high-need* offenders—reduce crime approximately twice as much as those serving less serious offenders and return approximately 50 percent greater cost-benefits to their communities.

For a number of reasons, however, it may not always be possible or desirable for a drug court to target high-risk and high-need participants exclusively. To gain the buy-in of local prosecutors, the public, or other stakeholders, it may be necessary for some drug courts to begin by treating less serious offenders and to expand the admissions criteria after they have proven their safety and efficacy. Moreover, in some communities the drug court may be the most effective, or perhaps only, program serving as an alternative to incarceration that has staff members with expertise in managing drug-involved offenders. If low-risk or non-addicted individuals are ineligible for drug court, they may have no other option but to face prosecution, and possibly incarceration, without an opportunity to be diverted into an effective rehabilitative disposition.

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[1] This research is reviewed in a companion fact sheet to this document, entitled *Targeting the Right Participants for Adult Drug Courts*, which is available from the National Drug Court Institute *at* www.NDCI.org

If a drug court has such compelling reasons to serve low-risk or low-need individuals, it should consider making substantive modifications to its program to accommodate the characteristics of its participants. This document describes a conceptual framework and evidence-based practice recommendations for designing alternative tracks within a drug court to serve different types of adult participants.

Research indicates which types of adult offenders are most in need of the full complement of services embodied in the 10 Key Components of drug courts.

The Risk and Need Principles

No one intervention is appropriately suited for all drug-involved offenders. According to what are known as the Risk Principle and the Need Principle, the most effective and cost-efficient outcomes are achieved when treatment and supervision services are tailored to the (1) prognostic risk level and (2) criminogenic needs of the participants (Andrews & Bonta, 2010; Taxman & Marlowe, 2006).

Prognostic risk refers to the characteristics of offenders that predict relatively poorer outcomes in standard rehabilitation programs. Among drug-involved offenders, the most reliable and robust prognostic risk factors include a younger age, male gender, early onset of substance abuse or delinquency, prior felony convictions, previously unsuccessful treatment attempts, a diagnosis of antisocial personality disorder, and regular contacts with antisocial or substance-abusing peers (Marlowe et al., 2003). *Criminogenic needs* refer to clinical disorders or functional impairments that, if treated, significantly reduce the likelihood of future involvement in crime. The most common criminogenic needs among offenders include a diagnosis of substance dependence or addiction, major mental illness, and a lack of basic employment or daily living skills (Belenko, 2006; Simpson & Knight, 2007).

Prognostic risk and criminogenic need indicate what level of treatment and supervision are likely to be required to manage an offender, and what consequences should ensue for new instances of alcohol or other drug use. Generally speaking, the higher the prognostic risk level, the more intensive the supervision services should be (Lowenkamp et al., 2006). Similarly, the higher the need level, the more intensive the treatment services should be (Smith et al., 2009). Drug-involved offenders who are both high-risk and high-need typically require the full array of treatment and supervision services embodied in the 10 Key Components of drug courts.

The converse, however, is also true. The lower the risk level, the less intensive the supervision services should be. And the lower the need level, the less intensive the treatment services should be. Providing too much treatment or too much supervision is not merely a potential waste of scarce resources. It can increase crime or substance abuse by exposing individuals to more seriously impaired or antisocial peers, or by interfering with their engagement in productive activities such as work, school, or parenting (Lowenkamp & Latessa, 2004; McCord, 2003). Individuals who are low-risk and/or low-need typically do not require the full menu of services specified in the 10 Key Components.

