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# CASE DISPOSITION IN THE DRUG COURT: WHO IS THE MOST CENTRAL ACTOR?\*

SALMON A. SHOMADE

*In recent years, the number of drug courts has proliferated throughout the country. One widely held belief is that the central figure in a drug court is the judge. While the judge may be the central actor in the courtroom, what is not clear is whether the drug court judge is the most central actor in the actual disposition of cases. This article presents the findings of a research project that asked actors participating in staffing about the centrality of the drug court judge. I found that while the drug court judge is a central actor, the most central actor in the drug court case disposition process is likely determined by management tasks and responsibility levels assigned to actors participating in the process.*

“Drug treatment courts” or “drug courts” are specialized criminal courts designed to handle drug cases—misdemeanors or felonies—involving mostly nonviolent offenders with substance abuse and dependence problems (Hora, Schma, and Rosenthal, 1999; Hora, 2002; Nolan, 2001; Whiteacre, 2008). Some scholars maintain that drug courts and other specialized courts such as community courts, domestic violence or family courts, and mental health courts became popular in part because of courts’ inability to address persistent public frustration with social, human, and legal problems such as drug addiction, domestic violence, and mental illness facing society (see, e.g., Feinblatt, Berman, and Deckla, 2002). However, other scholars argue that these problem-solving courts, especially drug courts, were initially created to address the criminal justice system’s inability to resolve problems associated with backlog of drug cases awaiting trials, the “revolving door” of drug arrestees, emergence and popularity of “crack” cocaine, and failures of probation or parole in helping reduce drug court cases (Armstrong, 2008; Hora, 2002; Nolan, 2001; Terry, 1999).

The first drug court was created in Miami in 1989 (Hora, Schma, and Rosenthal, 1999; Terry, 1999). Regardless of the rationales for their creation, drug courts have become very popular in recent years. This is due to the recognition by both scholars and practitioners that previous methods for addressing drug use, such as interdiction and tough sentencing laws, have failed to stem the rise in illegal drug use and crime (Nolan, 2001; Olson, Lurigio, and Albertson, 2001). When drug courts were first created, there were no universally acceptable theoretical or jurisprudential rationales for their creation (Hora, Schma, and Rosenthal, 1999; Nolan 2001). But drug court advocates and criminal justice scholars later discovered that drug courts mostly embody the ideals of a new criminal justice model referred to as “therapeutic jurisprudence”<sup>1</sup>

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<sup>1</sup> Generally speaking, therapeutic jurisprudence is the notion that the psychological and physical well-being of individuals can be enhanced without sacrificing the critical goals of the criminal justice system (Rottman and Casey, 1999; Winick and Wexler, 2003).

(Hora, 2002; Winick and Wexler, 2003). This discovery created a symbiotic relationship between scholars and practitioners whereby each side relied on the other's work to build institutional support and popularity for their work (Hora, 2002). Thus, the number of drug courts has substantially increased in recent years, going from 41 drug courts in 1994 when President Clinton signed a crime bill that for the first time included grants for drug courts (Armstrong, 2008), to 2,301 operating drug courts as of December 31, 2008 (NADCP, 2009).

What is frequently referred to as a drug court is in fact a "drug court team," or a network of individual organizations represented by a judge, lawyers, probation officers, and representatives from external organizations (Nolan, 2001; Terry, 1999). The roles and functions of each sponsoring organization, as represented by individuals, vary. The judge represents the bench as a sponsoring organization consisting of judges and various court administrators. The lawyers either represent the county prosecutor's office, the public defender's office, or the private bar. The probation officers represent the probation department. Separately, drug treatment centers have their own representatives also participating as members of the drug court team (Terry, 1999). In many jurisdictions, drug courts also generally work closely with a network of organizations outside the criminal justice system such as drug testing centers, employment offices, housing agencies, and educational agencies, with all these organizations sponsoring their own representatives when needed to appear in drug courts.

The judge is deemed to be a "key" or "central" feature in the success or effectiveness of the drug court model (NADCP, 1997; Hora, Schma, and Rosenthal, 1999; Marlowe, Festinger, and Lee, 2004; Nolan, 2001; Prendergast et al., 2008). The National Association of Drug Court Professionals, in its widely circulated manual<sup>2</sup> on the key components of drug court, actually stated: "The judge is *the* central figure in a team effort that focuses on sobriety and accountability as the primary goal" (NADCP, 1997:7, emphasis added). Curiously, in an updated manual released in 2004, this portion of the manual featuring this statement was not included (Drug Courts Program Office, 2004).

Given the nature of the collaborative efforts maintained by the various sponsoring organizations in drug court "staffing" and the dynamics of the drug courtroom "theatre," it is not difficult to conclude that the drug court judge is a central feature of the drug court model (Nolan, 2001). In addition, the judge legally presides over and facilitates the proceedings of any courtroom, and in the drug court model where the proceedings are less formal, the judge seems to interact with other courtroom actors much more readily. Moreover, given the adversarial nature of criminal court<sup>3</sup> proceedings and the tight reins those judges must maintain to keep the proceedings running effectively, the relationship between a criminal court judge and other court actors is

<sup>2</sup> The association received a grant for manual publication from the Drug Courts Program Office, an organ of the U.S. Department of Justice.

<sup>3</sup> For this article, "criminal courts" or "criminal courtrooms" refer to criminal courts in the study that did not specifically try drug cases, while "drug courts" refer to criminal courts that exclusively focused on drug cases.

likely to be more distant vis-à-vis the relationship between a drug court judge and the drug court team (Hora, Schma, and Rosenthal, 1999).

Thus, if centrality is measured by which actor has the *most direct* links with all other court actors, the criminal court judge is likely not the *most central*<sup>4</sup> player during criminal court case disposition process, especially given that most criminal cases are negotiated before actual trials (Epstein and Walker, 2007; Spohn and Hemmens, 2009). The literature on drug courtroom dynamics tells us that the judge is the central player and we can infer that most drug court “clients”<sup>5</sup> will confirm this centrality. However, different from criminal courts, drug courts primarily achieve their main function of resolving disputes or disposing cases during drug court team meetings referred to as “staffings.” Can we then assume that team members, who collaborate with the judge during staffing, perceive the judge as the central figure in the case disposition process? In this article, using network analysis as my primary methodology, I present the findings of a study regarding this question of the drug court judge’s centrality in the case disposition process.

