

Performance Audit No. 14-06

A Performance Audit of Utah's Adult Felony Drug Courts



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UTAH STATE AUDITOR

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The Office of the Utah State Auditor conducted *A Performance Audit of Utah's Adult Felony Drug Courts* and presents its findings herewith. This audit was conducted in an effort to reduce recidivism and prison costs by focusing resources on the most effective forms of rehabilitation.

This audit report outlines concerns that are principally the result of insufficient data collection and analysis, and unclear delineation of oversight responsibilities. Implementation of audit recommendations found in this report will increase the oversight of drug court programs to better ensure that there are consistent, high-quality drug court programs throughout the state. Better data collection will enable the Legislature, the Administrative Office of the Courts, the Division of Substance Abuse and Mental Health, and other stakeholders to make data-driven decisions regarding Utah's drug court programs.

Finding 1 cites concerns regarding the lack of Utah-specific data to support the evidence-based program. **Finding 2** demonstrates how drug courts may expand and achieve greater outcomes through partnering with the Department of Workforce Services' jobs and eligibility programs. **Finding 3** illustrates the importance of sufficient oversight to ensure drug courts provide consistent treatment that lead to successful outcomes. **Finding 4** provides additional information from our analysis of available data that may be valuable to decision makers regarding the administration and operations of drug courts throughout the state.

We recognize and appreciate the cooperation of the Administrative Office of the Courts, the Division of Substance Abuse and Mental Health, and local substance abuse authorities throughout the course of this audit.

Sincerely,

David S. Pulsipher, CIA, CFE
Performance Audit Director

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Executive Summary

Finding 1: Insufficient Data Limits Full-Scale Review of Utah Drug Court Effectiveness. Neither the Administrative Office of the Courts (AOC) nor the Division of Substance Abuse and Mental Health (DSAMH) collect accurate and reliable state-specific data to determine the effectiveness of felony drug courts (FDC) in the state. Additionally, the two state entities lack clear lines of responsibility on who should be collecting and analyzing outcome data. While national data supports the positive effect of drug courts, state-specific data and analysis will further improve Utah’s FDCs and help to ensure that proper treatment is given to participants. The state’s Commission on Criminal and Juvenile Justice (CCJJ) could provide expertise and analysis that could further strengthen drug court procedures and processes.

Finding 2: Better Coordination with DWS Could Improve Individual Outcomes and Reduce State Costs. Improved coordination with the Department of Workforce Services (DWS)—specifically with eligibility and employment specialists—could likely improve outcomes for FDC clients and offset some state treatment costs. FDC clients who are employed full time at discharge from the drug court program are up to 30 percent more likely to graduate from FDCs, and the use of private insurance and Medicaid for qualified FDC participants would reduce annual drug court costs. Case managers do not proactively coordinate with DWS to help FDC clients learn job skills and find job placement, or to enroll eligible clients in Medicaid.

Finding 3: Better Oversight of Drug Courts May Reduce Risk and Improve Outcomes. Outcomes for FDCs could improve by centralizing oversight with the AOC. Though the AOC requires FDCs to comply with national best practice standards, it does not thoroughly review compliance nor does it require FDCs to include such standards in their policies and procedures. Increased oversight would likely improve the FDC program by implementing consistently-applied standards that are clearly communicated to stakeholders.

Administering a Risk and Needs Triage (RANT) assessment to all non-violent offenders at the time of arrest could improve individual treatment outcomes, reduce recidivism, and decrease incarceration costs. The RANT assessment is currently only administered to substance abusers recommended for the FDC program prior to determining the actual risk and need level of the offender.

Finding 4: Focus on Variables Influencing Program Success Could Improve Drug Court Outcomes. DSAMH could improve FDC treatment success by focusing on key variables from Utah’s drug court population that increase the likelihood of successful program completion. While DSAMH and local substance abuse authorities cannot control all variables, analysis performed on reliable data could improve individual treatment plans and outcomes. Variables indicative of successful FDC completion based on a statistical analysis of DSAMH’s Treatment Episode Data Set (TEDS) include: stable housing, full-time employment, an effective provider, and increased age and education. The impact that full-time employment has on FDC participants is addressed in Finding 2.

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Background

Since the first drug court in the United States was established in Florida in 1989, the use of drug courts has expanded nationally to over 2,700 courts in all 50 states and some U.S. territories. The goal of a drug court is to rehabilitate eligible substance abuse offenders through intensive court-supervised treatment as an alternative to jail or prison. Utah has funded three types of drug courts:

1. Adult Felony Drug Court
2. Family Drug Court
3. Juvenile Dependency Court

Adult Felony Drug Court, which was the focus of this performance audit, is defined by the National Association of Drug Court Professionals (NADCP) as

A specially designed court calendar or docket, the purposes of which are to achieve a reduction in recidivism and substance abuse among nonviolent substance abusing offenders and to increase the offender's likelihood of successful habilitation through early, continuous, and intense judicially supervised treatment, mandatory periodic drug testing, community supervision, and use of appropriate sanctions and other rehabilitation services (Bureau of Justice Assistance, 2005).

Statute describes minimum eligibility for drug court as the following:

- (a) a plea to, conviction of, or adjudication for a nonviolent drug offense or drug-related offense;*
- (b) an agreement to frequent alcohol and other drug testing;*
- (c) participation in one or more substance abuse treatment programs; and*
- (d) an agreement to submit to sanctions for noncompliance with drug court program requirements.¹*

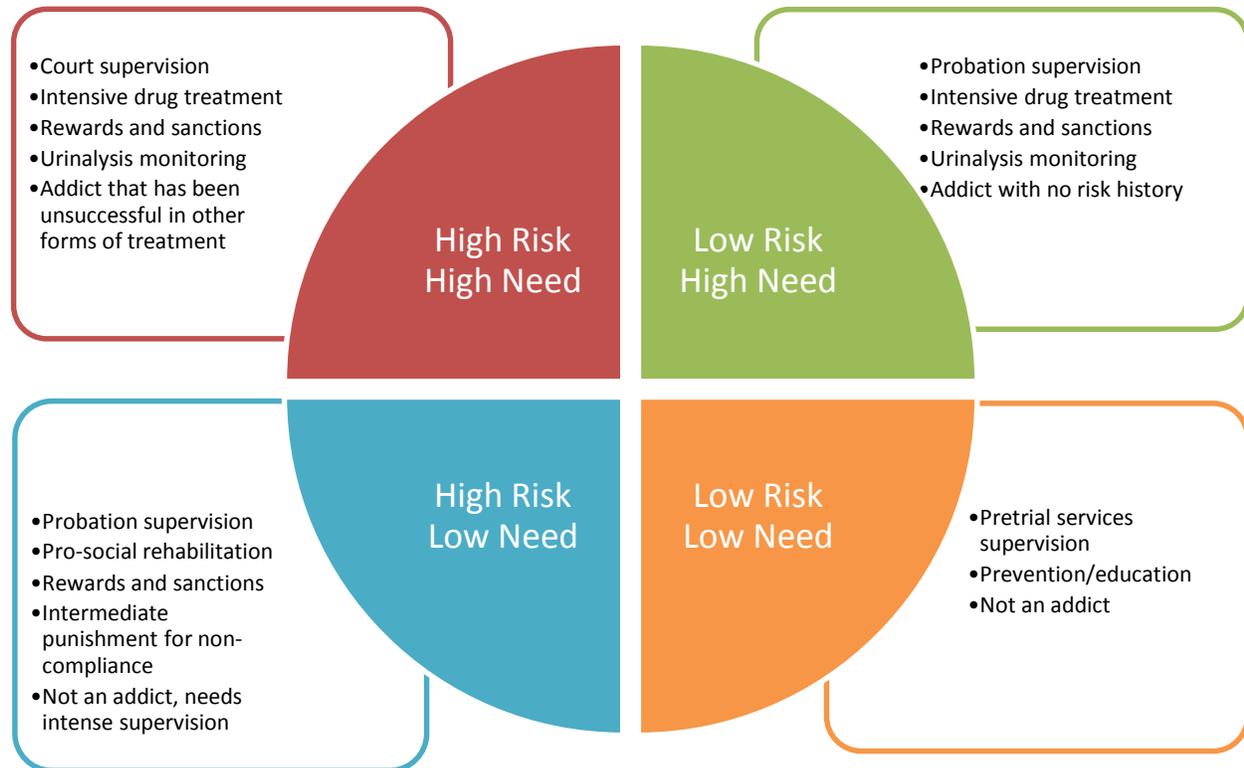
Utah's Administrative Office of the Courts (AOC)—in collaboration with the Department of Human Service's Division of Substance Abuse and Mental Health (DSAMH)—oversees drug courts in Utah. The AOC provides oversight of the administration of drug courts through its certification process which occurs every two years for each court. The AOC uses a checklist of 84 items derived from NADCP's Best Practice Standards. Of these 84 items, 55 are required by the AOC for certification, 25 are presumed to be met unless the inability to meet the standard is demonstrated, and four are recommended for drug courts seeking re-certification.

