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DRUG AND VETERANS' TREATMENT COURTS: SEEKING COST-EFFECTIVE SOLUTIONS FOR PROTECTING PUBLIC SAFETY AND REDUCING RECIDIVISM

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIME AND TERRORISM

OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

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DRUG AND VETERANS' TREATMENT COURTS: SEEKING COST-EFFECTIVE SOLUTIONS FOR PROTECTING PUBLIC SAFETY AND REDUCING RECIDIVISM

TUESDAY, JULY 19, 2011

U.S. SENATE,
SUBCOMMITTEE ON CRIME AND TERRORISM,
COMMITTEE ON THE JUDICIARY,
Washington, DC

The Subcommittee met, pursuant to notice, at 10:31 a.m., in room SD–226, Dirksen Senate Office Building, Hon. Sheldon Whitehouse, Chairman of the Subcommittee, presiding.

Present: Senators Whitehouse, Kohl, Klobuchar, Franken, Coons, and Blumenthal.

OPENING STATEMENT OF HON. SHELDON WHITEHOUSE, A U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Chairman WHITEHOUSE. The hearing will come to order.

This morning's hearing will consider an important and growing component of our Nation's criminal justice system. There are over 2,500 drug courts in our country operating in every State and territory. Many jurisdictions, including my home State of Rhode Island, also are developing veterans' treatment courts. Today's hearing will closely examine these intervention and treatment courts and the role they can play as cost-effective solutions for protecting public safety and reducing recidivism.

As many in the audience know, a drug court is a specially designed calendar or docket that addresses the case of nonviolent drug offenders. These courts require participants to commit to intensive substance abuse treatment programs generally for a year or more. Drug courts hold participants accountable through frequent court appearances and regular random drug testing for drug use. Individuals going through drug courts are rewarded for doing well, but sanctioned if they do not satisfy their obligations.

They have worked in my home State of Rhode Island. As the Rhode Island Attorney General, I worked to establish our State's first drug court. We now have ten drug courts operating in our State.

Drug courts take many forms, but a consistent element in their success is the close cooperation of many players in the criminal justice system, including judges, prosecutors, law enforcement, defense attorneys, probation or corrections officers, and the community at large, including mentors, treatment organizations, and

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counseling services. This cooperation and support is bipartisan, and it even reaches as far as Capitol Hill. I was pleased, for example, to join with Senator Thad Cochran this morning and Representative Shelley Berkley at an event in the warmer outside weather today.

Drug courts have been in operation in the United States for over 20 years. Veterans' courts are a more recent phenomenon, first launched in 2008 in Buffalo, New York. Like drug courts, veterans' treatment courts are special judicially supervised court dockets that provide directed services to a particular set of offenders. They respond to the fact that many veterans, who have sacrificed so much for our country, return from combat suffering from post traumatic stress disorder or other trauma that can adversely affect their behavior. Veterans' courts work to identify and address the underlying causes of this behavior by referring veterans to treatment programs or providing other alternatives that can keep them out of jail while protecting public safety. Whether functioning within a drug court system or based on a drug court model, these courts team with the VA health system, volunteer mentors, and veteran support organizations to assist veterans in resuming successful roles in our communities. There are now at least 50 veterans' courts in operation around the country, with dozens more being planned.

Last month, I had the great pleasure and privilege of welcoming Attorney General Eric Holder and Assistant Attorney General Laurie Robinson to Rhode Island for a roundtable discussion focused on the pilot program serving veterans in our State. I came away from that discussion deeply impressed by the hard work, thoughtful planning, and extensive community participation that has gone into that project. I am glad that we will later be welcoming Chief Judge LaFazia of Rhode Island's district court, who is leading the veterans' pilot program and will tell the Senate about our State's important work in this area.

As my colleagues know, the budget constraints confronting our Federal, State, and local governments demand that we marshal the resources we devote to our criminal justice system as effectively as possible. Today's hearing will allow Congress to consider the role of drug and veterans' courts in such smart and cost-effective criminal justice solutions.

I thank the witnesses for joining us today, and I look forward to working with Senators on both sides of the aisle as we continue to support these cost-effective solutions that protect our communities.

I am now delighted to welcome the distinguished junior Senator from Minnesota, who is a honorary member of this Subcommittee, to make a few opening remarks and to join the hearing.

STATEMENT OF HON. AL FRANKEN, A U.S. SENATOR FROM THE STATE OF MINNESOTA

Senator FRANKEN. Well, thank you, Mr. Chairman, for calling this very important hearing, and you are right. I am not actually a member of this Subcommittee, but in the Judiciary Committee every member of the Committee is invited to attend each Subcommittee's hearings, and I wanted to be here because the effectiveness of drug courts and veterans' courts is such a great new de-

velopment. And I am a strong supporter of these problem-solving courts, and I believe we should be doing everything we can to promote these programs, which are extremely fiscally responsible. And as we have the debate over our budget, I think it is very important that we understand how cost-effective these courts are.

First I wanted to take a moment to recognize and welcome Judge Robert Rancourt, who is attending. He is not testifying in this hearing today, but he is attending. He is from Chisago County, Minnesota, and I just learned that he is the incoming Chairman of the board of directors of the National Association of Drug Court Professionals, and I want to congratulate Judge Rancourt, and I am very pleased that you are here joining us for today's hearing.

In 2007, Minnesota adopted statewide drug court standards with the goal of enhancing public safety, ensuring participant accountability, and reducing costs to society. And I am pleased to say that the adult treatment courts, family dependency courts, juvenile courts, DWI courts, and our first veterans' court are all doing exactly that: helping to prevent future crime, getting participants in the treatment that they need, and saving money—saving money in the long run.

Judge John Holahan, who presides over the Hennepin County adult drug court, submitted a statement on his program that I would like to submit for the record with your approval, Mr. Chairman.

Chairman WHITEHOUSE. Without objection.

[The information appears as a submission for the record.]

Senator FRANKEN. He writes that participants in his court are subject to intensive probation, breath and urine testing, and counseling. They are also required to appear in his court every other week to update him on their progress. Judge Holahan quotes a letter that he received from the parents of a graduate from his drug court who wrote, and I quote, "Thanks to you and the Hennepin County court system, we have our daughter back, and she is conquering her addiction to alcohol and drugs. She has attended every court session and sees what happens if you screw up. Without a program like yours, a lot of young adults would not get a second chance and would waste a lot of time in jail."

I think this statement perfectly sums up how effective drug courts can be, and I look forward to hearing more from our witnesses about how we can continue to improve and expand the success of these great programs.

So thank you again, Mr. Chairman.

Chairman WHITEHOUSE. You are welcome, Senator Franken.

I am delighted to welcome Senator Kohl to the hearing, and I will take this opportunity to introduce our first witness. Benjamin Tucker is Deputy Director of the Office of National Drug Control Policy, overseeing ONDCP's HIDTAs—High Intensity Drug Trafficking Areas—Drug Free Communities, and National Youth Anti-Drug Media Campaign programs. He has previously served in numerous positions in Federal and local government, including as Deputy Director for Operations at the U.S. Department of Justice Office of Community-Oriented Policing Services and with the New York City Police Department. He received his B.S. in criminal justice from the John Jay College of Criminal Justice and his J.D.

from the Fordham University School of Law, and we are delighted to have Mr. Tucker with us today.

Mr. Tucker, please proceed. Your entire statement, which, if read, would take considerably more than 5 minutes, will be made a part of the record so that you can make a shorter statement orally here today.

STATEMENT OF HON. BENJAMIN B. TUCKER, DEPUTY DIRECTOR OF STATE, LOCAL AND TRIBAL AFFAIRS, EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF NATIONAL DRUG CONTROL POLICY, WASHINGTON, D.C.

Mr. TUCKER. Thank you very much, Senator. Chairman Whitehouse, Ranking Member Kyl, and distinguished members of the Subcommittee, thank you for this opportunity to testify here today on the importance of drug courts. As ONDCP's Director for Office of State, Local, and Tribal Affairs, it is my job to work closely with our State, local, and tribal communities in support of prevention and law enforcement initiatives through development of policy and programs.

I understand how important it is to identify and support alternatives to incarceration. Having walked the beat as a New York City police officer and having worked in the criminal justice field for the past 35 years, it is clear we cannot arrest our way out of the Nation's drug problems.

The Obama administration recognizes that addiction is a disease and that prevention, treatment, recovery, innovative criminal justice strategies, and law enforcement are all essential elements of a comprehensive strategy to reduce drug use.

Just last week, the administration released its 2011 National Drug Control Strategy. It articulates a balanced approach to drug control while identifying and addressing issues of concern to specific populations confronting unique challenges relating to substance abuse issues, including active military service members, veterans, and military families, college students, women and children, and those involved in the criminal justice system.

I am here today to discuss one of the administration's fundamental policy objectives: stopping the revolving door of arrest, incarceration, release, and re-arrest through effective interventions and alternatives to incarceration.

According to a 2007 Justice Department report reflecting on the success of drug courts, we know that of the State prisoners who were dependent on or abusing drugs, 53 percent had at least three prior sentences. These numbers have basically gone unchanged since 1997. Drug courts have existed for more than 20 years, as you indicated earlier, Senator, and their effectiveness in reducing recidivism and lowering criminal justice costs is well documented.

With over 2,500 drug courts in operation today in the United States, approximately 120,000 Americans annually receive the help they need to break the cycle of addiction and crime, and the drug court movement continues to grow. They help participants recover from addiction and prevent future criminal activity while also reducing the burden and cost of repeatedly processing drug-involved offenders through the Nation's courts, jails, and prisons.

Drug court participants receive intensive treatment and other services for a minimum of 1 year. They are subjected to frequent court appearances and random drug testing, with sanctions and incentives to encourage compliance and completion. But most important, graduating participants gain the necessary tools to rebuild their lives and re-enter society as productive, law-abiding, taxpaying citizens.

Drug courts rely upon the daily communication and cooperation of judges, court personnel, probation, treatment providers, and other social service providers from throughout the community. This successful collaboration promotes the overarching goal of improving public health and public safety.

In a recent Department of Justice study, drug court participants reported 25 percent less criminal activity and had 16 percent fewer arrests than comparable offenders not enrollled in drug courts.

In times of serious budget cuts, the drug court model also offers State and local governments a cost-effective approach when developed and operated within longstanding proven standards.

The success of drug courts has led to the development of other specialty courts like veterans' treatment courts, as was mentioned, family treatment courts, juvenile drug courts, and tribal wellness courts. Veterans' treatment courts are a priority for this Administration, and as Americans we must keep in mind the enduring debt we owe our country's active-duty military and veterans. The serious challenges they face when returning home, particularly substance use and psychological health problems, often go untreated. Sadly, these challenges can sometimes lead to criminal and other destructive behaviors.

According to a recent Justice Department survey of prison inmates, an estimated 60 percent of the 140,000 veterans in Federal and State prisons were struggling with a substance use disorder, while approximately 25 percent reported being under the influence of drugs at the time of their offense.

There are now over 75 operational veterans' treatment courts nationwide, and they are showing significant promise in successfully promoting sobriety, recovery, and stability for our Nation's veterans. Consistent with drug courts, veterans' treatment courts combine rigorous treatment and personal accountability with the goal of breaking the cycle of drug use and criminal behavior. However, in addition to the traditional partners in drug court, they incorporate the unique capabilities of Federal and State veterans' services. In doing so, they connect veterans' court participants to the treatment and support services they need, such as treatment, medical benefits, home loans, and other services intended to help facilitate their re-entry to the community.

In conclusion, I would like to take a moment to acknowledge and commend our drug court professionals—our judges, our law enforcement officers, our treatment providers, and others who have dedicated their time and talent to helping others break the cycle of drug use and crime to become productive members of society.

Again, thank you, Mr. Chairman, for allowing me to testify here today. I look forward to working with you and this Committee to address these challenging and important issues, and I am happy to answer any questions you may have.

[The prepared statement of Mr. Tucker appears as a submission for the record.]

Chairman WHITEHOUSE. Thank you, Mr. Tucker.

First let me welcome Senator Blumenthal of Connecticut to the hearing. I appreciate that he has taken the trouble to attend. Everybody is very busy now, so people being here is a sign of very keen interest.

Let me ask you about the Federal interest in drug courts. In a later panel, we will hear from a witness who says that the Federal Government should not bother with this, and that it should be left to the States to manage drug courts without support from the Federal Government. You have been involved in this for a long time. Make the case for a Federal role in supporting drug courts around the country.

Mr. TUCKER. Certainly, Senator. First, in terms of my experience, as you indicated, I have been involved in this work for a long time, and it seems that in any number of programs that have been successful, such as drug court programs, over the last 20 years, it seems that very often the beginnings of those programs, the testings, the demonstration projects that give rise to these programs, are usually funded in some cases by private dollars, but very often through the interest of the Federal Government providing funding, seed money, if you will, so that these programs can get traction.

That is what has happened with drug courts, and while drug courts are primarily funded through State and local resources, it is definitely in the best interest of the Federal Government to continue to support through funding for technical assistance and operational support so that our drug courts can continue to thrive.

We have in the country, based on what we know about the success of drug courts, the opportunity to change the paradigm; that is to say, continuing to arrest offenders who have drug problems is not going to be very cost-effective. The notion that we can divert these folks and get them out of the system, and let us focus on public health and improve public safety at the same time as we save funds. For every dollar spent on drug courts, we yield $2 in savings for the criminal justice system. And so it makes sense financially, it makes sense in terms of the comments made earlier about the fact that we have the opportunity to give people their lives back.

And so for all those reasons, the Federal investment and the assistance to sustain drug courts and to grow a model that we know has merit is the way to go.

Chairman WHITEHOUSE. Thank you, Mr. Tucker. Let me just add that, in addition to your testimony from ONDCP, there is also a statement coming in from the United States Department of Justice, which will be put into the record, but it was not ready in time for this hearing. So the hearing record will remain open for 7 days, not only for them, but for anybody who would like to submit an additional statement.

[The Justice Department statement appears as a submission for the record.]

Chairman WHITEHOUSE. I will now turn to my distinguished colleague, Senator Kohl.

Senator KOHL. Thank you very much, Senator Whitehouse, for holding this hearing today. Before getting to my questions, I would like to say a few words about the excellent work Wisconsin is doing in this field.

Wisconsin has been a model for creating and using treatment courts to strike the right balance between holding nonviolent offenders accountable for their crime, but also helping them to break the cycle in and out of the justice system. Our adult and juvenile drug courts, DUI courts, and veterans' courts enjoy broad support back home from Democrats and Republicans, law enforcement and judges, and local communities. Wisconsin's 41 treatment courts draw such broad support because they have proven successful at reducing recidivism while saving State and local governments millions of dollars every year. For example, the drug court in rural Wood County has saved county taxpayers $400,000 since it began in 2007.

Wisconsin has also been a leader in the creation of treatment courts that focus on drunk drivers. Waukesha County's DUI court works with people who have been convicted of their third DUI. Under this program, in addition to serving their sentence, the judge and mental health counselors work with repeat offenders to stay sober and get their lives back on track. This program's success has been a model for similar courts throughout the country and most recently in Dane County, Wisconsin, where Republicans and Democrats are working together to implement the DUI court.

Finally, I am proud of our State's veterans' courts. In 2008, the State public defender's office and the Wisconsin Department of Veterans Affairs led an initiative to bring veterans' courts to Wisconsin. Now Wisconsin has six veterans' courts, and most recently Brown County is establishing its own veterans' courts to serve the Green Bay area. These efforts ensure that our vets are treated for the unique challenges they face after honorably serving our Nation and I applaud them.

Mr. Tucker, we know that treatment courts are highly effective at saving taxpayer dollars by helping low-level offenders stay out of jail and overcome their addictions. State and local officials want to expand their treatment court programs and get new programs off the ground. In light of severe budget constraints at the Federal, State, and local levels, how can we work together to maintain the courts we have and also start new ones?

Mr. TUCKER. It is really critical, Senator, for the collaborations that are really the foundation of the drug courts to continue to function and operate, and you are correct that the tight budget times I think will test the mettle of our drug court professionals in every respect.

I think the advantage, though, is because drug courts and the model bring together law enforcement, social services, veterans administrators if it is veterans' courts, probation officers, bring a number of people all together to work on these issues. And I think having all these folks work together in a way where they can focus and keep their own identity in terms of the work that they do, but the fact that they can come together and collaborate for the purpose of expressly improving the public safety and the public health by keeping the drug courts vibrant, alive, and focused on keeping

people out of the system as opposed to putting people in our criminal justice process will be very effective.

It will, no question, be challenging. I think my experience has been from law enforcement when money and dollars get tight, I think people figure out how to come together when they know they have a program and a process that works, and they have to struggle to produce results. And so I think that is the challenge we face, no question that exists, and we know that our treatment providers are going to be strained. Nevertheless, the need remains, and I think we need to be focused on how we allow that to continue.

Senator KOHL. Mr. Tucker, as you well know, DUI courts are a relatively new effort. What is the ONDCP doing to use the successes that we are seeing in DUI courts like in Waukesha County, Wisconsin, more broadly throughout the country?

Mr. TUCKER. Well, as you may be aware, Senator, the Office of National Drug Control Policy and the National Drug Control Strategy, one of its focuses, particularly in the Inaugural Strategy, the 2010 strategy, has been on drunk driving. And so drunk driving has been recognized as a serious problem across the country. It fits, I think, neatly into the connection, the nexus with driving under the influence. And so we are doing a number of things to sort of move the bar in the area of drugged driving in terms of educating drivers, in terms of working with organizations to get the word out, to be the bully pulpit, and sort of work with law enforcement agencies, drug recognition enforcement officers, to ensure that we put the resources where they should be—on the roads and focused on individuals, identifying individuals who may be driving while under the influence.

And so we are providing resources to improve better ways to do roadside testing. We are providing resources to educate more police officers, both State law enforcement officers as well as local officers, to be aware of and to be able to identify those who might be driving while under the influence, if not of alcohol then be able to identify those who might be under the influence of some other controlled substance.

Senator KOHL. Thank you very much, Mr. Tucker and Senator Whitehouse.

Chairman WHITEHOUSE. Thank you, Senator Kohl.

I am delighted that the distinguished senior Senator from Minnesota, Senator Klobuchar, has joined us; the Senator from Delaware, Senator Coons, has joined us. The order on our side is Senators Franken, Blumenthal, Klobuchar, and Coons. Senator Franken.

Senator FRANKEN. Thank you, Mr. Chairman. I noticed that former Congresswoman Jim Ramstad is here, and I would like to recognize him, too, for his leadership in mental health parity and in parity for treatment of addiction.

Minnesota has been a leader, actually, in addiction treatment, and we are very proud of that. And in Minnesota, we have seen drug courts do very good things. You talked about really return on investment, both in your opening statement and your response to Senator Kohl, and part of this is recidivism. We have found in Minnesota that participants in drug courts are less than half as likely to be arrested for another crime as offenders who are prosecuted

in traditional courts, and this, of course, with equivalent kind of arrests, et cetera. I want to know if you are seeing that nationwide, that trend nationwide in drug courts in terms of recidivism.

Mr. TUCKER. Senator, with respect to recidivism, yes, we are seeing that nationwide. In fact, drug courts, one of the primary things that make them effective is their impact on the participants. And so 84 percent of graduates who have gone through the program remain drug free, for example, after being graduated—after the first year of graduation.

With respect to the 2-year mark, 2 years out of having graduated, 73 percent of those participants have not been re-arrested or charged with any serious crime. And this is true consistently with respect to the research and the data that we see.

And so that is just another indicator of why this becomes so critical. The notion of sort of not just taking someone who has committed a crime but then getting them into treatment, trying to keep them in recovery, giving them the opportunity to get the support they need to stay in recovery and to be more productive citizens is, you know, what we are after. So the data suggests that we are in a position to have and repeat that success going forward.

Senator FRANKEN. Well, let us talk about the return on investment and where it comes from, because to me, as we are in this budget crisis and this deficit crisis—and we all recognize that there is one—we have to find ways in which to bring down costs to society and costs to the Government. So if you are reducing recidivism, you are reducing the number of people who are in prison. You are also reducing the crime, the costs to society. You are changing lives. People now who might be in prison have jobs, are paying taxes.

I want to ask about one other thing, which is families, because to me one of the huge maybe overlooked aspect of addiction is the toll on families. And we have found a satisfying result from drug courts in Minnesota, that more families are staying together, are being reunited. In fact, in Dakota County, they found that children of drug courts recipients are being placed in foster homes far less often than children of other offenders. So to me that is a wonderful result.

What impact do you think this has on families, both immediately and in the long term?

Mr. TUCKER. Well, immediately, I can speak at it from personal experience with respect to the role that I played when I was a police officer, and it is no different today. I spent a lot of time going into people's homes where there was domestic violence and a variety of other behaviors that were detrimental to the core of the family.

One of the things that I think drug courts do and what we focus on through the National Drug Control Strategy, as we treat this as a public health issue as well as public safety issue, is to focus on ways in which we can provide the services and treatment that folks need. The challenges of someone who has a drug problem and who is an offender to the rest of the family we know is significant.

I go to a lot of drug court graduations. I travel around, and I went to a drug court graduation several months back in Charlotte, Virginia, and sat next to, just coincidentally, the mother of one of—

the sole graduate of that graduation, and we struck up a conversation. And she was clearly supportive of her son. She was clearly enamored about the fact that he was successful in meeting the conditions of being in the drug court and participating and getting himself on the right track to being clean. But at the same time, you could see that she was apprehensive. She clearly had been through a lot. But it really makes a huge difference, and if you have not attended a drug court graduation, I recommend that you do because you walk out feeling hopeful and renewed about the fact that the work that we do with drug courts really matters for sure.

With respect to the cost, in terms of cost at the State and local level, when we compare traditional case processing in drug courts and—regular courts processing with drug court processing, we are saving a serious amount of money per individual because of some of the issues that you raise.

For example, some of the research tells us that for every drug court participant, we have savings somewhere in the area of $1,400. We have additional savings that may approach $6,700. So we are roughly in the area of just over $8,000 in savings for participants who go through the program, who we remove from the criminal justice system, and the associated outcomes for—the yield from the associated outcomes in all the other respects in terms of getting them back to work and making them productive really does have some financial benefit overall. We should continue——

Chairman WHITEHOUSE. Mr. Tucker, let me stop you there so we can go on to Senator Blumenthal.

Senator FRANKEN. Just let me say one last thing, and I have to leave and go to Energy so I will not be here for the second round. You talked about the hope these families feel. Hope is—what is it?—fear that said its prayers. And these are inspiring things. Treatment does not always work. It does not always work. But I want to say that as we get past this current budget crisis right now, this debt crisis, this budget crisis, and we move on after that to start addressing our problems and start addressing long-term debt problems, this is a bipartisan thing. I wrote a letter to make sure that we keep funding for this, and I got bipartisan support.

What is great about this is that this is something where we can address—there really is a return on investment on this, and it saves money, but it also saves lives, and I want to think everybody who is involved with this.

I have to go.

Chairman WHITEHOUSE. Senator Blumenthal is recognized.

Senator BLUMENTHAL. Thank you, Mr. Chairman. I want to thank Senator Whitehouse for having this hearing, and I am going to be somewhat abbreviated in my questions because we do have another panel and there are other Senators waiting to ask questions, but not to indicate any brevity or shortness in my interest in this area, and I would like to follow up with you afterward on the very good work you are doing not only on drug courts but most particularly on veterans' courts.

As you know, many of the brave young men and women coming back from service and sacrifice abroad in combat return with wounds that are invisible—post traumatic stress, traumatic brain injury—which in turn lead, in some ways predictably, to alcohol

and substance abuse, domestic violence, all kinds of very serious and sometimes physically harmful activities. And for me, one of the most telling statistics as a member of the Armed Services Committee that I have heard is that about 30 percent of those incidences of post traumatic stress or traumatic brain injury are undiagnosed. And so many of these young men and women go back into society and are candidates for the kind of violence that very recently was documented. You may have seen it in the New York Times article over the weekend by Erica Goode about Staff Sergeant Brad Eifert and his struggle with exactly these problems and the way that he was in a sense rescued from suicide by cop through a veterans' court, or at least treatment as a veteran.

So my question to you is: Where would we look for the best models of these veterans' courts, whether they are separate courts or dockets or specific schedules or calendars for veterans' issues? Because I think the more we can do to spread the world, to spread the best practices, the better off States like Connecticut will be and our country.

