



# Expansion Drug Courts Can Produce Positive Outcomes Through Prison Diversion and Reduced Recidivism

## *at a glance*

Overall, the eight expansion drug courts appear to divert non-violent offenders from prison, although participants' sentencing scores and likelihood of imprisonment if they fail to complete the program vary among the courts.

Over half of participants successfully completed expansion drug court; however, several courts had low completion rates. Courts with higher completion rates had more drug treatment providers and residential treatment options as well as more interaction between judges and compliant participants.

The eight expansion drug courts expended almost \$18 million in federal funds over 42 months. The courts spent most of the funds on providing treatment and drug testing, with the average cost per participant and per successful completion varying significantly. The cost differences can be primarily attributed to the use of some residential treatment options and to differences in the use of non-federal funds.

Overall, participants who successfully completed drug court had a reduced rate of recidivism as measured by felony convictions and short-term data on prison sentences.

## Scope

Chapter 2013-40, *Laws of Florida*, directs OPPAGA to evaluate the effectiveness of Florida's post-adjudicatory drug courts, assessing the performance of the eight individual courts based on program completion, costs, and participant recidivism rates.<sup>1</sup>

<sup>1</sup> As directed by the Legislature, OPPAGA previously reviewed post-adjudicatory or expansion drug courts in *State's Drug Courts Could Expand to Target Prison-Bound Adult Offenders*, OPPAGA

## Background

The 2009 Legislature sought to reduce prison costs by passing Ch. 2009-64, *Laws of Florida*, and appropriating \$19 million in federal funds from the Edward Byrne Memorial Justice Assistance Grant to establish expansion drug courts. Funding through the federal grant continued through June 2013. For Fiscal Year 2013-14, the Legislature appropriated \$5.8 million in non-recurring state revenue to these courts. As of June 2013, 2,268 offenders had entered expansion drug courts, including 640 who were still active in the program.

Many counties operate pretrial diversion drug courts, which divert first-time offenders from the criminal justice system, or post-adjudicatory drug courts, which serve offenders who typically have prior convictions. The expansion drug courts differed from existing post-adjudicatory courts because they are funded to reduce state corrections costs by specifically targeting prison-bound, non-violent felony offenders who agree to participate in drug court in lieu of incarceration.<sup>2,3</sup> These

[Report No. 09-13](#), March 2009; *Without Changes, Expansion Drug Courts Unlikely to Realize Expected Cost Savings*, OPPAGA [Report No. 10-54](#), October 2010; and *Expansion Drug Courts Serving More Prison-Bound Offenders, but Will Not Fully Expend Federal Funds*, OPPAGA [Report No. 11-21](#), November 2011.

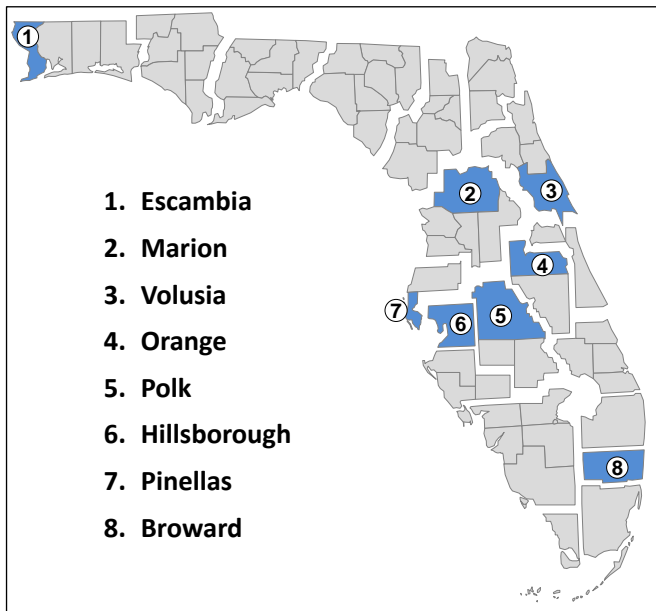
<sup>2</sup> Section 948.01(7)(a), *F.S.*, specifies that offenders may be placed in post-adjudicatory drug court if their Criminal Punishment Code scoresheet total sentence is 60 points or fewer, their offense is a nonviolent felony (a third degree felony violation under the burglary and trespass statute ([Chapter 810](#), *F.S.*) or any other felony offense that is not a forcible felony as defined in [s. 776.08](#), *F.S.*, (such as murder, sexual battery, and aggravated assault and battery), the defendant is amenable to substance abuse treatment, and the defendant otherwise qualifies under [s. 397.334\(3\)](#), *F.S.*

<sup>3</sup> Throughout this report, when we refer to drug courts, we are only referring to the eight expansion drug courts.

offenders, who typically have prior drug-related offenses, are sentenced to drug court as a condition of probation.<sup>4</sup>

The Office of the State Courts Administrator worked with local jurisdictions to establish expansion drug courts in eight counties: Broward, Escambia, Hillsborough, Marion, Orange, Pinellas, Polk, and Volusia.<sup>5</sup> (See Exhibit 1.) These counties were selected, in part, due to their high number of prison admissions for eligible offenders. Most expansion drug courts were operational by February 2010.

**Exhibit 1  
Expansion Drug Courts Are Located in Eight Florida Counties**



Source: Office of the State Courts Administrator.

Since January 2010, over 2,200 offenders have been sentenced to drug court in the eight counties. (See Exhibit 2.)

<sup>4</sup> The current offense at admission to drug court was a drug offense for 58% of participants, a property offense for 25%, a third degree burglary for 10%, and other offenses for 6% of drug court participants.

<sup>5</sup> Duval County was originally selected to participate but withdrew in May 2010.

**Exhibit 2  
Over 2,200 Offenders Have Been Sentenced to the Eight Drug Courts**

| Court        | Total Sentenced | Active Participants (June 2013) |
|--------------|-----------------|---------------------------------|
| Broward      | 639             | 180                             |
| Orange       | 387             | 111                             |
| Polk         | 317             | 62                              |
| Hillsborough | 284             | 97                              |
| Pinellas     | 247             | 61                              |
| Escambia     | 185             | 56                              |
| Volusia      | 125             | 47                              |
| Marion       | 84              | 26                              |
| <b>Total</b> | <b>2,268</b>    | <b>640</b>                      |

Source: OPPAGA analysis of data from the Office of the State Courts Administrator.

Most drug court participants were age 34 or under, with a median age of 31 years. Seventy-one percent of the participants were male and 60% were white. (See Exhibit 3.)

**Exhibit 3  
Expansion Drug Court Participants Tend to Be Young White Males**

| Characteristic | Number       | Percentage  |     |
|----------------|--------------|-------------|-----|
| Age            | 18-24        | 527         | 23% |
|                | 25-34        | 810         | 36% |
|                | 35-44        | 494         | 22% |
|                | 45-54        | 358         | 16% |
|                | 55+          | 79          | 4%  |
| Gender         | Female       | 667         | 29% |
|                | Male         | 1,601       | 71% |
| Race           | Black        | 866         | 38% |
|                | White        | 1,352       | 60% |
|                | Other        | 50          | 2%  |
| <b>Total</b>   | <b>2,268</b> | <b>100%</b> |     |

Source: OPPAGA analysis of data from the Office of the State Courts Administrator.

