

National study's drug-court flaws less apparent in York Co.

Defense lawyer group says district attorneys have too much power, but county judges say the system works locally.

By RICK LEE
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The District Attorney's Office has final say on who gets into the York County drug treatment court, a non-incarceration substance abuse program for drug-addicted law breakers.

The National Association of Criminal Defense Lawyers, relying on a two-year study, contends that is a problem. Allowing one government office to have ultimate veto power over admission into drug court blocks access to proven successful treatment for drug users, the NACDL claims.

Not so much in York County, say the people who run the 12-year-old local drug treatment court.

Common Pleas Court Judge Stephen P. Linebaugh, who presided over drug treatment court in recent years, said both he and Judge John S. Kennedy, who began the specialty court in 1997, found they could go directly to the district attorney's office and lobby for a drug court

candidate they felt could benefit from the program.

"I never had a problem talking to the district attorney's office and getting someone in the program," Linebaugh said.

The NACDL noted in its position paper that district attorneys "are frequently hesitant to allow higher risk offenders ... into drug court out of fear they will be blamed for participant failure or recidivism."

"As one witness testified," the NACDL reported, "when prosecutors serve as gatekeepers they face the political risk of 'a headline waiting to happen.'"

Linebaugh said around the time the county drug court was established, treatment courts were viewed by the public as being soft on crime.

"No prosecutor in the 1990s wanted to say, 'We have a drug treatment court,'" Linebaugh said. "(York County District Attorney) Stan Rebert was very brave in taking a stand and saying, 'I think this is important.' He didn't care if it was politically unpopular. But he did want veto power."

First assistant district attorney Jeffrey Boyles said his office's veto power "is used appropriately and rarely."

"It's rather the exception than the norm," he said. "It takes a substantial reason."

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Senior prosecutor Karen Comery, co-director of the York County Drug Task force, said she reviews drug court applications and contacts the arresting officers for their opinions.

"If the officer is opposed, that's the end of it," she said. "It's a small percentage of the applicants."

Comery said officers' reasons for opposing admission into drug court typically concerns someone selling large amounts of drugs, dealing drugs in a school zone, repeat drug offenses or defendants who deny they have a drug problem.

April Billet-Barclay, former drug court administrator and now deputy chief of adult probation and parole, said she has successfully sought reconsideration from the district attorney's office for drug court applicants.

"We are extremely liberal on who we accept into drug court," Billet-Barclay said.

Angela Fox, the county public defender's representative in the drug court program, said one out of 10 applicants is rejected from admission at the request of the police.

One drug court requirement is that the defendant is not currently working as an informant for the police while in the program.

Fox said police will bar or delay entry into the program to use a defendant as an informant.

Comery said she does not believe Fox's opinion

is accurate.

BY THE NUMBERS

York County's drug treatment court was established in October 1997.

As of Jan. 1, 2009, 254 of 658 drug offenders have successfully completed the program. There are 144 defendants currently in the program.

Statistics compiled by the York County Probation Department as of March 2008 show:

90 percent of the defendants committed no other crimes while in the program

89 percent of the participants passed their drug tests

82.56 was the average number of times each defendant was drug tested

71 was the average number of probation department appointments kept by each defendant

66.84 was the average number of hours each defendant spent in court for mandatory drug court sessions

\$63 a day is saved per defendant by not housing them in county prison

44.56 was the average number of court appearances by each defendant

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39 drug-free babies were born to women in the program

20 participants regained custody of their children

\$190,134 of taxpayers' money was not spent on jailing the seven defendants who successfully completed the program in July

WHAT KEEPS YOU OUT OF DRUG COURT?

The criterion for admission into drug treatment court varies nationwide from jurisdiction to jurisdiction.

In York County, crimes of violence and crimes committed with a firearm will prevent a defendant from getting into drug court. Murder and manslaughter charges are automatic disqualifiers. And, according to the drug treatment court policy and procedure manual, more than three prior felony convictions can bar someone from drug court.

"We do accept people with lengthy prior records," said Michael Stough, drug court administrator and probation supervisor. "In fact, it's those people we are looking for."

Since its inception as the second drug treatment court in Pennsylvania, 254 defendants have successfully completed the program. As of August 2007, when the program had 192 graduates, 68 of those wound up back in the criminal justice system, giving the program a 65 percent success rate.

Judge Stephen P. Linebaugh placed the statewide recidivism rate among ex-convicts who have served prison time at 70 percent.

Linebaugh said the drug treatment court does not coddle criminal defendants. He, Judge Penny L. Blackwell, who currently is presiding over drug treatment court, and April Billet-Barclay, the county's former drug court administrator, all said drug treatment court participants have told them the program is "tougher than jail."

The program has a strict policy that defendants must adhere to, including weekly court appearances, drug testing and unannounced home visits by probation officers.

Defendants are required, along with remaining drug free, to get full-time employment, obtain a GED if they did not graduate high school, pay full restitution, perform community service and participate in life skills training.

Linebaugh said defendants in the program range from indigent drug users who have never held a legitimate job to medical professionals in danger of losing their licenses.

The four-phase program typically takes 18 months to complete. And successful completion results in a reduction of felony charges to misdemeanors and dismissal of misdemeanor charges.

The alternative is prison.

-- RICK LEE

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