Mr. TUCKER. Yes, Senator, I did see that article on Sergeant Eifert and actually was going to reference it in my remarks as well. I think it is a classic example, unfortunately, that repeats itself over and over again.

I think with respect to your question, I think we have to look at all the courts. I think when we have the drug courts and how they function, I think each one has something different to offer perhaps in terms of its success. I think the research—and you may hear some more about this from Doug Marlowe when he testifies. But my sense is that we have to continuously evaluate to look at, examine those programs that are working, take from them the best practices, support those, and replicate those where we think it makes sense.

It is also helpful as we look at these we learn a lot about what does not work so well. But I think with respect to the examples that I have seen with respect to the veterans' courts in particular, the coming together of the court personnel, the military services personnel, law enforcement personnel, the judges, and the veterans organizations both at the State and Federal level is the way to go. And so to the extent that we can keep that model, keep everyone informed, then I think we can continue to be effective in terms of the service provided.

Senator BLUMENTHAL. I appreciate your answer, and what I would like to do is for you, if you would, to provide me with maybe five of the best practices, what you regard personally as the five best examples of how the veterans' courts are working in the country, perhaps on a confidential basis, and maybe some of the best practices as well so that we can perhaps use them as models in Connecticut and elsewhere around the country.

Thank you, Mr. Chairman.

Chairman WHITEHOUSE. A question for the record?

Senator BLUMENTHAL. Yes. Thank you.

[The information appears under questions and answers.]

Chairman WHITEHOUSE. Senator Klobuchar.

Senator KLOBUCHAR. Thank you very much, Senator Whitehouse, for chairing this hearing and holding it today.

Thank you, Mr. Tucker, for being here. We had a great event this morning to celebrate the work of drug courts, and I would note there were a number of Republican Senators there, and I think that just shows the bipartisan support for moving forward with drug courts.

I see my former Congressman out there, Jim Ramstad, a former Congressman from the State of Minnesota, a Republican, and I would note that when Patrick Kennedy was splashed on the front page of the paper with his addiction problem, it was Jim Ramstad that went to stand by his side. And I think it shows us all—and was his mentor and his friend throughout his experience and throughout his experience in getting sober and going on to get married this last month. It shows again this is not a Democratic problem or a Republican problem; it is all of our problems.

The numbers which my colleagues have mentioned are astounding: 75 percent of drug court graduates will not be arrested again. Compare that to 30 percent of the people who go through the traditional system. I have seen this firsthand in my State. I was a prosecutor for 8 years in our biggest county, the first drug court in our State. We now have 30 drug courts in our State, and I think that we all know the dollars and cents and the money that can be saved. But the reason so many people are here to support the concept of drug courts is not necessarily those numbers. It is the people we know. It is the teenager that can get their life back again. It is the family that can send their little kids out on the street corner without having to worry about drug crimes. And it is the addict who has a chance for another life, and so I want to thank you for the good work that you are doing.

I did have a question about the dollars and cents because between the time we had this celebration and this hearing, I went to a budget meeting, and I know that a lot of my colleagues and I are very focused on that right now, and I think this actually can be a big part of it as we look at how we can save money and do good at the same time.

Could you explain why drug courts save money? And what do you think is the most accurate estimate of the actual or potential savings?

Mr. TUCKER. First of all, Senator, it is good to see you again.

Senator KLOBUCHAR. It took me a lot of words for you to get to that point, but thank you.

Mr. TUCKER. The answer to your question relates to my earlier comment in response to Senator Blumenthal's question, and that is, it has to do with sort of what we see based on the research in terms of the general savings. Obviously, when we take someone out of the system, I mean, just the fact that we incarcerate, as we do in this country, more people than anywhere else in the world, and we have maybe 7 million people in the system, 5 million are on probation or some sort of community supervision. But having those folks out there rather than having them in the system saves us money. To the extent that we can shut down their return to the system obviously also saves us money.

So those figures that I gave, the $1,400 per participant and the $6,700 in sort of associated outcomes as a result of an individual

not remaining in our jails or our prisons is where we see the savings on a regular basis.

Senator KLOBUCHAR. One number I heard, the cost of participation is less than $7,000; the cost of incarceration, over $22,000. Would that be per year?

Mr. TUCKER. I would have to get back to you. I am not sure.

Senator KLOBUCHAR. I think it is.

Mr. TUCKER. I am not sure. I think it is a range, actually, but I am not sure whether it is annually. I suspect it would be in terms of how to measure it, but I can get a response for you on that.

Senator KLOBUCHAR. OK. Thank you.

Mr. TUCKER. I will give you something more specific.

[The information follows:]

Senator KLOBUCHAR. Then I just had one last question about synthetic drugs and what you are seeing with those. We had a young man die in Minnesota, ordered it off the Internet, had a party, others almost died as well. Senators Grassley and Schumer and I have been working on a number of bills to include these types of substances on the list of illegal drugs. What are you seeing? I can tell you in our State we have seen a number of kids—you have never even heard of these things before, and they are at the emergency rooms, doubling and tripling what we have seen. The New York Times reported just this weekend that they had 3,470 calls about bath salts in the first 6 months of 2011 to poison control centers compared to 303 calls in 2010.

Mr. TUCKER. Well, we are seeing a dramatic rise in such stimulants like that, bath salts and incense, the products that are sold that way. The Drug Enforcement Administration, as you may know, is focused on that and has begun to regulate some of the ingredients in some of those products. But I think the challenge is in some cases just knowing what is there. But we are, as you know, from the drug policy perspective at ONDCP and with our strategy, continuously trying to focus on the prevention side of this as much as possibly can.

Senator KLOBUCHAR. I think the education—and I know the Senator needs to end the hearing now, my part of it, but the education piece of it is going to be very important, and I think these bills are coming up on the docket next week, so that will be good.

Thank you very much.

Mr. TUCKER. You are welcome.

Chairman WHITEHOUSE. Senator Coons.

Senator COONS. Thank you, Senator Whitehouse, for convening this important hearing, and I will simply briefly say that I am from a State, Delaware, that has had a successful drug court since 1994, statewide since 1997. Like Senator Blumenthal, I am very interested in the progress of our veterans' court, which our Attorney General, Beau Biden, has just launched in the past year.

I will ask, if I could, for a brief answer to the question about what sort of constructive role in your view nationally has police participation in drug courts played, has veterans' participation as mentors played in veterans' courts, and how is NDCI providing training and best practices that helps engage State and local government. I am happy to take a brief response.

Mr. TUCKER. Well, just simply put, collaboration is the name of the game, Senator, and I can tell you that we have wide support from our National police groups when it comes to drug court participation, and probation departments as well. And so the notion that—I think people have finally come to the realization that this model works, and so any way in which we can support it is what I think people are choosing to do, and it has been, I think, one of the reasons it has been so successful. So law enforcement across the board, I mean, we work with the International Association of Chiefs of Police and others, and so we should just continue to do that.

Senator COONS. I just want to thank you for your recognition that addiction affects every family, every community across this country, and we need to have a balanced approach, balancing law enforcement with treatment and with community engagement, and I think the drug courts and your leadership have been critical to achieving that balance. Thank you.

Mr. TUCKER. Thank you.

Chairman WHITEHOUSE. Mr. Tucker, thank you very much for your service and for your testimony. We will excuse you now and take a minute or so recess while they change the table for the next panel. Again, thank you for your testimony and your participation in this hearing.

Mr. TUCKER. Thank you, Mr. Chairman.

[Pause.]

Chairman WHITEHOUSE. I am delighted to welcome our second panel of witnesses, and we will just go right across the table, left to right from my side of the aisle here.

Our first witness is Martin Sheen, who has appeared in more than 60 feature films, including "Apocalypse Now" and Martin Scorsese's "The Departed," and has starred in numerous television shows. His performance on "The West Wing" as President Jed Bartlett earned him six Emmy nominations. Mr. Sheen has been a vocal supporter of drug courts for several years around the country and here in Congress, and we are delighted that he has taken the time to come and offer his testimony here today.

Mr. Sheen.

STATEMENT OF MARTIN SHEEN, LOS ANGELES, CALIFORNIA

Mr. SHEEN. Thank you, Chairman Whitehouse and distinguished members of the Subcommittee. It is a very rare privilege to be here today and advocate on behalf of drug courts. I would like to emphasize, however, that I am not a drug court professional nor am I an addiction specialist. I make the distinction because we all know celebrity, to a greater or lesser degree, is so often confused for credibility. For instance, I am not a former President of the United States though I played one on TV.

[Laughter.]

Mr. SHEEN. My first exposure to drug courts began nearly 20 years ago and opened my eyes to the incredible capacity of human beings to change. I have seen individuals mired in the depths of addiction transformed by drug courts. I have seen families reunited after years of estrangement due to a loved one's substance abuse. And while I prefaced my opening remarks confirming my amateur

status regarding this critical issue, I was, however, directly responsible for helping create a drug court system in Berkeley, California, in 1996, along with Father Bill O'Donnell and Dr. Davida Coady, an addiction specialist. We called it "Options," and our chief focus was the homeless and addicted street population in Berkeley. With the help of drug court Judge Carol Brosnahan and Berkeley Police Chief Bobby Miller, we began a treatment center and one sober living house. Today there are six sober living houses. They are all run by drug court graduates, and nearly 6,000 people have gone through them and returned to their health, body, mind, and spirit.

These miracles happen every day in drug court, and I believe that this country's greatest untapped resource is our addicted population. Every year, drug courts help save over 120,000 seriously addicted people, bringing them from darkness to light and setting them on a course toward fulfillment, freedom, and enviable joy. But imagine for a moment the impact we could have if drug courts were available to all 1.2 million addicted individuals who would be best served by drug courts if one were available. Imagine the impact of 1.2 million people making up for lost time in their community and serving their families and their country. This is the purpose of drug courts, and this is why it is critical that Congress fund drug courts at a minimum of $88.7 million for fiscal year 2012.

It is no secret that our current prison system provides little return on our investment. We spend over $70 billion on corrections, and it has done little to stem the tide of drugs and crime. Instead, addicted people cycle through the system at great expense to the public. Drug court stops that cycle. In drug court we have a proven budget solution that we can count on to cut drug abuse and crime. Every citizen benefits when one addicted person gets clean and sober.

I would like to take a moment now to talk about drug courts serving veterans and the emergence of veterans' treatment courts. I spent some valuable time yesterday with Judge Robert Russell of Buffalo, New York. This distinguished and renowned jurist is among drug court's Hall of Fame. Two years ago, Judge Russell created the Nation's first veteran treatment court to restore the honor of these heroes. We ask so much of our men and women in uniform, and they ask so little in return. In fact, they are often the last to ask for counseling or treatment. It is our duty to care for our veterans when they suffer as a direct result of their service to our country.

Today there are 80 veterans' treatment courts with over 100 being planned. Drug courts and veterans' treatment courts are on the front lines of ensuring that when our veterans suffer from substance abuse or mental health disorders and get in trouble with the law, they have the opportunity for treatment and restoration. By helping restore their health, we give honor to their service.

Our criminal justice system has been transformed over the last two decades by dedicated drug court professionals who believe that a blend of accountability and compassion can and should be the foundation for which we handle our addicted offender population. Now these same professionals are forever changing the way this Nation treats veterans when their invisible wounds of war lead them astray.

Frankly, there is no better investment this Congress can make than drug courts and veterans' treatment courts. The time has come to reap the staggering social and economic benefits of expanding this proven budget solution.

Thank you for the honor of appearing before you today. I appreciate your time and your service to our country.

[The prepared statement of Mr. Sheen appears as a submission for the record.]

Chairman WHITEHOUSE. Thank you, Mr. Sheen.

Our next witness comes as a personal favorite. The Honorable Jeanne E. LaFazia is chief judge of our Rhode Island district court. Prior to her appointment to the bench, Chief Judge LaFazia was an active civil litigator in private practice and a leader in the Rhode Island community, serving on the Rhode Island State Parole Board, the Commission on Judicial Tenure and Discipline, and serving as the Rhode Island Chair for the International Association of Defense Counsel. As chief judge of the Rhode Island district court, she has introduced the pilot program for the State's first veterans' court and convened an extraordinary roundtable for Attorney General Holder on his recent visit to Rhode Island. Chief Judge LaFazia graduated from Boston University and Suffolk Law School, and we welcome her here today.

Welcome, Your Honor.

STATEMENT OF HON. JEANNE E. LAFAZIA, CHIEF JUDGE, RHODE ISLAND DISTRICT COURT, PROVIDENCE, RHODE ISLAND

Judge LAFAZIA. Good morning. Thank you, Chairman Whitehouse and other distinguished members of this Subcommittee. Thank you for affording me this opportunity to discuss something which I feel so passionately about: the expansion of veterans' courts throughout this country.

Immediately prior to becoming chief of the Rhode Island district court, I spent 3 years on the arraignment calendar in Kent County. I noticed that both veterans and active members of the military were appearing in increasing numbers. Sometimes these individuals were immediately recognizable by their stance and occasionally by a uniform. Other times they would actually hide their status and attempt to quickly resolve the charge without further attention. I was also hearing from victims in domestic matters who would tell me that this defendant's behavior would not have occurred prior to his or her deployment or prior to multiple tours of duty, which is a phenomenon that we are seeing more of in this war than ever before.

It became apparent that some of these men and women were returning from combat with injuries that were very real, but which were not visible to the naked eye. I also realized that a sentence imposed on a member of the military could have a harsher result than the identical sentence imposed on a private citizen. Rhode Island judges sometimes offer a filing on a first offense. The intent of a filing is to give the defendant a chance to eventually start over with a clean slate. On domestic charges, the court also imposes a No Contact Order, which prohibits that defendant from carrying a firearm. There is an exception to this prohibition for law enforce-

ment, but no such exception exists for the military. Active military must be qualified to carry a firearm, so this military defendant stands to lose his or her job, their future, and perhaps their benefits—hardly what we intended when we sentenced that defendant to a filing.

Recent statistics indicate that close to 1.7 million Americans have served in Iraq or Afghanistan. And while this is a most significant number, nationwide this presents as less than one-half of 1 percent of our National population. Rhode Island, however, has given more than its fair share to these statistics. The callback of Rhode Island's National Guard is the second highest in the entire United States. As of September 30, 2010, the number of veterans living in Rhode Island who have served in the Gulf Wars is three times the national per capita average.

Most of these veterans return home and successfully reintegrate into the fabric of society. But what about the small but increasing percentage who are unable to do so? Studies now indicate that one in five returning military will exhibit some symptoms of mental illness. Not all of them will become involved in the criminal justice system.

"No soldier left behind" is a code which Americans have always been proud to live by. We do not desert our soldiers on the battlefield. Shouldn't this also be true on the home front?

Do we not owe our returning soldiers a similar duty when they come home injured or affected in a way that has altered who they are and what they do? Especially if that injury causes or fuels behavior that puts them into the criminal justice system.

These are men and women who were not drafted. They volunteered for this service. They put on a uniform, and they followed the American flag into combat to fight for and protect the fundamental rights and privileges that we as Americans enjoy every single day.

Most people agree that we do have a duty. But what does that mean? How does it translate to the criminal justice system and to the role of the judiciary in these cases?

In response, the Rhode Island district court, under a SAMHSA grant, is now a partner in implementing the first jail diversion program in Rhode Island for veterans. This grant has allowed Rhode Island to begin this important process, but it is only a beginning.

Let me emphasize what this program or these programs does not mean. It does not mean that anyone will not be held accountable for their actions simply because of military status or even medical diagnosis alone. This is not a free pass.

What this duty does mean is that we need to increase our focus on this group of people. We need to recognize them. We need to implement programs that will address their unique challenges and which will provide them with the tools and insight needed to become whole again, to reintegrate successfully into society. Veterans' courts are problem-solving courts.

Rhode Island is in a unique position because it is a small State. We have tremendous collaboration in Rhode Island with law enforcement, community mental health providers, and other State departments. The Rhode Island National Guard has been actively involved and fully supportive.

As we anticipate future drawdowns, the number of returning personnel who will require these services will undoubtedly grow substantially. The expansion of this program will allow us to fully address the various needs of these individuals and will allow us to include all individuals who enter the judicial system because of a service-related injury.

We are ready and positioned to take on the responsibilities of a statewide veterans calendar. We have the network and the resources to make it successful and sustainable—an important word today, I think. I hope that we will see this in the relatively near future. For this, we do look to you, our leaders in Washington.

I am proud to have the Rhode Island district court playing a leading role on this issue, and I thank you for the opportunity to discuss this today. I will happily answer any questions that you may have.

[The prepared statement of Judge LaFazia appears as a submission for the record.]

Chairman WHITEHOUSE. Thank you, Your Honor.

Our next witness is Douglas B. Marlowe, who is the director of the Division on Law and Ethics Research at the Treatment Research Institute as well as an adjunct associate professor of psychiatry at the University of Pennsylvania School of Medicine. Dr. Marlowe has published over 80 professional articles and chapters on the topics of crime and drug abuse and is on the editorial boards of the Drug Court Review and Criminal Justice and Behavior. He is a member of the board of directors of the National Association of Drug Court Professionals, where he serves as chair of the Research Committee and the Drug Policy Reform Committee, and we are delighted to have him here for his testimony.

Professor Marlowe.

STATEMENT OF DOUGLAS B. MARLOWE, J.D., PH.D., CHIEF OF SCIENCE, LAW & POLICY, NATIONAL ASSOCIATION OF DRUG COURT PROFESSIONALS, ALEXANDRIA, VIRGINIA

Mr. MARLOWE. Thank you, Chairman Whitehouse, members of the Committee. It is really a great honor to be here. I know you have all been waiting for Martin Sheen and the chief judge to be finished speaking so you could hear from the scientist in the room about the facts and data related to drug courts.

[Laughter.]

Mr. MARLOWE. But that is my job as Chief of Science and Policy for the National Association of Drug Court Professionals, to stay on top of the scientific research, which is no easy task because the last time I did a search on drug courts I found well over a thousand published studies of drug courts.

Drug courts have been studied more intensely than any other criminal justice program. In fact, there are people in this room taking medications for cancer, diabetes, and other medical conditions that have less evidence of success than drug courts. According to the leading national universities' and research organizations, on average, all else being equal, drug courts will reduce crime anywhere from 10 to 26 percent. That is on average. The best drug courts will cut crime rates in half, which is unheard of in the criminal justice system.

As a matter of cost effectiveness, on average, all else being equal, for every dollar invested in drug court, you will get $2.21 back from your investment. Now, how many of you are getting a 221-percent return on your 401(k)s at the moment? Drug courts that are treating high-risk and more serious offenders are returning $3.36 for every dollar invested, and the best drug courts are returning $27 for every dollar invested.

The U.S. Government Accountability Office in 2005 concluded that drug courts reduce crime, but they wanted to know what else drug courts do besides reducing crime, so they launched the Multisite Adult Drug Court Evaluation. Those findings have just been published in the last few days. This was a national study of drug courts, located in every geographic region in the country. It involved over 1,200 participants in 23 drug courts. They found not only do drug courts reduce crime; but drug courts also reduce drug abuse; drug courts reduce family conflict; they improve family functioning, and these effects are associated with reduced domestic violence and child abuse. They also improve employment; and they improve annual income.

We now have as good evidence as you are going to get on the effects of drug courts. If anybody tells you they have looked at the research on drug courts and they do not accept it, then they must reach the same conclusion about every other criminal justice and substance abuse treatment program in existence, because there is no other program that has equivalent evidence of success than drug courts.

Some people will say that drug courts only have five to seven randomized controlled studies. Well, according to the FDA, you need two randomized controlled studies for a medication to be considered an evidence-based and a proven practice. Drug courts have many times that degree of efficacy. It is a highly proven intervention.

Now, why a Federal role? Most crime is intra-State. Most crime is person on person, or person on property. It occurs at a single point in time in a single place. Drug crimes are interstate commerce. Everything that occurs in drug transactions and abuse—transportation, procurement, manufacturing, use—the effects of that are interstate if not international. That is why the Federal Government launched the War on Drugs over roughly four decades ago, and before that, in the Nixon administration there was an increase in demand reduction efforts. Drug abuse is a national event, it has a national impact, and, therefore, it needs a national level response.

As far as veterans' treatment courts are concerned, veterans have always been a national priority, and the biggest field currently in the drug court movement is to treat veterans suffering from drug addiction and mental illness. As you have heard, approximately 80 percent of veterans coming in contact with the criminal justice system, are addicted and/or mentally ill, and that is what is driving their involvement in the criminal justice system.

So I am happy to answer any questions, and I am happy to provide you with the proof and the scientific evidence for any of the facts that I have asserted. Thank you.

[The prepared statement of Mr. Marlowe appears as a submission for the record.]

Chairman WHITEHOUSE. Thank you very much, Dr. Marlowe.

Our final witness is David Muhlhausen. He studies criminal justice programs in the Heritage Foundation's Center for Data Analysis. Dr. Muhlhausen joined Heritage in 1999 after serving on the staff for this Senate Judiciary Committee. Welcome back, Mr. Muhlhausen. Prior to that he was a manager at a juvenile correctional facility in Baltimore. He holds a doctorate in public policy from the University of Maryland Baltimore County and a bachelor's degree in political science and justice studies from Frostburg State University.

Welcome, Dr. Muhlhausen.

STATEMENT OF DAVID B. MUHLHAUSEN, PH.D., RESEARCH FELLOW IN EMPIRICAL POLICY ANALYSIS, CENTER FOR DATA ANALYSIS, THE HERITAGE FOUNDATION, WASHINGTON, DC

Mr. MUHLHAUSEN. Thank you. My name is David Muhlhausen. I am a research fellow in empirical policy analysis in the Center for Data Analysis at The Heritage Foundation. I thank Chairman Whitehouse, Ranking Member Kyl, and the rest of the Committee for the opportunity to testify today on drug and veterans' treatment courts. The views I express in my testimony are my own and should not be construed as representing any official position of The Heritage Foundation.

My spoken testimony will focus on three points:

First, with out-of-control spending and surging public debt threatening our Nation's stability, increased Federal funding of State and local courts should not be a priority. By the end of this fiscal year, the Congressional Budget Office warns that the Federal debt will reach roughly 70 percent of gross domestic product. This will be the highest percentage since shortly after World War II. This is hardly a good time for Congress to increase funding for grant programs that subsidize the routine criminal justice operations of State and local governments. Instead, Congress should consider reforming the drug court discretionary grant program to focus entirely on reimbursing drug courts for the costs of serving recently returned combat veterans with substance abuse problems. This reform would get the Federal Government out of subsidizing routine operations and quite likely save taxpayer Federal dollars as well.

Second, while a large number of drug court evaluations have been performed, many of these studies have significant shortcomings in scientific rigor. Before we can judge a drug court program to be effective, we first must understand the importance of selection. It can be astoundingly difficult to distinguish between what is working and what is not, and nowhere is this predicament truer than when it comes to the criminal justice system trying to change human behavior.

For example, individuals volunteering for a drug court program may be more motivated than individuals not seeking entry. Such motivational factors are often invisible to those assessing effectiveness. Failure to account for these crucial factors can produce a mis-

leading association between drug court participation and outcomes. Experimental evaluations, the gold standard of research designs, are the most capable of handling the problem of selection.

In my review of the scientific literature, I was only able to obtain three experimental evaluations of drug courts. Clearly, more experimental evaluations are needed. The need for more experimental evaluations should transcend political party lines. Both Democrats and Republicans should agree on this issue.

Third, while under some circumstances in particular locations drug courts may be more effective than traditional responses, Congress should carefully review the claims of effectiveness coming from advocates of increased Federal spending on drug courts. Three experimental evaluations and a particularly good multi-site quasi-experimental evaluation reviewed in my written testimony provide a mixed bag of evidence about effectiveness. Obviously, some drug courts are effective while others are not. Effective drug courts can produce cost savings, and some may even produce more benefits than costs. However, this rule is not universal for all drug courts.

A relevant example is the cost findings of the newly released Multisite Adult Drug Court Evaluation performed by the Urban Institute. After comparing 23 drug courts to six other types of court interventions, the quasi-experimental evaluation found that drug courts produced an estimated average net benefit of over $2,000. However, this estimate is not statistically significant. In other words, policymakers cannot be sure that the drug courts participating in this evaluation produced more benefits than costs. The costs may actually outweigh the benefits. The estimate is simply too imprecise to draw strong policy conclusions. More details on the results of this evaluation and other evaluations in my testimony are available to you.