In expansion drug courts, judges, state attorneys, public defenders, treatment providers, case managers, and probation officers work together as a team to review participants’ progress and compliance with program requirements. These courts provide access to a continuum of alcohol,

drug, and related treatment and rehabilitative services. Generally, drug court requirements are rigorous and require participants to make a substantial commitment of time and resources. For example, the programs require participants to attend outpatient treatment and submit to frequent random drug testing, with new participants often attending treatment sessions multiple times per week. Participants are also required to appear before drug court judges on a regular basis, with decreasing frequency as they successfully progress in the program.

In addition, programs provide referrals for ancillary services, such as job training, employment assistance, and transitional housing. The average time for an offender to successfully complete expansion drug court was 15 months. Offenders who do not comply with program requirements violate their probation and can be terminated from the program.

Florida statutes require treatment-based drug court programs to include therapeutic jurisprudence principles and adhere to the 10 key components, recognized by the Drug Courts Program Office of the United States Department of Justice and adopted by the Florida Supreme Court Treatment-Based Drug Court Steering Committee.<sup>6</sup> These components are intended to promote effectiveness and improve performance and include the integration of alcohol and other drug treatment services with justice system case processing, ongoing judicial interaction, and frequent drug and alcohol testing. (See Appendix A.) OPPAGA previously found that post-adjudicatory drug courts were generally meeting many of these accepted standards for drug court operation.<sup>7</sup>

<sup>6</sup> Section 397.334, *F.S.*

<sup>7</sup> Our 2010 drug court report focused on 6 of the 10 standards that were most central to drug court operations and appropriate for the program's implementation status. Please see *Without Changes, Expansion Drug Courts Unlikely to Realize Expected Cost Savings*, OPPAGA [Report No. 10-54](#), October 2010.

## Findings

### ***Many expansion drug court participants were diverted from prison***

Overall, expansion drug courts appear to divert many non-violent offenders from prison. Because court officials use different processes to select offenders for expansion drug court, the participants' sentencing scores and likelihood of imprisonment if they fail to complete the drug court program vary among the courts.

Courts have different procedures for identifying drug court participants. Florida statutes set offender criteria for participation in expansion drug court.<sup>8</sup> Specifically, a sentencing court may transfer an offender to drug court if the defendant's Criminal Punishment Code scoresheet total is 60 points or fewer, the offense is a non-violent felony, the court determines that the offender is amenable to treatment, and the offender has agreed to participate.<sup>9</sup> Additionally, statute requires that substance abuse screening outcomes and recommendations by the state attorney and the victim, if available, be considered for entry into the program.<sup>10</sup>

The expansion drug courts use varying processes to identify and screen offenders for entry into the program, which results in different types of offenders being admitted. Some of these differences can be attributed to who was primarily responsible for placing offenders into drug court. In half of the courts (Escambia, Marion, Pinellas, and Volusia), assistant state attorneys assigned to the drug courts

<sup>8</sup> Sections 948.01(7)(a) and 948.20(1), *F.S.*

<sup>9</sup> Under the Florida Criminal Punishment Code, offenders are assigned points for their crime and any past crimes, and these scores are used in sentencing. If an offender's total points are 22 or fewer, the court must sentence the offender to a non-state prison sanction unless it makes a written finding that such a sanction could present a danger to the public. If the offender's total points are between 23 and 44, the lowest permissible sentence is a non-state prison sanction unless the court determines within its discretion that a prison sentence up to the statutory maximum can be imposed. If the score is over 44, the code requires a prison sanction unless the sentencing judge provides a written statement justifying a departure from the prison sanction.

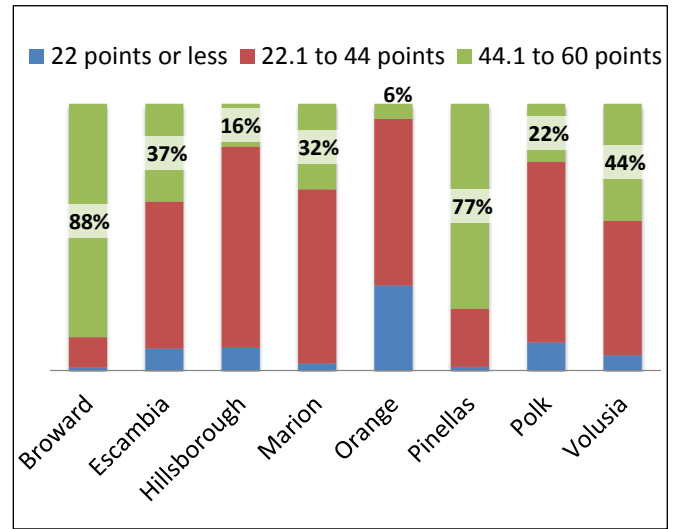
<sup>10</sup> Section 397.334 (3)(a), *F.S.*

identify and approve cases for admission. In some cases, the state attorneys use additional criteria that exclude certain offenders, such as those with past violent or drug dealing offenses. In the other courts, drug court staff identify cases for transfer, or offenders are automatically assigned to drug court based on their offense.<sup>11</sup>

Other screening practices also result in differences in types of participants in drug court. For example, in Orange the drug court excludes any offender with a 1<sup>st</sup> or 2<sup>nd</sup> degree felony conviction. Another variation occurs in Polk. Although statute authorizes drug courts to serve offenders arrested for new crimes as well as those who have been arrested for violations of probation, almost all of Polk’s drug court participants are assigned directly from the violation of probation court.

Expansion drug courts mostly target prison-bound offenders. Since the inception of the expansion drug courts, nearly half (46%) of participants had sentencing scores over 44 points, which is in the mandatory prison range.<sup>12</sup> However, the percentage of offenders with scores in the mandatory prison range varied from 6% in Orange to 88% in Broward. (See Exhibit 4.) Overall, less than 10% of the drug court participants had sentencing scores of 22 points or less, which require judicial justification for a prison sentence, but in Orange almost one-third (32%) of participants were in this range.

**Exhibit 4**  
**Participant Sentencing Scores Varied Across Drug Courts**



Source: OPPAGA analysis of data from the Office of the State Courts Administrator.

The percentage of participants with sentencing scores of 22 points or fewer has decreased over time. In our October 2010 report, OPPAGA found that 19% of the drug court participants had sentencing scores of 22 points or fewer, and that less than one-third of the participants had scores in the mandatory sentencing range.<sup>13</sup> In November 2011, we found that the program was serving an increasing number of prison-bound offenders.<sup>14</sup> This trend continued through the remainder of the federal grant period, as only 3% of the new participants since September 2011 had sentencing scores of 22 points or fewer.