## HISTORY OF DRUG COURTS

The history behind the creation of drug courts has been well documented (Hora, Schma, and Rosenthal, 1999; Nolan, 2001; Terry, 1999), but it is worth presenting again to lay the foundation for the question posed in this article. Among the key supporters of the first drug court established in Miami, Dade County, Florida in 1989 was Janet Reno, who later became the United States attorney general under the Clinton administration (Nolan, 2001; Olson, Lurigio, and Albertson, 2001). Attorney General Reno was a major champion of drug courts during the Clinton administration and provided seed money for the establishment of many drug courts nationwide (Dorf and Fagan, 2003). She was influential in forming the Drug Courts Program Office, which was later incorporated into the Bureau of Justice Assistance, a component of the Office of Justice Programs in the U.S. Department of Justice (Goldkamp, 2000).

The initial “drug courts,” unlike their later-established “drug treatment courts” brethren, were seemingly less focused on how offenders progressed in their drug rehabilitation because of the treatment they were receiving. Rather, the early courts’ attention was directed more at speed and case-processing efficiency (Smith, Davis, and Lurigio, 1994). To be clear, not that the initial drug courts did not care about the offenders’ treatment, but Olson, Lurigio, and Albertson (2001) explain that these early drug courts were fragmented and relied too much on treatment agencies. Hence, it was difficult for these courts to assess offenders’ treatment progress or compliance with court orders. In addition, these courts focused more on less serious offenders and tended to be diversionary programs (see Terry, 1999). Unlike these early drug courts, “drug treatment courts” use active and intensive judicial supervision combined with drug use

<sup>4</sup> In the parlance of network analysis, the methodology used for this research, “most central” practically means “most influential.”

<sup>5</sup> Offenders appearing in drug courts are referred to as clients.

treatment and sanctions (Turner et al., 2002). Hence, there is significant emphasis on rehabilitation relative to case processing and punishment in these more recent drug courts.

Drug courts were established for a number of reasons. One, the number of drug arrests in the United States skyrocketed during the 1980s, which led to a huge jail backlog of people awaiting trial. Two, crack cocaine emerged as a popular drug in the 1980s. Three, the rearrest rate for previously convicted drug offenders became alarmingly higher during the 1980s (Harrison and Scarpitti, 2002). As for the first reason, Terry (1999) notes that the rapid increase in drug arrests was as a result of President Reagan's policy change on drug law enforcement. Terry (1999) claims that President Reagan abandoned government's reliance on treatment and prevention in favor of law enforcement. The effect, Terry (1999) concludes, of this policy change was more arrests, prosecution, and incarceration of drug offenders.

Harrison and Scarpitti (2002) explain that the FBI's Uniform Report in 1988 showed that the number of arrests for drug-related offenses nearly doubled between 1979 and 1988. In addition, the average time between arrest and sentencing for drug-trafficking offenses in state courts was about seven months. Thus, because of the backlog, establishing drug courts as distinct entities became a necessity.

On the emergence of crack cocaine as a reason for creating drug courts, Harrison and Scarpitti (2002) maintain that the media portrayal of crack cocaine led to a national drug panic. Furthermore, additional data by the National Institute of Justice showed a high level of cocaine use among drug arrestees in major U.S. cities. The national panic influenced by media portrayal might have caused the public to demand harsher punishment for drug offenders, which public officials responded to by filling prisons with drug offenders (Hora, 2002). However, these officials soon came to realize that incarceration was not the solution (Hora, 2002). Because of these reasons, trial courts began searching for alternative ways to address the drug scourge (Hora, 2002; Terry, 1999). Hence, the news of the results of an experiment by a criminal court in Miami quickly spread. In this Miami court during the late 1980s, which later became the nation's first drug court, the pretrial services agency serving the court recommended releasing some offenders before trial, but the court mandated that they first attend drug treatment orientation (Harrison and Scarpitti, 2002). It turned out that several offenders were willing to do so, thus demonstrating the utility and necessity of treatment options, at least for these particular offenders, which ended up legitimizing the viability of drug courts for the rest of the country (Goldkamp, 1999).

To be certain, there were other reasons why drug courts became popular during their initial creation, but those cited above are considered to be the major factors for their initial popularity by various scholars (Hora, 2002; Nolan, 2001). In fact, Nolan (2001) notes that the idea of a drug court as an alternative way to deal with the drug scourge did not truly emerge in Miami. Programs such as Treatment Alternatives to Street Crimes (TASC) established in the 1970s were implementing programs that attempted and tried to combine drug treatment and criminal justice case processing.

However, Harrison and Scarpitti (2002) report that the federal government funding of TASC programs was eliminated in the 1980s. Plus, Nolan (2001) observes, TASC programs differed from drug court programs because unlike drug courts TASC separated the treatment and the adjudicative process. With TASC, the offender went through the treatment program and then returned to the court for a legal decision. However with drug courts, both treatment and the adjudicative process are integrated, and the offender goes back and forth between the two.

Advocates believe that drug courts remain popular today among policy makers (see, e.g., King, 2007) even if questions have been raised about their viability as true alternatives to incarceration (Belenko, 2000). For example, Belenko (2000) contends that some of those sent to drug courts are offenders that would not ordinarily be sent to jail or prison anyway. The continued popularity of drug courts is also due to the ringing endorsements given by national leaders such as former Attorney General Reno<sup>6</sup> and the former director of the Office National Drug Control Policy, General Barry McCaffrey, in the early years of their creation (Olson, Lurigio, and Albertson, 2001). Although a more recent General Accounting Report (GAO-05-219 2005) on drug courts indicates that evidence regarding the effectiveness of drug court programs in helping participants avoid relapse is limited and mixed, the report concludes:

Overall, positive findings from relatively rigorous evaluations in relation to recidivism, coupled with positive net benefit results, albeit from fewer studies, indicate that drug court programs can be an effective means to deal with some offenders. These programs appear to provide an opportunity for some individuals to take advantage of a structured program to help them reduce their criminal involvement and their substance abuse problems, as well as potentially provide a benefit to society in general (2005:7).

