



Drug Courts: The Right Prescription for Texas

by Marc Levin, director of the Center for Effective Justice

What Is a Drug Court?

First developed in Miami in 1989, a drug court is a special court assigned to dispose of cases involving substance-abusing offenders through comprehensive supervision, drug testing, treatment services, immediate sanctions, and incentives. Drug courts feature extensive interaction between the judge and the offender and often involve the offender's family and community. Successful completion of the drug court program results in dismissal of the charges (pretrial diversion) or satisfaction or reduction of the sentence (post-trial diversion or intensive probation). More than just another type of court, drug courts represent a fundamental shift from incarceration as the primary means of punishing minor drug offenses to mandatory treatment for those offenders willing to take responsibility for their actions, using prison only as leverage to ensure compliance. The U.S. Department of Justice has outlined the ten key components of drug court programs.¹

Who Is Eligible for a Drug Court?

Traditionally, only individuals charged with non-violent drug offenses may be diverted from trial in a regular criminal court to a drug court, although some drug courts in other states have begun including offenders who committed property crimes to obtain funds to support a drug habit. The most well-known drug court in Texas is a pretrial diversion program overseen by Dallas Judge John Creuzot, which limits eligibility to first-time minor drug offenders willing to follow the stringent regime of treatment, counseling, and testing. While participation is voluntary, Judge Creuzot informs prospective participants that they cannot opt out once they enroll.

Where Are Drug Courts Used in Texas?

The 77th Texas Legislature passed House Bill 1287, authorizing counties to create drug courts and requiring courts in counties with populations over 550,000.² This includes Bexar, Collin, Dallas, El Paso, Harris, Hidalgo, Tarrant, and Travis counties. While Texas only had three drug courts in 2002, as of September 29, 2005, Texas had 44 drug courts with another 20 in the planning stages, including adult, juvenile, family, DWI/DUI, and tribal drug courts.³ Nationally, there are over 1,600 drug courts, indicating that Texas has substantially fewer drug courts per capita than other states.⁴

The 79th Legislature passed an overhaul of the probation system, HB 2193, which would have required counties with more than 200,000 people to establish a drug court, but only if state or federal funding was available.⁵ The bill would have also imposed a \$10 court fee on alcohol and drug offenses to fund drug courts. Governor Rick Perry vetoed HB 2193 for reasons unrelated to the provisions on drug courts.

Do Drug Courts Work?

Drug courts are reducing recidivism both in Texas and throughout the nation. Texas offenders completing drug court programs have a 28.5 percent re-arrest rate compared to 58.5 percent in the control group.⁶ Even including those offenders who failed to successfully complete the drug court program, the re-arrest rate is 40.5 percent.⁷ Similarly, the incarceration rate of offenders who complete drug court programs is only 3.4 percent after three years compared with 12.0 percent for all drug court participants and 26.6 percent for the control group.⁸

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The recidivism rate of participants in Judge Creuzot’s drug court is 17 percent compared to 61 percent in the control group.⁹ Other Texas drug courts have been nearly as successful. Jefferson County drug courts graduates have a re-arrest rate of 24.5 percent compared to 43.7 percent for non-participants while Travis County drug courts have a re-arrest rate of 24.5 percent versus 45.5 percent for non-participants.

Nationally, the average recidivism rate for drug court graduates is between 4 percent and 29 percent as compared to 48 percent for the control group.¹⁰ A survey of 17,000 annual drug court graduates nationwide found that recidivism rates for drug court participants one year after graduation is only 16.5 percent and 27.5 percent after two years.¹¹ Some 71 percent of all offenders entering drug courts since 1989 have either successfully completed their drug court program or are currently participating.¹²

Two and Three-Year Outcomes for Texas Drug Court Participants and Comparison Group Offenders

Group Tracked	Percent Arrested		Percent Incarcerated	
	Two Years After Entry	Three Years After Entry	Two Years After Entry	Three Years After Entry
Completed Program	19.5%	28.5%	1.0%	3.4%
Did Not Complete	48.6%	65.1%	12.5%	21.4%
All Participants	33.1%	40.5%	5.9%	12.0%
Comparison Groups	46.9%	56.8%	19.7%	26.6%

Source: *Initial Process and Outcome Evaluation of Drug Courts in Texas*, Criminal Justice Policy Council, January 2003, available at <http://www.cjpc.state.tx.us/reports/parprob/03drugcrts.pdf>.

