

Treatment or Incarceration?

National and State Findings on the Efficacy and
Cost Savings of Drug Treatment Versus Imprisonment

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Treatment or Incarceration? was primarily authored by Doug McVay, former research director for Common Sense for Drug Policy, a non-profit dedicated to expanding discussion on drug policy by educating the public about alternatives to current policies. He is the author and editor of *Drug War Facts*, an annual compendium of reliable information on the impact of the drug policy on criminal justice and public health issues. This brief was co-authored by Vincent Schiraldi and Jason Ziedenberg, who are, respectively, Executive Director and Director of Policy and Research of the Justice Policy Institute, a Washington DC-based public policy organization dedicated to ending society’s reliance on incarceration by promoting effective and just solutions to social problems. This brief was reviewed by Ann Ciekot, Advocacy Consultant with the National Council on Alcoholism and Drug Dependency—Maryland Chapter.

Acknowledgments

This report is the third in a series of policy briefs issued by the Justice Policy Institute in Maryland in the last twelve months, which also include *Cutting Correctly in Maryland*, authored by Judith Greene and Timothy Roche, and *Race and Incarceration in Maryland*, authored by Vincent Schiraldi and Jason Ziedenberg. This report was designed by Julie Laudenslager of InHouseGraphics, and was posted on the web by Riseup.net. *Treatment or Incarceration?* was funded by generous grants from the Open Society Institute—Baltimore, the Abell Foundation, and the JEHT Foundation. The full report can be found at www.justicepolicy.org

Introduction: The national and local problem of drug imprisonment

The state of Maryland, like other states, has had to deal with substantial budget shortfalls at a time when the state is under increasing fiscal pressures due, in part, to a growing drug prisoner population. Because of the high costs of incarceration, this has resulted in insufficient resources being allocated to deal with the reasons why substance abusing offenders end up behind bars in the first place. Public opinion surveys show that taxpayers are frustrated by the current policy and its outcomes: A recent poll commissioned by the Justice Policy Institute showed that voters believe by a 5 to 1 margin that Maryland's drug problem is getting worse, and 53% say that people who are incarcerated are more likely to commit crimes after being released than they were before entering prison (versus 20% who indicated they were less likely to commit crimes after being incarcerated).¹ The same poll showed that Maryland voters believe by a two-to-one margin that there are too many people in prison, and 86% of respondents favor judges having the option to order treatment rather than prison for some drug users.

This poll reveals that Marylanders know what researchers have been telling policymakers for some time: many of the people clogging the criminal justice system are substance abusers and more cost-effective ways of dealing with this population are not being utilized to their full potential. According to a report published by the Justice Policy Institute focusing on the racially disparate use of incarceration in Maryland, out of the 12,579 offenders admitted to prison in 1999, 41.6% were drug offenders—up from 16% of all prison admissions in the mid-1980s.² The Maryland Department of Public Safety and Correctional Services reported that by the end of June 2001, roughly 24% of the state's inmate population was serving time for drug abuse offenses (5,487 out of 23,239 inmates) placing Maryland third nationally in the percentage of state prison admissions comprised of drug offenders.³ According to the Department of Corrections, the largest single category of conviction offense among prisoners is "drug abuse."⁴

Imprisoning drug offenders may resonate with some who think prison is the only way to make their communities safer, at least while they are incarcerated. Yet, the overwhelming majority of drug prisoners will come back out eventually to rejoin society, many within just a few years or even months. The Maryland State Commission on Criminal Sentencing Policy reports that the average sentence for more than two thirds of drug offenders convicted in circuit courts is 20 months.⁵ Most drug prisoners will return to the community after a couple of years away, and will then return to prison because we have not dealt with the complex set of core issues that led to them ending up incarcerated in the first place. Though the time behind bars spent is limited, the impact of a felony conviction may last a lifetime, and even a short period of incarceration has been shown to affect people's earnings and ability to get a job, to be parents, and to become productive parts of their communities.⁶

One way to help ensure public safety and to build families and communities is to make sure that these former prisoners have the tools necessary to lead crime free lives and to fit into the society. There are cost-effective approaches to dealing with substance abusing offenders that are being utilized elsewhere, and in Maryland, and policymakers can choose to expand their use of these programs. The question facing policy makers—one the polls show that voters are increasingly attuned to—is, is public safety better served by incarcerating drug offenders for two dozen months, or would a community-based solutions, including drug treatment and prevention programs, be more efficient and effective at curbing drug abuse and promoting public safety?

This policy brief will survey research that shows that, on the whole, providing drug offenders with treatment is a more cost-effective way of dealing with substance addicted drug and nonviolent offenders than prison. Studies by the nation’s leading criminal justice research agencies have shown that drug treatment, in concert with other services and programs, is a more cost effective way to deal with drug offenders. And in Maryland, several promising programs have shown that drug treatment, combined with life skills training, literacy training and education, and job skills training, is being used with a high degree of success. This policy brief provides the Maryland General Assembly and Governor Ehrlich with additional support to follow up on the pledge the governor made in last January’s “State-of-the-State” address to, “work together to get nonviolent drug offenders out of jail and into treatment programs, where they belong.”

