



February 2023

ADULT DRUG COURT PROGRAMS

Factors Related to
Eligibility and
Acceptance of Offers
to Participate in DOJ
Funded Adult Drug
Courts

GAO Highlights

Highlights of [GAO-23-105272](#), a report to congressional requesters

Why GAO Did This Study

In 2022, 107,477 Americans died from drug overdoses, according to Center for Disease Control and Prevention's provisional data. In March 2021, GAO added national efforts to prevent, respond to, and recover from drug misuse to its high-risk list. Drug courts are specialized court programs that aim to serve offenders with substance use disorders. The 2022 National Drug Control Strategy states that alternatives to incarceration such as drug courts can enhance long-term public safety, reduce recidivism, and save tax-payer dollars.

As of December 2019, there are nearly 1,700 drug courts focused on adults with substance use disorders in the United States. Nearly \$60 million in federal grant funding supported these courts in fiscal year 2020.

GAO was asked to review adult drug court eligibility and cases in which individuals have declined to participate in adult drug courts. This report describes (1) eligibility for participation in local and tribal adult drug court programs supported by DOJ grants, and (2) factors that affect individuals' acceptance of offers to participate in adult drug court programs.

GAO assessed BJA data, interviewed BJA officials and subject matter experts, and conducted case studies with five local and tribal adult drug courts and focus groups with 44 adult drug courts. The findings are not generalizable, but provide insight into selected adult drug court operations.

View [GAO-23-105272](#). For more information, contact Triana McNeil at (202) 512-8777 or mcnelt@gao.gov.

February 2023

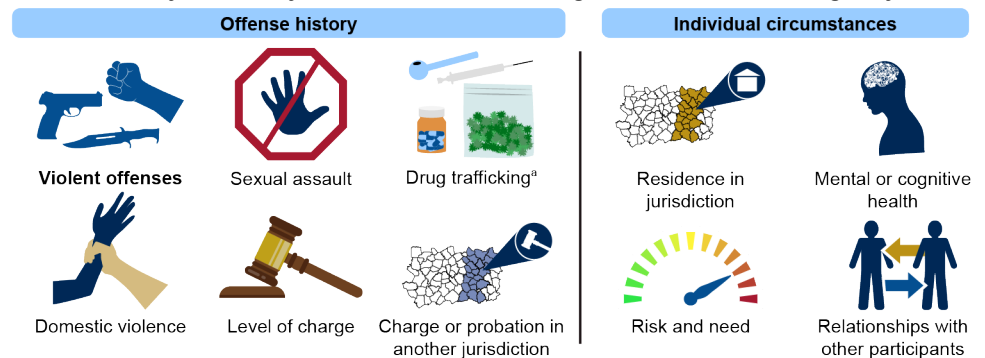
ADULT DRUG COURT PROGRAMS

Factors Related to Eligibility and Acceptance of Offers to Participate in DOJ Funded Adult Drug Courts

What GAO Found

The Department of Justice's (DOJ) Bureau of Justice Assistance (BJA) provides grants to implement and enhance adult drug court programs. Drug courts work to divert individuals with substance use disorders from the criminal justice system by offering services for treatment and rehabilitation, and incentives to encourage participation, such as dismissal of charges or reduction in jail time for successful completion. In administering the BJA grants, local and tribal adult drug court programs consider a variety of factors when deciding whether to deem an individual eligible for participation in their program. Among other factors, many adult drug courts participating in GAO's focus groups reported using risk assessment tools to identify and target their services to individuals who are addicted to illicit drugs or alcohol and at a substantial risk for reoffending. Adult drug courts may also consider individuals' mental and cognitive health needs, and may not accept individuals if their needs exceed the ability of the court to address them. Finally, courts may limit eligibility to individuals residing within the court's jurisdiction. Stakeholders in GAO's focus groups and case studies also identified barriers to enrollment in adult drug courts based on the nature of individuals' offenses. For example, local adult drug courts may prohibit participation by individuals with specific types of offenses such as, sexual assault or domestic violence. Further, adult drug courts funded by DOJ grants are prohibited by law from using grant funding to include individuals with prior or current violent offenses in their programs.

Factors that May be Used by Local and Tribal Adult Drug Courts to Determine Eligibility



Source: GAO analysis. | [GAO-23-105272](#)

A variety of factors affect eligible individuals' decisions to participate in adult drug court programs. Reasons individuals may choose to enroll in adult drug court include avoiding jail time, receiving a reduction or expungement of charges, and having the motivation to overcome substance use disorders. Stakeholders from adult drug courts participating in GAO's focus groups stated that it is rare that eligible individuals decline adult drug court offers. However, some individuals may choose not to participate because more attractive alternatives are available to them, such as traditional probation or other less rigorous programs. In addition, barriers such as access to stable housing and transportation may result in individuals opting not to participate.

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Abbreviations

BJA	Bureau of Justice Assistance
CDC	Centers for Disease Control and Prevention
COMPAS	Correctional Offender Management Profiling for Alternative Sanctions
DOJ	Department of Justice
NADCP	National Association of Drug Court Professionals
ONDCP	Office of National Drug Control Policy

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February 13, 2023

The Honorable Jamie Raskin
Ranking Member
Committee on Oversight and Accountability
House of Representatives

The Honorable Jared Huffman
House of Representatives

The number of drug overdose deaths in the United States for a 12-month period exceeded 100,000 for the first time in April 2021. According to recent provisional estimates from the Centers for Disease Control and Prevention (CDC), the number of drug overdose deaths in the 12-month period ending in August 2022 is 107,477.¹ The Department of Justice (DOJ), through its Office of Justice Programs' Bureau of Justice Assistance (BJA), provides financial and technical assistance to states, state courts, local courts, units of local government, and Indian tribal governments to develop and implement adult drug treatment courts.² The total amount BJA has awarded in grants for this purpose increased from about \$28 million in fiscal year 2016 to nearly \$60 million in fiscal year 2020, peaking in 2019 at \$65.5 million.

As of December 2019, the National Drug Court Resource Center estimated that there were approximately 1,696 local, and tribal adult drug courts. About 10 percent of them received federal grant funding in fiscal year 2020. Approximately 2,100 additional treatment courts target specific populations, including juveniles, families, and veterans; individuals with common charges related to substance use disorder, such as driving while

¹The CDC's National Center for Health Statistics provisional counts are adjusted to account for reporting delays, according to CDC. CDC underreports provisional data because the data is incomplete. These data represent CDC's predicted number of drug overdose deaths. Ahmad FB, Cisewski JA, Rossen LM, Sutton P. *Provisional Drug Overdose Death Counts*. National Center for Health Statistics, 2022.

²Grants were originally authorized under the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, § 50001, 108 Stat. 1796, 1955-58, and subsequently reauthorized by the Drug Abuse Education, Prevention, and Treatment Act of 2002, Pub. L. No. 107-273, § 2301, 116 Stat. 1758, 1794-95 (codified as amended at 34 U.S.C. §§ 10611-10619). Drug court programs have also received funding from other federal sources, and state and local governments.

intoxicated; or populations with specific treatment needs such as mental health concerns or addictions to opioids or other specific substances.

The United States has gradually adjusted the focus of its formal drug policy from punishment to a more comprehensive approach that focuses on prevention, treatment, and enforcement. Drug courts are alternatives to incarceration or traditional adjudication that have become part of the national strategy to address substance use disorders. In March 2021, GAO added national efforts to prevent, respond to, and recover from drug misuse to its high risk list.³ The Office of National Drug Control Policy's (ONDCP) 2022 National Drug Control Strategy stated that alternatives to incarceration such as drug courts are a type of diversion program that can enhance long-term public safety and reduce recidivism while saving taxpayer dollars.⁴

The first drug courts were established in the late 1980s as a local response to increasing numbers of drug-related cases and expanding jail and prison populations nationwide. Drug courts work to divert individuals with substance use disorders from the criminal justice system by offering services for treatment and rehabilitation, and incentives to encourage participation, such as dismissal of charges or reduction in jail time for successful completion. Drug courts are generally based on a comprehensive model involving offender assessment; judicial interaction; monitoring (e.g., drug testing) and supervision; graduated sanctions and incentives; and treatment services. Eligibility for drug courts is subject to the requirements and discretion of local and tribal jurisdictions, as well as federal statutory criteria when funded by DOJ grants; however, individuals eligible to participate are free to decline admission.

This report is in response to your request that GAO conduct a review on federally-funded adult drug courts, including barriers to entry. Specifically, this report describes (1) eligibility for participation in local and tribal adult drug court programs supported by DOJ grants; and, (2) factors that affect

³GAO, *High-Risk Series: Dedicated Leadership Needed to Address Limited Progress in Most High-Risk Areas*, [GAO-21-119SP](#) (Washington, D.C. Mar. 2, 2021)

⁴The ONDCP, a component of the Executive Office of the President, is responsible for overseeing the development and implementation of the nation's drug control policy and leading the national drug control effort. Its mission is to reduce substance use disorder and its consequences by coordinating the nation's drug control policy through the development and oversight of the National Drug Control Strategy and Budget. ONDCP, *2022 National Drug Control Strategy* (Washington, DC: April 2022).

individuals' decisions regarding whether to accept or decline offers to participate in adult drug court programs.⁵

To address both objectives, we performed a literature review of scholarly publications, government reports, and publications by nonprofits and think tanks on eligibility criteria for adult drug court and elements that affect individuals' decisions whether or not to accept offers to participate in adult drug courts. We also conducted interviews with subject-matter specialists on adult drug court operations from research, advocacy, and practitioner organizations, selected to represent a range of views about adult drug court operations, best practices, and eligibility requirements.

To identify BJA's grantee operations and reporting information requirements, we reviewed the fiscal year 2016 through 2020 grant solicitations for the Adult Drug Court and Veterans Treatment Court Discretionary Grant Program and available adult drug court eligibility data.⁶ From a national level perspective, BJA does not collect comprehensive grantee data on eligibility criteria or reasons for drug courts offering acceptance and refusal decisions. To obtain local level information on adult drug courts' eligibility requirements, we conducted case study reviews of five randomly selected adult drug courts awarded enhancement grants through the Adult Drug Court and Veterans Treatment Court Discretionary Grant Program in fiscal years 2018 through 2020.⁷ For each case study location, we reviewed available data and interviewed officials to obtain information related to adult drug court

⁵Although there are many kinds of drug courts serving specialized populations such as veterans, juveniles, or families, our work focused on adult drug courts, specifically. See Appendix I for further information on treatment courts funded by DOJ grants.

⁶Through fiscal year 2021, DOJ BJA administered grants for both adult drug courts and veterans treatment courts through a single program, the Adult Drug Court and Veterans Treatment Court Discretionary Grant Program. To date, however, DOJ administers grants for adult drug courts and veterans treatment courts through separate programs—the Adult Drug Court Discretionary Grant Program, and Veterans Treatment Court Discretionary Grant Program. We selected fiscal year 2016 through 2020 grant solicitations for our review as they are the 5 most recent years with complete information available.

⁷Enhancement grants are available to jurisdictions with a fully operational (at least 1-year) adult drug court. In addition, we selected adult drug courts with grants awarded in fiscal years 2018 through 2020, to ensure the respective courts had active grant awards at the time of our review.

eligibility requirements, best practices, and types of performance related information collected, maintained, and analyzed by the program.⁸

We also conducted focus groups with officials at adult drug courts awarded enhancement grants through the Adult Drug Court and Veterans Treatment Court Discretionary Grant Program—in fiscal years 2018 through 2020—in order to obtain their perspectives on the factors that impact individuals’ decisions regarding whether to accept or decline offers to participate in adult drug court programs. At each location, we interviewed officials and obtained information on the types of performance related information collected, maintained, and analyzed related to individuals decisions to accept or decline offers to participate in the programs.

Stakeholders from 44 adult drug courts participated in our series of 10 focus groups.⁹ When representing the results of the focus groups, “a few” refers to statements made by stakeholders from between two and nine adult drug courts; “some” refers to statements made by stakeholders from between 10 and 18 adult drug courts; “many” refers to statements made by stakeholders from between 19 and 27 adult drug courts; “most” refers to statements made by stakeholders from 28 to 36 adult drug courts; and “nearly all” refers to statements made by stakeholders from more than 37 adult drug courts.

Based on the data collected from the case studies and focus group discussions, we categorized the stakeholders’ perspectives and identified major themes common among the adult drug court programs. The information obtained from the case studies and focus groups are not generalizable across all types of adult drug courts or populations, but does allow us to present the common themes identified regarding the

⁸Specifically, we selected one court each from a rural, suburban, urban, territorial, and tribal location. The case studies were conducted with adult drug courts in Guam; Pinellas County, Florida; Sheboygan County, Wisconsin; Clayton County, Georgia; and the Makah Indian Reservation. Appendix II provides summary information on each of the case study locations selected for review.

⁹Officials from 44 adult drug court programs participated in the focus groups—12 participating courts were in rural locations; 10 participating courts were in suburban locations; 18 participating courts were in urban locations; and the remaining four participating courts were in tribal locations. This reflected the proportion of each type of adult drug court in our target population. We invited 19 additional adult drug courts to participate but they declined or were not responsive.

factors that impact individuals' decisions regarding whether to accept or decline offers to participate in adult drug court programs.

We also conducted interviews with subject-matter specialists from training and technical assistance organizations to obtain perspectives on adult drug court operations. For a more detailed discussion on our scope and methodology, see appendix III.

We conducted this performance audit from June 2021 to February 2023 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.

