

Opioid Addiction & the U.S. Legal System

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AFFILIATIONS

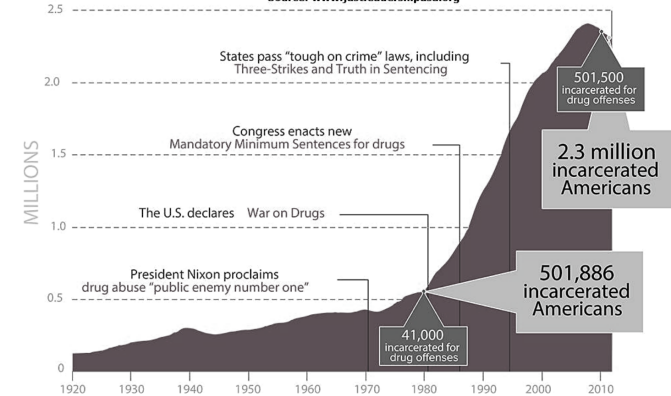
Dr. Michael Perrotti

Abstract

The war on drugs has significantly increased the incarceration rate of people who went to jail on drug related charges, especially among minorities. These bills criminalizing people “rested on the theory that drug use is voluntary and controllable, thus can be prevented and stopped through harsh punishment” (Earnshaw, 2020). We now know that addiction is a mental illness that is out of the person's control and it does not discriminate, therefore, the current punishments for drug related charges will not yield their intended outcomes.

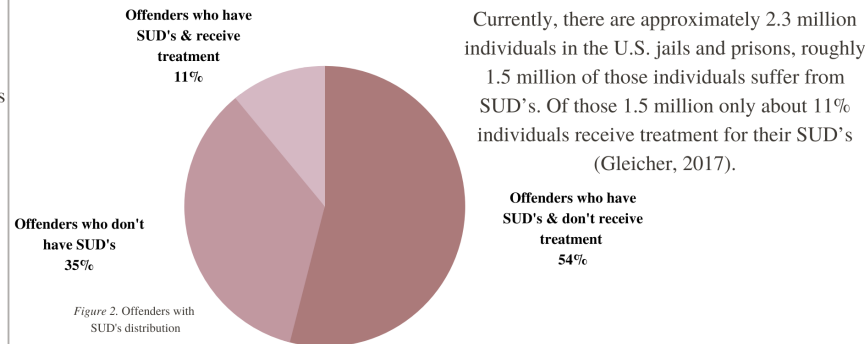
INCARCERATED AMERICANS (1920-2013)

Source: www.justleadershipusa.org



History

The first law passed banning opium was the Angell treaty of 1880 which targeted Chinese immigrants and even today we see incarceration rates that are disproportionately higher among racial and ethnic minorities. The Harrison Act of 1914 was a bill passed in the U.S. that required physicians, dentists, veterinary surgeons, and any other dealers or dispensers “register annually, pay a small tax, and use special order forms provided by the Bureau on Internal Revenue” (Hart & Ksir, 2017). After the ruling of *Webb et al. v. United States*, it was a federal crime for physicians to prescribe opium, coca, or their respective derivatives to an addict for the purposes of maintaining the addiction (Redford, Powell, 2020). Prior to 1916, addiction maintenance was seen as a medical treatment so this act made it illegal for physicians to continue a person's habit, therefore lowering the addiction rate. About half of the people addicted to drugs that contain opium originated from unregulated refilling of prescriptions that were old and were no longer needed. The Harrison Act was a result of decades worth of unintended consequences that fueled the opioid crisis created by previous efforts of intervention in the opium business.



The government spends an “estimated \$74 billion dollars on court processing, community supervision, and imprisonment of individuals with SUD's, but just 1% of that amount on prevention and treatment” (Gleicher, 2017).

Currently, there are approximately 2.3 million individuals in the U.S. jails and prisons, roughly 1.5 million of those individuals suffer from SUD's. Of those 1.5 million only about 11% individuals receive treatment for their SUD's (Gleicher, 2017).

Our current legal system criminalizes people based on the premise that drug use is voluntary and controllable, thus can be prevented and halted by heavy punishment.

Addiction is now recognized as a mental illness, therefore, the current penalties for drug-related charges will not yield their intended outcomes.

Current Research

A promising proposal to reduce the recidivism rate of people with SUD's is the drug court model. This model encourages sobriety and desistance from crime through:

- regular court hearings and case manager meetings
- accountability is managed by close supervision
- regular drug testing
- imposition of sanctions for noncompliance (Belenko, 2019)

Once completion of the prescribed treatment plan, the offender's charges are dismissed or the sentence is reduced.

Drug court, as opposed to the traditional method of convicting people with SUDs, provides:

- person-centered
- individualized
- integrated services
- peer support
- case management
- focus on empowering the individual to encourage sobriety and deter criminal activity

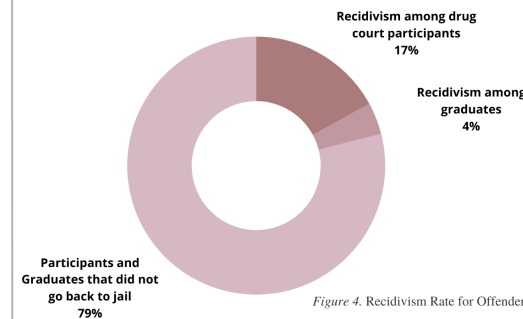
By isolating offenders from society during incarceration, tearing away family and other informal social links, and lowering future opportunities for employment and self-sustainability opportunities, incarceration has the potential to increase future criminality (Belenko, 2019). Research done within the past 15 years supports drug courts as an effective in reducing drug use, reducing criminal activity during program participation, and reducing post-program recidivism (Belenko, 2019).

Results

Drug courts have proven to be statistically significant in reducing recidivism among offender with up to a 70% graduation rate. (Dematteo, Marlowe, Festinger, Arabia, 2009) 7 out of 10 drug court participants graduate from the program



Within two to three years, more than 45% of defendants with a drug possession conviction will commit a similar offense (Looking at a Decade of Drug Court, 1998)



Implications

Additional research needs to be done on more effective treatments for addiction to lower the recidivism and addiction rate among offenders. Further testing needs to be done on the drug court model to assess its effectiveness.

Citations

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