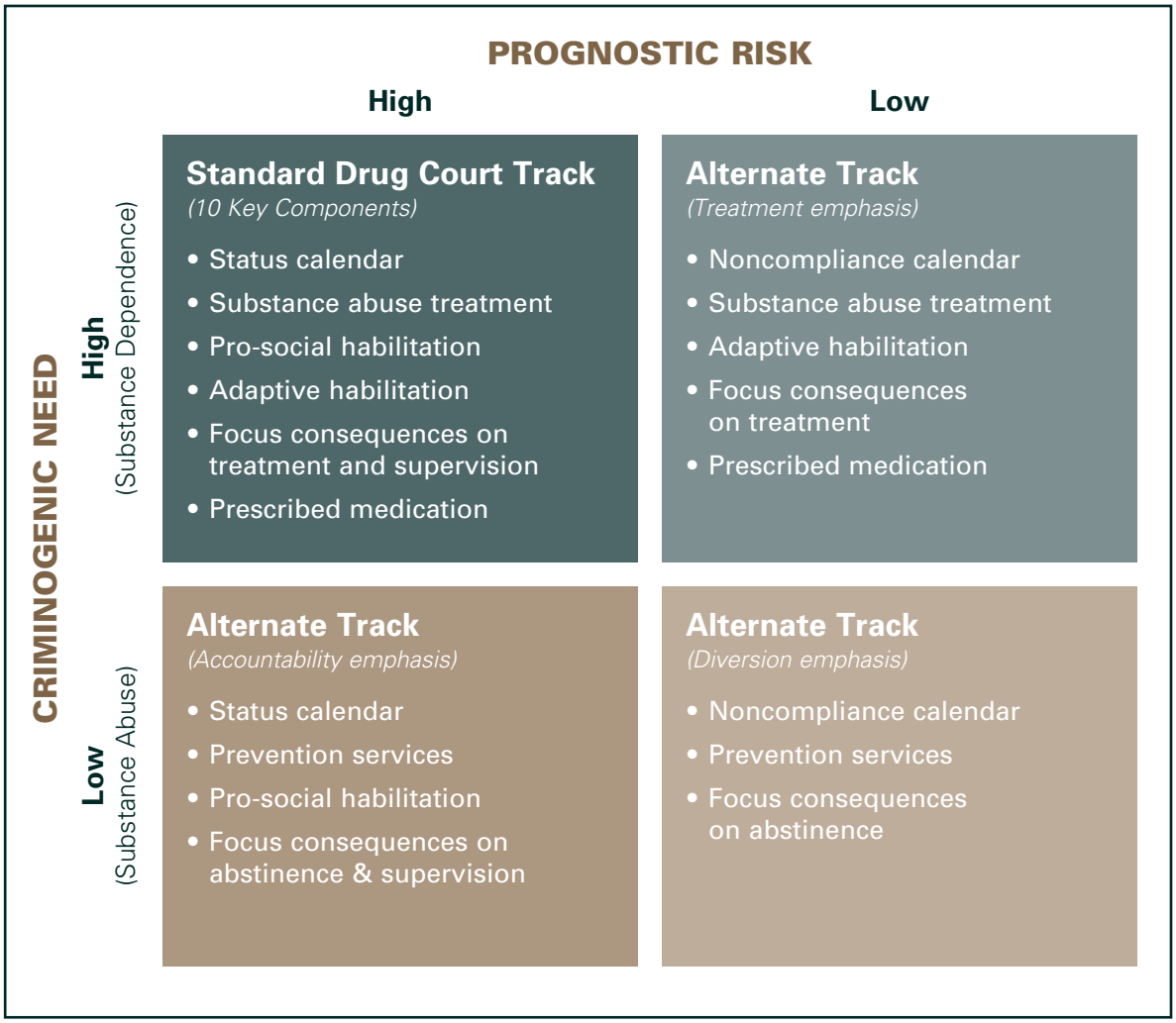
Risk and Need Matrix

Conceptually, prognostic risk and criminogenic need may be crossed in a two-by-two matrix, yielding four quadrants that indicate whether each participant may be classified as high-risk

