

Treatment Courts

Treatment Courts

Solving the Recidivism Problem

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*This book is dedicated to the memory of Evelyn Asevero,
someone who truly embodied kindness and justice.
Evelyn, thank you for your friendship, laughter and
knowing smile. You are remembered and missed.*

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Preface

Everytime I start to write a project, be it a book, an article or a commentary, I always ask myself, “would I want to read this?” “Would reading this be worth my time as a researcher, teacher, or just a regular everyday person?” “Will this book enlighten me? Help me learn something new, or just be an interesting read?” Hopefully this book will do some or all of these things for you the reader. Many of us have at least some understandings of what a courtroom is and what goes on in it, but not everyone may be familiar with the concept of a courtroom as an arena that can help instead of punishing. While treatment or problem-oriented courts have been around for over 30 years, they are still considered by many a relatively recent innovation in the criminal justice system. There has been some mainstream press and attention from high profile political leaders like President Obama’s visit to the ReNew Reentry Court in Newark, NJ in 2015, but many in the general public, including students in criminal justice, criminology, justice studies, sociology, public health, political science, psychology, law, and other fields may not be familiar with treatment courts and the exciting opportunity they offer clients. These programs can help in so many areas including drug treatment, housing, education, employment as well as so many others you will read about in these pages.

My own journey to treatment courts started as a graduate student in criminal justice at Temple University in Philadelphia, PA. One summer, I was hired as a project manager for a research project examining the Philadelphia Juvenile Drug Court. Part of my duties involved attending court sessions to document what was going on during the court sessions.

I was instantly transfixed by the commitment of the judge and the treatment court workgroup in assisting the youths in the program. So many of the young people in their caseload faced a multitude of challenges from family dysfunction to drug use, trouble doing well in school to finding jobs. The compassion the judge and treatment court had for these youth, and the visible impact they had was impressive, even to my objective researcher's mind. My work on that project culminated in two articles and several presentations and gave me the experience to conduct another observational study of the ReNew Reentry Court in Newark, NJ, another impressive program. As will be discussed in the coming chapters, both programs helped on so many levels and ways. My experience in these programs also left me wanting to do more for treatment courts. I decided to write this book to help educate and inform readers about these courts.

The purpose of this book is to act as a relatively short introduction to the various types of treatment courts, the philosophy behind them, and to discuss their benefits and limitations. This book would be a perfect supplement for college courses looking at treatment programs, courts, and the criminal justice system in general. Practitioners like judges, prosecutors and defense attorneys, police, social workers, and others who work with clients of the criminal justice system, may also gain valuable insights and knowledge about treatment courts. Finally, the public, who tend to get their information about the criminal justice system from fictional media representations and short news stories in the media, can also benefit from a deeper understanding of what treatment courts are and how they can help solve some of the challenges facing our society when it comes to rehabilitation and recidivism of criminal offenders. It should be noted that as a fairly short, supplementary text, this book is not conceptualized as the final word on any of the treatment court models. As research is ongoing in these areas, there will always be new sources to review and studies to provide insights into these programs.

I hope you enjoy this book and gain an understanding of treatment courts and the potential benefits they offer the criminal justice system, clients of these programs, and our general society.

Thanks for reading!

Christopher Salvatore
Montclair, NJ

INTRODUCTION

Treatment Courts and Making a Difference: The Personal Touch Matters

Turn on a computer, smartphone, or television, or just pick up an old-fashioned newspaper, and you will see crime remains a major challenge in the United States. The criminal justice system faces an endless list of challenges, ranging from limited resources to ever-changing public opinion, and the need to provide effective treatment and prevention services. Three of the biggest challenges in the criminal justice system are: (1) finding alternatives to incarceration that can address public safety, (2) providing cost savings to the community, and (3) finding what can be done to help those leaving jails and prisons succeed once released back into the community. Without successful strategies in these areas, the “revolving door” of offending, incarceration, then release, followed by the same cycle, will repeat itself, generation to generation, in communities worldwide. The criminal justice system needs solutions, not only to lighten the load of practitioners such as police, prosecutors, judges, and probation and parole officers, but also to alleviate criticisms of its ineffectiveness in dealing with repeat offenders and to provide opportunities for long-term success for clients of the criminal justice system, which ultimately saves time and money for both society and the criminal justice system and may also spare potential victims. Practitioners like police and judges, policymakers, and the public need to know that solutions to these challenges exist in the form of treatment courts.