Notably, some policy makers see drug courts as providing “an efficient means of ensuring access to treatment for many high-risk, high-need individuals who would not otherwise enter treatment” (Young, Fluellen, and Belenko, 2004:314). Furthermore, policy-maker proponents of drug courts use academic studies showing that programs employing coercive powers of the justice system retain offenders for the same or longer periods than offenders who are not similarly coerced. These proponents argue that such studies prove that these offenders might be employed longer and be less prone to recidivism. However, some of these studies have been faulted as being oversimplified or for relying on poor methodology (Belenko, 1998, 2001, 2002; Marlowe, Festinger, and Lee, 2001; Young and Belenko, 2002).

Now relying on the legal principle of “therapeutic jurisprudence” (Wexler and Winick, 1996; Winick and Wexler, 2003) as the theoretical justification for their existence, current drug courts use a team approach for dealing with drug offenders (Nolan, 2001; Terry, 1999). Therapeutic justice is a theory of justice that proposes that the substantive rules and procedures of the legal system and the actions of legal practitioners have therapeutic and nontherapeutic consequences (Wexler and Winick, 1996; Winick and Wexler, 2003). Consequently, the theory holds, legal practitioners, as well

<sup>6</sup> Reno was involved in the creation of the Miami Drug Court.

as scholars, must recognize these consequences and modify their behaviors and systems to account for the consequences without violating traditional legal norms (Goldkamp, 2000; Hora and Schma, 1998). Besides the underlying theoretical principle used to justify the benefits of drug courts, the structures of drug courts are different from those of criminal courts.

## STRUCTURES OF DRUG COURTS

To comprehend the structure of a typical drug court in the United States, it is imperative that one understands the underlying principles governing the administration of many drug courts. Referred to as the “Ten Key Components,” these principles are performance standards created in 1997 by a group of drug court professionals, including judges, prosecutors, defense counsel, court administrators, and treatment providers (NADCP, 1997; Drug Courts Program Office, 2004). Some of the professionals that created these ten components were members of the National Drug Court Professional Association or representatives from the Drug Court Office of the U.S. Department of Justice (Hora, 2002; Taxman and Bouffard, 2002). Hora notes that these ten components, which were created using very reliable information about addiction, treatment, and recovery, have been adopted by many states, the Conference of Chief Justices, and the American Bar Association (2002:1472).

The Ten Key Components, which were first issued by the Drug Court Office of the U.S. Department of Justice in January 1997 and reissued in October 2004, are:

- |                   |  |
|-------------------|--|
| Key Component #1  | Drug courts integrate alcohol and other drug treatment services with justice system case processing.   |
| Key Component #2  | Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.                       |
| Key Component #3  | Eligible participants are identified early and promptly placed in the drug court program.  |
| Key Component #4  | Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.   |
| Key Component #5  | Abstinence is monitored by frequent alcohol and other drug testing.  |
| Key Component #6  | A coordinated strategy governs drug court responses to participants' compliance.   |
| Key Component #7  | Ongoing judicial interaction with each drug court participant is essential.  |
| Key Component #8  | Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.  |
| Key Component #9  | Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations.   |
| Key Component #10 | Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness |



Because they are deemed to be the performance standards of drug courts and to the extent that many states have adopted them, many of today's drug courts are structured on the basis of these Ten Key Components. Moreover, Terry (1999) summarizes that the early drug courts in Miami, Oakland, Fort Lauderdale, Phoenix, and Portland (Oregon) served as models for drug courts immediately created after these early courts, and those drug courts in turn served as models for other drug courts later established. In many jurisdictions, the drug court team consists of judges, prosecutors, defense attorneys, probation officers, treatment center employees, and representatives from other related entities, working together in a coordinated case-management approach and subjecting offenders to graduated sanctions when offenders violate program rules (Olson, Lurigio, and Albertson, 2001; Turner et al., 2002). Many programs in today's drug courts include treatment referrals right after arrest for drug use; judicial supervision of rewards for treatment progress and sanctions for treatment lapses; regular status hearings of offender's progress and compliance with program requirements; mandatory drug testing; and dismissal of charges or sentence reduction post successful program completion (Olson, Lurigio, and Albertson, 2001; Terry, 1999).

The typical operation of a drug court constitutes the judge holding staffing sessions with representatives<sup>7</sup> of sponsoring organizations participating as part of the drug court team<sup>8</sup> before holding court hearings involving offenders (Hora, Schma, and Rosenthal, 1999). The decisions that judges render at these hearings are mostly determined at these drug court team meetings by consensus. The close collaboration of these sponsoring organizations' representatives makes drug courts distinct from typical criminal courts, but also raises concerns about potential due-process violations and the drug court becoming more like an assembly line.

Whereas in some jurisdictions drug courts coordinate the activities of these networks of sponsoring organizations, each organization, depending on its expertise, handles different tasks such as case processing, intensive case monitoring, drug testing, outpatient treatment, employment placement, and related support services (Olson, Lurigio, and Albertson, 2001). Some jurisdictions have different kinds of drug courts, such as adult drug courts, juvenile drug courts, and family drug courts, specializing in different types of offenders. In addition, many jurisdictions separate their drug courts into different programs, with some focusing on post-conviction activities while others concentrate on offenders with deferred prosecution or suspended sentences (Olson, Lurigio, and Albertson, 2001).

Of the five early drug courts in Miami, Oakland, Fort Lauderdale, Phoenix, and Portland, two (Miami's and Oakland's) were diversionary programs, while the remaining programs were post-conviction programs when they were established (Terry, 1999). However, in these and many jurisdictions the two major programs are both available

<sup>7</sup> These representatives include lawyers, probation officers, treatment center representatives, drug-testing personnel, and possibly others, depending on the jurisdiction.

<sup>8</sup> These sponsoring organizations include, for example, the prosecutor's office, public defender's office or private counsel, probation department, treatment center, etc.



