



Why Forced Drug Treatment is Inconsistent with the Harm Reduction Approach

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Facing the devastating consequences of the war on drugs and the expansion of the prison industrial complex, legislators, policymakers, and some harm reduction advocates are beginning to embrace alternatives to incarceration and jail diversion programs. In these programs, people are mandated to participate in drug counseling, 12-step, and drug testing to complete their sentence instead of being incarcerated. This jail diversion is attractive for obvious reasons, such as reduced cost and keeping people out of jail and in the community instead. Some people are also able to benefit from the treatment programs involved. Prison reform advocates are therefore seeing this policy shift as an opportunity for change.

When drug use is clearly part of another serious crime -- such as driving while intoxicated or violence while under the influence of drugs -- mandated treatment is consistent with the nature of the offense. However, when drug treatment alternatives are court-mandated as an alternative to punishment for possession of drugs in and of themselves, they become a reinforcement of the war on drugs, an extension of the prison system and further expansion of criminal justice control over our communities. Jail diversion may be politically more palatable at the moment, but it fails to address the fundamental issue of ending the war on drugs and dismantling the prison industry. *The best alternative to incarceration is not arresting people in the first place.* The best way to help problem drug users is with voluntary, community-controlled treatment options. Criminalization of drugs, whether through jail or mandatory treatment, is still criminalization of drugs.

The National Harm Reduction Coalition mission statement currently reads:

The Harm Reduction Coalition (HRC) is committed to reducing drug-related harm among individuals and communities by initiating and promoting local, regional, and national harm reduction education, interventions, and community organizing. HRC fosters alternative models to conventional health and human services and drug treatment; challenges traditional client/provider relationships; and provides resources, educational materials, and support to health professionals and drug users in their communities to address drug-related harm. The Harm Reduction Coalition believes in every individual's right to health and well-being as well as in their competency to protect and help themselves, their loved ones, and their communities.

The following considerations make a case why mandated treatment jail diversion from drug possession is inconsistent with a harm reduction philosophy:

Most mandated jail diversion programs are backed up by the threat of incarceration: individuals who fail to comply with treatment or miss probation appointments find themselves with warrants, back in court and sentenced to jail. Jail diversion is in many cases not an alternative to prison at all.

There is evidence that police who have mandated treatment and jail diversion programs available may "cast the net wider" and draw more people into criminal justice system oversight.

Like most users of alcohol, most illegal drug users do not have problem addictions. While harm reduction philosophy makes a distinction between use and abuse of drugs, jail diversion programs puts users and abusers in the same category. All drug arrests are assumed to indicate addiction, and users can find themselves forced into treatment and subjected to regular drug screenings even though they have no addiction or drug problem at all. Treatment programs become purely punitive to these users, represent an unnecessary cost to the taxpayer., and make a mockery of the treatment and recovery process.

Mandated treatment uses money on users without problem addictions while many others desperate for help are denied voluntary services.

Like all drug arrests, mandated treatment disproportionately targets the poor and people of color, despite the higher rates of drug use and abuse among white and more privileged users. Thus, jail diversion programs, like the War On Drugs itself, is inherently racist & classist.

Recovery movement treatment philosophy widely considers personal motivation and "reaching bottom" the decisive factor in ending addiction, and harm reduction insists on recognizing the capacity of every individual to help themselves. Mandated treatment instead reinforces the traditional client/provider relationship, based on compliance to authority and motivation through threat, and puts the recovery movement at the service of the penal justice system.

Mandated treatment funds prison-linked services that are incorporated in the criminal justice system instead of funding truly community based services. Funding would be more effectively and inexpensively spent on voluntary, preventive programs that are controlled by the communities most impacted. Such programs have the capacity to heal and unite communities where criminalization divides them. For example, 60% of Massachusetts' voluntary drug treatment beds have been cut in the past three years, leaving some regions without any programs of this type at all. These trends are introducing an absurd situation in which low-income people with drug problems have no access to treatment except when they are incarcerated!

Mandated treatment brings with it the damage to employability and housing options that a criminal record invariably brings, alienating this population further from the community.