Methodology

This policy brief summarizes the findings from a variety of criminal justice agencies and research entities whose work is national in scope, including the RAND Corporation, the Center for Substance Abuse Treatment of the U.S. Department of Health and Human Services, the Little Hoover Commission, the National Center on Addiction and Substance Abuse at Columbia University, and previous studies by the Justice Policy Institute, including two reports published this year, *Cutting Correctly in Maryland* and *Race and Incarceration in Maryland*. The authors have also reviewed and summarized analyses from a number of state sources, such as the Washington State Institute for Public Policy. Finally, the authors have summarized findings from a number of Maryland agencies, including the Maryland State Commission on Criminal Sentencing Policy and the Alcohol and Drug Abuse Administration.

Finding 1:

Treatment can be less expensive than a term of imprisonment

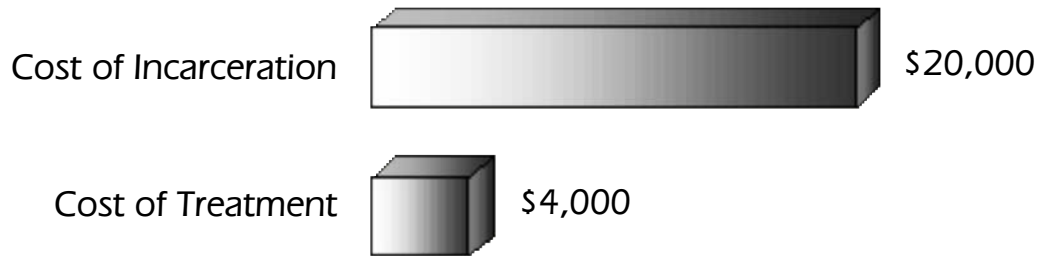
Reports by government agencies, centrist and center-right think tanks and surveys of programs in Maryland show that treatment is a much less expensive option than incarceration for handling substance abusing offenders.

In 1997, the Center for Substance Abuse Treatment (CSAT) of the US Department of Health and Human Services published its “National Treatment Improvement Evaluation Study (NTIES): Final Report,” a multi-site study evaluating the effectiveness and improvement of treatment services supported by their agency, including their economics and outcomes. According to the report, “treatment appears to be cost effective, particularly when compared to incarceration, which is often the alternative. Treatment costs ranged from a low of \$1,800 per client to a high of approximately \$6,800 per client.”⁷

The Drug Treatment Alternative to Prison (DTAP) program in Brooklyn, New York, enables alcohol or drug addicted defendants to plead guilty to an offense, and then enter a residential, therapeutic community treatment system that can last up to 2 years as an alternative to a prison sentence. A recent evaluation of DTAP by the National Center on Addiction and Substance Abuse at Columbia University found that the program achieved significant results in reducing recidivism and drug use, increased the likelihood of finding employment, and saved money over the cost incarceration.⁸ Along with these results, the evaluation found that the average cost of placing a participant in DTAP, including the costs of residential treatment, vocational training and support services was \$32,974—half the average cost of \$64,338 if the participant had been sent to serve the average term of imprisonment for participants, 25 months.

Treatment as an alternative to incarceration is already saving money for the state of Maryland. As recently summarized by the Maryland State Commission on Criminal Justice Sentencing, the state of Maryland has alternative to incarceration programs that both focus on “back-end” treatment (i.e., assigned after some prison time has been served) or “exit,” such as the Community Options Programs (COP) including regimented offender treatment centers, day reporting, intensive supervision, and home detention, and graduated sanctions for program failures. Baltimore City offers a front-end (i.e., initial sentence) diversionary program through its Drug Treatment Court. Looking at these programs as a whole, the Sentencing Commission writes that “Maryland’s use of alternative sanctions has reduced the annual cost to house an offender from \$20,000 to \$4,000.”⁹

FIGURE 1: YEARLY COST OF INCARCERATING A DRUG OFFENDER VERSUS YEARLY COST OF TREATMENT IN MARYLAND



Source: Lavine, Ashira, Ben Lozowski, Heidi Powell, Maria Sivillo, Katharine Traeger, “Issues in Maryland Sentencing—The Impact of Alternative Sanctions on Prison Populations.” (May, 2001) College Park, MD: Maryland State Commission on Criminal Sentencing Policy.

Finding 2: Treatment can be cost effective

Other studies that used a cost-benefit analysis—a broader measure of how money spent on treatment alternatives compares to money spent on prisons in terms of crime rates and other societal benefits like employment and tax revenues—have shown that, dollar for dollar, treatment reduces the societal costs of substance abuse more effectively than incarceration does.

