

# Louisiana Drug Court

By: *Elizabeth B. Carpenter, Esq.*

Earlier this year, I attended a seminar led by S. Alex Stalcup M.D., an addiction specialist. I will never forget the first statement of his lecture wherein he said, "Trying to practice criminal law and not understanding addiction is like trying to be a mechanic and not understanding how to change a flat tire." According to his research 4 out of 5 criminal defendants meet one or more of the following criteria:

1. Regular drug abuser,
2. Was on drugs at the time of the offense,
3. Committed the crime to support a drug habit,
4. Charged with a drug related offense.

During the 1997 Louisiana Legislative regular session, the lawmakers recognized a critical need for criminal justice system programs to reduce the incidence of alcohol and drug use. The legislature also recognized that the problem of alcohol and drug dependency among the citizens of Louisiana is excessive and needs to be addressed and corrected not only because it is a contributing factor in the commission of many crimes, but also for the health and welfare of the citizens of this state. It was the intent of the legislature to create a program to facilitate the creation of alcohol and drug treatment divisions in the various district courts of this state. This was the genesis of Drug Court.

What are the goals of drug court?

1. To reduce alcoholism and drug abuse and dependency among offenders.
2. To reduce criminal recidivism.
3. To reduce the alcohol and drug-related workload of the courts.
4. To increase the personal, familial, and societal accountability of offenders.
5. To promote effective interaction and use of resources among criminal justice personnel and community agencies.
6. To reduce the overcrowding of prisons.

Today, Drug Court is a partnership of the Judge, the District Attorney and treatment professionals. Since its inception, Drug Court has demonstrated its utility in vastly reducing recidivism rates, saving tax dollars by lowering incarceration rates and returning individuals to society as productive citizens.

## HOW IT WORKS

The District Attorney's office is the warden for the program. The defendant's criminal record is reviewed along with any other relevant information. The following is a list of factors which **disqualify** a defendant from eligibility:

1. Prior felony conviction of pending charge of R.S. 14:2 violent crime, including the crime before court.

2. Conviction of an aggravated burglary or simple burglary of an inhabited dwelling if the defendant has one prior felony conviction.
3. Prior conviction for narcotics distribution.
4. Criminal record of violence.
5. Criminal record of sex crimes excluding prostitution and crimes against nature.
6. Criminal record of weapons violations.
7. Use of a weapon during current offense.
8. Active confidential informant.
9. On active parole.
10. Charges pending on hold from another jurisdiction.
11. Illegal alien.
12. Defendant not capable of participation.
13. Multiple history of "failure to appear".
14. Currently in a methadone maintenance program.

**Furthermore -- The current charge:**

- Cannot be a R.S. 14:2 Crime of Violence
- Cannot be a DWI involving death or a vehicular homicide.

If approved by the District Attorney, the defendant is then evaluated by probation officers and treatment professionals. After consulting with a criminal defense attorney, eligible defendants then plead guilty as charged, but sentencing is deferred pending their successful completion of the program. If a defendant does not successfully complete the program, his deferred sentence is then executed and he/she goes to jail. Successful completion of this program results in the deferred sentence being set aside and an expungement.

Drug Court is described as an intensive probation program lasting a minimum of eighteen months that relies on frequent drug tests, individual and group therapy, close monitoring by probation officers (e.g. home visits to check if curfew is being violated) and direct contact with the judge. Violation of the rules result in sanctions which range from community service to jail time to being placed in long term treatment facilities. Additionally, employment must be maintained and a GED must be obtained if they do not have a high school diploma. Lastly, the defendant has to pay fees for their participation in the program.