In addition to reducing recidivism, drug courts keep families together and relieve burdens on the social service system, since offenders diverted from prison are often primary breadwinners. For example, research shows drug courts reduce utilization of the strained foster care system.¹³ Also, by enabling participants to avoid a criminal record, pretrial diversion drug courts promote employment, as participants can truthfully state they have not been criminally convicted.

Do Drug Courts Save Money?

A comprehensive drug court program typically costs between \$2,500 and \$4,000 annually for each offender.¹⁴ By comparison, the annual cost per Texas prison inmate is more than \$16,000, not including initial construction costs.¹⁵ A study of a drug court in Portland, Oregon found \$5,071 per inmate savings including victimization costs, due to reduced rates of drug use and recidivism.¹⁶ The Maricopa County, Arizona drug court saves more than \$600,000 annually in pretrial expenses because the drug court procedure combines arraignment, change of plea, and sentencing in one hearing held within 14 days of arrest, eliminating multiple court hearings, court-appointed counsel, police interviews, trials, and presentence reports.¹⁷

Policy Implications

Do We Need More Drug Courts?

Given that some 21.7 percent of Texas prisoners, which amounts to 32,550 inmates, are incarcerated for nonviolent drug offenses, many more drug courts could be utilized.¹⁸ The primary reason Texas does not have more drug courts is that state funding is limited to \$750,000 plus \$3 million available through the Governor’s Criminal Justice Division. Even in the 16 Texas counties that have drug courts, their capacity is less than 5 percent of those arrested for drug possession.¹⁹ In addition to creating more drug courts in major counties, regional drug courts could serve multiple, smaller counties. Such courts could be placed under the 121 Community Supervision and Corrections Districts (CSCDs) that oversee adult probation departments.

How Do We Pay for More Drug Courts?

While drug courts promise substantial savings in incarceration costs for the charged offense as well as long-term savings from reduced recidivism, initial state outlays are needed to increase the number of drug courts. Regular probation costs a tenth of prison, but drug courts cost approximately 20 to 30 percent of prison because of the closer supervision and treatment involved.

By redirecting some funds that would otherwise eventually go to prison construction to programs such as drug courts, substantial savings can be realized. If policies are not changed to reduce prison inflows,

House Corrections Chairman Jerry Madden estimates that another 14,000 prison beds will be needed by 2010, as prisons are now at capacity.²⁰ Allocating these beds equally among units of varying security levels, the state would incur prison construction costs of \$1.24 billion over the next several years.²¹

In addition to tapping money that would otherwise be used for new prisons, funds to expand drug courts could come from raising court fees on all drug offenders or specifically on drug court participants, who may currently be charged a maximum fee of \$1,000. Since many participants work while going through a drug courts program,²² a portion of their wages could be garnished. The garnishment could also be applied to future wages after graduation until the program fee is fully paid.

While drug courts in Texas are now primarily used for pretrial diversion, another way to free up funds for drug courts would be to accelerate parole for some of the 32,550 inmates incarcerated for nonviolent drug offenses. A portion of the savings could be used for reentry drug courts and other services, such as job training, to reintegrate these offenders into society while minimizing recidivism. Remaining savings could be allocated to fund pretrial diversion drug courts for new offenders.

Federal funds are also available for drug courts through the Drug Courts Grant Program, administered by the Department of Justice. The Bush Administration strongly supports drug courts and requested \$70.1 million in the 2006 fiscal year budget, but Congress slashed funding from \$40 million to \$10 million, though there is an ongoing effort to restore some funding.²³

Conclusion

Drug courts are not soft on crime. Instead of isolating an offender in prison, they force participants to confront their addiction and repair the damage they have done to themselves, their families, and their communities. While major drug dealers remain in traditional criminal courts, the overwhelming evidence shows that, by diverting minor drug offenders to drug courts, we can cut recidivism and costs.

A 2004 poll found that 80 percent of respondents support mandatory treatment and community service sen-

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tences for low-level, nonviolent drug offenders, if such sentences reduce costs to the taxpayer. In light of the solid body of research on drug courts, changing public attitudes, and the specter of over \$1 billion in new prison construction costs, expanding drug courts is the right prescription for Texas. 

