

**United States Senate
Judiciary Committee**

Subcommittee on Crime and Terrorism

Hearing on

*Drug and Veterans Treatment Courts:
Seeking Cost-Effective Solutions for Protecting Public Safety and
Reducing Recidivism*

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**Testimony of
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Chairman Whitehouse, Ranking Member Kyl, and distinguished Members of the Subcommittee, I am honored to testify at this critically important hearing on cost-effective strategies to reduce crime, protect public safety, and provide help for the valiant men and women of our armed services who were emotionally or physically injured protecting our freedoms around the globe.

As requested by the Subcommittee, I will focus my comments on the scientific evidence proving the effectiveness and cost-effectiveness of Drug Courts and Veterans Treatment Courts. These court-based programs have been carefully studied for more than two decades by our nation's leading researchers, and have been proven beyond a reasonable doubt to work. In these difficult financial times, it is essential to spend our tax dollars wisely on evidence-based strategies that produce effective results, reduce investment costs, and achieve the greatest cost savings for our communities. Put simply, Drug Courts are not a budget challenge. They are a budget solution. From an investment perspective, they are the equivalent of "blue-chip stock" that can be confidently relied upon to produce sustained and predictable dividends and returns on investment.

And this does *not* require the investment of new monies. Rather, existing correctional expenditures are being reapportioned from less cost-beneficial budget lines to the courts, treatment programs and community-based correctional programs, so they can take on more and more cases that can be managed safely and effectively using fewer public tax dollars.

It is no wonder, therefore, that Drug Courts have received highly vocal support from leading conservative think tanks and policy groups, including *Right on Crime* and *Americans for Tax Reform*. The expansion of Drug Courts has been advocated by such prominent fiscal conservatives as former Member and former DEA Administrator Asa Hutchinson, former Speaker Newt Gingrich, former U.S. Secretary of Education and former White House "Drug Czar" William Bennett, and former U.S. Attorney General Edwin Meese.

Drug Courts Reduce Crime and Save Lives

The effectiveness of Drug Courts is not a matter of conjecture. It is the product of more than two decades of exhaustive scientific research. From their inception, Drug Courts embraced science like no other criminal justice program. They endorsed best practices and evidence-based practices; invited evaluators to measure their outcomes; and encouraged federal agencies like the National Institute on Drug Abuse (NIDA), Bureau of Justice Assistance (BJA), National Institute of Justice (NIJ), and Center for Substance Abuse Treatment (CSAT) to issue calls to the scientific community to closely examine the model and learn what makes it tick and how it might be improved. Some of the leading researchers in the scientific community answered those calls, first skeptically and then with great interest, and many have since dedicated their careers to understanding what Drug Courts do, how they do it, and why they work so well.

The result? More research has been published on the effects of Drug Courts than virtually all other correctional programs combined. The research literature is, by far, the most advanced for Drug Courts, but the quality of the evidence is beginning to catch up for other types of problem-solving courts, including Veterans Treatment Courts.

Six meta-analyses¹ conducted by independent scientific teams have all concluded that Drug Courts significantly reduce crime, typically measured by fewer re-arrests for new offenses and technical violations.¹ The important point is that none of these scientific teams had any connection to the Drug Court field or any stake in the outcome of the analyses. They simply relied on the rigors of dispassionate scientific scrutiny to find the correct answer about the programs' effectiveness. In each of the meta-analyses, recidivism rates for Drug Court participants were determined to be, on average, 8 to 26 percentage points lower than for any other justice response. **The best Drug Courts reduced crime by as much as 45 percent over other dispositions.**

These effects were anything but fleeting. In well-controlled, randomized experiments, **reductions in crime were proven to last at least three years² and in the most far-reaching study to date, the effects lasted an astounding 14 years.**³ The researchers are still following some of the cohorts to determine just how long the positive benefits of Drug Courts might persist.

In 2005, the U.S. Government Accountability Office (GAO) concluded that Drug Courts reduce crime;⁴ however, relatively little information was available at that time about their effects on other important outcomes, such as substance abuse, employment, family functioning, and mental health. In response to the GAO Report, NIJ sponsored a national study of Drug Courts, called the *Multisite Adult Drug Court Evaluation* (or *MADCE*). The *MADCE* compared outcomes for participants in 23 Drug Courts located in seven geographic regions around the country (1,156 participants) to those of a matched comparison sample of drug offenders drawn from six non-drug court sites in four geographic regions (625 comparison offenders). The participants in both groups were interviewed at entry and at 6 and 18-month follow-ups, provided oral fluid specimens at the 18-month follow-up, and their official criminal records are being examined for at least 24 months.