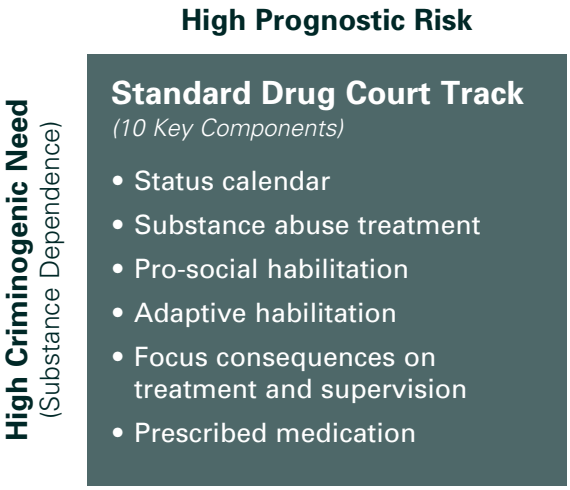
and high-need (HR/HN), low-risk and high-need (LR/HN), high-risk and low-need (HR/LN) or low-risk and low-need (LR/LN). To be most effective and cost-efficient, treatment and supervision services should be specifically tailored to the risk/need profile of the offender. Interventions that are well-suited for participants in one quadrant may be a waste of resources or contraindicated for those in another quadrant.

Figure 1 summarizes alternative treatment and supervisory regimens that might be administered within a drug court to serve different types of participants. The purpose of this figure is not to describe all of the interventions that should be administered in a drug court. As will be discussed, some services such as drug testing, community surveillance, and positive incentives should be administered to *all* participants regardless of their risk level or clinical diagnosis. The aim here is to highlight the specific adaptations that research suggests should be implemented in a drug court to serve different offender subtypes.

FIGURE 1: Alternative Tracks Within An Adult Drug Court



Note: Figure 1 adapted with permission from: Marlowe, D. B. (2009). Evidence-based sentencing for drug offenders: An analysis of prognostic risks and criminogenic needs. *Chapman Journal of Criminal Justice, 1*, 167–201.



High Risk & High Need (HR/HN)

Participants in the upper left quadrant are dependent on alcohol or other drugs, and are also at risk for failure in standard correctional rehabilitation programs. They may, for example, have begun abusing substances or committing delinquent acts at an early age, failed previously in less intensive dispositions, or been diagnosed with antisocial personality disorder. Research confirms that the full array of drug court services embodied in the 10 Key Components is typically required for this high-risk/high-need group (Carey et al., 2008; Carey et al., in press). Key services that should ordinarily be provided to these participants include:

Status Calendar: Participants in this quadrant should appear frequently in court for the judge to review their progress in treatment and administer suitable consequences where indicated. Evidence suggests status hearings should be held no less frequently than bi-weekly (every 2 weeks) for at least the first few months of the program, until the participants have achieved a stable interval of sobriety and are regularly engaged in treatment (Marlowe et al., 2006, 2007; Carey et al., 2008; Festinger et al., 2002).

Substance Abuse Treatment: Individuals who are substance dependent commonly experience cravings to use the substance and may suffer uncomfortable withdrawal symptoms when they attempt to become abstinent (American Psychiatric Association, 2000). These symptoms often reflect a form of neurological or neurochemical damage to the brain (Baler & Volkow, 2006; Dackis & O'Brien, 2005). Formal treatment is required for such individuals to reduce their cravings and withdrawal symptoms, provide them with concrete skills to resist drugs and alcohol, and teach them effective coping strategies for dealing with daily stressors. In some instances, residential, inpatient, or sober-living services may be required to stabilize the individual and prepare him or her for longer-term outpatient treatment (e.g., Belenko & Peugh, 2005). Research is clear that failing to provide an adequate dose or modality of treatment for substance dependent offenders produces poor outcomes and higher recidivism rates (Smith et al., 2009; Chandler et al., 2009; Vieira et al., 2009).