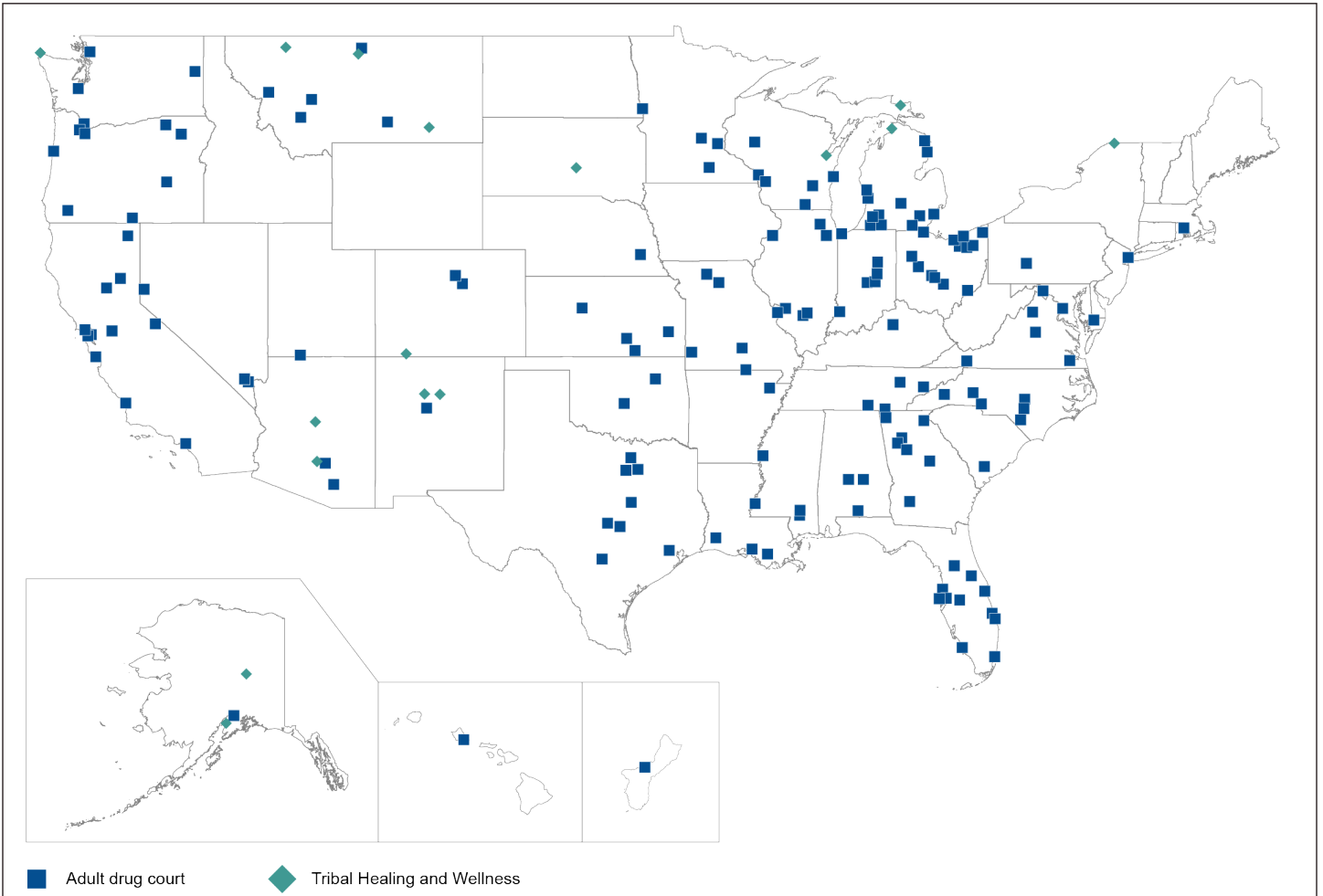
Background

Adult Drug Courts— Alternative to Adjudication or Incarceration

Adult drug courts are specialized court programs that aim to serve offenders who have substance use disorders.¹⁰ These courts use programs designed to reduce drug use relapse and criminal recidivism for individuals charged with or convicted of a crime. Specifically, adult drug courts provide participants with intensive court supervision, mandatory drug testing, substance use disorder treatment, and other social services as an alternative to traditional incarceration or adjudication. Adult drug courts receiving BJA grants are required to provide evidence-based substance use disorder treatment. Individuals screened for eligibility to participate in adult drug courts have the choice to decline enrolling. According to estimates from the National Drug Court Resource Center, as of December 2019, about 1,696 local, and tribal adult drug courts were operational in the United States. Figure 1 shows the locations of local and tribal adult drug court programs awarded enhancement grants through BJA's Grant Program in fiscal years 2016 through 2020.

¹⁰For purposes of this report, we use the term "offender" consistent with the statutory use of the term, which describes a person who has been charged with or convicted of an offense. See, e.g., 34 U.S.C. §§ 10611(a)(1), 10612, 10613(a), 10614(d)(6).

Figure 1: Locations of Local and Tribal Adult Drug Courts Awarded Bureau of Justice Assistance’s Enhancement Grants, Fiscal Years 2016 through 2020



Source: GAO analysis of Bureau of Justice Assistance data. | GAO-23-105272

Adult Drug Court Characteristics and Pathway to Participation

Adult drug courts generally adhere to certain key program components. However, they can differ in factors including admission criteria, type and duration of drug treatment, degree of judicial monitoring and intervention, and application of sanctions for noncompliance because of differences in local jurisdictions and criminal justice system practices. Local jurisdictions may have specific laws or requirements unique to their county. In addition, smaller, rural adult drug courts may not have the same amount

of resources, such as number of treatment providers, as larger urban courts.

The pathway to participation in adult drug courts may also vary by court. Defense attorneys, judges, prosecutors, probation officers, or others may refer individuals to participate in drug court. Referred individuals may range from nonviolent offenders with substance use disorders charged with drug-related offenses to offenders with extensive criminal histories who have failed prior substance use disorder treatment.

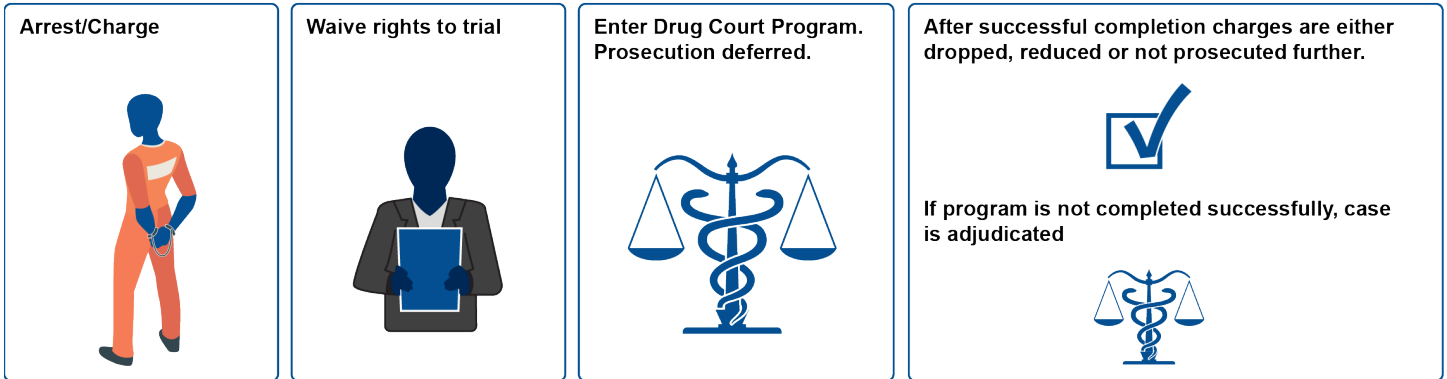
Adult drug courts may admit individuals at various points in the judicial process. Adult drug courts have implemented pre-adjudication approaches, also called deferred prosecution, or post-adjudication case-processing, or have blended both in their organizational structures.

In a deferred prosecution/pre-adjudication model, the individual does not enter a plea before the court. Rather, the judge defers prosecution while the individual is an active participant in adult drug court. Upon completion, the charge may be dropped or reduced. In adult drug courts using deferred prosecution, individuals waive rights to a trial and participate in a treatment court program shortly after being charged; those who subsequently fail to complete the treatment court program have their charges adjudicated, while those who complete the program are not prosecuted further, or have their charges dismissed. This approach offers individuals the opportunity to obtain treatment and avoid the possibility of a conviction.

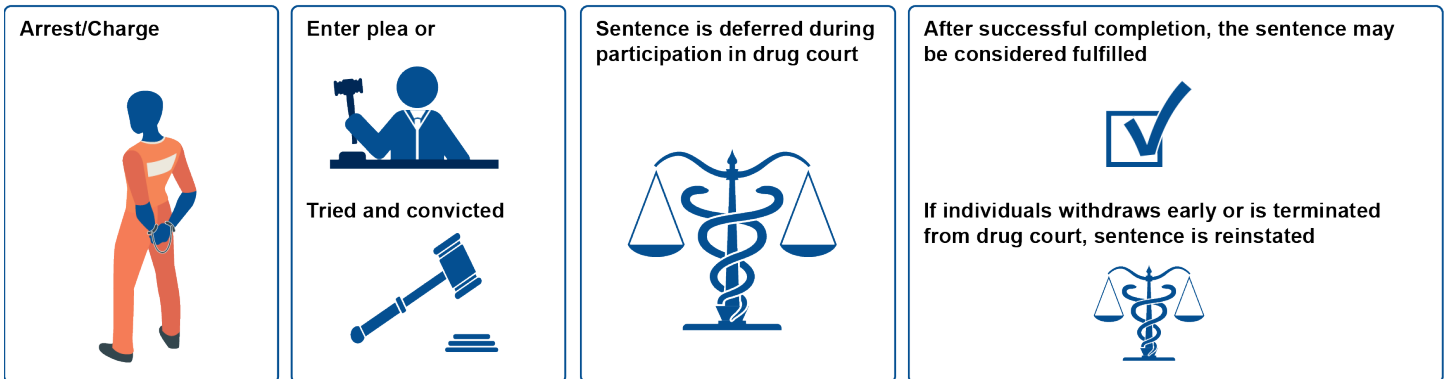
In a post-adjudication case processing model, individuals enter a guilty plea or are convicted prior to entering adult drug court, and sentencing is deferred for the duration of the adult drug court program. Individuals may enter a guilty plea or may be tried and convicted, but the court defers the sentence until they complete or withdraw from the treatment court program. This approach provides a rehabilitation incentive because it factors treatment progress into the sentencing determination. Figure 2 provides an overview of the common drug court models of admission—the deferred-prosecution model and post-adjudication case processing.

Figure 2: Common Drug Court Models of Admission

Deferred-prosecution model



Post-adjudication case processing



Source: GAO analysis. | GAO-23-105272

Adult drug courts feature a multidisciplinary team including judges, prosecutors, defense attorneys, community corrections, social workers and treatment services professionals. Once an individual enters adult drug court, the program includes:

- Recovery support services based on a treatment plan developed in response to an assessment of the individual’s needs;
- Regular interaction with a judge, drug testing, and supervision; and
- Assistance with life skills such as employment and accessing housing.

Support from stakeholders representing law enforcement, family and the community is encouraged through participation in hearings, programming, and events.

Adult drug courts use multiphase treatment approaches including stabilization, intensive treatment, and transition phases. For the stabilization phase, there is a period of detoxification, initial treatment assessment, education, and additional screening for other necessities. Intensive treatment involves counseling and therapy. Lastly, the transition phase emphasizes a variety of reintegration components including social, employment, education, and housing. Intensive treatment and transition phases feature judicially supervised treatment, as well as mandatory periodic drug and alcohol testing. This period of community supervision creates a sense of accountability to keep participants on track with program requirements. Failure to comply with certain requirements is addressed through the use of appropriate sanctions.

DOJ's Efforts to Support Drug Court Programs

DOJ's BJA was created in 1984 to reduce violent crime, create safer communities, and reform our nation's criminal justice system. BJA's mission is to provide leadership and services in grant administration and criminal justice policy development to support state, local, and tribal justice strategies to achieve safer communities. In addition, BJA works with communities, governments, and nonprofit organizations to reduce crime, recidivism, and unnecessary confinement, and promote a safe and fair criminal justice system.

BJA, in collaboration with the National Association of Drug Court Professionals (NADCP), developed *Defining Drug Courts: The Key Components*, which describes the basic elements that define drug courts. The NADCP is a training, membership, and advocacy organization for the drug court treatment model created in 1994 to provide for the collection and dissemination of information, technical assistance, and mutual support to association members. To provide information to adult drug courts regarding evidence-based best practices, NADCP also developed the Adult Drug Court Best Practice Standards under a cooperative agreement awarded by BJA.¹¹ NADCP disseminated the standards to the

¹¹Appendix IV provides specific information on the best practice standards for adult drug courts.

Adult Drug Court Grant
Funding

field of adult drug courts with the intent that the recommendations be adopted into day-to-day adult drug court operations.

Through the Violent Crime Control and Law Enforcement Act of 1994, as amended, Congress authorized the Attorney General to provide grants to states, state and local courts, local governments, and federally recognized Indian tribal government to establish drug courts.¹² As mentioned, BJA administers the Adult Drug Court Discretionary Grant Program to provide financial and technical assistance to states, local courts and governments, and tribal governments to implement, improve, and support adult drug courts.¹³ Through the Adult Drug Court Discretionary Grant Program, BJA offers funding in broad adult drug court grant categories:

- **Implementation grants:** Available to jurisdictions that have completed a substantial amount of planning and are ready to implement an adult drug court.
- **Enhancement grants:** Available to jurisdictions with a fully operational (at least 1-year) adult drug court.
- **Statewide grants:** Available to: (1) improve, enhance, or expand adult drug court services statewide through activities such as training and/or technical assistance programs for drug court teams; and (2) financially support adult drug courts in local or regional jurisdictions that do not currently operate with BJA Adult Drug Court Discretionary Grant Program funding.¹⁴

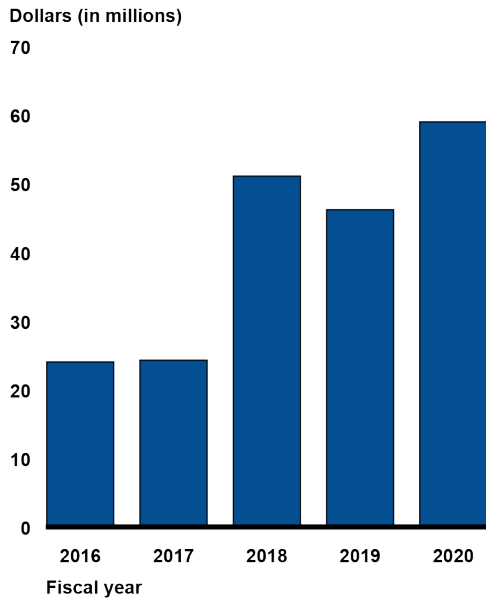
Between fiscal years 2016 and 2019, BJA grant funding for adult drug courts increased overall, from nearly \$28 million in 2016 to nearly \$60 million in 2020, peaking in 2019 at \$65.5 million. BJA distributes the total amount of funding through the three grant categories. Figure 3 shows annual levels of DOJ's adult drug court funding awarded for each grant category.