It is likely that many drug court participants would have been sentenced to prison if not for the availability of drug court. In addition to the 46% of participants with sentencing scores requiring a prison sentence, a portion of those in the discretionary middle range (22.1 to 44 points) would have been prison-bound. As seen in Exhibit 5, 41% of similar offenders who received a prison sentence from the same counties had sentencing scores in this range.

<sup>11</sup> Statute requires that offenders provide voluntary consent to transfer their case to expansion drug courts.

<sup>12</sup> A non-prison sanction is permissible for offenders with non-violent third degree felonies and a sentencing score between 22.1 and 44 points. However, judges may use their discretion and sentence these offenders to prison.

<sup>13</sup> Without Changes, Expansion Drug Courts Unlikely to Realize Expected Cost Savings, OPPAGA [Report No. 10-54](#), October 2010.

<sup>14</sup> Expansion Drug Courts Serving More Prison-Bound Offenders, but Will Not Fully Expend Federal Funds, OPPAGA [Report No. 11-21](#), November 2011.



**Exhibit 5  
Sentencing Scores of Drug Court Participants Are Similar to Scores for Prison Releasees Who Would Have Met Drug Court Eligibility Criteria<sup>1</sup>**

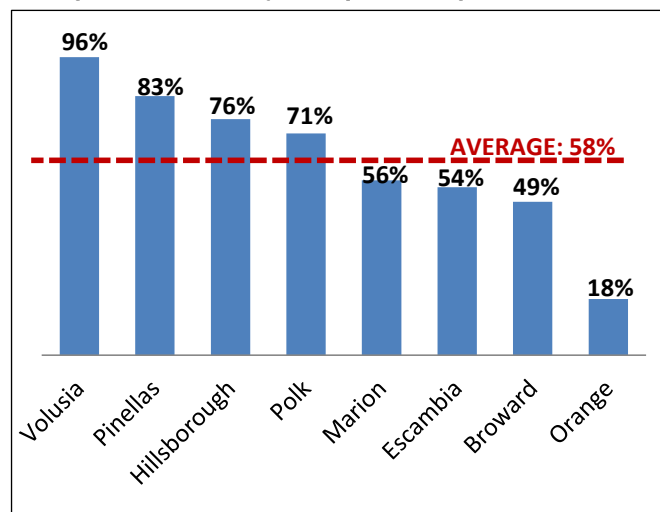
|            | 22 points or less | 22.1 to 44 points | 44.1 to 60 points |
|------------|-------------------|-------------------|-------------------|
| Drug Court | 9%                | 45%               | 46%               |
| Prison     | 5%                | 41%               | 54%               |

<sup>1</sup> The prison comparison group are offenders from the same counties who would have met drug court eligibility criteria but were sentenced to prison, assessed as having a substance abuse treatment need while in prison, and released between January 1, 2010 and June 30, 2013. The drug court sentencing scores are for all drug court admissions through June 2013.

Source: OPPAGA analysis of data from the Office of the State Courts Administrator and the Department of Corrections.

Many participants who were unsuccessful in completing drug court were admitted to prison. Of the participants who did not complete drug court, 58% were admitted to prison. This ranged from a high of 96% in Volusia to a low of 18% in Orange. (See Exhibit 6.) When Orange is omitted from the analysis, 68% of the participants were sentenced to prison following drug court failure.

**Exhibit 6  
Many Offenders Were Sentenced to Prison after Failing to Successfully Complete Drug Court**



Note: Data on 492 participants who were discharged from drug court prior to September 13, 2012, and did not include admissions to prison for offenses that occurred after release from drug court.

Source: OPPAGA analysis of data from the Office of the State Courts Administrator and the Department of Corrections.

The variance in prison admissions for unsuccessful drug court participants may reflect individual court practices. For example, the admission of offenders with low sentencing scores in Orange may result in few sentences of imprisonment because many of the offenders did not score a prison sentence. Conversely, in Volusia, which had the highest rate of prison admission, the judge pronounced and then withheld a sentence of imprisonment for drug court participants, promising to enforce that sentence if they did not complete the program.

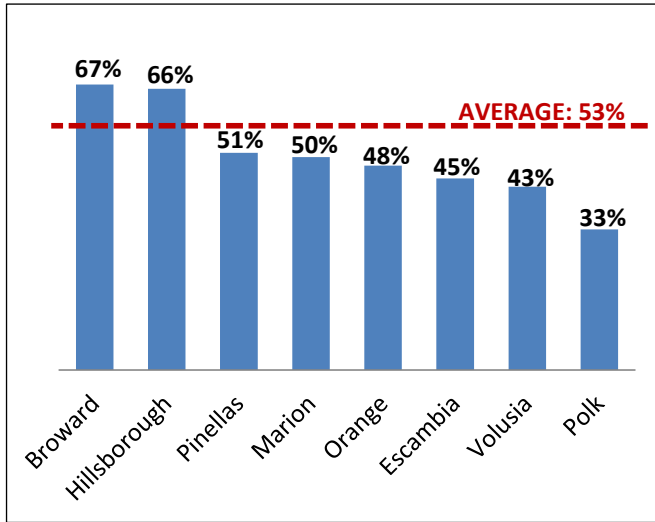
***Drug court completion rates varied, affected by the availability and use of program options and judicial interaction***

Over half of participants successfully completed expansion drug court. However, several courts had low completion rates. Courts with higher completion rates had more drug treatment providers, including residential treatment options, relative to courts with lower completion rates. Additionally, interactions between judges and compliant participants were associated with higher success rates for the courts as a whole.

Over half of participants successfully completed drug court. Participants that successfully complete or graduate from expansion drug court have fulfilled all of the requirements of the drug treatment program and met all of the obligations of the court, including the payment of fees and fines. Typically, the completion of the drug court program is accompanied by the termination of a participant's probation; however, in some cases, probation may continue beyond the time of the required treatment program period.

Across the courts, over half (53%) of drug court participants successfully completed the drug court program. Completion rates varied, ranging from 33% in Polk to 67% in Broward. (See Exhibit 7.) These results are consistent with research on drug courts in other states, which report completion rates ranging from 36% to 60%.

**Exhibit 7**  
**Most Drug Courts Had Completion Rates of 45% or More<sup>1</sup>**



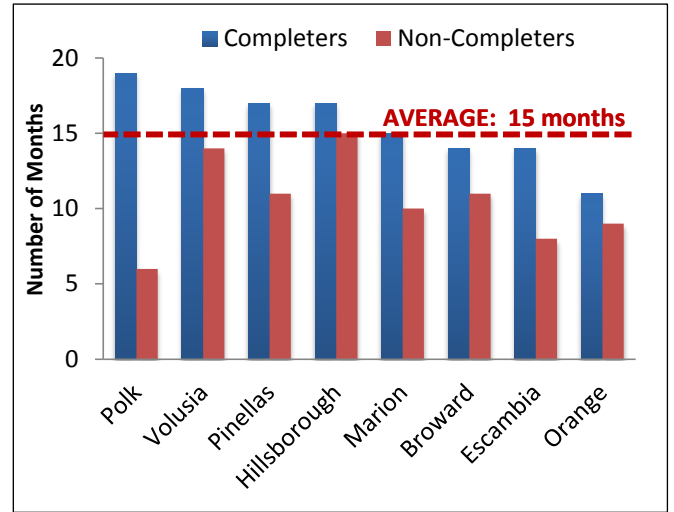
<sup>1</sup> The successful completion rate was determined using a cohort of participants admitted before July 16, 2011, allowing 18 months for program completion, and discharged as of August 9, 2013. The rate does not include participants currently active or suspended from drug court and 94 cases discharged due to transfer, medical discharge, death, or unknown reason.