Most "recidivism" consists of probation and parole violation by missed meetings with probation officers and other sentencing violations, rather than actual commitment of new crime. Entangling people in the mandated treatment system introduces them to additional sentencing obligations, adding to the likelihood of failure and continued involvement with the criminal justice system.

Policy makers who recommend diversion to treatment tend to be myopic about what it really takes for drug abusers and/or those involved with the criminal justice system to succeed and reintegrate into their communities. Mandated treatment generally focuses on program compliance, abstinence and the results of urine tests, rather than taking a more productive and holistic look at participants' progress as community members: success in employment, education, and community and family relationships.

Both treatment providers and clients in the recovery movement have discovered through experience that trust is necessary for successful drug treatment. Mandated treatment requires surveillance by providers, reporting, and the general abandonment of confidentiality and trust between client and health care provider. Within this system, it is the court, the prosecutor and the probation officer who are the provider's true clients, rather than the participant. This is extremely problematic for privacy rights and treatment success, and further extends paternalistic control, eclipsing community autonomy and degrading personal empowerment.

Mandated treatment is also often the wrong *kind* of treatment. Often, it involves participation in Twelve-Step groups. There is a growing recognition among addiction specialists that the effectiveness of 12-step, abstinence based treatment programs is highly exaggerated. Widespread adoption of these programs may reflect the way their absolutist and rigid format complements reflects the war on drugs itself. The 12-Step approach focuses on personal weakness and individual failure, rather than addressing the roles that poverty, racism, and our oppressive economic system play in drug abuse. Civil libertarians are also raising the concern that mandated participation in religious-based programs such as AA violates the constitutional separation of church and state. People with drug problems need access to a wide array of treatment options, including holistic and alternative approaches, to discover the modality most suited to them.

A 2001 RAND study concluded there is no evidence that coercion improves mental health treatment outcomes. There is abundant evidence of the harm that can come from involuntary treatment. Noncompliance can mean jail with its consequences; involuntary hospitalization can lead to stigma, mistreatment, and denial of due process rights. Forced into treatment, some people certainly do benefit. However, since these people could be served by voluntary programs, the potential negative impact on others is not worth the risk.

Mandated treatment further blurs the distinction between punishment and help, between criminal justice and health care. *Addiction is a public health problem, not a criminal justice problem!*

The effort of many communities to experiment with drug courts, jail diversion, and other alternatives to incarceration is laudible. Having jail diversion as an option is a great relief to many offenders and a better option for many than jail, and the support for these programs is understandable. However, these efforts are "the better of two evils" and do not go far enough in a decisive and principled re-examination of all of the assumptions of the War On Drugs itself

A more comprehensive response to the issue of drugs in society would instead:

Ensure voluntary, on-demand treatment with a variety of modalities, including holistic health, offered in peer-led, community controlled treatment centers

Make clear distinctions between drug use and drug abuse, and mandate drug treatment only in crimes where problem addictions played a clear role, not just possession or use itself.

Medicalize problem addiction and decriminalize individual possession and use.

Be honest about the relative dangers of different drugs, and end drug education programs which misrepresent relative risks.

Focus law enforcement on higher levels of drug trafficking and organized crime, rather than local community networks at the 'demand end' of the drug economy.

End use of paid informants by law enforcement, which often means police protection of criminal drug networks in the name of surveillance and claims of long-term success against criminal leadership that never seems to materialize.

End property seizure laws which enrich local law enforcement and lead to corruption and misuse.

Ground drug policy in realistic priorities of drug dangers, including limitations on the most deadly and dangerous drug of all -- alcohol -- through, for example, such measures as banning alcohol advertisement, ending products marketed to youth (e.g. wine coolers and college sports sponsorships) and aggressive prosecution of drunk driving.

Reduce drug use harm such as syringe access.

Legalize personal use of beneficial plants such as marijuana and coca.

Define the drug problem, along with the alcohol problem, not just as an individual medical issue but a larger question of why drugs are attractive and how deeper social issues are implicated such as poverty, inequality, community wellbeing.

Statewide Harm Reduction Coalition Members and Jail/Prison Moratorium Endorsers

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