(Nolan, 2001). Terry (1999) notes that with a diversionary program charges against an offender who successfully completes the program are dropped. As for a post-conviction program, sentences are reduced or dropped if an offender successfully completes the program.

In criminal courts, case disposition is conducted by the traditional adversarial legal system, whereby defendants' attorneys and prosecutors follow an objective set of rules before a neutral judge or jury. The adversarial approach produces clear winners and losers. In drug courts, the adversarial approach still applies, but it is not as predominant (Turner et al., 2002). Rather, in drug courts, the lawyers on both sides work with the judge and other team members to achieve the optimal recovery plan for offenders. In a drug court, the court, represented by the judge, is a significant party ensuring that each offender complies with program requirements while applying rewards and sanctions when necessary. Although lawyers in drug courts are still required to adhere to their ethical obligations of zealous client representation, they work within the structure of these courts to achieve a suitable recovery plan for the offender (Feinblatt, Berman, and Denckla, 2002). Some studies of drug courts have found that in drug court teams that focus on post-conviction activities, probation officers and treatment providers are very active in these teams (Nolan, 2001). These studies indicate that these officers and providers can strongly shape the punishment or sanction tracks taken by an offender participating in any drug court program.

The nonadversarial approach of the drug court is very evident during both the drug court staffing sessions and courtroom proceedings. During a staffing session, the judge seems to be an equal partner in this meeting where decisions regarding offender punishment are mostly and frequently decided. The judge mostly plays the role of a facilitator at these meetings (Nolan, 2001). At the courtroom proceeding, the judge freely interacts verbally with offenders, equally encouraging them when they reach success benchmarks and chastising them when they fail drug tests (Hora, Schma, and Rosenthal, 1999; Nolan, 2001).

In many drug courts, staffings take place before court hearings (Nolan, 2001). The interactions during these meetings suggest that the team members are relatively familiar with one another and are closer to the judge than they would ordinarily be in a criminal court. At staffings, the drug court judge relies extensively on the recommendations of the team members and has many direct relationships with or links to the various team members, even outside of staffings. Despite decisions regarding offenders' punishment, rewards, sanctions, and rehabilitation being mostly made during staffings, the drug court judge interacts directly with offenders during courtroom proceedings (Nolan, 2001; OJP, 2006).

Nolan extensively reports on the many roles of the drug court judge (2001). He notes that the drug court judge is an activist judge who participates by recruiting external resources, providing cover, lobbying, campaigning, coordinating, fund-raising, or talking to the media. Nolan maintains that "the role represents a clear and intentional departure from the more passive orientation of the classical judge of the common law tradition" (Nolan, 2001:98-99). In Nolan's view, the drug court judge is the main

actor in the courtroom drama and generally remains so informally even when off the bench. Nolan cites several examples of the judge being actively involved in offenders' lives and helping offenders secure and retain jobs (2001:94-95). Based on Nolan's impressive ethnographic research and other scholars' researches (e.g., Hora, Schma, and Rosenthal, 1999; Terry, 1999), it is relatively easy to conclude that the drug court judge is the most central actor when it comes to actual case disposition in this specialized court.

## RESEARCH METHODOLOGY

This drug court study was part of a larger trial court research project, which sought to understand the structure of criminal courts and drug courts operating under the same trial court system. The research focused on the case disposition processes in both types of courts. I chose the case disposition process because it is during this process that courts achieve their primary function of resolving disputes, either between individuals or between individuals and society (see Hora, Schma, and Rosenthal, 1999).

The trial court system in my research had an organizational structure similar to other trial courts' organizational structures in many jurisdictions, as explained in the literature. Studying a trial court system with an organizational structure similar to what the literature depicts as a common structure enabled me to reexamine previous findings of court networks as reported in the literature. Structure in the research was defined as the interactions of and relationships among organizations, as represented by individuals, operating in criminal and drug courts that are part of a trial court system (see Hall, 2002). The research site was a trial court located in the Southwest (the "Court"). I conducted the study between 2006 and 2007.

My overall method of inquiry in this study was a triangular research strategy using a case study approach that incorporated both qualitative and quantitative data collection and analysis. My qualitative data-collection methods were primarily participant observations of court proceedings, document reviews, and semi-structured interviews (Yin, 2003) with actors representing the various organizations identified by the actors themselves as participating, however limitedly, in case disposition either in the criminal or drug courtrooms. For the quantitative data analysis, I relied on network analysis as my primary methodology and used a network analysis questionnaire.<sup>9</sup>

Since the ultimate goal of this study was to build upon previous findings and generate new theories of courts, I decided on a case method approach (Yin, 1989, 2003). As an overall singular trial court system,<sup>10</sup> the Court at the time of my study was a typical trial court with an organizational structure similar to what the literature tells us about the structures of many trial courts. The Court was one of the state's general-

<sup>9</sup> See *The Use of Network Analysis to Strengthen Community Partnerships* (Provan et al., 2005) for an extensive explanation on the application and utilization of network analysis in public and nonprofit settings and an example of how a network analysis questionnaire is designed. I used a questionnaire similar to the example provided by these scholars.

<sup>10</sup> A singular trial court system will be considered one case in Yin's (2003) parlance.

jurisdiction courts, with jurisdictions over criminal felony and certain misdemeanor cases; civil cases; forcible entry and detainer cases; probate matters; family matters; and appeals from limited-jurisdiction courts.

The Court administratively was divided into five benches: criminal, civil, probate, family law, and juvenile. The Court had thirteen criminal courtrooms and three specialty courts—two drug court programs, which were operated as one overall drug court, and a mental health court. The criminal courtrooms and the drug court programs were part of the criminal bench. Judges were assigned on a rotating basis to one of the five benches and generally maintained their bench assignments for two to five years. Each bench was led by a presiding judge. The Court also had separate administrative divisions, such as offices of the court clerk, the court management team, the court administrator, and the associate presiding judge.

