Legal Affairs

Succor. Succor in the Court.

There’s a problem with problem-solving courts: Taxpayers don’t understand how well they work.

By: Bernice Yeung | July 14, 2008 | 09:45 AM (PDT) | Comments

Ron Albers, presiding happily over San Francisco's drug court. Courtesy of San Francisco Superior Court
As he does four days out of the week, Commissioner Ron Albers strolls into his courtroom carrying a fishbowl filled with folded-up Post-it notes.
“All rise!” intones the bailiff.

His black judicial robe flowing behind him, Albers sets the fishbowl on the table and takes a seat at a raised dais, from which he presides over the San Francisco Drug Court. Albers is built like a small, compact boxer, and in the minutes before the proceedings begin, he surveys his courtroom with a quiet, almost feline interest. The courtroom audience is composed almost entirely of addicts who have been arrested for nonviolent felonies, such as auto theft or drug dealing or possession. They’ve been sent to his court because substance abuse motivated their crimes; in exchange for attending a drug program and thrice-weekly drug tests, they’ve avoided jail or prison. Albers monitors their progress through regular court dates, using a system of rewards — that’s where the fishbowl comes in — to urge defendants along the path of sobriety.

Just minutes before, Albers finished an hour of going over the treatment progress of every defendant on today’s docket with a psychologist, a social worker, a probation officer, a prosecutor and a public defender. Now, a middle-aged man in a fire-engine-red shirt approaches the bench; Albers knows he’s been making improvements after a drug relapse.

“You’re doing better!” Albers says cheerfully, referring briefly to his notes. “Hang real tight, keep focused and take it one day at a time.” Albers gives the defendant a court date two weeks hence.

A new defendant stands before Albers. “Another person clean and sober!” Albers says, beaming. “What’s the key to your success?”

“It’s something you have to want, and I want it,” the defendant, a man in green slacks who has a mop of mousy-brown hair, responds. “I have too much going for me now: I got my GED, I’m working. It’s all good. For years, I was not working, and now I’m sober, and I’m back at work.”

The courtroom erupts in applause.

“You make my day!” Albers says.

Albers rewards the defendant by allowing him to “go fishing.” The fishbowl is produced. After great consideration, the defendant selects a piece of paper, holds it up and smiles — he won a gift certificate to McDonald’s. Another round of applause.

Of course, not everyone sails through drug court. A 20-year-old man dressed all in black and sporting long dreadlocks approaches the bench. Albers is suddenly serious, almost prickly. In this case, results have not been good. “You have to be able to listen to people and be engaged in the program,” Albers says. “Now I’m going to have to assign you back to criminal court, and I wish you well.”
As if to soften the blow, he adds, “We all like you as an individual, but you have not been responsive.”

The defendant, who will now face up to five years in state prison, smirks and swivels on his heel. “Fuck the court,” he says loudly before making his exit.

There’s a beat of stunned silence before the social service coordinator in the courtroom remarks: “Well, we tried.”

The San Francisco Drug Court is a real departure from the stern and solemn courtrooms of Perry Mason and Atticus Finch. Falling under the larger umbrella of what have been dubbed “problem-solving courts,” drug courts are becoming increasingly common around the country and across the globe. They were introduced in 1989 in Miami-Dade County, Fla., where Janet Reno, the state’s attorney general, helped champion the idea. By offering addicts treatment instead of jail, drug court was a conscious response by frustrated judges who were being overwhelmed by the results of the ’80s cocaine boom and felt that they were processing cases for the same drug-addicted criminals, again and again.

Since then, a spate of studies has confirmed that drug courts, when properly implemented, tend to reduce recidivism and save money. Confirming similar findings by the Government Accountability Office, a 10-year longitudinal study by the National Institute of Justice released in 2007 followed drug court defendants from Portland, Ore., between 1991 and 2001 and found that the drug court model lowers re-arrests by between 17 and 26 percent. As a result, drug courts could produce a public savings of almost $7,000 per participant. In line with the growing body of empirical evidence, there are now nearly 2,000 drug courts across the country.