The Washington State Institute for Public Policy (WSIPP), which does an annual analysis of Washington state and other jurisdictions’ criminal justice programs, frames the question of cost-benefits for the state policy makers as, what is the benefit of each dollar of criminal justice programming spending as measured for taxpayers by program costs, and for crime victims by lower crime rates, and less recidivism.¹⁰

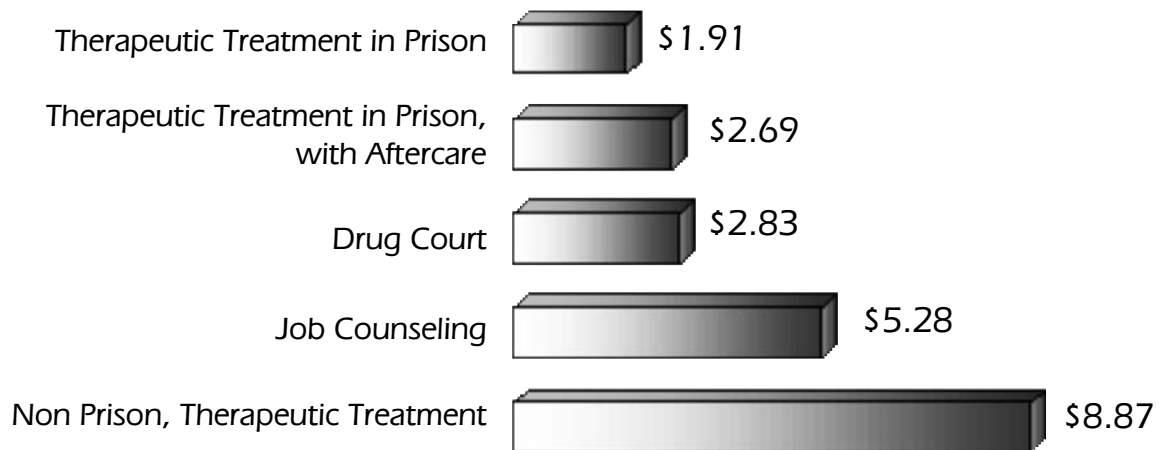
Drug treatment in prison—such as in-prison therapeutic community programming, or that same program with community aftercare after the person leaves prison—yields a benefit of between \$1.91 and \$2.69 for every dollar spent on them. By contrast, therapeutic community programs *outside* of prison—typically work release facilities—yielded \$8.87 of benefit for every program dollar spent. The reason for the difference versus *in prison* treatment programs was mainly due to higher program completion rates and lower recidivism. In writing of the non-prison therapeutic community option, WSIPP writes “the economics of this approach appear quite attractive.” Other kinds of non-prison programs also yielded significant benefits. Community-based substance abuse treatment generated \$3.30 of benefit for every dollar spent, while drug courts yielded \$2.83 for every dollar spent. Treatment oriented intensive supervision programs yielded \$2.45 worth of benefit for every dollar spent, and was far more cost effective than simple supervision alone

without treatment. WSIPP also found that alternatives to incarceration, such as work release (\$6.16), and post-incarceration programming (Job Counseling and Job Search for Inmates Leaving Prison) produced significant benefits for every dollar spent.

Other programs, like case management substance abuse programs—a kind of out-patient treatment program with other services—did not have any comparative benefit to the in-prison treatment programs. Even in these cases, where out of prison programs did as well as in-prison programs at yielding benefits, it should be noted that this WSIPP methodology does not account for the economic benefits of having people who would be otherwise incarcerated in their communities being parents, working and contributing to their families and neighborhoods. In some Maryland communities, like Baltimore, where more than half of the young African American men may be under criminal justice control on any given day, the larger economic benefit of having people involved in their communities as they seek treatment is substantial, even though not included in the WSIPP cost-benefit analysis.¹¹