In accordance with NADCP's evidence-based standards for target population, Utah specifies that drug court participants must also be high-risk and high-need offenders. The Risk and Needs Triage

¹ Utah Code § 78A-5-201(5)

(RANT) is an assessment tool that is commonly used to determine the risk and need level of drug court participants. Figure 1 outlines the differences between the four quadrants of the RANT.

Figure 1 Risk and Needs Triage Quadrants



Source: Treatment Research Institute RANT® tool

The state currently has 25 Adult Felony Drug Courts throughout the state, ranging from nine participants to 150 participants per court at any given time. More than 1,500 total clients participated in drug court in fiscal year 2014. For many offenders, drug courts hold their plea in abeyance, dismissing charges upon successful completion of drug court requirements. In addition to admitting only participants who are “high risk high need” according to the RANT, NADCP Best Practices also require the following:

- a minimum program length of 12 months
- a graduation requirement of at least 90 days drug-free
- client placement in the program within 50 days of arrest
- drug testing performed at least twice per week

The drug court program includes a multi-disciplinary team approach to substance abuse treatment and supervision. Each drug court team is generally comprised of the following:

- Judge
- Prosecutor
- Defense attorney
- Case manager
- Treatment therapist
- Law enforcement (community supervision)

Several independent evaluations have been conducted on various individual courts during the 18 years that drug courts have operated in Utah. However, there have been no statewide outcome evaluations on compliance with currently released NADCP Best Practices or effectiveness of programs.²

² The Utah Division of Substance Abuse and Mental Health received a grant from the National Center for State Courts to develop performance and descriptive measures for adult drug courts. Implementation of these performance measures had not commenced at the time of this report, but is expected to begin sometime in 2015 for selected drug courts in Utah.

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Finding 1

Insufficient Data Limits Full-Scale Review of Utah Drug Court Effectiveness

Neither the Administrative Office of the Courts (AOC) nor the Division of Substance Abuse and Mental Health (DSAMH) collect accurate and reliable state-specific data to determine the effectiveness of felony drug courts (FDC) in the state. Additionally, the two state entities lack clear lines of responsibility on who should be collecting and analyzing outcome data. While national data supports the positive effect of drug courts, state-specific data and analysis will further improve Utah's FDCs and help to ensure that proper treatment is given to participants. The state's Commission on Criminal and Juvenile Justice (CCJJ) could provide expertise and analysis that could further strengthen drug court procedures and processes.

AOC Does Not Collect Required Drug Court Data

The collection of key data would help to maximize the effectiveness of state drug courts. The AOC does not maintain key data required by state Judicial Rules, but instead relies on national best practices. While these national best practices are useful, they may not always be relevant to Utah's FDC population.

Judicial Rules require that all "[e]xisting problem solving courts must annually submit a completed annual report on a form provided by the [AOC]."³ Drug courts are also required to annually report the following to the Judicial Council:

- the number of participants admitted in the most recent year;
- the number of participants removed in the most recent year;
- the number of participants that graduated or completed the program in the most recent year; and
- recidivism and relapse statistics for as long a period of time as is available, but at least for one year.

While DSAMH has collected some of this data, relapse and recidivism data have never been collected or reported on a statewide level. Five years ago, the AOC stopped collecting any reports, and assumed that all data collection responsibilities would fall under the purview of DSAMH; however, recidivism and relapse data are not tracked by either organization. We believe that such information is vital for a thorough evaluation of drug court effectiveness. Such data should be collected, analyzed, and reported to ensure drug courts are operating as effectively as possible.

³ Utah Code of Judicial Administration 4-409(3). "A problem solving court is a targeted calendar of similar type cases that uses a collaborative approach involving the court, treatment providers, case management, frequent testing or monitoring, and ongoing judicial supervision. Examples include drug courts, mental health courts, and domestic violence courts."

Additionally, the AOC does not collect any data to verify that the courts follow best practices regarding sanctions and incentives. Insufficient data collection for sanctions is especially problematic considering that a common sanction is jail time. NADCP best practice states that the sanction of jail time should be used sparingly and last no more than 3-5 days. Without any data on the amount of time FDC clients spend in jail throughout the program, it is impossible to verify that best practice is being followed and difficult to accurately report the true cost of drug courts to taxpayers. Collection and analysis of this data would likely improve the function of drug courts.

A federal grant from the National Center for State Courts will enable the DSAMH to track key performance measures of selected drug courts in Utah beginning in 2015. Some of the data they plan to track includes the following: length of stay, sanctions and incentives, frequency of testing, sobriety, recidivism, and employment improvement.

DSAMH Data is Incomplete, Self-Reported, Unverified, and Unreliable

The only data currently collected on the state level for drug courts are annual service level reports and the federally-mandated Treatment Episode Data Set (TEDS). Both of these reports are collected by DSAMH.

Service Level Reports

Service level reports are submitted to DSAMH annually by either the local substance abuse authority (LSAA) or the county drug court coordinator and include program information specific to each judge's or county's drug court. The courts report on 23 different variables in six categories:

- Treatment services
- Treatment retention
- Outcomes
- Drug testing results
- Judicial hearings report
- Caseload report

The "outcomes" category measures graduation rates but no information is provided on recidivism or relapse rates.

Treatment Episode Data Set (TEDS)

TEDS is not administrated for specific FDCs as it is a subset of the LSAA's electronic health records. While this information is valuable, it also has the following constraints:

- The data is self-reported and non-clinical data is unverified
- No court-specific information exists
- No post-drug court data is collected

Unverified data can result in conflicting or contradictory records. For example, Figure 2 shows Client A was admitted twice for treatment in Salt Lake County in 2012. For his February admission date, he was listed as a non-Hispanic, white male with 14 years of education. At his second

admission date in April, he was listed as a Puerto Rican male of two or more races with 13 years of education. Although his family size remains constant, other variables, such as children, education, race, and ethnicity change. Such inconsistencies are inherent in a self-reported system for which no verification is conducted.

Figure 2 An Example of Inconsistencies of TEDS

ID	Race	Ethnicity	Education	Family Size	Children	Admit
Client A	White	Not Hispanic	14	1	2	2/8/2012
Client A	Two +	Puerto Rican	13	1	0	4/5/2012

Source: FY 2012-2013 TEDS

The format of TEDS data collection inhibits individual-level performance evaluations because each individual is recorded as multiple lines of data, as shown in Figure 2.

Despite the weaknesses in TEDS data, it is the only individual-level data currently collected statewide and is, therefore, the only basis on which a statewide statistical analysis can be conducted. Collection of accurate and verifiable data would increase the reliability of analysis and better inform stakeholders. Collaboration between the AOC and DSAMH should help to ensure reliable and accurate reporting. The AOC and DSAMH should formally establish clear lines of responsibility to increase individual accountability.