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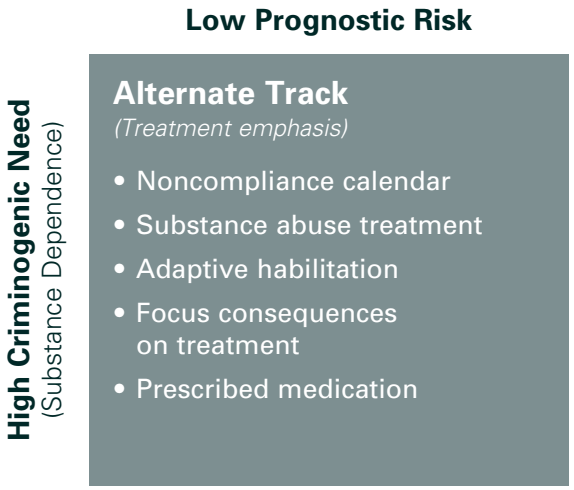
Pro-social Habilitation: Individuals in this quadrant may lack the inclination to engage in productive activities such as work, school, or parenting. They may not attach importance to the assumption of responsible roles and may endorse antisocial attitudes and values. Interventions that focus on remediating such "criminal thinking" patterns can be beneficial for maintaining positive outcomes with these

individuals (Heck, 2008; Knight et al., 2006; Lowenkamp et al., 2009). Evidence suggests a minimum dosage of 200 hours of cognitive-behavioral services may be required to reduce criminal recidivism in this difficult-to-treat group (Bourgon & Armstrong, 2005; Latessa & Sperber, 2010).

Adaptive Habilitation: Individuals in this quadrant may also be deficient in adaptive life skills, such as employability, education, financial management, and homemaking (e.g., Belenko, 2006). Adaptive habilitation services will often be required to teach them vocational skills, address educational deficits, improve daily living skills, and model effective interpersonal problem-solving strategies.

Focus Consequences on Treatment and Supervision: For these individuals, compliance with the conditions of supervision and treatment is the primary (or "proximal") goal. Failure to attend scheduled appointments or to deliver urine specimens should be met with relatively higher-magnitude sanctions to ensure conformance with their principal obligations. On the other hand, abstinence is a more difficult (or "distal") goal for these individuals. Lower-magnitude, treatment-oriented responses should typically ensue for substance use during the early phases of the program. This will allow punitive consequences for substance use to be ratcheted up in intensity after treatment has had a chance to take effect.

Prescribed Medication: As was noted earlier, substance dependence is often a neurological or neurochemical disorder that may, in some cases, require medical intervention. The use of appropriately prescribed medications by a qualified addiction psychiatrist constitutes an evidence-based practice for addicted offenders (National Institute on Drug Abuse, 2006; Chandler et al., 2009) and should be available in appropriate cases.



Low Risk & High Need (LR/HN)

Individuals in the upper right quadrant are dependent on alcohol or other drugs, but do not have substantial prognostic risk factors that would predict failure in standard treatment interventions. For these low-risk/high-need individuals, the primary emphasis should be on ensuring the provision of needed treatment services.

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Noncompliance Calendar: Individuals with this profile do not appear to require supervision on a status calendar. Research suggests they can perform as well, or better, on a non-compliance calendar (Festinger et al., 2002; Marlowe et al., 2006, 2007). Rather than spending substantial time in court interacting with high-risk antisocial peers, they should focus their energies in treatment. However, if they stop going to treatment, they should be brought immediately before the judge to receive a swift and certain sanction to ensure

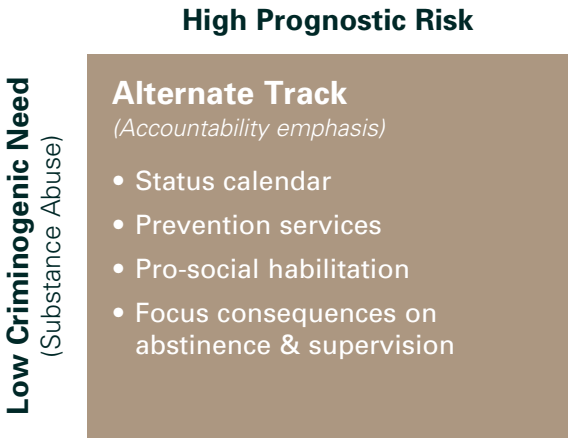
that they reengage quickly. Although research has not addressed this point, it might be appropriate to hold status hearings for these individuals on an infrequent basis, such as monthly or bi-monthly, for the judge to offer encouragement and administer rewards.

