Focus on Problem-Solving Courts

By Keith Roberts

This issue offers a number of articles by highly knowledgeable people about several types of problem-solving courts. In describing their goals, how they work, and their impact, the authors make a powerful case in favor of such courts. The first of these articles, Harper and Finkle on the King County Mental Health Court in Seattle, Washington, provides an excellent historical and practical overview.

Because these courts have proven themselves so successful, they have multiplied in recent years. In New York, for example, there are currently 83 domestic violence and integrated domestic violence courts, 179 drug treatment courts, 21 mental health courts, seven sex offense courts, seven community courts, and three youth offender domestic violence courts for cases involving late teenage defendants. Even states less known for their social services have seen such growth. In Texas, for example, there are 124 problem-solving courts under such names as drug court, mental health court, veterans' court, DWI court, and juvenile drug court.

What few accounts of problem-solving courts do, however, is provide the kind of hard financial data that policymakers and government agencies increasingly rely upon to make funding decisions in a time of fiscal recession. Because many problem-solving courts seem to cost more per case than traditional courts, it would seem crucial to make the financial case for them as well as the humanitarian one.

Sadly, financial data are hard to come by. American court systems collect plenty of data measuring activity, outcome, and time, but granular cost information has not previously been a high priority. It is expensive to collect and verify the data upon which modern budgeting systems and financial analysis depend, so courts rarely collect large sets of financial data. As a result, the financial consequences of problem-solving courts are found primarily in case studies, rather than comprehensive statistical analyses.

The seminal financial study, known as CalDATA 1994, was not directly court-oriented at all. It tracked 1,821 randomly selected California drug users in treatment under Medicaid, disability insurance, or local alcohol and drug treatment programs. An average treatment lasted three months and cost $1,400, but taxpayers saved about $10,000 "with the greatest share of benefit deriving from reductions in the economic burden of crime." 3

A careful, extensive, and recent study compares 1,781 participants in 23 drug courts across the country with similar defendants in conventional courts over 18 months. It finds that drug court costs per participant for the full 18 months totaled $11,106, 43 percent more than conventional court costs. But largely because drug court participants are one-third less likely than conventional court defendants to report using drugs 18 months after participation begins—and commit less than half as many crimes—the benefit net of extra court costs comes to $5,680 to $6,208 per participant. 4

Seattle's Community Court, which deals with minor offenses, primarily by recidivists, received a careful study in 2009. Comparing 209 defendants who participated in the Community Court with 239 who did not, it found that after 18 months, participants spent notably fewer days in jail and had fewer court appearances afterward. The three-year savings in public defender time and jail costs were projected to be more than $500,000 after taking into account the Community Court's staffing cost. 5

Another case study evaluated Portland, Oregon's, drug court by tracking 6,500 participants from 1991 to 2001 and found a saving of $12,218 per participant compared to traditional courts. The savings were primarily due to reduced recidivism in jail, defense, and victim expense less the extra cost of court operations, drug treatment, and professional staffing. An earlier study of 256 felony participants each in Kansas City, Missouri, and Pensacola.

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Although these and other studies suggest that problem-solving courts save on court appearances, imprisonments, thefts, and, in child support matters, the child support problems and child welfare expenses that follow parental jailing, case studies are inherently anecdotal, often subject to the statistical vagaries of small numbers, and sometimes flawed in design. Moreover, the economic consequences taken into account are often limited to the justice system. By contrast, for example, consider a 2009 study of an integrated treatment program at Seattle's Downtown Emergency Service Center. It found that the program saved taxpayers more than $2 million per year for the 95 chronic alcoholics in the study, taking account of jail bookings, days incarcerated, shelter and sobering center use, hospital-based medical services, publicly funded alcohol and drug detoxification and treatment, emergency medical services, and Medicaid-funded services.⁸

Consequently, case studies alone cannot provide the level of persuasive economic rationale that supports many of the court system's competitors for public funds. The legal world bemoans the cuts to court funding that jeopardize the rule of law, but I fear that unless court systems start generating data that support not only the human need for their operations, but also the financial rationale for them, budgetary woes are likely to continue. ■

The author wishes to acknowledge the great deal of help he received from several of this issue's authors as well as co-editor Judge Dixon in the writing of this piece, and he takes full responsibility for its content.

Endnotes
4. The results are from a pre-production version of The Multi-Site Adult Drug Court Evaluation: The Impact of Drug Courts, vol. 4, available at http://www.courtinnovation.org/sites/default/files/documents/MADCE_4.pdf. Total cost per drug court participant came to $13,102, compared to total costs for similar defendants receiving ordinary processing, which came to $19,310. Id. at 241, tbl. 4-9.7. I wish to express my gratitude to Brett Taylor of the Center for Court Innovation and author of an article in this issue, for helping me find some of the data used in this introduction.
6. See M.W. Finigan et al., Impact of a Mature Drug Court over 10 Years of Operation: Recidivism and Costs (JULY 2007); M.W. Finigan et al., Impact of a Mature Drug Court over 10 Years of Operation: Recidivism and Costs (EXECUTIVE SUMMARY) (APR. 2007).
8. Id.
9. Savings in the millions: Personal communication from Judge Anne Harper, to whom I am grateful for this reference. The study is Mary E. Larimer et al., Health Care and Public Service Use and Costs Before and After Provision of Housing for Chronically Homeless Persons with Severe Alcohol Problems, 301(13) JAMA 1549 (2009).

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<th>Place</th>
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<th>Drug Ct. Recidivism Rate</th>
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* The % arrested by day 300 of follow-up.