¹²34 U.S.C. § 10611.

¹³Through fiscal year 2021, this program was called the Adult Drug Court and Veterans Treatment Court Discretionary Grant Program, and it included both adult drug courts and veterans treatment courts.

¹⁴Statewide grant awards support an additional broad range of activities. This includes efforts to support audits of adult drug courts to ensure fidelity to the model, building and enhancing systems to collect core data related to adult drug court operations and outcomes, to conduct evaluation and research of local activities and to enhance key adult drug court services.

Figure 3: Department of Justice Grant Awards Under the Adult Drug Court and Veterans Treatment Court Discretionary Grant Program, Fiscal Years 2016 through 2020 (adjusted to 2021 values)



Source: GAO analysis of BJA data. | GAO-23-105272

Note: The annual levels of funding includes all of the adult drug court grant categories (i.e., Implementation, Enhancement, and Statewide Grants) for each fiscal year, 2016 through 2020.

Adult Drug Court Grant Performance Measures

DOJ requires grantees to provide data that measure their performance. The performance measures are specific values or characteristics reported by grantees that measure the output or outcome of grantees' activities and services. Performance measures for adult drug courts include both quantitative and qualitative data. BJA collects and analyzes performance data on a quarterly basis to determine trends in program enrollment, graduation rates by race and gender, risk and need levels, services provided, factors contributing to program completion vs non-completion, access to medication-assisted treatment, and use of a management information system. BJA uses the data collected to assess whether the grantees are performing the correct processes, and achieving the desired results. BJA does not use the quantitative data it collects to identify trends in reasons why individuals enroll or do not enroll in drug courts, because there are multiple points in the process of admission where individuals may decline to continue with the process, such as when decisions are made outside of adult drug court proceedings that are not recorded. BJA uses an open-ended response option for qualitative data on why individuals choose not to enroll.

In 2011, we reported that participation in adult drug courts was generally associated with lower recidivism rates and that BJA collected an array of data on adult drug court grantees, such as drug court completion rates, and used this performance data to inform grant-related decisions. We recommended that BJA document key methods used to guide future revisions of its drug court program performance measures, including developing a plan for how BJA will assess the measures after conclusion of the grantees' first reporting period and a rationale for why each measure was refined.¹⁵ In response, BJA created a timeline to record key revision related activities and a cross-walk describing the actions it took to revise or remove certain performance measures and the rationale that supported its decisions. Additionally, BJA analyzed the data grantees submitted using the revised performance measures and checked it for completeness, quality, and accuracy. These steps helped BJA improve the way it documents its decisions and incorporates feedback from stakeholders, including grantees.

Adult Drug Court Best Practice Standards

Grantees are encouraged to follow the Adult Drug Court Best Practice Standards, which NADCP developed under a cooperative agreement with BJA.¹⁶ BJA officials told us the agency uses the Best Practices Self-Assessment Tool developed by NPC Research to assess each grantee's compliance with the model. Results from the tool assist in identifying and offering targeted training and technical assistance aligned with the best practice standards to build capacity where the grantee needs assistance.¹⁷

¹⁵GAO, *Adult Drug Courts: Studies Show Courts Reduce Recidivism, but DOJ Could Enhance Future Performance Measure Revision Efforts*, [GAO-12-53](#) (Washington, D.C.: Dec. 9, 2011).

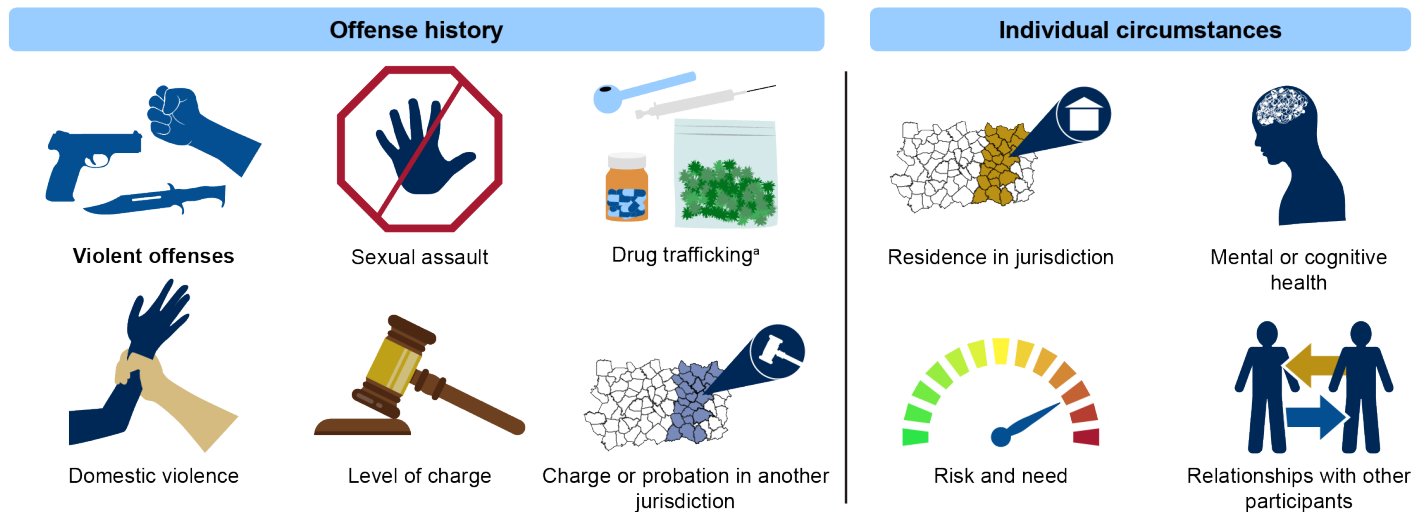
¹⁶For additional information on NADCP best practice standards for adult drug courts, see appendix IV.

¹⁷Best Practices Self-Assessment Tool, the BeST Assessment was developed based on in-depth qualitative data collected in research in more than 100 drug courts, <https://www.ndci.org/best-assessment/>.

Selected Adult Drug Courts Cited Various Factors in Determining Individuals' Eligibility

Individuals' eligibility for adult drug courts varies based on the nature of the offense, residence in jurisdiction, state and local policies, and stakeholder support, among other things.¹⁸ Figure 4 summarizes some of the common factors stakeholders in our focus groups noted may determine individuals' eligibility for participation in adult drug court in response to a broad question regarding factors that affect eligibility for participation in their drug court programs.

Figure 4: Factors that May be Used by Local and Tribal Drug Courts to Determine Eligibility



Source: GAO analysis. | GAO-23-105272

Offenses Impact Individuals' Eligibility for Participation in Local and Tribal Adult Drug Courts

Adult drug courts may prohibit participation by individuals who have committed offenses, although their approach to these prohibitions vary by court. For instance, adult drug courts funded by DOJ grants are prohibited by law from using grant funding to include individuals with prior or current violent offenses in their programs (generally called the "violent offender

¹⁸Our statements regarding eligibility are not generalizable to all adult drug courts but represent perspectives that we heard in the course of our review. When representing the results of these focus groups, "a few" refers to statements made by stakeholders from between two and nine adult drug courts; "some" refers to statements made by stakeholders from between 10 and 18 adult drug courts; "many" refers to statements made by stakeholders from between 19 and 27 adult drug courts; "most" refers to statements made by stakeholders from 28 to 36 adult drug courts; and "nearly all" refers to statements made by stakeholders from more than 37 adult drug courts.

prohibition”).¹⁹ Meanwhile, local adult drug courts may have differing policies on the inclusion of individuals with drug trafficking charges, domestic violence charges, or sexual assault charges.

Violent Offenses. Given the violent offender prohibition, stakeholders from most of the adult drug courts participating in our focus groups told us their court does not admit these individuals at all. One of these stakeholders told us that current or prior violent offenses account for 98 percent of ineligibility determinations for their adult drug court. Experts we spoke with also noted that the biggest barrier to participation in adult drug courts is charges related to violence and weapons. One adult drug court stakeholder added that accepting individuals with violent offenses would allow the adult drug court to serve more people who would otherwise be eligible for participation. Stakeholders from a few adult drug courts further stated that subject matter research, such as that cited in the NADCP best practice standards, provides evidence that individuals with current or prior violent offenses may be successful adult drug court participants.²⁰ This best practice standard is inconsistent with the statute, 34 U.S.C. § 10612, which prohibits use of DOJ grant funding to support participation of violent offenders in adult drug court programs. A few stakeholders explained that the terms of their grant awards do not permit them to serve individuals with violent offenses, but they would prefer to do so.

Example: Previous Violent Offenses

A stakeholder participating in one of our case studies cited an example of a person who wanted to participate in the adult drug court, but had an assault charge from being a bystander in a bar fight over 20 years ago. According to the stakeholder, although that person was not an active participant in the violence and had not demonstrated any violent tendencies since then, the adult drug court was unable to accept him due to 34 U.S.C. § 10612, which prohibits the use of federal grant funds to serve violent offenders in drug courts.

Source: GAO. | GAO-23-105272

However, a few adult drug courts told us that they admit violent offenders, by ensuring that they do not use federal funding to serve these clients. DOJ officials told us that grantees that use other funds for an adult drug court program must be able to track these expenses to ensure the separation of funds, and they must maintain documentation that they can show to an auditor if necessary.

¹⁹34 U.S.C. § 10612. Violent offenders generally include (1) those who have been charged with or convicted of an offense that is punishable by a term of imprisonment greater than 1 year, and during such offense, used or possessed a firearm or dangerous weapon; death or serious bodily injury to any person occurred, or the use of force against another person occurred; or (2) those who have one or more prior convictions for a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm. 34 U.S.C. § 10613(a).

²⁰The NADCP best practice standards state that offenders with violent histories should not be excluded automatically from participation in adult drug court. Further, the best practice standards state that “[i]f adequate treatment and supervision are available, there is no empirical justification for routinely excluding violent offenders from participation in drug courts.” NADCP, *Adult Drug Court Best Practice Standards, Volume I*, (Alexandria, VA, 2018).

Drug trafficking charges. Similarly, some stakeholders noted that their adult drug courts decline to serve individuals with drug trafficking charges. As one stakeholder noted, the adult drug court could provide traffickers with a ready-made market for their product. However, the majority of those adult drug courts said they have moved to consider trafficking charges on a case-by-case basis, because many individuals with trafficking charges simply possessed a large amount of a controlled substance at the time of arrest. In other cases, individuals may have been trafficking drugs just enough to support their own substance use disorder and are unlikely to continue trafficking once they receive treatment for their substance use disorder. NADCP best practice standards state that routinely excluding individuals charged with drug trafficking from participation in adult drug courts does not appear to be justified if the individual is trafficking drugs to support an addiction. The best practice standards further state that if drug trafficking serves to support an addiction, the individual might be a good candidate for adult drug court.

Domestic violence or sexual assault charges. Adult drug courts may also prohibit or limit the participation of individuals with domestic violence or sexual assault charges, although in some cases these prohibitions are considered on a case-by-case basis. Some stakeholders told us they do not accept individuals with charges related to sexual assault, although two noted that they may consider admitting these individuals on a case-by-case basis. Similarly, a few stakeholders said that their adult drug courts admit individuals with charges related to domestic violence on a case-by-case basis; a stakeholder from one other adult drug court told us the court does not admit individuals with domestic violence charges at all.

Level of charges. The level of individuals' charges may also affect their eligibility to participate in adult drug court. Although not asked directly about level of charges, a few stakeholders told us they only accept individuals with felony charges, which can affect the number of individuals deemed eligible for participation. For instance, a stakeholder cited a state law establishing that possession charges for certain common substances are generally considered a misdemeanor.²¹ As a result, fewer individuals were eligible to participate in adult drug courts that limit eligibility to offenders with felony charges.

²¹See Okla. Stat. tit. 63, § 2-402(B) (2022) (providing that, with some exceptions, possession of certain substances, including marijuana, constitutes a misdemeanor punishable by confinement for not more than 1 year and a fine not exceeding \$1,000).

Example: Jurisdictional Delays in Admission to Adult Drug Court

One state-level adult drug court coordinator noted that, in their state, if an individual has charges pending in one jurisdiction they cannot participate in an adult drug court in another jurisdiction until those charges are resolved. The coordinator pointed out that a best practice is for an individual to enter drug court within 30 days of arrest, but the process of resolving charges in multiple counties may delay admission into an adult drug court.

Source: GAO. | GAO-23-105272

Charges or probation in other jurisdictions. Finally, individuals may be ineligible for adult drug court if they have charges or are on probation in other jurisdictions. When asked about eligibility, a few stakeholders mentioned that individuals who have charges or are on probation in other jurisdictions may not participate in their adult drug courts.

Local Jurisdictions Establish Eligibility Criteria Based on Individuals' Characteristics and State and Local Guidelines

Local adult drug courts consider a variety of factors when considering whether to deem an individual eligible for participation in their adult drug court. Factors may be based on NADCP's best practice standards, local guidelines, or the capacity of the adult drug court to address participant characteristics.

