NO: Claims about drug courts aren’t supported by research.

By Margaret Dooley-Sammuli and Nastassia Walsh

Drug addiction is a health problem. So why are U.S. drug policies still seeking solutions in the criminal justice system?

The use of drug courts — programs that seek to reduce drug use through mandated drug treatment and close judicial oversight — has grown dramatically over the last 20 years thanks to moving success stories and enthusiastic proponents within the criminal justice system. These success stories are real and deserve to be celebrated, but they provide only a partial picture.

Based on our own analyses of the existing research, we have independently come to the same conclusion that several academics and even the federal government’s General Accountability Office (GAO) have: Claims that drug courts have significantly reduced costs, incarceration or drug use are unsupported by the evidence.

More troubling is that drug courts may actually increase the criminal justice involvement of people with drug problems. The widespread use of incarceration as a sanction in drug courts — for failing a drug test, missing an appointment or having a hard time following the strict rules of the court — means that some participants end up serving more time behind bars than if they had not entered drug court. And some participants may actually face longer sentences when they are ejected from drug court than those who did not enter drug court in the first place (often because they lost the opportunity to plead to a lesser charge).

Even people who are not in drug court may be negatively affected by them, since drug courts have been associated with increased arrests and incarceration in some cases. This is often because law enforcement and others believe people will “get help” if they are arrested. But drug courts have limited capacity and strict eligibility requirements, which means that many of those arrested end up conventionally sentenced.

Treatment through the criminal justice system, including drug courts, is not found to be more effective than treatment in the community — though it is significantly more expensive. A federal study by the Substance Abuse and Mental Health Services Administration, for example, showed that people referred to treatment from the criminal justice system do not fare better than those referred through other means (such as a loved one or an employer). And, according to the Washington State Institute for Public Policy, drug courts do not reduce recidivism by even a half a percentage point more than treatment in the community without a judge’s oversight.

More than 1.4 million people are arrested every year simply for possessing a small amount of drugs for personal use — about half for marijuana. Only some of them have a drug problem and need treatment. Even if drug courts were expanded to scale to cover all of the people arrested for a drug law violation, between 500,000 and 1 million people would still be ejected from a drug court and sentenced conventionally every year.

Instead, we need drug courts to focus on more serious law violations that are linked to a drug problem and to expand access to treatment and other health interventions in the community so that they are available when people seek them. About 7.8 million Americans want drug treatment, according to the 2009 U.S. National Survey of Drug Use and Health; this is more than the number of
people facing lung, breast and prostate cancer combined. Many people who want treatment can’t access it outside the criminal justice system. This must change.

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