Center for HEALTH & JUSTICE at TASC

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Improving Public Safety through Cost-Effective Alternatives to Incarceration in Illinois

Lisa Braude, Ph.D.
Melody M. Heaps, M.A.
Pamela Rodriguez, M.A.
Tim Whitney, J.D.

The Center for Health and Justice (CHJ) at TASC provides research, evaluation, training, technical assistance, and organizational development in the fields of health and justice. Based in Chicago, Illinois, CHJ's mission is to build, enhance, and sustain strong and vibrant communities.

TASC, Inc. (Treatment Alternatives for Safe Communities) is a statewide, nonprofit organization in Illinois that provides behavioral health recovery management services for individuals with substance use and mental health disorders.

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Abstract

The United States has a rate of criminal justice involvement far higher than any in the world, with more than seven million individuals under some form of justice supervision at any given time. Illicit drug use has played a fundamental role in the population explosion within the American justice system. The three decade-long experiment of increasingly harsh penalties for drug crimes has proven ineffective at curbing either drug use or attendant criminal activity.

In Illinois, both the numbers and the percentages of individuals imprisoned for non-violent, drug-related offenses have continued to rise. The consequences of this situation include enormous social and personal costs to communities—with a disproportionate impact on communities of color—as well as a significant fiscal burden to taxpayers. Illinois historically has offered progressive approaches to dealing with drug-involved offenders. However, the state has not maintained its commitment to provide treatment alternatives to incarceration for non-violent, drug-involved individuals, and therefore has been unable to mitigate the impact of drugs on our communities, and the burden that drug-related crime poses to our public systems. The fundamental problem is that we send non-violent, drug-involved offenders to prison when there are more effective and cost-effcient alternatives available.

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The Center for Health and Justice at TASC proposes a public policy strategy of *No Entry*, which is designed to reverse the flow of drug-involved individuals going into and through the criminal justice system. *No Entry* involves structured, clinical interventions at every phase of justice involvement to address offender drug use and related criminal behavior, promoting public safety and ensuring fiscal responsibility.

Principles of *No Entry*

Six core principles must guide a new paradigm in the development of public policy to stop the chronic cycle of drug use and crime. These principles are based on the latest science and research regarding addiction and treatment, as well as sociological and fiscal studies on the impact of drug use and criminal behavior on citizens and communities. These six principles are:

Principle I: *Public policies must recognize addiction as a brain disease.* They must reflect a scientific understanding of the physiological and psychological nature of addiction as well as an understanding of the value of treatment and recovery support mechanisms.

Principle II: *Public policies must acknowledge the link between drug use and criminal behavior.* To stop the cycle of drug use and crime, the underlying drug use must be addressed.

Principle III: *Public policies must reverse the devastating impact of current laws, strategies, and practices that disproportionately harm minority communities.* They must consider the implications of policies that perpetuate disparities, and work to reverse the undue impact to certain communities and groups of people.

Principle IV: *Public policies must bring sentencing statutes in line with an equitable dispensation of justice.* They must promote rather than discourage involvement in treatment alternatives, and they must abandon arbitrary penalty classifications that result in unnecessarily harsh sentences which debilitate families and communities throughout Illinois.

Principle V: *Public policies must provide taxpayers with a return on their investment in public safety and public health.* They must result not only in greater levels of public safety, but must also represent the wise use of taxpayer dollars.

Principle VI: *Public policies must recognize voter support for treatment alternatives to incarceration.* They must acknowledge that "smart on crime" indeed is also "tough on crime" and that the public sees the social and fiscal value of treatment as an alternative to incarceration.

Based on these principles, we recommend the adoption of a *No Entry* strategy of criminal justice system management for non-violent, drug-involved offenders. Using a *No Entry* strategy, every stage of the criminal justice system—from charge to sentencing to supervision—is seen as an opportunity to create structured interventions to address the challenges of drug-involved offenders. This approach recognizes that treatment, coupled with community supervision and sanctions, is much more likely to result in long-term improvements in personal and family health and stability, public safety, and fiscal accountability than are strategies of increasingly severe justice involvement leading to the revolving door of incarceration.

Specifically, an investment in a *No Entry* strategy in Illinois would save the state millions of dollars in criminal justice and health care costs. An investment of approximately $125.7 million per year ($59.3 million for treatment and probation instead of incarceration for 10,000 individuals, plus $66.4 million to provide treatment to 15,000 current probationers) would provide community-based treatment for 25,000 non-violent, drug-involved offenders, a potential savings to the state of $223.3 million.

No Entry Recommendations

To begin to address the treatment needs of thousands of non-violent, drug-involved offenders, the Center for Health and Justice at TASC proposes the following recommendations:

Recommendation 1: Bring to scale the state's capacity to provide community-based treatment for 25,000 non-violent, drug-involved offenders per year.

Recommendation 2: Appropriate $10 million for FY08 as a down payment to provide community-based treatment for non-violent, drug-involved offenders.

Recommendation 3: Appropriate annual increases of $23 million per year from FY09 through FY13 to provide community-based treatment for non-violent, drug-involved offenders.

Recommendation 4: Without increasing public safety risks, roll back statutory provisions that limit access to treatment alternatives.

Recommendation 5: Stop legislating enhanced punishment strategies for each new headline-making drug.

Recommendation 6: Require that a fiscal and community impact analysis be conducted for any proposed penalty enhancement for drug crimes.

For too many years, our state and our country have relied on punitive responses which are ineffective in stopping non-violent, addiction-driven offenses. Given what we know of the science of addiction, and given the extravagant costs of public policies that incarcerate rather than treat individuals with substance use disorders, it is time to apply what we know to what we do. It is time for *No Entry*.