The drug court, created during the 1998-99 fiscal year, was part of the criminal bench. It had two different programs—the Deferred Judgment Program and the Post-Conviction Program.<sup>11</sup> With the Deferred Judgment Program, drug offenders were charged with misdemeanors, and after successfully completing the drug program, their charges were dismissed. For the Post-Conviction Program, drug offenders were charged with drug possession crimes, pleaded to felonies or misdemeanors, and after successfully completing the drug program, their sentences were reduced or dropped. During my research period, one judge presided over the Post-Conviction Program while a separate judge presided over the Deferred Judgment Program.

Before the beginning of this study, I attended two sessions of the Post-Conviction Program's staffing and related court sessions. I also attended two sessions of the Deferred Program's staffing and related court sessions during that same period. After the research began and during the qualitative portion of this study, I observed three additional staffing and related court sessions of both drug court programs. I also observed five criminal courtrooms' sessions and interviewed representatives of various external organizations working in both the criminal and drug courts. In total, I identified and interviewed representatives of twenty-four separate (see Table 1) participating in case disposition either in the criminal or drug courts.

For the qualitative phase of this study, I initially interviewed all the individuals I observed representing organizations working in both the Deferred Judgment and Post-Conviction Programs. Typical question areas during my qualitative interviews included questions on the operation of the courts; identification of various sponsoring organizations and representatives working in both types of courts; relationships interviewees and their organizations have with other organizations; and central players working in either court. While conducting the interviews, many of the interviewees shared with me nonconfidential court documents and reports such as number of cases adjudicated on the criminal bench, breakdown of legal representation by various defense counsel organizations, and annual reports, all of which I collected and extensively reviewed.

<sup>11</sup> The Deferred Judgment Program was offered when the drug court was created, and the Post-Conviction Program was created in 2004.

Table 1\*  
List of Entities Participating Either in Criminal or  
Drug Court Case Disposition

- County Attorney’s Office (CA)
- Court Administrator’s Office (SCAO)
- Court Calendar Services (CS)
- Court Interpreters (INT)
- Court Reporters (CR)
- Criminal Bench Administrative Office (CBO)
- Criminal Court Judges (CCJ)
- Drug Court Judges (DCJ)
- Drug-Testing Center (TASC)
- Drug Treatment Center (CLS)
- Jury Commissioner (JC)
- Legal Defender’s Office (LDO)
- Mental Health Center 1 (CODA)
- Mental Health Center 2 (COPE)
- Mental Health Center 3 (ELR)
- Mental Health Center 4 (LAFR)
- Office of Court-Appointed Counsel (OCAC)
- Office of a Criminal Court Judge (OCJ)
- Office of a Drug Court Judge (ODJ)\*\*
- Pretrial Services (PTS)
- Private Counsel (PC)
- Probation Office (PO)
- Public Defender’s Office (COMB)
- Sheriff’s Department (SD)

\* To disguise the Court’s identity, I changed some of the organizations’ names to generic names.  
\*\* I separated the Office of a Drug Court Judge from the Drug Court Judge because the Drug Court Judge represents the bench as a distinct entity, separate from the Office of a Drug Court Judge, which is an entity in itself. I did likewise for the Office of a Criminal Court Judge.

Except for the two different judges for each drug court program, the individuals and the organizations represented and working in both programs were the same. Thus, I interviewed both judges, all staff members of both judges’ offices (three staff members), the drug court coordinator, five out of the six probation officers, the three public defenders permanently assigned to the drug court, and the representative (and part owner) of the treatment facility. Although the prosecutor’s office was not represented in the drug court, I interviewed the chief criminal deputy county attorney and asked him questions about the working relationship between the county attorney’s office and the drug court.

I interviewed one representative each from the four mental health centers located in the area, all either working with the drug court team or having extensive knowledge of their organizations’ participation in the drug court. I also interviewed repre-

sentatives of the testing center and of other organizations that participated in the overall study even if they were not identified as being actively involved in the drug court case disposition process. In the aggregate, I interviewed eighteen out of nineteen different entities identified as actively involved in case disposition in both programs of the drug court, but all nineteen participated in the quantitative phase of the study. The remaining five entities not identified as being active in the drug court but that participated in the study were nonetheless approached during the quantitative phase.

Using the network analysis questionnaire for the quantitative portion of my study, I assessed and validated the patterns discovered during the qualitative phase. Notably, the questionnaire was designed to elicit information about the characteristics as well as sociometric or network structure of the drug court. Among other questions, each of the twenty-four organizations, through their representatives, was asked to list and identify the other twenty-three organizations listed in the questionnaire with which it had or maintained working relationships in disposing cases at the drug court. The respondents were also asked to rank the type or nature (e.g., contractual, information gathering, or legally mandated) and quality<sup>12</sup> of the working relationships. Because network analysis, using responses gathered from the questionnaires, generates various measures of centrality, the respondents were not asked to designate the most central organization or individual directly.

After gathering the questionnaires from all twenty-four entities (100 percent response rate) identified as participating in case disposition at either the criminal or drug courts, I used Microsoft Excel to create matrices, as required by network analysis, for the responses. Using the rows and columns features of Excel, the matrices enabled me to determine truly existing working relationships or linkages among the twenty-four organizations. For example, a network actor X might indicate the existence of a linkage with a network actor Y, while actor Y might deny the existence of a linkage with X. In constructing the network matrix for linkages of these two entities, I coded the X-to-Y linkage as 1, while the Y-to-X linkage was coded as 0. There were no self-nominations by respondents, and I assigned a 0 to all the diagonals where the self-nominations would have been.

After creating various matrices in Excel software, I transferred the matrices I needed for answering the study questions to *Ucinet 6 for Windows* ("Ucinet") (Borgatti, Everett, and Freeman, 2002) for data manipulation and analysis. Ucinet is a standard network analysis software package used primarily to perform network transformation, analysis, and statistics of network matrix data. Ucinet provides various network measures of centrality, density, cliques, subgroups, and many other measures, some of which I used in answering my study questions. Ucinet also enables statistical analyses, such as T-tests and core-periphery tests. Furthermore, Ucinet offers an affiliated mapping program, NetDraw, which can be used to generate network maps referred to as sociograms (Hanneman and Riddle, 2005; Wasserman and Faust, 1994).

<sup>12</sup> Using a four-point Likert-type scale with scores ranging from 1 to 4.

