CUMULATIVE SECOND YEAR COST-BENEFIT ANALYSIS
OF PIMA COUNTY’S
DRUG TREATMENT ALTERNATIVE TO PRISON PROGRAM
REPORT

Submitted to:
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The Pima County DTAP program has generated substantial cost savings to the justice system. It is a viable and robust program with the potential for substantially more savings as the program is expanded. These cost savings estimates understate the potential savings to the wider community. Program graduates are supported in finding stable employment, improving their skills in the workplace and engaging once more with their families. As such they pay taxes and reduce the burden of state support for themselves and their families.

A majority of the participants interviewed (both ongoing and graduates) perceived the most helpful aspects of the DTAP program to be the treatment and ongoing support and sense of community from the DTAP team. Most saw it as their “last chance” to address their addiction and self-destructive habits and were motivated to achieve their recovery.
Pima County as opposed the criminal justice system (CJS) overall. The costs applied are either the same or slightly modified costs (applied only to daily incarceration costs) as those used in the first report. As such a short period of time has elapsed, it was agreed with the county that these costs would still be appropriate. In any event, the main cost driver is incarceration costs (either incurred or avoided) and the adjustment brings these into line with costs for both public and private correctional facilities.

2. Entry to the DTAP Program

Figure 1 provides a flowchart of the requisite criteria by which an individual is determined to be eligible for entry to DTAP. The program provides residential drug treatment and needs-based wrap-around recovery support services in lieu of prison to selected non-violent repeat drug offenders who are motivated to change their behaviors and for whom this is at least their third offense. DTAP participants face a mandatory prison sentence if they ‘fail’ the program.

Figure 1

1. Out on bail/release OR retained in Pima County Jail.
2. Case initiated for prosecution.

MUST BE ACCUSED OF EITHER

1. Current crime is possession or use of drugs or drug paraphernalia.
2. TWO or more prior possession or use of drugs or drug paraphernalia (including sale and solicitation).

OR

1. Current crime is possession or use of METH or METH paraphernalia.
2. ONE or more prior felony of any kind (Class 2 or 3 within 10 years OR Class 4-6 within 5 years).

AND NOT INCLUDING

1. Conviction OR indictment of a violent crime.
2. CURRENT crime of possession for sale, production, manufacturing or transportation for sale of any controlled substances.
3. Conviction of a sex crime or domestic violence.

ELIGIBLE FOR DTAP

In practice relatively few offenders meet DTAP entry criteria; as such, the program is small and focused. There has to be agreement by program administrators that the entrant is likely to complete and benefit from the program. This is balanced against concerns for public safety, to include the exclusion of persons with a conviction or indictment of a violent crime, current crime possession of possession for sale, production, manufacturing or transportation for sale of any controlled substance or conviction of a sex crime.
path through includes an arrest, placement in the Pima County Jail, initial appearance, release on bail or retention in jail until a case is issued for prosecution (Figure 1).

The costs and benefits included in this analysis begin at the point in time when the DTAP entrant and own-control deviate in their interactions with the CJS.

Once a case has been issued the PCAO attorney, with assistance from the Pima County Sheriff’s Department (PCSD) and the Pima County Probation Department (PCPD) review the case and determine if the defendant is a DTAP candidate. If the PCAO decides the Defendant is a DTAP candidate, they are given the opportunity to accept a DTAP plea through their Defense attorney. Those who accept plead guilty to drug possession and enter DTAP.

Following sentencing the DTAP participant is transported to the residential treatment facility to begin their 90-day program with 3 years on probation. The own control counterpart faces incarceration.

The cost of reviewing and investigating cases which are considered for DTAP are not separately accounted for in this CBA. Defendants on both the DTAP and control paths require effort by the PCAO, PCSD and PCPD. Determining if there is a substantial cost difference between the two paths is beyond the scope of this report. No personnel from the PCAO, PCSD or PCPD are completely dedicated to processing DTAP candidates at this time.

**DTAP Program Costs**

The major costs incurred for those in the DTAP program are for (i) residential treatment; (ii) case management, including optional psychiatric evaluation, and (iii) prison costs for those who have violated their DTAP probation and are incarcerated for the completion of their plea bargain deferred sentence with credit for time served.

