



# NEWSLETTER

## *Florida Association of Drug Court Professionals*

### **FLORIDA Association of Drug Court Professionals**

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*Letter from FADCP Board Chair Jeffrey Rosinek, Drug Court Judge, 11<sup>th</sup> Judicial Circuit:*

The Florida Association of Drug Court Professionals (FADCP), in its first full year of existence, has set a high standard for achievement. We have come from a fledgling organization to having a membership of over 200 dedicated people and a well developed committee structure discussing areas of great importance to all of us in the Drug Court Movement.

Drug testing, Transferring of Venue, Article V and Legislative concerns are the areas in which our FADCP Leadership concentrated. The committee work by our members has accomplished much in our first year. A great thanks goes out to each Chair and co-Chair: Jim Santangelo and Mike Jewell, Jack Espinosa, Gail Holly, Chet Bell and Melanie May for the work they did on their respective committees. A Special thanks goes to Charlie Trotta for his diligence with the Membership Committee. To the Executive Committee of Vice Chairman Marty Epstein, Secretary Melanie May and Treasurer Robert Koch, a special thanks for the great year of hard work. And to the Board of Directors, a thank you for the wonderful support and leadership throughout the State of Florida.

Now, where do we go from here? There are many areas of concern that we must tackle this year:

1. We must expand our membership. Our modest goal is to increase for 2003-2004 our membership by 50%. We should bring into our organization more professionals from law enforcement, State Attorney and Public Defenders Offices, and treatment organizations. Our membership should include every Drug Court Judge in the state as well as his/her team members.

2. We must consider forming a FADCP drug court policy group that will meet with key legislators, Local Officials, and other agencies needed to enhance the drug courts throughout the state. This "policy group," under our legislative committee, is essential to help pass the important Drug Court legislation that failed in the last legislative session. (Please be sure to read the article in this newsletter by Melanie May on this issue.)

3. We must educate our Judges on how to use the Drug Court Model in non-Drug Court Courtrooms. The FADCP will participate in the Winter Conference of Circuit Court Judges in December at Amelia Island in a 4 hour program to educate Florida Judges.

4. By year end we should have a change of venue policy in place that will accommodate all cases in Florida. Uniformity of policy is necessary in order to institutionalize Drug Court Transfers.

5. Each year every Drug Court and its treatment component(s) spends thousands of dollars on drug testing. Where feasible, a uniform and coordinated drug testing policy could save an incredible amount of money. FADCP will continue to investigate the possibility of a unified Drug Testing system. (There is a synopsis of the Drug Testing Committee's work written by Mike Jewell in this newsletter; it is a must read.)

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*Letter from FADCP Board Chair Jeffrey Rosinek, Drug Court Judge, 11<sup>th</sup> Judicial Circuit (contd.):*

6. FADCP should develop a Speaker's Bureau to promote drug courts and the drug court concepts. We should also use drug court graduations as media events and try to bring legislators and county officials to the programs.

7. Keep all members of FADCP updated on topics of interest. This is our first abbreviated newsletter. Our plan is to publish one quarterly, and in the interest of cost savings, to disseminate it electronically, (so make sure that we have your current e-mail address.) Besides the newsletter, Melanie May and I will continue to e-mail the membership on important developments of a timely nature.

There is no doubt that this upcoming year will be a very difficult and important one for Drug Courts throughout Florida. We must convince our legislative leaders of the importance of full funding for drug courts and the enactment of legislation to bring about the institutionalization of the drug court model in Florida. While we face many challenges, FADCP is ideally situated to exert influence on the future direction of drug policy in the State.