FIGURE 2: COST BENEFIT TO TAX PAYERS AND CRIME VICTIMS PER DOLLAR SPENT ON PROGRAMS

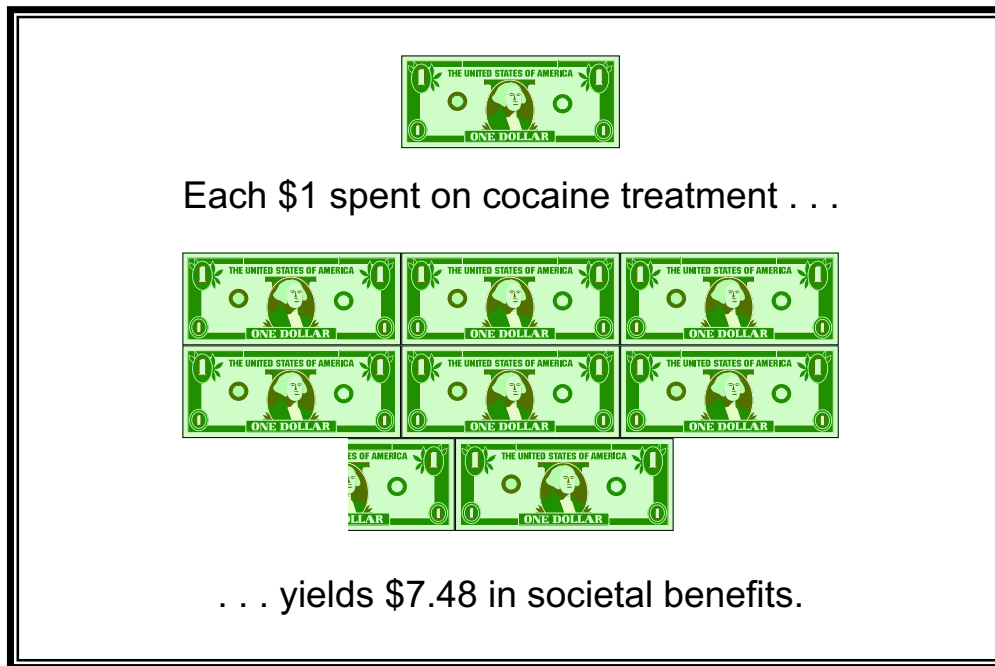
*Treatment and Alternatives to Incarceration
May Be More Cost Effective Than Prison*



Source: Aos, Steve et al. "The Comparative Costs and Benefits of Programs to Reduce Crime." (May, 2001). Olympia, Washington: The Washington State Institute for Public Policy.

In a seminal cost benefit analysis done in the early 1990s, the RAND Corporation compared the programmatic productivity and the costs of enforcing the “war on drugs” in terms of arresting and incarcerating dealers and their agents, versus treatment. RAND’s research found that a dollar spent on drug treatment saves society seven and a half dollars in reduced crime and regained productivity: “An additional cocaine-control dollar generates societal cost savings of 15 cents if used for source-country control, 32 cents if used for interdiction, and 52 cents if used for domestic enforcement. In contrast, the savings from treatment programs are larger than control costs: an additional cocaine-control dollar generates societal cost savings of \$7.48 if used for treatment.”¹² Another landmark RAND Corporation study done in 1997 comparing the benefits of different law enforcement strategies to treatment for heavy cocaine users found that treatment is three times more effective than mandatory minimum prison sentences.¹³ In other words, RAND found that drug treatment is a more cost effective way of achieving the goal of reducing drug abuse than arresting and incarcerating our way out of our society’s drug problem.

FIGURE 3: RETURN ON INVESTMENT FOR DRUG TREATMENT



Source: Rydell, C.P. & S.S. Everingham. “Controlling Cocaine.” (1994)
 Prepared for the Office of National Drug Control Policy and the United States Army.

Finding 3: Treatment can reduce substance abuse and recidivism while building communities

Beyond saving money and being more effective, a variety of different research entities have shown that treatment may work better to reduce substance abuse.

The Center for Substance Abuse Treatment's (CSAT's) final report on NTIES noted that "In summary, we observed a pattern of substantially reduced alcohol and drug use in every type of treatment modality, with reductions typically between one-third and two-thirds depending on the type of service unit and the specific measure."¹⁴

Maryland's Alcohol and Drug Abuse Administration (ADAA) reports that people discharged from the programs they fund, particularly those that completed treatment successfully, had substantially lower substance use than they did at admission. The percentage of people using drugs after they were discharged from ADAA funded programs was substantially lower than the percentages who used drugs at admission, and completion of treatment and length of time spent in treatment were correlated with reduced use of drugs. Between 40 % and 50 % of ADAA program admissions successfully completed their treatment programs.¹⁵

The ADAA also reports that the people in its treatment programs commit fewer crimes. "Arrest rates during treatment were substantially lower than arrest rates during the two years preceding treatment, and completion of treatment was associated with the greatest reductions in arrest rates."¹⁶

Brooklyn's DTAP program, where drug or drug addicted defendants plead guilty to an offense, and then enter a 15 to 24 month residential, therapeutic community treatment system as an alternative to a prison sentence, also saw solid program graduation rates and lower arrest rates. More than half of DTAP participants completed the program, and they stayed in treatment six times longer (a median of 17.8 month versus 3 months) than those in nationally comparable long-term residential drug treatment.¹⁷ DTAP participants have arrest rates that were 26 percent lower two years after leaving the program than those of a matched comparison group two years after leaving prison. DTAP participants are 67% less likely to return to prison than the comparison group leaving prison.