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Introduction

The "war on drugs" has become such a commonplace term over the past 30 years that we as a society have come to accept its repercussions. We have witnessed the enactment of increasingly severe penalties for drug use and related crime, resulting in an extraordinary number of people under the supervision of the criminal justice system in this country. On any given day in 2005, more than four million adults were on probation, almost 750,000 were in jail, nearly 1.5 million were in Federal or state prison, and over 780,000 were on parole.[1] One in every 32 Americans is under the jurisdiction of the criminal justice system at any one time—a rate far higher than any other country in the world.[2]

United States

Adults Under Justice Supervision (2005)

County/municipal jail	750,000
Probation	4,000,000
Federal/state prison	1,500,000
Parole/supervised release	780,000
TOTAL	**7,030,000**

As a result of public policies and law enforcement practices, we have also witnessed the criminal justice system engulf minority communities. The Sentencing Project, a national organization that promotes sentencing reform and alternatives to incarceration, estimated that on any given day in 1994, one in three African American males between 20 and 29 years old was under some form of criminal justice supervision, and the proportion has grown since then.[3] In fact, the study also indicates that a black male born in 1991 has a 29 percent chance of spending time in prison at some point in his life, to say nothing of other levels of criminal justice involvement. The figure for white males is four percent, and for Hispanics, 16 percent.[4] More African Americans enter the justice system than enter college.[5] Illinois mirrors national trends, with African Americans making up 60 percent of the adult state prison population, while representing only 15 percent of Illinois' total population in 2005.[6] A Human Rights Watch study published in 2000 found that Illinois ranked first in the country with respect to racial disparities in prison sentences for drug crimes.[7]

Illinois

Adults Under Justice Supervision (2005)

County jail	20,100
Probation	90,000
State prison	44,700
Parole	33,200
TOTAL	**188,000**

The war on drugs affects all segments of society, rich and poor, and all racial and ethnic groups. Every taxpayer in this country pays to fund this war, contributing billions of dollars toward operating law enforcement agencies, courts, jails, probation, prisons, and parole each year. In 2003, Federal, state, and local governments spent a total of $63 billion on direct corrections expenditures. These expenditures exceeded the $38 billion budget of the Department of Homeland Security by $25 billion.[8]

We could potentially justify current criminal justice expenditures if we were reaping a return on our investment through lower crime rates and safer streets. However, because of the system's failure to treat and rehabilitate individuals with substance use disorders, recidivism is the rule rather than the exception. Millions of individuals pass again and again through a revolving door of drug use, criminal activity, arrest, incarceration, and release back to communities that are ill-equipped to manage former offenders' needs or assist them in rehabilitation.

Policymakers, researchers, and criminal justice system officials have consistently identified three factors behind the current situation:

1) Increasingly harsh sentencing penalties over the last two decades have resulted in a four-fold increase in the number of offenders sentenced to prison for non-violent and/or drug-related crimes.

2) There has been a shift away from the public health approach of the 1970s, which treated addiction as an illness, toward a more punitive approach that criminalizes addiction.[9]

3) Current criminal justice system practices have been unable to prevent individuals from returning to drug use and crime. In fact, according to a 2002 study, among all those

released from prison in 1994, almost 70 percent were rearrested for a new offense and more than half returned to prison.[10]

Illicit drug use of any kind is not a benign activity. It is damaging to individuals, families, and communities. But current policies that incarcerate non-violent offenders with substance use disorders, instead of treating their drug problems, only add to the burden of an already overcrowded criminal justice system and unnecessarily cost taxpayers billions of dollars. Accumulated research and experience have shown that supervised substance abuse treatment is a viable alternative to incarceration for non-violent, drug-involved offenders.

The purpose of this report is to propose a *No Entry* strategy to divert non-violent, drug-involved offenders into the treatment services they need as an alternative to incarceration. This report describes the essential principles that must be in place to ensure a rational public policy approach to drug use and crime, and to offer public policy solutions designed to promote the long-term safety and health of our communities. The report's recommendations not only hold offenders accountable to their communities, but also yield a significant savings to taxpayers. The focus of this report is on Illinois, though the principles and recommendations are applicable around the nation.

Structure of the Report

This report argues that success in the "war on drugs" cannot be achieved only through incarceration, but must also include community-based sentencing alternatives for non-violent, drug-involved offenders. In this regard, the tide is beginning to turn. In response to prison overcrowding and high rates of rearrest related to illicit drugs, states across the country are beginning to recognize the need for more effective sentencing options. As indicated through referenda, state statutes, local public policy innovations, and voter surveys, more and more policymakers and voters are voicing the need for a more rational, humane, and cost-effective approach to drug-related crime. Illinois is, and has been, a leader in implementing innovative policies. In fact, in the late 1960s, Illinois was one of the first states to provide for treatment as an alternative to incarceration on a statewide level. However, funding for treatment alternatives has not kept pace with the growth of the criminal justice system.

Part I of this report presents the core principles that must be considered in developing public policy solutions that will improve public safety and provide society with the most significant return on its investment.

Part II identifies specific savings within Illinois that can be reaped if treatment and probation are expanded for non-violent, drug-involved offenders.

Part III of this report presents recommendations specific to Illinois, which, if implemented, will result in a significant and lasting positive impact to individuals, families, and society.

A *No Entry* public policy strategy intervenes with non-violent, drug-involved offenders at each stage of the criminal justice system as a more effective means to ensure public safety and improve outcomes for these offenders. The following principles, related to the treatment of drug abuse, and the reduction of crime, set the context for this *No Entry* strategy.

PART I:

Core principles to treat drug abuse and reduce crime

Principle I:

Public policies must recognize addiction as a brain disease.

In general, people begin to use alcohol and drugs to temporarily change the way they feel. When use turns into abuse, problems emerge. When abuse escalates to addiction, the use continues in spite of significant adverse consequences, such as the loss of one's employment, family, home, and dignity. It often has been assumed that character flaws or moral weaknesses cause people to become addicted. Research now proves this is not the case. Combinations of factors—neurobiological, psychological, social (such as family and peers), and environmental or macro social (such as poverty and unemployment)—are at work in addiction, and they operate and interact differently for different individuals.[11]

Combinations of factors—neurobiological, psychological, social, and environmental—are at work in addiction.