CCJJ Could Assist in Data Collection and Analysis

Drug court stakeholders could benefit from state-specific evidence to support drug court practices and procedures. CCJJ could provide expertise to ensure the deployment of the effective management of drug courts. CCJJ’s threefold mission is to:

- Promote broad philosophical agreement concerning the objectives of the criminal justice system in Utah
- Provide a mechanism for coordinating the functions of various branches and levels of government concerned with criminal and juvenile justice
- Coordinate statewide efforts to reduce crime and victimization in Utah⁴

CCJJ is not explicitly required to include drug court in its analysis of corrections programs throughout the state. However, given the recent recommendation by CCJJ in its Justice Reinvestment Report to divert offenders to community substance abuse treatment,⁵ it appears that CCJJ promotes broader use of programs like drug court. If CCJJ had access to quality drug court data, better outcome data analysis would be available to stakeholders, including the AOC, DSAMH, and the Legislature.

⁴ Utah Commission on Criminal and Juvenile Justice

⁵ According to the *Justice Reinvestment Report* released by CCJJ in November 2014.

Recommendations

1. We recommend that the Administrative Office of the Courts ensure that required data are collected annually from individual courts. Such data should, at minimum, include the following:
 - a. The number of participants admitted in the most recent year
 - b. The number of participants removed in the most recent year
 - c. The number of participants that graduated or completed the program in the most recent year
 - d. Recidivism and relapse statistics for as long a period of time as is available, but at least for one year
2. We recommend that the Division of Substance Abuse and Mental Health ensure that treatment and demographic data collected and used in analysis are accurate and verifiable.
3. We recommend that the Division of Substance Abuse and Mental Health release an annual report which includes the following:
 - a. required data, including recidivism and relapse statistics
 - b. administrative costs of drug court, as reported by the AOC
4. We recommend that the Administrative Office of the Courts and the Division of Substance Abuse and Mental Health establish, in writing, clear lines of responsibility regarding drug court data tracking, reporting, and administration.
5. We recommend that the Commission on Criminal and Juvenile Justice conduct regular reviews of drug court effectiveness.
6. We recommend that the Administrative Office of the Courts ensure that sanctions and incentives of individual courts are tracked and reported annually.

Finding 2 **Better Coordination with DWS Could Improve Individual Outcomes and Reduce State Costs**

Improved coordination with the Department of Workforce Services (DWS)—specifically with eligibility and employment specialists—could likely improve outcomes for FDC clients and offset some state treatment costs. FDC clients who are employed full time at discharge from the drug court program are up to 30 percent more likely to graduate from FDCs, and the use of private insurance and Medicaid for qualified FDC participants would reduce annual drug court costs. Case managers do not proactively coordinate with DWS to help FDC clients learn job skills and find job placement, or to enroll eligible clients in Medicaid.

Improved Coordination with DWS' Workforce Development Division Could Improve Drug Court Success

According to Utah's Treatment Episode Data Set (TEDS), FDC clients who are employed full time when they exit the drug court program are 20 to 30 percent more likely to successfully complete treatment and less likely to drop out or be terminated. Although overall full-time employment throughout all FDCs in Utah increased by 70 percent, the degree to which specific FDCs were successful in increasing full-time employment among their clientele varied from region to region as depicted in Figure 3.

Figure 3 Drug Court Full-time Employment

Employed Full Time Provider	Admit		Discharge	
	N	%	N	%
Bear River	50	34%	76	51%
Central	15	20%	23	30%
Davis	53	26%	87	42%
Four Corners	11	21%	18	35%
Northeastern	19	24%	46	58%
Salt Lake	205	22%	280	29%
San Juan	7	64%	8	73%
Southwest	84	28%	166	56%
Summit	7	50%	7	50%
Tooele	9	13%	35	51%
U of U	9	33%	11	41%
Utah	8	19%	17	41%
Wasatch	4	31%	7	54%
Weber	37	15%	102	42%
Total	518	23%	883	40%

Sources: C CJ and OSA Analysis of TEDS

While full-time employment for all FDCs increased from admission to discharge from the program, more than 60 percent of FDC participants discharged from FDCs still did not have full-time employment. As previously mentioned, full-time employment increases the overall success of the FDC program.

Improved Coordination with DWS' Eligibility Services Division Could Potentially Reduce State FDC Costs or Increase Drug Court Capacity

Drug court enrollment is limited by the number of funded treatment slots. Based on TEDS, service reports, and local substance abuse authorities' (LSAA) financial data, the annual treatment case rate is \$5,800 with an average of approximately 1,500 clients served statewide per year for a total average cost of \$8.7 million. Medicaid currently accounts for eight percent of the annual drug court funding and nine percent of total FDC participants are enrolled in Medicaid. Medicaid covers an average of 93 percent of treatment expenses for enrolled clients.⁶

DWS's Eligibility Services Division is responsible for determining who qualifies for Medicaid. Improved coordination with DWS could help offset treatment costs currently borne by the state to increase capacity in FDCs or to reduce the state's contribution. According to TEDS, it appears that 17 percent of FDC clients are eligible for Medicaid but only 9 percent are enrolled.⁷ An average of 127 clients per year appear eligible for Medicaid but were not enrolled.

For example, Client B is a married parent of two with no monthly income who does not have private insurance and would likely qualify for Medicaid. Currently, the LSAA pays for treatment for this FDC client using state and county funds. However, if the LSAA coordinated with DWS for eligibility determination services, expenditure of state and county funds would not be entirely necessary. The use of Medicaid funding would free up state and county funds that the LSAA could use to support other qualified FDC clients or other prioritized programs.

The state could potentially offset its annual FDC treatment costs by approximately \$650,000 or increase capacity in FDCs by 113 participants by coordinating with DWS to enroll eligible FDC participants in Medicaid. Figure 4 shows the annual additional Medicaid contribution that LSAAAs could have received if the seemingly eligible clients had been enrolled in Medicaid.

⁶ DSAMH also provided a case rate estimate of \$6,000 and a more conservative Medicaid coverage of 73 percent. The discrepancy can be justified by using data derived from past performance.

⁷ Medicaid eligibility rates were based on data reported in TEDS for FDC clients who would likely qualify for Medicaid based on age, pregnancy, or familial dependency status.

Figure 4 Enrolling Eligible FDC Clients in Medicaid Will Offset FDC Costs

	Total FDC Clients	Total FDC Cost	FDC Clients on Medicaid	Medicaid Contribution	FDC Cost Excluding Medicaid
FY 2014	1,507	\$8,700,000	129	\$701,000	\$7,999,000
FY 2014	1,507	\$8,700,000	251	\$1,358,000	\$7,342,000
Adjusted					(\$657,000)

Source: OSA Analysis of TEDS and LSAA Financial Records

It appears that 122 drug court participants were eligible for but not enrolled in Medicaid. The reduction in state costs could have been used to divert 113 qualified offenders into FDC from more expensive programs, like prison. Enrolling 113 additional FDC participants could have reduced prison costs by more than \$3.1 million, assuming the qualified clients were incarcerated rather enrolled in an FDC, as shown in Figure 5.

Figure 5 Potential Incarceration Cost Savings

Additional FDC Slots Available	Annual Incarceration Cost	Total Savings
113	\$28,000	\$3,164,000

Source: OSA Analysis

Regular coordination with DWS could potentially increase the number of fully-employed and insured FDC participants and, thus, increase the overall success of the drug court program, ensure appropriate treatment for non-violent drug offenders, and reduce prison population and costs.

Improved Coordination with the Health Care Marketplace Navigation Programs Could Decrease FDC Client Reliance on Government Funding

Based on TEDS, more than 60 percent of FDC clients are uninsured and more than half of those clients are funded directly through government sources. Only 9 percent of FDC clients are privately insured, while 31 percent of FDC clients have other forms of medical coverage such as Medicare, Medicaid, and Workers Compensation.