Over the last 30 years, treatment-oriented courts like drug and reentry courts have become a popular way to divert offenders from the criminal justice system. They support those seeking treatment for various issues like substance use disorders (drug courts), provide treatment and

support for mental health issues (mental health courts), and help upon reentry for those released from prison (reentry courts) (Salvatore et al., 2020). While these programs may all have a different area of focus and utilize various types of treatment, they all have in common that they are grounded in the therapeutic jurisprudence model. This model engages actors and agencies across multiple areas of the client's life. These areas may include education, drug treatment, and housing and employment support to provide judicial intervention and supervision, which connects the client with courtroom workgroup members, including the judge, defense attorney, prosecutor, and others such as a program director and probation officer. These connections are then used to help promote the client's success (Redlich & Han, 2014).

Crime is still very much an issue in the United States. In the year ending 2019, there were 10,085,207 arrests nationwide (FBI, 2019). A large portion of those arrests, 1,553,862, were for drug abuse violations (FBI, 2019), reflecting the ongoing challenges drugs pose for the United States and the need for diversion programs like drug courts. As stated, drug courts provide a sound alternative to incarceration, with ample evidence supporting their use in lowering recidivism. For example, in a 2003 study by the National Institute of Justice, 17,000 drug court graduates from programs throughout the United States had only a 16.4 percent rate of being arrested and charged with a felony within one year of graduating from the program (Roman et al., 2003). Like most treatment-oriented courts, drug courts are grounded in therapeutic jurisprudence, which provides the conceptual key to participants' success.

Reentry is a core challenge for those leaving jails and prisons. Studies have found a decreasing rate of offenders being released in recent years (Kaeble & Cowhig, 2018). However, we still had 443,740 inmates released from state and federal prisons in 2021 (Carson, 2022), demonstrating a substantial population of individuals experiencing not only incarceration but the challenges of reentry. These inmates will face challenges as they reenter society, including housing, education, finances, employment, family reunification, substance abuse disorders, mental health issues, and lingering legal problems (Phillips & Spencer, 2013). With recidivism rates high across the nation, reentry courts provide a much-needed tool to help those returning to the community prevent reoffending (Taylor, 2014).

Therapeutic jurisprudence utilizes judicial actors as agents of therapeutic change in clients' lives (Redlich & Han, 2014). The therapeutic jurisprudence model incorporates a variety of practices, such as involving members of the courtroom workgroup to not only provide supervision but also to devise a treatment plan and provide support across multiple life domains like education, housing, employment, and mental health services, to promote the success of the program participant (Redlich & Han, 2014). Scholars such as Fay-Ramirez (2015) have argued for the benefits of employing therapeutic jurisprudence as a theoretical foundation for the success of treatment court program participants. In practice, therapeutic jurisprudence builds social bonds and provides mentoring and support from the courtroom workgroup to guide the client to the necessary services and support for lasting success. A variety of national evaluation-based studies of treatment court programs grounded in therapeutic jurisprudence, such as Salvatore and colleagues (2011, 2020), as well as international studies, such as McIvor (2009) and Toki (2017), have found treatment-oriented courts may provide the services a client needs, such as drug treatment, educational support, employment services, and mental health counseling. These studies have also shown that these programs create bonds between the client and the treatment team.

Like all treatment and prevention strategies, there are successes and failures, with some evidence suggesting the benefits of treatment courts like drug courts. For example, a multisite evaluation study conducted by the US National Institute of Justice in 2011 examined 23 drug courts and six comparison sites. The results found several promising findings: those who participated in drug courts were less likely to relapse relative to those in the comparison group, had fewer positive drug tests, and had reductions in criminal behaviors (such as being less likely to commit crime versus to those in comparison groups) (Rossman et al. 2011). In another meta-analytic study, Mitchell and colleagues (2012) found that drug court programs have lower recidivism rates. Turning attention to cost-effectiveness, a 2016 report from the Washington State Institute for Public Policy found that drug courts for adult and juvenile populations were more cost-effective than traditional processing. In sum, while evidence regarding the effectiveness of drug courts continues to be an ongoing area of inquiry, there is some evidence to support their utility. An essential aspect of drug and treatment courts is under-

standing the key to their effectiveness: the social bonds built through the treatment process.