Drug courts were the first in a larger shift toward “problem-solving justice,” a court-reform movement that calls for greater attention to the root causes of crime. These courts, sometimes called “specialty courts” or “collaborative courts,” tackle a range of problems thought to be at the core of criminal behavior, including addiction and mental health. There has also been a simultaneous development of “community courts,” an effort to broaden the problem-solving court model to nonviolent offenders who may not have an explicit drug or mental health issue.

Leading the charge for the expansion of problem-solving courts is the chief justice of New York state, Judith Kaye, and a New York-based nonprofit, the Center for Court Innovation, who are often credited for sparking the problem-solving courts movement by starting the Midtown Community Court in 1993.

The Midtown court was a response to complaints from Times Square residents and business owners about rampant prostitution, vandalism, shoplifting and drug possession.
By combining social service help with non-jail punishment such as community service and job training, the court hoped to slow the revolving door.

It has since become an international model, buoyed by a study in 2000 that found the court had helped reduce quality-of-life crimes in the neighborhood. After the Midtown Community Court was opened, prostitution arrests dropped by 56 percent, and illegal vending arrests were down by 24 percent. Defendants who completed at least 90 days of drug treatment were also less likely to be re-arrested over three years, compared to pre-community court rates.

Studies of other types of problem-solving courts have also shown promising results (with the exception of domestic violence courts and juvenile drug courts, the problem-solving courts that consistently do not seem to reduce recidivism). For example, a 2007 study conducted by the University of California, San Francisco and the San Francisco Behavioral Health Court found that defendants in behavioral health court — which handles nonviolent offenders who have been clinically diagnosed with psychological problems — were 54 percent less likely to commit new crimes in the 18 months after they graduate from the court program.

Drug courts are the most proven model of problem-solving justice, and researchers acknowledge that research findings on other kinds of specialty courts are challenged by the small sample sizes that come from these courts’ limited caseloads. There are also inconsistencies in the findings on other specialty courts, perhaps related to a lack of uniformity in courtroom practices.

Still, problem-solving courts have become increasingly relevant as policymakers look for solutions to the national prison-overcrowding problem. This year, the Pew Center on the States issued a report that identified problem-solving courts — and drug courts in particular — as an effective alternative to incarceration for nonviolent offenders. The model has been vetted by the American Bar Association, the Conference of State Court Administrators and the Conference of Chief Justices, which called for “the broad integration over the next decade of the principles and methods employed in the problem-solving courts into the administration of justice to improve court processes and outcomes.”

“The thing to do is to stop evaluating them and set up an accreditation system. I think it’s been shown that the model can work,” says John Roman, a senior researcher in the Urban Institute’s Justice Policy Center.

“The problem is the way it gets applied, when jurisdictions deviate from the model that works.”

There are hints that the tide of courtroom opinion is turning, too. A 2008 national survey of trial court judges, conducted by the Center for Court Innovation and the California Administrative Office of the Courts, reported that 75 percent approve of and are willing to apply problem-solving methods in their courtroom.
In polls and surveys, the public has also shown an increasing openness to the problem-solving approach despite some concerns from both tough-on-crime conservatives and rehabilitation-oriented liberals. “I don’t think people know what a problem-solving court is — there’s not much awareness of them among the general public. But when you describe the key elements of a problem-solving court, the public is overwhelmingly supportive,” says David Rottman, a principal court research consultant at the National Center for State Courts.

And yet, despite the growing empirical support for them, there are only about 2,500 or so problem-solving courts in operation today — just a drop in the judicial bucket when compared with the more than 16,000 courts in the country. The Urban Institute estimates there are 55,000 defendants currently being processed through drug courts nationwide, compared with nearly 1.5 million who could be eligible. If all of these defendants participated in a drug court, an April Urban Institute study notes, taxpayers would see $46 billion in annual benefits — in reduced recidivism and fewer incarcerations — at a cost of only $14 billion.