The results were just recently released⁵ and confirmed what Drug Court professionals have known for decades. In addition to committing significantly fewer new crimes, the Drug Court participants also engaged in significantly less drug and alcohol abuse; reported significantly less family dysfunction, which is associated with child abuse and domestic violence; received significantly better access to needed financial and social services; and tended to have higher employment rates and annual incomes.

These results put to rest any remaining questions concerning the effects of Drug Courts. Not only do Drug Courts reduce crime, but they also improve the lives of offenders, their families, and their communities.

Drug Courts Save Money

No analysis is complete without a consideration of cost-effectiveness. Even the most effective programs may not be palatable or feasible from a policy perspective if they are cost-prohibitive or do not yield a favorable return on investment for taxpayers.

Drug Courts have proven to be highly cost-effective. A recent cost-related meta-analysis conducted by The Urban Institute concluded that Drug Courts produce an average of \$2.21 in direct benefits to the

ⁱ Meta-analysis is an advanced statistical procedure that yields a rigorous and conservative estimate of the average effects of an intervention. Independent scientists systematically review the research literature, select out only those studies that are scientifically defensible according to standardized criteria, and statistically average the effects of the intervention across the good-quality studies. See, e.g., Lipsey & Wilson (2001). *Practical meta-analysis*. Thousand Oaks, CA: Sage.

criminal justice system for every \$1 invested — a 221% return on investment.⁶ When Drug Courts targeted their services to the more serious, higher-risk drug offenders, the average return on investment was determined to be even higher: \$3.36 for every \$1 invested.

These cost savings were *not* hypothetical, contingent or remote. They reflected provable, measurable cost-offsets to the criminal justice system stemming from reduced re-arrests, law enforcement contacts, court hearings, and jail or prison beds. Moreover, the financial benefits were realized within the same or immediately ensuing calendar year in which the initial expenditures were made.

When other indirect cost-offsets to the community were also taken into account — such as savings from reduced foster care placements and healthcare service utilization — studies have reported economic benefits ranging from approximately \$2 to \$27 for every \$1 invested.⁷ **The net result has been economic benefits to local communities ranging from approximately \$3,000 to \$13,000 per drug court participant.**

Why a Federal Role?

Drug abuse is a national security issue directly impacting every facet of society. From the economy, to border security, to the safety of our neighborhoods, drug abuse drains federal, state, and local resources. For over five decades, Congress has legislated a national response and the GAO has consistently called for cohesive and central oversight over drug enforcement and demand reduction efforts.

Until the demand for drugs is eliminated, drugs will remain a national concern necessitating a shared responsibility between federal, state and local governments. This shared responsibility is evidenced by our national strategies to protect our borders, stop prescription drug abuse and trafficking, reduce victimization, and execute evidence-based demand reduction strategies such as Drug Courts.

Needless to say, caring for our combat veterans has always been, and always will be, a federal duty and responsibility. Veterans serve our Nation as a whole and receive their care and benefits from our federal agencies. Nothing but a coordinated federal plan can meet the needs of these brave citizens who have risked their lives, physical health and mental well-being to protect and serve this country.

Federal drug control spending annually exceeds \$15 billion, spread across a dozen federal agencies. A federal investment in Drug Courts will produce savings felt throughout the Federal Government; from the Drug Enforcement Administration, Homeland Security, and State Department, to the Centers for Disease Control & Prevention, Department of Veterans Affairs, and Department of the Interior. What other investment has such a wide-ranging impact on national spending?

Federal funding for Drug Courts comes from the Drug Court Discretionary Grant Program, administered by the DOJ Office of Justice Programs. Some funding also comes from CSAT, within the Substance Abuse and Mental Health Services Administration (SAMHSA), to enhance treatment services for addicted and mentally ill offenders and encourage the adoption of proven, evidence-based treatment services for these vulnerable populations. States and localities are ordinarily required to provide matching funds or in-kind services, and once the programs are operating as intended and producing effective results, the states or counties pick up the tab for all future funding, training and evaluation activities.

Almost since the inception, the federal government has also played an important role in supporting centralized and coordinated training and technical assistance activities for Drug Courts, and disseminating national practice standards. The most important document outlining the key components and central tenets of Drug Courts was published with support from BJA over a decade and half ago,⁸ and has since been incorporated into state statutes and administrative regulations in virtually all jurisdictions that have enacted relevant legal authority.

The National Drug Court Institute (NDCI) is the preeminent source of cutting-edge training and technical assistance to the Drug Court field. With funding from BJA and ONDCP, NDCI conducts over 100 training events annually, and has trained more than 71,000 Drug Court professionals from every U.S. state and territory. To ensure fidelity to the Drug Court model, NDCI has developed over 50 publications, fact-sheets, and resource materials aimed at providing evidence-based strategies for developing, implementing and enhancing Drug Court programs. This past year, they launched a training for Veterans Treatment Courts and have trained over 22 teams.

