

Are We Addicted to Drug Courts ?

A critical look at the issue of coerced treatment versus traditional incarceration.

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The advocates

- Restorative Justice
- Therapeutic Jurisprudence
- A “problem solving” court

- Reduces Recidivism
- Reduces Incarceration Rates
- Saves Money
- Drug Courts Work!

Recent Critics

- Justice Policy Institute (March, 2011)
- Drug Policy Alliance (March, 2011)
- National Association of Criminal Defense Lawyers (Sept., 2009)
- Judge Morris B. Hoffman, North Carolina Law Review, 78 N.C.L. Rev. 1437

Fundamental Questions

- Are “Drug Courts” a proper function of the Criminal Justice System?
- Do Drug Court usurp treatment resources and “back-load” treatment?
- Are Drug Courts really effective vs. traditional criminal justice alternatives?
- Do Drug Courts really “reduce” incarceration?

Are “Drug Courts” an appropriate function of the Criminal Justice System?

- General Deterrence
- Specific Deterrence
- Incapacitation
- Retribution (Punishment)
- Rehabilitation

Role of the Judge



Joshua Gunter/The Plain Dealer

Role of the “Participants”

“the prosecutor and defense counsel must shed their traditional adversary courtroom relationship and work together as a team... to focus on the participant’s recovery *** not the merits of the pending case...”

“drug courts recognize that individuals have a tendency to relapse ***. Drug courts impose appropriate responses***increasing in severity for continued failure to abstain.”

Treatment or Jail?

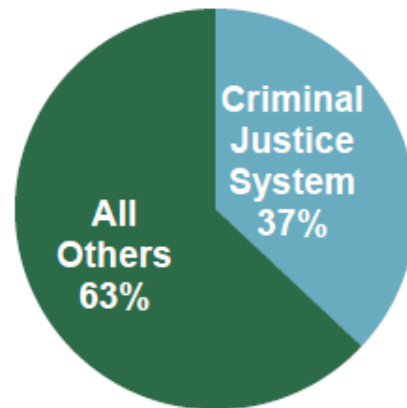


Do Drug Court usurp treatment resources and “back-load” treatment?

- Resources for non-offenders are decreasing.
- Resources for offenders are increasing.
- Drug courts may actually increase the cost of the criminal justice system by allocation of more resources to non-violent, low-risk offenders than other traditional sanctions.

Allocation of Resources

The criminal justice system is the largest single source of referrals to substance abuse treatment nationally.



Source: The TEDS Report, "Substance Abuse Treatment Admissions Referred by the Criminal Justice System," August 13, 2009.

www.oas.samhsa.gov/2k9/211/211CJadmits2k9.htm

Do Drug Courts Work as Advertised?

- What is a drug court, anyhow?
- Do drug courts “cherry-pick” participants?
- Is recidivism the only valid criteria for success?
 - Failure rate
 - Retribution
 - Punishment
 - Deterrence
 - Protect the Community

Do Drug Courts Really Reduce Incarceration?

- Many participants would not have gone to prison, anyhow.
- Many who would not have gone to prison are locked up for “program violations,” technical violations APA cannot file on.
- Drug courts have been around for years, but rates of incarceration are still increasing

Conclusion

- Drug courts may have a role, but
- Incarceration meets other goals of the criminal justice system which treatment courts do not;
- Recidivism is not the only measure of success;
- Drug courts are not consistently administered.
- Drug court success rates are not definitive.
- Non-involved Policy makers should evaluate drug courts versus other treatment to allocate resources.