The last bastion of resistance to the growth of the problem-solving courts, then, appears to be taxpayers who must ultimately fund these costly and resource-intensive courtrooms. In the past few years, a number of problem-solving courts have shut their doors because there often wasn’t money to keep them operating.

“Like any innovation, (problem-solving courts) are a bit fragile in that they cost more, especially when we run into hard times economically such as these,” Rottman adds. “Where revenues are down for state and city governments, problem-solving courts are somewhat at risk, although many of them have been resilient.”

The disparity between the performance of problem-solving courts and the public’s hesitancy to support them with tax dollars is likely a result of perception. There is a tremendous difference between how the criminal justice system is thought to work and the continuous churning of criminal defendants quickly in and out of jails and prisons that actually happens as a result of most prosecutions.

It is one of the great misconceptions of the American criminal justice system that it is primarily in the business of bringing murders and rapists to justice. The simple fact of the matter: Hundreds of thousands of criminal charges are filed in American courts each year (there were 68,000 criminal cases in 2007 in the federal courts alone), and the bulk of them don’t even begin to approach what might be considered a serious crime.

“The vast majority of cases are not, in fact, these horrible felony cases,” observes Greg Berman, executive director of the Center for Court Innovation. “They’re low-level cases, and — you don’t even have to be a social worker to discern this if you sit in court for a little while — they’re committed by people with really problematic lives. The drug use is palpable; the mental illness is palpable; the joblessness is palpable.”
Because trials are costly and time consuming, everyone is keen on processing cases — especially low-level crimes that don’t compromise public safety — quickly. The courts expedite their work through plea bargains, which happen in the great majority of criminal cases — as many as 90 percent by some estimates — according to scholarly articles on the American Bar Association Web site. This means that contrary to the dramas portrayed in John Grisham novels and the constantly looping *Law & Order* reruns, most criminal cases don’t receive a careful weighing of the facts through a trial, and they’re not followed by a meting out of a fair punishment through a sentencing hearing.

From his chambers, community court judge Alex Calabrese of the Red Hook Community Justice Center in Brooklyn describes what happens when you combine low-level crimes and plea bargaining, a scenario that has become a veritable criminal justice system cliché. “You’d see people with possession of low-level drugs: a glassine of heroin, a crack pipe with cocaine residue,” says Calabrese, who handled arraignments in a traditional criminal court in downtown Brooklyn for two years. “They would be recycling through the system time and time again, and they’d (take a plea and) get time served — 10 days jail, five days jail, 30 days jail. Let’s say you become a tough judge, and you say, ‘I’m sending you to jail for 60 days.’ Well, 60 days jail is actually 40 days real time behind bars. And 40 days jail is not going to cure somebody of a cocaine or heroin addiction. They’re going in as an addict, and they’re coming out an addict.

“So, it’s just a matter of time before they get arrested again and get recycled through the system again.”

Gary Bozeman lived a similar cycle before he entered Albers’ San Francisco Drug Court. Bozeman had been arrested 68 times, mostly for selling prescription painkillers to drug addicts in the Tenderloin District of San Francisco to feed his own crack cocaine habit. He speaks with an amusing theatrical flamboyance, and it’s clear he’s a talented salesman. “People say they hit rock bottom, and then they had an awakening. But understand me, I hit rock bottom, and I slithered in it,” he says. “I stayed there because I loved it — for a good 10 years.”

He says that getting arrested became a joke. “They slap your hand, let you out of jail. Take you, slap you on your hand, let you out of jail. It was never a big deal,” he says. “I’d be in and out in a day or two. The most time I ever (spent) in jail, even being 44 years old and African-American, was 34 days. But it’s not just the arrest. You get arrested, and if you get arrested, you lose your place, you lose your job. You just lose so much. It’s the cumulative thing, and then it puts a damper on your spirit and your mind. You think you’re a failure, and if you think you’re a failure, then you tend to stay out there. It’s a cycle.”