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Policy Recommendations

- Create more drug courts in the 40 counties with at least one drug court;
- Establish drug courts in other counties, including multi-county drug courts in less populated areas;
- Employ drug courts as part of a comprehensive reentry program to draw down the prison population through early parole of inmates convicted of nonviolent drug offenses;
- Increase capacity of residential drug treatment and day treatment centers so drug court judges and probation officers can refer participants there without waits as long as six months; and
- Fund drug courts and related services by diverting a portion of funds that would otherwise go to prison construction and operation costs and increasing fees on drug offenders and drug court participants.

Endnotes

- ¹See <http://www.nadcp.org/docs/dkeypdf.pdf>.
- ²Initial Process and Outcome Evaluation of Drug Courts in Texas, Criminal Justice Policy Council, Jan. 2003, available at <http://www.cjpc.state.tx.us/reports/parprob/03drugcrts.pdf>.
- ³BJA Drug Court Clearinghouse Project at American University: Summary of Drug Court Activity by State and County, Sep. 29, 2005, available at http://spa.american.edu/justice/publications/us_drugcourts.pdf#page=89; Senate Criminal Justice Committee Interim Report to the 79th Legislature, Dec. 2004, available at http://www.senate.state.tx.us/75r/Senate/commit/c590/downloads/112004CJ_Report.pdf.
- ⁴National Association of Drug Court Professionals, available at <http://www.nadcp.org/whatis/>.
- ⁵Vetoes of Legislation, 79th Legislature, House Research Organization, available at: <http://www.capitol.state.tx.us/hrofrf/focus/veto79-9.pdf>.
- ⁶See note 2.
- ⁷*Ibid.*
- ⁸*Ibid.*
- ⁹John Creuzot, SAFPF Re-Entry Court Outcome Study, October 26, 2005.
- ¹⁰Steven Belenko, Research on Drug Courts: A Critical Review 2001 Update, National Center on Addiction and Substance Abuse, Columbia University, available at <http://www.drugpolicy.org/docUploads/2001drugcourts.pdf>.
- ¹¹Recidivism Rates For Drug Court Graduates: National Based Estimates, National Institute of Justice (NIJ), available at <http://www.ncjrs.gov/pdffiles1/201229.pdf>.
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- ¹³Superior Court, San Diego County, The Dependency Court Recovery Project, by James R. Milliken (San Diego, California, May 2000): 1-2.
- ¹⁴See note 4.
- ¹⁵Texas Performance Review, The Challenge of Change in Texas Government, available at <http://www.window.state.tx.us/tpr/tpr4/vol1/v12rec4.html>.
- ¹⁶S.M. Carey and Finigan, A Detailed Cost Analysis in a Mature Drug Court Setting: A Cost-Benefit Evaluation of the Multnomah County Drug Court (National Institute of Justice, July 2003), available at <http://www.ncjrs.org/pdffiles1/nij/grants/203558.pdf>.
- ¹⁷Letter from Leslie Miller, Superior Court Judge, Pima County, Arizona, July 12, 2000.
- ¹⁸See <http://www.window.state.tx.us/etexas2001/report/ch12>.
- ¹⁹See note 2.
- ²⁰Comments at 2005 Texas Public Policy Foundation Policy Orientation, audio available at <http://www.policycast.com/TexasPolicy/audio/2006-01-09-po-panel-prison.mp3>.
- ²¹*Ibid.*
- ²²See note 12.
- ²³National Drug Control Strategy: FY 2006 Budget Summary, White House Office of Drug Policy, available at www.whitehousedrugpolicy.gov/publications/policy/06budget/exec_summ.pdf; Congressional Budget-Cutting Extends Even to Drug War Sacred Cows, Jan. 6, 2006, available at <http://stopthedrugwar.org/chronicle/417/budgetcuts.shtml>; Drug Court Program Cut to \$10 Million: Help restore the funding, National Association of Drug Court Professionals, available at <http://ga4.org/drugcourts/intro.html>.
- ²⁴Eagleton Center for Public Interest Polling at Rutgers University, available at http://www.famm.org/si_sbs_newjersey_eagletonpoll_1_25_05.htm.

