

Making better choices



Judge Frank McCaffrey recently presides over Rutland Drug Court, which offers addicts more choices for their rehabilitation.

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By **Thatcher Moats** Staff Writer - Published: May 17, 2009

Kara Arnaiz snorted cocaine for seven years, often more than once a day, starting when she was a young teenager. Her addiction, furthered by a relative who gave her the drug for free, led the 21-year-old Cabot resident to steal her cousin's car last summer so she could drive to Montpelier to get a fix.

"I needed to get high and that was my only option at the time," said Arnaiz in an interview recently in Vermont District Court in Barre. She was arrested for the theft and for driving the car under the influence of cocaine. Before her arrest, Arnaiz tried to quit using the drug, but said she landed in the hospital with withdrawal symptoms and depression.

On Monday, May 4, a drug-free Arnaiz stood at a podium in the same courtroom where she was arraigned and proudly told the judge that as of that day, she had been clean for nine months. Arnaiz made her announcement during a "treatment court" hearing in Barre, and it was followed by applause from the other defendants gathered there, along with the prosecutor, defense attorney, case manager and others on the "treatment team." Arnaiz also announced she was planning to establish a Narcotics Anonymous group in Cabot with six or seven interested people and the help of a local pastor, which drew praise from Judge Brian Gearson.

"You keep amazing me every week with something new," Gearson told Arnaiz.

When treatment court concluded Monday, members of the program ate vanilla cake with white frosting that a prosecutor baked for a woman graduating that day.

"How often does a prosecutor bake a cake for a defendant?" pondered the prosecutor, Washington County Deputy State's Attorney Kristin Wood. The cake, the applause and the praise are proof that drug court has a different flavor than most of the criminal justice system.

In 2006, Washington County became the third Vermont county to establish a separate court docket that is used to coerce and entice drug-addicted defendants to kick their destructive habits. Rutland and Chittenden counties have similar drug courts, and Windsor County established a different type of program a few months ago that has similar intentions. The courts in Washington, Chittenden and Rutland counties are each slightly different, but they have the same goal: to divert addicted criminal offenders into strict treatment under judicial supervision.

An independent study that was released in January declared the Rutland County program a success — it saved taxpayers money and reduced recidivism for graduates of the program and even for people who started the program but dropped out.

The drug court in Rutland, established in 2004, continues to grow and evolve. Court officials are poised to hire another case worker so they can handle more cases and are pursuing a grant that would add a mental health component to the court.

In Washington County, referrals to the court are way up, according to Kim DeBeers the drug court coordinator there and in Rutland County.

Arnaiz is one of the more successful participants in the Washington County program, and at Monday's hearing, it was clear some defendants are still struggling.

Tyler Booth, 17, stood with his mother at the podium, which was placed in the dead center of the courtroom, facing the judge. The young man looked worn and tired, and he told Gearson he would be checking into a rehabilitation center.

A woman who didn't show up for her drug court hearing was booted from the program.

And another man, Thomas Wilde, was informed he would be punished for testing positive for opiates. He was told he would have to spend 48 hours in prison.

Carrots and sticks

Defendants eligible for drug court don't have to enroll, but there's often a huge incentive to do so.

"Do you want drug court or do you want to go to jail?" is how Vermont Drug Court Coordinator Karen Gennette frames the options.

The coercive nature of the alternative court is one reason it's effective, Gennette said.

Montpelier resident Shawn Michael Braley, for instance, faces a jail sentence of 15 months to five years for nine crimes if he fails to graduate from drug court. Those charges include grand larceny, prescription fraud and embezzlement. But if Braley does graduate, the 26-year-old will be convicted of just one charge of possession of marijuana and face no jail time. And if he stays out of trouble after graduation, that marijuana charge would be scratched from his criminal record.

Braley's two options come in the form of separate plea deals he reached with the state in district court before entering drug court, known as "Door A" and "Door B." Braley said the incentive is helpful, but he was also ready to kick his habit of using whatever drugs he could get. The last time he was arrested police found in his pocket a needle and a spoon that had trace amounts of the prescription drug Bupamorphine that is often abused on the street.

"I got sick of all the crap, waking up in jail and not knowing what I did," he said.

The path to drug court for defendants like Braley starts with an arrest for a crime and then a referral from someone within the criminal justice system who identifies a defendant with a possible drug problem. That could be a judge, a prosecutor or a defense attorney. Defendants are screened to see if they are addicted to drugs and to see if that is why they are committing crimes. Not everyone can enroll. Drug dealers and violent offenders are almost always ineligible.

Participants in drug courts undergo counseling and are subjected to drug tests each week, often multiple times. They are required to get a job and encouraged to acquire stable living arrangements and get their license back if it has been suspended. And they almost always strike a plea deal before they enter drug court.

Before drug court hearings, the treatment team – a case worker, judge, defense attorney, prosecutor, substance abuse expert, representative from corrections, treatment team coordinator and court clerk — meets to discuss how drug court members did the previous week. If they failed a test or missed a counseling session, the team will try to decide what sanctions are needed. They can range from kicking someone out of the program to making them attend more counseling.

Braley, who is in "Phase I" of treatment court, has had one slip-up so far. He smoked marijuana.

"I happened to be in the wrong place at the wrong time, I was stressed out and I took a few hits," he said.

The treatment team made Braley attend more group meetings and took away some of his "clean time," which members accrue to help them advance to Phases II and III.

Sanctions can include jail time, but drug court members can opt out of the program if they don't want to go to prison.

The sanctions, and the praise for those who have made progress, are carried out in the court room. The drug court hearings fall somewhere between a group support meeting and a regular court proceeding. There is positive reinforcement, which comes in the form of verbal praise, applause and prizes. A defendant who had a good week might get a journal or a bracelet that says "Drug Free," officials said.