When he was caught selling pills to an undercover cop in October, the prosecutor offered him a plea deal: one year in county jail. His public defender asked for six months, but when the assistant district attorney looked at Bozeman’s rap sheet, the deal was a no-go. Bozeman’s attorney suggested drug court.
Bozeman had never heard of drug court, but he agreed to give it a shot — it was either that or sure incarceration. At his first drug court date, Albers offered Bozeman an outpatient drug program that would be monitored by the court, and he agreed. “They give me an opportunity to help myself,” he says of the drug court staff, “without just going to jail and getting out of jail and going right back on the street. They’re really trying to help me to help myself. But the choice is mine. I can choose to do it or choose not to do it. That’s what I find so attractive about this is that they are giving me the tools to look at what is really going on.”

Chatty and cheerful, Ron Albers is perhaps perfectly predisposed to run a problem-solving court. “You know that saying, ‘Is the glass half full or half empty?’” he asks. “Well, it’s always full for me. Actually, it’s always three-quarters full. That’s just the way I see the world and the way I operate, so it makes drug court pretty natural.”

A native of rural Wisconsin, Albers grew up in a world of little material excess. His parents worked long hours — his father as a bus driver, his mother as a housecleaner and factory worker — so Albers, an only child, could be properly fed, clothed, sheltered and afforded every educational opportunity, including debate camps in the summer. Albers excelled in school, but he also held down a five-nights-a-week job at McDonald’s and spent summers working construction.

Law school was a path to the middle class, so Albers enrolled at the University of Wisconsin, Madison, where the tuition wouldn’t saddle him with debt. But he wasn’t necessarily interested in practicing law. A product of the 1970s, he was more interested in changing the world.

He spent his first few post-law-school years establishing Minnesota’s first gay community center (he has been openly gay since the 1960s) and began taking on legal cases with a public-interest bent on the side. But even after moving to San Francisco in 1975, Albers wasn’t convinced that practicing law was for him, and he took a job at a gang-intervention program for at-risk Chinatown teens. When a handful of boys in the Chinatown group were charged with murder, they asked Albers to help them with their legal case, and he began to see a role for himself as a public defender.

As a lawyer, Albers has assembled a remarkable résumé: Eventually, he was promoted to head the felony trial unit at the San Francisco Public Defender’s Office; he was honored by the State Bar for his volunteer work with abused children and people with HIV and AIDS; and he has served on a slew of boards and commissions, including the State Bar of California’s Commission on Judicial Nominees Evaluation, which he chaired in 1994. He was elected to the State Bar of California’s Board of Governors in 1998.

Albers spent two decades at the public defender’s office, trying more than 100 jury cases. While there, he was no fan of the drug court. “I hated drug court,” Albers recalls. “I liked going to trial and pushing against the system. I wanted my defendants to have minimal
contact with the system. I was concerned that drug courts were trying to act like social workers, that there would be a loss of respect for a defendant’s rights — and I have seen that happen on occasion."

That attitude has obviously changed, though Albers insists that there’s no single moment that led him to an about-face. “What is absolutely clear to all people who work in the courts — whether you’re a legal advocate or a police officer or a probation officer — is that we are, in so many ways, numbed by the reality that we will see the same folks over and over and over,” he says. “In the traditional model, we don’t care about that reality — we live it. I was numbed to that kind of processing. But at some point, I developed a passion for this work, driven by my knowing that I can affect the recidivism cycle and make a real difference in someone’s life.”

Albers welcomed his appointment as a commissioner in the San Francisco Drug Court in 2002. Six years later, he is pushing for the creation of the Tenderloin Community Justice Center, which would constitute one of the most ambitious problem-solving community courts in the country because it would handle both misdemeanors and nonviolent felonies.

