

# Solving prison overcrowding with drug courts

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Elizabeth Johnson was a model student. She was characterized by her teachers as hardworking, driven, and goal oriented. After being placed on the honor roll and graduating early from Morris High School in Will County, Illinois, she attended Northern Illinois University to become a lawyer. Within her first year at college, her life derailed. She was caught by the police and arrested for possession of marijuana. Johnson was expecting to be placed in prison but she found herself in a drug court, which assigned her mandatory drug rehabilitation.

After graduating from the rehabilitation program, she went back to school at John Marshall Law School, and passed the bar exam. Now, after seven years of completing the drug program, she has not relapsed and works as a District Attorney for Will County. However, stories like Johnson's aren't common. For every story like hers, there are hundreds of stories where the drug user would be sent to prison, shattering his or her future (Cain). Our prisons, now host thousands of non-violent drug users. These prisons have high upkeep costs, and have led to overcrowding in some states (United States, Department of Justice).

The establishment of drug courts, throughout the nation, would result in less economic costs to America, while still rehabilitating drug users successfully. Currently a large part of the Federal budget goes to the criminal justice system and more specifically in stopping drug abuse. In 2005, the government spent 135.8 billion dollars stopping substance abuse and addiction (Lyons). This money is spent on creating new rehabilitation programs and testing facilities for drug users to attend. However, drug users attend these programs on a voluntary basis.

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They are able to join and leave the programs at any time (Lyons). The Federal Government is spending billions on increasing rehabilitation facilities available, but is still sending drug users to prison. The courts still assign prison as sentences for drug users, as opposed to rehabilitation (Vrecko). Now, the Department of Justice needs another \$6. 172 billion, on top of their current budget, for the rise in costs of federal prisons (United States, Office of Management and Budget). Our current drug policy is failing to match the Federal Government's initiative for rehabilitation.

The current drug policy and harsh punishments has led to prison overcrowding. The New York Times reported that in California, there has been an increase of 45, 000 drug users in prison. This increase has fostered the argument of California's prisons being overcrowded. California's prison system is overcrowded with 145% capacity. There has now been a surge of cases to the Supreme Court about the constitutionality of the prisons (Liptak). Much of the problem of prison overcrowding has been linked to drug users.

In 2009, the Federal Bureau of Prisons reported that 51. percent of prisoners are in prison for drug related charges. For comparison, in 1995, the number of prisoners for drug related charges was 26. 7 percent. (United States. Department of Justice. ) The number of prisoners has nearly doubled due to harsher drug policies stricter punishments. Like California, many states are dealing with a surge in drug users in prison which has resulted in an increase in upkeep costs. For example, Washington will need to build three new prisons to ensure the constitutionality of their prisons.

Peter Aldhous, who earned his PhD from the University of California Berkley, wrote that each prison will cost \$250 million to build and an additional \$45 million to run each year. Unless Washington changes some of its drug policies, they will likely see a continued rise in the amount of drug users in prison and “prison upkeep costs”. Moreover, Aldhous expects 4.1 billion dollars to be spent on new prisons across the nation over the next decade. While this is a long-term cost to states, many states will need new beds and other items for their prisons. In Texas, the prisons will require 17,000 new beds (Lyons).

In addition, states will have to hire more prison guards. In the end, the short term cost to the state may be around 1 million dollars (Mergenhagen). As the number of overcrowded prisons rises, drug usage while in prison also increases. Many drug users in prison have the ability to meet their friends and family on visits. During these visits, drugs have been given to the drug user in prison. However, the drugs that are exchanged are drugs that are hard to be traced during urine tests. As a result, injectable drugs, which leave no trace in urine, are the most likely to be exchanged.

The drugs are then used in the prison cells where other cellmates may use the drug as well. In a study comprising of 13 prisons, the range of prisoners who used injectable drugs while incarcerated was 16% to 54%. (Lines). When sharing injectable drugs, the prisoners also share the needle. This has disastrous effects on the health of the prisoners. Sharing needles causes an increase likelihood of contracting diseases like HCV, HBV, and HIV (Lines). Another study, which looked at 43 prisons, found that the average HIV/AIDS

prevalence is 3%. However, specifically in New York, the prevalence was 12.5% (Mergenhausen).