In a few cases, adult drug court stakeholders cited data on eligibility and participation as a factor in modifying their adult drug court's policies and procedures when asked whether data on eligibility and participation would be useful for their adult drug court. NADCP and BJA also encourage adult drug courts to use data to evaluate the extent to which racial, ethnic, gender identity, age, and/or sexual orientation disparities exist in their programs and to take affirmative steps to ameliorate such disparities.²² In response to the broad question on eligibility and participation data usefulness, some stakeholders said they use or see the value in using the NADCP equity and inclusion tool or other data. The NADCP equity and inclusion tool examines proportional differences in referral, admission, and graduation rates between demographic groups as well as the reasons individuals do not enter adult drug court.

Risk and need. NADCP's best practice standards recommend that adult drug courts focus on high risk and high need offenders—individuals who are addicted to illicit drugs or alcohol and are at substantial risk for

²²BJA provides funds for drug courts to implement the Equity and Inclusion Assessment Tool and Racial and Ethnic Disparities Assessment Tool. The NADCP's National Drug Court Institute and the National Center for State Courts developed the Equity and Inclusion Assessment Tool with additional funding from ONDCP, within the Executive Office of the President. The American University's School of Public Affairs, Justice Program Office research center developed the Racial and Ethnic Disparities Assessment Tool through BJA funding.

Example: Risk and Needs Assessment

The Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) is a statistically-based client assessment, classification, and case management system designed to assess key risk and need factors in correctional populations. It assesses risk and need based on:

- Criminal involvement
- Relationships and lifestyle
- Personality and attitudes
- Family
- Social exclusion

Source: GAO. | GAO-23-105272

reoffending or failing to complete standard probation or pretrial supervision. They further recommend using validated risk assessment tools to determine individuals' risk and need levels.²³ Stakeholders from many of the adult drug courts we spoke with cited high risk and high need as qualifying factors when asked about eligibility, although we did not directly ask whether they limit participation to high risk and high need individuals. A few told us they target high risk and high need individuals, but allow individuals with lower risk and lower need levels to participate when there is room in the adult drug court.²⁴ Stakeholders from many of these programs directly mentioned using an assessment tool, such as the Risk and Needs Triage or the COMPAS system, among others.

Mental or cognitive health. Adult drug courts may not admit individuals with mental or cognitive health needs that exceed that adult drug court's ability to address. Although NADCP best practice standards recommend against a blanket prohibition of individuals with mental health needs, many stakeholders told us that they sometimes encounter individuals with mental health needs or cognitive disabilities that exceed the adult drug court's ability to address. In these cases, adult drug courts may refer these individuals to mental health courts or other mental health treatment options.

Residence in jurisdiction. Local and state governments may consider individuals' place of residence when determining eligibility. For example, some stakeholders noted that they only serve individuals who reside within their jurisdiction when asked about eligibility for their programs.

²³NADCP, *Adult Drug Court Best Practice Standards, Volume I*, (Alexandria, VA, 2018).

²⁴BJA officials told us that in recent years, BJA has encouraged drug courts to include individuals who are not high risk and high needs in their courts. To support these efforts, BJA offers a multi-track treatment court training to jurisdictions that addresses the needs of those involved in the court system that may have lower risk and lower need levels.

Stakeholders Support and Education Affects Eligibility for Adult Drug Court

Example: Stakeholder Stability and Training

The stability of staff in adult drug courts also affects the extent to which individuals are deemed eligible to participate. One adult drug court coordinator participating in our case studies noted that the court has worked with a succession of different district attorneys. The district attorneys who are less familiar with the program and who have minimal exposure to participants' progress are least willing to refer individuals to adult drug court.

Similarly, a judge participating in one of our case studies commented that he had received training when he became an adult drug court judge. He said the greater understanding made him more objective and willing to deem individuals eligible for the adult drug court.

Source: GAO. | GAO-23-105272

Input from stakeholders, including the district attorney and drug court judge, influence eligibility. National standards support the approach of dedicated stakeholders for adult drug courts. The NADCP best practice standards note that adult drug courts produce significantly greater reductions in criminal recidivism when judges, prosecutors, and defense attorneys are dedicated members of the drug court team and participate regularly in pre-court staff meetings and status hearings. The ONDCP has also addressed the importance of stakeholder support. In its 2022 National Drug Control Strategy, the agency supports engaging prosecutors and judges to ensure equitable treatment for individuals involved in the criminal justice system and expanding training for adult drug court staff.²⁵ The goal of both efforts is to remove the potential for biases to affect the process of referring individuals to adult drug court.

Individuals may be deemed ineligible for participation based on objections from judicial stakeholders. Some stakeholders noted that judges or district attorneys have the final say in who is eligible to participate in their programs. One stakeholder noted that district attorneys are the main barrier to eligibility, making eligibility determinations based on personal beliefs or local events. For instance, after two local incidents of looting, the prosecutor did not allow the drug court to admit anyone with looting charges for 6 months.

Stakeholders Identified Key Factors Affecting Enrollment Such As Availability of Alternative Sanctions, Individual Motivations, and Access to Resources

Individuals may choose to enroll in adult drug court for a variety of reasons, including avoiding jail time, reduction or expungement of charges, and motivation to overcome a substance use disorder. By contrast, individuals may choose not to enroll for factors such as alternative sentences, program burden, and lack of access to employment, transportation, or housing. Figure 5 summarizes some individuals' incentives and disincentives for participation cited by stakeholders representing adult drug courts participating in our focus groups and case studies.

²⁵ONDCP, *2022 National Drug Control Strategy* (Washington, DC: April 2022).

Figure 5: Individuals' Incentives and Disincentives for Participation in Adult Drug Court Cited by Stakeholders Participating in GAO's Focus Group Discussions and Case Study Reviews

Incentives	Disincentives
<ul style="list-style-type: none"> Opportunity to avoid jail. Opportunity to have charges reduced or dropped. Motivation for overcoming a substance use disorder. Financial burden relief and rewards. Reinstatement of driver's licenses or providing other means of transportation. Reunification with children or other family members. 	<ul style="list-style-type: none"> More attractive alternatives. State or local efforts to decriminalize substance use. Program burden on participants. Substance use disorder treatment options outside of adult drug court. Disagreement with proposed treatment plan or program. General mistrust of the criminal justice system. Conflicts with employment opportunities Transportation barriers. Housing barriers.

Source: GAO analysis. | GAO-23-105272

Note: This figure provides a collective overview of incentives and disincentives that may be present. However, these incentives and disincentives may not all be present in any one adult drug court.

Common Reasons to Enroll Cited by Stakeholders

When asked, some of the stakeholders we spoke with told us that eligible individuals usually accept a formal offer to participate in adult drug court. We describe the reasons for enrollment most commonly cited by focus group participants below.

Opportunity to avoid jail. When asked about incentives for participating in adult drug court, stakeholders from most of the drug courts participating in our focus groups said that avoiding or reducing jail time is the reason most individuals choose to participate in adult drug court.

Opportunity to have charges reduced or dropped. Some of the adult drug courts that identified as post-adjudication programs volunteered that individuals could have their charges dropped or reduced after successful completion of the adult drug court program.

Motivation for overcoming a substance use disorder. Many of the adult drug courts stated that many people participate because they are motivated to succeed in drug court. More generally, a few stakeholders

shared that adult drug courts gear their program toward people who are motivated to change. Individuals who do join the adult drug court value the program, as it presents an opportunity for sobriety and no prison time.

Financial burden relief and rewards. In a few adult drug courts, individuals do not have to pay for treatment and courts may incentivize participation by removing fines or fees. For instance, one stakeholder stated that individuals may enroll in adult drug court and, if they reach a certain phase in completing adult drug court requirements, the court waives their traffic fines. Another stakeholder told us that a judge in the county also defers some lesser charges and once waived \$18,000 in fines and fees, which was a great motivator for that particular individual. If the individuals were proceeding outside of adult drug court, they would have to find a way to pay for substance use disorder treatment. A similar incentive is material reward. One stakeholder told us that the adult drug court offers gift cards as an incentive and pulls rewards out of a fishbowl to keep participants motivated. Another stakeholder told us that the court provides participants with a mobile phone in order to organize check-ins and set meeting reminders.

Reinstatement of driver's licenses or providing other means of transportation. A few stakeholders told us the adult drug courts work with participants to reinstate their driver's license or provide other modes of transportation if the individual does not have a driver's license. In one instance, a stakeholder told us that the adult drug court helps clients get driver's licenses to drive themselves to meetings and court dates. They can also help establish a payment plan for tickets that may have resulted in the suspension of licenses. In another instance, a stakeholder stated that the court gives bicycles to participants to incentivize them and allow them to travel to adult drug court and their job.

Reunification with children or other family members. A stakeholder from one of the adult drug courts told us that, in many cases, the participants have lost relationships with their children or partners due to drug use and, through program completion, can work toward reconciliation. A few stakeholders from drug courts participating in our focus groups told us that participation can be helpful in addressing child support cases.

Common Reasons Not to Enroll Cited by Stakeholders

Some stakeholders told us that eligible individuals declining adult drug court offers is rare. However, we describe the reasons for declining enrollment most commonly cited by focus group participants below.

More attractive alternatives. Many stakeholders told us that individuals did not enroll if they found alternative options more attractive. For example, during the COVID-19 pandemic, because many jurisdictions were trying to decrease the numbers of people in jails, some prosecutors offered individuals probation rather than jail, removing the incentive to participate in adult drug court. According to some stakeholders, traditional probation is much easier than adult drug court. Similarly, individuals' attorneys may find alternatives more attractive for their clients. Generally, attorneys must act in the interest of their clients and advocate zealously on their behalf.²⁶ Accordingly, individuals may choose a potentially less-rigorous probation program after discussing the option with their attorneys.

State or local efforts to decriminalize substance use. A few stakeholders stated that state laws decriminalizing substance use resulted in fewer arrests for drug related crimes and subsequently fewer individuals eligible for adult drug court. However, jurisdictions may implement other methods for addressing substance use issues.

Example: Combatting Negative Impressions of Drug Court

During our case studies, one adult drug court coordinator noted that individuals might not accept offers to participate because they consider it faster and more beneficial to spend time in jail rather than endure the length of time to participate in the program. The coordinator noted that officials try to combat this perception by explaining the benefits of the adult drug court in the long-term.

Source: GAO. | GAO-23-105272

Program burden on participants. Some of our stakeholders stated that individuals may not enroll because of the day-to-day time commitment or overall length of the program. Adult drug court programs last from 12 to 36 months, and require frequent drug testing, regular court appearances, intensive treatment, and more intensive oversight from probation officers. For instance, individuals may perceive conditions placed on program participants as severe. Some potential participants are just coming out of jail and, may have a family or need to maintain a job. According to one stakeholder, adding adult drug court requirements to their already stressful daily life activities disincentivizes participation for some individuals. For example, one stakeholder explained that they have phases in their adult drug court to accommodate an individual's stressors. Phase 1 is more treatment-focused, during which the adult drug court does not expect the individual to work a full time job because they are fully focused on treatment. Participants must report three times a week, go to self-help meetings, court, and treatment. The focus on getting employment does not come until Phase 3.

Substance use disorder treatment options outside of adult drug court. Some individuals choose to pursue traditional treatment options rather than meet the requirements of the adult drug court. A stakeholder

²⁶See, e.g., Model Rules of Prof'l Conduct R.1.3 cmt. (2020).

from one adult drug court told us that traditional substance use disorder treatment takes place with only one meeting a week. In contrast, adult drug courts may require reporting to court weekly or biweekly and drug testing several times a week.

Example: Adult Drug Court Conflicts with Employment Opportunities

A judge for one adult drug court participating in our case studies noted that the most significant employment opportunity in his area was for individuals to spend several weeks working on a commercial fishing boat at sea. However, during the first phase of the adult drug court, the court does not permit them to be away that long, as drug testing and supervision is not possible at sea. As a result, some choose to seek employment rather than accept an offer to participate in adult drug court.

Source: GAO. | GAO-23-105272

Disagreement with proposed treatment plan or program. In a few instances, stakeholders stated that individuals may want to dictate their own treatment plan or are mistrustful of the adult drug court’s treatment plan, because prior treatment experiences did not work. When asked about religious treatment programs, nearly all stakeholders told us: 1) that they do not require individuals to participate in treatment or recovery support programs that incorporate religion in their programs or 2) participants have not objected to treatment because of religious affiliation. In addition, a few stakeholders shared that if a faith-based recovery support program such as Alcoholics Anonymous (AA) or Narcotics Anonymous (NA) is on a list of approved programs distributed by the adult drug court, it must also list a secular alternative, consistent with the First Amendment’s Establishment Clause.²⁷ Subject matter specialists from training and technical assistance organizations emphasized that adult drug courts cannot dictate that individuals participate in faith-based treatment options. Adult drug courts must present alternative options.

General mistrust of the criminal justice system. Stakeholders from a few adult drug courts stated that individuals tended to have a general mistrust of their court system. One stakeholder stated that inmates sometimes talk to each other in jail and spread negative impressions of the adult drug court. Another stated that a program graduate once told the stakeholder that he held back and did not actively engage during treatment because he knew the treatment provider was working with the court. The stakeholder opined that enrollees are frequently not as open with the provider as they need to be, because the providers collaborate with the court system. To combat these issues, stakeholders from a few of the adult drug courts told us they assure potential participants that they advocate for quality treatment and will provide oversight to ensure a good

²⁷The First Amendment’s Establishment Clause guarantees that the “government may not coerce anyone to support or participate in religion or its exercise.” *Lee v. Weisman*, 505 U.S. 577, 587 (1992). Compare *Warner v. Orange Cnty. Dept. of Probation*, 870 F. Supp. 69 (S.D.N.Y. 1994), which held that the Establishment Clause was violated because AA was the only treatment option available, with *O’Connor v. California*, 855 F. Supp. 303 (C.D. Cal. 1994), which held that the Establishment Clause was not violated because AA was one of various treatment options available. Drug court programs funded by the Department of Justice (DOJ) must comply with First Amendment protections. See 28 C.F.R. § 38.5.

experience. One stakeholder also said the court gets potential participants to interact with program alumni, as they do not trust the court system or police.