Source: OPPAGA analysis of data from the Office of the State Courts Administrator.

Successful completers spent an average of 15 months in the drug court program. The average time ranged from approximately 11 months (325 days) in Orange to approximately 19 months (574 days) in Polk. Orange was the only court for which the average length of time in drug court for successful completers was less than one year.

The average length of time in drug court for unsuccessful participants was approximately 9 months (271 days), with a range of 184 days in Polk to 446 days in Hillsborough. (See Exhibit 8.) Polk was the only court for which the average length of time in drug court for unsuccessful participants was less than half of the average for successful participants.

**Exhibit 8**  
**Successful Completers Spent an Average of 15 Months in Drug Court**



Source: OPPAGA analysis of data from the Office of the State Courts Administrator.

The availability and use of treatment options contribute to successful completion rates. One of the key drug court components is a coordinated strategy of responding to participant compliance or failure to comply, which may be an indicator of relapse.<sup>15</sup> We found that access to multiple treatment options before terminating participants from drug court for noncompliance contributes to successful completion rates.

Courts with the highest completion rates (Broward 67%, Hillsborough 66%, and Pinellas 51%) all had multiple treatment providers, including a choice of residential treatment options. In these courts, participants who were non-compliant with drug court requirements could be placed with a different treatment provider. Having multiple treatment providers allowed the judge to move offenders from one provider to another to address the specific treatment needs of drug court participants. For example, Hillsborough had four treatment providers with varying levels of treatment, such as outpatient, residential, and secure residential.

<sup>15</sup> Section 397.334(4), F.S.

Conversely, in the court with the lowest successful completion rate, Polk (33%), all outpatient treatment and drug testing was only provided in one location and there was no residential treatment option for the first two years of the expansion drug court program. This lack of treatment options may have been one reason that Polk had the shortest average length of time in expansion drug court for non-successful participants.

The nature and frequency of drug court participant interaction with judges may also positively affect completion rates. In courts with the highest completion rates, including Broward, Hillsborough, and Pinellas, all drug court participants were required to appear before the judge every few weeks for status hearings to discuss their progress.

Judges used these status hearings to monitor participant progress in meeting all legal and treatment obligations, such as payment of restitution and court costs and attendance at counseling sessions. At these hearings, judges provide positive feedback and encouragement to participants fulfilling their obligations and issue sanctions for program non-compliance. In some counties with below average completion rates, such as Marion and Polk, compliant participants do not usually interact with the judge, although they attended court and signed an attendance sheet.

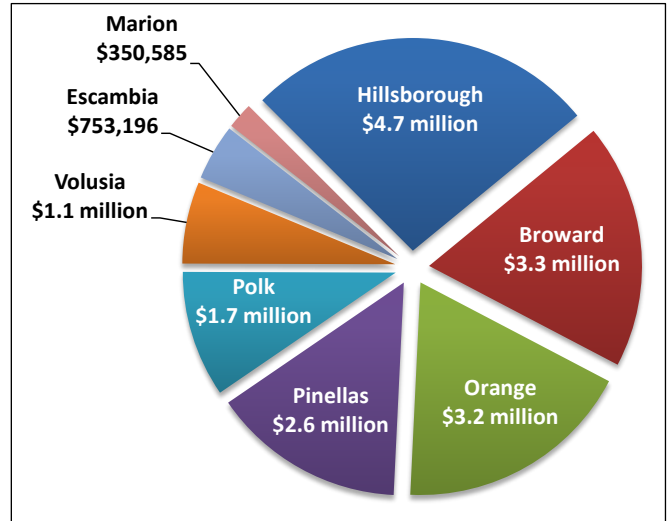
In addition, drug court participants in our survey reported that drug court judges were a positive factor in the treatment program. A majority of participants across the courts, 88%, agreed with the statement that “the judge helps me to stay drug free.” This percentage ranged from 71% in Orange to 100% in Pinellas.

**Costs varied significantly across eight expansion drug courts**

The eight expansion drug courts expended almost \$18 million in federal funds over the 42 months of the grant. The courts spent most of the funds providing treatment and drug testing, with the average cost per participant and per successful completion varying significantly.

Drug courts expended almost \$18 million in federal grant funds for drug treatment, program staffing, and other related expenses. Drug courts reported total federal costs of \$17.9 million from January 2010 through June 2013. These costs ranged from a low of \$350,585 in Marion to a high of \$4.7 million in Hillsborough. (See Exhibit 9.)

**Exhibit 9  
Expansion Drug Courts Expended Almost \$18 Million in Federal Funds**

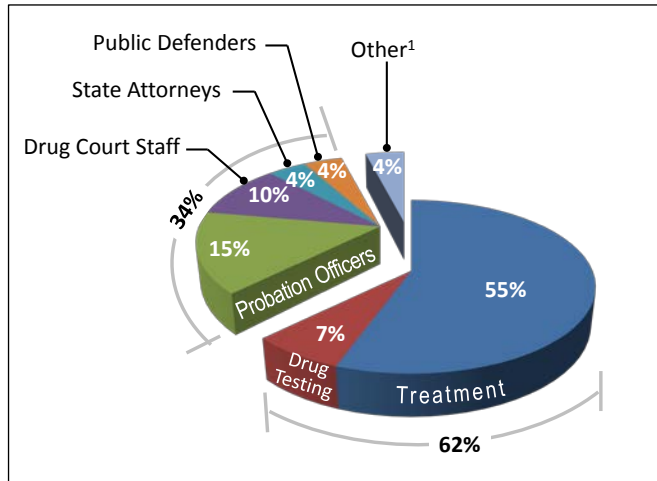


Source: OPPAGA analysis of data from the Office of the State Courts Administrator and the Florida Department of Law Enforcement.

Expansion drug courts have some latitude to use funds for a variety of potential program expenditures. All eight expansion drug courts used federal funds to provide treatment and drug testing and to hire or pay existing staff to manage or operate the drug court program. Some courts also used federal funds for expenses, including office space, supplies, state attorney and public defender staffing, and probation officer staffing. However, the use of federal funds for these expenses varied. For example, only one court claimed space-related expenses and five courts charged administrative overhead costs to the federal grant.

Across the courts, treatment and drug testing accounted for (62%) of the federal funds spent at the local level, while drug court staffing, including probation officers, accounted for 34% of the funds. (See Exhibit 10.)

