Oral and Written Testimony

U.S. Sentencing Commission

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Good morning.

I am Dr. Marvin Seppala, Chief Medical Officer for the Hazelden Foundation.

I appreciate the opportunity to testify today on behalf of Hazelden. Founded in 1949, Hazelden offers a comprehensive approach to addiction that addresses the full range of patient, family, and professional needs, including treatment and continuing care for youth and adults, research, higher education, public education and advocacy, and publishing. We currently have facilities in Minnesota, Oregon, Illinois, New York and Florida.

While Hazelden does not treat the criminal justice population, I will provide an overview of the evidence as we know it for effectively treating this population. I'm familiar with two programs in Minnesota that provide addiction treatment specifically for the criminal justice population: Turning Point and R.S. Eden.

Hazelden applauds the Commission for considering alternatives to incarceration for drug offenders. Addiction is a disease and, as an individual in long-term recovery, I am living proof that treatment works. Long-term recovery means to me that I have been drug and alcohol free for over 34 years. My recovery has allowed be to complete my high school degree, attend college and obtain my medical degree from Mayo Medical School. I completed psychiatric training and an addiction fellowship at the University of Minnesota. I could have easily required incarceration and the services of programs like Turning Point and R.S. Eden, but received appropriate treatment, discontinued drug and alcohol use, married, raised two children and devoted my career to the treatment of addiction.

During my testimony, I will highlight the following key points:

- Addiction is a disease, not a moral failing
- Evidence-based practices exist for treating offenders with substance use disorders
- Best practices in "conditions for release" or contingency contracting
- Barriers exist that often prevent offenders with substance use disorders obtaining treatment, from sustaining recovery and becoming productive members of society

Addiction is a Disease, Not a Moral Failing

No one chooses to become addicted to drugs any more than a person chooses to suffer from diabetes or heart disease. "Addiction is a chronic disease similar to other chronic diseases such as type II diabetes, cancer, and cardiovascular disease."[1] Contrary to popular opinion, the relapse rates for those with addictive disorders are comparable to or better than the relapse rates for other chronic conditions.

[1] NIDA, Addiction is a Chronic Disease, 2008.

We believe offenders need to be held accountable for crimes committed during the active phase of their disease and for maintaining their recovery once treated and taught recovery management skills. However, incarceration alone is not the solution. One half to two thirds of inmates incarcerated in state and federal prisons meet the criteria for alcohol/drug dependence or abuse, but only 7 to 17% of inmates receive treatment – meaning 650,000 inmates are released annually into communities without receiving appropriate addiction treatment services.[2] Without treatment, these individuals cannot alter their behavior and become productive members of society.[3]

We believe the Commission's proposed amendments will effectively encourage diversion to treatment and mandated treatment for offenders when appropriate. Mandated treatment outcomes are as good, if not better than the outcomes for individuals who enter treatment voluntarily. Individuals who are mandated to treatment may have better treatment outcomes because they tend to have higher attendance rates and remain in treatment for longer periods.[4]

Additionally, the economics show that treatment works: every dollar spent on treatment saves $7 in criminal justice costs.[5] Researchers at UCLA studied the cost implications and benefit cost ratios associated with Proposition 36, which diverted 1st and 2nd non-violent offenders from prison to treatment. The studies showed that Proposition 36 yielded a greater than 7:1 ratio of benefits to costs. The benefits were primarily attributed to reduced costs associated with crime and increased employment earnings.[6]

Evidence-based practices exist for treating offenders with substance use disorders

Decades of research on the effectiveness of drug treatment programs in reducing crime and drug use have proven that drug treatment is one of the most effective crime control strategies.

Treatment services for offenders need to address the following five principles.[7,8] I am hopeful that these principles will be incorporated as the Commission considers changes to the Part B guidance on the effectiveness of residential treatment programs.

1. Cognitive behavioral therapies have been found to be more effective for offenders than other interventions, including drug and alcohol education

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[2] NIDA, Treating Offenders with Drug Problems: Integrating Public Health and Public Safety, 2009.
[3] NIDA, Treating Drug Addiction: What Families and Offenders Need to Know, 2009.
[4] NIDA, Principles of Drug Abuse Treatment for Criminal Justice Populations, 2009.
[5] NIDA, Principles of Addiction Treatment, 1999.
[6] "California Treatment Outcome Project," Ettner, Huang, Evans et al. for the California Department of Drug and Alcohol Programs, the Center for Substance Abuses Treatment, and the Robert Wood Johnson Foundation), 2008.
[7] NIDA, Principles of Drug Abuse Treatment for Criminal Justice Populations, 2009.
[8] Taxman, Fay. Testimony before the House Appropriations Committee Subcommittee on Commerce, Justice, Science and Related Agencies, 2009.