He has already been asked to preside over the justice center when it is slated to begin operation in the fall, pending city government approval. “The goal is to stop the cycle; the objective is not to find someone guilty,” Albers says of his philosophy for the new court.

But Albers faces tremendous public resistance. Because he works in San Francisco, that resistance does not come from the law-and-order right but from social justice activists — a group he usually counts as allies — who have denounced the community court proposal, loudly contending that it criminalizes the poor.

Every Wednesday, the Budget and Finance Committee of the San Francisco Board of Supervisors convenes in an elegantly appointed room in the federal period splendor of City Hall. Public officials sit at desks in a near-rotunda, and the public crowds onto wooden benches in the rear. It looks a little like a fancier version of Albers’ courtroom in the Hall of Justice several blocks away. Or a chapel.

Throughout the spring, Budget and Finance Committee hearings have been emotional. The current economic downturn means that a number of admirable projects, including funding for Albers’ Tenderloin Community Justice Center, have been on the chopping block.

On a Wednesday in mid-May, Albers is dispatched to the weekly meeting to make a case for funding the community court. He had fretted over this meeting (“This is a lousy time to do this,” he told me the week before), but he is prepared. He comes to court in a pressed black suit, matched with a silver tie. He writes a heartfelt speech that he hopes
will make the purpose of the court clear. “This is a jail-diversion program that will provide services to individuals,” he tells the audience. “I think I can speak for those of us working on this project, that we believe in our hearts that this is a public safety issue. … We know that we can reduce crime by more effective criminal justice interventions and reduce recidivism across the board, but especially for individuals in crisis.”

To open its doors on Nov. 1, the project needs $500,000 in city funds to build two holding cells in the new courthouse. Supporters of the court — which include seven city agencies, including the local judiciary — had already found an ideal, two-story building, a $1 million federal grant and free ongoing technical support from the Center for Court Innovation. If the city doesn’t approve the lease on the courthouse and the funds to build the holding cells, the court won’t begin operation on schedule, and the federal government could rescind the $1 million grant.

But after hours of presentations, questions and public comment, the center was not funded, by a vote of 3 to 2. (The issue was raised again before the entire Board of Supervisors on June 10 and was sent back for reconsideration by the Budget and Finance Committee.)

But no one was terribly surprised by the hearing’s outcome. The court’s most vocal critic, Chris Daly, chairs the committee. Known for his volatile personality and long-standing rivalry with Mayor Gavin Newsom, who had championed the new community justice center, Daly had announced through a local newspaper that “the last time I checked, I was the chair of the budget committee. In other words, this proposal is dead on arrival.”

But it’s not just Daly. There has been deep resistance to the court from residents who have renamed it “poverty court.” When the proposal was first announced in January, 40 people, including homeless organizers, the city’s poet laureate and a handful of sex workers, staged a noisy downtown protest. “Mayor Newsom, change your mind!” they chanted. “Homelessness is not a crime! We want solutions, not prosecutions!” At the hearing, similar concerns were aired, with some citizens saying it was problematic for the city to guarantee social services only to those it had arrested and others suggesting that the community court could coerce people into treatment. As a signal of the left-leaning political climate in San Francisco, there was minimal public concern that the community court would be soft on crime.

The critiques coming from San Francisco have been myriad and impassioned. But for the most part, they have failed to acknowledge a central fact: Courts do not pick their cases. “If you want to make the argument that we are extending mechanisms of social control over poor people, you can make that argument to the executive branch and the legislative branch that we should decriminalize this behavior. That’s a coherent argument,” the Center for Court Innovation’s Berman says.

“But these cases are in the courts, like it or not, and the courts have a choice. You can continue to cycle these people and do nothing with them, or you can try to do something with them that’s meaningful. To ignore these people with individual problems and say,
‘Courts shouldn’t be doing this,’ I would argue that that’s inhumane and passing the buck.”