**Exhibit 10**  
**Drug Treatment and Testing Accounted for 62% of Drug Court Expenses**

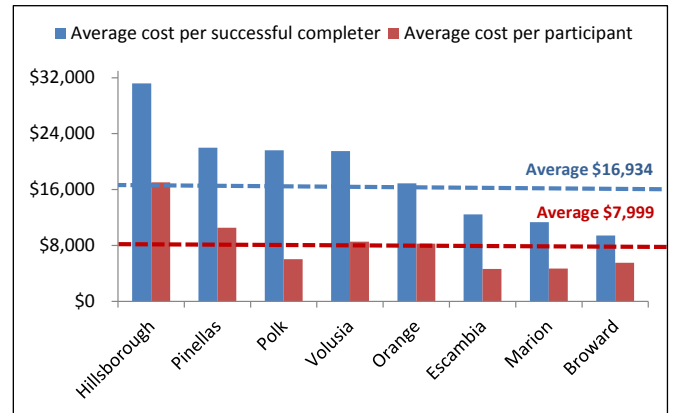


<sup>1</sup> The other category includes expenses such as administrative costs, transportation, space, and supplies.  
 Source: OPPAGA analysis of data from the Office of the State Courts Administrator and the Florida Department of Law Enforcement.

Per participant federal costs varied across courts. Across the courts, the average cost for each participant in expansion drug court was \$7,999, and the average cost for each successful completer was \$16,934.<sup>16</sup> However, the costs of the individual courts varied widely. For example, the cost per participant ranged from \$4,632 in Escambia to \$17,016 in Hillsborough, while the cost per successful completer ranged from \$9,414 in Broward to \$31,195 in Hillsborough. (See Exhibit 11.)

<sup>16</sup> To determine the average cost per participant, we divided the total of all federal funds expended through the grant and calculated an average cost per participant per day. We then estimated the costs for the 640 participants currently active in the program as of June 30, 2013, based on the length of time in the courts, and subtracted those costs from the total expenditures. This left an adjusted total of federal funds expended for participants no longer in the drug courts. The total was divided by the total number of participants who were no longer in the program (1,628) and by the total number who successfully completed the program (769).

**Exhibit 11**  
**Average Costs Per Successful Completer and Per Participant Varied Significantly Across Courts**



Source: OPPAGA analysis of data from the Office of the State Courts Administrator and the Florida Department of Law Enforcement.

***Additional costs associated with some residential treatment options and differences in local support resulted in variations in drug court costs***

Although the drug courts’ average length of stay and successful completion rates varied, these were not the most important variables in explaining differences in costs. Instead, the cost differences can be primarily attributed to the use of some residential treatment options and the use of non-federal funds that provided support beyond federal grant costs.

Average length of time in drug court and successful completion rates explain some of the variations in drug court costs. As previously discussed, there were substantial variations among the drug courts in completion rates and average length of time in drug court. Courts with higher completion rates should have lower costs per successful completer, as fewer costs would have been expended on participants who did not complete drug court. Courts with shorter average lengths of time spent in drug court should also be less costly.

These variations explain some, but not all, of the differences in court costs. For example, Broward’s completion rate of 67% and shorter than average time in drug court contributed to it having the lowest cost per successful completer. Polk, which

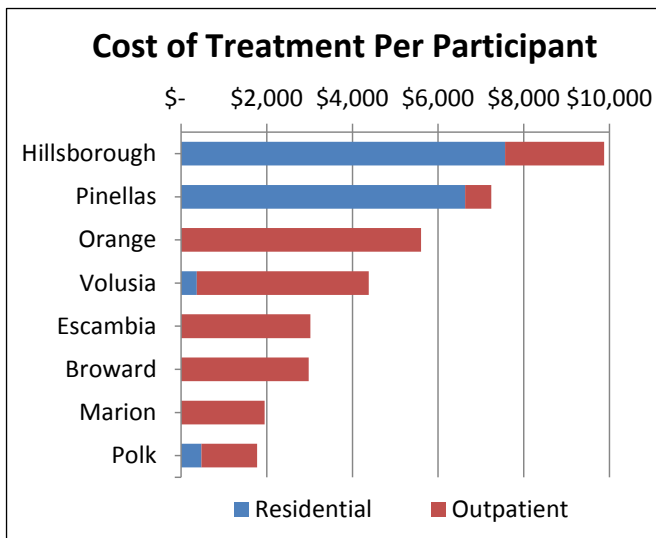


had the lowest completion rate but the longest time spent in drug court, had one of the higher costs per successful completer.

In Hillsborough and Orange, however, the costs per successful completer were not consistent with completion rates or time spent in drug court. Hillsborough had the second highest completion rate, almost the same as Broward, but it also had the highest cost per completer. Furthermore, although the average time spent in drug court for successful completers in Orange was about four months shorter than the average, its cost per completer was near average.

Some courts using residential treatment had the state's highest treatment costs. Hillsborough and Pinellas had the highest per participant costs for treatment in the state. (See Exhibit 12.) These higher costs can be attributed to the courts' extensive use of residential treatment.

**Exhibit 12**  
**Counties with High Residential Treatment Costs Had the Highest Treatment Cost Per Participant<sup>1</sup>**



<sup>1</sup> Pinellas' treatment costs included the costs for drug testing. Some other treatment costs may include some drug testing costs, although each of the seven other courts had separate drug testing budgets. Broward's drug court uses other fund sources for residential treatment.

Source: OPPAGA analysis of data from the Office of the State Courts Administrator and the Florida Department of Law Enforcement.

For example, the Hillsborough drug court spent an average of \$8,844 per participant on residential treatment compared to the average of \$4,279 per

participant. More than 75% of those treatment funds were spent on residential treatment at a cost of \$62 per day. In Pinellas, over 90% of the treatment funds were spent for residential treatment at rates ranging from \$41.43 to \$56.59 per day.

Practices in other courts varied. The Volusia and Polk drug courts each had limited use of residential treatment, which accounted for 8% and 27%, respectively, of their treatment expenses. The Escambia, Marion, and Orange drug courts did not use federal funds for residential treatment, but may have paid for residential treatment with other funds. The Broward drug court made extensive use of residential treatment; however, treatment was not paid for with federal funds. Instead, the program provided residential services through other existing state and county drug treatment programs.

Other variations in treatment cost may be attributed to different approaches to paying for treatment. For example, Orange used the federal grant to pay for a full-time clinical supervisor as a part of the treatment program, whereas five of the courts paid vendors on a per session basis for outpatient treatment, with costs ranging from \$26 per session in Volusia to \$55 per session in Escambia.

The Polk drug court directly employed three therapists to provide treatment sessions to participants, and had the lowest cost at \$1,749 per participant. However, the Polk drug court also spent more federal funds on drug testing than any other court, and spent almost as much on drug testing as on treatment. The Polk drug court runs its own drug testing laboratory for all court-ordered drug testing in the county, and the expansion drug court spent \$400,915 in federal funds on drug testing, over 30% of the total spent on drug testing by all of the expansion drug courts.

