

Mental health, substance use treatment on their way for Tucson's low-level offenders

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Mental-health and substance-use treatment are on their way for low-level offenders who otherwise might fall through the cracks, thanks to nearly \$3 million in federal grant money awarded to the Pima County Attorney's Office.

The Attorney's Office is launching a misdemeanor problem-solving court that will provide mental-health and substance-use treatment, along with a battery of other services, for high-risk or high-need defendants.

There hasn't previously been a way to provide drug treatment and services to people arrested on non-drug-related misdemeanor charges. The Attorney's Office has programs in place to provide such services for people arrested on felony drug charges, but a specific population of repeat misdemeanor offenders with drug-addiction and mental-health issues has been falling through the cracks, officials say.

The January introduction of the county attorney's Consolidated Misdemeanor Problem-Solving Court — also called CMPS — will change that.

“There’s virtually no exclusively drug-possession-related cases in misdemeanor court, but there’s trespassing, there’s shoplifting of food, urinating in public and a whole host of crimes that are associated with predominantly homeless people or very transient folks who have been determined to have co-occurring mental-health and behavioral-health disorders,” Chief Deputy Pima County Attorney Amelia Cramer told the Star. “They’re people who have been in mental health court in either Pima County Justice Court or Tucson City Court, and there’s been no drug court component to treat them and they’ve not been able to succeed in mental-health court alone.”

People arrested on drug-related misdemeanor charges, including possessing less than two pounds of marijuana or paraphernalia, are eligible for the county attorney’s misdemeanor diversion program, which includes paying restitution and completing a constructive consequence program. For people arrested on such charges, the diversion program has a 93 percent success rate.

Two years ago, in anticipation of the program, the Attorney’s Office asked Arizona State University to conduct a survey of defendants in Pima County’s lower courts, including South Tucson, Oro Valley and Marana. The survey found that roughly 3,000 defendants in Pima County are in need of problem-solving court services.

In addition to substance-use and mental-health treatment, CMPS will also provide defendants with wraparound recovery services, including housing and transportation assistance, help in finding employment or enrolling for government benefits, court supervision, peer mentoring and other evidence-based interventions to address defendants who have previously fallen through the cracks.

The Attorney's Office expects to enroll between 40 and 50 people in CMPS during its first year. Participants will undergo routine drug testing to help keep them on track, but results will not be made available to the Attorney's Office. The only drug-testing result that will be shared is the final test administered upon completion of the program.

The criteria that's been settled upon for admission to CMPS is that defendants have at least two misdemeanor convictions within the last year, have a diagnosis of being seriously mentally ill and have a substance-use disorder.

"We think this is a way to really reduce recidivism and help people get back connected in the community and get the services they need," Cramer said. "We want to give them the same kinds of services we give people in (the Drug Treatment Alternative To Prison program), but obviously much earlier before they have a felony drug conviction."

With the addition of CMPS, the Attorney's Office now has a continuum of programs that provide support to nonviolent offenders with co-occurring substance-use and mental-health disorders, in addition to the Tucson Police Department's deflection and U-MATTER programs, which allow people with substance-use disorders to seek treatment and avoid arrest all together.

RESULTS

The grants, provided by the Department of Justice's Bureau of Justice Assistance and the Department of Health and Human Services' Substance Abuse and Mental Health Services Administration, will also partly be used to continue to fund the county attorney's Felony Drug Diversion and Drug Treatment Alternative to Prison, or DTAP, programs for defendants in Pima County Superior Court.

The \$2 million SAMSHA grant will run for five years, providing \$400,000 a year . The \$750,000 DOJ grant will run for three years.

In fall 2017, the Attorney's Office launched its Felony Drug Diversion program, the first of its kind in the state. The program is designed for people arrested for the first time on felony drug possession, offering the opportunity to have their felony charges dismissed if they participate in a clinical-needs assessment, an individualized treatment plan and pass a subsequent drug test.

The clinical assessment classifies the level of addiction to correspond with specific diversion options. A person identified as having no addiction has to attend one class or prevention program. On the other end of the spectrum, people classified as having high-level addictions are provided residential treatment and wraparound services.

Since its start, a little more than 500 people have been offered diversion and roughly 200 accepted, as of last week.

“Forty-seven percent of them have succeeded in diversion, so they’ve had the charges against them dismissed,” Cramer said. “The remainder are either still in diversion trying to succeed or they’ve failed. We were hoping for 30 or 40 percent maximum success rate, so we’re actually pretty pleased with 47 percent.”

DTAP was started in 2011 to provide non-dangerous, drug-addicted felony offenders the opportunity to receive treatment and wraparound support services, as well as supervision and routine drug testing. The program lasts three years and has a 65 percent rolling success rate. Last year, the criteria for admission to DTAP were expanded to include hand-to-hand sales, Cramer told the Star.

About 65 people go through DTAP each year, saving roughly \$1 million in criminal justice costs, according to Cramer, and 98 percent of the participants have mental-health issues, in addition to addiction.

“We’re lucky, because the only reason this is possible is that Arizona is a Medicaid expansion state. (The Arizona Health Care Cost Containment System) pays for 98 percent of these people’s medical care, mental health care and behavioral health care, including treatment for addiction,” Cramer said. “What that does, is it allows us to use the grant money for other things: Case management, peer support, drug testing and then the wraparound services.”

Without that funding, the Attorney’s Office wouldn’t be making any headway with these programs, Cramer said.

“We have funding for a total of five years, and we’re in the process of trying to encourage our legislators to get some legislation passed at the state level to get some sustainable funding for things like DTAP and drug court and the CMPS court,” Cramer said. “We’re currently struggling to keep it alive, and without sustainable state funding, that might not be able to happen.”

The Attorney’s Office is pushing for an ongoing annual appropriation to sustain the programs, with the tax revenue generated from medical marijuana as a possible source of funding, Cramer said.

But as the Attorney’s Office expands its battery of alternatives to incarceration, some officials maintain that such programs don’t address the real issue.

“I think deflection and diversion is fantastic, but I think that we need to be very realistic about the scope of the problem,” Pima County Public Defender Joel Feinman told the Star.

“Diversion is a drop in the bucket, DTAP is an even smaller drop in the bucket.”

In the last 12 months, 62 percent of all narcotics cases involved less than one gram of drugs, according to data provided by the Public Defender's Office.

“Unless we're talking about opening up diversion and DTAP to two-thirds of all drug violators, then these programs are ... largely masking the scope of the true problem, which is that we continue to arrest and prosecute people for having minute amounts of drugs,” Feinman said.

Diversion is offered to first-time offenders with no priors, meaning it disproportionately benefits people who don't have serious drug problems and who are arrested with marijuana derivatives, such as cannabis oil or wax, Feinman said.

“That's the solution, is that you have to stop arresting and prosecuting people for possessing tiny quantities of narcotics,” he said.

“We're finally, hopefully, in this country and this county, starting to come to the conclusion that you cannot deal with substance abuse as a criminal justice issue in the long run. You have to deal with it as a behavioral health issue.”