The data transferred to Ucinet were raw data collected from each respondent and were not “confirmed” with selected entities’ choices. Using the previous example, Organization X in the questionnaire might have indicated the existence of a linkage with Organization Y, while Organization Y might not have indicated the existence of a linkage with Organization X. In Excel, the X-to-Y linkage was coded as 1, while the Y-to-X linkage was coded as 0. Since I did not match X’s choice with Y’s choice or vice versa, these data are referred to as “unconfirmed” or “directional” data (see Marsden, 1990). Clearly, it is possible that in this example that Organization X forgot to report the linkage to Y. But the literature (e.g., Huang, 2005; Marsden, 1990) has already established that using unconfirmed data might be a weaker way of measuring the existence of relationships between two organizations because confirmed data are more likely to represent consistent and routine contacts between two organizations.

Furthermore, I was only interested in strong, consistent, and routine relationships, and not in the direction of the relationships, between and among entities operating in either court. Thus, nondirectional relationships would prove to be more useful than directional relationships (Wasserman and Faust, 1994). Since the linkage matrices I transferred from Excel represented unconfirmed relationships, I transformed the unconfirmed raw data to confirmed data in Ucinet.

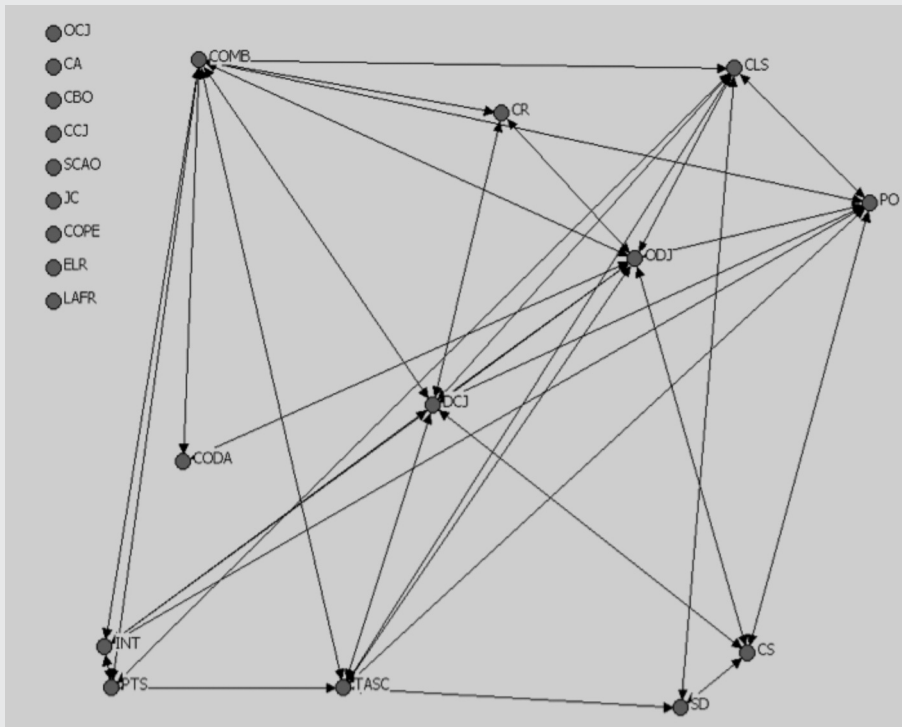
Ucinet provides many techniques for transforming raw network data. There are many approaches for transforming network data, two of which are the maximization and minimization techniques. Each approach has its strengths and weaknesses. Using the maximization criterion requires that if Organization X reports the existence of a linkage with Organization Y but Organization Y does not report any linkage to Organization X, both X-to-Y relationship cell and the Y-to-X relationship cell are coded as 1. Such data transformation will result in a denser network because the network will show more connections existing among actors in the network than the original matrix with the unconfirmed data. Presumably, some of these connections among actors might not truly exist and, thus, falsely make the network denser than it actually is.

With the minimalist approach, if Organization X reports the existence of a linkage with Organization Y but Organization Y does not report any linkage to Organization X, both X-to-Y relationship cell and the Y-to-X relationship cell are coded as 0. Clearly, there is a weakness with the minimalist criterion in that if an organization inadvertently omitted indicating the existence of a relationship with another organization, then the relationship would not be reflected with this approach. However, network researchers consider it a “grave error to report findings that are not true because of a liberal inclusion of links in a network than to report conservative findings from a restricted interpretation of valid links” (Huang, 2005:162).

Apart from being interested in strong, frequent, and consistent links among organizations operating in the drug courts, I deliberately designed the questionnaire to capture a time span of three to six months, which was quite lengthy. Thus, respondents having linkages and relationships with entities even on an infrequent basis<sup>13</sup> still

<sup>13</sup> For example, once in three months.

Figure 1\*  
Network Plot—Confirmed Drug Court Links



CA	County Attorney's Office	SCAO	Court Administrator's Office
CS	Court Calendar Services	INT	Court Interpreters
CR	Court Reporters	CBO	Crim. Bench Admin. Office
CCJ	Criminal Court Judges	DCJ	Drug Court Judges
TASC	Drug-Testing Center	CLS	Drug Treatment Center
JC	Jury Commissioner	CODA	Mental Health Center 1
COPE	Mental Health Center 2	ELR	Mental Health Center 3
LAFR	Mental Health Center 4	OCJ	Office of a Criminal Ct Judge
ODJ	Office of a Drug Ct. Judge	PTS	Pretrial Services
PO	Probation Office	COMB	Public Defender's Office
SD	Sheriff's Department		

\* The data for the defense attorneys (COMB) in the figure are primarily by and about the public defender's office since the other defense counsel organizations did not participate in the drug court case disposition process.

had the opportunity to indicate the existence of a linkage or relationship. Therefore, I used the minimalist approach to transform the raw unconfirmed data into confirmed data for my analysis. Regardless of using the maximization or minimization criterion, transformation of the data makes the matrix symmetrical. Hence, after transforming the unconfirmed data, the data are referred to as symmetrical or confirmed data.