Other state and local funds provided support beyond federal grant costs. Differences in what was paid for with federal funds also contributed to the variation in drug court costs. For example:

- *Broward had the lowest average cost per successful completer due to the use of state*

*and local funds for residential treatment.* Broward used the federal funds for an out-patient treatment program using salaried staff. However, when participants required residential treatment, the court used programs that were funded by Broward County and the Department of Corrections. In June 2012, Broward staff estimated that almost \$1 million in local and state treatment funds had been expended for drug court participants.<sup>17</sup> Other drug courts, such as Hillsborough and Volusia, also had some vendors who provided services in excess of what was paid for by the federal grant due to the availability of private funding.

- *Drug court costs were higher when courts sought federal grant reimbursement for state attorney and public defender expenses.* Most courts did not take advantage of a provision in the federal grant to submit time reports to receive reimbursement for state attorney and public defenders costs, instead absorbing these costs within existing budgets.<sup>18</sup> Only Hillsborough sought reimbursement for costs for both state attorneys and public defenders, and four courts sought reimbursement for either state attorney (Escambia and Volusia) or public defender (Orange and Pinellas) costs.

In Hillsborough, the combined amount reimbursed to the state attorneys and public defenders was 21% of the federal funds spent for the drug court. Volusia state attorney costs represented 12% of the federal funds spent, while state attorney or public defender costs in Escambia, Orange, and Pinellas ranged from 4% to 6% of the funds expended.

- *Participant contributions helped to reduce drug court costs.* Some drug courts required participant contributions.<sup>19</sup> These

included co-pays (\$2 for treatment sessions in Escambia, \$3 per drug test in Orange, \$20 per assessment in Pinellas, and \$25 per drug test in Polk) and participation fees (\$50 per month in Marion and \$1,000 total in Volusia). In Broward, participants were charged fees based on a sliding scale. For the period of the federal grant, courts reported over \$520,000 in program generated income. Most of these funds, 69%, were expended by the drug courts on program-related expenditures. The remaining funds were unused and grant regulations required that they be returned to the government.

### ***Participation in expansion drug court reduced recidivism***

Overall, participants who successfully completed drug court had reduced recidivism as measured by felony convictions and preliminary data on prison sentences. (See Appendix B for more information on our research methodology and additional measures of recidivism, including arrests and convictions for any offense.)

Drug court completers had reduced felony convictions. We analyzed felony conviction data through October 2013 for both successful drug court completers and a matched comparison group of inmates released from prison.<sup>20</sup> The comparison group included prisoners released between January 1, 2010, and June 30, 2013, who would have qualified for drug court at the time of sentencing and who were assessed by the Department of Corrections as having a substance abuse treatment need. We found that a lower percentage (9%) of drug court completers received a felony conviction within two

<sup>17</sup> Broward court staff was not able to provide OPPAGA with a breakdown of total costs for the entire grant period.

<sup>18</sup> The original federal grant proposal for the expansion drug court had a total budget of \$2.25 million for state attorney and public defender costs.

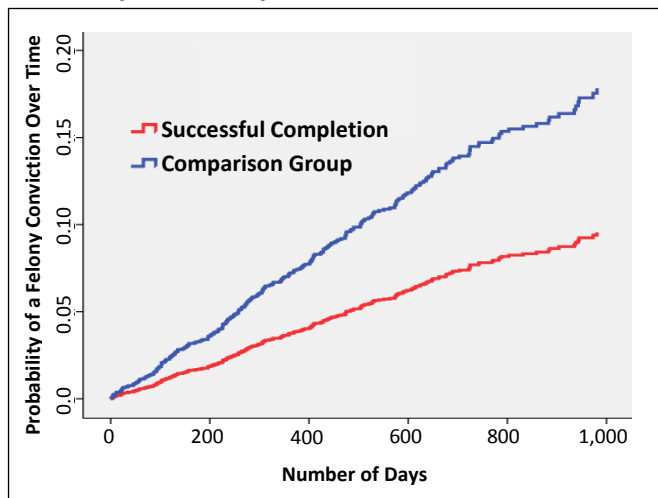
<sup>19</sup> The Hillsborough drug court did not charge participant contributions.

<sup>20</sup> We measured recidivism through a follow-up period of October 31, 2013, for a group of offenders discharged from drug court or prison by June 30, 2013. These dates allowed follow up for a minimum of four months and a maximum of three years and two months for successful drug court completers. We used survival analysis to predict the probability of a felony conviction or prison sentence given the amount of time out of the drug court or prison. To appropriately compare the two groups, our analysis controlled for factors related to the risk of recidivism, including sentencing score, number of prior prison and probation sentences, age, gender, race, and population of the county.

years of completion compared to our comparison group (19%).<sup>21</sup>

While this data provides a snapshot of those who had been out of drug court for at least two years, we conducted additional statistical analyses to assess the probability of felony conviction over time for a larger group of participants who had completed drug court more recently. We used survival analysis to compare felony convictions for those who had completed drug court at least four months prior to prison releases after the same number of days. This analysis found that the drug court completers have a decreased probability of felony conviction. Specifically, the lower red line in Exhibit 13 shows that the probability of felony conviction is reduced by 49% for drug court completers as compared to the blue line of the prison comparison group, a statistically significant difference.<sup>22</sup>

**Exhibit 13**  
**Successful Drug Court Completion Reduced the Probability of a Felony Conviction**

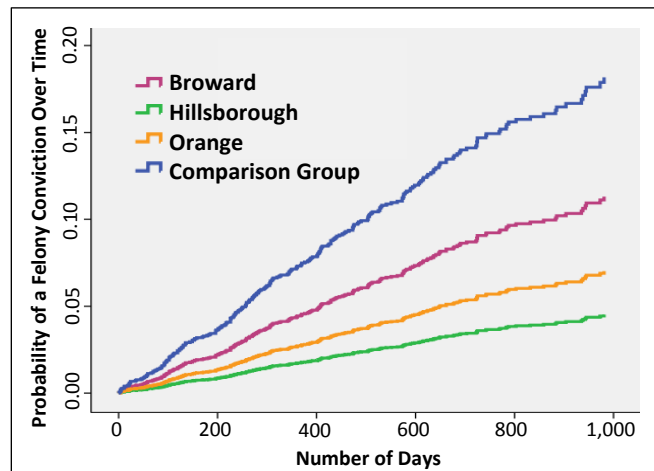


Source: OPPAGA analysis of data from the Office of the State Courts Administrator, the Department of Corrections, and the Florida Department of Law Enforcement.

The reduction in the probability of felony conviction over time varied by county. As shown in Exhibit 14, three counties, Hillsborough (77%), Orange (64%), and Broward (40%), had a significantly lower

probability of recidivism than the comparison group.<sup>23</sup>

**Exhibit 14**  
**Successfully Completing Drug Court in Broward, Hillsborough, or Orange Significantly Reduced the Probability of a Felony Conviction**



Source: OPPAGA analysis of data from the Office of the State Courts Administrator, the Department of Corrections, and the Florida Department of Law Enforcement.