Thank you for inviting me.

[The prepared statement of Mr. Muhlhausen appears as a submission for the record.]

Chairman WHITEHOUSE. Thank you, Mr. Muhlhausen.

I am going to, as Chair, be here until the end of the hearing, so rather than take up the other Senators' time, I will wait until the end, and I will yield to Senator Blumenthal and then whoever else is next.

Senator BLUMENTHAL. Thank you, Mr. Chairman, and thank you for bringing together this really very, very impressive panel, impressive not only for its star power but its intellectual and scientific and persuasive power.

I want to suggest that there is a danger here, which is to conflate veterans' problems and drug problems, and to see a drug court as also potentially a veterans' court. And I think what is so impressive about the work that you have done, Judge LaFazia, is that you have started to address not only the invisible wounds of post traumatic stress and the traumatic brain injury that can cause many of the addictive behaviors that result in criminal activity, but also to address the problems that are unique to veterans. And they can become addicted, but they also have other problems.

And so I would like to invite you and others on the panel to perhaps talk about why we need to address separately the issues that

affect veterans as opposed to simply opening drug courts that may deal with veterans' treatment issues.

Judge LAFAZIA. I think there certainly is a lot of overlap, and that will involve both the cost factor of doing these programs, and also there is a huge overlap on the successes that we are able to celebrate. That being said, I think that the veterans have a number of unique issues that need to be dealt with, and I think some of the standard counseling that we provide for substance abuse issues, alcohol issues, and other issues are not always competent or able to address some of these underlying issues that veterans have to deal with.

We have had tremendous collaboration in our project in Rhode Island. It is a small State. It lends itself to that. In addition to collaboration with law enforcement and our mental health providers and corrections and other State agencies, we have also had some great support from our legislature and our Governor this year. And we had a law signed into effect that allowed us for court-ordered counseling on DUI cases and domestic violence counseling. We now are able to do that counseling through the veterans association, and I think that makes a huge difference because they have a unique set of circumstances that most of us do not even have a point of reference for. And I think that you need to have people involved in these projects who have that background, have that insight, that understanding, and know how to get to those specific firing issues.

Senator BLUMENTHAL. And making use of veterans themselves in providing that kind of counseling and aid.

Judge LAFAZIA. Yes, and on two fronts. One of the other elements of veterans' courts that I think is critical for success is the use of mentors in the review process. And we are in our infancy stages in Rhode Island. We are now developing our mentor group. But I think not only from the professional counselors with the military background and military insight, I think you also need this support from a marine who can speak marine talk to a fellow marine. Whatever the branch may be, you need to have people who have been there, walked the walk, talked the talk, and come back and help you through it.

Senator BLUMENTHAL. You know, I would like to invite any members of the panel to do what I thought that New York Times piece did so well, which is to give a face and a voice to the veterans' issues. You know, specific instances of a veterans' court working for a veteran I think is very powerful, as the New York Times piece was, in depicting how a specific docket or calendar or channel for providing justice to a veteran can help address the specific and unique problems that veterans may face.

Mr. MARLOWE. Can I take a stab at that?

Senator BLUMENTHAL. Sure.

Mr. MARLOWE. It takes a tremendous amount of conditioning to get somebody ready for war. Our natural inclination is not to put ourselves in danger. Our natural inclination is not to harm other people. Our natural inclination is not to follow rigid authority. Our natural inclination is not to be constantly vigilant for threats everywhere we go. We have to be taught and conditioned to do that

over months and months, if not years in the military. We have known that since the beginning of war.

What we have not known is that you then must be de-conditioned or prepared not to be hypervigilant, not to be overly obedient to authority when you return to society where those are undesirable traits. Mix that with trauma and substance abuse, you conflate those problems.

So it is very much a new syndrome. It is not a drug court. It is not a mental health court. It is a re-entry program for people returning to civilian life who have been wounded and damaged. That is what veteran courts understand by using veteran peers and veteran mentors, and the Veterans Administration services. These are people who have been through that process, and they either had difficulty and learned through their dysfunction, or they have been trained and they come from that world and they understand. So it is a fundamentally different animal than these other programs.

I am here to tell you, we have always seen huge numbers of homeless vets and vets in the criminal justice system after war, and we are seeing it now like we have seen it every time before, and we have multiple wars. So these veterans' courts need to ramp up and be ready quickly for a large influx.

Chairman WHITEHOUSE. Senator Klobuchar.

Senator KLOBUCHAR. Thank you very much, Mr. Chairman.

Mr. Sheen, I want to thank you for following in the footsteps of many former Presidents when they leave the Oval Office or leave the Oval Office set to pursue very important causes, and I just wondered why you had many things that you could have pursued as your cause and why you chose drug courts.

Mr. SHEEN. Well, thank you, Senator. I would just say, quite frankly, that is an extension of my work with the peace and justice community. Social justice, it is, I think, incumbent on all of us to participate in, to bring healing where we can, to bring understanding, to bring some light in areas where there is a great darkness, and this was just a natural progression of my work in the peace and justice era.

Dr. Marlowe's description is quite extraordinary and gets right to the point of what Senator Blumenthal was talking about. I read that Times article yesterday, and as I mentioned, I was with Judge Russell yesterday, who initiated that first court, and he is quoted in that article about that gentleman and the parameters surrounding that horrible situation when he was in the woods out in Michigan with a gun and there were officers surrounding the area and felt they were being shot at and their lives were in danger. And this veteran, this fellow is alive and is getting help now, and those officers have actually dropped all their charges as well. It is an extraordinary level of compassion and understanding about what that guy in the woods alone with a gun was going through. He was back in Iraq, three tours, he lived with that extraordinary anxiety and tension and adrenaline.

We have no idea, no comprehension at all of what that is like in a combat zone, and, we are in three countries now where it is just everyday normal life, and a lot of these men and women are serving multiple tours.

So we have to be aware of that, and, it is going to cost us. But anything of great value is going to be costly; otherwise, you are left to question its value. When I think of the work that drug courts are doing, I am reminded of the old Irish tale about the guy who came to the gates of heaven and asked to be let in, and St. Peter said, "Of course, just show us your scars." And the guy says, "I have no scars." And St. Peter said, "What a pity. Was there nothing worth fighting for?"

I cannot think of anything in the social justice and peace era today more worth fighting for than drug court. It just goes to the center of this issue in a deeply compassionate, understanding, and humane way, and I think it is the only way out, frankly.

Senator KLOBUCHAR. Thank you very much.

Mr. SHEEN. Thank you, Senator.

Senator KLOBUCHAR. Dr. Marlowe, do you want to respond to some of the things that Dr. Muhlhausen had pointed out? When we look at this cost-effective issue, as we are engaging in a process right now in Washington where we have to bring our debt down and we are looking at smarter solutions in the criminal justice area, I have always found that people can be surprised. Sometimes there are ways to spend less money but actually get better results. Could you talk about that?

Mr. MARLOWE. Yes. The research on the cost effectiveness of drug court is actually pretty powerful research conducted by independent organizations, and they have found, as I said earlier, that for every dollar invested, the average—if I do not know anything else about a drug court, I just know it is a drug court. If I have to guess how much I am going to get back for my money, for every dollar that I put in, I am going to get about $2.21 back. And if it is a particularly good drug court, I may get $3, $5, $12, $27 back.

Now, as for the Multisite Drug Court Evaluation that was just published, they found that the average net benefit for drug court was just short of $6,000 per participant. Now, if drug courts are treating 120,000 participants and they are turning an average return on investment of $6,000 per participant—I might need a calculator to figure out how much money we would be saving, and if we hit the 1.2 million people that we should be serving, I would definitely need a calculator to figure out how much money we are saving.

The way we do it now is we use incarceration as our primary response. It has no effect, but at least it has the saving grace of being enormously expensive. We have drug courts which are about, in some respects, a tenth of the cost of incarceration and many times better.

So I actually would suggest to you that it is pretty common that doing too much tends to make people worse and also tends to cost too much money. If you bring a sledgehammer to knock in a thumb tack, you are going to do more damage than you need to, and picking a better hammer and a better tool and doing a more intelligent job is going to be a lot less expensive and is going to save you money.

These are not speculative cost savings. These cost savings occur in the same budget year or the immediately ensuing budget year. You get your money back within 24 months. That is money to the

criminal justice system. I am not talking about, you know, foster care, saving children from losing their families. I am not talking about all those distal costs. I am talking about money back to the criminal justice system because he is not in jail, the police are not out arresting him. I do not have to have ten violation of probation hearings. I do not have to waste all the costs of having the prosecutor and defense counsel in the courtroom. I am saving all of that money right away. That is why drug courts have expanded as much as they have. The Federal Government seeds a program—it is rare for the Federal Government to seed a drug court and the State or locality does not pick it up after the Federal funding ends. That is a rare event when they do not pick it up. They are not picking up the costs out of inertia. They are not doing it out of the goodness of their hearts. They are doing it because they are saving an enormous amount of money.

Senator KLOBUCHAR. I just wanted to end—I will maybe have one more question when we come back and talk about the drug court graduations, and I have been at a number of them. And I know when we first started our drug court, there were a lot of issues with the police not supporting it, and we actually made some changes with taking some of the gun crimes out of there and some of the things where I believe prison was appropriate. And over the years, we gained the support of the police for that court, and it made a big difference because they realized there was actually follow-up as opposed to someone just being lost in the system because they had what was perceived as a more minor crime, but it was not minor for those kids that were standing out there trying to go to school and then get people on drugs getting in their path and potentially getting them on drugs. And what happened was that they started to see that with the drug court there was actual follow-up. They would have to come in. They would have to have the drug test. There would be a stick at the end if they did not comply. And it just was interesting to see the evolution with law enforcement through that time when I was county authority, so thank you very much.

One more thing, yes.

Mr. MARLOWE. Just one point about it. Remember I said some drug courts cut crime rates in half? The best drug courts? Those are the ones that have law enforcement on their team. That is one of the biggest findings, that law enforcement on the team increases the outcomes multi-fold, and I think for the reasons you suggest.

Senator KLOBUCHAR. Thank you.

Chairman WHITEHOUSE. The dark cloud of budget and debt concerns that lies over Washington right now is a very real thing, and it is very important. But I would like to ask Mr. Sheen and Judge LaFazia, who seem to have the most personal experience with these courts, to talk a little bit about the intangible and non-monetary value that you see in what happens in a drug court and what we hope will also happen in a veterans' court as the individual involved has to come to the difficult recognition and reconciliation of the wreckage that they have often made of their own lives, realize that a transformation is necessary, and start the hard and courageous path of recovery. That is a rather special human accomplish-

ment, and I would like you to put that in the context of what you see every day in the drug courts.

Mr. SHEEN. Thank you, Senator. My own personal experience with drug court, besides lobbying here in Washington on occasion, is confined to the State of California, which is no small spot on the map, but I have been a supporter of the Compton drug court, south of Los Angeles, with Judge DeShazer, as well as the downtown drug court in Los Angeles and the Bay Area courts, including Judge Stephen, who is here now—sorry, Stephen Manley. He will never forgive me. I am sorry. I have been a great supporter of his court as well as the Berkeley and Oakland courts.

What I see so often are the drug courts focus on low-income, homeless, fixed-income people on the short end of the ladder. Very often they have public defenders. The across-the-board rule is that they are very rarely represented by a lawyer that they have to pay. They are generally all wards of the State at that point. So when they stand in front of a compassionate, understanding judge and they are offered a very fundamental choice: "Mister, I am going to put you in the State penitentiary for 3 years, or I am going to give you an opportunity to turn your life around in treatment that you can start today. What is your choice?" Ninety-nine percent of those defendants will say, "Give me the treatment."

When you see them come in, I mean, they are right off their mug shots, you know. When they come dragging into court, they are still wearing the orange jumper, and they are generally in chains. Then you come back over a period of months, and you witness this gradual, extraordinary change where a human being is emerging from this chaos, this baggage that has been discarded, thrown away, where you see that they had no self-motivation, that they were totally dependent on the next hit or the next shot or the next drink.

To see that development of a human being flower and reach its potential and then turn to the community after graduation, which usually takes a year of very hard, intense rehabilitation and 12-stepping, and begin to serve those people coming out of the cages in the orange jumpers and in the shackles, it is that turn toward the brother, the sister that is just coming out of the cage, and the look that they have with each other, it is like what veterans have that Dr. Marlowe was talking about. There is a jailhouse dialog. There is an understanding, a street dialog. There is a drug culture. And when it is broken, that has a miraculous effect.

You know, the old saying is, "All you need for an AA meeting are two drunks, a pot of coffee, and a lot of resentment." And that really has not changed. It is a deeply personal contact with one drug addict talking to another one that has come out of that same cell and that same uniform. And the hope, the possibility of returning to their humanity and then the service back to the community.

The last step in all 12-step programs is we reach out to those still out there, and it is said that the only way to keep anything of real value is to give it away with love. And that is the basic, fundamental work of drug court.

Chairman WHITEHOUSE. Judge LaFazia, hold that thought and I will come back to you. But my time is up, so we go back to Senator Blumenthal for a second round, and that will be my question in our second round to you.

Senator BLUMENTHAL. Thank you, Mr. Chairman.

You know, I would like to follow up on some of the answers that have been given, especially the description of the training and preparation that goes into preparing a warrior to go into particularly modern-day battle where people come back from explosive situations that they might have even survived in past wars, and come back with wounds that are undiagnosed and, therefore, untreated.

And so I think my question is: How do we prepare the courts, the law enforcement professionals, and others who are involved in this system for dealing with those individuals who may be within their jurisdiction and they may not fully understand?

Mr. MARLOWE. The armed services have training curricula and interventions specifically for this purpose, training law enforcement, training judges. First of all, how do you recognize an invisible wound? How do you recognize somebody who has post traumatic stress disorder? What do you look for? What are the symptoms? What do you ask people to identify? The reality is all you have to do is ask the right questions, and in 3 to 5 minutes you will know. But if you do not ask those questions, you absolutely will never know.

Senator BLUMENTHAL. And what are the right questions?

Mr. MARLOWE. Asking somebody if they get startled. Do you ever find that you get startled? Does anything make you, you know, like all of a sudden you turned quickly? If there is a slight movement in the courtroom, watch the veteran in the courtroom when there is some movement in the back of the room, and they turn to that movement because if they did not turn to that movement in Afghanistan or Iraq, they could very well be dead. In the courtroom what they may very well have done is set up an altercation or a negative situation. So you are looking for that startled response, you are looking for that hypervigilance, and you are looking for the hollowness.

When you are that damaged, when you are that broken, when you feel that bad, you are not sure anybody can help you. In fact, you are pretty sure nobody can. You are pretty sure you are probably going to die, and you are not entirely sure you care. Looking for that broken, empty affect in people, almost the apathy, sort of like whatever happens happens kind of thing when you push on it, those are not hard to diagnose. They are not hard to detect, and we can train very reliably law enforcement and judges and police to do it. But if they are not trained, they do not see it. And so they think the guy is just being aggressive when he is really not. He is startled. They think the guy is being a wise guy and not answering him, when, in fact, they are just being obedient to a superior in uniform. They need to be trained, they need to be sensitized to it.

I have a colleague who does it for the Navy. I just met somebody here in DC at our NADCP conference who does it for the Air Force. There are training curricula. We need to get it out to the judges in every State and every county, and we can do that.

Senator BLUMENTHAL. Judge, did you have anything to add?

Judge LAFAZIA. I do not want to repeat what he said, but in Rhode Island, our law enforcement for a couple of years now have been participating in something that we call a first responder program, which was originally initiated to allow them to address men-

tal health issues right at the beginning of the scene, and they are trained to defuse dangerous situations. And now into that program we have put a component on recognizing veterans and the veterans' issues in order to de-escalate it at the very beginning.

I think the training is critical for every stakeholder involved in this process, but in addition to the training, I think that public education is also important, particularly from a court's point of view on some of these cases. There is a ripeness for negative public perception. There is an issue out there or a potential for people to think this is a free pass, for people to think that people are not being held accountable. And there is a safety aspect part of it. There was mention before as to the DUIs which play a very big role in all of these courts, driving under the influence. In Rhode Island, we call them DUIs. They are ripe for public scrutiny when you bring somebody through this and they get taken out of the criminal justice system or they get a lesser sentence. If that person re-offends—and that possibility is always there, and God forbid somebody is injured, that will come right back to us on the front page of the paper. So you need to have some more public understanding as well as training for the stakeholders.

Senator BLUMENTHAL. And probably some training for the State legislators and Congressmen as well.

Judge LAFAZIA. And that also, I suppose, yes.

Senator BLUMENTHAL. Thank you.

Judge LAFAZIA. Thank you.

Senator BLUMENTHAL. Thank you, Mr. Chairman, and I would like to submit for the record later a copy of the New York Times article that has been referenced a couple of times by Mr. Sheen and Dr. Marlowe and the previous witness, if I may.

Chairman WHITEHOUSE. Without objection, it will be included in the record.

[The article appears as a submission for the record.]

Chairman WHITEHOUSE. Let me go back to Judge LaFazia, if you wanted to add anything to Mr. Sheen's remarks, and let me also ask you: How has it been dealing with the Veterans Administration in terms of the coordination with this particular means of serving veterans?

Judge LAFAZIA. The Veterans Administration has played a critical role in this project in Rhode Island from the beginning. They have been supportive in every step of the process, including confirming identification of veterans if they get a call from police departments to the roles that they are playing in the court, the services that they are providing. They have been excellent on emergency care, on getting people in very, very quickly for assessment. So they have been a wonderful partner in this project.

Chairman WHITEHOUSE. They get it.

Judge LAFAZIA. They get it. They absolutely get it.

Chairman WHITEHOUSE. And they play well with others.

Judge LAFAZIA. And they do play well with others, and they have been cooperative and supportive and have had some good initiatives that they themselves have brought to the table for us.

The one thing that I would add to what Mr. Sheen said is that when these veteran defendants are coming into the court one of our biggest challenges has been to identify them, because many of

them do not want to be identified as military or veterans. There is a shame element that accompanies them, and they have come from a background of rules and regulations and living and respecting those rules and regulations, and now they have found themselves in a very different situation. So that has been one of the challenges that we have had to deal with.

They have, however, been very, very motivated. Most of them have remembered what their family lives were like beforehand, what their lives in general were like beforehand, and they have been very, very motivated to get into the programs. They have welcomed the treatment that has been given. There is nothing perhaps that motivates people like finding themselves in the criminal justice system. And when that option is given, it motivates and it works. And I will be happy to celebrate any motivation and any success story that is there.

Chairman WHITEHOUSE. Senator Klobuchar.

Senator KLOBUCHAR. Very good. I just had one question, and I wondered if any of you can answer it. We have significant Native American populations in our State, and I wondered to what extent drug courts are serving Native American populations, and if it is not very high how that could change. Anyone?

Mr. MARLOWE. There is a number of what are called tribal healing to wellness courts. These are tribal courts, so they are not part of the U.S. court system. They are a separate court system, and they use what are called healing to wellness principles, so it is a administered by community elders, and involves a lot of community-based interventions, a lot of emphasis on spirituality, you know, our history and how what has happened to us in our history has contributed to our lot and to the devastation of our community. There is a lot of emphasis on giving back, a lot of restitution.

NADCP does training for them. We do technical assistance. We have members from the tribal community on our board. They are at our conferences, and they are very active parts of the drug court community, the drug court world.

Now, do we need more of them? Absolutely. Probably in the tribal community we are hitting probably 5 or 10 percent of the problem, like we are hitting 5 or 10 percent of the problem everywhere. But we have the knowledge, and the skills to do so.

Senator KLOBUCHAR. Anyone else?

[No response.]

Senator KLOBUCHAR. All right. Thank you.

Chairman WHITEHOUSE. All right. Let me call the hearing to a conclusion. I want to thank each of the witnesses for their testimony here today and for their contribution to our common effort to pursue the types of efficiencies, to put it coldly, and transformations, to put it a little bit more enlivenedly, that the drug court mechanism can provide and to expand that mechanism of community support and finding alternatives to direct veterans back out of the criminal justice system and in an effective way.

So I really appreciate the testimony of everyone and the presence of so many people who have worked so hard on this issue in the room as well.

So as I said earlier, the record of the hearing will stay open for an additional week, and if anybody wishes to add to it, they just

simply need to send in their materials, but subject to that, the hearing is adjourned.

[Whereupon, at 12:11 p.m., the Subcommittee was adjourned.]

[Questions and answers and submissions follow.]

QUESTIONS AND ANSWERS
Response to Question for the Record From Sen. Jeff Sessions

Douglas B. Marlowe, J.D., Ph.D.
National Association of Drug Court Professionals

1. **The 2005 GAO study noted that there are obstacles in methodologically determining whether particular components of drug court programs are effective. For instance, that report questioned whether the type of threatened sanction would have an effect on the risk of a participant relapsing following the completion of the program. Given that statistical data is not widely available to guide local drug courts, statewide collaboration seems like it could be extremely beneficial and would cost very little. What is your perception of the degree to which local drug courts are collaborating within their own states to share ideas and compare what has worked with what has not?**

Effective Components of Drug Courts

It is true that in 2005, when the last GAO study of Drug Courts was completed, relatively little was known about which components of Drug Courts were responsible for reducing crime and saving taxpayer dollars. However, in the ensuing six years, this important question has been carefully studied by numerous investigators.

In direct response to the 2005 GAO report, the National Institute of Justice (NIJ) sponsored a large-scale study of Drug Courts, entitled the *Multisite Adult Drug Court Evaluation* (or MADCE). The MADCE compared outcomes for 1,156 participants in 23 Drug Courts located in seven geographic regions around the country to those of 625 matched comparison drug offenders drawn from six non-drug court sites in four geographic regions.

The MADCE results were just recently released[1] and confirmed not only that Drug Courts reduce crime, reduce drug abuse, and improve the emotional health of offenders; but also revealed *which components* of Drug Courts were associated with the most beneficial outcomes. For example, results indicated how often Drug Courts should hold court hearings to review offenders' compliance with treatment; how judges should interact with offenders during the court hearings; how sanctions and incentives should be structured and applied; and how often substance abuse treatment and case-management sessions should be scheduled.

The MADCE also shed light on the question of whether the threatened sentence for program failure improves outcomes. The more severe the potential sentence for the original crime, the more likely it was that the offenders completed the program and reduced illicit drug abuse.

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[1] http://www.urban.org/uploadedpdf/412356-MADCE-The-Drug-Court-Experience.pdf

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These results from the MADCE echo those reported by numerous other investigators who have carefully studied the Drug Court model. Several researchers have similarly found that Drug Courts achieved significantly more effective and cost-effective results when they:

- held staff meetings with the judge, prosecutor, defense counsel, treatment provider and coordinator regularly in attendance (Carey et al., 2008, Carey et al., in press; Shaffer, 2006);
- scheduled status hearings in court on at least a bi-weekly basis during the first few months of the program (Carey et al., 2008; Festinger et al., 2002; Marlowe et al., 2004a, 2004b, 2006, 2007);
- provided evidence-based substance abuse treatment and case-management services (Carey et al., 2008; Heck, 2008; Henggeler et al., 2006; Marinelli-Casey et al., 2008; Vito & Tewksbury, 1998);
- conducted random drug testing at least twice per week (Carey et al., 2008);
- administered gradually escalating punitive sanctions for infractions (Goldkamp et al., 2002; Harrell & Roman, 2001; Hawken & Kleiman, 2009; Lindquist et al., 2006; NIJ, 2006); and
- provided gradually increasing rewards for achievements (Lindquist et al., 2006; Marlowe et al., 2008; Farole & Cissner, 2007).

Statewide Coordination of Training and Technical Assistance

The challenge now is to ensure that Drug Courts heed these lessons of science and conform to best practices and evidence-based practices for the field. Senator Sessions is quite correct in suggesting that statewide coordination of training and technical-assistance activities is essential for ensuring conformance with science-based standards of practice.

Statewide collaboration is certainly occurring, but not to the extent that is needed, largely due to limited funding. Many states simply do not have adequate resources or expertise to train all of their local courts on the latest scientific advances.