After transforming the raw data into symmetrical data, I retained the isolates—those entities without any connection to other entities within the drug court network. An isolate in a network matrix shows that the organization was identified during the research as possibly being a part of a network. During transformation, the isolate was found not to have any reciprocal linkages or relationships with any other actor in the network. In Figure 1, I show a sociogram generated by Ucinet's NetDraw program for the drug court case disposition process after transforming the raw data.

Because I did not want to create artificially dense networks, I retained the isolates after transforming the data. Moreover, some of the study questions required that I capture the existence of all entities participating in each network even if the entities are isolated from other network actors. After the data had been transformed as described above, I used Ucinet to generate specific measures such as “degree centrality.”

## RESULTS AND DISCUSSION

Since the network analysis questionnaire did not directly ask whether the drug court judges were the most central actors in the case disposition process within the drug court, I relied on the “degree centrality” measure generated by Ucinet. Degree centrality, which identifies the number of direct links each organization has with other network actors, has been frequently used to measure centrality of actors participating in a network (Freeman, 1979; Song, 2003).

The literature (e.g., Song, 2003) sees degree centrality as a good measure of high visibility (Freeman, 1979) and direct access to alternative sources of information. Direct access is very much valued in the drug court case disposition process because direct access enables an actor to achieve its intended goals, as some of my interviewees repeatedly told me during the study. And as I learned during the study, drug court actors consider the achievement of intended goals highly important.

Ucinet can generate two other common measures of centrality, which I considered using for determining the central actors in the case disposition process (Freeman, 1979). “Betweenness centrality” determines which actors serve as “gatekeepers” in a network, while “closeness centrality” identifies the extent a network actor can easily reach other network actors (Provan, Fish, and Sydow, 2007). I settled on degree centrality partly because identifying the gatekeeper was not the focus of this particular research question. Separately, because I retained the network isolates for answering the study questions, closeness centrality measures generated by Ucinet were less meaningful since the sociogram contains isolates (Provan, Fish, and Sydow, 2007). Notwithstanding, the betweenness centrality and the closeness centrality measures highly correlate with the degree centrality measures.

Most significantly, of the three centrality measures, degree centrality enables the determination of which actors can gain quick access to needed information or required resources. For case disposition in drug courts, I learned from interviewing the study participants that having quick access to information and resources is highly valued and seen as the key to the drug court's effectiveness and efficiency. Hence, a network

**Table 2**  
**Central Players in Drug Courts' Case Disposition Using Degree Centrality**

<b>Organization</b>	<b>Degree Centrality</b>
Public Defender's Office	9
Office of a Drug Court Judge	9
Drug Court Judges	8
Probation Office	7
Drug Treatment Center	7
Drug-Testing Center	7
Court Interpreters	5
Court Calendar Services	4
Pretrial Services	4
Sheriff's Department	3
Court Reporters	3
Mental Health Center 1	2
Office of a Criminal Court Judge	0
County Attorney's Office	0
Criminal Court Judges	0
Criminal Bench Administrative Office	0
Jury Commissioner	0
Court's Administrative Office	0
Mental Health Center 2	0
Mental Health Center 3	0
Mental Health Center 4	0
MEAN	3.24
STANDARD DEVIATION	3.32
CUTOFF SCORE FOR MOST CENTRAL PLAYERS	6.56

actor's visibility measured by degree centrality is a reflection of both the frequency of the actor's interactions as well as the actor's network influence.

Table 2 above shows the degree centrality scores of study participants in descending order. Using the criteria established by some scholars for selecting the most central players,<sup>14</sup> the most central players in the drug court, using a degree centrality cutoff score above 6.56, were the public defender's office, office of a drug court judge, drug court judges, probation office, drug treatment center, and drug-testing center.

The results partially confirm what scholars of drug courts (e.g., Hora, Schma, and Rosenthal, 1999; Nolan 2001) have previously found about the inner working of drug courts. In addition to the prominence of defense attorneys—public defenders in my

<sup>14</sup> Scholars such as Hanneman and Riddle (2005) have established that since degree centrality measures the number of direct linkages between actors, the cutoff score for determining the most central network actors will be the total of the mean (generated by Ucinet) and one standard deviation (generated by Ucinet). Thus, any actor with a degree centrality above this cutoff degree centrality score will be regarded as one of the most central actors.

study—and judges, other team members such as probation officers and treatment providers are equally important in the disposition process. I say “partially” here because the same scholars seemingly assert that the judge is the most central figure in the operation of a drug court. Although the literature identifies county attorneys as also central in the drug court case disposition process, county attorneys did not participate in drug court staffings at the Court I studied. Thus, they did not appear as having any direct links in the drug court case disposition process.

Most significantly, these results contradict the literature’s suggestion that drug court judges are likely to have the largest number of direct links and, thus, to be the most central actors (Nolan, 2001). The quantitative data demonstrate that the drug court judges, although very central with eight direct links in the disposition process, did not have the largest number of direct links (nine) in the network. That honor belonged to the public defenders and the drug court judge’s staff. I did not expect that the judges’ staff with nine direct links would be as directly linked to other network actors because they had limited roles during staffings.<sup>15</sup> However, this result could be a reflection of the judges’ staff serving as proxies for the judges in carrying out the responsibilities of the drug court.

Before analyzing the quantitative data, I initially concluded from my observations and qualitative interviews that the core work group or central members in the drug court were the judges, public defenders, probation officers, and the drug treatment provider. Clearly, this qualitative finding confirms what the network analysis metric shows because all these individuals representing their entities were identified as being very central to the drug court case disposition process.

However, as for the specific issue of the most central player in the drug court, the drug court coordinator was the overwhelming choice of many respondents when I interviewed the drug court team members individually. During my interviews, I specifically asked respondents which individual was most responsible for achieving case disposition in the drug court. Even when I worded the question differently (such as who had the most direct connections to all other actors working in the court or which individual’s absence would matter the most) the response was the same—the drug court coordinator. The coordinator was unanimously identified as the key to case disposition in the drug court, as well as the most valuable person in the drug court operations. Every actor on the drug court team (including the judges) claimed that without the coordinator, the drug court could not function. For example, a team member claimed:

[The Coordinator] is the key player. The judge leans on him; the probation officers lean on him. . . . He is very smart. . . . He is very concerned about the program and his past experience with the court is invaluable. . . . Without him, there is no drug court.