Participation may conflict with individuals' responsibilities. Some stakeholders stated that individuals raised concerns that adult drug court participation would prohibit them from holding employment or tending to other responsibilities. Stakeholders from a few adult drug courts reported that the intensive time commitment might result in participants spending less time with their families, which may also be a disincentive to participation.

Transportation barriers. Stakeholders from most of the adult drug courts that participated in our focus groups cited the distance participants must travel, the cost of transportation, or lack of public or private transportation options as a barrier for their participants. For example, in rural areas, limited public transportation resources are available, and taxis and ride-share services may not be operational or are expensive. One adult drug court stakeholder we spoke with told us their county was 1200 square miles, so it is challenging to get clients transportation for drug testing. Potential participants struggle to transport themselves across the county for treatment, court, and other obligations. Another told us that when they asked their state for additional resources, the state suggested that adult drug court participants use a ride sharing service that was unavailable in the rural area. To combat transportation issues, a few stakeholders said that they rely on adult drug court participants to provide rides to others in their cohort. A few other stakeholders said they provide services to participants such as resolution of traffic fines and suspended licenses or ride passes to mitigate transportation challenges.

Housing barriers. Stakeholders from some adult drug courts stated that an individual's living situation, including being in a homeless shelter or staying with a friend who has a substance use disorder, may not be conducive to staying sober. Stakeholders from a few adult drug courts told us they cannot accept homeless individuals into their drug court, and funding for homeless shelters and halfway houses is limited. A few stakeholders cited that there are residential treatments for one gender but not the other. Finally, a few stakeholders told us that individuals may have to complete residential treatment prior to enrollment in one place, which may be far away from local resources near to the adult drug court. Individuals would then have to complete treatment in one place without receiving local resources near to the adult drug court. In response, some

stakeholders told us that their adult drug courts provide assistance with securing housing for their participants.

BJA officials told us that they conduct significant outreach, put explicit language in grant solicitations, and provide technical assistance and training to mitigate reasons individuals do not enroll in drug court. The outreach and education BJA conducts includes significant outreach and education, including no cost training for jurisdictions planning new programs, to help state and local courts review the solicitation and receive support from providers, such as the National Drug Court Resource Centers. Further, the fiscal year 2022 adult drug court solicitation states that applicants are encouraged to provide recovery support services, which include transitional or recovery housing and peer recovery support, to active participants in their adult drug court programs.

In particular, applicants are encouraged to consider strategies to ensure access to medication-assisted treatment, consistent housing, and peer and family support. According to BJA, as part of the training and technical assistance it conducts, BJA initiated a listening session with its drug court grant recipients. BJA asked courts what factors impacted enrollment in their area, and encouraged courts that experienced decreased enrollment over the prior fiscal year to share actions implemented as well as what resources BJA could provide to counteract the decreased enrollment.

Agency Comments

We provided a draft of this report to DOJ for review and comment. DOJ informed us that they had no written comments. DOJ provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to the congressional committees, the Assistant Attorney General for Administration, Department of Justice, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8777 or mrneilt@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last

page of this report. GAO staff who made key contributions to this report are listed in appendix V.

A handwritten signature in black ink, appearing to read "Triana McNeil". The signature is written in a cursive, flowing style.

Triana McNeil,
Director, Homeland Security and Justice

Appendix I: Selected Treatment Court Programs Supported by Department of Justice (DOJ) Grants

Although this report focused on adult drug courts, this appendix provides further contextual information about the spectrum of treatment courts funded by DOJ grants.

Treatment courts are specialized programs that target offenders who have underlying substance use disorder, mental health, or other concerns that affect their actions, as well as families impacted by substance use. Local and tribal justice systems throughout the United States operate these treatment courts, which are based on a comprehensive model including:

- Offender screening and assessment of risk and need levels
- Judicial interaction
- Monitoring for substance use and supervision
- Graduated sanctions and incentives
- Treatment and rehabilitation services.

Table 1 provides an overview of some of the most prevalent types of treatment courts.

Table 1: Types of Treatment Courts Addressing Substance Use Disorder

Adult Drug Courts
Number operating in the United States: 1,696
Target population: Adults with substance use disorders charged with drug-related offenses
Key components^a:
<ul style="list-style-type: none"> • Drug courts integrate alcohol and other drug treatment services with justice system case processing • Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights • Eligible participants are identified early and promptly placed in the drug court program • Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services • Abstinence is monitored by frequent alcohol and other drug testing • A coordinated strategy governs drug court responses to participants' compliance • Ongoing judicial interaction with each drug court participant is essential • Monitoring and evaluation measure the achievement of program goals and gauge effectiveness • Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations

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- Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness

Tribal Healing to Wellness Courts

Number operating in the United States: 109

Target population: Tribal members with substance use disorders

Key components^b:

- Brings together alcohol and drug treatment, community healing resources, and the tribal justice process by using a team approach to achieve the physical and spiritual healing of the individual participant and to promote Native nation building and the wellbeing of the community
- Participants enter Tribal Healing to Wellness Court through various referral points and legal processes that promote tribal sovereignty and the participant's due process rights
- Eligible court-involved substance-abusing parents, guardians, juveniles, and adults are identified early through legal and clinical screening for eligibility and are promptly placed into the Tribal Healing to Wellness Court
- Tribal Healing to Wellness Court provides access to holistic, structured, and phased alcohol and drug abuse treatment and rehabilitation services that incorporate culture and tradition
- Tribal Healing to Wellness Court participants are monitored through intensive supervision that includes frequent and random testing for alcohol and drug use, while participants and their families benefit from effective team-based case management
- Progressive rewards (or incentives) and consequences (or sanctions) are used to encourage participant compliance with the Tribal Healing to Wellness Court requirements
- Ongoing involvement of a Tribal Healing to Wellness Court judge with the Tribal Healing to Wellness Court team and staffing, and ongoing Tribal Healing to Wellness Court judge interaction with each participant
- Process measurement, performance measurement, and evaluation to monitor and evaluate the achievement of program goals, identify needed improvements, determine participant progress, and provide information to governing bodies, interested community groups, and funding sources
- Continuing interdisciplinary and community education promotes effective Tribal Healing to Wellness Court planning, implementation, and operation
- The development and maintenance of ongoing commitments, communication, coordination, and cooperation among Tribal Healing to Wellness Court team members, service providers and payers, the community, and relevant organizations, including the use of formal written procedures and agreements

Mental Health Courts

Number operating in the United States: 490

Target population: Offenders suffering from severe and persistent mental illness

Key components^c:

- A broad-based group of stakeholders representing the criminal justice, mental health, substance abuse treatment, and related systems and the community guides the planning and administration of the court
-

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- Eligibility criteria address public safety and consider a community's treatment capacity, in addition to the availability of alternatives to pretrial detention for defendants with mental illnesses. Eligibility criteria also take into account the relationship between mental illness and a defendant's offenses, while considering the individual circumstances of each case
- Participants are identified, referred, and accepted into mental health courts, and then linked to community-based service providers as quickly as possible
- Terms of participation are clear, promote public safety, facilitate the defendant's engagement in treatment, are individualized to correspond to the level of risk that the defendant presents to the community, and provide for positive legal outcomes for those individuals who successfully complete the program
- Defendants fully understand the program requirements before agreeing to participate in a mental health court. They are provided legal counsel to inform this decision and subsequent decisions about program involvement. Procedures exist in the mental health court to address, in a timely fashion, concerns about a defendant's competency whenever they arise
- Mental health courts connect participants to comprehensive and individualized treatment supports and services in the community. They strive to use—and increase the availability of— treatment and services that are evidence-based
- Health and legal information should be shared in a way that protects potential participants' confidentiality rights as mental health consumers and their constitutional rights as defendants. Information gathered as part of the participants' court-ordered treatment program or services should be safeguarded in the event that participants are returned to traditional court processing
- A team of criminal justice and mental health staff and service and treatment providers receives special, ongoing training and helps mental health court participants achieve treatment and criminal justice goals by regularly reviewing and revising the court process
- Criminal justice and mental health staff collaboratively monitor participants' adherence to court conditions, offer individualized graduated incentives and sanctions, and modify treatment as necessary to promote public safety and participants' recovery
- Data are collected and analyzed to demonstrate the impact of the mental health court, its performance is assessed periodically (and procedures are modified accordingly), court processes are institutionalized, and support for the court in the community is cultivated and expanded

Veterans Treatment Courts

Number operating in the United States: 480

Target population: military veterans (sometimes active-duty military members) suffering from service-related injury or illness, such as posttraumatic stress disorder, traumatic brain injury, reactive depression, and co-occurring substance use disorders

Key components^d:

- Integrate alcohol, drug treatment, and mental health services with justice system case processing
 - Non-adversarial approach in which prosecution and defense counsel promote public safety while protecting participants' due process rights
 - Eligible participants are identified early and promptly placed in the Veterans Treatment Court program
 - Veterans Treatment Courts provides access to a continuum of alcohol, drug, mental health and other related treatment and rehabilitation services
-

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- Abstinence is monitored by frequent alcohol and other drug testing
- Reward compliance while responding appropriately to non-compliance using a coordinated strategy
- Ongoing judicial interaction with each Veteran
- Monitoring and evaluation measure the achievement of program goals and gauge effectiveness
- Continuing interdisciplinary education for staff promotes effective Veterans Treatment Court planning, implementation, and operations
- Partnerships among Veterans Treatment Court, Veterans Administration, public agencies, and community-based organizations to generate local support and enhance Veteran Treatment Court effectiveness

Family Treatment Courts

Number operating in the United States: 335

Target population: Families with cases of child abuse or neglect in which parental substance use was a contributing factor

Key components^{9e}:

- Focus on the permanency, safety, and welfare of abused and neglected children as well as the needs of the parents
- Provide early intervention, assessment, and facilitated access to services for parents and children in a holistic approach to strengthen family function
- Develop comprehensive service plans that address the needs of the entire family system
- Provide enhanced case management services to monitor progress and facilitate access to services
- Schedule regular staff meetings to facilitate the exchange of information and coordinate services for the family
- Increase judicial supervision of children and families
- Promote individual and systems accountability
- Ensure legal rights, advocacy, and confidentiality for parents and children
- Operate within the federal mandates of the Adoption and Safe Families Act of 1997 and the Indian Child Welfare Act of 1978^f
- Judicial leadership for both the planning and implementation of the court

Juvenile Drug Treatment Courts

Number operating in the United States: 305

Target population: Youth with substance use disorders at medium to high risk for reoffending in the juvenile justice system

Key components^{9f}:

- Interdisciplinary, coordinated, and systemic approach to working with youth and their families
 - Interdisciplinary, non-adversarial work team
 - Frequent judicial reviews and be sensitive to the effect that court proceedings can have on youth and their families
 - System for program monitoring and evaluation to maintain quality of service, assess program impact, and contribute to knowledge in the field
 - Partnerships with community organizations to expand the range of opportunities available to youth and their families
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- Interventions tailored to the complex and varied needs of youth and their families.
 - Treatment tailored to the developmental needs of adolescents
 - Gender-appropriate services
 - Policies and procedures that are responsive to cultural differences and train personnel to be culturally competent
 - A focus on the strengths of youth and their families during program planning and in every interaction between the court and those it serves
 - Recognition and engagement of the family as a valued partner in all components of the program
 - Coordination with the school system to ensure that each participant enrolls in and attends an educational program that is appropriate to his or her needs
 - Frequent, random, and observed drug testing, with testing policies and procedures documented in writing
 - Incentives and sanctions designed to reinforce or modify the behavior of youth and their families
 - A confidentiality policy and procedures that guard the privacy of the youth while allowing the drug court team to access key information
-

Source: GAO analysis of publicly available research and documents, as noted. | GAO-23-105272

Note: Numbers of courts operating in the United States are based on estimates of courts operating in 2019 made by the National Drug Court Research Center in *Painting the Current Picture: A National Report on Treatment Courts in the United States, Highlights and Insights*, published in 2022. Figure for Tribal Healing to Wellness Courts is as of December 31, 2020

^aNational Association of Drug Court Professionals, *Defining Drug Courts: The Key Components* (Alexandria, VA: 2004)

^bTribal Law and Policy Center, *Tribal Healing to Wellness Courts: The Key Components*, 2nd Edition (West Hollywood, CA: May 2014)

^cCouncil of State Governments Justice Center, *Improving Responses to People with Mental Illness: The Essential Elements of a Mental Health Court* (New York, NY: 2007)

^dKey components as outlined by Justice for Vets. a division of the [National Association of Drug Court Professionals](#).

^eNational Drug Court Institute, *Family Treatment Court Planning Guide* (Alexandria, VA: 2018)

^fPub. L. No. 105-89, 111 Stat. 2115; Pub. L. No. 95-608, 92 Stat. 3069.

^gBureau of Justice Assistance, *Juvenile Drug Courts: Strategies in Practice* (Washington, DC: March 2003)

Appendix II: Overview of Adult Drug Court Programs Selected for Case Study Review

To gain an in-depth perspective on adult drug courts' experiences with determining eligibility and individuals' decisions regarding whether to participate in drug court, we conducted case studies of five selected adult drug courts. They were supported by the Adult Drug Court and Veterans Treatment Court Discretionary Grant Program administered by the Bureau of Justice Assistance, which is the only DOJ grant that supports adult drug court programs. We selected adult drug courts for case studies from the universe of adult drug courts awarded grants to enhance existing programs, to focus on adult drug courts that were already established and therefore had more experience with eligibility for and acceptance of offers to participate in their programs. Further, the selection included adult drug courts with grants awarded in fiscal years 2018 through 2020 to ensure the courts had active grant awards. Criteria for selection further included rural, suburban, urban, territorial, and tribal locations.¹

For each case study, we reviewed documentation on adult drug court eligibility and selection criteria, requested data on participation and reviewed the data if available, and interviewed the relevant state drug court coordinator to better understand the environment in which the local adult drug court was operating. We also interviewed stakeholders from the local adult drug court, including the adult drug court coordinator, probation officer, and judge. Information from these case studies is not generalizable, but gives a more in-depth perspective on adult drug court experiences with determining eligibility and potential clients' decisions whether to accept admittance into the adult drug court. The following pages provide background information on each of our selected adult drug courts.