Short-term data shows that successful drug court completion also reduced prison sentences. We analyzed prison sentence data through October 2013 for both successful drug court completers and the matched comparison group of inmates released from prison. We found that only 2% of successful drug court completers received a prison sentence, compared to 9% of the prison group.<sup>24</sup> Additional statistical analysis to assess the probability of a prison sentence over time showed that the probability of prison sentence is reduced by 48% for drug court completers as compared to the prison group, a statistically significant difference.<sup>25</sup>

However, this information is preliminary because the average time from completing drug court to the end of our study period in October 2013 was about 18 months. This limited timeframe may not have provided enough time for potential recidivists to commit a crime, be adjudicated, and

<sup>21</sup> These results were statistically significant at the .05 level.

<sup>22</sup> These results were statistically significant at the .05 level.

<sup>23</sup> Results for Broward, Hillsborough, and Orange are statistically significant at the 0.05 level. Results for other courts are not statistically significant.

<sup>24</sup> There were 161 drug court completers and 1,223 in the matched comparison group.

<sup>25</sup> These results were statistically significant at the 0.05 level.

be sentenced to prison. Therefore, the percentage of prison sentences for both drug court completers and the comparison group is likely to increase over time.

***Diverting prison bound offenders to drug courts can provide some cost savings***

To the extent that the expansion drug courts have diverted offenders from prison, the courts have provided cost savings. However, these savings from diversion are reduced when drug courts serve non-prison bound offenders. Additionally, cost savings can be achieved through the reduction of future costs associated with potentially lower rates of recidivism.

Drug courts produce cost savings by serving prison bound offenders. The average cost per successful completer for expansion drug court was \$16,934. To determine whether diversion to drug court would produce a cost savings, we compared the cost per successful completer to the cost of 18 months in prison (\$22,548 for male offenders and \$37,386 for female offenders, or a weighted average rate of \$26,851).<sup>26</sup> Thus, if all of the 769 successful completers had been prison bound, the state would have saved \$7.6 million by assigning those offenders to drug court.<sup>27</sup>

Drug court cost savings are lessened when drug courts serve non-prison bound offenders. Drug court participants who were not prison bound would most likely have been placed on some other form of community supervision, such as probation or drug offender probation. Although

<sup>26</sup> From January 2010 through June 2013, 29% of the 2,268 drug court participants were female. By comparison, 7% of the prison population is female and 25% of the community supervision population is female. The prison cost calculations are based on the costs for Fiscal Year 2011-12 reported by the Department of Corrections at \$41.91 per inmate per day for adult male custody institutions and \$69.49 for adult and youthful female custody institutions, including administrative costs. We used 18 months as the length of incarceration since 43% of the offenders sentenced to prison in Fiscal Year 2011-12 had sentences between one and two years.

<sup>27</sup> This calculation is based upon all costs paid with federal funds, adjusted for participants still active as of June 30, 2013. This adjusted total was then divided by the total number of successful completers for a per successful completion cost. Participants who did not complete the program are presumed to have received sanctions after drug court that are similar to what they would have received if they had never been assigned to drug court.

these forms of supervision may require the offender to receive substance abuse treatment, that treatment is generally less intensive and is paid for by the offender rather than the state. The statewide average annual cost of community supervision is less than 25% of the \$7,840 average annual cost for an expansion drug court participant.

As discussed previously in Exhibit 5, the participants in most courts had similar sentencing scores to offenders from the same counties that were sentenced to prison. Therefore, prison diversion could range from at least 50% to perhaps as high as 90% of participants. Exhibit 16 shows the relative savings achieved over the federal grant funding period depending on the portion of participants who were prison bound.

**Exhibit 16  
Serving Non-Prison Bound Offenders Reduces Drug Court Cost Savings**

| Percentage of Prison-Bound Participants | Estimated Savings |
|---|-------------------|
| 100%                                    | \$7.6 million     |
| 90%                                     | 5.8 million       |
| 75%                                     | 2.9 million       |
| 50%                                     | -1.8 million      |

Source: OPPAGA analysis of cost data from the Office of the State Courts Administrator and the Department of Corrections.

Drug courts may also reduce future costs associated with potentially lower rates of recidivism. Drug courts also reduce future criminal justice costs to the extent that they help participants overcome addiction and avoid future criminal behavior.

Some of these cost savings are difficult to measure, such as reductions in workload for law enforcement and the courts. Also, there would be both cost and social savings as a result of reduced victimization. Although substance abusers are often thought of as committing “victimless” drug offenses, 38% of the drug court participants had also been charged with property crimes, burglary, or other crimes with victims.

The most easily measurable effect of lower recidivism is the avoidance of prison costs, although

projecting potential savings requires a number of assumptions. Based on the proportion of male and female drug court participants, the weighted average cost of incarcerating these individuals in prison would be approximately \$18,200 per year. In 2013, the Department of Corrections reported that drug offenders had a 21% chance of returning to prison within three years. If 340 participants successfully complete drug court each year, and if instead of 21% going to prison, only 11% go to prison in the next three years, then the estimated savings is over \$500,000 for each year of prison avoided.

## Options

The Legislature could consider two options to help maintain the effectiveness of the expansion drug courts.

- To ensure that the drug courts achieve cost savings by diverting prison-bound offenders, the Legislature could require that judges sentencing offenders with scores of 22 points or less provide written justification for the drug court placement. This is similar to the existing statutory requirement that judges cannot impose a state prison sanction without a written finding.<sup>28</sup>

- Because treatment options, including residential treatment, are a factor in increasing the success of drug court participants, the Legislature could require each drug court to provide at least one residential treatment option for judges to use for participants who require this level of treatment. Because residential treatment is more costly than outpatient treatment, drug courts could implement this requirement at current funding levels by decreasing the number of participants served to ensure funding availability for residential treatment slots.

## Agency Response

In accordance with the provisions of s. 11.51(5), *Florida Statutes*, a draft of our report was submitted to the Office of State Courts Administrator to review and respond. The State Court Administrator's response has been reproduced in Appendix C.

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<sup>28</sup> Section 775.082(10), *F.S.*



## Appendix A

# Ten Key Components of Drug Courts

Section 397.334, *Florida Statutes*, requires treatment-based drug court programs to include therapeutic jurisprudence principles and adhere to the 10 key components, recognized by the Drug Courts Program Office of the United States Department of Justice and adopted by the Florida Supreme Court Treatment-Based Drug Court Steering Committee.

### Exhibit A-1

#### Florida Statutes Require Drug Courts to Adhere to 10 Key Components

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

Source: Section 397.334, *F.S.*

## ***Appendix B***

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# **Methodology Used to Analyze Drug Court Participant Outcomes**

To assess the impact of drug courts on subsequent recidivism, we analyzed records of three cohorts of offenders—drug court participants who successfully completed the program from its inception through June 30, 2013, drug court participants who failed to complete the program, and a matched comparison group. The comparison group consisted of offenders who would have qualified for the expansion drug court but were sentenced to prison and released between January 1, 2010, and June 30, 2013, and who were assessed as having a substance abuse treatment need while in prison. We compared felony convictions and early prison sentences for these groups of offenders through October 31, 2013, a minimum of four months and a maximum of three years and two months after discharge from drug court or release from prison. We also analyzed data on arrests.