A theme explored throughout this book is the role of specific factors in bringing about successful changes in clients of problem-oriented courts. One such factor that has been identified throughout the criminological and treatment literature is social bonds, which has been found to be crucial in the success or failure of treatment and prevention programs (Salvatore & Taniguchi, 2012). It should be noted that social bonds will be the focus of this example and this introduction but other theoretical orientations will be discussed throughout this book. For example, Gilmore and colleagues (2005) utilized social control theory to study the bonds that influenced desistance in a juvenile drug court program in Maricopa County, Arizona. The study found that anti-social bonds to peers and siblings influenced adverse outcomes, such as a higher number of delinquent acts. Conversely, Salvatore et al. (2011) found greater participation of parents and other family members led to positive outcomes (e.g., lower rates of drug use) in juvenile drug court participants. More recently, Salvatore et al. (2020) found that the influence of treatment team members in a reentry court, in particular the judge, was a critical factor in successful outcomes with the bond between the judge and clients of the program being identified by staff, participants, and graduates of the program as being an essential component of programmatic success. These studies support the notion that a treatment-oriented court can facilitate bonds between the participant and their family and peers and the treatment court workgroup, particularly the judge. As the various types of problem-oriented courts are examined as we move through the chapters, we will find other members of the treatment court also build important bonds with clients in these programs, including probation officers and graduates from the program who act as peer-mentors.

Grounded in Hirschi's (1969) social bond theory, the notion of social bonds is that they connect individuals to mainstream society through attachment and bonds built through education, employment, family, prosocial peers, and in this case, the attachment made by participation in a treatment court program. Hirschi's (1969) core idea is to adopt a stake in conformity or mainstream society to prevent delinquency and crime; individuals are less likely to engage in crime if they have stronger

attachments and bonds. It should be noted that this is a fairly basic conceptualization of social bond theory. In a forthcoming chapter, more complex iterations of social bond theory will be discussed.

Salvatore (2013, 2018) argued that social bonds are essential in preventing crime in youth populations. The strength of social bonds may help connect individuals to mainstream society, as fear of losing these bonds prevents engaging in behaviors that endanger them. In other words, if someone has strong bonds to prosocial others, such as parents, peers, coworkers, or their spouse, they will not engage in behaviors that will disappoint those individuals or risk the bonds they have built with them. Regarding treatment courts, participants who have made bonds with judges and other members of the treatment court workgroup may be less apt to reoffend, use drugs, or violate the program's conditions for fear of disappointing these individuals.

Social Bonds Matter

As mentioned above, social bonds and mentoring can be crucial to client success in treatment courts. Numerous studies provide examples of such bonds being meaningful to treatment court participants and leading to successful outcomes. For instance, in a recent study by Salvatore et al. (2020), a participant described the role of the judges being a critical factor in their success. One participant discussed the judge's level of interest in participants' lives and engagement with participants in the reentry court program beyond the program's confines as a life-changing experience. One subject discussed how the judge took them to Lens-Crafters and utilized their social network to help the program participants. This level of dedication and interest builds a connection between the program participant and the judge, not only accomplishing a practical goal but also fostering a social bond and relationship between the justice system and client in a manner that many may not have experienced from a prosocial role model such as a judge in the past.

In another example from Salvatore et al. (2020), a participant in the reentry court program described how the judge married him and his spouse in the same courtroom where the treatment court sessions occurred. Salvatore et al. (2020) discussed how this type of experience

demonstrates the judge's investment in clients and gives participants in the program a sense of being valued on a human level that they had never experienced in their prior experiences in the criminal justice system. This sense of value is best reflected in a quotation from the article where a treatment team member reflected on the building of bonds between the judge and participants:

[There were] times when the judge gave someone a break or listened when team members were talking or absorbed a compliment they were given. Things the team did [to] build up trust and confidence. Judge [one] takes risks with the guys and reveals [themselves]. [Judge one] tells [the participants] ... things, gives compliments, gives personal advice, asks disarming and personal questions. (pp. 210–211)

In another quotation, a participant discussed the relationship between participants and the judge as a critical bond:

[The judges] give them back their trust in humanity. The system is very dehumanizing and stripping. Interaction with the judges gives them back something they have lost. Judges have a power dynamic, [they] sit on the bench, make decisions, talk during sessions, [and] decide about sanctions. [The] guys create close relationships with [the] judges. [The participants] have ambivalent opinions about [program] office, [they are] cautious and ambivalent with the program, but not with the judges, [those relationships] are very different and [the] bonds that get formed. (p. 210)

Both of these quotations reflect the impact that judicial interest and support had on participants in reentry court. These findings suggest the potential influence the connections build between problem-oriented courts' clients, and in the examples discussed the judges are reflective of the philosophical grounding of therapeutic jurisprudence, as well as the role of social bonds in problem-oriented courts.

