

Responding to Offenders with Alcohol and Other Drug Problems

Hon. Peggy Fulton Hora

Judge of the Superior Court of California (Ret.)

What's a judge to do?



- U.S. Jail and prison population is 2.3 million as of 2008
- 5% of the world's population; 25-50% prisoners
- Cannot incarcerate our way out of these problems
- They walk out exactly the way they were on the day they walked in

"Life After Prison Can Be Deadly, a Study Finds," *The New York Times*, Jan. 11, 2007 p. A23

"Inmate Count in U.S. Dwarfs Other Nations'," *The New York Times*, April 23, 2008 p. 1

What is Happening in American Criminal Justice:

11 million people pass through American jails each year.

46% were on probation/parole at the time of arrest

41% had current or prior violent offenses

46% were nonviolent repeat offenders

13% had a current or prior drug offense only.

77% of convicted jail inmates were alcohol or drug-involved at the time of their current offense.

(www.ojp.usdoj.gov/bjs/pub/pdf1/pji02.pdf)

2002 data

Why Drug Treatment Courts?

- Large numbers of people incarcerated & jail overcrowding
- Courts becoming plea-bargain mills
- Recycle of people with addictions, mental illness, & status offenders driven by the intersection of social, human, & legal problems

Prisoners with SA issues

- 56-66% of people in U.S. jails and prisons had a diagnosable substance use disorder
- 27% of those 5 million people on probation or parole had drug violations as their most serious offense
- 37% of parolees served a sentence for a drug offense

- James and Glaze, 2006; Glaze and Bonczar, 2007

AIC DUMA

- Arrestees with “heavy alcohol” abuse (>5 drinks/day) $\frac{3}{4}$ men and $\frac{2}{3}$ women
- Alcohol abusers also tested positive for drugs (65%) and about $\frac{1}{4}$ (23%) tested positive for two or more drugs
- At time of arrest 48% of offenders were positive for drugs and 15% were looking for drugs
- 34% DWI arrestees had prior conviction

People in Custody with MH Problem

- 56% of State prisoners (*n*705,600)
- 45% of Federal prisoners (*n*70,200)
- 64% of Jail inmates (*n*479,900)

have a mental health problem

James, Doris L. and Lauren E. Glaze, "Mental Health Problems of Prison and Jail Inmates," BJS Special Report, Sept. 2006

Just incarcerate them!

29.9% of prisoners released in 1998 in 15 states were **rearrested within 6 months** and 67% are rearrested within 3 years. (BJS, 2002)



Just incarcerate them!

Criminal Recidivism in 3 Years

- 68% arrested for new crime
- 47% convicted of new crime
- 25% incarcerated for new crime
- 50% re-incarcerated for violations

Relapse to Substance Abuse in 3 Years

- 95% relapse



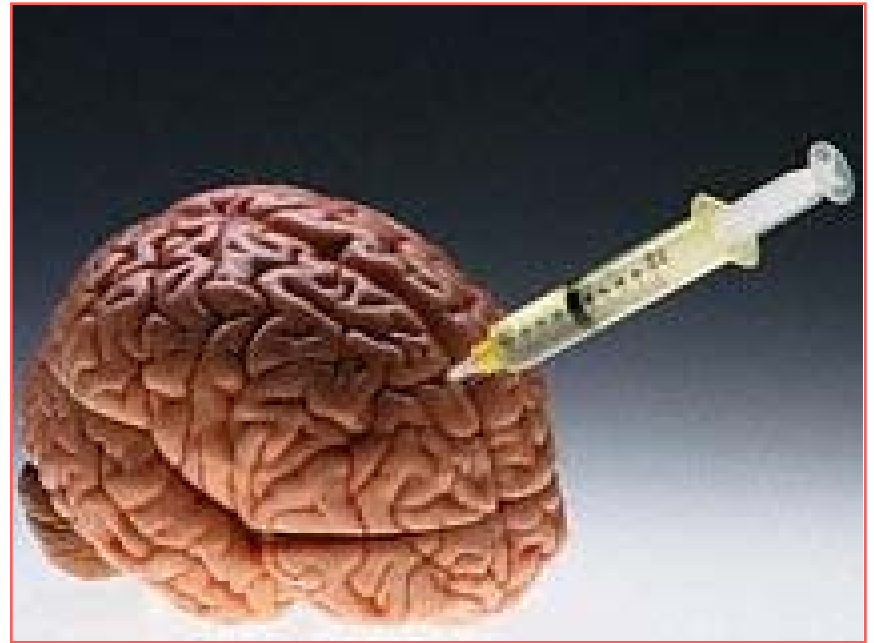
(TRI, 2002)

What's the Answer?

