

Wednesday, February 7, 2024

**Written Testimony of Rob Bovett**  
before the  
**Joint Committee on Addiction and Community Safety Response**  
in Support of Portions of the Dash-1 Amendments to  
**House Bill 4002, House Bill 4036, and Senate Bill 1555**

Dear Co-Chairs Lieber and Kropf, Senators Girod, Knopp, Prozanski, Steiner, and Representatives Goodwin, Mannix, Nosse, Sanchez, Smith, and Valderrama,

For the record I'm Rob Bovett. I have been involved in drug policy at local, state, national, and international levels for a few decades, and currently teach Drug Policy at Lewis & Clark Law School. My career has focused heavily on creating and implementing diversionary programs in our criminal justice system for people suffering from addiction or behavioral health issues. I also currently serve as Vice-Chair of your Criminal Justice Commission where we oversee many of those programs - although I speak only for myself this evening.

Thank you for the opportunity to share my thoughts on our current addiction crisis. I am well aware of the ongoing disagreements over how we got here. But, for our purposes, that is a distraction because the remedy is the same no matter the cause or causes. So what is the remedy? In an interesting twist, Portugal and others guide us to the evidence-informed answers. There are multiple tools in our drug policy tool box, and ramping up two of them is what the evidence tells us we need to do as soon as possible. This is not to say we should ignore improving our use of the other tools - in an evidence-based way - for long term better outcomes. But, right now, two of those tools are critical.

### **1. Treatment-On-Demand**

We are, of course, nowhere near treatment-on-demand, meaning immediate access to evidence-informed treatment and recovery support for those suffering from severe addiction. Indeed, we are now last in the nation for such access. As a result, we are in desperate need of a massive increase in treatment capacity, including detox facilities, sobering centers, and treatment facilities of all types – starting with the workforce development necessary to support those vital services. We also need to massively expand the types of treatment available, including medication assisted treatment and treatment and recovery support in our prison and post-prison systems. We have a long way to go, but I believe there is substantial agreement about our need to do all of these things. Portions of the Dash-1 Amendments to House Bill 4002, as well as House Bill 4036, and Senate Bill 1555, along with other legislation you are considering this session, move us in this direction. Although this is a huge task to accomplish, this does not appear to be the hangup to putting a remedy in place.

### **2. Community Harm Reduction**

We have, justifiably, focused heavily on individual harm reduction during our current addiction crisis, such as improving access to naloxone to save lives. But our recent harm reduction efforts haven't yet addressed community harm, such as the loss of use of public spaces to drug use, overt drug markets, and addiction-related crime. How we go about addressing these harms has led to disagreements and competing legislation. But I believe we are actually closer to a consensus than some might believe in the heat of disagreement.

We are need of two key components of community harm reduction, one of which has been the focus of much debate.

### ***A. Requiring Treatment***

In September of 2022, a panel of three of us from the Stanford Network on Addiction Policy (SNAP), where we promote evidence-informed drug policy, testified before our Senate Committee on Judiciary and Ballot Measure 110 Implementation, pointing out the need to address numerous deficiencies and the need to better understand the nature of addiction in fashioning remedies to our addiction crisis. Keith Humphreys, our SNAP leader, summarized it well in three points:

1. “People who are addicted are less likely to seek treatment than are individuals with other chronic illnesses whose costs fall mainly on the person who suffers from them, so if there is no formal or informal pressure on addicted people to seek treatment and recovery and thereby stop using drugs, we should expect continuing high rates of drug use, addiction and attendant harm.”
2. “Evidence-based harm reduction improves public health, but a policy solely focused on harm reduction for people who use drugs will over time result in increased harm both to people who use drugs and people who do not. It must be accompanied by policies that shrink the size of the addicted population and reduce community harms.”
3. “There are multiple opportunities to use an alliance of smart policing, low-threshold health services, and swift, certain, and fair community corrections to significantly reduce the damage that addiction is currently inflicting in Oregon.”

Portugal addresses this issue through the use of ‘Dissuasion Commissions,’ who have various powers to push those who are addicted and causing community harm into treatment. We don’t have such a tool, as it would violate numerous provisions of our Bill of Rights and offend our collective sense of civil liberties. What we have, instead, is our criminal justice system, with all of its vital due process protections that are part of the core of our democracy.

However, the use of our criminal justice system for this purpose can get confused with the use of our criminal justice system for other purposes. This is why, long ago, Oregon charted a path away from the so-called war on drugs where sending addicted persons to prison is seen as some sort of answer. Instead, when the so-called war was announced in the early 1970’s, Oregon became the first state to decriminalize possession of marijuana. When the so-called war was expanded in the 1980s with mandatory minimum sentencing, leading to mass incarceration, Oregon adopted a sentencing guideline system making it impossible to be sent to prison for simple drug possession. In addition to reducing simple drug possession to a misdemeanor and pioneering many individual harm reduction programs, Oregon also became the second state in the nation to adopt drug courts and other evidence-informed diversion programs, eventually expanding them statewide through legislation passed in 2005. We can and should build on this system of successful diversion to help address our current crisis.

Each of the proposals you have before you, including the Dash-1 Amendments to House Bill 4002, House Bill 4036 (based primarily on the framework proposed by our cities, sheriffs, police chiefs, and district attorneys), and Senate Bill 1555 (based primarily on the initiative petition filed by the Coalition to Fix and Improve Measure 110), present variations of diversion from a reinstated misdemeanor for illicit possession of drugs like meth or fentanyl.

In my opinion, we need a sufficiently robust misdemeanor charge upon which to base diversion - and diversion should not be confined to just one opportunity, such as initial deflection - but opportunity for diversion into treatment throughout. If we blend aspects from what has already been proposed, I believe we can deliver a new system that gives law enforcement the tools they need to address our current addiction crisis without resorting to sending persons suffering from severe addiction to prison. I am at your disposal to help craft such legislation if you so desire.

***B. Focused Deterrence***

Finally, I will briefly mention focused deterrence. It is another key aspect of community harm reduction. By way of example, the High Point Model of focused deterrence created by David Kennedy provides a method of eliminating open air drug markets without having to arrest and incarcerate dealer after dealer. We need to be using those strategies in combination with the ones already mentioned.

Thank you again for the opportunity to testify this evening about this important matter. I stand ready to assist with any resources at my disposal, including though my drug policy colleagues. I am also at your disposal to assist with the crafting of any legislation to address our tragic addiction crisis. I am more than happy to answer any questions you might have.

Sincerely,

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NOTE: All information and comments above are my own.  
They do not reflect any official position of Lewis & Clark Law School or any client.