

The Supreme Court of Ohio

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March 4, 2021

Ms. Jocelyn Rosnick
Policy Director
ACLU of Ohio
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Dear Ms. Rosnick,

In the wake of the release of your drug court report, and in an effort to help the ACLU understand our courts, I would like to address some critical points and perspectives where your report misses the mark. I write on behalf of the drug court judges and the Supreme Court of Ohio's Specialized Dockets staff, who work hard every day on what I consider a rescue mission for Ohioans.

First, the tone of your report and the discussion during your recent unveiling webinar missed a vital fact: Drug courts were not instituted as an additional venue for the "long arm of the law." To the contrary, they were developed in response to a complicated social crisis with the idea that putting people in jail for their problems is not a good outcome – for them or for society.

Drug courts are established against a "one size fits all" response to adjudication of drug crimes. The aim, in a word, is customization. Each person is unique and so is each offense (In fact, not all drug court participants have been charged with a drug crime). Drug court judges can customize courses of action that avoid jail and prison and provide a path away from substance use disorder, using the supportive resources of community and health professionals. Certification by our staff and best practices regimens support our growing number of courts and our mission.

Your methodology is a concern to me. You've already addressed one shortcoming of the report: the use of old data when newer data were available. That is a good admission, but the old data remain the very subject of the report. To produce a report that truly reflects the situation in our courts, you need to take some basic measures:

- First, count all of the courts. Not all of them have “drug court” in their name because our mission is wide and meant to be holistic in nature. Of the 259 specialized docket courts in Ohio, 192 are drug courts and 18 are juvenile drug courts. However, these include “Veterans Treatment Courts,” “Family Dependency Courts” and “OVI Courts.” Their very names give you an idea of the specialization needed by our fellow citizens who go before the bench and the commitment to special programs on the part our judges and our Supreme Court staff.
- Next, when calculating graduation rates, do so properly by understanding how these courts work. Your report didn’t count graduate success accurately. The duration of treatment for participants ranges from one to three years. It was as if you were tabulating successful high school graduation rates by counting seniors with diplomas as successes and sophomores and juniors as having failed. Recovery can be a grueling journey. We must understand the dedication exhibited by these participants. All you had to do to reach a proper calculation was to take *total successful exits* divided by *total exits of all types – all those who pass or fail*. Your miscalculation produces an erroneously low graduation rate. Further, even those whose participation has been unsuccessfully terminated may have been transferred to a program with another court, or they may have had their probation extended and not sent to jail or prison. It appears that many significant questions about these courts weren’t asked.

Your report cites the need for better data and better racial diversity in these programs – a point well taken. Our recent data are more comprehensive, and last year Ohio became the first state to engage in a racial and ethnic disparities project with the Center for Court Innovation and American University. Its Justice Programs Office’s Racial and Ethnic Disparity Assessment Tool (the RED tool) was designed to capture information about treatment court operations and procedures, with an emphasis on racial and ethnic disparities. The Ohio data were collected from 30 courts from July through August 2020. The Supreme Court received a statewide aggregate report including recommendations being used to focus trainings, develop statewide guidance and policies, and track overall metrics for the state.

Every fellow citizen who goes before a drug court has a unique story. These stories aren’t easy to tell – or even to comprehend in the context of the justice system. This is why I commissioned our staff to produce a film called “Second Chances: One Year in Ohio’s Drug Courts,” which follows people and procedures in three counties. This Emmy-winning documentary is unique in that there are no talking head experts interviewed. The experts are those seeking a way out from their drug dependencies, and judges, staff and community health professionals. The film can be accessed at this link: <http://www.ohiochannel.org/video/second-chances-one-year-in-ohios-drug-courts>

My overarching concern is that the ACLU pursued this report looking for some kind of uniformity in treatment and case disposition. Fairness and equality under the law are paramount in our system. But when it comes to fellow citizens wracked by substance use

disorder, fairness means understanding their individual circumstances, and equality means having judges and community aid people evaluate each person with compassion and impartiality.

Our endeavor is complex, but increasingly necessary. It also is dynamic, changing as we learn more about drugs and behavior, brain chemistry and family stresses due to dependency. Please let us help you understand this crisis that courts are forced to deal with – and which we are dedicated to solving for each individual.

Sincerely,

A handwritten signature in black ink, appearing to read "Maureen O'Connor". The signature is fluid and cursive, with a large initial "M" and "O".

Maureen O'Connor
Chief Justice

cc: The Ohio Judiciary