

Opening Statement  
Dennis Kucinich, Chairman  
Domestic Policy Subcommittee  
Oversight and Government Reform Committee  
*“Quitting Hard Habits: Efforts to Expand and Improve  
Alternatives to Incarceration for Drug-Involved Offenders”*  
July 22, 2010  
2154 Rayburn HOB  
2:00 P.M.

The number of individuals incarcerated for drug offenses has increased every year since 1980, despite recent efforts, including drug courts and state-level initiatives like Proposition 36 in California, that are explicitly designed to minimize jail and prison time for non-violent drug-related offenders and to provide treatment for drug-related offenders.

Overall, the correctional population has increased by nearly 2.5 million, or 57 percent, from 1990 to 2005; and inflation-adjusted expenditures on corrections have more than doubled over the past 20 years. Furthermore the need for drug treatment among offenders still far outstrips supply. These trends have continued even as overall illegal drug use, especially abuse of cocaine and heroin, has declined and the drug-related offender population has aged, which should naturally lead to a decline in the need for

incarceration given older offenders' decreased propensity for violence.

Why and what can be done to reverse these trends? Certainly, efforts at sentencing reform and improving how prisoners reenter society, while not the focus on this hearing, are essential to break the cycle of drug abuse and crime and overreliance on incarceration. Today's hearing has a slightly different focus and is the first Congressional hearing to consider in a comparative perspective the various efforts within the criminal system itself to avoid incarceration and to provide drug treatment.

Drug treatment courts are an important part of the picture. I have consistently supported the proliferation of drug and other problem-solving courts, and this Subcommittee held a field hearing in Representative Cummings' district in Baltimore to witness how these courts are evolving to provide coordinated wrap-around services. Despite efforts to bring drug courts to scale, however, they only enroll about 100,000 clients a year out of the estimated 1.5 million yearly arrestees with drug-related issues. While this disparity is partly resulting in limited funding, it is largely the result eligibility restrictions that at times exclude offenders with histories of criminal violence, severe drug

addiction problems, and co-occurring disorders. While witnesses today will express optimism that drug courts can be expanded to include some of these offenders and such expansion is justified by outcome studies and would be cost-effective, it is clear that some aspects of their operation will have to change to reflect the different populations that they serve. It is also clear that expanding the reach of drug courts is only part of the solution.

We will also learn about a new approach demonstrated by Hawaii's HOPE program. HOPE attempts to coerce abstinence through frequent drug testing and the provision of swift and certain sanctions to probationers who continue to test positive. In contrast to drug courts, HOPE initially does not provide drug treatment and reserves a judicially-imposed treatment plan for participants who fail to become abstinent in the face of graduated minor sanctions. There has been some initial positive data on HOPE and there is a possibility it can help target drug treatment, which is costly, to those who truly need it. Nevertheless, there are many important questions that need to be answered and the Hawaii experience needs to be attempted on the mainland before we can judge what role HOPE should play.

Finally, we look at the legacy of Proposition 36, which was passed by an initiative by California voters in 2000 and allows first- or second-time drug possession arrestees with no record of violent offenses to plead guilty to drug possession in return for diversion to a drug treatment program. While it has been criticized for lacking sufficient mechanisms to enforce the requirement that participants complete drug treatment, Prop 36 has enrolled over 50,000 participants a year, amassing a wealth of data relevant to the proper design of diversionary programs.

The common feature of the programs and approaches that we focus on today is that they are alternatives to incarceration administered within the criminal justice system. We should be wary of thinking of one program, approach, or set of approaches, no matter how well conceived, is the answer to overincarceration. It is possible that programs can cross-hybridize or that different approaches are best understood as complementary and should thus be targeted to different drug-involved offending populations. Congress must ensure that DOJ and ONDCP, as policy experts, researchers, and grant-makers, constantly measure the effectiveness of these programs, collect evidence about best practices, and, consistent with our notions of a just and safe society, help states make informed judgments.