"It is much more personal than any other case that I work with," said Wood, the prosecutor. "We're meeting them every other week, we pretty much get to know each other on a first name basis and know their family and medical history, and their struggles from week to week."

Unlike other court proceedings, members of drug court are required to stay in the courtroom even after they go before the judge, which creates a supportive atmosphere. It is done this way, so members can "learn from others' stories," said Wood. If someone is praised by the judge or the treatment team, others will hopefully be encouraged to follow in that person's footsteps, said Wood, and if another person is struggling, witnessing that can also be helpful.

"And for someone in Phase I who is struggling, someone in Phase III can grab them later and say, 'Hey, why don't you try this?'" said Wood.

Elizabeth Coombs is a rare example of someone who both failed and succeeded in drug court. The 24-year-old Rutland woman entered drug court in 2003 after turning herself in to police. "I felt terrible and I couldn't live with it any longer," Coombs, now a mother and a nursing student said.

But after completing a 30-day in-patient treatment program, Coombs said she struggled with an opiate addiction that ultimately flunked her out of drug court and prompted a warrant for her arrest. On her 21st birthday, she was arrested and jailed for five months. It was an experience that she described as one of the worst periods of her life but a necessary evil that convinced her to change her life.

After her release from jail and half a year of probation, Coombs asked to reenter drug court even though her prior failure meant the nine felony convictions for forging checks would not be expunged from her record by completing the program.

"I just really wanted to show them that I wanted to do the right thing," she said. "For me, I need structure, rules, a routine and consequences for screwing up. I didn't have that on probation but I did in drug court." In her second attempt, Coombs graduated flawlessly from the program – and has since returned to drug court where she has interned as part of her nursing degree.

Clean results

A year-long study of the Rutland County drug court by a company called NPC Research evaluated the drug court there. The study examined the number of times drug court graduates were re-arrested compared to two other groups: those who participated but did not graduate and those who were eligible for drug court but chose not to attend.

Over 36 months, people who chose not to attend were re-arrested more than six times as often as graduates of the program, the study found. In addition, those who entered the program but did not complete it were arrested less frequently. The recidivism rate for Rutland County drug court graduates is 19 percent and for Chittenden County it's 34 percent, said Gennette. Numbers are not available for Washington County because the court is relatively new. The recidivism rate statewide was 50 percent in fiscal year 2008, according to figures from the Vermont Department of Corrections.

By reducing arrests, drug courts saved taxpayers money, the study concluded.

After one year, the savings were \$6,000 and after three years the savings reached \$16,000 when graduates and those who refused to participate in the program were compared. That means a 150-percent return on the investment after five years, the study said.

One reason drug court appears to work is that it is a lengthy treatment program — on average, it takes people 14 to 16 months to graduate. "It keeps them in treatment longer than any other treatment program," said Gennette.

Defendants often enroll in drug court to stay out of prison, but become deeply invested in staying clean, she added. And getting drug treatment outside prison is the best way to beat an addiction, many officials agree. "Jail simply does not work," said Gennette. "People usually come out worse than they went in." One reason jail doesn't work might be that drugs are readily available in prison. A program supervisor for the Department of Corrections testified to this during a sentencing in Barre last week.

"I think in the end, prison is for sex offenders and the other most violent offenses," said the program supervisor Mike Carlisle outside the courtroom after his testimony.

Braley said if he wanted to continue to use drugs when he was jailed last fall, he easily could have, though he said he resisted the temptation. "I was in jail for two months and I got offered drugs every day," he said.

In the future

Whether drug courts will open in other counties is an unknown at this point, but it likely won't be happening in the near future due to tight state budgets.

"Right now there's not enough funding to get it going in other counties," said Gennette.

Windham County State's Attorney Tracy Shriver said her office toyed with the idea of establishing a drug court there, but abandoned the plan when the economy tanked. "We had some discussions back in August about doing a drug treatment court, but we stopped once all the gloom-and-doom budget discussions started," she said.

But by beefing up the drug courts in the three counties where they exist, there is the potential to reach a large percentage of the Vermonter's who are eligible; 50 percent of the people who go through district courts in the state go through Chittenden, Washington and Rutland counties, Gennette said.

Right now, the number of cases that each drug court can handle is limited by the number of case managers that can be funded, said Gennette. Each case manager can handle a maximum of about 25 cases, she said.

It's hard to determine exactly how much it costs to run a drug court because some of those costs are hidden, Gennette said.

In Rutland County, \$130,000 in state General Fund dollars pays for case workers and a drug court coordinator. But the officials from the state's attorney's office and the defender general's office, who spend a lot of time working on these cases, don't receive "extra" funding for the time they spend working at drug court; the drug court time is paid through those offices' budgets, said Gennette.

Washington County is relatively low-budget with funding only for a half-time case manager. "It's a really touchy subject," said Gennette. "How much does it take to run a drug court is a complex question."

For the people it does reach, drug court can be a huge help – if those people are willing to accept that help, said Gennette. "The structure and the support people get through drug court is phenomenal," said Gennette. "And if people are just willing to let people work with them, it works."

Several drug court members talked about that support at the hearings in Barre recently.

As Marie Clark, 49, graduated from drug court on May 4, she told Judge Grearson that the caring people in the program – particularly case manager Tony Folland – are what made it work.

"I've never been around people who actually cared..." she said, turning to face Folland. "Tony's been a friend."

Arnaiz has been attending drug court for five months. "The biggest part is they listen to you and don't judge you for what you've done," she said.

Brent Curtis contributed to this report.

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