According to the federal NTIES report, offenders who went through treatment showed a nearly two-thirds decline in overall arrests and an over 50% drop in drug possession arrests. More importantly, criminal behavior—self-reported to NTIES by these former offenders which did not necessarily result in arrest—also declined. "The results show substantial, and statistically significant, reductions in both criminal behavior and arrests after treatment, with a somewhat smaller decrease in the percentage of clients mostly supported through illegal activities. Changes in arrest rates were in the range of changes

in drug and alcohol use discussed above; the percentage of clients arrested for drug possession declined by 51 percent while the percentage arrested for any charge declined by 64 percent. Changes in criminal behavior were larger, between seventy and ninety percent.”¹⁸

Along with reduced drug addiction and recidivism, many treatment programs are community builders, helping people facing severe challenges become productive parts of their families and neighborhoods. Brooklyn’s DTAP graduates are three-and-one-half times more likely to be employed than they were before arrest—92% were working after they completed the program.¹⁹ People treated in Maryland’s ADAA funded programs in Baltimore were more likely to be employed during the year following treatment than the year before entering treatment, and completers had a 25% greater likelihood of becoming employed, and significantly higher wages than people who did not complete the program. ADAA funded programs reduced homelessness and increased independent living while in treatment programs, and many of the treatment plans involved rebuilding family relationships. The ADAA reports that people in their programs were also attending an average of two individual counseling sessions per month, were often engaged in group counseling sessions, and more than half of the people discharged from these programs who were assessed as having a mental health problem received mental health treatment during their time in treatment.²⁰

Finding 4: Promising treatment models exist in Maryland and around the country

Maryland: Break The Cycle

The State of Maryland has already begun exploring alternatives to incarceration for its drug-addicted offenders. Drug courts, which have been gaining in popularity nationally, are of course one example, and Maryland has since the mid-1990s had the Correctional Options Program (COP).

Maryland has also participated in a relatively new federal pilot program, Break The Cycle—a form of intensive probation focusing on drug treatment, drug testing, and sanctions—which has been the subject of a 4-year study that has shown it to successfully encourage people in the program to show progress. Break The Cycle relies on drug testing and on a graduated system of sanctions to help focus people convicted of drug crimes on the need to successfully complete drug treatment. Under BTC, “[d]rug testing is a tool used to monitor frequent drug use. The BTC strategy uses bi-weekly testing for the first 2 months of supervision to detect illicit drug use. Drug testing is then reduced to once a week for an additional 2 months and then once a month thereafter. The practice of reducing scheduled drug testing is under the assumption that the test results are negative. The testing is increased if the offender tests positive. Drug testing is used as a tool during the supervision tenure to have a sustained period of external control.”²¹

In their final report, “Strategies for the Drug-Involved Offender: Testing, Treatment, Sanctions (BTC) and Offender Outcomes After 4 Years of Implementation,” issued in January 2003, researchers at the University of Maryland’s Center for Applied Studies Bureau of Government Research concluded that BTC was effective in reducing substance abuse and re-arrest: “In the last four years, the BTC demonstration has shown that a systemic drug testing protocol can have an impact on the addict population in terms of reducing substance abuse and recidivism.”²²

The evaluators identified one problem that BTC implementation faced in Maryland that is reasonably simple to solve: people brought before the courts are not typically assessed for substance abuse/dependence prior to sentencing. In the final report on Break The Cycle, researchers noted that “In Maryland, few resources are available to assess an offender for substance abuse before sentencing or release from prison. Judges and the parole board tend to rely on the offenders’ self report of illicit substance use. Thus, the treatment condition is assigned frequently without having the offender diagnosed for a substance abuse disorder. In essence, the Division of Probation and Parole depends on the justice administration to identify the drug-involved offender without having the assessment. The assessment is generally conducted after the offender is placed on supervision.”²³ This means that some offenders who are non-dependent substance users may be assigned to

treatment unnecessarily, while other offenders may be assigned to a less effective form of treatment than would otherwise be indicated. Directing resources toward pre-trial substance abuse assessments will save time, money and other resources. Assessment also ensures that offenders are referred for placement to the appropriate sort of treatment from the beginning, depending on its availability.

People admitted to BTC can be sanctioned when they commit a violation, such as testing positive for drug use or missing an appointment with a probation officer, and they also receive rewards when they have done well, for instance after achieving a long period of abstinence. Notably, though sanctions can extend all the way to a few days in jail, that 'stick' is not often used in cases where there is simply a dirty urine screen. The BTC evaluation reports that "Of the responses to positive drug tests, probation agents responded 57 percent of the time with a verbal/written warning, 20 percent of the time with a supervisory reprimand, and 10 percent of the time by sending the offender to jail or filing a warrant or violation action."²⁴ A more serious violation, such as missing a scheduled appointment with a probation officer, is more likely to receive a harsher penalty: "A sanction is also required for those offenders who fail to appear for scheduled meetings. Approximately 54 percent of those offenders who failed to appear for supervision meetings incurred a sanction. Agents responded 47 percent of the time by filing a warrant or a violation action and 41 percent of the time with a verbal or written warning."²⁵ So though the threat of incarceration was there, much of the time BTC got results by using sanctions which fell short of putting the offender in jail or prison.