The mandatory residential treatment program covers a 90-day substance abuse treatment, with separate private providers for male as opposed to female participants. Two providers are contracted to the County with each organizing their programs by 30-day phases. Each phase has a set of tasks or assignments based on the subject’s treatment plan. Each phase must be completed successfully in order to move on to the next phase. If the participant completes the three phases they are released back into the community to a family residence or transitional housing. All residential treatment costs are those actually incurred.

After completion of residential treatment the DTAP participant moves to a family residence or transitional housing. Transitional housing costs and associated living expenses are included on a case-by-case basis as needed and are generally categorized by the DTAP program as Case Management costs. Again, all Case Management costs are the actual costs incurred for each DTAP participant. In the DTAP program the cost of medical care is provided through other funding sources such as Arizona Health Care Cost Containment System (AHCCCS). DTAP does, however, provide healthcare costs that would not be provided to inmates by the Arizona
per month continues until the end of the three-year probation sentence. In this analysis these probation costs, following discussion with DTAP staff, are assumed to be paid by the program participant.

It is worth emphasizing that overall, the costs contributed by review hearing and jail time are far outweighed by the three major cost components of prison time, residential treatment and case management.

**Incarceration**

Average daily costs of incarceration under Arizona state jurisdiction are assumed to be $62.50. This covers the years 2011 to 2013 including per capita costs in state prison complexes and contract prison beds which ranged from $59.57 to $65.74 for 2012. Failure to remain in the DTAP program results in mandatory incarceration. Estimated post-failure incarceration was 2.12 years with an average time served credit of 121 days (0.33 years).

6. Results

Cost-benefit estimates for the DTAP program are presented (i) for those who entered in the first two years of the program (1 January 2011 through 31 December 2012) and for whom costs were incurred in the period to 30 June 2013 and (ii) as projections for all those who entered the program either to the end of the 3 year program participation period or, for controls, to the assumed end of their period of incarceration. In both cases actual and projected costs incurred for program participants are matched against estimated costs of incarceration for these same participants if they had not accepted the plea bargain for entry to the DTAP program. Note that for controls the expected length of incarceration is based on the average expected plea bargain (not indicted) sentence range. This difference is only relevant for the extended model.

(i) DTAP Costs and Benefits: 1 January 2011 to 30 June 2013

Costs incurred in the DTAP program are presented in Table 2 for the three DTAP groups. In each case the costs incurred are matched against the estimated costs the individuals would have incurred if they had not accepted the plea bargain. All costs are from the date of entry to the DTAP program. For those persons who have graduated from DTAP the primary cost components are the residential and case management costs (costs of hearings are minimal) while for those who are ongoing in DTAP it is the sum of residential costs plus costs incurred to 30 June from case management (which are ongoing). For those who have failed DTAP the main cost components are the residential costs (and they may not have completed the residential program) plus any case management costs incurred and the costs of subsequent incarceration. Costs for own controls are overwhelmingly the costs of prison. Actual costs are used for the residential program and case management. These cost components are combined for each participant with average and total costs calculated for (i) DTAP participants and (ii) own controls.

Costs incurred over the period to 30 June 2013 for those entering DTAP in the two years to 31 December 2012 are $786,383 for the program itself and an estimated $1,795,524 for the controls over the same time frame. The net savings are $1,009,141. Average cost per DTAP
TABLE 3