Current research shows that addiction is a brain disease. Repeated use of addictive drugs changes the way the brain processes and releases chemicals called neurotransmitters. These changes in the brain can result in a need (a physical or psychological craving) to use the drug. In addition, with some drugs such as heroin, greater and greater amounts are needed to achieve the same effect; this is called tolerance. Because drug use changes brain chemistry and functionality, one's ability to control use of the substance is severely diminished.[12] Research on the brain has shown that for some drugs, these changes begin to reverse with 12-17 months of abstinence, suggesting that with treatment, the brain can recover functionality lost through severe addiction.[13] However, the capacity for external stimuli to serve as triggers for use remains encoded in memory, which explains why even after long periods of incarceration and enforced abstinence from drugs, individuals who do not receive treatment often return to using.

Drug addiction, a brain disease, is a chronic disease. Like other chronic illnesses, it requires treatment and ongoing management of recovery.

It is these changes in brain chemistry that help explain why so many individuals use drugs regardless of adverse consequences, including the threat of incarceration. Drug addiction, a brain disease, is a chronic disease. Like other chronic illnesses, such as diabetes and heart disease, it requires treatment and ongoing management of recovery. Public policies to intervene with drug-involved individuals must reflect a scientific understanding of the disease of addiction and recognize that without appropriate treatment and recovery support mechanisms, individuals likely will continue to abuse drugs.

Principle II:

Public policies must acknowledge the link between drug use and criminal behavior.

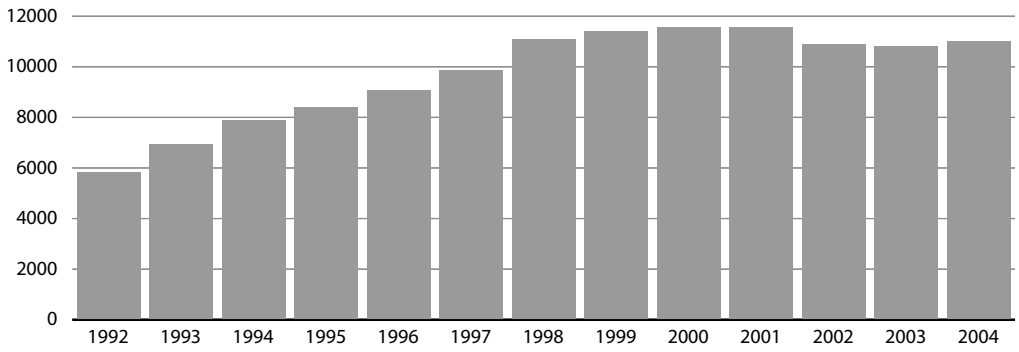
Drug use drives crime in at least two major ways: drug-specific crimes, such as drug possession or sales, and drug-related crimes, such as theft and other property crimes committed to support an addiction. Finding a precise causal relationship between drug use and crime is complex, but what is clear is the correlation between increased drug use and increased criminal behavior. As persons commit more income-generating crimes, they find it easier to buy drugs. Conversely, as they use drugs more frequently, they are compelled to commit more crimes to support their intensifying addictions.

This correlation is evident through numerous self-report and offender drug testing studies. For example, one national study showed that over 60 percent of arrestees tested positive for at least one drug regardless of the type of offense, and over one fourth of adult male arrestees met the criteria for either abuse or dependence at the time of their arrest.[14] In 2004, more than half of all offenders reported using drugs in the month before their offense.[15] Additionally, over half of all Federal and state prisoners reported drug use in the month prior to their arrest, while a third reported committing their offense while under the influence of alcohol or drugs.[16]

Studies show that drug use among offenders in Illinois consistently exceeds these national averages. Approximately 74 percent of male and 77 percent of female arrestees in Chicago tested positive for any drug use,[17] while 71 percent of Illinois probationers reported a current or prior substance abuse problem.[18]

In addition to the high prevalence of individuals in the justice system who use drugs, drug-specific crimes are the single most important cause of the precipitous rise in the nation's prison population. Nationally, arrests for drug offenses tripled from 580,900 in 1980 to almost 1.8 million in 2005.[19] The drug arrest rate in Illinois (excluding Cook County, which encompasses Chicago) more than doubled between 1994 and 2003, from 264 to 561 arrests per 100,000 population.[20] During the same time frame, arrests for all drug offenses increased 26 percent in Cook County, from 53,803 to 67,988 arrests.[21] Prison sentences reflect the same trend, with the number of state prison sentences imposed in Illinois for drug crimes increasing from 8,824 in 1992 to 16,045 in 2004, an 82 percent increase. Between 1992 and 2004, the state's overall adult prison population grew 39 percent.[22] During the same period, the number of drug offenders grew by 89 percent, representing a quarter of the total state prison population.[23]

Drug Offenders in Illinois Prisons 1992-2004



Source: IDOC, 2005

The link between drug use and crime is evident in the repeating cycle of drug use, criminal behavior, arrest, court involvement, and eventual incarceration or re-incarceration. To develop effective policy solutions that will improve outcomes and lead to lower rates of drug use and crime, policymakers must understand the public health and safety implications of failing to address substance use disorders, as well as the benefits of providing intervention and treatment.

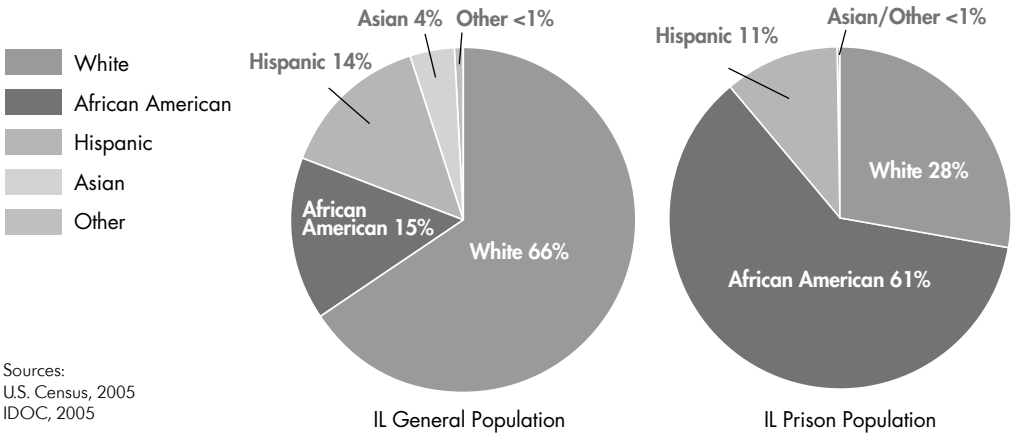
Principle III:
Public policies must reverse the devastating impact of current laws, strategies, and practices that disproportionately harm minority communities.