### ***Data***

The Office of the State Courts Administrator provided data on the drug court participants, their demographics, sentencing scores, admission and discharge data, outpatient and residential treatment, current offense at admission to drug court, and their final completion status. The Department of Corrections matched these offenders to their data and provided data on prior probation and prison sentences, all prior offenses resulting in a previous probation or prison sentence, and subsequent prison admissions for drug court participants. The Department of Corrections also provided the same data on all offenders sentenced to prison for a non-violent offense and released between January 1, 2010, and June 30, 2013. The Florida Department of Law Enforcement provided data on all arrests and convictions for both the drug court and the comparison group.

### ***Expansion drug court participants***

The Office of the State Courts Administrator provided data on a total of 1,745 drug court participants who were admitted by June 30, 2013, and discharged by September 13, 2013. A total of 449 cases were dropped because they were sentenced to prison as a result of offenses that occurred before or during drug court, and thus could not be followed for reoffending in the community. An additional 97 were dropped because they were discharged after June 30, 2013, the cut-off date to allow a minimum of four months for determining reoffending, 27 were not included in the study because they could not be matched to Department of Corrections data to determine their prior criminal history, and 8 were dropped because they were discharged due to death. The final pool for matching with comparison group data was 1,164 drug court participants, including 758 successful completions, 340 unsuccessful completions, and 66 discharges due to transfer of the case or medical or other reasons.

### ***Comparison group***

From Department of Corrections data on prisoners admitted with sentencing scores of 60 points or fewer and released between January 1, 2010, and June 30, 2013, we identified 19,532 prisoners who were sentenced for a non-violent offense that would have qualified them for drug court at the time of sentencing and who were assessed by the Department of Corrections as having a substance abuse need. This group was 65% white, 20% female, and had an average age at release of 36.5 years.

We conducted two iterations of an analysis to randomly match drug court discharges to the comparison group based on these variables:

- whether or not the offender had a prior prison sentence;
- whether they had more than one prior probation sentence;
- age group, within two to three years;
- gender;
- race;
- whether they had prior convictions involving the sale, manufacture, or distribution of drugs; and
- type of current offense.

We identified two matching comparison group cases for 1,049 of the 1,164 participants discharged from drug court. To check the results of the major sub-analysis for successful completers, we also matched successful completers alone to the comparison group in two iterations, and conducted the analysis with this pool; the results were not different from the combined analysis.

### ***Methods of analysis***

We used survival analysis to evaluate the probability of a subsequent arrest, conviction, or prison sentence. We evaluated arrests, felony arrests, convictions for any offense, felony convictions and sentences to prison for those who successfully completed the program, as well as a subgroup of offenders who participated but failed to successfully complete the program, and were subsequently discharged into the community rather than being sentenced to prison.

### ***Control variables***

In addition to matching the drug court group to the comparison group, we used survival analysis to control for time out of the program. We also used survival analysis to control for the remaining differences between the two groups regarding factors that correlate with recidivism, including age, number of prior probation terms, number of prior prison terms, sentencing score, race, gender, and whether the offender was from one of the seven most populous counties in Florida or not.

## Appendix C

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Ricky Polston  
Chief Justice

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Elisabeth H. Goodner  
State Courts Administrator

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### Office of the State Courts Administrator

Phone: (850) 922-5081 Fax: (850) 488-0156  
e-mail: [osca@flcourts.org](mailto:osca@flcourts.org)

January 6, 2014

Mr. R. Philip Twogood, Ph.D.  
Coordinator, Office of Program Policy Analysis  
and Government Accountability  
Claude Pepper Building  
111 West Madison Street, Room 312  
Tallahassee, Florida 32399-1475

Dear Dr. Twogood:

Thank you for the opportunity to comment on the January 2014 draft report from the Office of Program Policy Analysis and Government Accountability (OPPAGA) on post-adjudicatory expansion drug courts. The report reflects what the State Courts System has observed: Expansion drug courts produce positive results through reduced recidivism and cost savings. The Office of the State Courts Administrator (OSCA) offers the following comments on some of the specific findings and options contained in the report.

- The courts support diverting non-violent offenders from prison and have worked to ensure that expansion drug court participants likely would have been sentenced to prison. I am pleased with the finding that the program is serving an increasing number of prison-bound offenders. As a result of the overall decrease in the number of participants with lower sentencing scores, scores for expansion drug court participants are now more in line with scores for offenders who go to prison.
- The closer alignment of sentencing scores has occurred even though local identification, screening, and sentencing practices result in different types of offenders being admitted to expansion drug courts. We believe local flexibility – consistent with statutory criteria – promotes broad support for the program based on needs and norms within the particular community, while still facilitating cost savings for the state. However, OSCA will continue to work with the expansion drug courts to ensure that they are serving primarily prison-bound offenders.
- Regarding the variation in completion rates among expansion drug courts, I note that the overall 53-percent successful completion rate is consistent with national averages. In light of OPPAGA's identification, however, of judicial interaction and the availability and use of treatment options as important completion-rate factors, OSCA will work with

Mr. R. Philip Twogood  
January 6, 2014  
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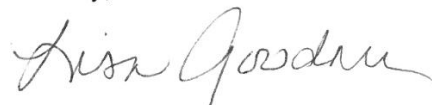
the expansion drug courts to promote the appropriate mix for each offender.

- Each expansion drug court has its own unique needs and access to local resources. To address variance in costs reported across expansion drug courts, OSCA will assist the circuits to review local costs, available treatment options, and other available resources in the community with the goal of maximizing program outcomes.
- The cited cost savings from diverting prison-bound offenders into expansion drug courts and avoiding future prison costs through lower recidivism may represent a subset of total savings, as they do not contemplate savings achieved through reduced workload for the courts, law enforcement, and others. Furthermore, as the report notes, there will likely be cost savings and social savings as a result of reduced victimization. We believe additional savings to the state also will be realized through increases in offender employment, education, child support, family functioning, and other factors. Though difficult to measure, these benefits are important to consider.
- The courts concur in promoting residential treatment as an option for judges to employ with appropriate participants. However, we encourage the Legislature to allow flexibility for communities without a local residential treatment program to still operate a drug court using other available treatment options.

I commend OPPAGA for its thoroughness in studying the expansion drug courts, including multiple statistical analyses on recidivism. Program funds have allowed the circuits and OSCA to populate and maintain a statewide drug court case management system that enables drug courts to better manage their caseloads and access critical data for program monitoring and evaluation. The strides made are reflected in the richness of the data available to OPPAGA for this report.

The report will assist in continued refinement of expansion drug courts. The Office of the State Courts Administrator is committed to providing training and technical assistance to help ensure that expansion drug courts achieve the best possible outcomes. Please do not hesitate to contact me if you require additional information.

Sincerely,



Elisabeth H. Goodner

LG: ewm





# *The Florida Legislature*

## *Office of Program Policy Analysis and Government Accountability*



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