“We need to punish the offenders we are afraid of and treat the ones we are just mad at”

Addicts

- Practice addiction most of the time
- Continue use despite adverse consequences
- Deny there's a problem
- Have a strong tendency to relapse after withdrawal
- Have lost control
- Have altered brain chemistry & function



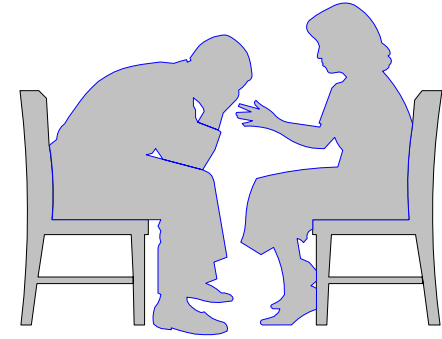
What if we just treat them??

Attrition

- 50% to 67% don't show for intake
- 40% to 80% drop out in 3 months
- 90% drop out in 12 months

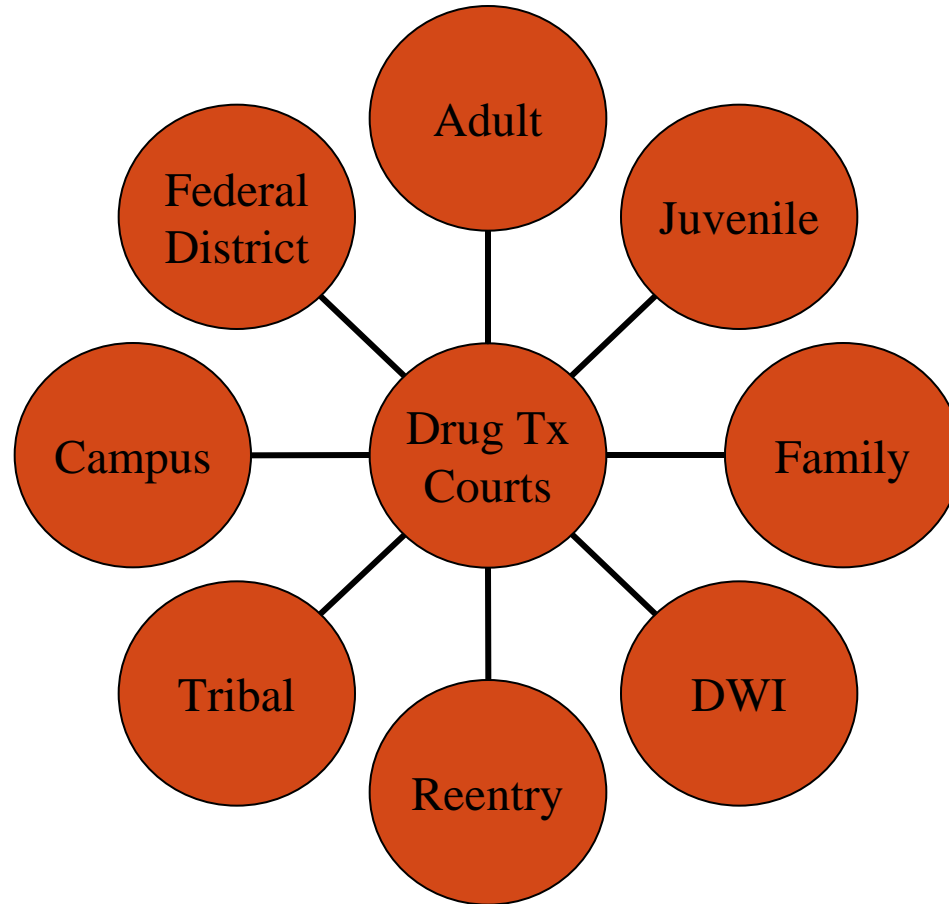
Outcomes

- 40% to 60% of clients abstinent at 1 year

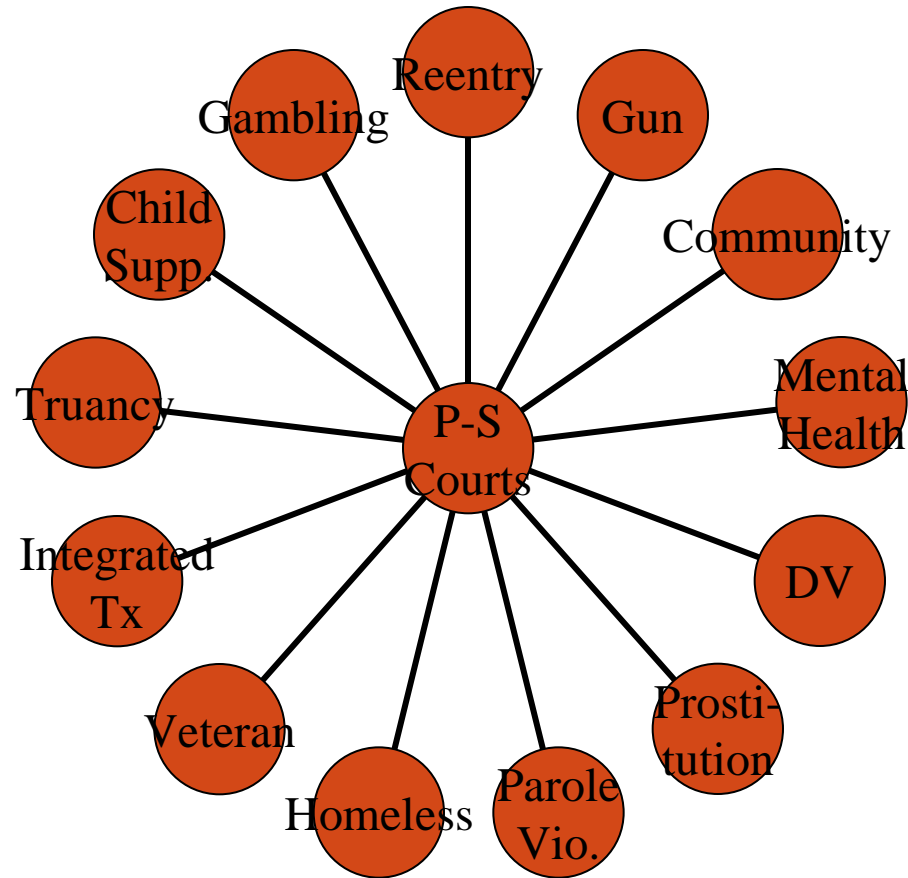


(TRI, 2003)

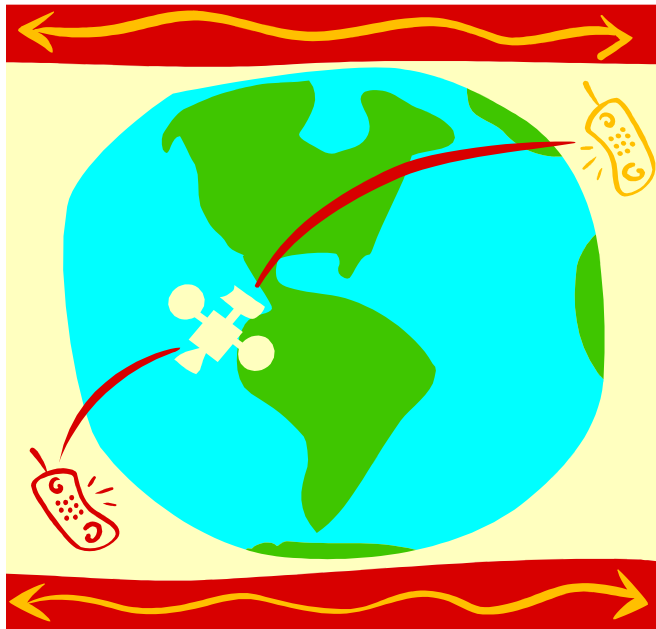
2,301 Drug Tx Courts 12-31-08



1,191 Problem-Solving Courts in U.S.



