

**TESTIMONY BEFORE MAJORITY POLICY COMMITTEE OF GENERAL ASSEMBLY JUNE 2, 2016  
JAMES MCMONAGLE, JR., ASSISTANT DISTRICT ATTORNEY OF LUZERNE COUNTY  
PRESIDENT OF PA ASSOCIATION OF DRUG COURT PROFESSIONALS**

As a man walked along the beach one day, he suddenly came upon thousands of starfish washed up on the beach dying in the hot summer sun. In the midst of these starfish was a young boy who was picking up starfish and throwing them back into the sea. The man approached the boy and watched him throw a few more starfish back into the sea. The man said, "Son, why are you wasting your time? There are so many starfish dying on this beach that you can't make a difference by throwing one starfish at a time back into the sea." The boy bent down and as he threw yet another starfish back into the sea he said, "Maybe not, but I made a difference to that starfish."

Allow me to introduce myself. I am Jim McMonagle. I have been an Assistant District Attorney in Luzerne County for almost 23 years. Since 2007 I have been assigned as the Assistant District Attorney on Luzerne County's Drug Treatment Court. In October, 2012 I was elected as the Vice-President of the PA Association of Drug Court Professionals. In October, 2014 I assumed the Presidency of that organization. I was asked to provide testimony today on the topic of Opioid and Alcohol Addiction with an emphasis on Opioid addiction. I will focus my remarks on the response of the criminal justice system to this continually growing epidemic.

In 1989, Miami-Dade County, Florida was the first criminal justice system to create a Drug Treatment court in response to the growing number of drug addicted people coming into and moving through the criminal justice system. In 1997, Philadelphia County was the first criminal justice system in Pennsylvania to create a Drug Treatment Court. The model was so successful that it has been expanded to address other issues in the Criminal Justice System. Specific to Drug and Alcohol issues, that single Pennsylvania Drug Treatment Court in 1997 has now, as of April 2016, grown to 32 Drug Treatment Courts in 35 counties and 13 DUI courts in

15 counties. There are approximately 6 more judicial districts in Pennsylvania in the process of creating a Drug Treatment Court. Why the need for so many Drug Treatment courts? Because of the scope of the problem confronting society and the criminal justice system in particular. To highlight the enormity of the problem, I will note just a few statistics that I acquired from just a few cursory Google searches.

In 2013, there were 23,369 people sentenced in Pennsylvania for drug offenses where the drug offense was the most serious offense in the Information.<sup>1</sup> This number is just the tip of the iceberg when it comes to drug related offenses. That number does NOT include those sentenced for other offenses, such as theft, burglary and forgery that are committed by drug addicted offenders. In 2014, there were 24,084 people sentenced for drug offenses where the drug offense was the most serious offense in the Information.<sup>2</sup> Again, that number is just the tip of the iceberg. Also in 2014, it was estimated that there were 40,000 heroin users in Pennsylvania, the third highest number in the country. If my math serves me well, that is 1 in 319 Pennsylvanians using heroin. In that same year, there were 2,488 overdose deaths in Pennsylvania.<sup>3</sup> As of June 2015 drug overdose deaths now surpass car accident deaths. Also in 2015 it was estimated that 7 people died in Pennsylvania everyday from a drug overdose. I will offer one last statistic to highlight the enormity of the problem confronting us. In 2012 it was estimated that 23.1 million Americans were in need of treatment for a drug or alcohol problem. Using the US Census estimate of the 2012 US population, 314.1 million people, I arrived at the following startling statistic...1 in every 13 Americans were in need of treatment in 2012. Four

---

<sup>1</sup> 2013 Report of Pennsylvania Sentencing Commission.

<sup>2</sup> 2014 Report of Pennsylvania Sentencing Commission.

<sup>3</sup> 2014 Pennsylvania Coroner's Report

years later, I would not be surprised if that figure was down to 1 in 11. So how do Drug Treatment Courts help address this growing problem?

Drug Treatment Courts are composed of judges, prosecutors, defense attorneys, probation/parole officers, case managers and treatment providers. The professionals in these programs are the tip of the criminal justice system's spear in confronting the drug problems not only in Pennsylvania but in the nation. They create a program based upon 10 Key Components. A list of the 10 Key Components is in your materials. I will highlight a few of them at this time. First, treatment is integrated with case processing in the criminal justice system. Second, a non-adversarial approach is to be taken by prosecutors and defense attorneys to protect the public, the due process rights of the participants and provide needed treatment to the participants. This means that prosecutors cannot focus on pumping up conviction numbers and defense attorneys cannot focus on "getting my client out or off." Third, Treatment Courts provide a continuum of treatment and rehabilitative services. Fourth, there is frequent drug testing. Fifth, ongoing judicial interaction with participants is essential. Sixth, monitoring and evaluation measure achievements of the participants and the program. Seventh, continuing education of the Drug Treatment Court team promotes an effective program. Drug Treatment Courts adhering to the 10 Key Components seek to hold the participant accountable for their actions, reduce recidivism, save money and, most importantly, save lives. Adherence to the 10 Key Components does not create a "hug-a-thug" program or a touchy-feely, warm and fuzzy feeling program. The programs are hard, some defendants opt out because they believe it would be too hard for them. Our programs hold the participants accountable for their actions; there are rules and a violation of those rules results in consequences. The consequence is

geared towards changing behavior and just not a punishment or punishment's sake.

Consequences range from essay writing, extra community service, house arrest, short prison stays and, ultimately, termination. Incentives are also used to change behavior. Ranging from a verbal pat on the back, bus tokens, movie passes, gym memberships, and travel privileges are used to encourage and reward achievements by participants. Does this non-traditional system work? In short...YES.