¹The classifications for type of location are self-reported by grantees based on the definition provided by BJA and adapted from the 2010 Census Urban and Rural Classification and Urban Area Criteria. Urban is defined as a large city with 50,000 or more people; Suburban is defined as a territory outside of a large city with a population of 2,500 to 50,000 people or more; Rural is defined as a territory that encompasses all people and housing not included within a suburban, urban, or tribal area; and Tribal is defined as a territory that contains a concentration of people who identify with a federally recognized tribe.

SHEBOYGAN COUNTY ADULT DRUG COURT RURAL

DEPARTMENT OF JUSTICE GRANT

Adult Drug Court Enhancement Funding Awarded by Department of Justice

- Fiscal Year 2018: \$374,995

NUMBER SERVED (FROM BUREAU OF JUSTICE ASSISTANCE PERFORMANCE DATA)

- Expected number of participants – 25

ELIGIBILITY CRITERIA

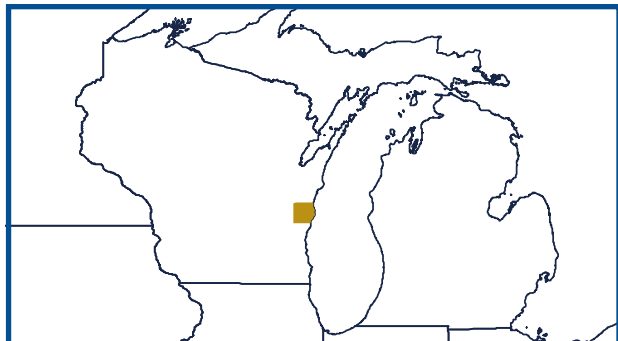
- Resident of Sheboygan County
- Assessed as high risk and high needs using the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS), a validated assessment tool.
- Assessed as having a severe Substance Use Disorder on the Texas Christian University Drug Screen-V (TCUDS-V).
- Charged with and/or convicted of a felony in Sheboygan County involving the possession, use, or sale of a controlled substance or other crime motivated by substance use.
- Criminal proceeding must be at the post-conviction stage with a minimum of 24 months of supervision available.

EXCLUSIONARY CRITERIA

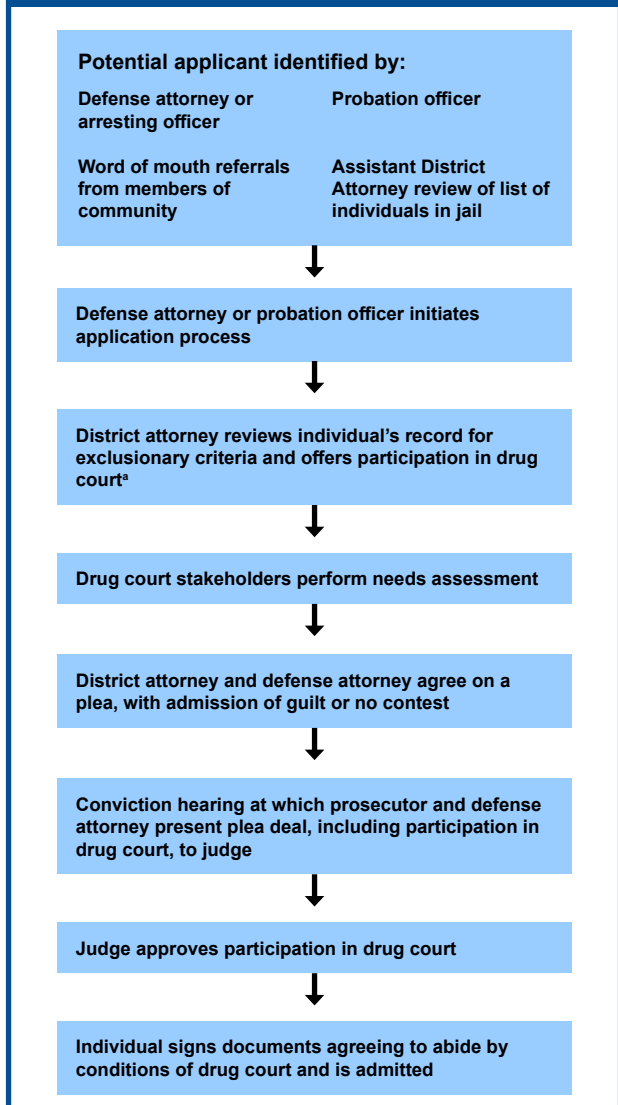
- Be a violent offender by Federal definition.
- Prior or current offenses related to sex, dangerous weapons, or firearms
- Manufacture, delivery, possession with intent or conspiracy to commit these offenses involving 5 or more grams of cocaine, 200 grams of marijuana or 4 plants, 3 or more grams of heroin or 3 or more grams of methamphetamine.

SELECTED BARRIERS IDENTIFIED BY STAKEHOLDERS

- Intensive nature of drug court program – may be longer or more difficult than serving a prison sentence
- Prohibition of individuals with violent offences – many individuals have violent offences and therefore are prohibited from participating in adult drug court
- Housing – although Sheboygan has homes dedicated to sober living, capacity is limited, and many owners are reluctant to rent to adult drug court participants. In addition, many adult drug court participants do not have income sufficient to afford current rental rates.



Process for admission to drug courts



Source: GAO analysis. | GAO-23-105272

PINELLAS COUNTY ADULT DRUG COURT URBAN

DEPARTMENT OF JUSTICE GRANT

Adult Drug Court Enhancement Funding Awarded by Department of Justice

- Fiscal Year 2020 - \$495,955

NUMBER SERVED (FROM BUREAU OF JUSTICE ASSISTANCE PERFORMANCE DATA)

- Expected number of participants – 110

ELIGIBILITY CRITERIA

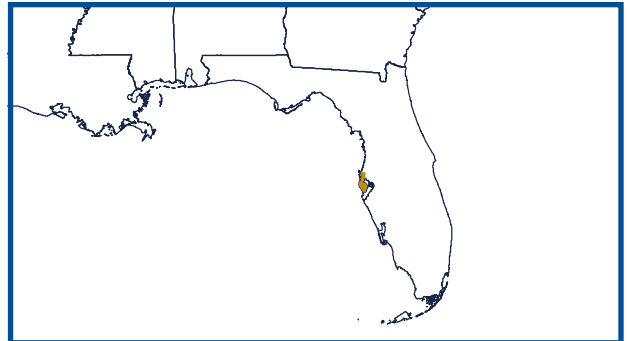
- Must have charges involving substance abuse, such as drug possession or other drug related crimes
- Must be a non-violent offender with felony charges
- Must be over the age of 18
- May enter adult drug court prior to or following a plea, after the case has been adjudicated, or while on probation.

EXCLUSIONARY CRITERIA

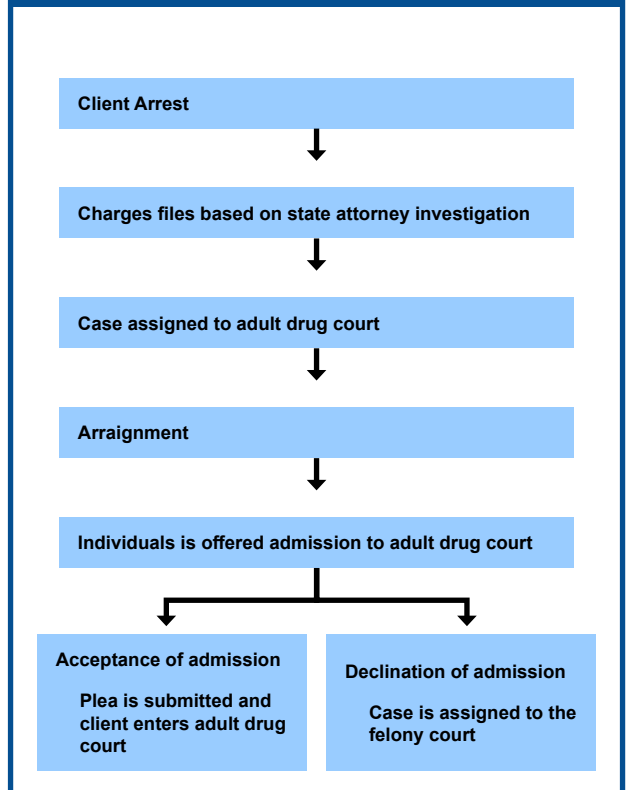
- Drug trafficking charges
- Habitual or violent felony charges
- Pose a risk to public safety, as outlined in 42 U.S.C. 3797
- Arson conviction
- Violation of conditions of controlled release or parole
- Current charges that have resulted in serious personal injury to victims

SELECTED BARRIERS IDENTIFIED BY STAKEHOLDERS

- Length of time required to complete the adult drug court program
- Jail time may be shorter and easier to complete than the adult drug court
- Local housing costs
- Lack of affordable transportation
- Lack of motivation to overcome substance disorder
- Limited number of detox facilities
- Limited options for inpatient treatment



Process for admission to drug courts



Source: GAO analysis. | GAO-23-105272

CLAYTON COUNTY ADULT DRUG COURT SUBURBAN

DEPARTMENT OF JUSTICE GRANT

Adult Drug Court Enhancement Funding Awarded by Department of Justice

- Fiscal Year 2019 - \$479,520
- Fiscal Year 2020 - \$497,775

NUMBER SERVED (FROM BUREAU OF JUSTICE ASSISTANCE PERFORMANCE DATA)

- Expected number of participants – 60 (2019 award) and 210 (2020 award)

ELIGIBILITY CRITERIA

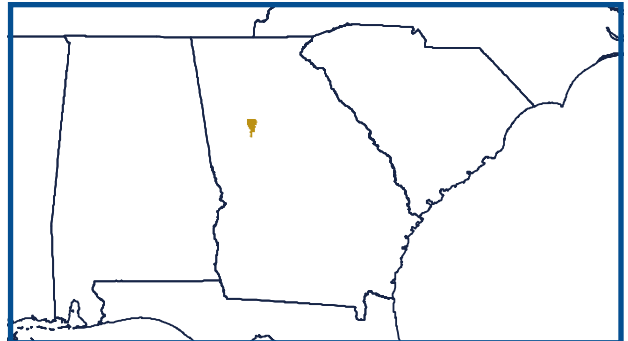
- Must be high-risk, high-needs based on an evidence-based assessment, indicating an identifiable substance abuse problem
- Must have at least one prior felony conviction
- Must be charged and reside in Clayton County
- Must be 18 years of age or older
- Current charge must be non-violent and drug or property related, such as charges related to forgery, theft, or possession of illegal substances.

EXCLUSIONARY CRITERIA

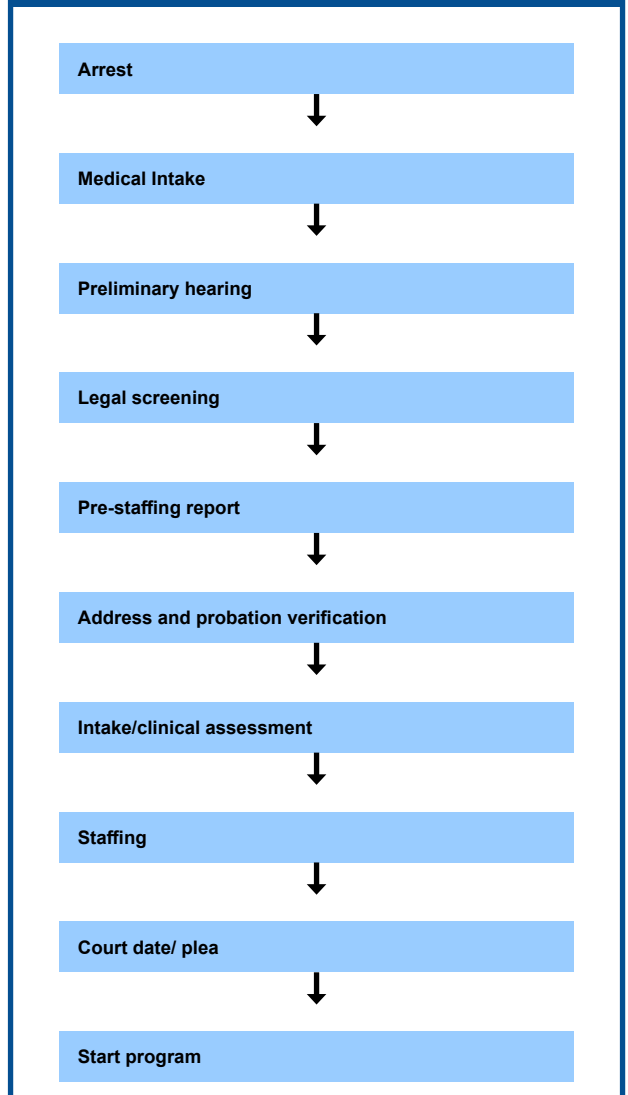
- Must not be subject to a sex-offender registration requirement
- Current charge(s) or past conviction for a violent or sexual offense (misdemeanor family violence okay)
- Charged with possession or use of dangerous weapon during commission of/ arrest for current crime
- Drug trafficking offenses (may be admitted if dealing to support drug habit)
- Refusal to cooperate with screening and assessment procedures or to comply with program requirements
- Mental health or medical issues would prevent active participation in and completion of program
- Pending felonies in any other jurisdiction(s) or out-of-state warrants