Coordination with health insurance marketplace navigators could increase the number of privately insured FDC clients and decrease the demand of public funding for treatment. For example, 40 percent of FDC clients are under 26 years old and could potentially qualify for coverage under their parents' health insurance plans; however, nearly 60 percent of this population is uninsured. Marketplace navigators could help identify such gaps in coverage for FDC clients. Regular coordination with insurance identification programs could improve insurance coverage among the FDC population and reduce the state's financial burden.

Recommendations

1. We recommend that the Administrative Office of the Courts encourage drug court teams to refer any uninsured participants to a Medicaid eligibility specialist and/or a marketplace navigator upon program admission.
2. We recommend that the Administrative Office of the Courts encourage drug court teams to refer participants for whom employment is a current treatment objective to a Department of Workforce Services workforce development specialist.

Finding 3

Better Oversight of Drug Courts May Reduce Risk and Improve Outcomes

Outcomes for adult felony drug courts (FDC) could improve by centralizing oversight with the Administrative Office of the Courts (AOC). Though the AOC requires FDCs to comply with national best practice standards, it does not thoroughly review compliance nor does it require FDCs to include such standards in their policies and procedures. Increased oversight would likely improve the FDC program by implementing consistently-applied standards that are clearly communicated to stakeholders.

Administering a Risk and Needs Triage (RANT) assessment to all non-violent offenders at the time of arrest could improve individual treatment outcomes, reduce recidivism, and decrease incarceration costs. The RANT assessment is currently only administered to substance abusers recommended for the FDC program prior to determining the actual risk and need level of the offender.

Improved Certification Process Should Ensure Compliance with Best Practice Standards

More thorough drug court certification evaluations would likely improve the quality of FDCs. The AOC has recently developed a “Drug Court Certification Checklist” that is used in certification visits to each court every two years. The checklist contains 84 items from the National Association of Drug Court Professionals (NADCP) “Adult Drug Court Best Practice Standards,” dictating how an FDC should be organized and operated. If FDCs do not meet the required standards, they will not be “certified” by the AOC and will not be eligible to receive state funding for their drug court costs. Although NADCP’s Best Practices are not specific to Utah data, the AOC has chosen to adopt them as criteria for Utah’s FDCs.

Utah appears to be the only state in the intermountain region that has a certification process for its drug courts. Other states have expressed interest in implementing a similar system that provides oversight and direction to the local level. The drug court certification process begins with a self-evaluation of the checklist provided by AOC. An AOC contractor and subject matter expert visit each court and conduct interviews with each of the team members every two years. This meeting is generally used as an opportunity to address any questions or concerns and offer advice to the drug court team about NADCP Best Practices. The review team does not evaluate FDC data, analyze outcomes, or verify records during the visit.

While the certification checklist includes required NADCP Best Practices, the certification process does not appear to be rigorous, and compliance with NADCP Best Practices is not always verified. Improved oversight from the AOC of drug courts’ adherence to NADCP Best Practices may improve consistency of outcomes throughout the state.

Inconsistently Applied FDC Policies Deviate from NADCP Best Practices

Some of the NADCP Best Practices and checklist criteria require certain measures to be outlined in the policies and procedures of each drug court. Each FDC develops their own individual policies and procedures that vary in descriptiveness and form. Figure 6 shows an example of some of the required written NADCP Best Practices and the percent of FDCs that meet the requirement in their current policies/procedures.

Figure 6 Required NADCP Best Practices in Writing

Required Best Practice Standard in Writing	% of Compliant FDCs
Eligibility and exclusion criteria are specified in writing.	72%
The program has a written policy addressing medically-assisted treatment.	52%
Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to drug court participants and team members.	92%
The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination.	92%
Upon entering the drug court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	92%

Source: OSA Analysis of Policies and Procedures

Policies and procedures of most FDCs are not in full compliance with NADCP Best Practices, despite a review every two years. For example, only 52 percent of FDCs have a written policy addressing medically-assisted treatment (MAT), creating a potential liability if courts are inconsistently treating MAT clients. Without clear policies addressing MAT, it is more difficult to see the potential associated outcomes and expectations. Increased oversight regarding an FDC’s use of MAT combined with better data tracking will allow the AOC to make data-driven decisions and adjustments regarding MAT.

As another example, one FDC does not have written policies and procedures regarding the administration of incentives, sanctions, and therapeutic adjustments. This FDC’s one-page policies and procedures manual includes only one paragraph about what makes someone eligible for drug court. Without descriptive policies, this FDC’s team members and participants have very little criteria to reference in the operations and administration of their drug court. This FDC was certified in its latest AOC evaluation without mention of the deficient policies and procedures.

Furthermore, the lack of policies and procedures in some drug courts could lead to inconsistency among the courts. Improved data, as recommended in Finding 1, will enable drug courts to base their policies and procedures on evidence-based practices from Utah FDCs, rather than relying on national trends that may or not be entirely applicable. A robust feedback mechanism would allow FDCs to test policies, keeping those that are effective and discarding those that are not effective.

NADCP Best Practices Are Not Always Included in FDC Policies and Procedures

The certification checklist outlines other requirements that may be currently met in practice, but are not mentioned in individual policies and procedures manuals. Figure 7 shows examples of these NADCP Best Practices that are required to be met operationally and the corresponding percentage of drug courts in Utah that refer to the requirement in their policies and procedures manuals. Descriptive policies and procedures that address all of the required NADCP Best Practices will improve the operations and application of proven practices by drug court team members.

Figure 7 Other NADCP Best Practices Mentioned in Policy

Required Best Practice Standard	% of FDCs with Policy/Procedure
Drug testing is performed at least twice per week.	12%
Drug testing is random and is available on weekends and holidays.	4%
The program requires at least 90 days clean to graduate.	12%
The minimum length of the program is 12 months.	44%
At a minimum the prosecutor, defense counsel, treatment representative, law enforcement and the judge attend each staffing meeting.	28%
Clients are placed in the program within 50 days of arrest.	0%
Court fees are reasonable and based on each participant’s ability to pay.	16%
Treatment fees are based on a sliding fee schedule.	48%
The program maintains adequate data for program monitoring.	20%

Source: OSA Analysis of Policies and Procedures

Drug testing twice a week, for example, may be practiced according to required NADCP Best Practices, but only three of the 25 FDCs mention it in their policies and procedures.

Similarly, none of the FDC policies and procedures require that eligible offenders be placed in the drug court program within 50 days of arrest. In addition to not maintaining this best practice in their policies and procedures, it appears that some FDC’s do not comply with this best practice. While current practices are most important, it is difficult to know what actions are occurring

without good data collection. Solidifying NADCP Best Practices within FDC policies may influence the actions of FDC team members and encourage adherence to the same.

Without including such guidelines in the policies and procedures, their importance is not emphasized to all FDC participants. Not including a particular standard in FDC policies or procedures would suggest that it is not a priority for the drug court team. Whether intended or not, NADCP Best Practices that are not cited in the FDC's policies and procedures are less likely to be enforced by drug court team members.

Adherence to NADCP Best Practices should be a collaborative, team approach, as is the entire concept of drug court. The AOC may provide uniform policies and procedures for courts to adopt with the understanding that adjustments can be made according to the court's individual needs. Inclusion of required NADCP Best Practices in policies and procedures is a step towards ensuring consistency among drug courts throughout the state.

Robust Policies May Improve Drug Court Team Training and Effectively Communicate Expectations

Verifying that consistent and well-documented FDC policies and procedures are followed should help to ensure continuity of a drug court and greater implementation of requirements. Many drug court team members cited concerns regarding training for their roles on the drug court teams. This is especially concerning to team members in drug courts with high turnover.