African Americans, whites, and Hispanics are about equally likely to use drugs, but criminal justice consequences for drug involvement fall overwhelmingly on minorities—particularly young, African American males from poor, urban communities.

Although rates of drug use among ethnic groups are similar, African Americans and Latinos are arrested, convicted, and incarcerated for drug involvement far more frequently than whites. National surveys consistently show that African Americans, whites, and Hispanics are about equally likely to use drugs,[24] but criminal justice consequences for drug involvement fall overwhelmingly on minorities—particularly young, African American males from poor, urban communities.

This disparity has several roots. It is partly grounded in the way drugs are sold in urban versus suburban neighborhoods, with urban sales generally taking place on the street and in other places of high visibility, facilitating law enforcement's ability to make arrests. Additionally, in impoverished communities that lack adequate health and social resources, the justice system is often the first responder to problems associated with addiction. The drug laws themselves also play a role in the disproportionate impact of the drug war on minorities. Illinois law describes

Demographics of Illinois General and Prison Populations (2005)



Sources:
U.S. Census, 2005
IDOC, 2005

certain "drug free zones" surrounding areas such as schools, churches, and public parks. Conviction of a drug delivery offense in one of these zones results in enhanced penalties. Urban areas have a much higher concentration of these zones, meaning someone convicted of a delivery crime in an urban area is much more likely to receive an enhanced penalty than someone in a suburban or rural area.

Changes in the drug laws in the late 1980s meant that those convicted would serve longer sentences, adding to the crisis of overcrowding in the corrections system and further tearing families and communities apart. Between 1986 and 1991, the number of African Americans incarcerated for drug crimes rose four times as fast as the number of whites.[25] In 1994, as noted in the introduction, one out of every three African American men between the ages of 20-29 was under criminal justice supervision.[26]

Nationally, the disparity only widened during the late 1980s and 1990s in many states, and within the Federal corrections system, with the sentencing disparities for possession of crack cocaine versus powder cocaine.[27] However, in Illinois, which does not differentiate between powder and crack cocaine, the state still witnessed a stark increase in the numbers of minorities arrested, prosecuted, sentenced, and incarcerated for drug offenses.

Policies that punish drug addiction, rather than treat it as a public health issue, have disproportionately affected African American males by foreclosing employment prospects and disenfranchising millions of individuals. One study estimates that 40 percent of African American men will temporarily or permanently lose their right to vote as the result of a felony conviction.[28] (In Illinois, individuals with a felony conviction regain their voting rights upon release from incarceration.) Additionally, legislators have recently expanded the authority of non-criminal justice agencies and groups to access criminal histories for purposes of employment screening, occupational licensing, and certifications, legally compelling some employers to exclude those with criminal backgrounds.[29]

Sweeping incarcerations for drug offenses have also rendered imprisonment a more common experience in certain minority neighborhoods, thereby undermining law enforcement's deterrent effects, and diminishing residents' respect for the criminal justice system. Incarceration also has a devastating impact on the family. Since 1991, the number of minors with a parent in state or Federal prison rose by over 500,000 to 1.5 million.[30] Of these children, about half are African American. Most children with one or more parents in jail or prison are shuffled between relatives or informal placements, or they become entrenched within the child welfare system. They are often separated from their siblings and reside with caregivers who lack the social supports and resources to meet the children's needs.[31] The disruptive effect of parental incarceration is likely to continue once the individual is released back into the community. Even if reunification is an option for the parent, the legal and social barriers and related stigma resulting from incarceration create additional difficulties for newly released parents.[32] In turn, those children have a high propensity for psycho-social difficulties such as behavior problems, delinquency, learning problems in school, and teen pregnancy.[33] These psycho-social difficulties are likely to follow these children even as they enter adulthood.[34]

Disproportionality affects the fundamental concepts of a just society, including the ability of all to have a voice in government, to hold a decent job, to safely raise and provide for a family, and to fully participate in the citizenship of our country.

Disproportionality affects the fundamental concepts of a just society, including the ability of all to have a voice in government, to hold a decent job, to safely raise and provide for a family, and to fully participate in the citizenship of our country. Disenfranchising certain segments of society leads to undemocratic outcomes that affect all of society. Furthermore, the expense of disproportionate incarceration affects every taxpayer in this country. Public policies must consider the implications of current laws, strategies, and practices that perpetuate disparities and harm individuals, families, and communities.

Principle IV:
Public policies must bring sentencing statutes in line with an equitable dispensation of justice.

The backbone of drug policy in Illinois is the series of drug law statutes by which all crimes are measured. To understand the impact of the drug war on the criminal justice system, we must also understand the structure of those laws. Like many states, the foundation of Illinois' drug laws was laid in the early 1970s, primarily as a response to increases in drug use and drug-related crime. And like many states, Illinois drug laws were made progressively more severe during the 1980s and 1990s, helping to drive the dramatic influx of drug offenders into the state's court and prison system over that period. These laws are out of date and out of line with the practical implications of the crimes and the nature of the offenders.

As seen in the table below, the bulk of drug offenders in Illinois prisons can be accounted for by one of two categories of crimes: a) possession of a controlled substance (PCS), and b) manufacture, delivery, and possession with intent to manufacture or deliver a controlled substance (MDCS). These two categories of crimes account for almost one third of new sentences to the Illinois Department of Corrections. One crime, Class 4 possession, accounts for one fifth of new sentences alone. It should be noted that prison sentences for Class 4 offenses may also be the result of a significant criminal history, and not a first-time offense.