SELECTED BARRIERS IDENTIFIED BY STAKEHOLDERS

- The opportunity to be released from jail on bond or to submit a plea involving no jail time removes the incentive for individuals to participate in adult drug court
- Negative rumors spread in jail about drug court
- Lack of affordable housing
- Lack of childcare
- Distrust of court system



Process for admission to drug courts



Source: GAO analysis. | GAO-23-105272

MAKAH TRIBE HEALING TO WELLNESS COURT TRIBAL

DEPARTMENT OF JUSTICE GRANT

Adult Drug Court Enhancement Funding Awarded by Department of Justice

- Fiscal Year 2019 - \$498,796

NUMBER SERVED (FROM BUREAU OF JUSTICE ASSISTANCE PERFORMANCE DATA)

- Expected number of participants – 75

ELIGIBILITY CRITERIA

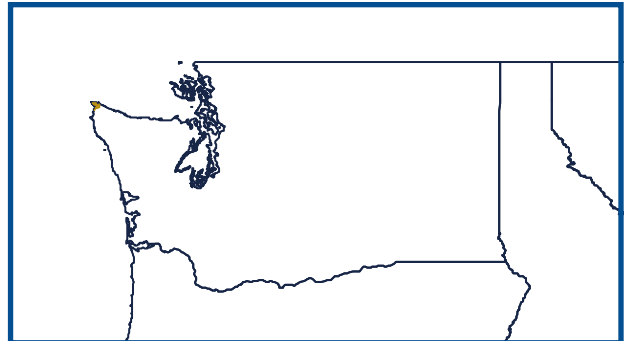
- Residency in jurisdiction
- Non-violent offender
- Alcohol and/or substance abuse problem

EXCLUSIONARY CRITERIA

- Violent offenses
- Sexual offenses
- Drug trafficking (may be admitted if trafficked to support drug habit)

SELECTED BARRIERS IDENTIFIED BY STAKEHOLDERS

- Availability of safe and stable housing
- The intensive nature of the healing to wellness court may be overwhelming
- The need to take time away from employment in order to participate in the healing to wellness court
- Prosecutor reluctance to refer people to healing to wellness court
- Misinformation about the healing to wellness court



Process for admission to drug courts

1. Initial case staffing meeting

- Healing to wellness court team considers eligibility information and case manager's preliminary proposed Individual Services Plan or other interim plan



2. Healing to wellness court hearing, including prospective client

- Makah Tribal Court referral is addressed to ensure all required paperwork is done
- Healing to wellness court judge approves the recommended admission and approves treatment plan
- Judge may ask questions or have discussion with prospective client to ensure understanding
- Judge issues proposed orders

Source: GAO analysis. | GAO-23-105272

GUAM ADULT DRUG COURT TERRITORIAL

DEPARTMENT OF JUSTICE GRANT

Adult Drug Court Enhancement Funding Awarded by Department of Justice

- Fiscal Year 2019 - \$499,775

NUMBER SERVED (FROM BUREAU OF JUSTICE ASSISTANCE PERFORMANCE DATA)

- Expected number of participants – 60 (2018), 135 (2019)

ELIGIBILITY CRITERIA

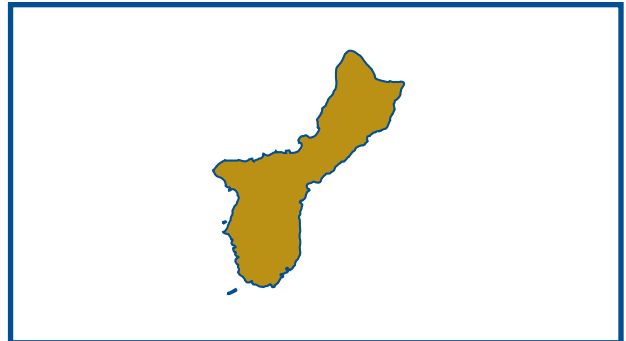
- Must be at least 18 years of age.
- Must have the ability to participate and voluntarily agree to do so.
- Must be assessed to be of medium to high criminogenic risk

EXCLUSIONARY CRITERIA

- Prior felony convictions that are drug, violent, or sexual in nature
- Pending felony charges of violent and/or sex crimes, and no pending distribution, manufacturing or intent to distribute charges
- Prior conviction for a violent crime or violent felony
- Participant is a perpetrator of sexual abuse
- Participant has a chronic or terminal medical condition requiring extensive medical treatment that impairs her/his ability to meet treatment or court requirements.
- Participant has severe psychological or psychiatric problems that impairs her/his ability to meet treatment or court requirements.

SELECTED BARRIERS IDENTIFIED BY STAKEHOLDERS

- Lack of attorney understanding of adult drug court prevents defense attorneys from encouraging clients to participate
- Lack of public transportation after work hours
- Participation in adult drug court may interfere with employment
- Individuals have limited understanding of adult drug court program
- Lacking a stable team of judges, prosecutors, and other stakeholders may lead to little understanding of adult drug court program
- Individuals may consider the requirements of the drug court program to be overwhelming



Process for admission to drug courts

The Attorney General's office determines whether an individual is legally eligible for any treatment court within the Guam system.



The appropriate treatment court conducts a clinical screening



Individuals who qualify for the adult drug court program plead guilty to the drug offense, and the court defers acceptance of the guilty plea.



In return, the individual immediately enters a drug or alcohol treatment program which must be completed within 2 years

Source: GAO analysis. | GAO-23-105272

Appendix III: Scope and Methodology

This report describes: (1) eligibility for participation in local and tribal adult drug courts supported by the Department of Justice (DOJ) grants, and (2) factors that affect individuals' decisions regarding whether to accept or decline offers to participate in adult drug courts.

To address both of these objectives, we conducted a literature review to identify any academic studies or research regarding eligibility criteria for adult drug court and elements that affect individuals' decisions whether or not to accept offers to participate in drug court.¹ However, we found little research on eligibility or participants' decisions.

In addition, we reviewed academic literature and best practices for adult drug court programs developed by the National Association of Drug Court Professionals (NADCP), a training and technical assistance provider supported by DOJ.² The best practices serve as a basis for grant requirements and inform how adult drug court grantees operate their programs. We also interviewed subject matter experts from DOJ, NADCP, and other organizations that provide training and technical assistance to adult drug courts, such as the National Drug Court Resource Center, the Center on Court Innovation, and the Tribal Law and Policy Institute to contribute to our understanding of the best practices and key components of adult drug courts.³

We analyzed Bureau of Justice Assistance (BJA) grant award data for fiscal years 2016 through 2020. For example, we analyzed award amounts to determine how funding was distributed through different types of grant awards. We also used the data to develop information on the geographic distribution of adult drug courts. We focused on fiscal years 2016 through 2020 as they were the most recent data at the time of our review. To assess the reliability of these data, we asked DOJ officials how

¹Our literature review included searches of academic and federal research databases, such as EBSCO and SCOPUS, from 2017 to 2021, and included search terms focused on participation, entrance, and admittance to drug courts and treatment programs.

²The NADCP is a training, membership, and advocacy organization for the drug court model that publishes research-based materials including the Adult Drug Court Best Practice Standards.

³The National Drug Court Resource Center provides a variety of resources for court professionals that align with best practice standards to expand and enhance drug court operations, conduct subject matter research, collaborate with partner agencies, as well as collect and analyze program data. The Tribal Law and Policy Institute is a Native American operated nonprofit dedicated to providing free publication resources, comprehensive training, and technical assistance for Native nations and tribal justice systems.

the data are entered and maintained in the Performance Management Tool, which tracks grant awards, information on grantees' programs, and performance measures submitted by grantees. We also reviewed related documentation, such as user manuals, data dictionaries, and the ways in which DOJ asked performance measure questions of grantees. Based on our review of the data and related controls, we determined that the data were sufficiently reliable for the purposes of reporting information on funding and grantee location during fiscal years 2016 through 2020.

To further explore the data available on eligibility and individuals' decisions whether or not to accept offers to participate in adult drug court, we obtained documentation on performance data reporting requirements for adult drug court grantees and data submitted by the grantees. We interviewed BJA officials to identify the extent to which they use performance data to provide information on eligibility and individuals' decisions regarding whether or not to accept offers to participate in drug court. We assessed the performance data and concluded that, due to the manner in which performance data points are collected, the data were not reliable for the purpose of analyzing reasons for eligibility or why individuals chose not to accept offers to participate in adult drug court.

Because BJA does not collect national data eligibility and participation in adult drug courts, we conducted case studies of five selected adult drug courts supported by the Adult Drug Court and Veterans Treatment Court Discretionary Grant Program administered by BJA, which is the only DOJ grant that supports adult drug court programs. We selected adult drug courts for case studies from the universe of adult drug courts awarded grants to enhance existing programs, in order to focus on adult drug courts that were already established. These courts had more experience with eligibility for, and acceptance of, offers to participate in their programs. Further, the selection included adult drug courts with grants awarded in fiscal years 2018 through 2020 to ensure the courts had active grant awards.

We selected one court each from a rural, suburban, urban, territorial, and tribal location by developing a numbered list of adult drug courts with federal grants awarded in 2018 through 2020 in rural, suburban, urban, territorial, and tribal locations. We then used a random number generator

to select adult drug courts for our case studies.⁴ Only one adult drug court was awarded federal grants in a United States territory in 2018 through 2020, so it was automatically selected.⁵ For each case study, we reviewed documentation on adult drug court eligibility and selection criteria, requested data on participation, reviewed the data if available, and interviewed the relevant state drug court coordinator to better understand the environment in which the adult drug court was operating. We also interviewed available stakeholders from the local adult drug courts, including adult drug court coordinators, probation officers, and judges. Information from these case studies is not generalizable, but gives a more in-depth perspective on adult drug court experiences with determining eligibility and potential clients' decisions whether to accept offers to participate in the adult drug court.

To gather additional information about stakeholders' perspectives on eligibility for adult drug court and individuals' decisions regarding whether to accept offers to participate, we conducted a series of ten focus groups between May 2 and May 26, 2022 with a total of 44 adult drug courts. To select the adult drug courts, we used BJA data to separate all adult drug courts awarded enhancement grants in fiscal years 2018 through 2020 into rural, suburban, urban, or tribal locations.⁶ Starting with separate data sets for the rural, suburban, urban, and tribal adult drug courts, we shuffled each one independently. We then contacted adult drug courts using the randomized order until we reached our target number of courts who agreed to participate in the focus groups.

⁴Further, upon initiating contact with our initial selections, we learned that one of our selected drug courts was not appropriate for our purposes because it automatically enrolls individuals in its program, and a second selected case study court was unresponsive. In these cases, we replaced the chosen drug court programs with drug courts operating in the same state and type of location.

⁵Case studies were conducted with drug courts in Guam; Pinellas County, Florida; Sheboygan County, Wisconsin; Clayton County, Georgia; and the Makah Indian Reservation. See Appendix II for further information on each case study.

⁶The classifications for type of location are self-reported by grantees based on the definition provided by BJA and adapted from the 2010 Census Urban and Rural Classification and Urban Area Criteria. Urban is defined as a large city with 50,000 or more people; Suburban is defined as a territory outside of a large city with a population of 2,500 to 50,000 people or more; Rural is defined as a territory that encompasses all people and housing not included within a suburban, urban, or tribal area; and Tribal is defined as a territory that contains a concentration of people who identify with a federally recognized tribe.

We contacted a total of 63 adult drug courts; 47 adult drug courts agreed to participate with 44 adult drug courts actually attending our focus group. This final number represents 28.4 percent of the 155 adult drug courts that BJA awarded enhancement grants to in fiscal years 2018 through 2020. Of these 44, 12 were rural, 10 were suburban, 18 were urban, and four were tribal adult drug courts. We conducted three rural, two suburban, four urban, and one tribal focus group, which is representative of the distribution of each type of adult drug court in our population. We requested that each adult drug court identify its coordinator or another stakeholder who had knowledge of the process of determining eligibility and experience working with individuals as they decided whether to accept offers to participate in the adult drug court.

When representing the results of these focus groups, “a few” refers to statements made by stakeholders from between two and nine adult drug courts; “some” refers to statements made by stakeholders from between 10 and 18 adult drug courts; “many” refers to statements made by stakeholders from between 19 and 27 adult drug courts; “most” refers to statements made by stakeholders from 28 to 36 adult drug courts; and “nearly all” refers to statements made by stakeholders from more than 37 adult drug courts. Table 2 lists the 44 adult drug courts that participated in our focus groups.

Table 2: Adult Drug Courts with Department of Justice Enhancement Grants that Participated in GAO Focus Groups

	County or City	State	Type of Location
1	Blackfeet Tribe	Tribal Territory	Tribal
2	Chippewa Cree of The Rocky Boy Reservation	Tribal Territory	Tribal
3	Kenaitze Indian Tribe	Tribal Territory	Tribal
4	Saint Regis Mohawk Tribe	Tribal Territory	Tribal
5	Montgomery County	Alabama	Urban
6	Pima County	Arizona	Urban
7	Craighead County	Arkansas	Urban
8	Washington County	Arkansas	Rural
9	County of Butte	California	Rural
10	San Joaquin County	California	Urban
11	San Luis Obispo County	California	Suburban
12	Santa Cruz County	California	Urban
13	Brevard County	Florida	Urban

Appendix III: Scope and Methodology

	County or City	State	Type of Location
14	Cobb County	Georgia	Urban
15	Habersham County	Georgia	Rural
16	Kane County	Illinois	Rural
17	Grant County	Indiana	Rural
18	Hancock County	Indiana	Suburban
19	Knox County	Indiana	Rural
20	Iowa Seventh Judicial District	Iowa	Urban
21	Linn County	Iowa	Rural
22	St. Mary Parish	Louisiana	Rural
23	Alpena County	Michigan	Rural
24	Muskegon County	Michigan	Suburban
25	Van Buren County	Michigan	Rural
26	Wright County	Minnesota	Suburban
27	St. Louis County	Missouri	Urban
28	Las Vegas	Nevada	Urban
29	Reno Municipal Court	Nevada	Urban
30	City of Lackawanna	New York	Suburban
31	Buncombe County	North Carolina	Urban
32	Catawba County	North Carolina	Urban
33	Summit County	Ohio	Urban
34	City of Hilliard	Ohio	Suburban
35	Lima Municipal Court	Ohio	Urban
36	Medina County	Ohio	Suburban
37	Portage County	Ohio	Rural
38	Tulsa County	Oklahoma	Urban
39	Clackamas County	Oregon	Suburban
40	Denton County	Texas	Suburban
41	McLennan County	Texas	Urban
42	Smyth County	Virginia	Rural
43	Berkeley County	West Virginia	Suburban
44	Rock County	Wisconsin	Urban

Source: GAO. | GAO-23-105272

Once we collected information from case study interviews and focus groups, we analyzed the information to characterize stakeholders' responses and to identify major themes. Specifically, we used NVivo, a qualitative analysis software program, to code information. We first developed categories for coding that corresponded to subjects noted in

our objectives, and themes we identified by recording and reading the records of interviews and focus groups. The categories included statements related to: (1) adult drug court characteristics; (2) barriers to participation; (3) eligibility; (4) incentives and disincentives for choosing to participate; (5) data collection; (6) substance use disorder treatment; and (7) referrals to drug court. One analyst first coded the contents of the interviews and focus groups and then a second analyst reviewed the coding results for accuracy and relevance and made adjustments as needed.