Taylor's (2010) work further demonstrates judges' interest in participants, humanizing them beyond their current or ex-offender role. In an example from Taylor's (2010) examination of the STAR reentry court in Philadelphia, Pennsylvania, Taylor discussed the importance

of the family bond in the court sessions, noting, in one session, that the judge asked a participant, “Now am I gonna get to meet your girlfriend sometime?” (pp. 15–16). Taylor further stated the judge explained he “just want[s] to thank her for all she has done to help the participant stay on the right track” (p. 16). During the STAR court evaluation, the reentry court judges frequently asked about participants’ family lives, including children’s births, child custody issues, sick parents, and new romantic partnerships.

In a final example, a participant discussed how the judge and treatment group created a “family vibe” in the program that carried over into recreational activities with the judge, treatment group, and current and former participants, including a fishing trip:

So, for us, it’s more or so, like a definite family vibe that they always give us because it’s like, when I graduated with my associates and [several of the team members and one of the judges] were on vacation and came [to the graduation ceremony]—these guys all got together and took me out for lunch, and then Judge One was saying, . . . was talking to my aunt and of all the things they were talking about, they’re talking about fish, Judge One telling us fish stories, she’s telling Judge One fish stories, and Judge One is like, “Hey, we should go fishing sometimes.” I’m not looking to go. Like, I don’t fish [laughs]. (p. 211)

Salvatore et al. (2020) also discussed other activities, such as holiday parties, graduation ceremonies, and participating in races with one of the judges. The examples mentioned above reflect the importance of social bonds to clients in treatment courts and show how by going outside the box of the traditional adversarial court, treatment courts can utilize social bonds to create not only a positive programmatic experience for clients of the program but also, help facilitate prosocial bonds, which, as mentioned in Salvatore (2018), can help prevent reoffending and relapse. As we move through the following chapters we will explore other theories and factors that influence success in specialty or treatment court programs.

Conclusion

Treatment courts create a bond and connection between the participant and the treatment workgroup. Most have a vision of the court process as a mostly adversarial one, with a stern judge admonishing a defendant, an aggressive prosecutor, and a diligent defense attorney, all working towards the goal of justice. Many may be unaware of the treatment court approach, grounded in jurisprudence and teamwork to help the offender meet goals and objectives, with the ultimate goal of being a prosocial member of society, not involved in the criminal justice system.

Disrupting common notions of the court and criminal justice process, treatment courts utilize therapeutic jurisprudence to foster bonds and connections that help participants in the programs reach goals like attaining education, employment, and housing. Building bonds between the judge and other treatment courtroom group members also creates a connection that allows the participant to feel the system treats them as human beings, perhaps for the first time. As identified in studies such as Salvatore et al. (2020), this type of treatment, especially by judges, can connect to positive programmatic outcomes.

Through treatment courts, we see that therapeutic jurisprudence is a theoretical orientation that may help resolve underlying challenges and issues for criminal justice system clients. By working with offenders as clients rather than offenders or prisoners, these programs integrate a personal, human touch, allowing participants to not only be viewed as individuals but also for the participants to see members of the courtroom workgroup as mentors and build bonds that can help foster success rather than resentment or frustration.

Programs like Renew in Newark, New Jersey, and STAR Courts in Philadelphia, Pennsylvania, provide a model through which other treatment courts can utilize social bonds and prosocial mentoring to steer participants in these programs to success in employment, education, housing, and parenting, all critical aspects of long-term prosocial behavior that prevent reoffending. While research in treatment courts is ongoing, social bonds' utility in preventing and treating offending is well established. It will likely continue to be a vital part of each for those involved in the criminal justice system for years to come.

In the chapters that follow, we will examine therapeutic jurisprudence; the evolution and history of treatment courts; the various types

of treatment courts used throughout the United States, including discussing their benefits and limitations; theoretical implications of treatment courts; and finally, policy recommendations. Throughout these chapters we will see the common elements in each type of treatment court, examples from studies which help illustrate the potential benefits of these programs, and how they may help provide a solution to challenges around recidivism in the United States.

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