Crime	% of Total Sentences to IDOC	Rank
Class 4 PCS (possession of a controlled substance)	21.2%	1
Class 2 MDCS (manufacture/delivery of controlled substance)	4.8%	3
Class 1 MDCS	3.6%	6
Class X MDCS	1.1%	19
Class 1 MDCS w/ Special Conditions (see below)	1.0%	23
Class 1 PCS	1.0%	24
TOTAL	**32.7%**	

Like many states, Illinois' statutes pertaining to these offenses consist of a graduated series of enhanced penalties driven by the amount of drugs involved in the crime. Increased amounts of drugs result in elevation of felony class, extended prison sentences, or both. For example, as the law currently stands in Illinois, possession of half an ounce of cocaine carries a potential sentence equivalent to that of sexual assault. While this graduated penalty structure is commonplace in state drug laws, it is inherently problematic in the dispensation of justice for the following reasons:

- The "triggering weights" for elevation of penalties are set arbitrarily, not based on any analysis of the purpose of the possession, whether it be for personal use, sale to support personal use, or sale of illicit drugs for profit.
- Because the triggering weights are set arbitrarily, they are easily changed, also arbitrarily. For example, in 1988 the weight that separated Class 4 possession from Class 1 possession was reduced from 30 grams to 15 grams.

Perhaps most importantly, limits on access to treatment alternatives are generally driven by felony classification, so arbitrary triggering weights ultimately have a direct impact on which offenders have access to treatment and which do not. Sound public policy dictates that the *appropriate* sanction or intervention be given to the *appropriate* offender.

The ineffectiveness of the current graduated penalty structure is ultimately borne out in crime rates and public safety. As we have shown, incarcerating non-violent, drug-involved offenders has devastated families and communities by adding dramatically to the numbers of people whose life experience includes incarceration. The graduated penalty structure has neither reduced crime rates nor saved money. All evidence is to the contrary. Current laws presume that incarceration will be effective without addressing the root of the problem—addiction—that perpetuates criminal behavior. The sheer numbers and explosive growth of non-violent, drug-involved offenders in the criminal justice system belie this. Public policies related to drug crimes and sentencing must reflect the realities of the drug-involved offender and must promote involvement in treatment alternatives rather than limit it arbitrarily.

Current laws presume that incarceration will be effective without addressing the root of the problem—addiction—that perpetuates criminal behavior.

Principle V:
Public policies must provide taxpayers with a return on their investment in public safety and public health.

According to the National Institute on Drug Abuse (NIDA), "outcomes for substance abusing individuals can be improved when criminal justice personnel work in tandem with treatment providers on drug abuse treatment needs and supervision requirements."[35] Drug treatment programs are aimed at helping the individual stop using drugs and maintain a drug-free lifestyle, while achieving productive functioning in the family, at work, and in society. The most effective treatment will vary depending on the type of drug and the characteristics of the individual. The best programs provide a combination of therapies and other services.

Drug treatment can include behavioral therapy (such as counseling, cognitive behavioral therapy, or psychotherapy), medications, or their combination. Behavioral therapies offer people strategies for coping with their drug cravings, teach them ways to avoid drugs and prevent relapse, and help them deal with relapse if it occurs. Case management services and referral to other medical, psychological, and social services are crucial components of treatment for many individuals.

Research repeatedly has supported NIDA's assertion by demonstrating significant positive outcomes and resulting cost savings when individuals are adequately supervised and receive necessary treatment and clinical and support services. For example, one study found that individuals with substance abuse histories who completed an episode of treatment were significantly less likely to re-offend four years after probation discharge than individuals who never received treatment (67 percent vs. 37 percent).[36] Another study showed that those with substance abuse problems who did not complete treatment were more than twice as likely to get rearrested while on probation than those who entered and completed treatment. According to the authors, "analyses of the data clearly reveal the potential impact treatment can have on reoffending."[37]

National studies consistently have found that drug treatment is effective in reducing drug use and criminal behavior.[38] The National Treatment Improvement Evaluation Study (NTIES) conducted between 1992 and 1997 followed 4,411 treatment clients. One year following treatment, there was a 64 percent reduction in arrests for any crime. Drug selling declined by 78 percent and shoplifting declined by almost 82 percent. The percentage of clients who supported themselves through illegal activity also decreased by 48 percent.

National Treatment Improvement Evaluation Study (1992-1997)

Activity	Reduction
Arrests for any crime	64%
Drug selling	78%
Shoplifting	82%
Supporting self via illegal activity	48%

SOURCE: CSAT, 1997

Research also has shown that involuntary or court-mandated treatment works as well as voluntary treatment. Since the late 1980s, studies on coerced treatment indicate that coerced clients begin treatment sooner and remain in it longer than those who enter treatment voluntarily. A recent study found that court-ordered individuals with lower levels of motivation at the beginning of treatment than a comparison group who entered treatment on their own volition, reported the same rates of abstinence five years post-treatment, as well as the same rates of employment and rearrest.[39] This study refutes the common perception that

an individual must be motivated for treatment in order to succeed. Persons coerced to enter and stay in treatment have also been found to have lower medical costs and criminality and improved psychosocial and employment status compared to persons who did not receive treatment.[40]

Another study that examined clients mandated to residential treatment as a condition of probation or parole found that case management, coupled with treatment and recovery support services, also improved post-treatment outcomes. Specifically, 55 percent of clients who did not receive case management services were rearrested, compared to 29 percent of those who received case management services.[41]

In recent years, an emphasis on research and best practices for maintaining recovery for persons with substance use disorders has led to a focus on utilizing *recovery management* strategies. These strategies seek to engage individuals, their families, social networks, and communities to sustain recovery. Recovery management strategies include case management, peer-to-peer support groups, and faith-based support services. Studies indicate that treatment outcomes are improved when recovery management services in the community follow in-prison treatment. Generally, more than 50 percent of released prisoners return to custody within three years. That number is much lower for prisoners who have completed both substance abuse treatment in prison and recovery support services in the community, with as few as 25 percent of persons who completed treatment being returned to custody.[42] A Delaware study showed that offenders who receive both prison-based treatment and community-based follow-up were much more likely than offenders who received only prison-based treatment to be arrest-free 18 months after their release (71 percent compared to 48 percent).[43]

Studies indicate that treatment outcomes are improved when recovery management services in the community follow in-prison treatment.