We then used queries to identify themes common among adult drug courts across focus groups. We also compared themes by type of focus group to identify any factors that may have been more commonly discussed by adult drug courts in certain locations than others. Information from the focus groups is not generalizable across all types of adult drug courts or populations, but allows us to present themes in eligibility criteria and incentives to accept offers to participate in adult drug court that could apply to many adult drug courts across the country. In addition to gathering and analyzing perspectives from local stakeholders and BJA officials, we interviewed experts in training and technical assistance organizations. We gathered information about eligibility requirements included in BJA adult drug court grants, and issues surrounding the collection of information on individuals' reasons for accepting or declining offers to participate in adult drug court.

We conducted this performance audit from June 2021 to February 2023 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.

Appendix IV: Adult Drug Court Programs— Best Practice Standards

To provide information to adult drug courts regarding evidence-based best practices, the National Association of Drug Court Professionals (NADCP) developed the Adult Drug Court Best Practice Standards under a grant awarded by Bureau of Justice Assistance (BJA).¹ The topics and materials contained in the standards are outlined in two volumes and are considered the most current evidence-based principles and practices for successful adult drug courts.² NADCP worked with a committee of drug court practitioners, researchers, and subject matter experts to develop the Adult Drug Court Best Practice Standards. NADCP then disseminated the standards to the field of adult drug courts with the intent that the recommendations be adopted into day-to-day adult drug court operations. BJA strongly encourages grant applicants to design their proposed programs with the intention of moving toward the full incorporation of NADCP’s adopted standards. According to NADCP, future volumes of the Adult Drug Court Best Practice Standards will address other aspects of procedures as new research becomes available. Table 3 provides information on the best practice standards for adult drug courts.

Table 3: National Association of Drug Court Professionals (NADCP) Adult Drug Court Best Practice Standards

Standard Theme	Standard	Description
Target Population	Objective Eligibility and Exclusion Criteria	Eligibility and exclusion criteria are defined objectively, specified in writing, and communicated to potential referral sources.
	High-Risk and High-Need Participants	The adult drug court targets offenders for admission who are addicted to illicit drugs or alcohol and are at substantial risk for reoffending.
	Validated Eligibility Assessments	Candidates for the adult drug court are assessed for eligibility using validated risk-assessment and clinical-assessment tools.
	Criminal History Disqualifications	Current or prior offenses may disqualify candidates from participation in the adult drug court if empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in an adult drug court.
	Clinical Disqualifications	If adequate treatment is available, candidates are not disqualified from participation in the adult drug court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.
Equity and Inclusion	Equivalent Access	Eligibility criteria for the adult drug court are nondiscriminatory in intent and impact.
	Equivalent Retention	The adult drug court regularly monitors whether members of groups that have historically experienced discrimination complete the program at equivalent rates to other participants.

¹The NADCP is a training, membership and advocacy organization for the drug court treatment model created in 1994.

²NADCP, *Adult Drug Court Best Practice Standards, Volume I*, (Alexandria, VA, 2013, revised in 2018) and *Volume II*, (Alexandria, VA, 2015, revised 2018).

**Appendix IV: Adult Drug Court Programs—
Best Practice Standards**

Standard Theme	Standard	Description
	Equivalent Treatment	Members of groups that have historically experienced discrimination receive the same levels of care and quality of treatment as other participants with comparable clinical needs.
	Equivalent Incentives and Sanctions	Except where necessary to protect a participant from harm, members of groups that have historically experienced discrimination receive the same incentives and sanctions as other participants for comparable achievements or infractions.
	Equivalent Dispositions	Members of groups that have historically experienced discrimination receive the same legal dispositions as other participants for completing or failing to complete the adult drug court program.
	Team Training	Each member of the adult drug court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of groups that have historically experienced discrimination.
Roles and Responsibilities of the Judge	Professional Training	The adult drug court judge attends current training events on legal and constitutional issues in adult drug courts, judicial ethics, evidence-based substance use disorder and mental health treatment, behavior modification, and community supervision.
	Length of Term	The judge presides over the adult drug court for no less than 2 consecutive years to maintain the continuity of the program and ensure the judge is knowledgeable about adult drug court policies and procedures.
	Consistent Docket	Participants ordinarily appear before the same judge throughout their enrollment in the adult drug court.
	Participation in Pre-Court Staff Meetings	The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the adult drug court team.
	Frequency of Status Hearings	Participants appear before the judge for status hearings no less frequently than every 2 weeks during the first phase of the program.
	Length of Court Interactions	The judge spends sufficient time during status hearings to review each participant's progress in the program.
	Judicial Demeanor	The judge offers supportive comments to participants, stresses the importance of their commitment to treatment and other program requirements, and expresses optimism about their abilities to improve their health and behavior.
	Judicial Decision Making	The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.
Incentives, Sanctions, and Therapeutic Adjustments	Advance Notice	Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to adult drug court participants and team members.
	Opportunity to Be Heard	Participants are given an opportunity to explain their perspectives concerning factual controversies and the imposition of incentives, sanctions, and therapeutic adjustments.
	Equivalent Consequences	Participants receive consequences that are equivalent to those received by other participants in the same phase of the program who are engaged in comparable conduct.

**Appendix IV: Adult Drug Court Programs—
Best Practice Standards**

Standard Theme	Standard	Description
	Professional Demeanor	Sanctions are delivered without expressing anger or ridicule. Participants are not shamed or subjected to foul or abusive language.
	Progressive Sanctions	The adult drug court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.
	Licit Addictive or Intoxicating Substances	Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance.
	Therapeutic Adjustments	Participants do not receive punitive sanctions if they are otherwise compliant with their treatment and supervision requirements but are not responding to the treatment interventions.
	Incentivizing Productivity	The adult drug court places as much emphasis on incentivizing productive behaviors as it does on reducing crime, substance use, and other infractions.
	Phase Promotion	Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time.
	Jail Sanctions	Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions.
	Termination	Participants may be terminated from the adult drug court if they no longer can be managed safely in the community or if they fail repeatedly to comply with treatment or supervision requirements.
	Consequences of Graduation and Termination	Graduates of the adult drug court avoid a criminal record, avoid incarceration, or receive a substantially reduced sentence or disposition as an incentive for completing the program.
Substance Use Disorder Treatment	Continuum of Care	The adult drug court offers a continuum of care for substance use disorder treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.
	In-Custody Treatment	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.
	Team Representation	One or two treatment agencies are primarily responsible for managing the delivery of treatment services for adult drug court participants.
	Treatment Dosage and Duration	Participants receive a sufficient dosage and duration of substance use disorder treatment to achieve long-term sobriety and recovery from addiction.
	Treatment Modalities	Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program.
	Evidence-Based Treatments	Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system.

**Appendix IV: Adult Drug Court Programs—
Best Practice Standards**

Standard Theme	Standard	Description
	Medications	Participants are prescribed psychotropic or addiction medications based on medical necessity as determined by a treating physician with expertise in addiction psychiatry, addiction medicine, or a closely related field.
	Provider Training and Credentials	Treatment providers are licensed or certified to deliver substance use disorder treatment, have substantial experience working with criminal justice populations, and are supervised regularly to ensure continuous fidelity to evidence-based practices.
	Peer Support Groups	Participants regularly attend self-help or peer support groups in addition to professional counseling.
	Continuing Care	Participants complete a final phase of the adult drug court focusing on relapse prevention and continuing care.
Complementary Treatment and Social Services	Scope of Complementary Services	The adult drug court provides or refers participants for treatment and social services to address conditions that are likely to interfere with their response to substance use disorder treatment or other adult drug court services (responsivity needs), to increase criminal recidivism (criminogenic needs), or to diminish long-term treatment gains (maintenance needs).
	Sequence and Timing of Services	In the first phase of adult drug court, participants receive services designed primarily to address responsivity needs such as deficient housing, mental health symptoms, and substance-related cravings, withdrawal, or anhedonia (diminished ability to experience pleasure).
	Clinical Case Management	Participants meet individually with a clinical case manager or comparable treatment professional at least weekly during the first phase of adult drug court.
	Housing Assistance	Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of adult drug court and continuing as necessary throughout their enrollment in the program.
	Mental Health Treatment	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in adult drug court, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders.
	Trauma-Informed Services	Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and PTSD.
	Criminal Thinking Interventions	Participants receive an evidence-based criminal-thinking intervention after they are stabilized clinically and are no longer experiencing acute symptoms of distress such as cravings, withdrawal, or depression.
	Family and Interpersonal Counseling	When feasible, at least one reliable and prosocial family member, friend, or daily acquaintance is enlisted to provide firsthand observations to staff about participants' conduct outside of the program, to help participants arrive on time for appointments, and to help participants satisfy other reporting obligations in the program.
	Vocational and Educational Services	Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of adult drug court.
	Medical and Dental Treatment	Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment.
	Prevention of Health-Risk Behaviors	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to reduce their exposure to sexually transmitted and other communicable diseases.

**Appendix IV: Adult Drug Court Programs—
Best Practice Standards**

Standard Theme	Standard	Description
	Overdose Prevention and Reversal	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose.
Drug and Alcohol Testing	Frequent Testing	Drug and alcohol testing is performed frequently enough to ensure substance use is detected quickly and reliably.
	Random Testing	The schedule of drug and alcohol testing is random and unpredictable.
	Duration of Testing	Drug and alcohol testing continues uninterrupted to determine whether relapse occurs as other treatment and supervision services are adjusted.
	Breadth of Testing	Test specimens are examined for all unauthorized substances that are suspected to be used by adult drug court participants.
	Witnessed Collection	Collection of test specimens is witnessed directly by a staff person who has been trained to prevent tampering and substitution of fraudulent specimens.
	Valid Specimens	Test specimens are examined routinely for evidence of dilution and adulteration.
	Accurate and Reliable Testing Procedures	The adult drug court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen.
	Rapid Results	Test results, including the results of confirmation testing, are available to the adult drug court within forty-eight hours of sample collection.
	Participant Contract	Upon entering the adult drug court, participants receive a clear and comprehensive explanation of their rights and responsibilities related to drug and alcohol testing.
Multidisciplinary Team	Team Composition	The adult drug court team comprises representatives from all partner agencies involved in the creation of the program.
	Pre-Court Staff Meetings	Team members consistently attend pre-court staff meetings to review participant progress, determine appropriate actions to improve outcomes, and prepare for status hearings in court.
	Sharing Information	Team members share information as necessary to appraise participants' progress in treatment and compliance with the conditions of the adult drug court.
	Team Communication and Decision Making	Team members contribute relevant insights, observations, and recommendations based on their professional knowledge, training, and experience.
	Status Hearings	Team members attend status hearings on a consistent basis.
	Team Training	Before starting an adult drug court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in adult drug court and develop fair and effective policies and procedures for the program.
Census and Caseloads	Drug Court Census	The adult drug court does not impose arbitrary restrictions on the number of participants it serves.
	Supervision Caseloads	Caseloads for probation officers or other professionals responsible for community supervision of participants must permit sufficient opportunities to monitor participant performance, apply effective behavioral consequences, and report pertinent compliance information during pre-court staff meetings and status hearings.
	Clinician Caseloads	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance use disorder treatment and indicated complementary services.
Monitoring and Evaluation	Adherence to Best Practices	The adult drug court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions.

**Appendix IV: Adult Drug Court Programs—
Best Practice Standards**

Standard Theme	Standard	Description
	In-Program Outcomes	The adult drug court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests.
	Criminal Recidivism	Where such information is available, new arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the adult drug court.
	Independent Evaluations	A skilled and independent evaluator examines the adult drug court's adherence to best practices and participant outcomes no less frequently than every 5 years.
	Historically Discriminated Against Groups	The adult drug court continually monitors admission rates, services delivered, and outcomes achieved for members of groups that have historically experienced discrimination who are represented in the adult drug court population.
	Electronic Database	Information relating to the services provided and participants' in-program performance is entered into an electronic database.
	Timely and Reliable Data Entry	Staff members are required to record information concerning the provision of services and in-program outcomes within 48 hours of the respective events.
	Intent-to-Treat Analyses	Outcomes are examined for all eligible participants who entered the adult drug court regardless of whether they graduated, withdrew, or were terminated from the program.
	Comparison Groups	Outcomes for adult drug court participants are compared to those of an unbiased and equivalent comparison group.
	Time at Risk	Participants in the adult drug court and comparison groups have an equivalent opportunity to engage in conduct of interest to the evaluation, such as substance use and criminal recidivism.

Source: GAO analysis of NADCP best practice standards. | GAO-23-105272

Appendix V: GAO Contact and Staff Acknowledgments

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Staff Acknowledgments

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