

QUESTIONS FOR THE RECORD

Senate Judiciary Committee

“Rising Prison Costs: Restricting Budgets and Crime Prevention Options”

August 1, 2012

Senator Amy Klobuchar

Questions for All Witnesses

In my own experience as a prosecutor, I saw how drug courts can be an extremely effective means of reducing the impact of drug crime on communities and families, lowering costs to taxpayers, and rehabilitating offenders. Consequently, I believe we should be looking for ways for the federal government to support the roughly 2,500 drug courts across the country.

- Recognizing that we must balance competing demands from state and local law enforcement for scarce federal dollars, do you agree that we should support drug courts as a potentially cost-effective way to reduce crime?

Answer: From the perspective of crime control, it is important to increase treatment use among those substance abusers who also commit non-drug crimes. The difficulty is that many, if not most, drug-involved offenders will not seek out treatment voluntarily; hence the need for leveraging the threat of prison to secure treatment entry, retention and compliance. Among the various diversion programs that exist, Drug Courts are certainly one option; however, we should recognize two facts before plunging into significantly increased funding for Drug Courts:

- First, outcome evaluations of Drug Courts (those that measure changes in the behavior of the drug-involved offender) have produced distinctly mixed results with some Drug Courts producing impressive results and others failing to have any impact on drug involvement.¹
- Second, we have twenty years of experience politically supporting and funding Drug Courts. That investment has produced treatment for approximately 70,000 drug-involved offenders nationwide, *one-thirtieth* of the estimated total number of seriously drug-involved offenders over the same period. And since the typical drug court judge supervises between 50 and 75 clients, scaling up Drug Courts to handle the volume in question would require massive increases in the number of judges and courtrooms.²

- Do you agree that drug courts can save taxpayers money? Why?

¹ Office of Justice Programs, U.S. Department of Justice. 1998. “Looking at a Decade of Drug Courts.” Prepared by the Drug Court Clearinghouse and Technical Assistance Project. Washington, DC: American University.

² John K. Roman, Aaron Chalfin, Jay Reid, and Shannon Reid. 2008. *Impact and Cost-Benefit Analysis of the Anchorage Wellness Court*. Rockville, MD: NCJRS Photocopy Services.

Answer: It is true that Drug Courts typically operate at modest cost, but that should be placed in the context of their limited effectiveness in changing drug-involved offenders' behavior and the significant cost of scaling up the existing program of Drug Courts to meet the need. For those offenders who respond positively to Drug Court incentives, such Courts are certainly cheaper than lengthy incarceration which does little to treat or rehabilitate most drug-involved offenders.³ But as mentioned in my answer to your previous question, there are serious scale limits on Drug Courts that limit both their effectiveness and cost savings in addressing a significant national problem.

➤ Are there other benefits of drug courts?

Answer: If we consider Drug Courts as an alternative to the more traditional probation agency-based diversion program, then it can be said that Drug Courts, relying on the power of judges, are likely to be more effective in inducing drug-involved offenders to enter treatment. Research shows that the mandate to treatment under many traditional diversion programs is merely nominal with low sanction rates resulting in high violation rates.⁴

But perhaps there is another, more effective, cost-saving alternative to incarcerating drug-involved offenders. An alternative to mandating treatment is to mandate desistance for persons on probation or parole. This mandate can be enforced by frequent drug tests, with predictable and nearly immediate sanctions for each missed test or incident of detected drug use. Since probationers and parolees account for approximately one-half of all the cocaine and heroin sold in the United States, and therefore for most of the revenues of illicit markets, an effective testing-and-sanctions program would have a large impact on the volume of the illicit trade – and presumably on the side effects it generates, including the need for drug law enforcement and related imprisonment.

Such an approach has been taken in Hawaii (for chronic methamphetamine users) and in South Dakota (for chronic alcohol abusers). Both programs have been rigorously evaluated with very positive results.⁵

³ For an examination of the limited effectiveness of in-prison drug treatment programs, see Dean R. Gerstein and Henrick J. Harwood. 1990. *Treating Drug Problems*, Vol. 1. Washington, DC: National Academy Press.

⁴ See M. Prendergast, Douglas M. Anglin and J. Wellisch. 1995. "Treatment for Drug –abusing Offenders under Community Supervision." *Federal Probation* 9: 66-75; Douglas M. Anglin, D. Longshore and S. Turner. 1999. "Treatment Alternatives to Street Crime." *Criminal Justice and Behavior* 26 (2): 168-95; and D. Urda, Angela Hawken, Bradley Conner, Elizabeth Evans, et al. 2008. *Evaluation of Proposition 36: The Substance Abuse and Crime Prevention Act of 2000*. 2008. Los Angeles, CA: UCLA.

⁵ For Hawaii, see Angela Hawken and Mark A.R. Kleiman, 2007. "H.O.P.E. for Reform: What a Novel Probation Program in Hawaii Might Teach Other States." *American Prospect Online*, April 10; Mark A.R. Kleiman and Angela Hawken. 2008a. "Fixing the Parole System." *Issues in Science and Technology* (Summer): 45-52; Mark A.R. Kleiman and Angela Hawken. 2008b. "Research Brief: Evaluation of HOPE Probation." Washington, DC: Pew Center on the States. Available at http://www.pewcenteronthestates.org/uploadedFiles/HOPE_Research_Brief.pdf; Mark A.R. Kleiman. 2009a. *When Brute Force Fails: How to Have Less Crime and Less Punishment*. (Chap. 3) Princeton, NJ: Princeton University Press; and Mark A.R. Kleiman. 2009b. "Jail Break." *Washington Monthly* (July-August): 56-60. For South Dakota, see Larry Long. 2009. Address given at the Cosmos Club, Washington, DC, June 30, 2009, upon receipt of the John P. McGovern Award for Drug Abuse Prevention.