BTC also gets results where it counts: reduced recidivism. According to the final evaluation report, the authors "found that offenders that are exposed to the protocol are generally less likely to be rearrested during the first six months of supervision than others that do not avail of these components."²⁶ The report further notes, "offenders who test positive at intake or fail to appear for initial drug testing are rearrested 37 percent less if they participate in drug treatment."²⁷ This last point is important to note: after participating in treatment, even those offenders who at first appear recalcitrant show dramatic improvement on this bottom-line measure. The key element is participation in drug treatment.

The Correctional Options Program (COP)

The State of Maryland has experimented for some years with methods to reduce the size and cost of the criminal justice system while at the same time enhancing public safety. One such approach was the Correctional Options Program (COP). Adopted in 1994, COP is "a comprehensive program of graduated sanctions and services that was established as a tool to divert carefully screened low-risk, drug-involved offenders from prison. It was designed to safeguard the public; assure that offenders are accountable for their actions; provide substance abuse, educational, vocational, and employment services; and

strengthen participants' parenting, daily living, and social skills."²⁸ In many ways, BTC represents a refinement and implementation of best practices developed through COP and similar programs.

According to research conducted by the state along with the National Council on Crime and Delinquency, COP was effective in reducing substance abuse among offenders and in reducing criminal behavior: "As reported by the National Council on Crime and Delinquency, participants in COP were 22 percent less likely to return to prison during the 12 months following their release than offenders not participating in COP, and non-participants were twice as likely to recidivate as the result of a new offense."²⁹

COP also saves money. Savings come not just from reduced operating costs for prisons; they also come from avoiding construction costs. Research reported in 1997 showed that "In terms of cost savings, NCCD found that the experimental group (COP participants) spent 143 fewer days in prison than the control group. Accordingly, they estimated that with an average COP population of 1,593, each year that COP is in operation the State saves 624 inmate years. NCCD found that given the current average COP population of 2,100, the savings amount to 823 inmate years annually. Based on saving 624 inmate years, NCCD determined the State avoided over \$32 million in construction costs and \$9.7 million in annual operating costs. The current average COP population of 2,100 increases the avoided construction costs to \$50 million and annual operating savings to \$12.8 million."³⁰

Drug Courts: Maryland and the National Perspective

A drug court is a special court given the responsibility to handle cases involving drug-using offenders through comprehensive supervision, drug testing, treatment services and immediate sanctions and incentives. Drug courts were first established in 1989 in Florida. Since then, they have spread to nearly every state in the Union, including Maryland, where six drug courts have been running for two years, and six more are being planned to open.³¹ Baltimore City's drug court, which has been running since 1995, has seen 700 people pass through the system by 2001. Of those 700, 11 % had been convicted of new crimes, according to the Maryland Division of Parole and Probation.³² An analysis by the University of Maryland's Department of Criminology and Criminal justice found that significantly fewer drug court defendants were arrested for new crimes during a 12 month period studied than similar paired arrestees who did not go to the drug court.

Drug courts have been viewed as an innovative approach to dealing with drug-involved offenders. Though it is more attractive alternative than prison, it may be too soon to make definitive statements about the new Maryland drug courts. There is a good deal of research has been done on drug courts, but there has not been a great deal of good data on available outcomes,³³ at least until recently. Researchers for the Urban Institute, on a

grant from the National Institute of Justice, recently attempted to establish a baseline success rate for drug courts by examining recidivism among drug court graduates. According to the report, “The study estimates that within one year after graduation, 16.4 percent of drug court graduates had been arrested and charged with a serious offense. Within two years, the percentage rises to 27.5 percent.”³⁴ In other words, within a year after completion of their sentence, on average only 1 in 6 drug court graduates will be re-arrested for what the researchers call a serious offense (the researchers use the FBI definition of a crime for which an arrest and conviction could yield a sentence of 1 year or more).³⁵ It must be noted, these represent success rates among drug court graduates only rather than for all participants. Not all offenders in drug court successfully complete the program, of course, so it is to be expected that the overall recidivism rate for drug court participants is somewhat higher.³⁶

By comparison, research by the Department of Justice on recidivism of offenders found that overall, nearly 60% of those released from prison will be re-arrested within 2 years.³⁷ Within three years after their release, 67.5% of all offenders are expected to be re-arrested.³⁸ Among drug offenders specifically, 41.2% will be re-arrested on another drug offense.