Almost since the inception, the federal government has played an important role in supporting centralized and coordinated training and technical assistance activities for Drug Courts, and disseminating national practice standards. For example, with funding from the White House Office of National Drug Control Policy (ONDCP) and the Bureau of Justice Assistance (BJA), the National Association of Drug Court Professional's (NADCP) training arm, the National Drug Court Institute (NDCI), convenes representatives from every U.S. state and territory twice per year to discuss issues of common concern, share evaluation results, and train on best practices. This group, called the *National Consortium of State and Territorial Drug Court Coordinators (NCSTDCC)*, has been meeting and working together regularly since 2000.

More recently, BJA assistance has led to the creation of the *National Drug Court Resource Center* (NDCRC). The NDCRC is the central web-based repository for Drug Court information. It provides "one-stop shopping" for Drug Court professionals to obtain sample forms, research updates,

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fact-sheets and publications, and to request training and technical assistance. 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. The use of web-based training technologies offers the best opportunity to enhance statewide and national training and practice standards for Drug Courts.

As I indicated in my original testimony to this Subcommittee, there is no practical way for the states, acting individually or in concert, to approach this level of coordination and sophistication in training and technical support. The economies-of-scale and capacity to amass national expertise that has been attained through federal sponsorship of NDCI activities cannot be matched in a piecemeal state-by-state approach.

National Best Practice Standards for Adult Drug Courts

To ensure Drug Courts adhere to the U.S. Department of Justice's ten key components of Drug Courts, NADCP is developing National Best Practice Standards for Adult Drug Courts. These standards will be steeped in research and operational practices from well-functioning Drug Court programs. This process also takes into account statutory and case law. The national standards include an appreciation of potential state or local-level enforcement of any such standards; pre-existing state standards relating to adult Drug Courts; along with recognition that the research is ongoing and standards will need to be regularly expanded and updated as needed.

Our goal is to release the standards to the field within 24 months. Obviously, this is a tremendous undertaking. To begin the process, NADCP recently convened a core work group to build a foundational plan and development process. The work group reviewed the most recent and sweeping research on adult Drug Courts, including the NIJ funded Multi-Site Adult Drug Court Evaluation and the Ten Key Components Best Practices Study. Based on the review of research, the work group identified more than twenty areas in which enough research exists to develop a best practice standard. Once developed these standards will be a tool for our federal funding partners and our nation's Drug Courts to measure adherence to the research.

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 additional questions you may have and to provide relevant supporting documentation for the scientific facts I have asserted.

Respectfully submitted,

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF NATIONAL DRUG CONTROL POLICY
Washington, D.C. 20503

December 2, 2011

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed please find my responses to the Questions for the Record pertaining to the July 19, 2011, hearing of the Committee on the Judiciary's Subcommittee on Crime and Terrorism entitled, "*Drug and Veterans Treatment Courts: Seeking Cost-Effective Solutions for Protecting Public Safety and Reducing Recidivism*."

I sincerely appreciated the opportunity the Subcommittee on Crime and Terrorism provided me to discuss this important issue. If you have any further questions, please do not hesitate to contact me directly at (202) 395-6700, or have your staff contact Rob Reed, Acting Director of ONDCP's Office of Legislative Affairs, at (202) 395-6912.

Respectfully,

Benjamin B. Tucker
Deputy Director
Office of State, Local, and Tribal Affairs

Enclosure: Responses to Questions for the Record

cc: The Honorable Charles E. Grassley, Ranking Member, Committee on the Judiciary

The Honorable Sheldon Whitehouse, Chairman, Subcommittee on Crime and Terrorism, Committee on the Judiciary

The Honorable Jon Kyl, Ranking Member, Subcommittee on Crime and Terrorism, Committee on the Judiciary

Questions for the Record
"Drug and Veterans Treatment Courts: Seeking Cost-Effective Solutions for Protecting Public Safety and Reducing Recidivism"

Senator Jeff Sessions

1. **In looking over the FY 2012 ONDCP budget, I see numerous funding initiatives that are either specifically designated for drug court programs or list drug court programs as one option for their use. Both HHS and DOJ have drug court programs, coupled with additional potential funding through the Byrne JAG fund and the Second Chance Act.**

   a. **Has the ONDCP undertaken any effort to identify whether there are drug treatment programs funded by the federal government that are duplicative of drug courts but not as effective?**

RESPONSE: While ONDCP has not undertaken a formal review of Federal drug treatment funding compared to drug court efficacy, the Administration is committed to funding evidence-based treatment and criminal justice interventions, as well as research to identify innovative, new programs. The Administration's *National Drug Control Strategy* seeks to break the cycle of drug use and crime by addressing the offenders' criminal activities and their underlying substance abuse problems. This approach involves a full spectrum of strategies, from pre-trial diversion, to drug courts and other alternatives to incarceration, like testing and brief sanctions, to reentry efforts that can be implemented at the local and state levels. By implementing a range of interventions at every juncture in the criminal justice system, resources can be allocated more efficiently and the likelihood of recidivism reduced. While these programs share a few similar features, each one is designed for a certain target population, with specific services, compliance requirements, and staffing needs – and they are available at different intervention points in the system.

Federal funding for drug treatment programs is typically not duplicative of funding for drug courts. Only a small number of the Nation's drug courts are awarded Federal funding from either the Department of Justice (DOJ) or the Department of Health and Human Services (HHS). For those few courts that receive direct Federal funding, the drug court grant programs fund both treatment and administration services, such as client testing, sanctions, and case management. The HHS grants are designed to close treatment gaps for drug court participants, while the DOJ grants may fund case management and administrative costs, or planning costs. Outside of the relatively small number of Federally-supported drug courts, the majority of the over 2,600 drug courts operating in the U.S. are primarily supported by local governments. However, when drug court participants are referred to treatment, the partnering treatment providers do often rely on a combination of Federal, state, and local funding sources.

There are a variety of alternatives to incarceration needed to properly address substance-involved offenders in our criminal justice system. They are complementary and necessary to ensure the system is flexible and responsive to the broad spectrum of offenders' criminal behavior and needs. Given the intensive, extended intervention they provide to participants, drug courts are particularly well suited for higher-risk, higher-need substance dependent offenders at risk of failing in less intensive rehabilitation programs. Drug courts across the country are expanding their capacity to address this difficult population. Additionally, leading drug court professionals recommend that offenders receive risk-needs assessments that are considered in sentencing decisions to ensure the right type of offender

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is sentenced to the right disposition/services, which includes drug courts.[1] The Administration's *Strategy* supports these efforts as an important step in providing the intensive, proven interventions of drug courts to the more difficult, resource intensive populations.

While drug courts have over 20 years of proven effectiveness, other criminal justice interventions have shown great promise, and are achieving remarkable outcomes for different populations of drug-involved offenders. For example, Project HOPE (Hawaii Opportunity Probation with Enforcement) is a promising alternative to incarceration. By using swift and certain, yet modest, sanctions, it improved the probationers' compliance with the terms of their probation. An evaluation of the HOPE program found that compared to probationers in a control group, after one year the HOPE probationers were 55 percent less likely to have been arrested for a new crime, and 72 percent less likely to have used drugs.[2] Over the past year, several other jurisdictions around the country have begun implementation of similar models. The Bureau of Justice Assistance recently funded four communities as part of the Honest Opportunity Probation with Enforcement (HOPE) Project to create this testing and sanctions program in sites which vary widely in population, density and geographic location (Clackamas County, OR; Essex County, MA; Saline County, AR; and Tarrant County, TX). The National Institute of Justice (NIJ) will conduct an evaluation on the impact of HOPE in reducing probationer re-offending in different localities and the likely challenges of implementation. The Administration views such state- and locally-developed interventions, along with pre-trial programs, drug courts, and reentry support services, as part of a comprehensive national strategy that recognizes the varied public health, public safety, and resource needs of the communities that implement them.

Through ONDCP and NIJ, the Administration is also funding a grant to the University of Delaware to conduct a field experiment of the Delaware Department of Correction's Decide Your Time program. Based in part on HOPE program principles, Decide Your Time is for offenders serving intensive supervision sentences under probation or parole, though without the supervision of the judge. This evaluation is another important step in the Administration's effort to identify cost-efficient strategies that detect and effectively address drug-involved offenders.

HOPE and Decide Your Time are just two promising alternatives to incarceration that can play an important role in the continuum of interventions for this offender population. The FY 2012 DOJ appropriations bill provides $4 million for "smart probation" under the Second Chance Act. This funding will allow NIJ to conduct testing and sanctions-based probation programs and evaluate their effectiveness in reducing recidivism.

b. I know that HHS has a SAMHSA discretionary grant for drug courts, but couldn't drug courts also receive funding through the large HHS prevention grant? Have the other programs receiving these large sums of prevention grant money proven to be as effective as drug courts?

RESPONSE: The HHS/SAMHSA Substance Abuse Prevention and Treatment (SAPT) block grant, which includes a prevention set-aside, provides states with money to design and fund primary prevention programs, as well as treatment services, which could include treatment through drug court programs. The prevention portion of this grant is for primary prevention programs which are those directed at individuals who have not been determined to require treatment for substance abuse. Such

[1] Huddleston, West. "2010 NASC Conference: Sound Sentencing Policy: Balancing Justice and Dollars." National Association of Drug Court Professionals. [2010]. Available: http://nasc2010.alacourt.gov/Drug%20Courts.pdf
[2] National Institute of Justice. *In Brief: Hawaii Hope*. U.S. Department of Justice. [2010]. Available: http://www.ojp.usdoj.gov/nij/journals/266/hope.htm

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programs are aimed at educating and counseling individuals on substance abuse and creating positive environments and activities that reduce the risk of such abuse.

The SAPT grant allows each state to use up to 80 percent of the block grant to fund treatment services, and in the FY2010 grant applications, states reported allocating 73 percent (or $1.223 billion) to treatment. This portion of the block grant funds treatment for the general population of the state, though a portion may be used for services for drug-involved offenders. Drug court grants are competitively awarded and there is a robust outcomes reporting component to the process that has yielded a significant body of data. The SAPT block grant program administered by SAMHSA has different reporting requirements and cannot be directly compared to the drug court reporting data to determine how much of the SAPT funding supports drug court treatment services.

2. **I think we should take a closer look at the funding that is already available for drug treatment programs and make sure that it is going only to programs with evidence-based success. Could you please list all of the current sources of federal funding for drug treatment programs and the amounts from each that have gone to drug courts programs specifically over the last three years?**

RESPONSE: The Federal government funds over $8.9 billion annually on substance abuse treatment and treatment-related efforts. This overall figure includes funding for actual treatment services, programs that connect treatment services to those who need them, and research into treatment protocols and efficacy. The table below displays this funding by Agency/Department and Bureau for FY2009 through FY2011:

Substance Abuse Treatment Funding (in Millions)				
Agency	**Bureau**	**FY2009 Final**	**FY2010 Final**	**FY2011 Enacted**
Court Services and Offender Supervision Agency	Court Services and Offender Supervision Agency	$31.0	$31.9	$32.0
Department of Defense	Drug Interdiction and Counterdrug Activities	$9.8	$8.2	$7.4
Department of Health and Human Services	Centers of Medicare and Medicaid Services[1]	$4,746.5	$5,114.0	$5,173.2
Department of Health and Human Services	Health Resources and Services Administration	$15.9	$15.7	$20.1
Department of Health and Human Services	Indian Health Service	$87.1	$91.7	$91.6
Department of Health and Human Services	National Institute on Alcohol Abuse and Alcoholism	$13.2	$11.0	$11.0
Department of Health and Human Services	National Institute on Drug Abuse	$621.8	$665.6	$662.1
Department of Health and Human Services	National Institute on Drug Abuse - ARRA	$177.9	-	-
Department of Health and Human Services	Substance Abuse and Mental Health Services Administration	$1,915.3	$1,991.1	$2,005.0

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Department of Justice	Bureau of Prisons	$79.2	$87.6	$93.3
Department of Justice	Office of Justice Programs	$10.0	$30.0	$66.3
Department of Veterans Affairs	Veterans Health Administration	$392.8[2]	$563.8	$524.7
Federal Judiciary	Federal Judiciary	$231.6	$245.8	$246.8
Office of National Drug Control Policy	Office of National Drug Control Policy	$9.8	$10.0	$8.4

1 These are estimates of Federal Medicare and Medicaid expenditures for substance abuse treatment developed by ONDCP based on the following report: SAMHSA Spending Estimates: MHSA Spending Projections for 2004–2014.

2 FY 2009 VHA Treatment does not reflect the methodology change in FY 2010 to consider substance abuse disorders treated in a mental health setting.

Treatment for drug court participants is typically funded by a combination of Federal, state, and local resources. Drug court grants pay for the monitoring, sanctions, and case management of clients involved in the system and at times, some of the treatment cost. The programs that provide funding directly to drug courts are outlined in the table below. These programs are a subset of the larger $8.9 billion outlined above.

Agency/Program	Budget Authority (in Millions)		
	FY 2009 Final	FY 2010 Final	FY 2011 Enacted
Department of Justice			
Drug Courts	$50.0	$45.0	$37.3
Department of Health and Human Services			
Juvenile and Adult Problem Solving Courts	$23.9	$43.8	$42.7
Office of National Drug Control Policy			
National Drug Court Institute	$1.3	$1.0	$0.0

SAMHSA's Center for Substance Abuse Treatment discretionary grant program announcements for expanding substance abuse treatment programming for offender populations require applicants to use 'evidence based practices' in treating drug court clients and to justify the use of these practices.

3. **The FY 2012 budget request includes $57 million to DOJ to increase its support to "drug, mental health, and problem solving courts."**

   a. **Besides veterans courts, what are the other types of "problem solving courts" that qualify for this funding? Please list all of these.**

RESPONSE: The current DOJ discretionary grant program covers the family of drug and mental health courts, which includes Adult and Juvenile Drug Courts, Driving While Intoxicated (DWI)/Driving Under the Influence (DUI) Courts, Co-Occurring and Mental Health Courts, Veterans Treatment Courts, and Campus Drug Courts. Other courts currently eligible under the "problem solving" label include Reentry Courts focusing on substance abuse and Community Courts serving

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substance abusing clients. This eligibility is based upon a court program's combination of drug court principles with other court programs or dockets, although funding under this program must be used for only those program participants with substance abuse issues. These courts are required to adhere to the 10 key components of a drug court model, as outlined by DOJ and the National Association of Drug Court Professionals (NADCP).[3]

b. How much of DOJ's drug court funding goes to "problem solving courts" rather than general drug courts?

RESPONSE: Current DOJ funding for problem solving courts is part of the drug court and mental health court funding line items. While the Bureau of Justice Assistance supports technical assistance for all problem solving courts, no annual funding is set aside specifically for problem solving court development or implementation.

4. While we have seen consistent, evidence-based proof that drug courts directly decrease recidivism in participating individuals, I am unclear why problem solving courts are eligible for the same grants as drug courts without similarly convincing evidence that they are effective. The success of the drug court model should not justify spending on problem solving courts which are designed by the same model, yet are significantly different in scope and in objective.

a. Can you point to any studies showing that these "problem solving courts" are effective and successful in order to justify why these courts are eligible for all of the same grants as drug courts?

RESPONSE: Drug courts have been in existence for more than 20 years, and their effectiveness in reducing recidivism and lowering criminal justice costs is well documented. Both publicly- and privately-funded researchers have had sufficient time and access to drug courts to distill best practices and evaluate court outcomes and long-term efficacy. The National Institute of Justice (NIJ) has completed a number of research projects on the family of problem solving courts, including drug courts and domestic violence courts. NIJ also has several active grants for research on mental health and community courts. Results from these ongoing evaluation projects will provide further insight into problem solving court operations and outcomes.

The Center for Court Innovation (CCI) has published a comprehensive report that examines the universal attributes of problem solving courts, and examines the latest research available for several types of courts that fit into this rubric.[4] For example, the report finds that while research on mental health courts is less developed than that on adult drug courts, most of the studies that have been conducted find a reduction in reoffending among mentally ill offenders. For more mature mental health courts, evaluations find significant recidivism reductions. The report also cites research showing that mental health courts successfully link participants to treatment services, provide more services than participants were receiving prior to participation, and develop treatment plans based on individual needs.

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[3] Bureau of Justice Assistance. *Defining Drug Courts: The Key Components*. U.S. Department of Justice. [October 2004]. Available: http://www.ojp.usdoj.gov/BJA/grant/DrugCourts/DefiningDC.pdf

[4] Rachel Porter, Michael Rempel, and Adam Mansky. *What Makes a Court Problem-Solving? Universal Performance Indicators for Problem-Solving Justice*. Center for Court Innovation. [February 2010]. Available: http://www.courtinnovation.org/sites/default/files/What_Makes_A_Court_P_S.pdf

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The CCI report also highlights research on domestic violence courts and community courts, both of which have produced mixed results in re-arrest rates and rehabilitation. Research suggests that some courts have significant effects in some jurisdictions. However, it is clear that further research is needed around best practices and outcomes to more fully understand the potential benefits of these other problem solving models. Federal funding for such courts has the potential to generate this research, as grant recipients are responsible for rigorous operations and outcome data.

Senator Richard Blumenthal

1. **Please indicate, in your view, the top five best practices utilized by drug courts to save costs, reduce recidivism, and promote recovery.**

RESPONSE: With the rapid expansion of drug courts throughout the country, it is critical to ensure the standards for drug court implementation and operations are effectively disseminated to the field. We must also ensure that the over 2,600 courts currently in operation, along with those courts in the planning and implementation phases, are operating in accordance with the long-standing principles and current best practices to serve the appropriate client population and achieve the best outcomes. While ONDCP and others continuously look to improve the management of drug-involved offenders across the criminal justice system, drug courts consistently and effectively meet the public health and public safety needs of both the communities and the offenders.

NIJ recently published the Multisite Adult Drug Court Evaluation (MADCE)[5], a five-year longitudinal evaluation of the process, impact, and cost of adult drug court programs. Sampling nearly 1,800 drug courts from across the country, the MADCE identified several best practices designed to improve drug court operations and outcomes. These practices fall into several categories, including the role of the judge, eligibility requirements, the use of leverage, drug testing, and treatment. The evaluation's recommendations are detailed below. ONDCP agrees with these recommendations.

Role of the Judge: The evaluation found that the judge is the primary mechanism by which drug courts reduce substance use and crime. Judges exert considerable influence and authority over offenders; and, when used in a strategic manner, such influence can elicit positive change. With this in mind, MADCE recommends the following:

- **Hold frequent judicial status hearings:** Consider increasing the frequency of status hearings for "high risk" participants in particular.
- **Choose drug court judges carefully:** Drug courts will be best served if administrators intentionally assign judges to the drug court (if allowed to do so by the jurisdiction) who are committed to the model and interested in serving in this role.
- **Monitor "client satisfaction" with the judge:** Drug courts may want to begin monitoring how well their judge is doing in terms of participant perceptions. Courts could periodically conduct brief participant surveys assessing clients' attitudes about the judge.
- **Train judges:** Provide drug court judges with training on judicial demeanor and communicating effectively with program participants.

Drug Court Eligibility Requirements: The MADCE study found that drug courts are effective in reducing crime and drug use for nearly all subgroup populations, even when accounting for client

[5] National Institute of Justice. *Multisite Adult Drug Court Evaluation (MADCE)*. U.S. Department of Justice. [July 2011]. Available: http://www.nij.gov/topics/courts/drug-courts/madce.htm

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demographics, drug use, criminal histories, and mental health. In light of this finding, the MADCE suggests the following practices in determining participant eligibility:

- **Consider broadening drug court eligibility requirements:** Courts may want to design eligibility requirements that do not restrict individuals based on drugs of choice, criminal histories, or particular mental health issues. There is no evidence that "creaming"—including just those offenders in the program that one assumes will do the best in the program—will improve a drug court's outcomes.
- **Consider including violent offenders with substance use issues.** Many drug courts intentionally do not allow substance-using offenders with current charges that include violence or with violent criminal histories into their drug courts. However, the MADCE findings indicate that such individuals are helped equally as well as others in terms of reducing drug use, and are helped even more so than others in terms of reducing criminal behaviors.

Case Processing: Clients enter drug courts at many points in the criminal justice process, with some courts allowing clients to enter the program at more than one point in the process. MADCE found that these courts, with mixed entry points into the program, were less effective at preventing crime and substance use than courts with client that are either all pre-plea or all post-plea. Evaluators suggest that courts:

- **Only allow court participants to enter during one point in the criminal justice process:** Courts that allow clients to come in during multiple points in the criminal justice process should consider becoming courts that are either entirely diversion (pre-plea) programs or entirely post-adjudication programs.

Sanctions Policies and Practices: Predictable, swift and certain sanctions are generally considered to be the cornerstone of effective drug court operations. However, evaluators found that the most effective drug courts have a coordinated sanctioning strategy, but exercise some flexibility in sanctioning in a way that seems to matter to clients. Evaluators believe that clients may perceive this flexibility as more fair than strictly adherence to a schedule that does not account for particular individuals or circumstances. These findings suggest that courts should do the following:

- **Share a written schedule of sanctions with clients, but maintain some flexibility when following it:** Courts should have a logical set of sanctions in a written schedule that increases in severity with repeated noncompliance. While typically adhering to this schedule, the drug court team may consider allowances for times when individual circumstances or characteristics favor a different reaction from the court.

Leverage: Evaluators found that drug courts with high leverage prevent more crime than other courts. Such leverage involves regular monitoring contact with participants through case managers and judicial hearings, and explicit consequences for failure that clients are aware of and agree to by signing the drug court contract. Court participants who perceive the sentence for drug court failure as very severe had greater reductions in drug use. As a result, evaluators recommend the following:

- **Increase participants' perceptions of the court's leverage (i.e., authority to impose undesirable consequences in the event of program failure):** Courts can accomplish this by providing case management using drug court personnel, rather than treatment providers or other social service actors; providing regular judicial status hearings; deciding explicitly about what the consequences of failing drug court would be at the beginning of program participation and informing clients of these explicit consequences; and asking clients to sign contracts

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acknowledging the alternative sentence to ensure they understand the consequences of drug court failure.

Case Management: Drug court participants who receive more case management reported fewer crimes and fewer days of drug use. To this end, courts should:

- **Provide case management as frequently as possible, perhaps more than one contact with a case manager per week:** Whether or not the primary case manager is a drug court staff person or a treatment provider, if they are able to have contact with clients more frequently than one time per week, clients will likely have better outcomes.

2. **Please indicate, in your view, the top five best practices utilized by veterans treatment courts to save costs, reduce recidivism, and promote recovery.**

RESPONSE: Like drug courts, Veterans Treatment Courts (VTCs) combine rigorous treatment and personal accountability, with the goal of breaking the cycle of drug use and criminal behavior. However, in addition to the traditional partners in a drug court, VTCs incorporate the unique capabilities and services of the Department of Veterans Affairs healthcare networks, the Veterans Benefits Administration, State Departments of Veterans Affairs, volunteer veteran mentors, and veterans family support organizations. VTCs work with these Veterans-oriented agencies and organizations to connect court participants to the treatment and other support services for which they are eligible as veterans, including substance abuse and behavioral health treatment, medical benefits, home loans, and other services intended to help their reentry to the community.

In an effort to replicate the success of the first Veterans Treatment Courts, the Administration started an initiative to enable more communities seeking to establish VTCs. The Veterans Treatment Court Planning Initiative (VTCPI) constitutes the first VTC training program in the Nation. The VTCPI curriculum is a collaborative effort of the Bureau of Justice Assistance, the Department of Veterans Affairs, and the National Drug Court Institute (NDCI), and includes training around the ten key components of a VTC. These ten key components are listed below:[6]

1) **Veteran Treatment Court (VTC) integrates alcohol and drug treatment, mental health services along with justice system case processing:** VTC employs a coordinated response that includes the traditional partners found in drug and mental health treatment courts, with the addition of the Department of Veterans Affairs Health Care Network, support organizations for veterans and their families, as well as volunteer veteran mentors.

2) **Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting the defendant's due process rights:** To facilitate the veteran's progress in treatment, the prosecutor and defense counsel work together as a team. Once a veteran is accepted into the treatment court program, the team's focus is on the veteran's recovery and law-abiding behavior, not on the merits of the pending case.