Substance Abuse Treatment: Because these participants are substance dependent, they, too, require formal substance abuse treatment services. The focus of treatment should be essentially the same as described above; however, evidence suggests low-risk individuals should not be treated in the same counseling groups or milieu as high-risk individuals because they may come to adopt antisocial attitudes or values (Lowenkamp & Latessa, 2004).

Adaptive Habilitation: Although these individuals may not endorse antisocial values, they frequently require adaptive habilitation services such as vocational or educational assistance, family therapy, or mental health counseling. Evidence suggests a more moderate dosage of approximately 100 hours of services may be sufficient to reduce recidivism with this group (Bourgon & Armstrong, 2005).

Focus Consequences on Treatment: Treatment attendance should be the primary or proximal focus for these individuals. Failing to attend treatment should trigger a noncompliance hearing and elicit a substantial sanction to ensure future compliance with the treatment plan. Because abstinence is a more distal goal for these individuals, treatment-oriented responses should ordinarily ensue for substance use during the early phases of the program.

Prescribed Medication: As discussed above, the use of appropriately prescribed medications by a qualified addiction psychiatrist may be indicated for some addicted offenders.



High Risk & Low Need (HR/LN)

Participants in the lower left quadrant are non-dependent substance abusers, but they nevertheless have substantial risk factors for failure on standard supervision. For these high-risk/low-need individuals, the emphasis should be on closely monitoring their behavior, holding them accountable for their conduct, and teaching them pro-social life skills.

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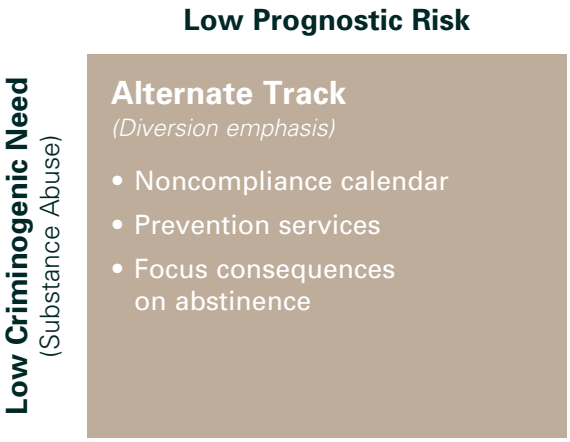
Status Calendar: Because they are at risk for failing to comply with standard supervision requirements, these individuals should appear in court on a status calendar for the judge to review their progress and impose suitable consequences. As noted previously, status hearings should generally be held at least bi-weekly until the case has stabilized.

Prevention Services: At least half of drug-involved offenders abuse alcohol or other drugs, but do not meet diagnostic criteria for dependence (National Center on Addiction and Substance Abuse, 2010; DeMatteo et al., 2009; Belenko & Peugh, 2005). They may experience repeated adverse consequences of substance use, such as multiple criminal arrests or car accidents, but their usage is largely under voluntary control. Providing formal substance abuse treatment for such individuals can lead to higher substance abuse and a greater likelihood of eventually becoming addicted (Lovins et al., 2007; Lowenkamp & Latessa, 2005; Szalavitz, 2010). Instead, non-addicted substance abusers are better suited to secondary prevention services, also known as early intervention (DeMatteo et al., 2006). Examples of secondary prevention services include psycho-educational groups that teach participants about the dangers of drugs and alcohol, and activity-scheduling exercises that re-orient their daily activities away from drug-related peers and events.

Pro-Social Habilitation: Pro-social habilitation services will often be necessary for these high-risk individuals to remediate criminal thinking patterns and teach them adaptive interpersonal problem-solving skills. As noted previously, at least 200 hours of cognitive-behavioral services may be needed to reduce criminal activity among high-risk offenders.

Focus Consequences on Abstinence and Supervision: For these individuals, compliance with supervision and abstinence from alcohol and other drugs are short-term or proximal expectations. They are generally capable of attending sessions and desisting from substance use fairly readily; therefore, higher-magnitude sanctions should be imposed from the outset to rapidly deter substance use and failures to appear.