DTAP PROJECTED COSTS AND BENEFITS FROM 1 JANUARY 2011

<table>
<thead>
<tr>
<th></th>
<th>Graduated from DTAP (n=9)</th>
<th>Discharged from DTAP (n=16)</th>
<th>Ongoing in DTAP as of 30 June 2013 (n=27)*</th>
<th>Overall</th>
</tr>
</thead>
<tbody>
<tr>
<td>DTAP Participant (average cost)</td>
<td>$11,933</td>
<td>$48,795</td>
<td>$11,920</td>
<td>$23,279</td>
</tr>
<tr>
<td>Control (average cost)</td>
<td>$51,340</td>
<td>$57,620</td>
<td>$55,923</td>
<td>$55,652</td>
</tr>
<tr>
<td>Net cost savings (average costs)</td>
<td>$39,347</td>
<td>$8,825</td>
<td>$44,003</td>
<td>$32,373</td>
</tr>
<tr>
<td>DTAP Participant (total cost)</td>
<td>$107,940</td>
<td>$780,722</td>
<td>$321,834</td>
<td>$1,210,497</td>
</tr>
<tr>
<td>Control (total cost)</td>
<td>$462,064</td>
<td>$921,916</td>
<td>$1,509,920</td>
<td>$2,893,901</td>
</tr>
<tr>
<td>Net cost savings (total costs)</td>
<td>$354,124</td>
<td>$141,194</td>
<td>$1,188,086</td>
<td>$1,683,404</td>
</tr>
</tbody>
</table>

Note: *The assumption here is that all those ongoing in DTAP remain in DTAP until they graduate and move to standard probation to complete their 3 years.

Projected costs for those who entered DTAP (n=52 participants) are $1,210,497 (or an average projected cost of $23,279). These comprise average costs: (i) $11,933 for DTAP graduates; (ii) $48,795 for DTAP ‘failures’; and (iii) $11,920 for those ongoing in the DTAP program. Note the key assumption here is that those ongoing continue and graduate from the program. Estimated average cost for controls is $55,652. Estimated cost savings, where DTAP participants have a projected cost of $1,210,497 and controls $2,893,901 is $1,683,404 or $32,373 per DTAP participant.

7. Discussion

Whether the cost-benefit assessments are restricted to 30 June 2013 or projected to include all program completers and for controls completing their projected prison terms, the DTAP program results in substantial cost savings to the justice system. This reflects, primarily, the costs of incarceration avoided. Staff and associated costs for reviews and drug monitoring are only a small fraction of overall costs. Substantial changes to these costs would make no difference to the overall conclusions as to DTAP program savings.

Incarceration costs are substantial both on a daily basis and cumulatively over actual and projected sentencing periods. These cost savings also reflect the success of the DTAP program in achieving its rehabilitation objectives. In total, of those who entered the DTAP program (n = 52) only 16 were discharged and subsequently incarcerated (30.7%). This yields a combined graduate and participant retention rate of 69.3% through to 30 June 2013. Although the number enrolled in the DTAP program in its first two years is small, the programs impact in terms of cost...
Current Issues Facing our Criminal Justice System and Responses

U.S. criminal justice system: what is it?

- For States: Two levels of "systems"
  (1) Federal: 94 Districts plus the District of Columbia and ___ territories
  (2) 50 different states

- Native American Tribes: separate criminal justice system applicable to Native American Tribes
  August 2012: 566 recognized tribes but not all have criminal jurisdiction

  - 1968 Indian Civil Rights Act, limited power of tribes to impose criminal punishment.
  - until 2010, tribal punishment for any offense could not exceed one year of imprisonment, a $5,000 fine, or both.
  - Tribal Law and Order Act of 2010 now allows punishment of up to three years of imprisonment, a $15,000 fine, or both, but a tribal prosecution must meet specific quasi-constitutional guarantees in order to permit the imposition of these enhanced sentences.
    - Each has separate set of statutes, procedures, courts, judges and prosecutors, correctional institutions
    - Each handles different types of offenses, though similar
  - Public Law 280 states: criminal jurisdiction for tribe ceded to state

Federal criminal jurisdiction

The Constitution for the United States

Article III

Section 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

- Offenses related to federal laws and the federal government
- Crimes that cross state lines, and
- Crimes with international implications (ambassadors, etc.).