[6] Buffalo Veteran's Court. *Buffalo Veteran's Court: Mentoring and Veterans Hospital Program Policy and Procedure Manual.* National Association of Drug Court Professionals. [date unknown]. Available: http://www.nadcp.org/sites/default/files/nadcp/Buffalo%20policy%20and%20procedure%20manual.pdf

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3) **Eligible defendants are identified early and promptly placed in the VTC program:** Early identification of veterans entering the criminal justice system is a vital part of the process of placement in the VTC.

4) **The VTC provides access to a continuum of alcohol, drug, mental health, and other related treatment and rehabilitation services:** While primarily concerned with criminal activity, alcohol and/or drug use, and mental illness, the VTC team also considers co-occurring issues such as medical problems, transmittable diseases, homelessness, basic educational deficiencies, unemployment, poor job preparation, spouse/family troubles, and the ongoing effects of war time trauma. Veteran peer mentors are essential and increase the likelihood of treatment compliance.

5) **Abstinence is monitored by frequent alcohol and other drug testing:** Frequent, court-ordered alcohol and other drug testing is the most objective and efficient way to establish a framework for accountability and to gauge each defendant's progress.

6) **A coordinated strategy governs VTC responses to defendants' compliance:** A veteran's progress through the treatment court is measured by his or her compliance with the treatment regimen. The VTC establishes a coordinated strategy, including a continuum of graduated responses, to continuing drug use and other noncompliant behavior.

7) **Ongoing judicial interaction with each defendant is essential:** The judge is the leader of the VTC team. Ongoing and active judicial supervision communicates to veterans that someone in authority cares about them and is closely watching what they do.

8) **Monitoring and evaluation measures the achievement of program goals and gauges effectiveness:** Program monitoring provides oversight and measurements of the program's performance against its stated goals and objectives, and lessons learned may then be used to modify the program.

9) **Continuing interdisciplinary education promotes effective VTC planning, implementation, and operations:** All Veterans Treatment Court staff should be involved in education and training. Interdisciplinary education exposes criminal justice officials to veteran treatment issues, and Veteran Administration, veteran volunteer mentors, and treatment staff to criminal justice issues.

10) **Forging partnerships among VTC, the Department of Veterans Affairs, public agencies, and community-based organizations generates local support and enhances the court's effectiveness:** VTC is well suited to develop broad coalitions among private and public stakeholders, and expands the continuum of services available to VTC participants.

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SUBMISSIONS FOR THE RECORD

Daniel N. Abrahamson

Director of Legal Affairs

Drug Policy Alliance

Senate Judiciary Committee
Subcommittee on Crime and Terrorism

Tuesday, July 19, 2011

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

I am the Director of Legal Affairs for the Drug Policy Alliance, the nation's leading organization advocating alternatives to the failed war on drugs. I want to thank the Subcommittee for inviting me to submit this written testimony on drug courts and alternatives to incarceration for drug-using people within the criminal justice system in connection with its hearing on Drug and Veterans Treatment Courts.

The Drug Policy Alliance recognizes that drug courts were developed in an attempt to develop more humane and effective interventions in the lives of people struggling with drug problems. Moreover, the Drug Policy Alliance readily acknowledges that drug courts have undoubtedly helped many people find their way to a more stable and productive life outside of the criminal justice system.

But the evidence to date is clear: while drug courts will help some, many more will continue to be arrested and incarcerated for their drug use. Accordingly, the Drug Policy Alliance believes that it is imperative that policy makers expand the discussion of sensible drug policy beyond simply whether or how much to fund drug courts. Indeed, it is critical that policy makers understand the several critical shortcomings of the majority of the nation's drug courts as underscored by government-funded research conducted to date – shortcomings frequently glossed over by drug court advocates.

Only by understanding these shortcomings can policy makers both give drug courts their proper due – as just one type of reform in a wide spectrum of needed drug policy reforms – and influence drug courts modify their policies and practices to comport with the considered recommendations of independent researchers and core principles of evidence-based substance abuse treatment.

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My testimony draws upon the recent publication by the Drug Policy Alliance of *Drug Courts are Not the Answer: Toward a Health-Centered Approach to Drug Use* (www.drugpolicy.org/drugcourts), as well as the publication by the independent Justice Policy Institute of *Addicted to Courts: How a Growing Dependence on Drug Courts Impacts People and Communities* (http://www.justicepolicy.org/drugcourts). These carefully researched and exhaustively sourced reports provide comprehensive reviews of the available literature on drug courts and raise serious concerns that question fundamental claims made by drug court proponents.

Drug Courts are Perpetuating America's Failed War on Drugs.

It is fitting that this hearing on drug courts take place on the 40th Anniversary of America's war on drugs – a sober milestone that occasions reflection on where we have been and where we should go with respect to our nation's drug laws and policies.

In 2010, President Obama signed into law legislation that promises to make drug treatment widely accessible within the mainstream health care system. This high-level political acknowledgement that drug use is fundamentally a health issue did not occur in a vacuum, but builds on the passage of the federal *Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008* and on the passage of similar bills in many states. The political development follows a social one, with national surveys revealing that a large majority of Americans believe that drug use is a health issue.

Nevertheless, U.S. policy remains dominated by a punitive approach to drug use. While many regard drug courts to be an alternative to this approach, drug courts, in fact, are symptomatic of this punitive approach.

As a whole, drug courts have done little to mitigate – and in several respects may aggravate – the harms associated with the mass-criminalization of people for illicit drug use and the failure to provide adequate and effective treatment to those who need and want it.

The U.S. drug court movement has helped create the myth that U.S. drug policy is compassionate and that help is available within the criminal justice system. The data, however, belie this compassion myth. While drug courts have proliferated, the number of people incarcerated for drug possession has increased and funding for treatment in the community has declined dramatically. Roughly 55,000 people enter the more than 2,100 drug courts in the U.S. annually,[i] representing a tiny fraction of the 1.8 million people arrested on drug charges.[ii] With drug court completion rates ranging widely from 30 percent to 70 percent,[iii] somewhere between 16,500 and 38,500 will graduate. The rest are deemed to have "failed." Even if drug courts were exponentially expanded to cover all people arrested for drug possession, between 500,000 and 1 million people would still be ejected from a drug court and sentenced conventionally every year.[iv]

Drug courts, in short, are not a viable solution to the problems created by our nation's drug arrest, prosecution and sentencing practices. What is more, most drug courts, as currently constituted, are not actually an alternative to incarceration, since they incarcerate participants routinely and unnecessarily. And most drug courts fail to hold up their end of the bargain to provide quality treatment to their participants, especially those addicted to opiates.

Drug Courts Have Not Demonstrated Cost Savings, Reduced Incarceration, or Improved Public Safety

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There is no doubt that drug courts were created and continue to be run with unflagging dedication and concern for the health and wellbeing of individuals and communities. Nor is there any question that drug court judges and their staffs have helped change, even save, many lives. Indeed, drug courts suffer no shortage of individual success stories.

The issue, however, is not whether drug courts do some good – they undoubtedly do – but rather whether the proliferation and expansion of drug courts is good social policy as compared with other available approaches and interventions to address drug use. It is critical to ask, in other words, what impacts have drug courts had on mass drug arrests, incarceration and associated costs; and how drug courts compare with other available policy options, particularly treatment outside of the criminal justice system.

The published evidence to date indicates that most drug courts produce more costs than they do benefits at a policy level. Two common practices of drug courts are partially responsible for this relatively poor performance: the "cherry picking" of drug court participants and the imposition of short-term jail sanctions for drug relapse. Both practices lack evidentiary support and are deeply problematic

Drug courts often "cherry pick" people expected to do well; many people end up in a drug court because they are offered the option of jail or treatment for a petty drug law violation, including marijuana. As a result, drug courts do not typically divert people from lengthy prison terms.

Because the majority of drug courts focus their substantial resources on persons who commit low-level offenses, even positive results for individual participants translate into little public safety benefit to the community. Treatment in the community, whether voluntary or probation-supervised, often produces better results at much less cost.

Drug courts also leave many people worse off for trying. The vast majority of drug courts rely heavily upon the imposition of jail sanctions to address drug use relapse of participants, often evidenced by failed drug tests, missed appointments, or "knucklehead" behavior. Drug use relapse, though, is a predictable and normal part of drug treatment and incarcerating people for relapse flies in the face of public health principles. Drug courts' widespread use of jail sanctions means that some participants end up serving *more time* behind bars than if they had not entered drug court. And some participants deemed "failures" may actually face longer sentences than those who did not enter drug court in the first place (often because they lost the opportunity to plead to a lesser charge). As a result, many drug courts end up perpetuating the criminalization of addiction and undermining the core principal that addiction is a medical condition.

As the California Society of Addiction Medicine notes, not a single study has shown that incarceration sanctions improve substance use treatment outcomes.[v] (Or, as UCLA researchers put it, "the benefits of flash incarceration are not well established."[vi]). Research also suggests no benefit of such jail sanctions in reducing re-arrests. According to one major study out of the Washington State Institute for Public Policy, adult drug courts were shown to reduce recidivism by around 8.7 percent – significantly less than reductions recorded in probation-supervised treatment programs (18 percent) or similar to drug treatment in the community (8.3 percent), neither of which use incarceration as a sanction for relapse.[vii]

California's experience also calls these sanctions into question. Since 2001, that state's landmark probation-supervised treatment program, Proposition 36, which does not allow incarceration sanctions, has produced completion rates similar to those of drug courts. Prop 36 remains the most significant piece of sentencing reform – in terms of the number of people diverted from prison and dollars saved – since the repeal of alcohol Prohibition in 1933.

Despite this evidence, the power of drug court judges to order the incarceration of people who do not abstain from drug use is thought by many drug court proponents to be a critical component of drug court success. Incarceration sanctions are standard in drug courts and are even recommended by the National Association

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of Drug Court Professionals.[viii] In at least some jurisdictions, incarceration is the single most widely utilized sanction despite the range of sanctions available to judges.[ix] Each court determines its own policies for who is incarcerated, for what reason, and for how long. For drug court participants, this sanction can be severe.

In drug court, incarceration for a drug relapse or a positive drug test often interrupts the treatment process, disrupts a person's attempts to maintain employment and stable social bonds, and reinforces the notion that the person is deviant. The pain, deprivation and atypical, dehumanizing routines that people experience while incarcerated can create long-term negative consequences.[x] Incarceration sanctions have been associated with a higher likelihood of re-arrest and a lower probability of program completion.[xi] A person's sense of autonomy and motivation – integral to progress in treatment – can be undermined if they feel they are sanctioned unfairly.[xii] Moreover, for days or weeks at a time, an incarceration sanction places a person who may be struggling with drugs into a stressful, violent and humiliating environment, where drugs are often available (and clean syringes almost never), where sexual violence is common (and condoms rare), where HIV, hepatitis C, tuberculosis and other communicable diseases are prevalent, where medical care is often substandard, and where drug treatment is largely nonexistent.

As the National Association of Counties observes, people with mental illness – at least one in five of the prison population[xiii] – are severely traumatized by incarceration.[xiv] Although only 30 percent of drug courts knowingly accept people with co-occurring mental health and substance use disorders,[xv] the imposition of incarceration sanctions on these – and on undiagnosed – individuals is counterproductive and creates lasting harm.

Most Drug Courts Provide Inadequate Treatment Options

Drug court participants often are disadvantaged by inadequate treatment options. Drug courts typically allow program staff to make treatment decisions and offer limited availability to quality treatment, including narcotic replacement therapies such as methadone and buprenorphine.

Most drug courts, in fact, deny opioid-dependent individuals access to what might be the most effective treatment for them: narcotic replacement therapies including methadone and buprenorphine. Then those same drug courts incarcerate them for failing to do well in the absence of appropriate treatment. This widespread practice is unconscionable.

Instead of emphasizing quality treatment programs tailored to the individual needs of participants, and relying on the nuanced assessments of treatment providers, drug courts often focus on drug test results as the main, if not sole, factor for determining participants' progress. When used thus, drug tests are transformed from a tool to determine how well a treatment regimen is working into a stand-alone measure of success or failure. The over-emphasis of drug test results by drug courts can often lead to negative consequences for participants, including the improper imposition of jail sanctions and lower rates of full-time employment.[xvi] Of particular concern, drug testing can trigger a cat-and-mouse game where the participant's goal is to beat the test. For example, some youth who are subjected to frequent drug testing in juvenile drug courts have reported switching from using drugs that are frequently and easily tested for, such as marijuana, to drugs that metabolize more quickly and so are more difficult to detect, such as cocaine, methamphetamine, or opiates such as heroin.[xvii]

Short-Term Reforms Urgently Needed

As long as drug courts aim to "treat" addiction within the criminal justice system they should adopt more health-oriented practices, offer proven health interventions and focus their treatment resources on persons who would otherwise face lengthy terms of incarceration.

Based upon available drug court research, the Drug Policy Alliance urges policymakers to help improve drug courts by instructing drug courts to:

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- Focus drug court resources on more seriously criminally-involved people to ensure that drug court is actually a diversion from incarceration and not more restrictive than the conventional sentence;[xviii]
- Use a pre-plea rather than a post-plea model;[xix]
- Adopt objective admission/eligibility criteria and reduce the prosecutor's role as gate-keeper to treatment;[xx]
- Ensure due process protections and enhance the role of defense counsel;[xxi]
- Empower treatment professionals in decision-making;
- Improve data collection and rigor of research;[xxii]
- Use drug tests as a treatment tool, not as punishment;
- Prohibit the use of jail sanctions for drug relapse;
- Adopt a wider range of health measures – not simply abstinence – into program goals;
- Employ evidence-based practices, such as opioid maintenance treatments;
- Ensure that practices are more health-oriented than punitive; and
- Ensure that punishment for "failing" the program is not worse than the original penalty for the offense.

While these changes would help improve the functioning, transparency and accountability of drug courts, policymakers must also ask whether, *as long as drug use is criminalized*, probation or parole departments could oversee low-level offenders in community-based treatment in a less costly and equally effective way than drug courts.

The Latest MADCE Research Underscores the Need for Drug Court Reform

Importantly, the National Institute of Justice's Multi-Site Adult Drug Court Evaluation (MADCE) supports the conclusions and recommendations advanced in my testimony and the published reports of the Drug Policy Alliance and Justice Policy Institute.[xxiii] In the words of the MADCE authors, drug courts "return[] a net benefit of $2 for every $1 of cost, but these findings *are not statistically significant* . . . . [and are] findings driven by a reduction in the most serious offending by relatively few individuals, not by a widespread reduction of serious offending." (MADCE Exec Summ at p. 7). The MADCE researchers partly attribute the questionable cost savings yielded by drug courts to their "cherry picking" practices and other exclusionary policies, noting that "widespread drug court policies to restrict eligibility to a narrow subpopulation may be counterproductive." (MADCE Exec Summ at p. 6). The Executive Summary of the final MADCE report makes the following two critical observations:

(1) The greatest contributions to reduced crime, drug use and fiscal savings that drug courts make are when drug courts address the more seriously addicted persons who commit the more serious crimes, including violent crimes;

2) The severity of sanctions, per se, has no apparent effect on outcomes of drug court participants, or, put differently, there is no evidence that jail sanctions work.

Toward a Public Health Approach to Drug Use

Available research makes clear that most drug courts as currently constituted (a) squander their substantial resources addressing a class of offenders least in need of drug court assistance, (b) refuse to address the population of more serious and more seriously addicted offenders who would benefit most from drug court programs, (c) offer substandard drug treatment, particularly for opioid-dependent persons, and (d) impose

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unnecessary punitive jail sanctions in response to behaviors of addiction. Thus, in the short term, drug courts, to be effective, need to undertake the reforms I discuss above.

But even in the short term, much less the medium or long terms, drug courts cannot solve, or even meaningfully mitigate our nation's flawed drug laws and policies. The fact that 1.4 million Americans are arrested every year for possession of drugs for personal use is a problem beyond the ken of drug courts.

What is needed is not more emphasis on drug courts, but a paradigm shift towards health. Policymakers must work to end the criminalization of drug use, shift investments into public health programs that include harm reduction and treatment, and set health-oriented measures of success that focus on reducing the cumulative death, disease, crime and suffering associated with both drug use and drug prohibition. Our nation's drug policies should be evaluated – and funded – according to their ability to meet these goals.

Thank you for the opportunity to submit this written testimony.

Endnotes

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[xiii] Beck, Allen J., and Laura M. Maruschak, *Mental Health Treatment in State Prisons, 2000*, Special Report, NCJ 188215, Washington D.C.: Department of Justice, Bureau of Justice Statistics, 2001: 1-8; Haney, "The Psychological Impact of Incarceration" estimates that this figure may be more than 20 percent.
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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"

Statement for the Record of Senator Christopher Coons
July 19, 2010

Mr. Chairman, I thank you for calling this important hearing.

Since their establishment in the late 1980s and early 1990s, drug courts for repeat offenders and special courts for veterans suffering from substance abuse problems have been utilized by nearly half of America's counties. Intended both to reduce courts' caseload and to help provide more effective treatment to non-violent drug offenders who would otherwise face incarceration, these drug courts have handled the cases of an estimated 120,000 offenders over the past two decades.

Drug and veterans courts are good public policy and have a strong, positive impact on our communities. They are a cost effective way to reduce recidivism and crime, and they minimize the costs of crime on the offenders themselves by helping them to address the root causes of criminal activity.

Delaware established its first local drug court program in 1994 and three years later it expanded into the nation's first statewide program. Delaware's program allows eligible offenders to enter diversion programs to avoid the costs and stigma of criminal prosecution while providing offenders with the resources they need to combat their drug problems and subsequently rejoin society as productive members.

This past February, Delaware launched its veterans court program, which was spearheaded by Kent County Superior Court Judge William L. Witham, Jr., and Delaware Attorney General Beau Biden. By its August session, the Delaware Veterans Court will have had 20 men and women appear, and so far not one of the offenders has violated his or her probation. Of those who have come through the court, half are Vietnam-era veterans and the other half are from first Gulf War, and Operations Enduring Freedom and Iraqi Freedom.

I am particularly proud of the leadership role that Attorney General Biden and Judge William Witham have played in bringing a veterans court to our state. At present, approximately 17.5 percent of Delaware's National Guard is deployed overseas. When these brave men and women return home, we owe it to them to recognize that their service may give them not just physical scars, but mental ones. Thanks to Delaware's veteran's court, veterans who find themselves embroiled in the criminal justice system will have better access to treatment that recognizes their sacrifice to our nation.

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Statement of Jeanne E. LaFazia
Chief Judge, Rhode Island District Court
Before the Subcommittee on Crime and Terrorism
Committee on the Judiciary
United States Senate
Entitled, "Drug and Veterans Treatment Courts: Seeking Cost Effective Solutions for Protecting Public Safety and Reducing Recidivism"

Good morning Chairman Whitehouse, Ranking Member Kyl, and other distinguished members of this Senate Judiciary Subcommittee. It is an honor and a privilege to meet with you today. Thank you for affording me this opportunity to appear before you to discuss something which I feel so passionately about: the expansion of Veterans' Courts throughout this country and the implementation of a statewide Veterans' Court Calendar in Rhode Island District Court.

I would like to first provide you with some background regarding the need for these specialty courts, as well as information relating to the implementation of Rhode Island's pilot program, which is currently operating in the Rhode Island District Court for Kent County, one of four counties in Rhode Island. Our goal is to expand this pilot program in both scope and territory. Ultimately we hope to create a statewide Veterans' Calendar which can address all judicial issues, both civil and criminal, relating to veterans and active military.

Immediately prior to becoming Chief of the Rhode Island District Court, I spent almost three years on the arraignment calendar in Kent County. I quickly began to notice that both veterans and active members of the military were appearing in increasing numbers. Sometimes these individuals were immediately recognizable by their stance and occasionally even by a uniform. Yet other times, they would actually hide their status and attempt to quickly resolve the charge without further attention. I was also hearing from victims in domestic matters who would tell me that the defendant's behavior would not have occurred prior to his/her deployment or prior to doing multiple tours of duty, a phenomenon which we are seeing more of in this war than ever before.

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It became apparent that some of these men and women were returning from combat with injuries that were very real, but which were not visible to the naked eye. I also realized that a sentence imposed on a member of the military could have a harsher result than the identical sentence imposed on a private citizen. For example, Rhode Island judges sometimes offer a "filing" on a first offense. The intent of a filing is to give the defendant a break – a chance to eventually start over with a clean slate. On domestic charges, however, the court also imposes a No Contact Order, which under federal law prohibits that defendant from carrying a firearm. There is an exception to this prohibition for members of law enforcement, but no such exception exists for the military. Active military personnel are required to be qualified to carry a firearm, so this military defendant, because of the No Contact Order, stands to lose his/her job, their future and perhaps their benefits – hardly what we intended when we sentenced that defendant to a filing.

Recent statistics indicate that close to 1.7 million Americans have served in Iraq or Afghanistan. While this is a very significant number, nationwide this presents as less than one-half of 1% of our national population. Rhode Island, however, has given more than its fair share to those statistics. The call back of Rhode Island's National Guard is the 2nd highest in the entire United States. As of September 30, 2010 the number of veterans living in Rhode Island who have served in the Gulf Wars is 3 times the national per capita average.

Most of these veterans, amazingly, return home and successfully reintegrate into the fabric of society. But what about that small but increasing percentage of individuals that are not able to successfully do so? Studies now indicate that 1 in 5 returning military will exhibit some symptoms of mental illness. Of course, not all of those individuals will become involved in the criminal justice system.

"No soldier left behind" is a code which Americans have always been proud to live by. As Americans, we do not desert our soldiers on the battlefield – shouldn't this also be true on the home front?

Do we not owe our returning soldiers a similar duty when they come home injured or affected in a way that has altered who they are and what they do? – Especially if that injury causes or fuels behavior that puts them into our criminal justice system.

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In answering this question, we must remember that these are men and women who volunteered; they were not drafted, but they volunteered for this service. They put on a uniform and they followed the American flag into combat in order to fight for and protect the fundamental rights and privileges which we as Americans enjoy every single day.

Most people would emphatically answer yes, we do have some duty. But what does that mean? How does it translate to the criminal justice system and to the role of the judiciary in these cases?

As an initial response to these questions, I am delighted to advise that the Rhode Island District Court is a partner with BHDDH (Department of Behavioral Healthcare, Developmental Disabilities and Hospitals) and the Kent Center for Mental Health in implementing one of the 1st specific diversion programs in this region.

This pilot program, which is funded through a SAMSAH grant, is titled "The RI Jail Diversion and Trauma Recovery Program with Preference To Veterans." While this grant includes non-veterans who are diagnosed with trauma-related disorders, I am here today, focusing on the veterans' aspect of this program which is intended to divert or direct veterans with PTSD to a system of integrated treatment and wrap around recovery support services. This grant has allowed Rhode Island to begin this important process. But it is only a beginning. This pilot program is currently limited to criminal cases pending in Kent County District Court.

In January 2011, we introduced the program to all of the Kent County police prosecutors, city solicitors and defense attorneys. We began accepting referrals in March of 2011. Prior thereto, I formed a Task Force to discuss the nuts and bolts of the Court process, including, of course, a determination of which charges would be accepted. The Task Force, which I chaired, was comprised of representatives from: our Attorney General's Office, the Public Defender's Office, the Board of City Solicitors, Probation and Parole (Department of Corrections), the Rhode Island National Guard, the Veterans Administration and the Rhode Island District Court Pretrial Services Unit. The discussions were sometimes heated and many of these issues were quite complex.

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When we first began publicly discussing this initiative, I immediately received a call from the press. The reporter stated that she had heard that we were treating veterans "differently from all other defendants". That is not a question that any Chief Judge wants to hear from the press! It also, of course, is not accurate nor is it the intent of any of these programs.

So, let me now respond to the earlier question of "duty" by first emphasizing what this program does NOT mean:

- It does not mean that an individual will not be held accountable for their actions simply because of military status or even medical diagnosis alone. This is not a free pass.

Accountability is essential to a strong and safe society; it is also essential to successful recovery. This program is in no way intended to send any message to the contrary. Program compliance might result in a full dismissal of charges; or instead it could result simply in a reduction of charges or the imposition of a lesser sentence.

What this duty does mean, however, is that we need to increase our focus on this group of people. We need to recognize them. We need to implement programs which will allow us to address the unique challenges which veterans face and which will allow us to provide them with the tools and insight needed to become whole again – to reintegrate successfully into society. Veterans' Courts are a "problem-solving courts".

