

Introduction: Problem-Solving Courts

JEFFREY A. BUTTS*

Problem-solving courts have become a significant feature of the U.S. justice system, and their popularity appears to be growing internationally with courts under way or in development in countries such as Australia and Great Britain. Drug courts are the most visible type of problem-solving court, but other varieties are beginning to take hold. Mental health courts, domestic violence courts, and community-based courts among others are beginning to handle a considerable portion of the legal workload in many jurisdictions. Criminal law violations as well as neighborhood conflicts and interpersonal disputes are increasingly being referred to problem-solving courts rather than to traditional criminal or civil courts.

I. WHAT IS A PROBLEM-SOLVING COURT?

There are many flavors of problem-solving courts, but the essential ingredients are enhanced judicial oversight, lengthier case management (including post-sentencing supervision), and a general philosophy of restorative rather than retributive justice. Problem-solving courts begin with the premise that people should be accountable for their harmful behavior, but the justice system should do more than simply punish them for that harm; it should prevent future harm. Problem-solving courts extend the role of the legal system beyond fact-finding and the imposition of sanctions. They use the authority of the court to maintain the social health of the community.

The founding principles of problem-solving courts are not new. The original juvenile court system pursued the same goals that are now associated with problem-solving courts. In fact, as drug courts were sweeping the nation in the early 1990s, some experts observed that the new drug courts appeared to be "juvenile courts for adults." Indeed, the very purpose of law and the courts has always been to solve social problems, reduce harm, and restore the well-being of communities. The emergence of problem-solving

* Address correspondence to Jeffrey A. Butts, The Urban Institute, Justice Policy Center, 2100 M Street, N.W., Washington, D.D. 20037. Telephone: (202) 261-5514; e-mail: JButts@urban.org.

courts is significant not because they represent a revolutionary new way of thinking, but because they return the courts to a focus on the needs of the community. Problem-solving courts are part of a more generalized trend toward "community justice," which includes community policing, community prosecution, and a wide range of neighborhood-based community justice programs.

This special issue of *Law & Policy* is devoted to a discussion of problem-solving courts. It addresses some of the critical questions asked by policy-makers, justice practitioners, and the public. For example, what is a problem-solving court? Where did the idea originate, and how many varieties of these courts are there? What type of matters do they handle, and how do they process their cases? Does the process differ from court to court? How do we know whether problem-solving courts are effective, and perhaps most important, how can we know whether they are "cost-effective?"

II. ORGANIZATION OF THIS VOLUME

In the lead article, Greg Berman and John Feinblatt provide an overview of the background and development of problem-solving courts. They contend that the number of problem-solving courts in the United States has grown to such an extent that they should no longer be considered experimental. The number of courts has reached a "critical mass," suggesting that they will be around for some time to come. Berman and Feinblatt encourage us to think now about how these new courts will evolve as they become a regular part of the nation's legal system.

Next, John Goldkamp, Michael White, and Jennifer Robinson report their findings from a longitudinal evaluation of two of the longest operating drug courts in the United States, those in Portland, Oregon, and Las Vegas, Nevada. Their work focuses on how external or contextual factors such as laws, regulations, administrative policies, and federal court orders may affect the type of cases available for drug courts as well as the ability of courts to handle their cases.

David Olson, Arthur Lurigio, and Stephanie Albertson then investigate the implementation and operation of drug courts by considering the experiences of courts in Chicago, Illinois. Their observations include that fact that drug courts, by design, bring an expanded cast of characters into the courtroom workgroup. This new constellation of participants can alter the nature of court proceedings and the type of information available to the court. The consequences of these alterations may not always be expected or intended.

James Acker and his colleagues address the development of youth courts, or teen courts, in which young people run their own courtrooms and act as the attorneys, jurors, and even judges for other youth charged with relatively minor offenses. The number of youth courts has exploded in recent years,

and many of them reflect a problem-solving perspective. The authors compare youth courts in New York with programs across the United States, and they offer recommendations for improving the design and operation of this growing court alternative for young offenders.

Mary Lee Luskin considers the factors that result in defendants being referred to specialized courts versus traditional courts. She analyzes a relatively unstudied, but growing, type of court that handles defendants in need of mental health treatment. Her analysis suggests that jurisdictions should be attentive to the way their case decisions are structured and that including treatment personnel in the legal process can have important consequences for individual offenders.

Finally, questions about cost-effectiveness will undoubtedly play a significant role in future policy debates as lawmakers decide how to make problem-solving courts an established part of the justice system. John Roman and Adele Harrell present a cost-benefit analysis of the reductions in recidivism associated with a graduated sanctioning program for drug felony defendants in Washington, D.C. Their analysis indicates that the program saved two dollars in averted crime-related costs for every dollar spent on the program itself.

III. FUTURE DIRECTIONS

The papers included in this special issue illustrate the fact that problem-solving courts can be quite varied, with different emphases, different processes, and a variety of goals and operational styles. Yet, together they comprise an innovation that is slowly reshaping the legal system. Problem-solving courts are moving the legal system away from a bureaucratic, state-centered perspective and toward a framework that sees each court embedded in the community from which it draws its clientele.

Still, there are important questions yet to be answered. For example, how will policymakers integrate even larger numbers of problem-solving courts into the criminal and civil justice systems without compromising their unique approach to intervention and case monitoring? Also, what are the organizational implications of an increasingly partitioned court system? How will we know when court specialization has gone too far? Some states have already begun to splinter their juvenile court systems into specialized dockets. The number of teen courts, for example, has grown from a few dozen programs to more than six hundred in little more than a decade. Utah has even introduced the idea of "grade courts" for youth who have school performance problems. Can there be too many types of courts?

The articles in this special issue cannot answer all questions about problem-solving courts, but perhaps they will serve as an introduction to the range of issues involved and thus prepare us to think more clearly as we build effective and accessible courts for the future.

JEFFREY A. BUTTS (*Ph.D., University of Michigan*) is a senior research associate in the Justice Policy Center of the Urban Institute in Washington, DC. He directs research and evaluation projects on juvenile justice topics, including current evaluations of teen courts and juvenile drug courts.

ACKNOWLEDGMENTS

The experience of guest editing this special issue of *Law & Policy* was an unexpected pleasure due to the gracious and thorough supervision provided by the journal's editors and by Laura Mangan and the staff of the Baldy Center for Law and Social Policy. The professionalism of the contributors, who responded quickly and effectively to editorial suggestions, made the entire venture relatively painless. Finally, the project could not have been completed without the sound advice and knowledgeable oversight provided by the issue's special panel of outside reviewers. Everyone associated with this issue is grateful to the members of the review panel.

Members of the Review Panel

Michelle Sviridoff, Center for Court Innovation, New York, New York

Janice Munsterman, Social Science Analyst, National Institute of Justice

Judge Peggy Fulton Hora, Superior Court of Alameda County, California

Douglas Longshore, RAND Corporation

David B. Rottman, National Center for State Courts

Christopher Slobogin, University of Florida College of Law