Well-defined, descriptive policies and procedures for drug courts that guide effective practices will help new team members gain an understanding of the program and its expectations. They also provide a physical tool of reference for new team members that are learning how to successfully operate in their drug court team roles. When used in conjunction with other training opportunities, descriptive policies and procedures will help a drug court team provide the necessary information to new team members.

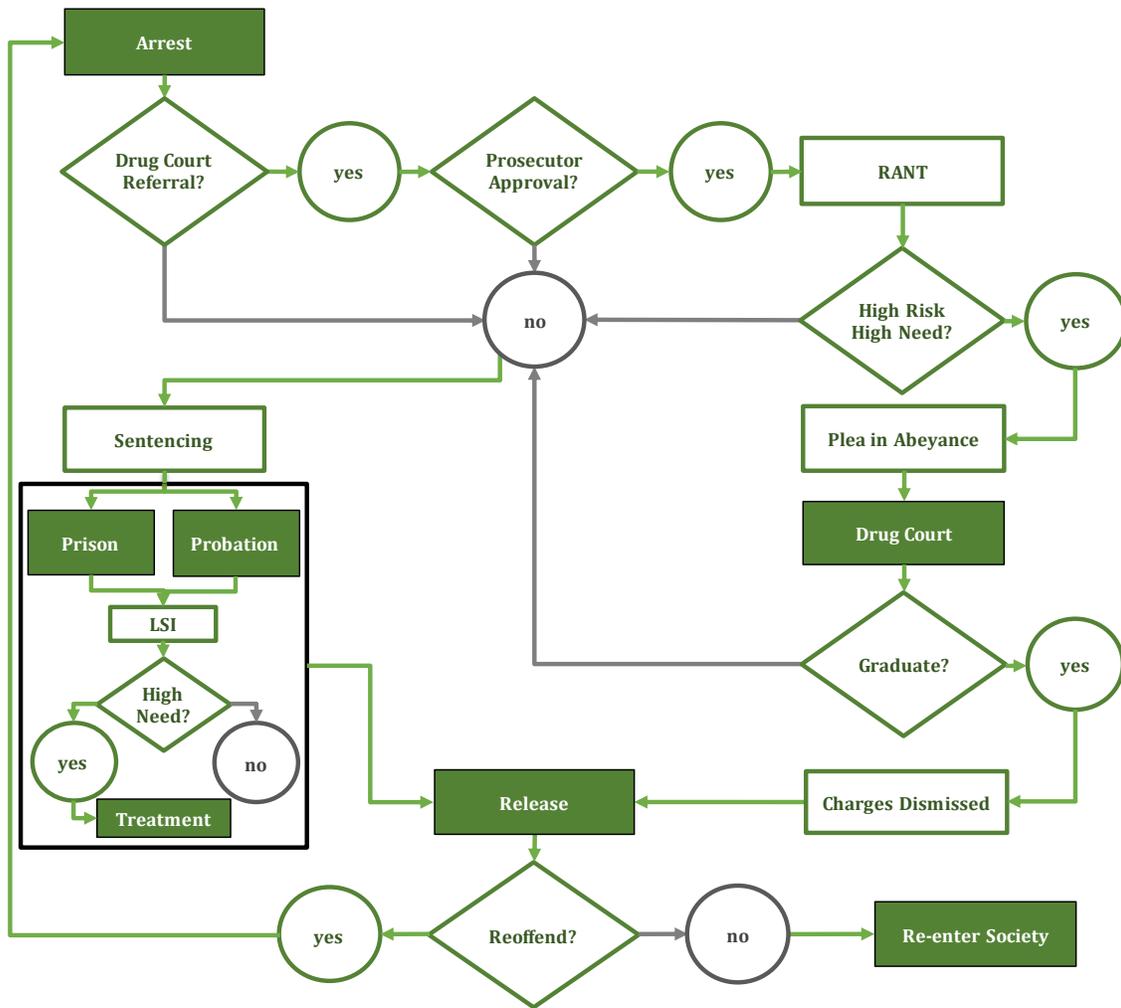
Clear policies will also help to ensure that drug court clients understand expectations and consequences. In order to achieve consistent drug court outcomes throughout Utah, the AOC should provide the adequate oversight to ensure consistent application of drug court practices. Improved policies and procedures combined with better data tracking will help drug courts have consistent, high performance throughout the state.

Delayed Timing of RANT May Result in Overlooked Eligible Clients

NADCP literature indicates that when populations of differing risk and need levels co-mingle, positive outcomes are reduced. According to the creators of the RANT assessment tool, RANT assessments should be conducted on each offender as soon as possible after an arrest is made. Early assessment helps to ensure the separation of differing risk and need populations. Utah FDCs

use the RANT as a pre-sentencing tool and most corrections programs use the Level of Service Inventory (LSI) as a post-sentencing diagnostic measure. Figure 8 shows the timing and type of risk assessments that are currently being conducted for drug offenders in Utah.

Figure 8 Drug Offender Sentencing Flow Chart



Source: OSA analysis

Unless an offender has already been pre-screened and placed on the FDC track, judges and prosecutors in Utah do not know an offender’s risks and needs before sentencing and may be inadvertently mixing differing risk and need populations. By not conducting a risk and need assessment on all non-violent offenders post-arrest and pre-sentencing, the state may be increasing recidivism among substance abusers.

Earlier RANT Assessments Could Reduce Recidivism Statewide

If the RANT assessment were performed on all non-violent offenders at the time of arrest, prosecutors could more accurately recommend offenders into substance abuse treatment programs and reduce recidivism among substance abusers. Ideally, each need/risk quadrant would be sentenced to programs that provide the appropriate level of supervision and treatment. For example, NADCP data suggests that high risk/high need individuals should be sentenced to programs like drug courts.

Other best practices suggest that high risk/low need offenders should receive intense supervision, such as probation. Low risk/high need individuals could likely benefit from community treatment programs and low risk/low need individuals would likely do best with the appropriate treatment and minimal supervision. Administering the RANT assessment at the point of arrest will better inform courts on how to best treat offenders.

Recommendations

1. We recommend that the Administrative Office of the Courts improve the certification process to ensure that drug courts are adhering to required NADCP Best Practices.
2. We recommend that the Administrative Office of the Courts require drug courts to include NADCP Best Practices in their drug court policies and procedures.
3. We recommend that the Administrative Office of the Courts consider providing uniform policies and procedures for courts to adopt with the understanding that approved adjustments can be made according to the court's individual needs.
4. We recommend that the Administrative Office of the Courts ensure that drug courts communicate program expectations and consequences to drug court participants.
5. We recommend that the Administrative Office of the Courts and Division of Substance Abuse and Mental Health identify the appropriate entity in each local court that is best able to administer a RANT assessment as soon as practicable after arrest.

Finding 4 **Focus on Variables Influencing Program Success Could Improve Drug Court Outcomes**

DSAMH could improve FDC treatment success by focusing on key variables from Utah’s drug court population that increase the likelihood of successful program completion. While DSAMH and local substance abuse authorities (LSAA) cannot control all variables, analysis performed on reliable data could improve individual treatment plans and outcomes. Variables indicative of successful FDC completion based on a statistical analysis of DSAMH’s Treatment Episode Data Set (TEDS) include the following: stable housing, full-time employment, an effective provider, and increased age and education. The impact that full-time employment has on FDC participants is addressed in Finding 2.

FDC Clients with Stable, Drug-Free Housing Are More Likely to Graduate from the Drug Court Program

In Utah, FDC clients who are homeless at discharge are over 50 percent less likely to successfully complete their FDC than those who were housed at discharge. The lack of viable housing options appears to directly affect FDC graduation. Only 35 percent of homeless clients successfully completed treatment, compared to 59 percent of housed clients who successfully completed treatment. Nearly 61 percent of those who entered the FDC program homeless were still homeless at discharge.