Drug Courts have been criticized as a tool used by prosecutors to compel plea bargains, where there may not have been enough evidence to convict their defendants, and some drug courts have been criticized for being overly punitive and for sending people back to jail too quickly for minor infractions. But compared to prison, drug courts represent an improvement over simple short term incarceration of drug-involved offenders. Offenders put through drug court on average seem to do a good deal better than the general offender population. By sharing best practices, drug courts could be even more successful. With that improved success, overall recidivism rates will be improved and public safety enhanced.

California’s Substance Abuse and Crime Prevention Act (SACPA)

In the 2000 general election, California voters approved Proposition 36, the “Substance Abuse and Crime Prevention Act of 2000.” As noted by researchers with UCLA’s Integrated Substance Abuse Programs in their 2003 evaluation report, “SACPA represents a major shift in criminal justice policy. Adults convicted of nonviolent drug-related offenses and otherwise eligible for SACPA can now be sentenced to probation with drug treatment instead of either probation without treatment or incarceration. Offenders on probation or parole who commit nonviolent drug-related offenses or who violate drug-related conditions of their release may also receive treatment.”³⁹ SACPA defines drug treatment to include the full continuum of care, including prevention programs such as education and vocational training, family counseling, and other services.⁴⁰ These prevention efforts,

targeted at drug using offenders, are an important element of any correctional treatment program.

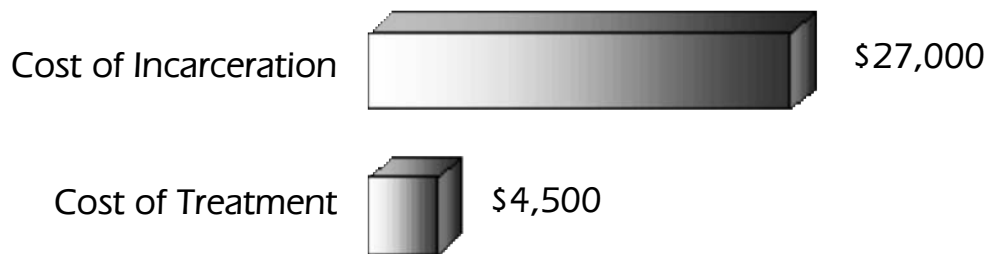
For more than a decade The State of California's Little Hoover Commission has examined the most expensive public programs facing California, including youth crime, mental health care, and substance abuse. In 2003 they studied the impact of SACPA, and found that mandating treatment over incarceration saves the state money. The Commission observed: "In addition to providing treatment for drug offenders, Proposition 36 provides unrestricted funding for the supportive services that drug offenders need to achieve and sustain recovery. As described earlier, the initiative has required local agencies, including the courts and law enforcement, to coordinate their efforts to make sure clients receive needed services. By focusing on a high-cost population, the program has the potential to reduce demands on expensive public services—such as courts and jails—even as it requires the expansion of drug treatment. During its first year, more than 12,000 offenders qualified for SACPA services, and entered treatment at an average cost of about \$4,500 each. The program has the potential of saving the costs of incarceration that can run as high as \$27,000 per inmate per year."⁴¹ So even with treatment defined to include the full spectrum of necessary services, including prevention programs, this treatment-alternative-to-incarceration model saves large amounts of money—savings of up to \$22,500 per offender per year.

A unique element of California's SACPA is that offenders may not be incarcerated simply as the result of a positive drug test.⁴² Other sanctions are used instead. SACPA participation is not a 'get out of jail free' card by any stretch: Courts may expel a participant from the SACPA program if they prove unamenable to all drug treatment programs,⁴³ and of course if an offender is arrested on a new charge they face the prospect of incarceration on that charge. This restriction makes SACPA different from traditional drug courts.

Although California registered a modest 2% increase in its prison population during 2002, the state's drug prisoner population has been declining, continuing their downward trend since the passage of Proposition 36. As of June, 2003 there were 35,540 drug prisoners in California, 22% of the total prison population of 159,654. In June, 2000, just prior to the passage of Proposition 36, there were 45,439 drug prisoners, or 28% of the prison population.⁴⁴

FIGURE 4: YEARLY COST OF INCARCERATING A DRUG OFFENDER VERSUS YEARLY COST OF TREATMENT IN CALIFORNIA

By offering drug offenders treatment rather than prison sentences, Proposition 36 can save the state up to \$22,500 per person per year.



Source: "For Our Health & Safety: Joining Forces To Defeat Addiction." (2003) Sacramento, CA: The Little Hoover Commission.

Discussion:

Why punishing treatment failure with prison may not be effective

While many people successfully complete drug treatment programs and can live productive crime free lives provided that the treatment regiment meets their multiplicity of needs (including mental health, education and vocational training), success may not be immediate. Treatment does not work miracles overnight. People in recovery from drug addiction, like the recovering alcoholic, can relapse, and often do in the first stages of recovery. Some programs hold that the 'stick' of re-incarcerating offenders when they make such a mistake is necessary to show that society is serious about curbing substance abuse. Yet, according to the research, this fails to address the nature of addiction and the difficulty of quitting, and it also fails to take into account how badly the offender's life is disrupted by those few days in jail: jobs, relationships, the things which give a person's life stability, can all be lost by suddenly being taken away to jail. That is the sort of setback which can negate the positive effects of treatment.