## FADCP Drug Testing Sub Committee Preliminary Report

*By: Michael Jewell*

When the Florida Association of Drug Court Professionals (FADCP) met in April 2002 for the statewide drug court conference in Orlando, a sub committee was created to collect information concerning how drug courts in Florida conduct drug testing. Identifying ways to save money through economies of scale and standardization were primary focuses. Therefore, a survey to examine the drug testing procedures was developed and distributed to all of the drug court programs in Florida. This was an attempt to determine how they conducted their drug tests, the cost per test, turnaround times for results, satisfaction with current techniques and any cost saving measures developed. Twenty-two jurisdictions responded to the survey with nineteen utilizing urinalysis exclusively, one utilizing oral fluids, one utilizing both urine and oral fluids and one utilizing urine and pupil scanning.

Urine Testing is Most Common: It was clear from the survey that urinalysis (UA) was by far the most common technique utilized for conducting drug tests among Florida drug courts. The method of testing varied greatly from jurisdiction to jurisdiction. Eight courts reported utilizing in-house, or county operated, labs that use various versions of the Syva/Olympus reagents and analyzers, four reported using an off site lab exclusively, one utilized the County Coroner's Office, while the remainder utilized a combination of on-site tests (cup, stick, test strip) and an off-site lab. These different techniques raise possible topics of discussion regarding cost, turnaround time, sensitivity/accuracy and the ability to detect adulterated samples.

Cost: The cost reported by the responding programs totaled an impressive \$1,610,000 per year on testing procedures. Two jurisdictions reported that the clients pay. Overall, it is probably safe to say that the amount of money spent on drug testing each year exceeds \$2,000,000.

Turnaround time: The majority (15) of the reporting courts list a turnaround time of between 24 – 48 hours for the receipt of results. The remaining seven jurisdictions reported turnaround times varying from three days to over one week. Almost all of the courts using in-house, or county operated labs, reported same day to 48-hour turnarounds, with one (Monroe County) listing a turnaround time of 1 – 3 days. Five jurisdictions that used a combination of on-site/lab tests also reported a 1 – 2 day turnaround time for results. Other times that exceeded 48 hours were in jurisdictions that utilized a combination of on-site tests (cups, stick, test strip), followed by a laboratory confirmation.

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Accuracy: The accuracy of drug testing was not captured by the survey, but is certainly an area that deserves closer investigation in any attempt to standardize testing procedures across the state.

Dilution and Adulteration: The importance of identifying urine samples that are dilute or adulterated cannot be overstated. Standard tests include direct observation, temperature, specific gravity, nitrites, pH and creatinine levels. The survey responses did not give us a clear understanding of how often drug court programs in Florida were testing urine samples for the dilution and/or adulterants.

Confirmation: Programs that utilized outside labs paid for CG/MS confirmation at rates ranging from \$35 - \$80, but it was not clear under what conditions such confirmations were requested. Programs using on-site tests also sent positive samples out to commercial labs for confirmation.

Sensitivity: The survey did not give us a clear indication on the sensitivity of the testing procedures being utilized (cut-off levels). The jurisdictions that reported the use of on-site, non-lab based testing, used many different types of products from various vendors with differing cut-off levels.

Satisfaction: Programs that developed and used their own lab all indicated that they wanted to see a method that was cheaper, as accurate and that had as quick a turnaround time as they currently enjoyed. All other jurisdictions, with the exception of one utilizing oral fluids, were interested in looking at alternative methods to what they are currently doing. Cost and turnaround time appeared to be the primary motivators for this interest. Accuracy and the ability to detect dilution / adulteration are important factors to consider as well.

Cost savings: Several cost saving methods were identified, including purchasing large quantities (liters) of reagents for those who operate their own labs. Shelf life is a factor, but if multiple drug court programs were to work together by using the same lab, a cost savings might be enjoyed. Developing a "drug history" on participants for the purposes of performing most tests for only the participant's drugs of choice might also result in lower costs. In such a case, full panel tests would be performed periodically instead of every time.