Drug Treatment Courts have been the most studied program in the history of the criminal justice system. Statistics taken from the website of the National Association of Drug Court Professionals, [allrise.org](http://allrise.org), paint this picture. 75% of Drug Court graduates remain arrest free for at least 2 years after graduation; Drug Courts reduce crime by as much as 45%; for every \$1.00 invested in Drug Courts criminal justice systems save as much as \$3.36; factoring in other savings in the community results in approximately \$27 in benefits for every \$1.00 invested; and individual savings range between \$3000 and \$13,000 per participant.

I will now highlight some statistics from some Pennsylvania Drug Treatment Courts. Most Drug Treatment Courts are 18-24 months in length. In Dauphin County, their program has a capacity of 60 people. Since 2010, 74 people have graduated. In Luzerne County, there have been 158 graduates since 2006. Luzerne County's three year recidivism rate is 4%. As of May 24, 2016, the program has saved approximately \$6,530,456 in prison costs. Currently there are about 40 people in the program, with a capacity of 50. In Snyder/Union County, there have been 61 graduates since 2008. Only 3 of them have committed new crimes. People in their program have completed over 30,000 hours of community service. Since 2008, over 35,000 jail days have been saved, which assuming a conservative \$100/day cost for jail, the program has

saved approximately \$3,500,000. Northampton County's Drug Court has been in operation for about one year. In that time they have collected \$17,813.15 in fines, costs and restitution from 19 participants. As of June 9, they will have saved their county over 4000 prison days for a savings of \$423,386.88. In Wyoming/Sullivan Counties, their Drug Treatment Court has graduated 68 people since October, 2007. 96% of them have jobs when they graduate. Almost \$400,000 in fines, fees and costs have been collected from participants. 82% of graduates have remained crime free.

I have highlighted certain statistics for a reason from these Drug Treatment Courts. Despite the spectacular success of the Drug Court model, both nationally and in Pennsylvania, more still needs to be done. It is difficult, however, for Drug Treatment Courts to do more in some instances. I will outline some of those difficulties.

First, there are insufficient beds in Pennsylvania for those who need inpatient treatment. Just a few weeks ago, the Luzerne County Drug Court was unsure it could timely place a participant in a facility because none of the places we contracted with had an available bed. The lack of beds is even more acute for women, especially if they are pregnant or have small children. Second, it is difficult to expand existing programs. There seems to be plenty of money to start a Drug Treatment Court, but few grants to help or expand existing programs. As an example, research has indicated that there is a maximum number of participants that should be supervised by one probation officer. Ideally, a probation officer should not supervise more than 30 participants. Above 30 and the efficacy of probation supervision begins to break down thus jeopardizing the success of a program. The absolute maximum that should be supervised, without violating evidence based best practices is 50. To use Luzerne County again, despite the

need, our program is helping 10% or less of those who could be in a Drug Treatment Court program because our court has inadequate funds to assign another probation officer. Third, there is a need for more half way and sober houses. People go to inpatient treatment for 28, or as many as 90, days. During that time they are usually not working. When they come back to their "home", they need a place to live. Many times it is not good for their recovery to go back and live with parents, spouses or other family members. Again, this need is even more acute for women.

On the plus side the statistics cited above detail how Drug Treatment Court improve the bottom line. First, more fines, restitution and costs are usually received from people in these programs because of the intense supervision and graduation requirements, which improves the bottom line of our court systems. Second, counties can reduce prison costs. Third, a graduate has a job, which positively impacts government finances in more than one way: a) the graduate is no longer in prison, b) the graduate may not need to be a recipient of various welfare programs, and c) their job enables the graduate to pay taxes. So government expenses go down, revenue goes up; a win-win for the community.

Drug Treatment Courts work, in part, because many people have thought "outside the box" to come up with solutions to solve a very serious problem in society. In order to continue that success, we must continue to think "outside the box." Here are some "outside the box" suggestions. First, find a way to provide incentives to companies, either profit or non-profit, to build more treatment facilities. Second, provide opportunities for treatment before someone commits a crime. Third, provide funds for a transportation program to get people who live in rural areas get to treatment in more urban areas. Funds could be provided to a local

transportation authority, a non-profit entity, or a court directly. Fourth, educate the public, not only on the evils of drug use (this is your brain on drugs), but on the methods needed to treat people who have an addiction and the benefits of treating them rather than incarcerating them. Such an education program might begin to remove the stigma associated with addiction and reduce the resistance of communities to have treatment facilities within their borders (thus combatting the NIMBY effect).

In closing I would ask you to attend a Drug Treatment Court, or any Problem Solving Court, session in your home districts. Attend a graduation. Speak to the graduates. Speak to the professionals who are at the tip of the spear and have their fingers on the pulse of this scourge affecting our communities. Think "outside the box." We tell the participants in our programs to take one day at a time. Recovery is a daily effort and it is obtained and sustained one day at a time. Likewise, we can turn the tide on this epidemic of addiction by helping one person at a time in our programs. Like the young boy on the beach, let's make a difference in one life today. Let's save a life today.

# The 10 Key Components of a Drug Court

1. Drug Courts integrate alcohol and other drug treatment services with justice system case processing.
2. Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.
3. Eligible participants are identified early and promptly placed in the drug court program.
4. Drug courts provide access to a continuum of alcohol, drug and other related treatment and rehabilitation services.
5. Abstinence is monitored by frequent alcohol and other drug testing.
6. A coordinated strategy governs drug court responses to participants compliance.
7. Ongoing judicial interaction with each drug court participant is essential.
8. Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.
9. Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations.
10. Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court effectiveness.