Overall, homelessness among FDC clients decreased by 9 percent from admission to discharge but four LSAAs reported an increase in homelessness in their client population. Bear River, Central, Four Corners, and Utah County all had very small homeless populations at intake but each saw an increase of at least one homeless individual at discharge. Figure 9 shows the changes in the homeless FDC population by LSAA.

Figure 9 Change in Homelessness from Admit to Discharge by Provider

Homeless Clients Provider	Admit		Discharge		Change	
	N	%	N	%	N	%
Bear River	1	0.67%	2	1.34%	+1	100%
Central	1	2.17%	3	3.94%	+2	200%
Davis	0	0%	0	0%	0	0%
Four Corners	0	0%	1	1.92%	+1	100%
Northeastern	0	0%	0	0%	0	0%
Salt Lake	90	9.43%	80	8.39%	-10	-11%
San Juan	0	0%	0	0%	0	0%
Southwest	6	2.01%	6	2.01%	0	0%
Summit	0	0%	0	0%	0	0%
Tooele	1	1.45%	0	0%	-1	-100%
U of U	2	7.41%	0	0%	-2	-100%
Utah	0	0%	1	2.38%	+1	100%
Wasatch	1	7.69%	1	7.69%	0	0%
Weber	5	2.05%	3	1.23%	-2	-40%
Total	107	4.79%	97	4.34%	-10	-9%

Source: OSA Analysis of TEDS

Approximately 84 percent of homeless FDC clients reside in Salt Lake County. The FDC team members of Salt Lake County reported homelessness, especially among the female population, as a high-priority concern for their programs. Nearly 10 percent of FDC participants in Salt Lake County are homeless and one-third of the homeless population is female.

Although housing options appear limited for both men and women, Salt Lake County FDC team members reported more difficulty in placing women in safe and sober living arrangements since the closure of the local Volunteers of America women and children’s shelter in May 2014. Many drug court clients, both male and female, find it difficult to find a drug- and alcohol-free living arrangement, which is a requirement for participation in drug court. Other clients are sometimes faced with the difficult choice of living with an abusive partner or being homeless. Drug courts in Salt Lake County could benefit from safe and reliable housing options for their relatively large homeless population.

FDC Client Success Varies by Provider

Certain treatment providers have a much higher program completion rate for their FDC clients than other providers. For example, only 29 percent of the clients in Northeastern successfully completed treatment, compared to 76 percent of clients in Utah County. A complete breakdown of discharge reasons by provider can be seen in Figure 10.

Figure 10 Discharge Reason by Provider

Provider Name	Completed		Drop Out		Terminate		Transfer		Prison/jail		Died	
	N	%	N	%	N	%	N	%	N	%	N	%
Bear River	89	60%	1	1%	21	14%	2	1%	34	23%	2	1%
Central	41	54%	10	13%	4	5%	5	7%	16	21%	0	0%
Davis	109	53%	9	4%	6	3%	48	23%	35	17%	0	0%
Four Corners	29	56%	3	6%	1	2%	8	15%	11	21%	0	0%
Northeastern	23	29%	18	23%	3	4%	31	39%	3	4%	1	1%
Salt Lake	565	59%	155	16%	163	17%	46	5%	19	2%	6	1%
San Juan	7	64%	1	9%	0	0%	3	27%	0	0%	0	0%
Southwest	191	64%	13	4%	9	3%	43	14%	42	14%	0	0%
Summit	5	36%	1	7%	4	29%	4	29%	0	0%	0	0%
Tooele	35	51%	1	1%	24	35%	9	13%	0	0%	0	0%
U of U	17	63%	7	26%	0	0%	2	7%	1	4%	0	0%
Utah	32	76%	2	5%	0	0%	8	19%	0	0%	0	0%
Wasatch	5	39%	1	8%	1	8%	5	39%	1	8%	0	0%
Weber	149	61%	20	8%	44	18%	19	8%	11	5%	1	0%
Total	1297	58%	242	11%	280	13%	233	10%	173	8%	10	1%

Source: OSA Analysis of TEDS

A provider’s low completion rate indicates a concern but does not necessarily indicate a deficiency. For example, Northeastern’s low completion rate is in part due to their high transfer rate (39 percent). Transfers are a neutral exit status (as opposed to negative exit statuses like termination or incarceration). Aside from high transfer rates, Northeastern also has the second highest dropout rate (23 percent) behind the University of Utah (26 percent), which is a branch of Salt Lake County’s drug court services.

Regular analysis of this data could help DSAMH to understand individual FDC techniques and procedures that could increase the success of other FDCs. Additionally, data analysis will further enable DSAMH and the AOC to identify and mentor FDCs that may not be as successful as their peers.

Older Clients are More Likely to Graduate from FDCs

FDC clients are two percent more likely to successfully complete treatment for each additional year in their age at admittance. For example, a 30-year old FDC client would be two percent more likely to complete treatment than a 29-year old FDC client, based on Utah trends. Consideration of age at admittance could potentially help an FDC determine which clients would most benefit from the FDC program. The average Utah FDC client was 31 years old at admittance with a

standard deviation of 9.5 years. The youngest FDC client was 18 while the oldest FDC client within this population was 68.

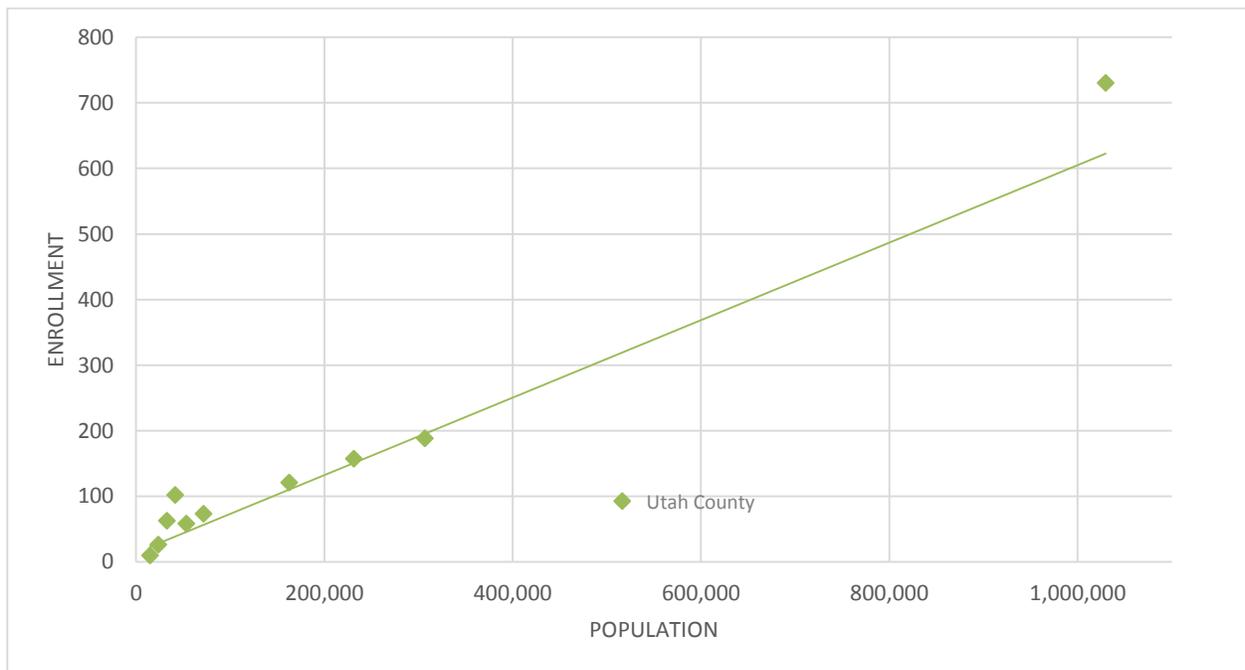
FDC Program Success Increases with Each Year of Education Completed

FDC clients are seven percent more likely to successfully complete treatment for each year of education they complete. For example, an FDC client who completed 11 years of education is seven percent more likely to complete treatment than an FDC client who completed only 10 years of education. The average FDC client claimed to have 12 years of education at admittance with a standard deviation of 1.8 years. Like other data provided by TEDS, this data is self-reported and unverified.