The effectiveness of treatment has a corresponding impact on the economic burden created by abuse and dependence. A recent comprehensive study estimated that for every dollar spent on treatment, about seven dollars are saved in the form of reduced medical expenses and reduced costs of crime, and in increased employment earnings.[44] Most of the savings identified in these studies are associated with individuals already involved with the criminal justice system. Thus, the greatest savings come from providing treatment to persons in the criminal justice system, since this reduces not only direct costs to the taxpayer who must pay for prisons and jails, but economic losses suffered by victims as well. In a large-scale study (in which only half the participants were currently criminal justice-involved), treatment was shown to generate a savings of $8,200 per person in reduced criminality and health care costs.[45]

As with any investment, good public policy dictates using the least expensive intervention that yields the highest return on the investment. Community-based substance abuse treatment is cheaper and results in better outcomes for non-violent, drug-involved offenders than does incarceration. This knowledge must be put into practice. Public policymakers must recognize that incarceration of non-violent, drug-involved offenders is not an effective or efficient return on the investment of taxpayer dollars.

Good public policy dictates using the least expensive intervention that yields the highest return on the investment.

In order to support an improved evidence-based understanding of the nexus between substance abuse and criminal behavior, the National Institute on Drug Abuse (NIDA) recently published a research-based guide titled *Principles of Drug Abuse Treatment for Criminal Justice Populations (2006)*. This publication acknowledges the fact that "treatment offers the best alternative for interrupting the drug abuse/criminal justice cycle."

1. Drug addiction is a brain disease that affects behavior.
2. Recovery from drug addiction requires effective treatment, followed by management of the problem over time.
3. Treatment must last long enough to produce stable behavioral changes.
4. Assessment is the first step in treatment.
5. Tailoring services to fit the needs of the individual is an important part of effective drug abuse treatment for criminal justice populations.
6. Drug use during treatment should be carefully monitored.
7. Treatment should target factors that are associated with criminal behavior.
8. Criminal justice supervision should incorporate treatment planning for drug abusing offenders, and treatment providers should be aware of correctional supervision requirements.
9. Continuity of care is essential for drug abusers reentering the community.
10. A balance of rewards and sanctions encourages pro-social behavior and treatment participation.
11. Offenders with co-occurring drug abuse and mental health problems often require an integrated treatment approach.
12. Medications are an important part of treatment for many drug abusing offenders.
13. Treatment planning for drug abusing offenders who are living in or reentering the community should include strategies to prevent and treat serious, chronic medical conditions, such as HIV/AIDS, hepatitis B and C and tuberculosis.

Principle VI:
Public policies must recognize voter support for treatment alternatives to incarceration.

Contrary to generally accepted notions that the public supports a "get tough on crime" political position, the public understands the multi-faceted nature of addiction and the importance of treatment. Polls show that Americans recognize drug addiction as an illness that needs to be treated, rather than a condition that should be punished. One national poll showed that the public favors dealing with the roots of crime over strict sentencing by a two to one margin (65 percent to 32 percent).[46] The public also recognizes that many non-violent offenders are receiving prison sentences that are counterproductive and unduly harsh.

Polls show that Americans recognize drug addiction as an illness that needs to be treated, rather than a condition that should be punished.

Furthermore, 81 percent of respondents in a 2004 survey would be more likely to vote for a candidate who favored reallocating what the government spends on the war on drugs toward drug prevention, education, treatment, and recovery programs. The same proportion of respondents would be more likely to vote for a candidate who expanded treatment programs for offenders.[47]

Illinois citizens have voiced their support for treatment. Results from a 2002 telephone survey of 500 Illinois voters indicate that they understood addiction as a disease and supported treatment as the best response. Addiction was recognized by 95 percent of respondents as an illness that affects people from all levels of society. Almost three quarters of respondents (74 percent) believed that treatment is the best way to deal with drug users who commit non-violent crimes.[48] Another indication of public support was the referendum question placed on the 2004 Cook County general election ballot. When asked whether the state should provide funding for treatment for any Illinois resident who requests it, 76 percent—more than 1.2 million voters—voted yes.[49]

These surveys clearly demonstrate that voters will stand with political leadership which supports treatment as an alternative to incarceration.

Public Support for Treatment

Public Opinion	% in Agreement
Results from 2002 telephone survey of 500 likely Illinois voters	
Addiction is illness that affects people from all levels of society	95%
Treatment is best way to deal with drug users who commit non-violent crimes	74%
Referendum question on 2004 Cook County general election ballot	
The state should fund treatment for any Illinois resident who requests it	76%

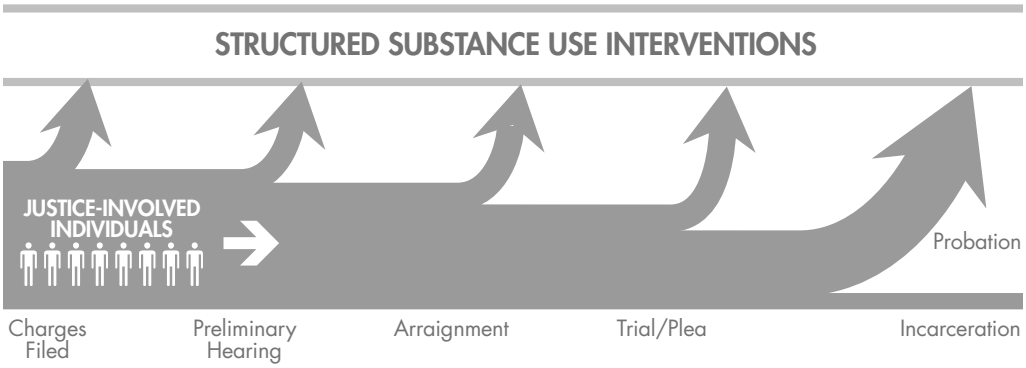
PART II:
Dollars and sense – the *No Entry* strategy

In order to stop the revolving door of criminal justice involvement and incarceration, we must broaden the scope of current criminal justice policy discourse from one primarily focused on the back end of the criminal justice system, as individuals reenter communities, to a discourse that incorporates a *No Entry* strategy for non-violent, drug-involved offenders. There are ripe opportunities for ensuring access to treatment for a much larger portion of the drug-involved criminal justice population than are currently provided. These would not only save taxpayers millions of dollars, but as the previous section shows, they would decrease rates of recidivism, result in a more equitable dispensation of justice, and improve public health and welfare throughout Illinois. This section presents the bottom line savings of adopting a *No Entry* strategy in Illinois.

