Pretrial Diversion Today: Best and Promising Practices in the Field

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National TASC Conference
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The Process of Identifying the Best Practices

- Utilizing a clear definition of both pretrial diversion and best practices
- Sources used in the process:
  - Theory and Policy
  - Practical Experience
  - Empirical Data

BEST PRACTICES

- Nine were identified
  1. Formalized cooperative agreements
  2. Access to defense counsel before entry
  3. Due process protections integrated
  4. Broad eligibility criteria, consistently applied at multiple points
  5. Uniform risk/needs assessment
  6. Plan tailored to participant
  7. Graduated interventions before termination
  8. Maximum privacy protections
  9. Independent program evaluations

BEST PRACTICE #1

- Formalized cooperative agreements between the program and key stakeholders
- Long standing successful programs have such agreements
- Protects program continuity and consistency

BEST PRACTICE #2

- The defendant has access to defense counsel before the decision to participate in the diversion program
- Status of the defendant – presumption of innocence
- Legal implications of the decision
- Collateral consequences of participation

BEST PRACTICE #3

- Specific due process protections are built into the program
- Status as a defendant
- Fundamental fairness of process
- Opportunities to challenge decisions made about participation and/or termination from the program

BEST PRACTICE #4

- Broad, equitable, and objective eligibility criteria are applied consistently at multiple points of case processing
- A matter of equal justice
- Broad enough to cover all potential participants
- Supported in literature: Sequential Intercept Model/Drug Court Key Component

BEST PRACTICE #5

- Uniform and validated risk and needs assessment is utilized to determine the level of supervision and types of services needed
- Beyond the PTR risk assessment – looking to reduce long term recidivism
- Works to identify the best level and type of services needed to address behaviors

BEST PRACTICE #6

- Intervention plans are tailored to individual risks and needs
- Developed with the participant
- Targeted interventions matched to those needs/risks
- Trauma, cultural and gender informed
- Realistic and avoids over conditioning

BEST PRACTICE #7

- Graduated interventions short of termination are utilized by the program
- All part of a thoughtful intervention individualized to the participant
- Used judiciously to respond to behaviors which are counterproductive to plan success
- Standards: rearrests in program not automatic dismissal

BEST PRACTICE #8

- Maximum privacy protections for both participations and their records are in place
- Challenges of the "information age"
- No less than 4 Standards address some aspect of this issue
- Case law is significant in area

BEST PRACTICE #9

- Independent program evaluations are conducted
- Need for empirical findings and research to support (or debunk) program practices
- The wide variety of programs poses a challenge to compare

PROMISING PRACTICES

- Three were identified which did not rise to the level of “Best Practice” due to the lack of research support
- Programs have written policies and procedures backed by a formal mission statement
- Programs have an automated management information system that supports performance measurement and evaluation
- The program audits the performance of the external programs it uses for participants

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A Pretrial Diversion Model Program: The Maricopa County Arizona TASC Adult Deferred Prosecution Program

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March 21, 2012

TASC Pretrial Diversion

- NAPSA Best and Promising Practices lists Arizona TASC Diversion as model program

- Maricopa County TASC Adult Deferred Prosecution Program one of few pretrial diversion programs that diverts defendants charged with felony drug offenses

TASC Pretrial Diversion

- Program structure depends on state statutes authorizing such programs
  - In Arizona statutes authorize each County Attorney to establish a diversion program
  - Other states may vary, some with more judicial involvement

AZ TASC Diversion Best Practices

- Formalized cooperative agreement:
  - Memorandum of Understanding with the MCAO

- Access to defense counsel prior to entry
  - Post-file all represented or pro per
  - Pre-file allowed time to consult with attorney prior to program entry

AZ TASC Diversion Best Practices

- Broad eligibility criteria consistently applied
  - County Attorney authorized by statute to develop diversion program
  - MCAO has written eligibility criteria for drug diversion cases
    - Written MCAO approval available on case by case basis for defendants with extraordinary circumstances

AZ TASC Diversion Best Practices

- Uniform risk/needs assessment
  - All participants screened for eligibility prior to entry and fully informed of basic requirements for successful program completion
  - Clinical assessment required prior to receiving any counseling services

- Plan tailored to participant
  - TASC intensive case management treats each participant individually within the context of basic program requirements

AZ TASC Diversion Best Practices

Graduated sanctions prior to termination

Typically involves adjusting :

- random drug testing frequency; and/or
- counseling participation/referral; and/or
- self-help participation