Regular Data Analysis Could Improve FDC Best Practices

The use of reliable data could help FDCs understand key variables that impact the overall success of individual courts. For example, as previously mentioned, the Utah County LSAA has the highest completion rate (76 percent) with the fewest terminations, incarcerations, or deaths. Given the LSAA’s high success rate, it would be beneficial for as many eligible clients to participate in the program as possible. However, the Utah County LSAA serves far fewer clients per capita than would be consistent with the population size of the county as shown in Figure 11.

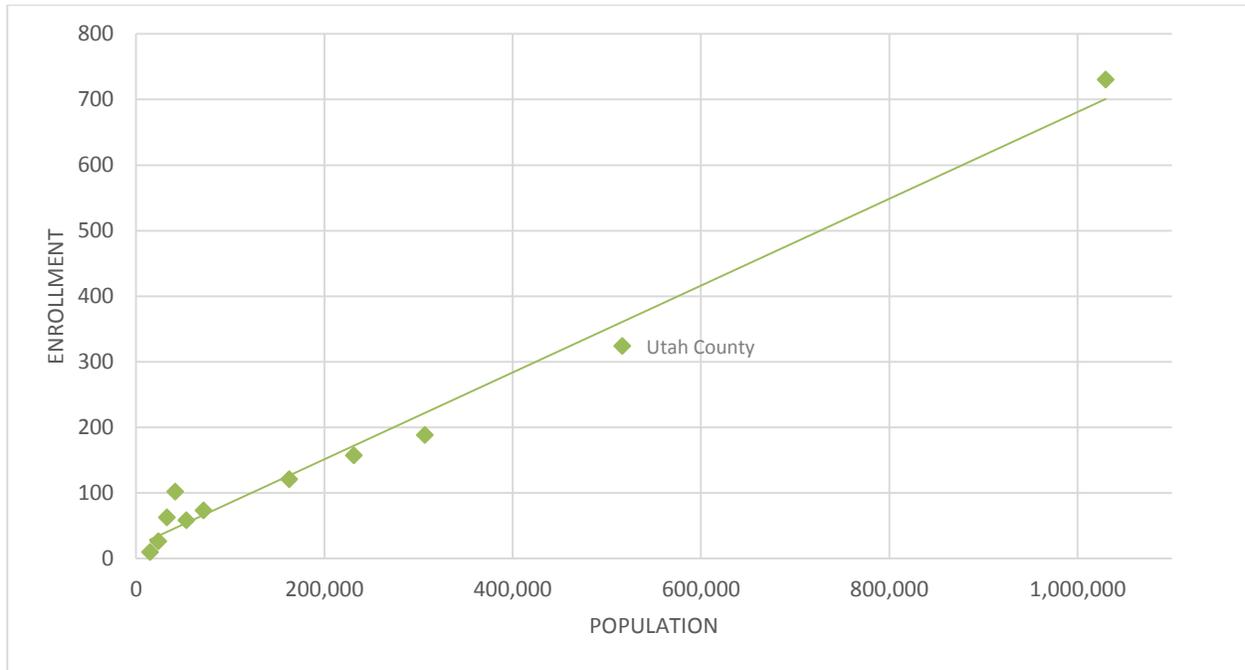
Figure 11 Average LSAA Enrollment per Capita



Source: OSA Analysis of Service Level Reports

From 2008 through 2013, the Utah County LSAA averaged only 92 FDC clients. However, the Utah County LSAA would have had 324 FDC clients if it had a similar number of FDC clients per capita as the other 13 LSAs in the state, as shown in Figure 12.

Figure 12 Projected LSAA Enrollment per Capita

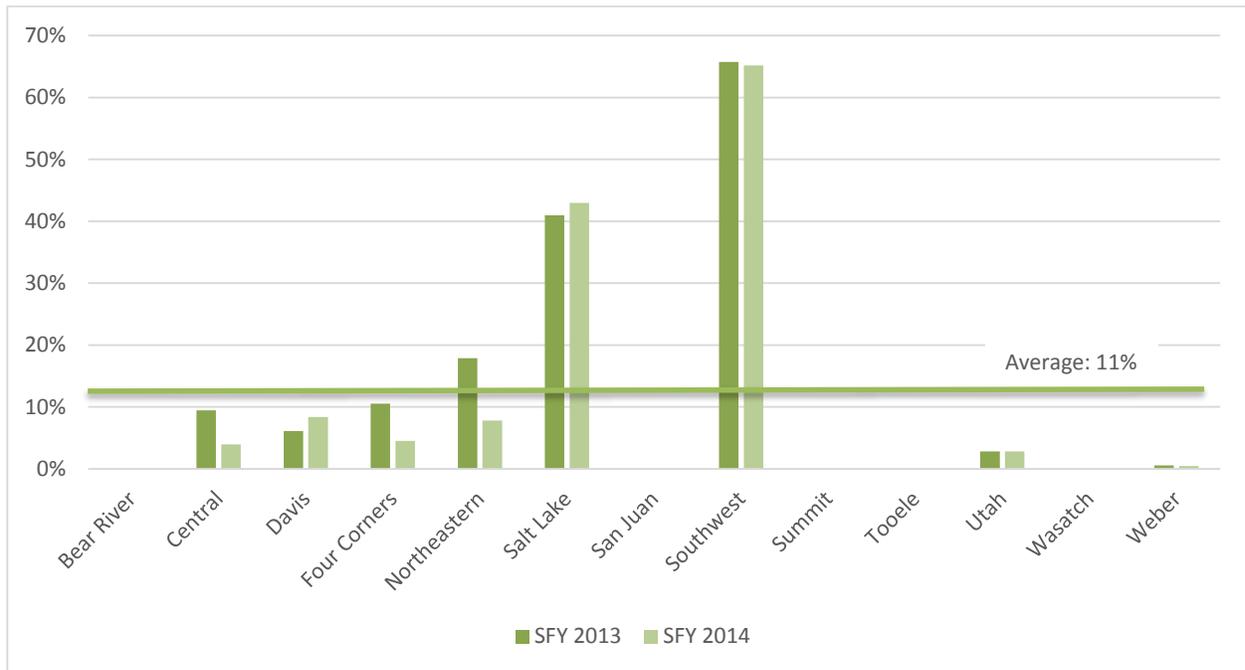


Source: OSA Analysis of Service Level Reports

Given Utah County’s population, the average number of FDC participants enrolled per year would be nearly 3.5 times higher than the current number if it had a similar number of FDC clients per capita as other LSAs. Due to an equalized case rate among LSAs in the state, the Utah County LSAA receives the same state funding per FDC client as other LSAs; however, the Utah County LSAA has chosen to limit the number of FDC clients.

The state allocation for treatment is based on the number of participants in each FDC. Because funding from the state would increase as the size of Utah County’s FDC increased, the funding constraint is not likely from the state. A possible explanation for the low enrollment rates may be a lack of county funding. Although some of the smaller LSAs do not receive any county funding, LSAs, on average, receive 11 percent of their FDC funding from county contributions. However, FDC funding from Utah County accounts for only three percent of its drug court treatment revenue, as shown in Figure 13.

Figure 13 **Percent of Total Revenue from County**



Source: OSA Analysis of LSAA Financial Reports

Analysis of the variables affecting drug court outcomes and trends of individual LSAs will further encourage successful and accountable FDCs.