This discussion must begin with the recognition that there are many opportunities for treatment interventions along all points of the criminal justice continuum for individuals with substance use disorders. Incarceration can and ought to be an effective tool for public safety when it is the most appropriate and effective sanction for the individual and is in the best interests of public safety. For a majority of non-violent, drug-involved offenders, however, effective sanctions and interventions can take place before incarceration. These sanctions and interventions reduce recidivism and cost less to taxpayers. *No Entry* strategies that prioritize treatment should be utilized for appropriate non-violent, drug-involved offenders before the point of incarceration. These strategies do not relieve individuals of their responsibilities to society; indeed, they hold individuals accountable and require them to change the behaviors that contributed to their criminal activity.

The *No Entry* Strategy for Drug-Involved Offenders

Under a *No Entry* strategy, every juncture in the justice continuum is an opportunity for a structured clinical intervention, resulting in fewer incarcerations.



The Bottom Line

As described in Principle V, research on treatment alternatives has consistently demonstrated financial savings resulting from treatment of drug-involved justice populations. We have identified two populations for whom the application of a *No Entry* strategy would result in increased public safety and significant savings for Illinois taxpayers.

Treatment Alternatives to Incarceration

Approximately 40,000 individuals are admitted to the Illinois Department of Corrections every year, and of these, some 20,000 are sentenced for non-violent property or drug crime convictions.[50] Research estimates confirm that about half of these individuals (10,000) meet the diagnostic criteria for abuse or dependence. The current annual estimate of the cost of incarceration plus parole for these 10,000 individuals is $22,600 per offender, or a total of $226 million per year.

Under a *No Entry* strategy, these individuals could be sentenced to probation with community-based treatment rather than incarceration, which, as discussed above, is more likely to be effective in reducing drug use and criminal behavior. The per-person cost for substance abuse treatment and case management would be $4,425, plus an added $1,500 for probation, resulting in a total per-person cost of $5,925. Aggregated to 10,000 individuals, the cost to provide probation, community-based treatment, and case management would be just under $59.3 million.

Therefore, the *No Entry* strategy of providing treatment as an alternative to incarceration for 10,000 individuals will result in a savings to Illinois taxpayers of nearly $167 million per year, not to mention future health care and criminal justice savings.

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Incarceration vs. Community-Based Treatment for 10,000 Individuals

Annual cost for incarceration	$226.0 million
Annual cost for probation, community-based treatment, and case management	$59.3 million
Total saved annually by providing treatment as an alternative to incarceration	**$166.7 million**

Treatment for Probationers

There are approximately 90,000 people in Illinois on probation. Research indicates that half of these individuals (roughly 45,000) can be classified as having some level of a substance use disorder. Of those, approximately 15,000 have a serious problem with unmet treatment needs.

Without access to community-based treatment, the likelihood for recidivism and continued justice involvement, including incarceration, is great. A conservative national cost benefit analysis estimated that, without treatment, substance abusers incurred an average of $8,200 more in criminal justice and health care costs than if they had received treatment.[51] This analysis included both criminal justice-involved and non-justice-involved substance users. The added costs are likely to be much higher for justice-involved individuals who, without treatment, have higher recidivism rates. Given that each untreated probationer is likely to cost taxpayers at least $8,200 in future criminal justice and health care costs, the cost to Illinois taxpayers for not treating these 15,000 probationers will be, at minimum, $123 million.

Under a *No Entry* strategy, these 15,000 probationers would have access to substance abuse treatment and clinical case management at a cost of approximately $4,425 per individual (in addition to existing probation costs), or a total of approximately $66.4 million.

Therefore, the *No Entry* strategy of providing treatment to probationers results in savings to Illinois taxpayers of more than $56 million.

The *No Entry* strategy of providing treatment to probationers results in savings to Illinois taxpayers of more than $56 million.

No Treatment vs. Treatment for 15,000 Probationers

Future cost for *not* providing case management and treatment	$123.0 million
Current cost to provide case management and treatment	$66.4 million
Total saved by providing case management and treatment	**$56.6 million**

The Bottom Line of *No Entry*

The public policy implications are clear. A *No Entry* strategy results in reduced recidivism, reduced drug use, increased public safety, and significant savings to Illinois taxpayers. An investment of approximately $125.7 million per year ($59.3 million for treatment and probation instead of incarceration for 10,000 individuals, plus $66.4 million to provide treatment to 15,000 current probationers) would provide community-based treatment for 25,000 non-violent, drug-involved offenders, a potential savings to the state of $223.3 million.

PART III:
No Entry call to action

Accomplishing a goal of *No Entry* in Illinois does not require the creation of new systems or programs out of whole cloth. Illinois already has a breadth of experience with diversion programs and treatment alternatives such as the designated program, drug courts, and prosecutorial diversion through drug school (see Appendix). What is needed is a public policy response that views addiction as a public health issue with a strong public safety component.

Accomplishing a goal of No Entry *in Illinois does not require creation of new systems or programs out of whole cloth. Illinois already has a breadth of experience with diversion programs and treatment alternatives.*

Therefore, the Center for Health and Justice proposes that the state of Illinois adopt the following recommendations:

Recommendation 1:
Bring to scale the state's capacity to provide community-based treatment for 25,000 non-violent, drug-involved offenders per year.

Recommendation 2:
Appropriate $10 million for FY08 as a down payment to provide community-based treatment for non-violent, drug-involved offenders.

Recommendation 3:
Appropriate annual increases of $23 million per year from FY09 through FY13 to provide community-based treatment for non-violent, drug-involved offenders.

Recommendation 4:
Without increasing public safety risks, roll back statutory provisions that limit access to treatment alternatives.