Another team member thought that “the coordinator was the most important figure but the rest of the probation officers were less important. He solely could run the

<sup>15</sup> I observed during the study that in the post-conviction drug court, a staff member of the judge’s office was always present, but the person never participated in the disposition process. I did not see any member of the judge’s staff during the staffing sessions of the deferred judgment court.

court.” During my study, I observed the coordinator interacting frequently with all the other players both at staffings and during court proceedings. In addition, the remaining team members confirmed that they had regular informal meetings with the drug coordinator almost weekly.

In one respect, the results of the quantitative data cannot be perfectly compared with my qualitative findings. During my interviews, the drug court actors identified individuals rather than organizations as presented in the questionnaire. Thus, I suspect that the slight difference between the quantitative result showing several people as most central and the verbal responses offered by the interviewees showing one individual as the most central is because the questionnaire asked questions about entities and not about specific individuals. In addition, some of the interviewees when completing the questionnaire might have regarded the drug court coordinator as part of the drug court judge’s office staff or the probation office, both entities that still registered as most central in the disposition process.

## POLICY IMPLICATIONS

Notably, my combined findings regarding the most central individual/entity in the drug court case disposition process differ from what the literature would have us believe. The judge does not appear to be the most central actor in the drug court case disposition process. And if the judge is the most central actor, the judge is not alone; other drug court team members can equally be regarded as most central in the disposition process.

This is an important finding. The literature seemingly presents the drug court judge as the most important player in all aspects of drug court operations. With respect to the dynamics of the drug courtroom, there is no denial that the drug court judge is the most important actor during court proceedings or at status hearings. From an offender’s viewpoint, the drug court judge will also probably qualify as the most central player in the drug court model. Thus, this research finding does not negate or diminish the significance of the judge in the drug courtroom, especially during status hearings, as Marlowe and his colleagues maintain in their 2004 article, “The Judge Is a Key Component of Drug Court.” However, since “judicial status hearings are among the most costly and time-consuming elements of the drug court” (Marlowe, Festinger, and Lee, 2004:5), policy makers must decide how to properly distribute limited or meager resources among all actors working for or in the drug courtroom.

Policy makers do not have to eliminate judicial status hearings, but, for example, they might reduce the number of hearings held by a judge who presides over low-risk court clients. As Marlowe and his coauthors (2004) found, it is more cost-effective to have low-risk clients spend more time with their treatment providers rather than at status hearings. Hence, for low-risk offenders in some jurisdictions, policy makers and practitioners might decide to allocate more financial or other resources to treatment facilities while reducing the number of judicial hearings. Most significantly, practition-

ers who budget and assign resources to various aspects of drug court operations, as well as to the larger umbrella trial courts, might need to rethink their allocation process. Does the probation office need additional officers? Should the budget for the treatment center be increased? Is another judge needed to handle the caseload? Should other drug court team members, besides the judge, be required to attend additional or frequent professional training or continuing classes? These are some of the questions, and many others, that need to be asked and answered by policy makers and practitioners in light of this study's results.

In addition, since the most important decisions regarding offenders' sanctions and rewards are made during staffing, it is imperative that policy makers capture the true picture of actors' roles in the disposition process. If, for example, in a particular drug court the most influential actor during the disposition process happens to be a prosecutor who generally favors tougher sanctions, sanctions meted out to relapsed clients might be too punitive and thus result in defeating the theoretical aims of therapeutic jurisprudence. Likewise, if it turns out that the most influential actor in another drug court case disposition process is a defense attorney, clients might not be sufficiently sanctioned to meet the punishment level required for achieving the true aspirations of therapeutic jurisprudence.

As for scholars, especially advocates of the drug court model or its underlying therapeutic jurisprudence theory, this study's finding might help them refine arguments for building additional institutional support for drug courts or for justifying the expansion of this theory into other areas of U.S. criminal justice system. Furthermore, with this finding, scholars might start to concentrate more on studying other actors participating in the drug court case disposition process. The literature on the drug court judge as "an indispensable element to successful drug court outcomes" (Marlowe, Festinger, and Lee, 2004:3) is prominent, but less so is the scholarship on other actors who are as or more significant than the judge to these outcomes.

## CONCLUSION

The literature on drug courts (Hora, Schma, and Rosenthal, 1999; Terry, 1999; Nolan, 2001) either contends or implies that the drug court judge is the most central individual player in the drug court. While the drug court model clearly places the drug court judge at the center of courtroom proceedings, the judge might not be the most central party in the actual disposition of cases. The results of my research indicate just that. I found that the drug court coordinator at this court was regarded by other drug court team members as the most central individual player in actual case disposition. All the participating actors considered the coordinator as the most important person, not only in the case disposition process of the court, but also in all other aspects of the court's operations. Even when I combined the results of the quantitative data with the qualitative results, other actors vis-à-vis the judge equally registered as being the most central in the disposition process.

At this drug court, in addition to other responsibilities, this coordinator worked closely with the judge in the management of the drug court, handled the court budget, and supervised the probation officers participating in staffings. Based on these findings, I conclude that the most central player in the drug court will likely be determined or influenced by management tasks and other responsibilities assigned actors participating in the case disposition process and not necessarily by the formal role assigned actors in the process.

Of course, I admit that the results of a similar study could differ in another jurisdiction where there is no coordinator or in smaller jurisdictions, where drug courts have less administrative staff or formalized organization structure. I further admit that another possible limitation of my study is that it focused on a single drug court. Nonetheless, using network analysis as a methodological approach, this study can easily be replicated in other drug courts. This is clearly another benefit of this study, especially since it is difficult to replicate drug court studies (Belenko, 2001). In addition, a future research study might examine a drug court without a court coordinator and determine who the central players are. Alternatively, future research can be on a few drug courts with coordinators but different responsibility levels. With such researches, scholars might be able to test if player centrality in a drug court is indeed a reflection of the responsibility level assigned the most central player. **jsj**

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