Because many local courts and practitioners cannot afford to attend NDCI trainings, and those that do require additional support after they return to their jurisdictions, NDCI also provides onsite and office-based technical assistance to Drug Court programs nationwide and internationally. Averaging 30 events per month, this assistance includes one-on-one case discussions, referral to experts and mentor courts, and direction to relevant research publications.

Most recently, BJA assistance has led to the creation of the *National Drug Court Resource Center* (NDCRC). The NDCRC is the central repository for Drug Court information in both virtual and hard-copy formats. It provides “one-stop shopping” for Drug Court professionals to obtain sample forms, research updates, fact-sheets and publications, and to request training and technical assistance. The NDCRC not only hosts materials by NADCP and its professional services branches, but also materials from BJA and other agencies that provide training and technical assistance to Drug Courts and other problem-solving courts. Finally, the NDCRC is interactive via webinar training series, “ask the expert” bulletin boards, and web-based chat-rooms that allow Drug Court professionals to share successful strategies with colleagues, discuss the challenges they face, and ask questions.

There is simply no way for the States, acting individually or in concert, to approach this level of coordination and sophistication in training and T.A. support. The economies-of-scale and capacity to amass national expertise that has been attained through federal sponsorship cannot be matched in a piecemeal state-by-state approach.

Leveraging Correctional Tax Dollars

The Subcommittee is well aware of what is at stake, so I will not dwell on the striking national statistics. Suffice it to say that more than 1 out of every 100 adult American citizens is now behind bars, with the burden borne disproportionately by racial and ethnic minority citizens and the poor.⁹ National expenditures on corrections well exceed \$60 billion annually.¹⁰ Drug and alcohol abuse has driven much of this explosion in the inmate population. Approximately 80% of inmates have a serious history of substance abuse¹¹ and nearly one half are addicted to drugs or alcohol.¹² Most of these individuals do *not* pose a serious threat to public safety. More than three-quarters of state inmates were incarcerated for a nonviolent offense and most have no history of a violence offense anywhere on their records.¹³

It is no secret that incarceration has accomplished little to stem the tide of crime or illicit drug abuse. Although incarceration has an undeniable *incapacitation* effect, meaning inmates commit far fewer crimes while they are in jail or prison, it has virtually no *specific deterrence* effect, meaning inmates are no less likely to commit new crimes or to return to drug or alcohol abuse after their release. Within 1 to 3 years after release from incarceration, between 60 and 80 percent of drug-abusing inmates commit a new crime (typically a drug-related crime)¹⁴ and 85 to 95 percent relapse to drug abuse.¹⁵ More than half will be returned to prison in a now familiar revolving door pattern. And in some states such as California, until very recently more than 75 percent of parolees were returned to prison.

One reason for this appalling state of affairs is that there is little accountability for outcomes in the criminal justice system. Trial courts are not judged by whether the sentences they impose reduce crime or save money for taxpayers. Correctional departments are not judged by their ability to prevent returns to their facilities, and probation and parole departments are not judged by their ability to keep offenders under effective community supervision without undue recourse to costly revocations.

This must change. The status quo is simply unsustainable. Federal and state budgets are buckling under the weight of enormous correctional expenditures; yet, crime rates and drug-use initiation rates have barely budged, are merely shifting in character, or in some instances are actually on the rise (for example, prescription drug abuse among our nation's youth).

Conclusion

In these difficult financial times, it is essential to spend our tax dollars wisely on evidence-based strategies that have been proven to produce effective results, reduce investment costs, and achieve the greatest cost savings for our communities. Now is not the time to experiment with unproven programs, cut programs that we know work, or worst of all, retreat to the same old strategies that have cost us considerably more than they are worth.

Drug Courts have been proven through rigorous scientific research to decrease crime, save taxpayer dollars, rehabilitate offenders, and restore families and communities. No other criminal justice or behavioral healthcare program has anywhere near comparable evidence of success. Where the Federal government led the charge, state and localities picked up the mantle and continued the work seamlessly. One would be hard pressed to identify another federal program that has been as avidly endorsed and sustained by the States and local counties. Touted by policy analysts on both ends of the political spectrum, Drug Courts offer a roadmap for rational, evidence-based, and fiscally conservative federal drug policy.

I want to again thank this august Subcommittee for the opportunity to address you on these critically important issues for our nation's justice and crime agenda. I am happy to answer any questions you may have and to provide supporting documentation for the scientific facts I have asserted.