I am passionate about this project, but it does not come without significant challenges and none of us take our responsibilities lightly.

As we began to develop criteria for the program, a number of questions leapt out at us. For example, should we include alcohol related motor vehicle charges, such as Driving Under the Influence (DUI)? As Chief Judge, I had concerns, and along with the prosecutors on my Task Force, I was initially inclined to exclude all drunk driving related charges. After all, they do present a threat to public safety; penalties in Rhode Island are statutorily enhanced for multiple offenses; and last, but not least, these alcohol related driving charges are particularly ripe for public scrutiny and criticism. Excluding them from this diversion program would certainly have been the safe choice.

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After much discussion and further reflection, however, I also came to realize that sometimes, these DUI charges may rest at the very heart of what we are trying to do with this grant and with the establishment of Veterans' Courts across the country. If this behavior occurred as a result of service related trauma, isn't that exactly what this program is about?

Ultimately, we all realized that each case needs to be taken individually, with consideration to the history and to the facts and with the application of standardized diagnostic protocol provided by experts in this field. Every referral, including charges for Driving Under the Influence as well as Domestic-related charges, needs to be reviewed on a case by case basis to determine if it should be accepted into the program.

While this allows for some subjectivity, we all recognize the need for objective criteria as we make these determinations. This pilot program has been very exciting and we are already doing great things in Rhode Island. Our police departments in Kent County have been very supportive. They have all participated in statewide "First Responder Programs", which train police officers to recognize mental health issues and to diffuse dangerous situations. We are asking those program directors to add a session on training which will be specific to assist in recognizing veteran-related issues. We have had tremendous support from our community mental health providers, as well as from other State departments. The Rhode Island National Guard has been actively involved and fully supportive of this program and its goals.

As Chief Judge of the Rhode Island District Court, it is my dream and my goal to establish a state-wide Veterans' Court in Rhode Island in the near future.

The term "Veterans' Court" is a popular buzzword today, but the term carries some misperception as to what it entails. Last year, former Congressman Kennedy created a "Roundtable", which specifically brought together many Rhode Island leaders in order to address issues related to the implementation of Veterans' Courts throughout the country. I was delighted that there was not only recognition of the needs and challenges faced by our returning military, but also of the fact that a Veterans' Court, despite its name, does not necessitate creating a new stand-alone court. The creation of designated calendars within each county of the Rhode Island District Court provides the best and most sustainable solution. It is important to note

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that these problems do not appear only on our criminal calendars. We see these individuals on our District Court eviction calendars with extensive housing issues. We see them on civil, debt-related matters. Many of the people who we currently see do not qualify for the present Kent County Trauma Pilot Program. Most, however, would be eligible for referral to a statewide general Veterans' Calendar. I am confident that with a statewide court, more veterans would be willing to identify themselves and to participate in these programs. With statewide recognition, these individuals would feel less stigmatized. The knowledge that they are not alone with their problems, would promote confidence thereby allowing for more successful participation. These individuals would no longer feel isolated by a sense of shame, which is often self-imposed.

The Rhode Island District Court is in a unique position to take on the responsibilities of a statewide Veterans Court. Our District Court is the threshold to the Rhode Island criminal justice system. Virtually everyone in Rhode Island, who is charged with a crime, whether a felony or a misdemeanor, enters the judicial system through the doors of the Rhode Island District Court. All arraignments are performed in the District Court, where we set bail and the conditions of bail. The District Court monitors the compliance of those conditions, including alcohol, substance and mental health counseling. The District Court schedules the pretrials and trials of all misdemeanors. We average in excess of 50,000 new criminal cases each year, most of which are misdemeanors. Bail on felonies is initially monitored by District Court until the Superior Court arraignment, which takes place six to nine months after the initial arraignment in District Court.

The Pretrial Services Unit of the Rhode Island District Court was originally created in 1998 and is now being expanded into all four counties. We have court clinicians available in each county courthouse. The Rhode Island District Court has collaborative agreements in place with most of the major mental health community providers. We have an extensive and continually expanding network for referrals on substance, alcohol and other behavioral issues. We are now able to do even more with the VA on statutorily mandated counseling. The Rhode Island Legislature passed law this year which allows the Court to order a veteran into counseling through a VA approved program rather than requiring DUI School or a traditional Batterers Intervention Program, two programs which may not have insight into veterans' behavior. Governor Chafee quickly signed this into law.

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This pilot program, while relatively new, has been tremendously successful. We have seen remarkable results despite a minimal budget. Rhode Island is indeed in a unique position, in part because of its small size. The collaboration between the various stakeholders was strong and successful even before the implementation of this particular grant. We are all committed to the success of these veteran-related projects.

The needs of our returning military are growing. As we anticipate future draw-downs, the number of returning personnel who will require these services will undoubtedly grow substantially. The expansion of this program will allow us to fully address the various needs of these individuals and will allow us to include all individuals who enter the judicial system because of a service-related injury.

Rhode Island District Court is ready and positioned to take on the responsibilities of such a full time statewide veterans calendar. We have the network and the resources to make it not only successful but also sustainable. I hope that we will see this in the relatively near future. For this, however, we continue to look to you, our leaders in Washington. We do need your help and we do need your support. We can not do this without you.

I am very excited and very proud to have the Rhode Island District Court play a leading role in this project. I thank you again for the opportunity to address these important issues with you today. I welcome any questions which you may have.

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STATE OF MINNESOTA
FOURTH JUDICIAL DISTRICT COURT

JOHN L. HOLAHAN
JUDGE
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July 18, 2011

U.S. Senator Al Franken
60 Plato Boulevard East, Suite 220
St. Paul, MN 55107

Dear Senator Franken:

Thank you for giving me the opportunity to comment on the benefits of Drug Courts. I am the Presiding Judge of the Fourth Judicial District Drug Court and DWI Court. The Fourth Judicial District covers Hennepin County which contains over 50 municipalities, including the City of Minneapolis.

Our Drug Court is a voluntary 12-month program available after a defendant enters a guilty plea. It is an alternative to traditional criminal prosecution designed for chemically dependent offenders who want to change their lifestyle by maintaining a sober, crime-free existence.

Drug Court is a treatment-based court. Participants must make regular appearances before the drug court judge. The participants are subject to intensive probation supervision with input from a multi-disciplinary team of professionals led by the judge. In addition to long term treatment, participants also receive breath and urine testing, individual and group counseling, and attend community self-help support meetings.

Initially participants are required to appear before me every other week for a judicial review. During that review they bring me up to date on how they are doing and we receive a report from the treatment provider and the probation officer. Participants receive positive reinforcement for doing well and receive immediate graduated sanctions for not living up to their obligations.

More research has been published on the effects of adult drugs courts than all other criminal justice programs combined. The scientific community has put drug courts under its microscope and concluded that drug courts work better than jail or prison, better than probation alone, and better than treatment alone. These studies have shown that drug courts reduce crime by up to 45 percent, reduce drug use by more than 35 percent, and improve family cohesion and reduce

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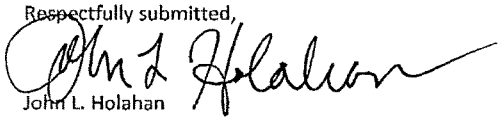
family conflict. Drug courts return an average of $3.36 to the justice system for every one dollar invested and up to $12.00 in community impacts for every dollar invested.

In conclusion, let me share with you the comments I received from the parents of a grateful participant upon her graduation from one of our problem-solving courts:

> "Thanks to you and the Hennepin County court system, we have our daughter back and she is conquering her addiction to alcohol and drugs...she with your guidance and the help of a very great probation officer, has attend every court session and sees what happens if you screw up. Your court shows those are required to attend the consequences of their actions and truly holds them accountable....thanks again for giving our daughter a chance with your program. Without a program like yours a lot of young adults would not get a second chance and waste a lot of time in jail."

Respectfully submitted,



John L. Holahan
Judge of District Court

JLH:rn

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

July 19, 2011

Testimony of
Douglas B. Marlowe, J.D., Ph.D.
Chief of Science, Law & Policy
National Association of Drug Court Professionals

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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.

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Six meta-analyses[i] 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 years[2] 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 released[5] 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.

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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.

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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 abuse[11] 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]

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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,

Douglas B. Marlowe, J.D., Ph.D.
Chief of Science, Law & Policy
National Association of Drug Court Professionals

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CONGRESSIONAL TESTIMONY

Statement of
David B. Muhlhausen, Ph.D.
Research Fellow in Empirical Policy Analysis
Center for Data Analysis
The Heritage Foundation

Before the Committee on the Judiciary, Subcommittee on Crime and Terrorism of the United States Senate

Delivered July 19, 2011

"Drug and Veterans Treatment Courts: Budget Restraint and More Evaluations of Effectiveness Needed"

Introduction

My name is David Muhlhausen. I am Research Fellow in Empirical Policy Analysis in the Center for Data Analysis at The Heritage Foundation. I thank Chairman Sheldon Whitehouse, Ranking Member Jon Kyl, and the rest of the committee for the opportunity to testify today on Drug and Veterans Treatment Courts. The views I express in this testimony are my own and should not be construed as representing any official position of The Heritage Foundation.

My testimony focuses on the following points:

- As a state and local policy, drug courts represent a policy alternative to help rehabilitate non-violent offenders with drug addiction problems;
- With out-of-control spending and surging public debt threatening our nation's stability, increased federal funding of state and local drug courts should not be a priority;
- Instead of using Drug Court Discretionary Grants to subsidize the routine operations of state and local drug courts, Congress should consider reforming the program to focus entirely on reimbursing state and local drug courts that serve recently returned combat veterans;

- More scientifically rigorous experimental evaluation of drug courts are needed to determine their effectiveness; and
- While under some circumstances in particular locations, drug courts may be more effective than traditional court responses, Congress should carefully review claims of effectiveness coming from advocates of increased federal spending on drug courts.

Drug Courts

As a state and local policy, drug courts represent a policy alternative to help rehabilitate non-violent offenders with drug addiction problems. In 2010, the National Institute of Justice counted 2,559 drug courts operating within the United States.[1] The majority of these drug courts serve adults (1,372) and juveniles (483). Of particular importance to today's topic, there are 31 drug courts specifically serving veterans.

Drug courts have become a good alternative for addressing non-violent drug offenders. Typically, drug courts process offenders through either diversion or postadjudication programs. Diversionary programs allow for substance abusing defendants to be diverted from the traditional court system. The diversion allows defendants to avoid traditional corrections interventions in exchange for possibility of dismissed charges or reduced sentences for successful completion of treatment. Postadjudication programs offer convicted offenders deferred or suspended sentences to those that successfully complete program requirements.

Drug court proceedings are overseen by judges who are expected to closely monitor the progress of participating defendants during status hearings. Collaborating with prosecutors, defense attorneys, probation agents, treatment providers, and other justice system officials, judges administer sanctions for noncompliance with program requirements and rewards for compliance. Through sanctions and rewards, drug court judges are expected to increase the chances of rehabilitating participating defendants.

For most drug courts, the defendant's participation is voluntary. However, drug courts normally screen potential defendants to limit participation to those that meet the programs' participation criteria before extending invitations to voluntarily participate. In addition to volunteering, defendants must agree to certain conditions. Such conditions often include mandatory drug testing and participation in drug treatment.

Out-of-Control Spending

With out-of-control spending and surging public debt threatening our nation's stability, funding programs that are not the responsibility of the federal government should not be a priority. Indeed, "by the end of this year," a June 2011 report by the Congressional Budget Office (CBO) warns, "federal debt will reach roughly 70 percent of gross domestic product (GDP)—the highest percentage since shortly after World War II."[2] In 2009, the CBO warned that these "Large budget deficits would reduce national savings, leading to more borrowing from abroad and less domestic investment, which in turn would depress economic growth in the United States. Over time, the accumulation of debt would seriously harm the economy."[3] This is hardly a good time for Congress to

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increase grant programs that subsidize the routine criminal justice operations of state and local governments.

Drug Court Discretionary Grant Program

Created by the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322), the Drug Court Discretionary Grant Program is administered by the Bureau of Justice Assistance. Congress has allocated over $530 million since creating the program.[4] While this assistance likely contributed to the spread of drug courts, the subsidies should not continue indefinitely. However, if Congress chooses to reauthorize this program, then such legislation should require a multi-site experimental evaluation of federally funded drug courts.[5]

When Congress creates programs, especially state and local grant programs, the funded activities are implemented in multiple cities or towns. Federal grants are intended to be spread out across the nation. For this reason, Congress should require a national, multi-site experimental evaluation of these programs.

While individual programs funded by federal grants may undergo experimental evaluations, these small-scale, single-site evaluations do not inform policymakers of the general effectiveness of national programs. Small-scale evaluations only assess the impact on a small fraction of people served by federal grant programs. The success of a single program that serves a particular jurisdiction or population does not necessarily mean that the same program will achieve similar success in other jurisdictions or among different populations. Thus, small-scale evaluations are poor substitutes for large-scale evaluations.

In addition, a multi-site experimental evaluation that examines the performance of a particular program in numerous and diverse settings can potentially produce results that are more persuasive to policymakers than results from a single locality.

Federalism Concerns

To address the problem of drug abuse and addiction appropriately, the federal government should limit itself to handling tasks that have been assigned to it by the Constitution and that state and local governments cannot perform by themselves. The tendency to search for a solution at the national level is misguided and problematic. While the problems faced by those addicted to illegal drugs and the crimes they cause are serious and common to all states, these problems are almost entirely and inherently local in nature and should be addressed by state and local governments.

Increasing the national government's involvement in funding state and local drug courts is detrimental to quintessential federal responsibilities. Using federal agencies and grant programs to provide basic drug court operations for state and local drug abuse offenders that the states themselves could provide is a misuse of federal resources and a distraction from concerns that are truly the province of the federal government.

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That being said the national government has a responsibility to assist members of the U.S. Armed Forces that are transitioning to civilian status. In particular, combat veterans arrested for substance abuse problems that have recently transitioned back into civilian life may benefit greatly from drug courts. In these cases, Congress may consider providing limited financial assistance to state and local drug courts that serve combat veterans. Such federal assistance should be limited to recent veterans whose substance abuse problems can be credibly linked to their service in the Armed Forces. The federal assistance should not go beyond paying for the cost incurred for dealing with recent combat veterans. Any provided assistance should not be used to subsidize the routine operation of state and local drug courts.

Instead of using Drug Court Discretionary Grants to subsidize the routine operations of state and local drug courts, Congress should consider reforming the program to focus entirely on reimbursing state and local government drug courts that serve recently returned combat veterans. This reform would get the federal government out of subsidizing the routine operations of state and local drug courts and, quite likely, save taxpayer dollars as well.

The Importance of Rigorous Scientific Evaluations

The effectiveness of drug courts has been widely researched. While a large number of studies find that drug courts reduce recidivism and drug use, many of these studies have significant shortcomings in scientific rigor.

The principal reason for the existence of drug courts is to rehabilitate non-violent drug abusers. Scientifically rigorous impact evaluations are necessary to determine whether these programs actually produce their intended effects. Obviously, there is little merit in the continuation of programs that fail to ameliorate the social problems they target.

Although estimating the impact of programs cannot be made with 100 percent certainty, they can be made with varying degrees of confidence. Impact evaluations face control problems that make successful impact estimates difficult. As a general rule, however, the more rigorous the research methodology, the more confident we can be of the validity of the evaluation's findings.

Broadly speaking, two types of research designs have been used to evaluate drug courts: experimental and quasi-experimental. Experimental evaluations that use the random assignment of individuals to the intervention and control groups represent the "gold standard" of evaluation designs. Random assignment helps ensure that the control group is equivalent to the intervention group. Equivalence means that the intervention and control groups have the same composition, predispositions, and experiences.[6] Experimental evaluations are considered to be superior to quasi-experimental evaluations.

Under quasi-experimental designs, the intervention and comparison groups are formed by a procedure other than random assignment. Quasi-experiments frequently employ methodological and statistical techniques to minimize the differences between intervention and comparison groups that influence the outcomes being measured. This

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design frequently matches intervention and comparison group members together based on factors thought to influence program impacts.

A major problem with quasi-experimental evaluations is selection bias. Before we can judge a drug court program to be effective, we first must understand the importance of selection. It can be astoundingly difficult to distinguish between what is working and what is not, and nowhere is this predicament truer than when the criminal justice system tries to change human behavior. For example, individuals volunteering entry into a drug court program may be more motivated than individuals not seeking the benefits of the program. Such motivational factors and other similar factors are often invisible to those assessing effectiveness. Failure to account for these crucial factors can produce a spurious association between drug court participation and recidivism and substance abuse outcomes. Most quasi-experimental evaluations of drug courts are unable to adequately deal with the problem of selection.

There is evidence that in the realm of criminal justice policy that quasi-experimental evaluations are more likely to find favorable intervention effects and less likely to find harmful intervention effects.[7] No matter how well designed, quasi-experimental evaluations may be incapable of controlling for the factors that make individuals considered agreeable and allocated to the intervention group.

After conducting a meta-analysis of 308 criminal justice program evaluations, Professor David Weisburd of George Mason University and his colleagues found that weaker evaluation designs are more likely to find favorable intervention effects and less likely to find harmful intervention effects.[8] Given that experimental evaluations produce the most reliable results, this finding has important ramifications for reviewing evaluations of drug courts.

Are Drug Courts Effective?

While under some circumstances in particular locations, drug courts may be more effective than traditional court responses, Congress should carefully review the claims of effectiveness coming from advocates of increased federal spending on drug courts.

A meta-analysis of 55 evaluations of drug courts by Professor David B. Wilson of George Mason University and his colleagues concluded that their findings "tentatively suggest that drug offenders participating in a drug court are less likely to reoffend than similar offenders sentenced to traditional correctional options, such as probation."[9] Only five of the 55 evaluations used experimental designs, while the remaining 50 studies used quasi-experimental designs.[10]

Another major limitation of quasi-experimental evaluations of drug courts is the too frequent comparison of drug court graduates to nongraduates.[11] The "much-heralded findings" based on this faulty methodology "show that the successes succeed and the failures fail."[12]

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Of the five experimental evaluations, two studies suffered from high rates of attrition.[13] If individuals voluntarily participating in drug courts drop out of the program, then attrition can seriously invalidate the integrity and benefits of random assignment. While the combined effect of the three experimental evaluations without serious attrition problems had a negative association with recidivism, the effect was not statistically significant.[14] The findings of these experimental evaluations are presented in greater detail in the next section.

Drug Court Evaluations

Despite the substantial number of drug court evaluations, there are not enough experimental evaluations. My review of drug court evaluations focuses on the previously mentioned experimental evaluations and a particularly good multi-site quasi-experimental evaluation.

Baltimore City Drug Treatment Court. Several studies based on an experimental evaluation of the Baltimore City Drug Treatment Court, a diversionary program that primarily deals with African-American male heroin addicts, have been published.[15] A 2002 study found that drug court participants and control group participants had a one-year re-arrest rate of 48.2 percent and 63.5 percent, respectively.[16] The difference was statistically significant, suggesting that the program was effective. Drug court participants had fewer new arrests and new charges, but were just as likely to be reconvicted and experience new convictions. Drug court participants experienced statistically fewer charges for violent and sex crimes, but were no more or less likely to be charged with property, drug, and other crimes.

Another study published in 2003 analyzed the effect of the drug court on two-year recidivism outcomes.[17] The treatment group had a re-arrest rate of 66.2 percent, compared to the control group's re-arrest rate of 81.3 percent—a statistically significant finding.[18] The treatment group had fewer average new arrests with 1.6 arrests, compared to 2.3 arrests for the control group. This difference was statistically significant. However, the reconviction rates of the treatment group (48.9 percent) and control group (53.2 percent) were not statistically different. Further, drug court participation did not lead to a decrease in the average number of convictions. While the treatment participants were statistically less likely to be charged with new drug crimes (40.6 percent versus 54.2 percent), the drug court did not appear to affect charges involving violent or sex crimes, prostitution, and other offenses.

A 2004 study analyzed the drug court's effect on the length of time to re-arrest.[19] The study found that the failure (arrest) rate for the treatment and control groups were identical during the first four months of follow-up.[20] Afterwards, the failure rate of the groups began to sharply diverge with the treatment group experiencing longer periods until a new arrest for latter follow-up periods up to two years after random assignment.

Last, a 2006 study followed the treatment and control groups three years after random assignment.[21] The treatment and control groups had re-arrest rates of 78.4 percent and 87.5 percent, respectively.[22] The difference failed to be statistically significant. While not

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exactly comparable, it is interesting to note that a Bureau of Justice Statistics study of state prisoners released in 1994 whose most serious conviction was for drug possession found that 67.5 percent of these prisoners are rearrested within three years.[23]

The same pattern held for re-conviction rates. The treatment group had a re-conviction rate of 58.3 percent, while the reconviction rate for the control group was 64.4 percent—a statistically indistinguishable difference.[24] While the treatment group was statistically less likely to be charged with new drug crimes, drug court participation appeared to have no effect on new charges for violent or sex crimes, property crimes, and other offenses. The authors warn that their study cannot be generalized to courts unlike the Baltimore program.[25] Further, study's findings "do not necessarily generalize to different client populations than the one studied here."[26]

Wilmington, Delaware, Drug Court. A 2003 experimental evaluation analyzed the effect of a Wilmington, Delaware, drug court while defendants were participating in the program.[27] Volunteers were assigned to either a drug court that held bi-weekly judicial status hearings (treatment group) or a program with monitoring performed by a case manager (control group). Participants of both groups were eligible to receive that same drug treatment services and level of drug testing. While both the treatment and control groups were participating in their respective programs over 14 weeks, there was no statistically significant difference in drug test results. In addition, the treatment and control groups did not experience statistically significant differences in the self-reported number of days of drug use, alcohol intoxication, and illegal activity. The results of this study should be taken with caution because it does not measure post-program outcomes. However, a 2005 evaluation of the same program reported results for 6-month and 12-month post-treatment outcomes. The evaluation "did not find post-treatment differences in outcomes for misdemeanor drug court clients who were assigned to higher versus lower doses of judicial status hearings."[28]

New South Wales, Australia, Drug Court. A 2004 experimental evaluation of an Australian drug court, unlike most drug courts in America, made substantial use pharmacological therapies, such as methadone treatment.[29] While the evaluation found that the treatment group experienced longer periods of time without being arrested for new shoplifting and drug offenses, the difference was not statistically significant.[30] Based on 13 offenses, the evaluation compared the average number of offenses committed over one year. For only one of the measures, drug court participants had a statistically significant difference. The treatment group averaged 0.08 new drug offenses, while the control group averaged 0.68 new offenses.[31] Being in the treatment condition was not associated with fewer average incidences of theft, breaking and entering, motor vehicle theft, and other crimes.

Maricopa County, Arizona, Drug Court. A 1995 experimental evaluation of the Maricopa County, Arizona, Drug Court randomly assigned post-adjudication probationers with a first-time felony conviction for drug possession to four different tracks.[32] The first three tracks consisted of standard probation services, but varied in the frequency of drug testing. For the fourth track, participants were entered into a drug court that administered

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sanctions and provided drug treatment. At the twelve-month follow-up period, drug court participants were just as likely to test positive for any drug use compared to the regular probation participants.[33] While drug court participants were statistically less likely to test positive for cocaine and heroin use, they were statistically more likely to test positive for marijuana use.

As for recidivism, drug court participants, compared to regular probation participants, were just as likely to be arrested for any offense and also just as likely to be arrested for drug offenses.[34] While there was statistically no difference in being arrested for any technical violation, drug court participants were statistically less likely to be arrested for drug use technical violations, compared to regular probationers (9.7 percent versus 26.4 percent). Further, the drug court did not appear to be effective at preventing future incarceration in jail or prison for new offenses or technical violations. The results of this evaluation may not reflect the current operation of the Maricopa County drug court.