For the past 30 years, public opinion polls have consistently shown that Americans favor a “tough on crime” posture, and legislators and law enforcement have been more than responsive. From three-strikes laws to mandatory minimum sentencing, criminal justice policy since the 1980s has been designed to incarcerate more people for longer periods. And to great effect: 1 in 100 Americans is now behind bars — the highest incarceration rate in the world.

So there’s good reason that most Americans know little about problem-solving courts: They simply don’t fit within the current lock-‘em-up paradigm. And when there are attempts to institute a problem-solving court — particularly community courts, which require wide cooperation and upfront taxpayer funding because they are located outside traditional courthouses — the public and policymakers, as they did in San Francisco, tend to rely on binary political arguments that aren’t all that relevant.

Certainly, political resistance to problem-solving courts has come from conservatives, too, who voice concerns that problem-solving courts will simply coddle criminals. Proposals for new community courts in less liberal communities are often accompanied by firm assurances that these courts are not, indeed, “soft on crime.” For example, a Republican judge who was making a last-ditch appeal for a community court in Tallahassee, Fla., in 2004 wrote an impassioned op-ed article for the local paper arguing that “readers who believe that community courts are some sort of liberal, do-gooder, soft-on-crime idea might also consider that the Midtown Community Court in Manhattan was a major player in former Mayor Rudy Giuliani’s highly successful effort to make downtown New York a safe and pleasant place.” (The Midtown court was actually started under Mayor David Dinkins.) The Tallahassee court, however, was ultimately shelved and not because of political pressure; in the end, there just wasn’t enough money in the city coffers to open the community courthouse doors.

Ideological critiques also tend to distract from what some see as structural flaws of problem-solving justice — and there are a few. Problem-solving justice’s most vocal critic is James Nolan Jr., a criminologist from Williams College in Massachusetts. He has dedicated a good portion of his career to writing articles and books challenging the approach, and his latest book, to be released in 2009, will compare the operations of problem-solving courts around the world.

Nolan’s chief criticism involves due process rights. “My concern is that if we make the law so concerned with being therapeutic, you forget about notions of justice such as proportionality of punishment, due process and the protection of individual rights,” Nolan says. “Even though problem-solving advocates wouldn’t want to do away with these things, they tend to fade into the background in terms of importance.”
Nolan offers an example, a drug court participant in Miami-Dade County who was forced to remain in the program for seven years. “So here, the goal is not about justice,” he says. “The goal is to make someone well, and the consequences can be unjust because they are getting more of a punishment than they deserve.”

But Judith Kaye, New York state’s chief justice, addresses that critique in this way: “I was in a room one day where someone was complaining that problem-solving courts take the rights away from defendants’ due process. His exact words were that this is ‘monstrous.’ I don’t think it’s monstrous, but on one level I understand what he’s saying — that if we compared what we’re doing to the ultimate, pure, conceptual adversarial process, I see his point.

“But the true comparison is not to the ideal, on-paper, 18th-century conception of due process; it’s to what is going on in the courts. What we are actually getting is overcrowding and these plea-driven cases. And I think what we are doing is much better.”

Denver District Court Judge Morris B. Hoffman has also been a vocal critic, and he is put off by how warm and fuzzy problem-solving courts can seem. “I cannot imagine a more dangerous branch than an unrestrained judiciary full of amateur psychiatrists poised to ‘do good’ rather than to apply the law,” Hoffman has written.

Nolan also noted problem-solving courts raise potential questions about a defendant’s privacy and whether the relationship between a defendant and a judge sometimes crosses an ethical line. “In problem-solving courts, the discussion is between the judge and the defendant,” Nolan says, “and the judge has the power to engage the defendant on a level that might be inappropriate, asking them personal questions about their lives and their personal relationships. They have a therapeutic encounter, but they don’t have the privacy of a therapeutic relationship.” (The National Center for State Courts has addressed this issue since 2002, and the American Bar Association issued updated judicial ethical guidelines that reference problem-solving courts in 2007.)