Low Risk & Low Need (LR/LN)

Individuals in the lower right quadrant potentially have the most to lose from participating in a traditional drug court. Contact with high-risk or substance-dependent peers has the potential to expose them to antisocial influences and values. Moreover, the intensive requirements of a drug court might interfere with their engagement in productive activities, such as work, school, or parenting. It is typically unnecessary to expend substantial resources on this group because they have a low probability of recidivism from the outset. The best course of action may be to use the current arrest episode as a "teachable moment" to alter their trajectory of substance abuse and divert them from the criminal justice system. In many instances, it may be appropriate to reduce the length of the program to approximately 4 to 6 months, rather than insist on a uniform period of 12 to 24 months.

Individuals in the lower right quadrant potentially have the most to lose from participating in a traditional drug court.

Noncompliance Calendar: These individuals can typically be supervised on a noncompliance calendar. It is generally not desirable to have them spend substantial time in court or at a probation office, because this will require them to interact with higher-risk offenders. In addition, attending frequent court hearings or probation appointments might interfere with their ability to meet daily responsibilities.

Prevention Services: Individuals in this quadrant generally do not require formal substance abuse treatment services. Instead, they are best suited to a secondary prevention or early intervention approach as described previously. It is often advisable to administer these services on an individual basis or in separately stratified groups, so as to reduce their associations with higher-risk and higher-need peers.

Focus Consequences on Abstinence: For these individuals, abstinence is the proximal goal. Drug and alcohol use are under their voluntary control and should not be permitted to continue. Given that substance abuse may be the primary, if not sole, presenting problem for these individuals, it may often be appropriate to focus the case-management plan primarily on deterring this particular behavior.

Adjusting Tracks

No assessment tool is perfectly reliable and valid. There will often be an appreciable number of false positives and false negatives in any drug court, meaning the assessment tools may overestimate or underestimate the level of risk or need in some cases. In addition, many drug-involved offenders may be poor informants and the information they provide may be erroneous, exaggerated, or minimized. If assessors do not have an opportunity to confirm participants' verbal self-reports by reviewing official records, administering drug tests, or interviewing collaterals (e.g., family members), the results could be a poor or incomplete reflection of the participants' needs and risk factors.

No assessment tool is perfectly reliable and valid.

For this reason, assessment results should only be considered a starting point for initially assigning participants to tracks. A participant's subsequent performance in the program should serve as a guide for adjusting the conditions of the program. If, for example, a participant is assessed as being low risk, but then fails to attend treatment sessions or to deliver urine specimens, it might be appropriate to transfer that individual to a bi-weekly status calendar. There is no reason for a drug court to be stuck with an erroneous or ineffective assignment. During the entry procedures for the program, participants should be clearly informed that the requirements of the program can and will be adjusted based on their performance in the program.

A participant's subsequent performance in the program should serve as a guide for adjusting the conditions of the program.

Recent studies have examined what are called *adaptive interventions* in drug courts. Adaptive interventions employ *a priori* (that is, pre-specified) criteria for determining when and how to adjust services in response to participants' performance. For example, missing a pre-determined number of counseling

sessions might trigger a reassignment of a participant to a bi-weekly status calendar. Early findings suggest such methods may substantially improve outcomes in drug courts and perhaps reduce the length and cost of the program (Marlowe et al., 2008, 2009, in press). Strategies such as this might be used to adjust participants' obligations in drug court without adding undue complexity or burden for the staff.

Drug Testing and Other Surveillance

The only way to be confident that participants are adjusting well to their assigned tracks is to regularly and continually monitor their performance in the program. Assume, for example, that a participant is erroneously assessed as being low risk and non-addicted, and is assigned to a noncompliance calendar and prevention services. If drug testing is not performed frequently, the staff may never come to learn that the participant is actually substance dependent and continuing to abuse alcohol or other drugs.