Recommendation 5:
Stop legislating enhanced punishment strategies for each new headline-making drug.

Recommendation 6:
Require that a fiscal and community impact analysis be conducted for any proposed penalty enhancement for drug crimes.

For too many years, our state and our country have relied on punitive responses which are ineffective in stopping non-violent, addiction-driven offenses. Given what we know of the science of addiction, and given the extravagant costs of public policies that incarcerate rather than treat individuals with substance use disorders, it is time to apply what we know to what we do. It is time for *No Entry*.

Appendix: Current Illinois Laws Allowing for Diversion and Treatment Alternatives

Current Illinois law provides several opportunities for diversion and treatment alternatives to incarceration. This appendix provides an overview of the existing laws that allow for intervention and treatment of non-violent, drug-involved offenders in Illinois.

First Offender Probation

In Illinois, the three main bodies of drug laws—relating to marijuana, methamphetamine, and all other controlled substances (see 720 ILCS 550/10, 720 ILCS 646/70, and 720 ILCS 570/410 respectively)—each contain nearly identical provisions related to a specialized type of probation for first offenders. This "first offender probation" is available only to individuals who have not been convicted previously of any drug laws and for whom the current charge is the lowest level of simple possession. This is the population most commonly addressed by the large-scale treatment initiatives emerging in other states.

While an individual is technically sentenced to probation under this Illinois statute, the sentence is prejudgment, pending the outcome. Mandatory conditions of probation include a fixed length of 24 months, no new arrests, no drug use (as measured by drug testing), and community service. Optional provisions are at the discretion of the judge, and may include participation in treatment, participation in other health, vocational, or social services, fines, and living in a halfway house. If the offender violates the terms of the probation, the judge is free to proceed as if it were a regular case. Upon successful completion, the person is discharged and the proceedings dropped. This option is available only once.

Designated Program Supervision

The cornerstone of Illinois' systemic approach to dealing with drug-involved offenders is the use of the "designated program," which is TASC (Treatment Alternatives for Safe Communities), a statewide, nonprofit agency. The designated program model is unique in that it employs an independent entity to provide assessment, referral, and case management services to drug-involved probationers. The designated program provides a layer of clinical supervision on top of probation supervision, working with offenders to access services to adequately address the clinical and social issues that contribute to their drug use and criminal behavior. The designated program does not provide treatment directly, meaning the courts can rely on the designated program to make objective clinical determinations in the best interests of the individual and within the mandates of the justice system.

The designated program model is not simply one statute, but is actually the interplay of both statute and administrative rule. To fully understand its scope and intent, it is important to examine how the relevant laws came into being and interact.

Alcoholism and Other Drug Dependency Act. Illinois institutionalized its systemic approach to dealing with drug-involved offenders with the passage of the Alcoholism and Other Drug Abuse Dependency Act (AODADA), codified as Chapter 20 of the Illinois Compiled

Statutes, Act 301. The placement of these provisions is significant. Unlike other criminal justice provisions, which are generally written into the portions of the Illinois code relating to criminal offenses, sentencing or corrections, major provisions for treatment for justice clients have always been the purview of the Illinois Department of Human Services. It is clear that the legislature intended that these services be provided for and monitored by the state agency with oversight of substance abuse treatment, and not solely the justice system.

The AODADA describes eligibility and process for criminal justice interventions (20 ILCS 301/40). This section mandates the availability of treatment alternatives for drug-involved offenders under the supervision of the "designated program." This option was intended by the legislature to particularly target those offenders who, were it not for the designated program process and services, would be incarcerated.

Administrative Rule Governing the Designated Program. To ensure quality and control over services provided by the designated program, the AODADA required the Illinois Department of Human Services to develop licensure criteria for clinical case management of criminal justice clients. This mandate resulted in the designated program licensure provisions currently put forth in Illinois Administrative Rule 2060.507. Among the key distinctions of this rule is that the designated program be a single organization providing uniform services statewide, with accountability between and among the designated program, the courts, and the community-based treatment network.

Specifics of Designated Program Supervision. Under 20 ILCS 301/40, any drug-involved individual charged with or convicted of a crime may elect treatment under the supervision of the "designated program." There are exceptions to eligibility which pertain to crimes of violence, the amount of drugs involved, multiple previous attempts at treatment by the individual, and other pending cases or issues that would hamper the treatment process.

Generally, the defendant must elect treatment, although the court may mandate it if the judge determines that is the best course of action. The designated program must also accept the defendant based on an assessment that determines the extent of his/her drug dependence and the relationship between his/her drug use and criminal activity. If the defendant elects treatment and is accepted, he/she is sentenced to probation with supervision in the form of intensive treatment planning and clinical case management by the designated program.

The designated program reports regularly to the judge and the probation officer as to the offender's progress, and makes recommendations regarding either elevating or lessening the intensity and type of treatment. Failure to comply with the terms of the treatment plan is handled as a probation violation.

Drug Courts

The Illinois drug court statute (730 ILCS 166) authorizes the creation of drug courts at the discretion of the local chief judge, and provides some parameters for operation, but generally leaves the details to the court itself. Illinois drug courts can be pre- or post-adjudicatory. Eligibility is based on agreement between the court, prosecution, and the defendant. Persons may be ineligible for a number of reasons, such as a history of violence, denial of a drug problem or unwillingness to participate in treatment, and prior involvement in a drug court.

The drug courts may utilize the designated program to provide clinical assessments, although referrals to treatment and tracking of progress is generally handled directly by the judge, who is required to maintain a network of providers that can adequately address the needs of the drug-involved offender. If the court deems the individual has not successfully completed the program, the criminal proceedings may be reinstated. If the individual has successfully completed the program, the court may discharge the proceedings or dismiss the charges.

Probation

In addition to the above formal intervention options, a judge has the discretion to mandate treatment as a condition of a traditional probation sentence, but in these cases the tasks of clinical needs assessment, referral to and placement in treatment, and ongoing case management fall to the judge and probation.

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1500 N. Halsted St.
Chicago, IL 60622

312.787.0208 • fax: 312.787.9663
www.centerforhealthandjustice.org

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