Berman of the Center for Court Innovation acknowledges that problem-solving courts are not without flaw, and his organization has commissioned “failure research” to examine court-reform projects that did not succeed. “If you look across any system or any bureaucracy, there are good judges and bad judges, good prosecutors and bad prosecutors, good defense attorneys and bad defense attorneys, and these courts are not this kind of magical cure-all,” he says. “I think the principles are sound, but you can have people who implement ideas poorly.

“You know, I’m a bad chef, and if you give me the greatest recipe, I’ll still screw it up. I think that’s as true with problem-solving courts as it is with anything.”

But Americans are only beginning to agree with Berman. Given the tremendous expense associated with prison overcrowding and inmate re-entry to society, policymakers are beginning to revisit entrenched ideas about crime prevention. Even public perception of
crime is shifting, if slowly. According to the University at Albany’s Sourcebook of Criminal Justice Statistics, in 1985, 84 percent of respondents felt the courts did not deal harshly enough with criminals, compared with 67 percent in 2002.

Berman says that less politically charged discussions about crime and punishment are crucial to the widespread expansion of problem-solving courts. Presenting the public with a cost-benefit analysis for embracing these courts will help, too, he says.

“I think policy and research is now pointed in generally the same direction, which is trying to come up with criminal justice policy that’s based less on emotional response to horrible crimes,” Berman says. “So, academics are now documenting how expensive incarceration is and the devastating impact it has on generations of communities, people working on parole issues are trying to be more thoughtful about re-entry, and then there are those of us in the problem-solving court movement.

“All of us, in our way, are trying to push the criminal justice system to make more rational decisions about how it orients itself and how it spends its resources because the resources are not infinite, in fact.”

It’s a Thursday afternoon, and San Francisco Drug Court is back in session. Charles Thomas is the first defendant today, and he shuffles to the front of the courtroom. Albers’ face lights up. “You are doing great work,” Albers says. “You’ve got all this stuff going on around you, and you’re testing clean. How long have you been clean and sober?”

“Eleven months.”


The audience applauds.

“You’re on track to graduation,” Albers says. “I want to do a writing assignment with you. I want you to write an exit plan: what you’ve learned, what you’re going to do around dealing with relapse and future plans. And then bring it back with you to court.”

Thomas nods and turns to go. Outside, in the hallway, as children wail and impatient mothers holler at them, he tells me he thinks he’s been successful in treatment this time — after smoking crack for 20 years, contracting AIDS and cycling in and out of prison more than two-dozen times — because he was, he says, ready for a change.

“Before I was arrested in June (2007), I was sleeping on the sidewalks, doing a lot of vehicular burglaries,” he says. “I was arrested, and I went to the pen for second-degree burglary, and I was on my way back again, and I didn’t want to go back. I just wanted to stop, and I wasn’t doing nothing about it.
“My lawyer said, ‘Would you like to try drug court?’ I wanted something different. I’m glad for the opportunity.”

I ask Thomas if he thinks that drug courts really work. “You have to be in the right frame of mind,” he acknowledges. “Until you’re ready, I don’t think it’s going to work for you.”

He pauses for a moment and then adds, “I wouldn’t deny anyone an opportunity because you don’t know when a person’s ready.”

But the opportunity to try drug court isn’t necessarily determined by those who need it or even by those who are in a position to help. “The problem is funding,” the Urban Institute’s Roman says. “It costs more to run these courts, but the court doesn’t see the benefits. Prisons and jails see the benefit because there are fewer people in prisons and jails. The public is the biggest winner because their chances of victimization are less, but the court pays all of the costs for everyone to win.

“Until we can get some of the winners to compensate the court system, there isn’t much room for growth.”