International Perspective on Problem-Solving Courts



- Australia
- England
- Canada
- Scotland
- Ireland
- New Zealand
- Cayman Islands
- Belgium
- Mexico
- Netherlands
- Macedonia
- Brazil
- Norway
- Israel
- Bermuda
- Jamaica
- Mauritius
- N. Marianas
- Northern Ireland
- Guam
- Wales
- Malta?

10 Key Components

- Integrate treatment in justice processing.
- Non-adversarial approach.
- Identify clients early.
- Continuum of services.
- Frequent testing to ensure sobriety.
- Coordinated strategy of responses to client behaviors.
- Judicial interaction.
- Program evaluation.
- Continuing education.
- Partnerships and collaboration.

Drug Courts Working....

- In 2005, GAO reviewed 23 evaluations of adult drug courts that confirmed that drug courts significantly reduce crime.

U.S. Government Accountability Office. (2005). *Adult drug courts: Evidence indicates recidivism reductions and mixed results for other outcomes* [No. GAO-05-219]. Washington, DC: Author.

Crime Impact

- “Meta-analysis,” in which scientists statistically average the effects of the program over numerous research studies.
- *Four* independent meta-analyses have now concluded that drug courts significantly reduce crime rates an average of approximately 7 to 14 percentage points.

Crime Impact

- In some evaluations the effects on crime were as high as 35 percentage points. Importantly, **the effects were greatest for “high-risk” offenders** who had more severe criminal histories and drug problems. This suggests that drug courts may be best suited for the more incorrigible and drug-addicted offenders who cannot be safely or effectively managed in the community on standard probation.

E.g., Marlowe, D. B. (2006). Judicial supervision of drug-abusing offenders. *Journal of Psychoactive Drugs, SARC Supplement 3*, 323-331.

Re-Arrest

- A recent study of nine adult drug courts in California reported that re-arrest rates over a 4-year period were 29% for drug court clients (and only 17% for drug court *graduates*) as compared to 41% for similar drug offenders who did not participate in drug court.

Carey, S. M., Finigan, M., Crumpton, D., & Waller, M. (2006). California drug courts: Outcomes, costs and promising practices: An overview of phase II in a statewide study. *Journal of Psychoactive Drugs, SARC Supplement 3*, 345-356.

Drug Courts Save Tax Dollars



NY:
\$254 million saved



**WA: Saved \$6,779
per drug court client**



CA: \$43 million saved



**TX: \$9.43 savings
for every \$1 spent**



**OR: \$10 savings
for every \$1 spent**

Saves Money

- One economic analysis in Washington State concluded that drug courts cost an average of \$4,333 per client, but save \$4,705 for taxpayers and \$4,395 for potential crime victims, thus yielding a net cost-benefit of \$4,767 per client.

Aos, supra, at p. 9.

Saves Money

- Another economic analysis in California concluded that drug courts cost an average of about \$3,000 per client, but save an average of \$11,000 per client over the long term.

Carey et al., *supra*, at p. 351.

Saves Money

- The Multnomah County Drug Court was found to cost *less* than business as usual for drug offenders, because probationers typically have multiple failed treatment experiences that are very expensive but elicit few gains. Factoring in cost-offsets from reduced arrests resulted in net savings of \$6,744 per participant and \$12,218 when victimization was also accounted for.

Finigan et al., *supra*, at iv.

No treatment is expensive

- In central TX in the last 6 years just 9 residents accounted for 2,678 visits.
- One treated in Er > 100 times
- Most have hx of substance abuse and mental illness
- Cost = \$2.7 million
- “What an Outrage,” *AARP Bulletin* (June 2009)

Cost Benefits of Drug Court

Avoided Criminal Justice Costs

Avoided Victim Costs

Employability

Infants not Drug-Exposed

“To put it bluntly, we know that drug courts outperform virtually all other strategies that have been attempted for drug-involved offenders.”

Marlowe, DeMatteo, Festinger (2003)