Summary: It is obvious from the survey that urinalysis is by far the most common, and accepted, form of drug testing utilized by the Florida drug courts. If, however, a less invasive form of testing, that is as reliable as urinalysis, were available, there would be a willingness to try it. Given the large amount of money involved, which is at least \$2 million dollars, all jurisdictions are interested in ways to reduce costs. Possible methods for reducing costs could include statewide contracting for lab services, regional labs for multiple smaller jurisdictions and the purchase of reagents by the liter. The efficacy of other (non urine based) methods should continue to be explored as new technologies become available. A statewide standard testing procedure utilizing the same chemistry, instruments calibrated at the same levels and testing for adulteration would put everyone on the "same page", but may not be possible at this time. The drug testing sub committee is hoping to complete a report to distribute at the upcoming statewide conference in Orlando in July 2003.

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## 2003 DRUG COURT LEGISLATION UPDATE

*By: Melanie G. May*

Following the path of the 2003 Drug Court legislation was akin to taking a roller coaster ride. One day it was sailing through committees; the next day, it was stalled. In the end, no new drug court legislation passed. However, the Article V, Revision 7 legislation included case management. This was significant as drug court coordinators have been deemed to fall within the definition of case management.

The inclusion of case management resulted from the blood, sweat, and tears of many people: members of the Trial Court Budget Commission, the Office of the State Court Administrator, members of the Florida Association of Drug Court Professionals, and members of the Supreme Court Task Force on Treatment-based Drug Courts. Governor Bush and Director Jim McDonough also took time at the statewide drug court graduation in Pensacola to speak with Representative Holly Benson, chair of the House Article V committee. Keeping the coordinators in place was a great victory when you consider how many important court programs were lost on the budget chopping block. That was the year in a nutshell. What follows is a summary of the legislation, recognition of our heroes, and what we might have in store for next year.

The 2003 drug court legislation came from a variety of sources. The Supreme Court's Task Force on Treatment-based Drug Courts proposed substantive legislation in the form of Senate Bill 2210 and House Bill 669. These companion bills touched on a number of important areas. First, the bill identified the significant impact of substance abuse on child abuse and neglect cases. It encouraged early and continual assessment for substance abuse at each stage of the dependency proceeding. It permitted the court to require participation in, and compliance with, treatment and when appropriate treatment-based drug court treatment programs.

It amended section 397.334 in several ways. It expanded the definition of treatment-based drug court programs to include post-adjudicatory and reentry programs. It provided for drug court coordinators in each circuit contingent upon annual appropriations. It moved the drug court advisory committee from chapter 948 to a new home in chapter 397.

It added the requirement of a plea prior to transfer of a drug court case within the state under section 910.035. It expanded eligibility under 948.08(6) to include persons who had previously been admitted to a felony pretrial program. It eliminated the automatic veto of those who had "rejected" drug court. It further expanded eligibility to first time nonviolent third-degree felonies for defendants assessed with a substance abuse problem, and for subsequent third-degree felonies with state attorney approval. And, it amended section 985.306 to conform the delinquency drug court statute with the adult drug court statute.

Representative Sandy Adams and Senator Evelyn Lynn ably sponsored this legislation. The Senate passed the legislation, but it died on the House Calendar despite herculean effort.

Perhaps of greatest interest to the field was Senate Bill 1186 and its companion House Bill 1137. Once again, we have Senator Evelyn Lynn to thank for sponsoring the bill in the Senate and Representative John Quinones in the House. This Bill provided a dedicated funding stream for drug courts through the assessment of \$6.00 on all criminal dispositions, taking a substantially similar form to the previously enacted teen court statute. Unfortunately, both bills died in committee.

Senator Stephen Wise sponsored Senate Bill 62, with companion House Bill 529 sponsored by Representative Ken Sorensen. This bill would have amended section 932.7055 to allow proceeds from forfeited property to be used to fund drug court programs. Both of these bills also died in committee.

