

TESTIMONY OF

NEW YORK ASSOCIATION OF TREATMENT COURT PROFESSIONALS

BEFORE THE
NEW YORK STATE JOINT SENATE TASK FORCE ON OPIOIDS, ADDICTION AND OVERDOSE
PREVENTION

October 15, 2019

Presented by
Judge Jo Ann Ferdinand (Retired)
Chair of the Advisory Committee to the Board
NYATCP

Good morning Senators and members of the task force. Thank you for the opportunity to be here today and speak with you about this important topic. My name is Jo Ann Ferdinand and I am a member of the New York Association of Treatment Court Professionals' Board of Directors. We are a not-for-profit organization of judges, lawyers, court employees, treatment professionals, law enforcement officers and other professionals working in treatment courts. The Association promotes and advocates for the establishment, funding, and enhancement of treatment courts and provides for the collection and dissemination of information, technical assistance, and mutual support to the treatment court professionals in New York State.

An alternative to incarceration, treatment courts offer criminal defendants whose crimes are driven by their own addiction to drugs and/or alcohol, the chance to address their substance use in a judicially supervised setting. Through a collaborative approach involving a judge, prosecutor, defense attorney, treatment providers, court staff and others, these cost-effective court programs connect participants with the treatment, services and support needed to lead productive lives free of further criminal justice involvement. Treatment courts represent a fundamental shift from incarceration as the primary means of punishing drug offenders to mandatory treatment for those offenders willing to take responsibility for their actions, using prison only as leverage to ensure compliance

There are 133 treatment courts in New York that have served over 116,000 participants as of October 2019. This includes 35 veterans' treatment courts, 11 human trafficking intervention courts, 26 mental health courts, and 17 family treatment courts. Even before public awareness of the opioid epidemic, treatment courts served opioid users, connecting them to treatment and addressing the unique needs of this high-risk population. New York recently became the

national leader in the development of opioid courts, seeking to combat the opioid epidemic by improving immediacy of treatment engagement, providing intensive judicial oversight, and ensuring rapid dispensing of medication assisted treatment to reduce the risk of overdose. There are 16 opioid courts now operating within our drug courts and another 9 are in planning.

Our Association serves professionals in urban, suburban, and rural areas, each location with its own unique challenges. Common throughout the state, however, is the impact that opioid use and overdose has had on the criminal justice system. According to a recent resource guide released by the Substance Abuse and Mental Health Services Administration (SAMHSA) entitled *Use of Medication-Assisted treatment for Opioid Use Disorder in Criminal Justice Settings*, those using opioids have an increased risk of being arrested and becoming involved with the criminal justice system, as high as 52 percent for those suffering from prescription opioid use disorder and 77 percent for those using heroin. Those of us who work in treatment courts see the devastating effects that opioids and other drugs have on individuals, families, and communities.

On behalf of the Association, I wish to discuss today some priority areas we see as avenues to addressing this problem.

Treatment courts are guided by best practice standards developed by the National Association of Drug Court Professionals. These standards were peer-reviewed and based on evidence showing a significant improvement in outcomes for each practice. As part of these best practices, treatment courts connect participants with evidence-based treatments- those treatment interventions that are shown through studies to improve outcomes. Unfortunately, evidence-based substance use disorder and mental health treatment is not readily available in all areas of the state or is severely limited in some areas in choice and scope. Expanding the availability of evidence based treatment must be a priority. To do so, providers should be appropriately trained in these practices and subject to oversight to ensure that the treatment models they are utilizing are effective. Encouraging expansion through improved regulatory schemes can help draw providers to areas of the state where such services are needed.