AZ TASC Diversion Best Practices

- Maximum privacy protections
  - Drug involved offenders covered by specific Federal Regulations of Confidentiality in addition to other applicable state and Federal laws
  - Confidentiality practices emphasized
    - Ongoing confidentiality training
- Independent program evaluations
  - Long term recidivism study in early years of program with impressive results

AZ TASC Diversion Recidivism Study

FINAL RATE OF SURVIVAL VS RECIDIVISM
FOR FOUR GROUPS OF DEMAND REDUCTION PARTICIPANTS

GROUP	NUMBER OF CASES	PERCENTAGE WHO SURVIVE	PERCENTAGE WHO RECIDIVATE
TASC Eligible, Not Enter, Filed	1,618	45.46	54.36
TASC Ineligible, Filed	1,389	48.12	51.88
TASC Eligible, Failed Program	514	57.23	42.77
TASC Eligible, Complete Program	1,096	78.04	21.96

AZ TASC Diversion Promising Practices

- Written policies and procedures backed by a formal mission statement
  - Agency has both, diversion program has detailed procedure manual

AZ TASC Diversion Promising Practices

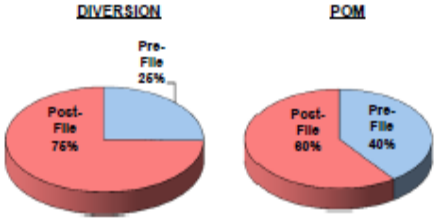
- Automated management information system that supports performance measurement and evaluation
  - Strong MIS developed by TASC IT staff provides:
    - valuable tools for core CM functions with large caseload
    - critical information for quarterly reports, statistical analysis of programs

Treatment Assessment Screening Center, Inc.

Summaries & Statistics - Diversion Program

Intake Summary

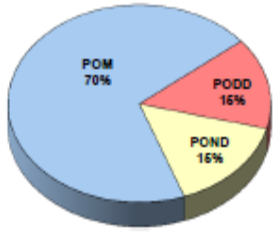
Drug Diversion Program		*16639*
Pre-File	*3488*	
Post-File	*10283*	
Possession of Marijuana		*35723*
Pre-File	*14299*	
Post-File	*21424*	
Total		*52362*

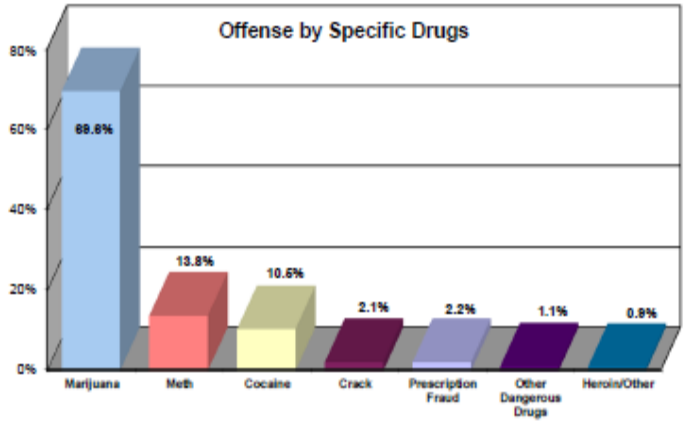


Felony Offenses

Possession of Marijuana	*39047*
Possession of Dangerous Drugs	*8375*
Methamphetamine	7752
Other Dangerous Drugs	592
Possession of Narcotic Drugs	*8642*
Cocaine	5876
Crack	1163
Heroin/Other	478
Prescription Fraud	1210
Total	*56064*

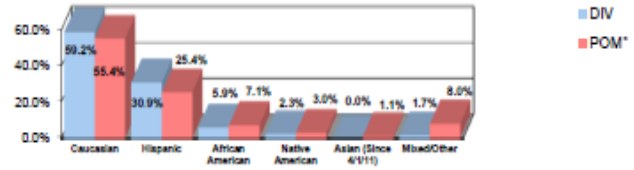
**May exceed total clients due to multiple offenses*



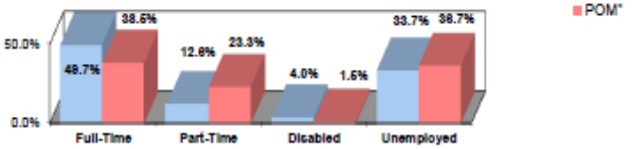


*DEMOGRAPHICS (*POM Demographics compiled beginning 7/1/11)*
N= 16639 (DIV) *N= 35723 (POM)*