Multi-Site Adult Drug Court Evaluation. Only one large-scale evaluation of drug courts has been conducted. The Multi-Site Adult Drug Court Evaluation (MADCE) was performed by the Urban Institute through a grant from the National Institute of Justice.[35] MADCE compared treatment participants from 23 drug courts to a group of individuals from six comparison sites.[36] The comparison sites offered such treatment services as Treatment Alternatives for Safer Communities, Breaking the Cycle program, and typical probation supervision accompanied with referral to treatment. While MADCE did not use an experimental design, the propensity score analysis used in this quasi-experimental evaluation makes this evaluation more scientifically rigorous than many other quasi-experimental designs.[37]

The MADCE results indicate that the drug courts in the evaluation reduce drug use and criminal activity. For drug use at the six-month tracking period, drug court participants were significantly less likely to self report any drug use (40 percent), compared to the comparison group (59 percent).[38] Drug court participants averaged fewer days of any drug use (1.5 days per month), compared to the comparison group (3.7 days per month). However, the difference in self-reported serious drug use between drug court and comparison participants was statistically indistinguishable from zero. Despite being not less likely to report serious drug use, drug court participants reported an average of 1.0 day per month of serious drug use, compared to the 2.2 days per month reported by the comparison group. This difference was statistically significant. Drug court participants were less likely to report using marijuana (13 percent versus 26 percent), alcohol (32 percent versus 52 percent), and prescription drugs (6 percent versus 10 percent). While they reported less usage of cocaine, heroin, amphetamines, and hallucinogens, these differences were not statistically significant.

At the 18-month follow-up period, drug court participants were significantly less likely to self report any drug use (56 percent), compared to the comparison group (76 percent).[39] Drug court participants still averaged fewer days of any drug use (2.1 days per month), compared to the comparison group (2.3 days per month). Contrary to the six-month follow-up, the difference in self-reported serious drug use between drug court and

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comparison participants was statistically different (41 percent versus 58 percent). Drug court participants reported an average of 1.1 days per month of serious drug use, compared to the 2.3 days per month reported by the comparison group. Drug court participants were less likely to report using marijuana (23 percent versus 36 percent), alcohol (47 percent versus 67 percent), methadone (2 percent versus 4 percent), and prescription drugs (6 percent versus 15 percent). While they reported less usage of cocaine, heroin, amphetamines, and hallucinogens, these differences were not statistically significant.

Also during the 18-month follow-up, non-incarcerated MADCE participants were administered oral saliva tests. Of those tested, drug court participants were significantly less likely to have positive results for any drug use (29 percent), compared to the comparison group (46 percent).[40] In addition, drug court participants were significantly less likely to test positive for PCP (0 percent versus 2 percent). Drugs courts appeared to have no effect on positive drug test results for serious drugs, marijuana, cocaine, opiates, and amphetamines.

The drug courts in the evaluation appear to have a limited ability to reduce criminal activity. While drug court participants were generally less likely to self-report criminal activity than the comparison participants, I will concentrate on official re-arrest and incarceration results. Twenty-four months after enrollment in the evaluation, the difference in re-arrest rates for drug court participants and comparison participants were not statistically different.[41] For example, 52 percent and 62 percent of drug court and comparisons participants were arrested—a statistically indistinguishable difference. The differences in drug arrests were also statistically indistinguishable (17 percent versus 22 percent).

According to administrative data for the 24-month follow-up, drug court participants were not less likely to be incarcerated compared to the comparison participants.[42] However, drug court participants, on average, spent significantly fewer days in custody than comparison participants (32.1 days versus 59.4 days).

Of particular importance for policymakers, MADCE performed a cost-benefit analysis. According to the evaluation, "Drug courts save an average of $5,680 per participant, returning a net benefit of $2 for every $1 of cost, but these findings are not statistically significant."[43] The estimated mean net benefit of drug courts is $2,213 and the standard error is $3,682.[44] The reason why the net benefit is statistically insignificant is that the 95 percent confident internal ranges from a mean net cost of $5,004 to a net benefit of $9,430.[45] The 95 percent confidence interval means that policymakers cannot be sure that the drug courts participating in MADCE are producing net benefits. The estimate is too imprecise to draw strong policy conclusions. The possibility that the costs of drug courts outweigh their benefits cannot be ruled out with a high degree of confidence.

Conclusion

The lesson to be learned from the three experimental evaluations and the single multi-site quasi-experimental evaluation is that the effectiveness of drug courts is a mixed bag.

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Evaluations do not find that drug courts are effective on all outcome measures. Nor do these evaluations find that drug courts are ineffective on all measures.

The overwhelming majority of drug court evaluations use quasi-experimental designs that may overstate effectiveness. With only a small number of experimental evaluations, Congress should carefully review claims of effectiveness coming from advocates of increased federal spending on drug courts.

Drug court programs need to be rigorously evaluated using experimental designs. I believe the need for more experimental evaluations transcends political party lines. Both Democrats and Republicans should agree on this issue.

The federal government has a responsibility to assist members of the U.S. Armed Forces that are transitioning to civilian status. In particular, recent combat veterans with substance abuse problems may benefit greatly from drug courts. In these cases, limited financial assistance provided to state and local drug courts that serve combat veterans may be warranted. However, any federal assistance should not be used to subsidize the routine operation of state and local drug courts.

Last, Congress should be wary of substantially increasing the budget authorization for the Drug Court Discretionary Grant Program. Given the sparingly few experimental evaluations of drug courts, any reauthorization or significant funding increase of the Drug Court Discretionary Grant Program should be accompanied with a congressional mandate for a large-scale, multi-site experimental evaluation of drug courts.

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The New York Times

Coming Together to Fight for a Troubled Veteran

By ERICA GOODE

OKEMOS, Mich. — When the standoff began on a humid August night, it seemed destined to become one more case of a returned soldier pulled down by a war he could not leave behind.

Staff Sgt. Brad Eifert circled through the woods behind his house here, holding a .45-caliber pistol. The police were out there somewhere and, one way or the other, he was ready to die.

He raised the gun to his head and then lowered it. Then he fired nine rounds.

"They're going to take me down, they're going to finish me off, so," he remembers thinking, "finish me off."

Leaving his weapon, he ran into the driveway, shouting, "Shoot me! Shoot me! Shoot me!" The police officers subdued him with a Taser and arrested him. A few hours later, he sat in a cell at the Ingham County Jail, charged with five counts of assault with intent to murder the officers, each carrying a potential life sentence.

In daring the police to kill him, Mr. Eifert, who had served in Iraq and was working as an Army recruiter, joined an increasing number of deployed veterans who, after returning home, plunge into a downward spiral, propelled by post-traumatic stress disorder or other emotional problems.

Their descent is chronicled in suicide attempts or destructive actions that bring them into conflict with the law — drunken driving, bar fights, domestic violence and, in extreme instances, armed confrontations with the police of the kind that are known as "suicide by cop."

Such stories often end in death or prison, the veteran in either case lost to the abyss.

But something different happened in Mr. Eifert's case. Headed for disaster, he was spared through a novel court program and an unusual coming together of a group of individuals — including a compassionate judge, a flexible prosecutor, a tenacious lawyer and an amenable police officer — who made exceptions and negotiated compromises to help him.

If he takes advantage of the chance to recover his life, he is likely to avoid incarceration and receive the care he needs to move forward.

How this came about — it evolved over more than seven months, during which Mr. Eifert remained in jail — says much about what is required to pull a psychically wounded soldier back to safety and raises questions about the limitations of the systems in place to deal with troubled veterans, whose trespasses can in many cases be traced to a lack of adequate help earlier on.

Some officials believe that war trauma should not qualify veterans for special treatment in the criminal justice system, especially in cases where public safety is endangered. "P.T.S.D. is not a get out of jail free card," said a prosecutor in a Missouri case involving a veteran who had a faceoff with the police.

Yet a growing number of legal and law enforcement experts argue that when a veteran's criminal actions appear to stem from the stresses of war, a better solution than traditional prosecution and punishment is called for. The society that trained them and sent them into harm's way, they say, bears some responsibility for their rehabilitation. And they point to other exceptions in the legal system like diversion programs for drug offenders and the mentally ill.

"I don't interpret it as excusing behavior, but as addressing what the behavior is," said Judge Robert T. Russell Jr. of Buffalo City Court, who founded the first special court for veterans there in 2008. It can provide an alternative to punishment, mandating treatment and close supervision and holding them to strict requirements.

"The benefit is, you increase public safety, you don't have a person reoffending and, hopefully, that person can become functioning and not suffer the invisible wounds of war," Judge Russell said.

Mr. Eifert, 36, was fortunate that, just months before, his county had become one of 80 jurisdictions around the country that have adopted the veterans court model. But the resolution of his case took more than that.

The judge had to take an interest in his case and accept him in the court, which did not normally hear serious cases involving the use of a firearm.

The prosecutor had to ultimately decide that Mr. Eifert's emotional difficulties warranted leniency.

The police officer, who, although he had feared for his life during the standoff — "This is probably not going to end well," he remembers thinking — had to agree to drop the charges of assault with intent to murder.

A judge advocate general officer at Fort Knox, Ky., where the Army's recruiting command is based, had to argue to reverse the discharge under other than honorable conditions set in motion by the Army after his arrest, which would have deprived him of most of his military benefits, including the services of the Department of Veterans Affairs. A lawyer, Frank Reynolds, had to work to put all the pieces together.

"The justice system is a system of black and white, and most cases of warriors are gray," said Jeff Murphy, a retired lieutenant and crisis team intervention coordinator for the Chicago Police Department who conducts training on dealing with veterans. Mr. Eifert's case, he said, offered a template of how to resolve such situations. "You need champions that understand the dynamics of the stresses that military veterans are experiencing," he said, adding, "And if everybody doesn't agree, it falls apart."

A War That Lingered

Even as he returned home from Iraq to Fort Carson, Colo., in 2006, his uniform covered with medals, Mr. Eifert knew something was wrong. The finely honed aggression that had carried him through deployments as an infantry gunner and a truck commander during two of the war's most violent years was still very much alive inside him.

He was irritated by bad drivers: "You're so used to being king of the road, to having people get out of the way," he said.

He was irritated by the seeming obliviousness of the people around him. "None of these people are thinking about people over there sweating and bleeding and struggling right now," he would think in a store or on the street.

Mr. Eifert wanted to go back into combat, but the Army had other plans, sending him to Michigan as a recruiter. At a mental health screening, he told an Army psychiatrist that he was drinking too much, having panic attacks, waking up from nightmares — his house exploding, his hand being blown off.

"It's normal," he said she told him. "You'll get over it."

But as he moved through his life — divorcing his first wife, taking up his new job at the Great Lakes Recruiting Battalion, marrying a woman with three children he had met through eHarmony — the volatile emotions stayed with him. He won honors as a recruiter, but he continued drinking, sometimes as much as a fifth of Jack Daniel's a day.

He was haunted by memories: friends being killed; the day he shot up a house filled with women and children, killing many of them; another when he watched a truck full of military contractors burn and did nothing to save them.

He no longer believed in the war or in his recruiting job. "Everybody I put in I know is going to get deployed," he kept thinking, "and I have to look their parents in the face and be like, 'It's not that bad, look at me, I'm great after two deployments. Your son will be fine.' "

An operation for a shoulder injury did not heal properly and added to Mr. Eifert's depression. In February 2010, he put a gun to his head in his garage, and after seeking help the next day went to the Veterans Affairs hospital in Ann Arbor. But he was released after a four-hour evaluation with prescriptions for psychiatric medication and counseling. A few months later, he made a second suicide attempt.

"I just felt totally hopeless in every situation in my life," he recalled, "like I had no control over anything, I couldn't do anything. I was just living, you know, like floating."

The day of the standoff, Aug. 9, 2010, started badly. Mr. Eifert did not sleep well. He got a Facebook message from his brother, a soldier stationed in Afghanistan, saying that the base there

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had been hit by truck bombs. He had a minor argument with his father-in-law, a man he respected greatly.

In the afternoon, he went to his grandparents' house in nearby Mason and sat on the patio, smoking cigarettes and drinking. When his grandmother asked him what was wrong, he told her that he felt like a failure and that he hated his life.

"And we cried, she cried, and she held me," he said.

He called his commanding officers and told them he needed help. "I'm tired of drinking, I'm tired of feeling hopeless, I'm tired of feeling depressed, I'm tired of feeling angry," he said he told them. "I'm tired of my life."

A first sergeant and a captain from the recruiting command met him at his grandparents' house, and said they would drive him to a hospital in two cars, the sergeant driving his. An Army document filed in the case said that, during a stop at a 7-Eleven along the way, Mr. Eifert became "belligerent," demanding his car keys. When they refused, Mr. Eifert shoved the sergeant, ripped the first sergeant stripes off his chest, grabbed the keys and drove off, the document said.

Mr. Eifert said the officers had agreed to let him stop at his house to say goodbye to his wife and then reneged. To him, it seemed "another handshake and a smile, just a false promise."

At 4:45 p.m. that day, his wife, Michelle, got a text from him, saying "You don't need me." When he came home, he was drunk and unreachable.

"He just kept repeating: 'They lied to me. They lied to me. They're coming after me,' " she said.

Mr. Eifert said that much of what happened that night is hazy. But he remembers telling his wife to leave and to take the children with her.

He grabbed three guns and went into the woods. He made calls on his cellphone — to a commanding officer he trusted, to a friend.

Four police officers called to the scene were positioned across the street, their rifles trained in his direction. He was only dimly aware of them, he said, but he was seized with the same adrenaline he had felt in Iraq. "It was a fight or flight situation," he said.

He raised the .45-caliber pistol to his head, "but I didn't know how hard I was going to have to squeeze the trigger," he said. "I started thinking, 'What if I don't squeeze it hard enough?' "

So he aimed the gun at tree trunks, he said, and fired. The police later said that he was shooting at them.

"I was just so angry, I wanted to die," Mr. Eifert recalled, "and they took me to the hospital and I woke up in jail."

An Alternative Approach

Sitting at his kitchen table in East Lansing the next morning, Judge David L. Jordon of Ingham County District Court read an article about the standoff in Okemos and was immediately interested in the case.

"I thought, boy, that sounds like an attempted suicide by cop and it sounds like a veteran who just gave up and wanted to be done with things," he said.

Local blogs covering the standoff were tapping mixed reactions.

"I hope they lock him up for the rest of his life," one commenter wrote, shortly after Mr. Eifert's arraignment.

"Thank you for your service Sergeant Eifert," another wrote. "I hope you get the help you need, and can return to Okemos a healthy man."

The son of a World War II pilot, Judge Jordon is passionate about veterans' issues, an ardent fan of "Achilles in Vietnam," Jonathan Shay's book on combat trauma. After hearing about the veteran's court in Buffalo, he started a similar one in East Lansing. The court, which meets twice a month, not only gets veterans into treatment, it also provides them a mentor who is also a military veteran. The veterans have a chance to avoid jail by meeting a set of rigorous criteria.

Mr. Eifert's case, Judge Jordon said, was "at the core of anyone's concept of a treatment court."

But the court was not normally open to defendants charged with crimes involving guns or other violence, and the move there could not take place unless the prosecutor, Stuart Dunnings III, was willing to reduce the charges. Initially, the prosecutor "was not going to play at all," said Mr. Reynolds, the defense lawyer.

Mr. Murphy, the retired Chicago police lieutenant, noted that in high-profile cases like Mr. Eifert's, prosecutors are often placed in an awkward position.

"If you have a highlighted situation of a veteran out of control out there in the community," he said, "it becomes more difficult to adjudicate using an alternative method to conventional prosecution."

And in some cases, no alternative is available. In Platte County, Mo., which has no special court, the veteran with post-traumatic stress disorder who had a faceoff with the police is scheduled to stand trial on Sept. 12 on charges including felonious assault on a police officer, though no shots were fired. He had called 911 for help.

As the prosecutors in Michigan learned more about Mr. Eifert's history, however, the move to the veteran's court began to seem more feasible.

"We charge based on what we know at that time," Mr. Dunnings said, "but hopefully we're open to further evidence and information that comes along, and as we become aware of things, we adjust our positions accordingly."

One fact that swayed the prosecutors was that Mr. Eifert was a trained marksman. Had he really wanted to kill the police officers, he could have, they believed. Another was that he had asked for help on several occasions before the standoff.

When the defense argued that Mr. Eifert had severe post-traumatic stress disorder, "it was more believable than it might have been had two or three of those facts been different," said Catherine Emerson, an assistant prosecutor.

Soldier With a Gun

Still, they could not drop the charges if the victims of the crime, the Meridian Township police officers, would not agree.

A call to deal with "a man with a gun" is one of the most dangerous that police officers face. Entering an unpredictable situation, they are trained to act to protect their own safety and the public's.

When the suspect is a soldier, the situation grows more complicated. In Gresham, Ore., a veteran was killed by the police when he stepped out onto his front porch carrying a rifle; his family had called 911 saying he was suicidal. In Glendale, Ariz., a soldier newly returned from Afghanistan shot a man in a bar and then fired at a police officer, who killed him.

Officer John Free was the first to respond to Mr. Eifert's house that night. As he crouched with his AR-15 rifle behind the pine trees across the street waiting for a clear shot, he said, he thought of his 7-month-old daughter and wondered if he would see her first birthday. He saw muzzle flashes in the darkness and heard bullets whiz through the trees.

"Your mind plays tricks on you when you're out there for 2 1/2 hours in the dark," he said. "You would hear something in the woods and it would turn out to be a deer, and then O.K., it's just a deer, but is the deer moving because he's moving towards us?"

Officer Free took off his reflective badge and smeared mud on the illuminated dial of his radio. At one point, an officer crawled across a hornet's nest, and when a sharp pain went through his leg, he thought he had been shot.

Still, when Ms. Emerson called Officer Free to ask about the charges, he said he bore Mr. Eifert no hard feelings.

"I said, 'I don't think any of us would not want him to get treatment,' " he said.

"There's a difference between somebody who's a criminal and someone who's just in a perfect storm of things going wrong."

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A Chance for a Future

On Aug. 2, Mr. Eifert, having pleaded guilty to a single charge of carrying a weapon with unlawful intent, a felony, will officially enter the veterans court program. He separated from the Army on June 9. Twelve to 18 months from now, if he adheres to the strict regimen of treatment through the Veterans Affairs hospital in Battle Creek and supervision set by the court, the charge could be dismissed or reduced to a misdemeanor.

He is at home now, with his wife and stepchildren, slowly learning to cope more constructively with his problems. He has abstained from drinking since his arrest — he wears a monitor on his ankle that records any alcohol he consumes. He is working part time at a family farm.

He has ups and downs, but on most days, he sees some possibility of a future.

Someday, he said, he would like to sit down with the police officers who arrested him "and just kind of say 'Wow, that was a big crazy mess and I'm glad you didn't kill me and I'm sorry that I put you guys through that.' "

But that will not happen tomorrow or the next day.

"We're a long way from this being over," said Sgt. Maj. David Dunckel, the mentor assigned to Mr. Eifert by the veteran's court, who keeps a close eye on him. "There is some resolution to his legal problems, but the demons that haunt him are still pretty deeply embedded."

Still, Sergeant Major Dunckel said, "I'll put my money on Brad getting through this O.K."

Department of Justice

STATEMENT FOR THE RECORD OF

DENISE E. O'DONNELL
DIRECTOR
BUREAU OF JUSTICE ASSISTANCE
OFFICE OF JUSTICE PROGRAMS

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ENTITLED

"DRUG AND VETERANS TREATMENT COURTS: SEEKING COST-EFFECTIVE SOLUTIONS FOR PROTECTING PUBLIC SAFTEY AND REDUCING RECIDIVISM"

JULY 19, 2011

Statement for the Record
Denise E. O'Donnell
Director for the Bureau of Justice Assistance
Office of Justice Programs
U.S. Department of Justice

Subcommittee on Crime and Terrorism
Committee on the Judiciary
United States Senate

"Drug and Veterans Treatment Courts: Seeking Cost-Effective Solutions for Protecting Public Safety and Reducing Recidivism"
July 19, 2011

Chairman Whitehouse, Ranking Member Kyl, and distinguished members of the Subcommittee, thank you for this opportunity to submit a statement for the record addressing the importance of drug and veterans treatment courts and the Office of Justice Programs'(OJP) Bureau of Justice Assistance's (BJA) role in implementing these courts.

I am Denise E. O'Donnell, the Director of BJA. Prior to my confirmation, I served as the New York State Deputy Secretary for Public Safety, overseeing 11 homeland security and criminal justice agencies. I was on the Conviction Integrity Advisory Panel for the Manhattan District Attorney's Office; the Criminal Justice Council of the New York City Bar Association; and the Criminal Justice Section of the New York State Bar Association, and I honorably served as the United States Attorney for the Western District of New York.

As you know, BJA provides leadership and services in grant administration and criminal justice policy development to support state, local, and tribal justice strategies to achieve safer communities. To accomplish our mission, BJA utilizes and highlights strategic and sustainable approaches to address crime, using methods that incorporate evidence-based prevention and intervention strategies and support our partners in the field.

Across the nation, especially during these difficult budgetary times, we have a responsibility to utilize taxpayer dollars wisely and to support programs that are backed by evidence of effectiveness. This Administration is committed to investing in evidence-based programming, investigating promising practices, and making science a priority. Drug courts are a great example of this smart-on-crime approach. Backed by rigorous research and evaluations, these courts, when implemented correctly, can promote public safety and provide significant cost savings.

I would like to thank the Subcommittee for holding this important hearing this week, as the National Association of Drug Court Professionals (NADCP) is hosting their 17th Annual Drug Courts Training Conference in the Washington D.C. area. NADCP has been an important partner to BJA on the training, implementation, and expansion of drug courts nationwide.

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Drug Courts

Drug courts are specialized courts that target criminal defendants and offenders, juvenile delinquents and status offenders, and parents with pending child welfare cases who have alcohol and other drug dependency problems. Research shows drug courts help reduce recidivism and substance abuse among offenders, and increase offenders' likelihood of successful rehabilitation through early, continuous, and intense judicially supervised treatment, mandatory periodic drug testing, community supervision, sanctions and incentives, and other recovery support services.

The first drug court was established in Miami, Florida, in 1989, with the goal of reducing substance abuse and criminal behavior while also freeing the court and corrections systems to handle other cases. Since then, BJA has awarded millions of dollars to fund drug courts nationwide. As of December 2005, more than 1,500 drug courts were operational across our nation, and today, there are over 2,500 drug courts operating in all 50 states, the District of Columbia, the Northern Mariana Islands, Puerto Rico, Guam, and in nearly 90 tribal locations.

Drug courts offer an important evidence-based tool to hold substance-abusing offenders accountable, while providing the rehabilitation treatments that they need. Thanks in large part to the research and maturity of drug court programming over the last 20 years, we possess the information and understand the components needed to implement and operate a successful drug court.

Recently OJP's National Institute of Justice (NIJ) funded an unprecedented drug court evaluation called the Multisite Adult Drug Court Evaluation.[1] This evaluation consisted of a 5-year longitudinal evaluation of adult treatment drug court programs. The evaluation sampled nearly 1,800 drug court and non-drug-court probationers from 29 rural, suburban, and urban jurisdictions across the nation. The findings from this and other studies are clear: when appropriately implemented, drug courts can reduce recidivism, decrease the chances of future drug use, and promote positive cost-saving outcomes. In short, they are a wise investment.

Various factors can affect the success of a drug court program. These include proper assessment tool and the allocation of treatment resources, as well as other variable influences such as drug use trends and staff turnover. NIJ's Multisite Adult Drug Court Evaluation found that judges are instrumental to program success, and that positive interaction between the judge and program participants was essential to the program's success. According to the study, the more status hearings, praise, and respectful interactions between the judge and the participant, the more likely participants were to experience positive attitudes and better outcomes. Research also shows that drug courts targeting serious, high-risk offenders with a strong need for treatment yield the most effective interventions and maximize return on investment.

NIJ's Multisite Adult Drug Court Evaluation also revealed that drug courts achieve long-term savings by decreasing the number of future victims, re-arrests, and incarcerations. In fact,

[1] See www.nij.gov/nij/topics/courts/drug-courts/madce.htm for more information on NIJ's Multisite Adult Drug Court Evaluation.

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drug courts saved an average of $5,680 per participant, returning a net benefit of $2 for every $1 of cost.

Using this information, BJA has translated this research into practice through the Adult Drug Court Discretionary Grant Program. This grant program provides training, financial assistance, and related programmatic guidance and leadership to state, local, and tribal governments interested in planning, establishing, and enhancing drug courts. Through the drug court grant program, communities are able to leverage the power of the criminal justice system to reduce recidivism and substance abuse among nonviolent offenders and to increase the likelihood of successful rehabilitation. This is accomplished by applying early, continuous, and intensive judicially-supervised treatment, mandatory drug testing, and appropriate sanctions and other recovery support services. In Fiscal Year (FY) 2011, BJA revised the solicitation to prioritize funding to jurisdictions proposing to incorporate program design features recognized as effective by the NIJ Multisite Adult Drug Court Evaluation.