Therefore, regardless of which track participants are assigned to, they should be carefully monitored via frequent drug testing and other surveillance strategies, such as home visits. Research indicates that drug testing should generally be performed no less frequently than twice per week on a truly random basis for at least the first several months of the program (Carey et al., 2008). In addition, outcomes are better and more cost effective when community corrections officers conduct home visits and other community surveillance activities (Carey et al., 2008). By applying surveillance strategies to all participants, the drug court team can rest better assured that the requirements of the program are up to the task of serving each participant's clinical needs and prognostic risk level.

Conclusion

Adult drug courts elicit the most effective and cost-efficient results for offenders who are high risk and high need. There may be good reasons, however, for some drug courts to admit less-serious or less-impaired individuals into their programs. Under such circumstances, research suggests that the drug court team should modify its conditions to meet the clinical and criminological profiles of its clientele.

The only way to be confident that participants are adjusting well to their assigned tracks is to regularly and continually monitor their performance.

One way to accomplish this task is to develop alternative tracks within the drug court that are adapted to the clinical diagnosis and prognostic risk level of the participants. Procedures should be in place to continuously monitor participants' success in the tracks to ensure the program is meeting their needs and holding them suitably accountable for their actions. In this way, drug courts can make the greatest contributions to public health and public safety, while keeping a watchful eye toward the interests of taxpayers. Further research is needed to validate and improve upon these tracks and determine how best to administer them in day-to-day drug court practice.

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Test Your Knowledge: Alternative Tracks in Drug Courts

Test your new knowledge. Answer these questions based on the Fact Sheet text.

1. For high-risk participants, drug courts should:
(check all that apply)

- A Focus on sanctions more than rewards because of the risk to public safety
- B Hold status hearings at least monthly
- C Address criminal-thinking and interpersonal problem-solving issues
- D Use restrictive sanctions, such as jail or home detention, to bring about long-term abstinence from drugs and alcohol
- E Apply higher-magnitude sanctions for lying or failing to attend sessions

2. A 13-year-old boy begins to hang out with the wrong crowd and starts using cigarettes, beer, and marijuana. By the age of 15, he moves on to harder drugs and is stealing pharmaceuticals from his mother's medicine cabinet. By the time he is 16, he is chronically truant from school, committing petty thefts in the neighborhood, and selling drugs to other children at school. Now at the age of 23, he has just been arrested for burglary of a business establishment and drug possession, and he is compulsively addicted to prescription opioids. This is his third arrest. For this individual, the most effective disposition would most likely include which of the following elements:
(check all that apply)

- A Prison or jail because he is a drug dealer
- B Court hearings at least every 2 weeks
- C Vocational or educational counseling
- D A psychiatric evaluation for possible addiction medication
- E High-magnitude sanctions for positive drug tests
- F High-magnitude sanctions for missed counseling sessions

3. Poor outcomes or negative side effects have been associated with:
(check all that apply)

- A Mixing high-risk and low-risk participants together in groups
- B Providing only psycho-education to addicted individuals
- C Accepting violent offenders or drug dealers into drug courts
- D Providing residential treatment to non-addicted substance abusers
- E The use of methadone maintenance for heroin-addicted offenders

4. A 33-year-old woman has been using methamphetamine on nearly a daily basis for more than 6 years. She had tried marijuana and alcohol occasionally before that, but didn't really like it. She supports her meth habit through prostitution, theft, and drug dealing. This is her first arrest for the attempted sale of methamphetamine to an undercover narcotics officer. She has no treatment history. For this woman, the most effective disposition would most likely include which of the following elements:
(check all that apply)

- A Court hearings as needed to address poor compliance in treatment
- B Psycho-educational groups addressing the dangers of drugs and alcohol
- C High-magnitude sanctions for missed therapy sessions
- D High-magnitude sanctions for positive drug tests
- E Intensive addiction treatment

5. Research suggests urine drug testing should be:
(check all that apply)

- A Performed at least once per week
- B Performed on a truly random basis
- C Reduced in frequency as a reward for good behavior
- D Combined with other surveillance techniques, such as home visits
- E Performed more frequently for high-risk and/or high-need offenders

Answers: *1: C and E, 2: B, C, D and F, 3: A, B and D, 4: A, C and E, 5: B and D*