The National Research Council noted in its 2001 report, *Informing America's Drug Policy: What We Don't Know Keeps Hurting Us*, "By linking treatment to punishment, these programs risk having a countertherapeutic effect because they stigmatize the user. Drug users who participate in criminal justice treatment programs are stigmatized because their drug relapses can be punished with short stints in jail or longer stretches in prison. Since would-be employers may refuse to hire users with a record of incarcerations and law-abiding family members may ostracize such users, punishing drug relapses in these ways may ultimately slow recovery. After all, securing stable employment and establishing ties to law-abiding significant others are crucial in the recovery process."⁴⁵ In short, treatment must be coupled with effective prevention programs and re-incarceration for relapse should be used very sparingly, and certainly not after the first or even second relapse, if that relapse is not accompanied by other criminal activity. As mentioned above, under California's Proposition 36, offenders are not simply re-incarcerated as the result of their first or second positive drug test,⁴⁶ and other sanctions, such as increased supervision and intensified treatment may be used instead. Much can be learned from this approach, and from future evaluations of SACPA's even handed approach to the use of incarceration.

Conclusion: Drug treatment can be more effective than cycling people in and out of prison

Research by the US Justice Department shows that two-thirds of drug offenders leaving state prison will be re-arrested within three years (almost the same rate as for all inmates), and that nearly half of released drug offenders will be returned to prison either through a technical violation of their sentence—such as failing a drug test—or on a new sentence.⁴⁷ While imprisoning offenders may provide comfort to some in terms of public safety, it does little to reduce the cluster of issues which will see these people cycle in and out of the nation's corrections system. What is needed is a solution less costly than building more prisons and more effective at reducing recidivism. The good news is, the solution already exists.

The National Center on Alcoholism and Substance Abuse at Columbia University observed in its March 2003 report, "Drug-involved offenders typically develop chronic dependence on the drug economy for subsistence. Reconnecting ex-offenders to the world of legitimate employment is crucial to maintaining recovery and reducing future criminal behavior. Chronic joblessness or underemployment limits their ability to leave the drug-crime lifestyle, to support a family and to successfully transition from the treatment program to the community. Repeat felony offenders are ineligible for federal education grants, membership in some trade unions and government jobs, and in many cases public assistance programs; most lack the social, educational or vocational skills they need to find employment."⁴⁸

Treatment in this context means more than simply forcing offenders to attend a self-help group. Such groups, like AA and NA, are effective, but a) they are not designed for everyone's needs and b) they do not get to the root causes of drug use for many offenders. Instead, treatment must be defined more broadly to cover the full continuum of care, including vital prevention programs: basic literacy training, job skill development, life skills training, mental health assessment and treatment, and possibly help with basic needs like arranging short-term child care and transportation.

A key element of making this strategy a success is obtaining the active support of the business community as well as other concerned elements of society outside the criminal justice system. As Michael E. Alpert, Chairman of the State of California's Little Hoover Commission, wrote in March of 2003: "Conquering addiction also will require public leaders to look beyond government. Employers, health care providers and insurance carriers—if they want to hold down costs and have a healthy workforce—will have to help workers who abuse alcohol or drugs. Foundations and philanthropists who want to heal communities will have to help the addicted recover. Some of this expanded treatment will be publicly funded, some treatment will be privately funded, and some treatment will be

self-supporting, like the thousands of Alcoholics and Narcotics Anonymous groups that provide peer support every hour of every day somewhere in California.”⁴⁹ It is a challenge, yet also a rare opportunity to forge public-private partnerships which can strengthen communities while at the same time fulfilling a vital public need.

Thoughtful policymakers that are accountable to the sea change in public opinion are obliged to find the most effective ways to get offenders onto the straight and narrow path, to keep them from re-offending and to get them to become solid, contributing members of society. Such programs and services do not mean the state is ‘coddling criminals’ or being soft on crime; rather, the state is protecting the general public by using the most effective means available to prevent criminal activity, drug abuse, and recidivism. Toward this end, the Justice Policy Institute offers the following recommendations through which drug treatment alternatives, and sentencing reform, could be effectuated:

1. Abolish mandatory sentences for drug offenders and return discretion to judges to determine whether incarceration or treatment is a more effective sentence in individual cases.
2. Divert non-violent drug offenders from prison into treatment and substantially reduce probation and parole violations for drug use.
3. Use the savings from the previous two recommendations to fund a continuum of programs aimed at reducing substance abuse, including expansion of proven programs like COP, Breaking the Cycle, and a variety of evaluated and proven effective treatment programs funded by the ADAA.

Endnotes

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