Through the Adult Drug Court Discretionary Grant Program, BJA awards funds based on three categories: implementation, enhancement, and statewide. Implementation grants are available to jurisdictions that have completed a substantial portion of the drug court planning stage and are ready to begin the process. Enhancement grants are made available to jurisdictions with a fully operational (at least 1 year) adult drug court, for which funding is used to expand the court's offering to target populations and enhance the court's operations, treatment services, and/or offender services. Statewide grants are available to improve, enhance, or expand drug court services statewide by encouraging adherence to evidence-based design features. In FY 2010, BJA awarded 78 drug court grants totaling nearly $21 million.

BJA's tiered system of awarding grants adds to the efficiency of the drug court model by encouraging interested jurisdictions to apply for funds and providing them with the flexibility needed to ensure that they develop their drug court according to best practices. The system also allows BJA to provide training and technical assistance to jurisdictions in an effort to advance their use of evidence-based practices and to increase the program's chances for overall success.

Additionally, last fiscal year, BJA collaborated with the U.S. Department of Health and Human Services' Substance Abuse and Mental Health Services Administration's (SAMHSA), Center for Substance Abuse Treatment to issue the first-ever joint drug court solicitation. Together, BJA and SAMHSA awarded more than $7 million to enhance court services, coordination, and substance abuse treatment capacity of adult drug courts. This new initiative effectively merged resources, developing comprehensive strategies for enhancing drug court capacity and allowing jurisdictions to compete for access to both criminal justice and substance abuse treatment funds with one application. As a result of its success, this joint program was continued this fiscal year.

BJA also developed the National Drug Court Resource Center, a one-stop shop providing research, training, webinars, and funding opportunities for drug court professionals. Through this virtual resource center, practitioners learn about and request training on 21 BJA-approved drug court curricula to improve practitioner skills and drug court team functioning and to address specific subject matter questions, such as special populations. Most recently, BJA funded the

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development, pilot, and expansion of a veterans' treatment court planning initiative through the center.

Veterans Treatment Courts

Drug courts are part of the larger universe of problem-solving courts, and these problem-solving principles can be used in new and innovative ways to create mental health courts and reentry courts. Most recently, these principles have been applied to a new type of court, known as the Veteran Treatment Court.

According to the U.S. Department of Veterans Affairs (VA), there are more than 22.7 million veterans nationwide. Since September 11, 2001, more than 2 million service members have been deployed to Iraq or Afghanistan. According to SAMHSA, 1.8 million veterans met the criteria for having a substance abuse disorder in 2006. Similarly, the Bureau of Justice Statistics (BJS) reports that 60 percent of the 140,000 veterans in federal and state prisons struggle with a substance use disorder.[2]

In response to a growing number of veterans appearing before the court on charges stemming from substance abuse and/or mental health disorders, the Honorable Robert Russell, the presiding judge of the Buffalo Drug Court and Mental Health Court, helped establish the nation's first Veterans Treatment Court in 2008, offering a path of sobriety, recovery, and stability to the program participants. Today, there are 74 Veterans Treatment Courts nationwide.

Veterans Treatment Courts are a hybrid of drug and mental health courts, using the drug court model to serve veterans struggling with addiction, mental illness, and/or co-occurring disorders including post-traumatic stress disorder and traumatic brain injuries. The courts employ a coordinated response with traditional partners of drug and mental health courts, the VA, and volunteer veteran mentors.

BJA, as is the U.S. Department of Justice, is committed to partnering with the VA to ensure our veterans have the support they need during their recovery efforts. In June 2011, Attorney General Holder and Assistant Attorney General Robinson travelled to Providence, Rhode Island, to learn about a Veterans Drug Court pilot project, currently funded bySAMHSA.

Collaborating with the VA and SAMSHA, BJA is helping to expand Veterans Treatment Courts by providing funds to NADCP to assist jurisdictions in the planning and operation of these courts. Working with NADCP, we developed the Veterans Treatment Court Planning Initiative, a comprehensive 5-day team training consisting of plenary sessions, team breakout discussions, and a visit to a Veterans Treatment Mentor Court to observe case discussions and status hearings. This training is the first in the nation to focus exclusively on Veterans Treatment Courts.

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[2] Margaret E. Noonan and Christopher J. Mumola, 2007,*Veterans in State and Federal Prison, 2004*, Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. Available: http://bjs.ojp.usdoj.gov/content/pub/pdf/vsfp04.pdf

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Additionally, beginning in FY 2010, priorities for the adult drug court grant program included building the capacity of existing drug courts to increase participation rates among high-risk/high-need populations and meeting the needs of special populations, including returning veterans.

Conclusion

According to BJS, an estimated 22.5 percent of the 1.8 million convicted inmates in state or federal prison or local jails in 2009 were convicted of a drug offense (per 1-day count)[3]. The high cost of imprisonment and jail maintenance continues to threaten state and municipal budgets. In the past 20 years, state spending on corrections has grown at a faster rate than nearly any other state budget item. The United States now spends more than $68 billion on federal, state, and local corrections. This continuously high spending on corrections is unsustainable. The Administration, the Department of Justice, and BJA want to ensure a strategic, effective, and sustainable approach that incorporates evidence of effectiveness into its corrections programming efforts.

Drug courts are a scientific-based criminal justice intervention strategy, and BJA is committed to supporting these and other evidence-based approaches that increase public safety and reduce recidivism. This Administration is supportive of treatment courts and in his FY 2012 budget proposal, the President included a total of $101 million for drug, mental health and problem solving courts administered through BJA and SAMHSA. BJA plans to administer its funding through a consolidated program which will allow more flexibility to fund innovative projects and to help state, local, and tribal governments develop and implement evidence-based problem-solving court strategies.

Mr. Chairman, Ranking Member Kyl, and Members of the Subcommittee, this concludes my statement for the record. Thank you for the opportunity to do so. I look forward to continuing to work with you on these important issues.

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3 *Estimate provided by BJS based on unpublished data.*

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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

July 19, 2011

Testimony of
Martin Sheen

Chairman Whitehouse, Ranking Member Kyl, and distinguished Members of the Subcommittee, it is my great honor to be with you today to speak about an issue that is not only close to my heart, but critical to the well being of the United States. As our country's fiscal crisis forces us to take a closer look at spending, we are witnessing a renewed interest in criminal justice reform and reevaluating the $70 billion spent annually on America's correctional system. Understandably, state and national leaders are calling for an end to America's costly overreliance on incarceration. Calls for reform intensified recently with the Supreme Court's ruling on the release of thousands of inmates from California prisons and with last month's 40th anniversary of the War on Drugs. Despite the difficult times with which we are now faced, there is a tremendous opportunity to invest in a proven budget solution that cuts crime, saves money and serves our veterans in need of treatment and restoration.

My first exposure to Drug Courts opened my eyes to the incredible capacity of human beings to change. I have seen individuals mired in the deepest depths of addiction transformed by Drug Courts. I have seen families reunited after years of estrangement due to a loved one's substance abuse. These miracles occur every day in Drug Court. This country's greatest untapped resource is the addicted population. Every year, Drug Courts save over 120,000 chronically addicted people, bringing them from darkness to light and setting them on a course toward fulfillment, joy, freedom and service. Imagine for a moment the impact we could have if Drug Courts were available to all 1.2 million addicted individuals who would be best served by a Drug Court if one were available. Imagine the impact of 1.2 million people making up for lost time by committing themselves to recovery, serving their families, communities and country. This is the promise of Drug Courts. This is why it is critical that Congress fund Drug Courts at a minimum of $88.7 million.

From saving money to saving lives, from eliminating racial disparities to protecting public safety, from cutting crime to restoring families, from coming to the aid of our veterans to stopping impaired drivers, this is a budget solution that we cannot afford to cut. There are hundreds of reasons why but I will give you just four reasons why Drug Courts must be at the center of any criminal justice reform.

First, and most importantly, Drug Courts are the nation's most effective strategy in reducing recidivism - especially among drug-addicted, nonviolent offenders with long criminal histories. No other strategy comes close to matching the long-term results of Drug Courts. By closely supervising participants and keeping them in treatment long enough to find permanent recovery, Drug Courts are a stabilizing force on our criminal justice system and society at-large. Everyone benefits when an addicted person gets clean and sober, pays taxes and re-engages with their community. This unparalleled success directly results in reduced use of jails and prisons, improved employment and family functioning, and saved money by reduced crime, health care utilization and victim compensation.

Second, the data backing up the Drug Courts is no longer up for debate. The rapid growth of Drug Courts in the past two decades has inspired researchers to pay close attention. More research has been published on the effects of the courts than on virtually all other criminal justice programs combined. The facts are now known: Drug Courts reduce crime by up to 50 percent and have been found to save up to $13,000 for every individual they serve. We also now know that 75 percent of those who complete Drug Court are never arrested again, an impressive track record for the courts.

Third, Drug Courts have stepped up to serve the growing number of veterans who face charges stemming from substance abuse to mental health issues. George Washington once said, "The willingness

with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional to how they perceive the Veterans of earlier wars were treated and appreciated by their nation." We ask so much of our men and women in uniform and they ask little in return. Often they are the last to ask for help. It is our duty to care for our veterans when they suffer as a result of their service to this nation. Drug Courts and now Veterans Treatment Courts are on the front lines of ensuring that when our veterans suffer from substance abuse or mental health disorders and get in trouble with the law, they have the opportunity for treatment and restoration. By restoring their honor we give honor to the service of all who serve.

Fourth, Drug Courts are being successfully rolled out across the country. In my home state of California, for example, the courts are courageously combating the scourge of methamphetamine and prescription-drug abuse. This same success is being replicated across the country, from rural towns to our largest cities. Drug Courts now number more than 2,500 and are located in every U.S. state. They represent truly nonpartisan drug policy.

In sum, Drug Courts focus on high-value offenders, those who have the highest need for treatment and wraparound services, and those who have the highest risk of failing out of those services without support and structure. These are the individuals who drain the system of resources and perpetuate generational crime and substance abuse. Drug Courts serve more than 120,000 such individuals every year, but this is only 10 percent of the eligible offender population. The Department of Justice recently identified 1.2 million individuals in the criminal justice system who would be eligible for Drug Court but are unable to gain access because one is simply not available.

This is precisely the reason why we need more Drug Courts, not fewer. As Congress looks to cut spending and reduce the federal deficit, it is critical that we do so judiciously and with an eye to the future. We must not make cuts to programs that will cost us more in the long run, particularly at the expense of our public safety. There is no greater example of such a program than Drug Courts.

If the objective of Congress is to lower our exorbitant criminal justice costs, then we should not cut a program that returns up to $27 for every $1 invested and which has the support of Democrats and Republicans. We should, instead, hold the line on Drug Courts funding so they can continue to treat our most seriously addicted offenders each year and meet the growing needs of our veterans in the criminal justice system.

Respectfully submitted,

Martin Sheen

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF NATIONAL DRUG CONTROL POLICY
Washington, D.C. 20503

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

Senate Committee on the Judiciary
Subcommittee on Crime and Terrorism

Tuesday, July 19, 2011
10:30 a.m.
226 Dirksen Senate Office Building

Written Statement
of
Benjamin B. Tucker
Deputy Director for the Office of State, Local, and Tribal Affairs
Office of National Drug Control Policy

U.S. Senate Judiciary Committee
Subcommittee on Crime and Terrorism
"Drug and Veterans Treatment Courts: Seeking Cost-Effective Solutions for Protecting Public Safety and Reducing Recidivism"
Statement of Benjamin B. Tucker
Deputy Director for State, Local and Tribal Affairs, Office of National Drug Control Policy
Executive Office of the President
July 19, 2011

Chairman Whitehouse, Ranking Member Kyl, and distinguished members of the Subcommittee, thank you for this opportunity to address the importance of drug courts. As you know, the Office of National Drug Control Policy (ONDCP) was established by Congress with the principal purpose of reducing illicit drug use, manufacturing, and trafficking; drug-related crime and violence; and drug-related health consequences. As a component of the Executive Office of the President, our office establishes policies, priorities, and objectives for the Nation's drug control program. We also evaluate, coordinate, and oversee the international and domestic anti-drug efforts of Federal agencies and ensure such efforts sustain and complement state and local anti-drug activities.

As ONDCP's Deputy Director for State, Local, and Tribal Affairs, it is my job to work closely with our partners on prevention and law enforcement initiatives through the Drug Free Communities program, the High Intensity Drug Trafficking Area (HIDTA) program, and the National Youth Anti-Drug Media Campaign.

The Obama Administration's inaugural *National Drug Control Strategy (Strategy)*, released in May 2010, was a significant shift in the way the Federal Government approaches drug control issues. The Administration recognizes that an enforcement-centric "War on Drugs" approach cannot adequately address the public health and public safety aspects of the drug control issue, and that a comprehensive and balanced approach is needed. Prevention, treatment, recovery, innovative criminal justice strategies, and law enforcement are all a part of the comprehensive strategy to reduce drug use, provide help to those who need it, ensure public health and safety, and afford those struggling with substance abuse and addiction the opportunity to be productive members of our country.

The *Strategy* establishes specific goals by which we measure our success. We have worked, and are continuing to work, with dozens of Federal agencies, Members of Congress, state and local organizations, and the American people to make significant reductions in illicit drug use and its consequences. Our efforts are balanced and incorporate new research and smarter strategies to better align policy with the realities of drug use in communities throughout this country. In 2009, over 23 million Americans ages 12 or older needed treatment for an illicit drug or alcohol use problem. However, about 11 percent received the necessary treatment for their disorders.[1]

[1] US Department of Health and Human Services, SAMSHA, 2009 National Survey on Drug Use and Health. Available: http://oas.samhsa.gov/nsduhLatest.htm

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Just last week, we released the Administration's 2011 *Strategy*, which builds upon the 2010 *Strategy's* foundation. The 2011 *Strategy* addresses issues of concern to specific populations, including active duty service members, veterans and military families, college students, women and children, and those in the criminal justice system. The Administration's *Strategy* continues to expand upon a balanced approach to drug control issues that emphasizes community-based drug prevention, integration of drug treatment into the mainstream health care system, innovations in the criminal justice system to break the cycle of drug use and crime, and international partnerships to disrupt transnational drug trafficking organizations.

Today, I am here to discuss one of the Administration's key criminal justice policy objectives as set out in the *Strategy*: to stop the revolving door of arrest, incarceration, release, and re-arrest through effective interventions and alternatives to incarceration. The *Strategy* clearly outlines the Administration's commitment to breaking the cycle of drug use and crime. Due to the desire to reduce recidivism, the high cost of incarceration, and budgetary constraints at all levels of government, it is important we take this opportunity to emphasize the importance of proven alternatives to incarceration, such as drug courts, to address drug use and its consequences.

Among state prisoners who were dependent on or abusing drugs, 53 percent had at least three prior sentences to probation or incarceration, compared to 32 percent of other inmates. Additionally, drug dependent or abusing state prisoners (48 percent) were also more likely than other inmates (37 percent) to have been on probation or parole supervision at the time of their arrest.[2] The goal of drug courts is to help participants recover from addiction and prevent future criminal activity, while also reducing the burden and costs of repeatedly processing drug-involved offenders through the Nation's courts, jails, and prisons. Drug court participants are provided intensive treatment and other services for a minimum of one year. There are frequent court appearances and random drug testing, with sanctions and incentives to encourage compliance and completion. Successful completion of the treatment program results in dismissal of the charges, reduced or set-aside sentences, lesser penalties, or a combination of these options. Most important, graduating participants gain the necessary tools to rebuild their lives.

Because the problem of drugs and crime is much too broad for any single agency or system to tackle alone, drug courts rely upon the daily communication and cooperation of judges, court personnel, probation, treatment providers, and other social services providers from throughout the community. Drug courts are an innovative mechanism for promoting collaboration and generating support among many sectors of the community, with the overarching goal of improving public health and public safety.

Drug courts have existed for more than 20 years, and their effectiveness in reducing recidivism and lowering criminal justice costs is well documented. In a recent Department of Justice study, drug court participants reported 25 percent less criminal activity and had 16 percent fewer arrests than comparable offenders not enrolled in drug courts. In addition, 26 percent fewer drug court participants reported drug use and were 37 percent less likely to test

[2] Bureau of Justice Statistics. *Drug Use and Dependence, State and Federal Prisoners, 2004*. U.S. Department of Justice. [revised 2007]. Available: http://bjs.ojp.usdoj.gov/content/pub/pdf/dudsfp04.pdf

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positive for illicit substances.[3] A review of five independent meta-analyses indicates that drug courts significantly reduce crime by an average of eight to 26 percentage points. Well-administered drug courts were found to reduce crime rates by as much as 35 percent, compared to traditional case dispositions.[4] Researchers also concluded drug courts reduce drug abuse and improve employment for their participants.[5]

In times of serious budget cuts, the drug court model offers state and local governments a cost-effective way to increase the percentage of addicted offenders who achieve sustained recovery, thereby improving public safety and reducing costs associated with re-arrest and additional incarceration. The National Institute of Justice's (NIJ) Multisite Adult Drug Court Evaluation found that, compared to traditional case processing and supervision, drug courts have higher investment costs especially in treatment services (due to increased access and retention). However, savings associated with victim and criminal justice system costs may not be as great due to fewer crimes, rearrests, and incarceration. Drug courts saved an average of $5,680 per participant, returning a net benefit of $2 for every $1 of cost. In an NIJ-funded study of the Multnomah County, Oregon drug court that tracked 10 years of cohorts (1991-2001), NPC Research found that rearrests were lower five years or more later compared to re-arrests for similar drug offenders within the same county. Comparing drug court to traditional case processing, there was an estimated savings of $1392 for costs associated with the instant case, and savings of $6744 for costs associated with outcomes, for a combined savings of $8136 on average.[6] These numbers show that drug courts are a wise investment, particularly for the many states and localities seeking cost savings in the criminal justice system. Using data from the National Survey on Drug Use and Health, the Arrestee Drug Abuse Monitoring Program, and Drug Abuse Treatment Outcome Study, the Urban Institute developed estimates to compute expected crime-reduction benefits of treating clients with particular profiles. They propose that removing existing eligibility restrictions for substance abuse treatment would continue to produce public-safety benefits that exceed associated costs. For example, access to treatment for the estimated 1.47 million at risk arrestees would produce more than $46 billion in benefits at a cost of $13.7 billion.

Drug courts are also an effective mechanism for addressing substance-dependent offenders who risk failing in less-intensive rehabilitation programs, or are deemed higher-risk, higher-need offenders. In an effort to further expand this practice, the National Association of Drug Court Professionals (NADCP) recommends that drug courts especially target high risk, prison-bound offenders. Additionally, this organization recommends that offenders receive risk-needs assessments that are considered in sentencing decisions to ensure the right type of offender is sentenced to the right disposition/services, to include drug courts. The Administration's *Strategy* supports these efforts as an important step in providing the intensive, proven interventions of drug courts to the high-risk populations.

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[3] National Institute of Justice. *NIJ's Multisite Adult Drug Court Evaluation*. U.S. Department of Justice. [2011]. Available: http://www.nij.gov/nij/topics/courts/drug-courts/madce.htm

[4] Marlowe, DB. Recent Studies of Drug Courts and DWI Courts: Crime Reduction and Cost Savings. National Association of Drug Court Professionals. Available: http://www.isc.idaho.gov/dcourt/DC_Research_Update408.pdf

[5] Marlowe, D. B., DeMatteo, D. S., and Festinger, D. S. "A sober assessment of drug courts." *Federal Sentencing Reporter, 16,* 153-157. (2003).

[6] Finnegan, M.; Carey, S.; Cox, A. "Impact of a Mature Drug Court Over 10 Years of Operation: Recidivism and Costs." NPC Research. Available: https://www.ncjrs.gov/pdffiles1/nij/grants/219225.pdf

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There are over 2,500 drug courts in operation today in the United States. Approximately 120,000 Americans receive the help they need to break the cycle of addiction and crime every year in drug courts. In fact, the drug court movement continues to grow. Since 1989, drug courts have been established or are being established in all 50 States, the District of Columbia, the Northern Mariana Islands, Puerto Rico, Guam, and in nearly 90 tribal locations. With the rapid expansion of drug courts throughout the country, it is critical to ensure that current best practices for drug court implementation and operations are effectively disseminated to the field. We must also ensure that the courts currently in operation, along with those in the planning and implementation phases, operate in accordance with long-standing, proven standards. These standards and practices are designed for drug courts to address the appropriate client population and achieve the best outcomes. The Administration continues to support training and technical assistance for drug courts nationwide.

The success of drug courts has led to development of Family Drug Courts, Juvenile Drug Courts, Tribal Wellness Courts, and other treatment courts. One of these models, Veterans Treatment Courts, has shown great promise as a means to more effectively meet the needs of veterans in the criminal justice system.

As Americans, we must keep in mind the enduring debt we owe our country's active duty military and veterans. While news accounts remind us daily of the dangers our military men and women confront in combat, there are serious challenges facing our veterans when they return home, particularly substance use and psychological health problems. Sadly, these challenges can sometimes lead to criminal or other destructive behaviors. The Justice Department's most recent survey of prison inmates found that in 2004 an estimated 60 percent of the 140,000 veterans in Federal and state prisons were struggling with a substance use disorder, while approximately 25 percent reported being under the influence of drugs at the time of their offense.[7] Veterans Treatment Courts are designed to meet the particular needs of veterans involved in the criminal justice system.

Like drug courts, Veterans Treatment Courts combine rigorous treatment and personal accountability, with the goal of breaking the cycle of drug use and criminal behavior. However, in addition to the traditional partners in a drug court, they incorporate the unique capabilities and services of the Department of Veterans Affairs healthcare networks, the Veterans Benefits Administration, state departments of veterans affairs, volunteer veteran mentors, and veterans family support organizations. Veterans Treatment Courts work with these veteran-oriented agencies and organizations to connect court participants to the treatment, benefits, and support services which they need and for which they are eligible as veterans, including substance abuse treatment, medical and disability benefits, home loans, and other services intended to help their reentry to the community.

In an effort to replicate the success of the first Veterans Treatment Court, the Administration launched an initiative to assist communities seeking to establish Veterans Treatment Courts. The 2010 Veterans Treatment Court Planning Initiative (VTCPI) constitutes

[7] Office of Justice Programs/Bureau of Justice Statistics. *Veterans in State and Federal Prison, 2004*. U.S. Department of Justice. [May 2007]. Available: http://bjs.ojp.usdoj.gov/content/pub/pdf/vsfp04.pdf

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the first Veterans Treatment Court training program in the Nation. The VTCPI curriculum is a collaborative effort of the Bureau of Justice Assistance (BJA), the Department of Veterans Affairs, the National Drug Court Institute (NDCI), and numerous Veterans Treatment Court professionals. Eleven court teams were trained at the inaugural event in September 2010, and an additional ten teams were trained this past February.

There are now over 75 operational Veterans Treatment Courts nationwide. As these courts mature and training continues, we look forward to gathering additional outcome data surrounding their work with justice-involved veterans. Veterans Treatment Courts are showing significant promise in successfully promoting sobriety, recovery, and stability for our Nation's veterans.

Drug courts have over a 20-year track record of successfully restoring lives of participants across the country. They continue to adapt and improve their models of operation, finding new ways to address critical segments of the drug-involved offender population. The Administration strongly supports drug courts and views them as an important model for other promising alternative approaches to incarceration being employed across the country.

When these court-based strategies are implemented effectively, the criminal and juvenile justice systems can deter drug use, reduce drug availability, steer users toward getting the help they need, and, as a result, help make our neighborhoods safer. By supporting these efforts, the Administration is a full partner with state, local, and tribal governments to reduce drug use and crime, improve the lives of individuals, and stabilize communities through the effective and innovative use of resources. As reflected in the Administration's *National Drug Control Strategy*, combining effective and fair criminal justice system interventions with prevention and treatment efforts will enable us to be successful in addressing drug use and its consequences.

I look forward to working with the Committee to address these challenging and important issues. Thank you very much for the opportunity to testify and for the Committee's support of drug courts.

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