Outside of prison, America has a HIV/AIDS prevalence of .3% (United States Department of Health and Human Services). Drug users in prison are 10 times more likely to contract HIV/AIDS versus the average population. Finally, the recidivism rate has not fallen with the harsher drug policy. Within two years of being released from prison, 32% of the drug users are incarcerated again for drug charges (Fox). This high recidivism rate furthers the idea that the inmates are not receiving the proper attention in prison to deal with their drug addiction.

Drug users are sent to prison typically at a young age similar to Johnson. In prison, they do not receive any "additional education, job training, or counseling." They are then released back into society without any new resources to succeed. Instead, they carry a record which impairs them from obtaining jobs, and the psychological problems of being behind bars for an extended period of time (Phlsher). The recidivism rate remaining high, and lack of resources for individuals to succeed points to the need for a new solution rather than prison. "Drug courts" are the ideal solution.

These drug courts are separate from the normal criminal court. Dr. Scott Vrecko, who obtained his PhD from the London School of Economics, claims that drug courts are specifically made for sending drug users to a rehabilitative program. If the judge feels as if the individual would be more successful in a "rehabilitative program as opposed to prison", he or she will send the drug user to a program of the judge's choice. If the drug user fails

the program, he or she will be sent to prison. This option gives them the ability to have “ education, job training, and counseling” while in rehab.

However, the availability of drug courts is limited to only a few states with Florida being the largest. In these states, they have great success on limiting the toll that prisons bear for drug users. Yet, only 6% of drug users in the nation have access to a drug court (Gorsman). 6% is too small to have any far reaching impact across the nation. Increasing the number of drug courts available to the nation on a federal level would have a strong effect on lowering the cost for prisons and reducing the recidivism rate. The creation of drug courts would have a beneficial economic impact.

First, it would lower the percentage of drug users in prison from 51. 4% to around 17% (Berman). This would vastly lower the economic costs of maintaining the prisons. Moreover, it would only cost 1. 2 billion dollars to create drug courts throughout the nation (Gorsman). The proposed 1. 2 billion dollars is a fraction of 135. 8 billion dollars the nation already pays for the creation of rehabilitative programs (Lyons). The rehabilitative programs are already built and running. These drug courts would enforce mandatory attendance to the program. In fact, it would save about 1. million dollars per 200 people per year. (Lyons).

The estimated savings would easily cover the costs of creating the drug courts after a few years. Many of the drug users in prison are not there on their first arrest, but their second and third arrest. The largest drawback of the prison system, is its inability to reduce recidivism. However, drug courts have become more effective at reducing recidivism. In one study, the

recidivism rate was 4% to 8% after two years of being released from the program (Berman). This number is significantly lower than the 32% recidivism rate for drug users who go to prison (Fox).

The most extensive study was done by Brenda Newton-Taylor an M. D. from Stanford. The study involved 432 participants and factored out eight different variables including “ length of drug usage, race, gender, income, and the specific drug used”. They found a recidivism rate at 6% for those who graduated from the rehabilitative program. Furthermore, those that failed the program used drugs less often than before after being released from prison. On average they used drugs about a third as much as they used to. This resulted in the individuals having better jobs and maintaining better lives.

The creation of drug courts have been effective in reducing the recidivism rate and lowering the cost on prisons. Many of the present arguments against the establishments of drug courts is related to a theoretical rise in drug users due to a less severe punishment. However, this idea has been empirically disproved. In the certain areas where drug courts are present in America, such as Florida, there has not been a statistically significant increase in the amount of drug usage or drug users (Marlowe). Much of this has been applied to the continued social stigmatization of drugs.

Although some states have taken a shift in their drug policy, the stigmatization of drugs still exists. Further, although the mandatory treatment program is not as harsh as prison, it is still not an appealing punishment (Marlowe). The average length to graduate from the program is

about 8 months (Newton-Taylor). The time required to graduate still deters individuals from using drugs. If they fail the program, they will be sent to jail which still acts as a deterrent. (Marlowe). The argument of increased drug consumption lacks empirical evidence.

The establishment of drug courts throughout the nation would help to solve some of the pressing needs of overcrowding within state prisons and the stagnant recidivism rates. Elizabeth Johnson has been pleading her case to the Illinois state government for the creation of drug courts in every county. Many representatives have joined her support of drug courts, and Illinois has seen large strides in reforming their drug policies. (Cain. ) With many large states such as Florida shifting to drug courts, the push for the federal government to enact the change will undoubtedly follow.