2. Treatment programs need to be of sufficient duration. While research indicates treatment should be no less than 90 days, longer durations of care (ranging from 6 to 9 months) may be necessary given the chronic nature of offenders' behavior
3. Treatment programs need to be multi-dimensional and address not only the offender's addictive disorder, but also his/her criminal lifestyle and values, and antisocial behavioral
4. Medications may augment behavioral therapies and improve outcomes
5. Self-help groups are often part of the treatment plan for the offender

Building on the research, Hazelden has developed a comprehensive cognitive-behavioral therapy curriculum for addicted offenders. Created by Hazelden in partnership with the Minnesota Department of Corrections, *A New Direction* books and DVD's feature real clients sharing the real story of recovery from a life of addiction and crime. These materials also contain training modules to guide the care and treatment of the criminal justice population. The curriculum addresses both criminal and addictive thinking and behavior with the goal of a chemical free, crime free life.

Best practices in "conditions for release" or contingency contracting

As the Commission reviews the standard of care that should apply in the addiction treatment of the criminal justice population, I would recommend they examine contingency contracting for healthcare professionals with substance use disorders.

Hazelden Springbrook in Newberg, Oregon is recognized as a national leader in the treatment of physicians, nurses, pharmacists and other licensed healthcare professionals. As part of my previous responsibilities at Hazelden, I practiced at Springbrook and saw firsthand the effectiveness of contingency contracting (the use of pre-established, mutually agreed-on privileges or consequences to motivate improvements in treatment outcomes) with medical professionals who were undergoing treatment, and through their first five years of recovery. Healthcare professionals are required to attend psychotherapy, 12 Step meetings and other activities conducive to abstinence. They have regular urinalysis and workplace monitors. Physicians and pilots, who have similar systems in place, have the highest measured outcomes of abstinence from addiction.

A 2009 study found that physicians, who underwent 12-step oriented outpatient treatment followed by scheduled urine monitoring and reporting for 5 or more years to licensing boards, their employers etc.

have very good outcomes with 71% of physicians still licensed and employed 5 years following treatment.[9]

While I was at Hazelden Springbrook, I had an opportunity to consult at a local Native American treatment program. Unlike the patients enrolled at Hazelden Springbrook who were subject to careful post-treatment monitoring, the patients at the Native American program were not part of a structured monitoring program. Unfortunately, the patients at the Native American program were significantly more likely to relapse in the absence of such contingency contracting.

I believe this type of monitoring could serve as a model for conditional release in the criminal justice system. In its principles of drug abuse treatment for criminal justice populations, the National Institute on Drug Abuse (NIDA) recommends carefully monitoring drug use through urinalysis or other objective methods "to intervene to change unconstructive behavior – determining rewards and sanctions to facilitate change, and modifying treatment plans according to progress."[10]

Barriers exist that often prevent offenders with substance use disorders from sustaining their recovery and becoming productive members of society

Millions of Americans are in recovery from addiction to alcohol and other drugs, yet many still find it difficult to get an education, a good job, or health insurance due to discriminatory policies and laws. As the Commission reviews treatment diversion for addicted offenders, we recommend you also inventory other factors that contribute to recidivism. Some of these factors include:

NIMBY

While many of the patients Hazelden treats have the good fortune to return to stable environments and jobs, about half of the patients we treat often need a "halfway" or "three quarters way" house upon leaving primary treatment. Increasing numbers of "Not In My Backyard" or "NIMBY" laws make affordable, safe housing for recovering people nearly impossible in some areas and the stigma against returning offenders is even worse than in our population. This lack of housing options for recovering people puts them at risk for relapse.

Insurance Exclusions

Many health plans explicitly exclude coverage of treatment services if the treatment is court-ordered; these exclusions almost exclusively affect treatment for mental health and substance use disorders. Given that mandated treatment is as effective, if not more so, than voluntary treatment, this exclusion

[9] Dupont, R. et al. How are addicted physicians treated? A national survey of physician health programs. Journal of Substance Abuse Treatment. 37 (2009) 1 – 7.
[10] NIDA, Principles of Drug Abuse Treatment for Criminal Justice Populations, 2009.

creates an unnecessary and illogical barrier to care for individuals needing treatment for a substance use disorder. As a result, the treatment for the criminal justice population has been largely shifted to the public sector. In a recent report released by the National Association of State Alcohol/Drug Abuse Directors (NASADAD), states reported a median of 40 to 49% of their treatment funds are spent on the criminal justice population.[11]

Other Barriers

Unfortunately, addicted offenders are often set up to fail by discriminatory laws; drug felons lose their drivers licenses, often cannot get student loans, and cannot receive public assistance such as welfare, Section VIII housing and food stamps. Particularly in a rural area, without a license, it is very difficult for a reentering offender to secure employment, attend treatment or self-help meetings or go to school; all keys for successfully reentering society.

Conclusion

Thank you again for the opportunity to testify today. As I close, I want to reiterate that addiction is a disease – not a moral failing. Every day at Hazelden, I see that individuals can and do recover. I am living proof that with the right care and recovery management tools, individuals with substance use disorders cannot only recover but flourish.

There is an existing evidence base for treating offenders and I hope the Commission will make treatment available to offenders with substance use disorders and examine other barriers that often prevent reentering offenders from reaching their full potential and productivity.

[11] Trick, M. & Sappah, J. National Association of State Alcohol and Drug Abuse Directors: Results of Criminal Justice Inquiry, 2009.