Lastly, Senator Dave Aronberg and Representative Joseph Negron sponsored Senate Bill 1622 and House Bill 961, respectively. These bills would have allowed teen court monies to be used for juvenile drug courts. While these bills did not pass, a provision was added to the Article V bill which allows for excess funds generated by the teen court statute to be used for juvenile drug courts. Unfortunately, the \$3.00 teen court assessment was also eliminated, effective July 1, 2004, by the time the legislature had concluded its business. As previously mentioned, the Article V bill impacted drug courts. It deleted legislative findings from the 2001 drug court legislation, it eliminated the state mandate of a drug court in every circuit and provided a discretionary local option of a drug court in each county. It included "case management" within the

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elements of the court system to be funded by the state. It defined case management to include “service referral, coordination, monitoring, and tracking for treatment-based drug court programs under 397.334”. It then stated that “[c]ase management may not include costs associated with the application of therapeutic jurisprudence principles in drug courts.” Another provision of the bill prevents the use of state monies other than as provided for within the bill to be used for drug courts. While it is unclear, it appears that this provision is designed to prevent “treatment” programs from being funded within the court’s budget. However, work is underway to clarify these provisions. The bottom line was that the legislature has not included any “treatment” as a core element of the court. Three drug court programs that had treatment dollars within the court budget saw their funds eliminated.

So what’s the good news? First, case management, including the coordinators, survived an extremely difficult fiscal year. Second, the Trial Court Budget Commission has recommended that the coordinators and their assistants be included in the 2004 trial court budget. Third, we have been blessed with true, strong advocates in both the House and the Senate. Please let them know how much we appreciate their hard work by writing to them at the addresses listed below. We hope to be able to enlist their services again this year. Fourth, we have the continued support of Governor Bush and Director Jim McDonough. And fifth, we’ve only begun to fight.

It was a busy year and a difficult financial year for the State. While we didn’t make much progress, we didn’t go backwards. Drug court legislation continues to be on the legislative radar screen and with renewed efforts, 2004 may be our best year yet.

A special thank you to Ms. Jennifer Grandal, our link to the Office of the State Court Administrator. Also, special thanks to Ms. Brenda Johnson, the Court’s legislative director, who walked the floors of the Senate and House marshaling our bills; and to Ms. Lisa Goodner, who was recently named State Court Administrator. Lisa somehow found time to help us along with shouldering a great deal of the entire state court system. Thanks to all of you who pitched in with calls, letters, and e-mails to support our work. Special thanks to Judges Jeffrey Rosinek and Marcia Beach for their efforts above and beyond the call of duty. Most of all, thanks to my husband, who put up with the phone calls no matter what time it was or where in the country we were.

At the 2003 Drug Summit, many drug court practitioners met to discuss plans for the future. A dedicated funding stream continues to be our priority. Yes, as Scarlett O’Hara once said, “tomorrow is a new day!”

If you have any ideas on legislation for the future, please feel free to contact me at [MAYMG@flcourts.org](mailto:MAYMG@flcourts.org).

### Our Heroes:

**Sen. Evelyn Lynn**  
140 S. Atlantic Ave., #201  
Ormond Beach, FL 32176

**Rep. Sandy Adams**  
2074 Winter Springs Blvd.  
Oviedo, FL 32765

**Rep. John Quinones**  
101 N. Church Street  
3<sup>rd</sup> Floor Kissimmee City Hall  
Kissimmee, FL 34741

*Judge Melanie G. May, Fourth District Court of Appeals, is Secretary of FADCP, Chairs the Supreme Court Task Force on Treatment-Based Drug Courts, and is a member of the Advisory Council to the Florida Office of Drug Control.*

Note from the interim editors:

We hope you have enjoyed our first FADCP Newsletter. We plan on publishing this newsletter quarterly and it will only be disseminated electronically to save on costs (so make sure we have your updated e-mail address). Please feel free to give us any feedback or thoughts for future articles, as this is a work in progress. We believe that many of you have great ideas and even experience in working on this type of project, and we welcome your input.

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