

Perspective

Judges Matter: How Courts Reduce Crime and Save Money

BY GREG BERMAN AND MICHAEL REMPEL

The mantra during periods of fiscal restraint is “cut the fat.” The trouble is that sometimes it is hard to tell which programs are fat and which are lean. That’s why new research about drug courts couldn’t come at a better time. A new study shows that drug courts—specialized programs that link drug-involved offenders to rigorously-monitored treatment—succeed in reducing crime and drug use.

The study, commissioned by the National Institute of Justice and conducted by the Urban Institute, the Center for Court Innovation, and RTI International, compared participants in 23 drug courts across the country to similar defendants who went through conventional case processing.

In drug court, defendants are mandated not only to participate in drug treatment, but to return to court frequently for drug testing and progress reports before a judge, who offers either encouragement or sanctions to prod participants to stay engaged in the program. In just a generation, drug courts in the United States have expanded from a single experiment in Florida to more than 2,000 courtrooms across the country.

Among other findings, the new study documents that drug court participants are one-third less likely to report using drugs 18 months after their enrollment in the program. And they are responsible for less than half as many criminal acts as the comparison group after 18 months. Largely because of these reductions in criminal behavior, drug courts saved an estimated \$5,680 per participant—cost savings that closely resemble those found in

previous studies of drug courts in California and Washington.

As is often the case, some of the most interesting findings from the latest study are to be found in the fine print. We now know drug courts work, but why do they work? What is the secret ingredient?

It turns out that the most important factor is the judge. When participants believe that the judge treats them fairly, they do better. This underscores a key concept, one that risks getting lost in the rush to cut judicial spending taking place across the country. That concept is procedural fairness.

As originally articulated by New York University professor Tom R.

The most effective judges were those whose demeanor was independently rated by researchers as respectful, fair, attentive, enthusiastic, consistent and caring.

Tyler, the author of “Why People Obey the Law,” the idea behind procedural fairness is relatively simple. When offenders understand the process, feel that they’ve been treated with respect and believe that their voice has been heard in court, they are more likely to accept court decisions—even ones that go against them.

The drug court study examined the judicial qualities that produced the best outcomes. The factors that were particularly important included the extent to which drug court participants perceived that the judge was knowledgeable about their case, knew them by name, and gave them a chance to tell their side of the story. The most effective judges were those whose demeanor was independently rated by researchers as respectful, fair, attentive, enthusi-

astic, consistent and caring. This finding is echoed by other studies that have suggested that the role of the judge is just as critical to defendants’ success as the provision of treatment.

All of this has practical implications. It offers powerful ammunition to legislative and executive branch leaders who are currently attempting to trim correctional spending and invest in alternatives to incarceration like drug courts. It also offers a cautionary note. Even as we strive to balance budgets, we must take pains not to undermine the very qualities that seem to make the judiciary successful.

For judicial leaders, the drug court study poses a challenge: Is it possible to spread some of the basic elements of drug court judging—a problem-solving orientation, individualized attention to each case, an emphasis on respectful interaction with defendants—throughout state court systems? The research suggests that the payoffs could be significant: improved compliance with court orders, reduced recidivism and enhanced public confidence in justice.

In a time when government is under attack from many different quarters, the drug court evaluation offers solid evidence that smart government does make a difference. The research shows that investing in judges can not only reduce drug use and crime but help save money by reducing victimization and the use of prison as well.

GREG BERMAN and MICHAEL REMPEL are, respectively, executive director and research director of the Center for Court Innovation.