Recommendations

1. We recommend that the Division of Substance Abuse and Mental Health regularly analyze treatment statistics to identify factors that contribute to drug court success.
2. We recommend that the Division of Substance Abuse and Mental Health review drug court analysis to identify areas in which individual drug courts could improve. This information should be included in the annual report in order to drive continual improvement of FDCs throughout the state.
3. We recommend that the Administrative Office of the Courts coordinate training for outlying drug court teams that could benefit from successful practices used by other drug courts.

Appendix A Audit Scope and Methodology

While Utah currently uses three types of drug courts (adult felony, family, and juvenile dependency), this audit focuses on the effectiveness of adult felony drug courts (FDC). We were limited in our ability to successfully address these issues due to the lack of Utah-specific data regarding drug courts. Audit field work included the following:

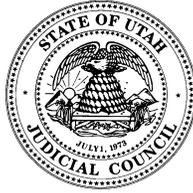
- Analysis of Treatment Episode Data Set (TEDS) from the Division of Substance Abuse and Mental Health from 2011 through 2013
- Administration and analysis of a survey to all FDC team members
- Collection and analysis of policies and procedures for all FDCs
- Analysis of FDC financial sources
- Observation of urban and rural FDC proceedings
- Observation of FDC certification process

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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Agency Responses

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Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

January 20, 2015

Daniel J. Becker
State Court Administrator
Ray Wahl
Deputy Court Administrator

Mr. David Pulsipher, Performance Audit Director
Office of the Utah State Auditor
PO Box 142310
Salt Lake City, Utah 84114-2310

Response to Performance Audit No. 14-06
A Performance Audit of Utah's Adult Felony Drug Courts
Administrative Office of the Courts
January 12, 2015

Dear Mr. Pulsipher:

The Administrative Office of the Courts appreciates the opportunity to respond to this audit, and we commend the professionalism of the audit staff with whom we worked. We also reference and incorporate the response of the Division of Substance Abuse and Mental Health. Consistent with their response, we agree with the audit recommendations.

DSAMH's response appropriately addresses each finding, and we respond separately to emphasize several points. First, we recognized several years ago that data collection was an issue, and that we needed additional outcome evaluations of Utah Drug Courts. This is why we sought a federal grant to assist us with those issues, and we are half way through the implementation of that grant. The deliverables of that grant will address those two concerns.

Second, our problem-solving court certification process is regarded nationally as a model program. We led the way in operationalizing the 10 Key Components via the NADCP Best Practices, and our certification checklists derive directly from those standards. That said, only half of the NADCP Best Practices have been released, and the half that we do have had been in place for only five months when this audit began. It should surprise no one that compliance with the first half of the standards was not yet universal.

With respect to our certification review efforts, we agree that the process could be more rigorous. However, the Judicial Council made a conscious decision when that program began that we should be conservative in expending resources that were for anything other than direct services. Funding for drug courts in Utah has never approached even 50 percent of the need, so we have

Mr. David Pulsipher
Page 2
January 20, 2015

cobbled together funds for the one half FTE contract certification position through a combination of DSAMH and AOC one-time funds and grants. The type of robust certification and quality assurance program recommended by the audit would indeed be even more effective, but it would require either new funding, or it would require moving direct service monies into administration functions, which we have to date been loath to do.

Drug courts are without question the most effective intervention for high risk high need offenders, and the courts are committed to continue to operate them, with our partners, utilizing evidence based best practices. We again appreciate the input and advice of this audit, and we look forward to continued discussions about the policy choices implicated by the audit.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Becker", written in a cursive style.

Daniel J. Becker
State Court Administrator



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

DEPARTMENT OF HUMAN SERVICES
ANN SILVERBERG WILLIAMSON
Executive Director

Division of Substance Abuse and Mental Health
DOUG THOMAS
Director

January 14, 2015

David Pulsipher
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**RE: Response to Performance Audit No. 14-06
A Performance Audit of Utah's Adult Felony Drug Courts
Division of Substance Abuse and Mental Health**

To Whom It May Concern:

The Division of Substance Abuse and Mental Health (DSAMH) appreciates this opportunity to respond to the Utah State Auditor's Performance Audit 14-06 of Utah's Adult Felony Drug Courts. DSAMH also would like to express their appreciation for the auditor's professional approach. DSAMH agrees with the findings and recommendations proposed in this audit. In fact, DSAMH believes that in many ways the findings and recommendations affirm the position of the DSAMH and the Administrative Office of the Courts (AOC) and our work for the past two years to develop standardized state-wide performance measures. For some of the findings, DSAMH and AOC had existing projects designed to resolve the issue identified prior to the audits inception. For the rest of the findings, DSAMH will work with the AOC to respond to this audit.

DSAMH's response to each finding is listed below:

Finding 1: Insufficient Data Limits Full-Scale review of Drug Court Effectiveness:

DSAMH recognizes there are gaps in data necessary to fully evaluate Utah Drug Courts. In 2012, DSAMH began working collaboratively with the Administrative Office of the Courts to apply for a Bureau of Justice Assistance (BJA) federal grant to remedy this problem. Through this grant, DSAMH and the AOC partnered with the National Center for State Courts (NCSC) to

develop the Utah Adult Drug Treatment Court Performance Measure Advisory Group. This group includes representatives from the DSAMH, AOC, Judges, Prosecutors, Defense Attorneys' and treatment providers. In November 2014, this group with the support from the NCSC developed and published the State of Utah Adult Drug Treatment Court Performance and Descriptive Measures. This document includes recommended measures for Court case processing, procedural justice, accountability, social function and other descriptive measures. Implementing the recommendations from this report would in many ways remedy the concerns expressed by the Auditors regarding insufficient data. DSAMH and the AOC will continue to work to implement the requisite data collection and analysis. A copy of this document is attached to this response.

Finding 2: Better Coordination with DWS Could Improve Individual Outcomes and Reduce State Costs:

DSAMH agrees with the recommendations of the auditors. Better coordination with Workforce Services and access to health care navigators who could help individuals find commercial insurance when possible could reduce state drug court costs. DSAMH requires that public funds be the payor of last resort. All local authority program treatment providers have the ability to bill Medicaid for substance use disorder services. All Local Authority providers also have the ability to bill some commercial insurance plans. Individuals who can pay for services are assessed fees based on a fee schedule approved the County. DSAMH places a high priority on helping individual find or improve their employment. Current Drug Court outcome measures suggest that the program works in this regard. In 2014, Drug Court data collected by DSAMH show a 57.1 percent increase employment for Drug Court participants.

Finding 3: Better oversight of Drug Courts may Reduce Risk and Improve Outcomes:

DSAMH agrees that additional oversight may reduce risk and improve outcomes. Drug Court certification is critically important in this process. DSAMH commends the AOC for developing Judicial Council Rules that incorporate the best practices identified by The National Association of Drug Court Professionals. DSAMH also recognizes that the Best Practice Standards were developed and published in 2014. This audit was conducted in a year when the bar for compliance had been raised to a new level based on these new practice standards. DSAMH will continue to work with AOC to ensure that Utah's Felony Drug Courts are meeting these new standards.

DSAMH also agrees that administering the Risk and Needs Triage (RANT) or other risk and need decision making support tools at the time of arrest is a best practice. DSAMH will continue to work with county partners, the AOC and the criminal justice system to identify innovative ways to expand screening for risk and need given limited resources available for this task.

Finding 4: Focus on Variables influencing Program Success Could Improve Drug Court Outcomes:

DSAMH agrees that the variables suggested by the auditors are very important to evaluate annually. DSAMH currently monitors treatment completion, employment, housing stability, age and education outcomes. Drug Court report cards have also been published that compare the outcomes of individual drug courts. The recently completed State of Utah Adult Drug Treatment Court Performance and Descriptive Measures will also improve DSAMH's ability to gather and evaluate these outcomes and other factors that influence individual's success.

Respectfully,



Doug Thomas, Director
Division of Substance Abuse and Mental Health

cc: Ann S. Williamson, Director, Department of Human Services
Lana Stohl, Deputy Director, Department of Human Services