State

Amendment 10 - Powers of the States and People
The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

- Offenses violating law of the specific state

**Current Issues:**

[Focus is on State Courts (95% of criminal cases)]

**Structural:** Is there a “system”?
- Criminal justice process entails many entities that work in silos
  - Arrest: local law enforcement
  - Decision to release: court/magistrate—lower level of courts
  - Detention/jails: county government—sheriff—locally elected
  - Decision to prosecute: local elected prosecutor
  - Defense: many different “systems”; most have no oversight in terms of when attorney appointed, services they provide, etc.
  - Court: judges (state funded); staff may be state or locally funded; facility may be county owned
  - Prisons: state

**Challenge:** How to get the various parts to work together? What is the incentive?

**Funding:** many different budgets; many different “turfs”

- Funding: Imbalance between state and local
  - State funding for judges, prisons, probation
  - Local funding for prosecutors, law enforcement
  - Mixed funding for indigent defense services, mental health, substance abuse

**Challenge:** How to develop a coherent budget with different funding sources and constituencies

**Management: Who’s in Charge?**

- Criminal justice process entails many entities that work in silos
  - Arrest: local law enforcement
  - Decision to release: court/magistrate—lower level of courts
  - Detention: county government—sheriff—locally elected
  - Decision to prosecute: local elected prosecutor
  - Defense: many different “systems”; most have no oversight in terms of when attorney appointed, services they provide, etc.
  - Court: judges (state funded); staff may be state or locally funded; facility may be county owned
  - Prisons: State
  - Many elected officials and many different constituencies; judges, Prosecutors, Sheriff)
Impact of Legislative Sentencing Enhancements on the entire process

Problems of Crime: What are the major factors? Beginning to Look Beneath the Statistics
- Underlying causes of crime; of the court’s caseload
- Recidivism and what can be done to reduce it?

• Youth Violence
  Violent youth are more likely to become violent adults.
  Strong evidence links early problem behavior to later adolescent delinquency and serious adult criminality.

• Drugs Addiction and Mental Health Disorders
  - Over half the criminal caseload
  - Over half the populations in jails and prison
  - Reflection of TRAUMA people are experiencing:
    Violence in the neighborhood;
    multiple deployments in Iraq/Afghanistan;
    domestic violence
  - Drug abuse now recognized as both a crime problem and a public health problem but still very limited, if any, services in jails and prisons

• Disproportionality: racial disparities
  - In law enforcement practices
  - In pretrial release practices
  - In sentencing practices
  - Need to “level the playing field” – provide adequate indigent defense and community based sentencing options

• Overcrowding and Health Problems in Prisons
  - Impact of aging prison population
  - Addressing the needs of prisoners for substance abuse and mental health services
  - Costs of incarceration vs. any remedial benefits

• Overcriminalization
  - Upgrading of crimes (legislative platforms)
  - superfluous criminal offenses overloading the criminal justice system.
  [Ed Meese: “It’s a violation of federal law to give a false weather report,”]
  - Implications for the process:

• Wrongful Convictions

Innocence Projects in a number of states: Example:
- 100 death sentences overturned based upon post-conviction evidence. According to their study of the first 70 cases reversed:
- Over 30 of them involved prosecutorial misconduct.
• Over 30 of them involved police misconduct which led to wrongful convictions.
• Approximately 15 of them involved false witness testimony.
• 34% of the police misconduct cases involved suppression of exculpatory evidence. 11% involved evidence fabrication.
• 37% of the prosecutorial misconduct cases involved suppression of exculpatory evidence. 25% involved knowing use of false testimony.
• Protecting the Sixth Amendment Right to Counsel

Amendment 6 - Right to Speedy Trial, Confrontation of Witnesses.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

Where Do We Go? How are we Responding?

- Review our criminal laws and the associated penalties: Shrink the System.
- What should be our Priorities? What should the criminal justice system be addressing?
- Fund the System Adequately: Particular attention to Indigent Defense
  ‘But for the grace of God there go I”
- Address the underlying issues that bring people into the justice system – drugs, lack of adequate family/community supports-
- Rethink what “justice” should mean: response: drug courts, problem solving courts are an example:

“...What we are doing is a statement of our belief in the redemption of human beings. It is a pronouncement from those in authority to some of our least powerful and most ignored citizens that we care about you and want to reach out and help you: your lives and well-being are important to us. The truth of the matter is that this may be the first time in the lives of many of these people that someone is actually listening to them - hearing what they are saying and telling them that they care about them and what happens to them is important... We tell them we care about them and they begin to feel worthwhile. Some pretty important people (judges, lawyers, and others in authority) are telling them we don’t want them to fail ....”*