

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Office of the Chief Financial Officer**

Natwar M. Gandhi  
Chief Financial Officer



**MEMORANDUM**

**TO:** The Honorable Linda W. Cropp  
Chairman, Council of the District of Columbia

**FROM:** Natwar M. Gandhi  
Chief Financial Officer

**DATE:** December 16, 2002

**SUBJECT:** Fiscal Impact Statement: "Treatment Instead of Jail for Certain Non-Violent Drug Offenders Initiative of 2002"

**REFERENCE:** District of Columbia Initiative 62

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**Conclusion**

Funds are not sufficient in the FY 2003 through FY 2006 budget and financial plan to implement the Treatment Instead of Jail for Certain Non-Violent Drug Offenders Initiative of 2002 (Initiative). **The Initiative would result in an estimated \$4.7 million additional expenditures for the District in FY 2003 and an additional \$18.7 million in FY 2003 through FY 2006.** Should the Initiative be interpreted more broadly, implementation could result in an estimated \$23.4 million in additional expenditures in FY 2003 and an additional \$93.7 million in FY 2003 through FY 2006.

Anti-deficiency laws, 31-USCA § 1341 (2000), prohibit District officers and employees from exceeding agency appropriations in any fiscal year.

**Background**

Under current law, the District has a Superior Court Drug Intervention Program paid for with federal funds through the Pretrial Services Agency. This "drug court" as it is commonly called, focuses on treatment of drug offenders. The drug court combines rehabilitation and sanctions to deter repeat illegal activity.

Drugs are categorized by federal law on the Controlled Substances List: Schedule I drugs are those such as marijuana, heroin, and ecstasy and Schedule II drugs are those such as cocaine, methamphetamine, and PCP. The District's current drug court hears

approximately 450 cases annually of non-violent Schedule I or Schedule II drug offenders.

According to the Substance Abuse and Mental Health Services Administration of the federal Department of Health and Human Services, 55 percent of substance abuse treatment admissions (by primary substance of abuse) in the District are Schedule I drug users; the remaining 45 percent are Schedule II drug users.

The Initiative would permit individuals, who were arrested or violated parole or probation for committing certain non-violent crimes while using or possessing a Schedule II drug, to petition the court for drug treatment in lieu of imprisonment. (Federal law does not permit reduced penalties for Schedule I drugs.) It also could permit all individuals who commit certain non-violent crimes that result from certain drug abuse or addiction to be eligible for treatment. The court would have three days to make a determination or the individual would be deemed approved for treatment. If the court made a determination without a hearing, the arrestee could petition the court for a hearing on eligibility for treatment. The Initiative sets broad parameters for treatment, dismissal of proceedings, and expungement of the arrestee's criminal record.

### **Financial Plan Impact**

Funds are not sufficient in the FY 2003 through FY 2006 budget and financial plan to implement the Initiative. **The Initiative would result in approximately \$4.7 million in additional expenditures for the District in FY 2003 and an estimated \$18.7 million in FY 2003 through FY 2006.** Should the Initiative be interpreted more broadly, implementation could result in an estimated \$23.4 million in additional expenditures in FY 2003 and an additional \$93.7 million in FY 2003 through FY 2006.

The Initiative would permit individuals, who were arrested or violated parole or probation for committing certain non-violent crimes while using or possessing a Schedule II drug, to petition the court for drug treatment in lieu of imprisonment. Most of these individuals currently go through the existing drug court program. It also could permit all individuals who commit certain non-violent crimes that result from certain drug abuse or addiction to be eligible for treatment.

If offenders participate in the Initiative program instead of the existing drug court program, drug treatment expenditures would be shifted from the federally funded Pretrial Services Agency to the District of Columbia General Fund. It is unclear how many drug offenders would petition for treatment in lieu of imprisonment, but according to Court Service and Offender Supervision Agency estimates based on FY 2002, it is likely that approximately 1,000 offenders treated by the drug court under current law would qualify.

Drug treatment services vary significantly in cost based on the type of treatment. Inpatient drug treatment ranges from \$2253 for a 30-day stay to \$6759 for the more

common 90-day stay, based on an average per day cost of \$75.10 per patient. Outpatient treatment is billed by session. The average cost of a session is \$43.68 and the average duration of an outpatient treatment program is 36 sessions. This results in an average cost of \$1572 per person in outpatient drug treatment. Based on the expected participation and these costs, implementation of the Initiative is expected to increase expenditures by approximately \$4.7 million per year. These costs are illustrated in the table below.

<b>Estimated Increased Drug Treatment Expenditures</b>					
<b>Item</b>	<b>FY 2003</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>4-Year Total</b>
Outpatient treatment	\$628,800	\$628,800	\$628,800	\$628,800	<b>\$ 2,515,200</b>
Inpatient treatment	\$4,055,400	\$4,055,400	\$4,055,400	\$4,055,400	<b>\$16,221,600</b>
<b>Net Annual Cost</b>	<b>\$4,684,200</b>	<b>\$4,684,200</b>	<b>\$4,684,200</b>	<b>\$4,684,200</b>	<b>\$18,736,800</b>

However, Section 6(c) of the Initiative can be read very broadly to include the entire population of non-violent offenders whose offense resulted from drug abuse or addiction. Should the Initiative be interpreted that broadly, an estimated 4,000 more drug treatment slots could be required. Using the average drug treatment costs described above, these additional, qualified petitioners could result in \$18.7 million additional unbudgeted expenditures to the District in FY 2003 and an additional \$75 million in FY 2003 through FY 2006. Added to the expected increased drug treatment expenditures delineated in the table above, the aggregate costs for all potential, qualified populations would result in a total of \$23.4 million in unbudgeted expenditures in FY 2003 and a total of \$93.7 million in FY 2003 through FY 2006.

The Initiative would require any participating offender who can, to pay for his/her drug treatment. As a result, a percentage of participants are expected to fund their own drug treatment, however, there is no specific data available on how many qualified offenders would be either insured or able to pay for their drug treatment. The CFO estimates that the number offenders able to pay the cost of their own drug treatment would be minimal and would not create a meaningful offset to the estimated additional expenditures associated with the Initiative.

A portion of the expected costs of implementing the initiative could be offset by reduced jail expenditures. There is no data available at this time as to the estimated amount of such savings. The average daily jail cost is approximately \$60 per day, but it is unclear what the average stay would be for a qualified offense and how many offenders would have been in jail had they not qualified under the Initiative for drug treatment. Should the Initiative be interpreted to include the additional 4,000 eligible petitioners discussed above, additional savings would be expected from foregone incarceration expenses.