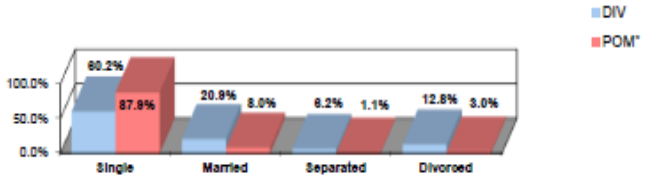
Ethnicity



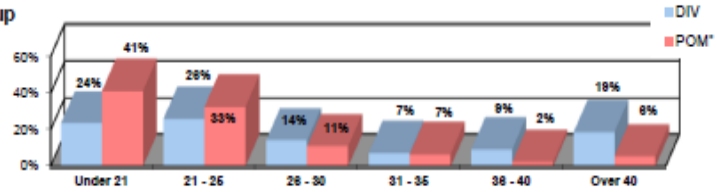
Employment



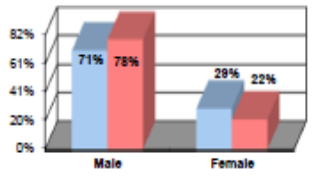
Marital Status



Age Group



Gender



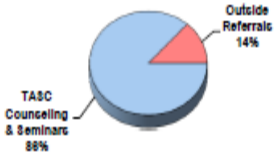
Summaries & Statistics - Diversion Program

*Treatment Experience

No Prior Treatment	13171
Prior Treatment	3458
Total	16629

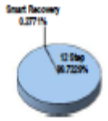
*Treatment Referral

TASC Counseling & Seminars	14382
Outside Referrals	2247
Total	16629



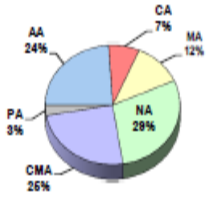
**Support Group Referral

12 Step	8998
Smart Recovery	25
Total	9023



AA - Alcoholics Anonymous
CA - Cocaine Anonymous
CMA - Crystal Meth Anonymous
MA - Marijuana Anonymous
NA - Narcotics Anonymous
PA - Pills Anonymous

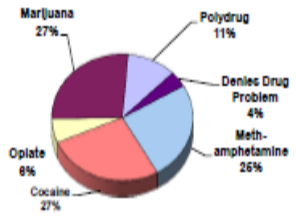
12 Step Breakdown



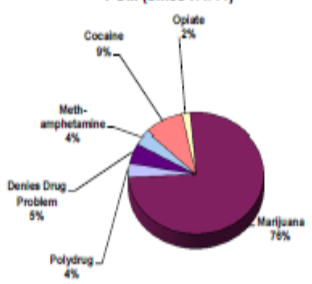
** 1 Year Drug Diversion Clients Only -- Excludes POM

Primary Drug Problem (Self Reported)

Diversion

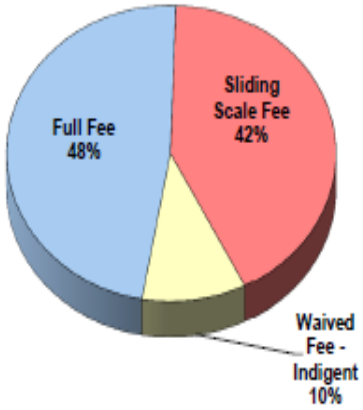


POM (Since 7/1/11)



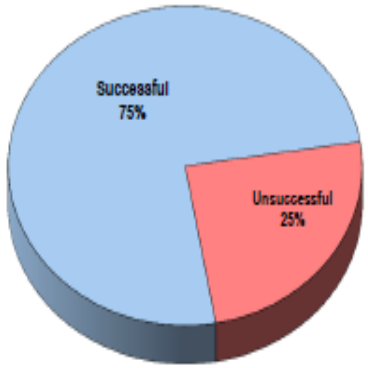
Collection of Fees

Total Funds Collected	*$14,880,000*
Full Fee	7947
Sliding Scale Fee	6983
Waived Fee - Indigent	1709
Total	*16639*



Terminations

Terminations - Diversion	
Successful	*9517*
Unsuccessful	*3968*
Terminations - POM	
Successful	*18585*
Unsuccessful	*5231*
Total	*37301*



TASC Pretrial Diversion

- TASC programs well suited for pretrial diversion
  - Effective, proven case management model
  - Bridge between criminal justice system and substance abuse treatment – reporting credibility
  - Fits philosophy of treatment alternatives with client accountability at front end of CJS

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