One important treatment intervention that has been shown effective in treating substance use disorders, particularly heroin and opiate use, is medication assisted treatment or MAT, which includes methadone, buprenorphine, and naltrexone. Sadly, for those in the criminal justice system, MAT is not always available or easily obtained. Throughout the state, we need more health care professionals who can prescribe these medications, more pharmacies to fill prescriptions, emergency rooms that can dispense MAT, and fewer barriers to access to these medications. For those housed in jails and prisons, MAT is needed during incarceration and after release to allow for continuous, long-term success. We appreciate the legislation you passed this year making medications available in all local jails. Inmates who receive these medications in jail are more likely to continue to engage in treatment on release and are less likely to overdose. Increasing the availability of MAT can be done by providing training and education to health care, treatment, and criminal justice professionals; eliminating bias; ensuring consistent health care and Medicaid coverage including for those incarcerated; and

continuously improving federal and state statutes, codes and regulations to meet the changing needs of the times. By doing so, we can increase access to these life changing medications and reduce the stigma often associated with their use.

Treatment court participants living in the rural parts of the state face additional obstacles. Due to a lack of resources, public transportation, and housing, treatment court professionals in some parts of the state struggle to link participants with the essential services needed to manage substance-use disorders. More access to sober housing, health care, food, and transportation, as well as treatment and MAT, is needed to ensure we are reaching this epidemic throughout the state. These are the things that sustain us in times of crisis. Mobile MAT units, peer support, crisis services, and more inpatient, residential and supportive living facilities can help.

Finally, we would like to express our concerns over the unknown impact of bail reform on treatment courts. Rapid entry into treatment after an arrest is critical to successful outcomes in drug treatment in general and court supervised treatment programs in particular. Criminal defendants who are in jail upon referral to treatment courts are highly motivated to accept treatment. We are concerned about the challenges linking individuals involved in the criminal justice system, particularly those at risk of overdose, with immediate treatment and other resources once they are at liberty. We will strive to identify new ways to ensure our ability to continue to quickly link addicts in the criminal justice system to treatment and urge you to review the effects of these changes to make sure we are not losing the opportunity for treatment courts to continue to play an important role in this crisis. Treatment courts not only save lives, they reunite families and protect communities. We need fewer, not more, barriers to entry into these life-saving court programs and we ask that you consider this as you continue these efforts.

As treatment court professionals, we stand ready and prepared to be part of the state's response to this crisis. From the entire Board of Directors, thank you for your time. We truly appreciate all you are doing for those impacted by opioid use and other substance use disorders in New York.

Judge Jo Ann Ferdinand served as a Judge of the New York State Supreme Court for 30 years, 20 as the Presiding Judge of the Brooklyn Treatment Court. BTC was the first drug treatment court in the City of New York and the model for those which followed around the City and State. After her retirement, she became President of The Joseph LeRoy and Ann C. Warner Fund, a nonprofit foundation which seeks to develop and enhance programming by organizations devoted to providing meaningful services to children with disabilities and children in foster care. (www.warnerfund.org)

Judge Ferdinand established the Brooklyn Treatment Court in 1996 in response to the over incarceration of non-violent defendants whose crimes were committed to support their own substance abuse disorders. She granted over 6,500 individuals the opportunity to resolve their felony charges by enrolling in court supervised substance abuse treatment and rewarded those who successfully completed their mandate with dismissal of all charges. The Court achieved a notable reduction of recidivism to less than 10 percent. During her tenure the court expanded to provide alternatives to incarceration for veterans, young adult marijuana users, and DWI offenders. The court was known for its innovative practices working with persons with mental health and trauma issues, and was a pioneer in the use of medication to assist treatment for those with opioid disorders.

Judge Ferdinand earned her B.S. from Cornell University and her J.D. from NYU School of Law. She served on the *NYS Commission on Drugs and the Courts* in 2000 and co-chaired the *Committee to Create a Strategic Plan for Drug Courts* in 2015. She was President of the New York State Association of Treatment Court Professionals for two terms and presently serves as Chair of the Advisory Committee to the Board. Judge Ferdinand has lectured on many topics including trauma informed care, procedural fairness, and best practice standards. In 2016 she was inducted into the National Association of Drug Court Professionals **Hall of Fame** in recognition of her role as a pioneer in the field and her contributions to changing the lives of thousands of criminal defendants.