Respectfully submitted,

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- ¹ Aos et al. (2006). *Evidence-based public policy options to reduce future prison construction, criminal justice costs, and crime rates*. Olympia: Washington State Institute for Public Policy.
- Downey, P. M., & Roman, J. K. (2010). *A Bayesian meta-analysis of drug court effectiveness*. Washington DC: The Urban Institute.
- Lattimer (2006). *A meta-analytic examination of drug treatment courts: Do they reduce recidivism?* Canada Dept. of Justice.
- Lowenkamp et al. (2005). Are drug courts effective: A meta-analytic review. *Journal of Community Corrections, Fall*, 5-28.
- Shaffer (2006). *Reconsidering drug court effectiveness: A meta-analytic review*. Las Vegas, NV: Dept. of Criminal Justice, University of Nevada.
- Wilson, et al. (2006). A systematic review of drug court effects on recidivism. *Journal of Experimental Criminology*, 2, 459-487.
- ² Gottfredson et al. (2005). The Baltimore City Drug Treatment Court: 3-year outcome study. *Evaluation Review*, 29, 42-64.
- Gottfredson et al. (2006). Long-term effects of participation in the Baltimore City drug treatment court: Results from an experimental study. *Journal of Experimental Criminology*, 2, 67-98.
- Turner et al. (1999). Perceptions of drug court: How offenders view ease of program completion, strengths and weaknesses, and the impact on their lives. *National Drug Court Institute Review*, 2, 61-85.
- ³ Finigan et al. (2007). *The impact of a mature drug court over 10 years of operation: Recidivism and costs*. Portland, OR: NPC Research. Available at www.npcresearch.com.
- ⁴ U.S. Government Accountability Office. (2005). Adult drug courts: Evidence indicates recidivism reductions and mixed results for other outcomes [No. GAO-05-219]. Washington, DC: Author.
- ⁵ Rossman et al. (2011). *The Multi-Site Adult Drug Court Evaluation: Executive Summary*, at <http://www.urban.org/uploadedpdf/412354-MADCE-Study-Overview-and-Design.pdf>.
- ⁶ Bhati et al. (2008). To treat or not to treat: Evidence on the prospects of expanding treatment to drug-involved offenders. Washington, DC: The Urban Institute.
- ⁷ Aos, S., Miller, M., & Drake, E. (2006). *Evidence-based public policy options to reduce future prison construction, criminal justice costs, and crime rates*. Olympia, WA: Washington State Institute for Public Policy.
- Barnoski & Aos (2003, March). *Washington State's drug courts for adult defendants: Outcome evaluation and cost-benefit analysis*. Olympia, WA: Washington State Institute for Public Policy.
- Carey et al. (2006). California drug courts: Outcomes, costs and promising practices: An overview of phase II in a statewide study. *Journal of Psychoactive Drugs, SARC Supplement 3*, 345-356.
- Finigan et al. (2007). *The impact of a mature drug court over 10 years of operation: Recidivism and costs*. Portland, OR: NPC Research. Available at www.npcresearch.com
- Logan et al. (2004). Economic evaluation of drug court: Methodology, results, and policy implications. *Evaluation & Program Planning*, 27, 381-396.
- Loman (2004). A cost-benefit analysis of the St. Louis City Adult Felony Drug Court. St. Louis, MO: Institute of Applied Research.
- ⁸ National Association of Drug Court Professionals. (1997). *Defining drug courts: The key components*. Washington, DC: Bureau of Justice Assistance, U.S. Dept. of Justice.
- ⁹ Pew Center on the States (2008). *One in 100: Behind Bars in America 2008*.
- ¹⁰ Pew Public Safety Performance Project. (2007). *Public Safety, Public Spending: Forecasting America's Prison Population 2007-2011*.
- ¹¹ National Center on Addiction & Substance Abuse. (2010). *Behind bars II: Substance abuse and America's prison population*. New York: Author.
- ¹² Karberg & James (2005). *Substance dependence, abuse, and treatment of jail inmates, 2002*. Washington, DC: Bureau of Justice Statistics, U.S. Dept. of Justice.

Fazel et al. (2006). Substance abuse and dependence in prisoners: A systematic review. *Addiction, 101*, 181-191.

- ¹³ See, e.g., Warren, R. K. (2008). *Evidence-Based Practice to Reduce Recidivism: Implications for State Judiciaries*. Williamsburg, VA: Crime & Justice Institute, National Institute of Corrections and National Center for State Courts.
- ¹⁴ Langan & Levin (2002). *Recidivism of prisoners released in 1994*. Washington, DC: Bureau of Justice Statistics, U.S. Department of Justice.
- Spohn & Holleran (2002). The effect of imprisonment on recidivism rates of felony offenders: A focus on drug offenders. *Criminology, 40*, 329-357.
- ¹⁵ See, e.g., Pelissier et al. (2007). Drug treatment aftercare in the criminal justice system: A systematic review. *Journal of Substance Abuse Treatment, 32*, 311.