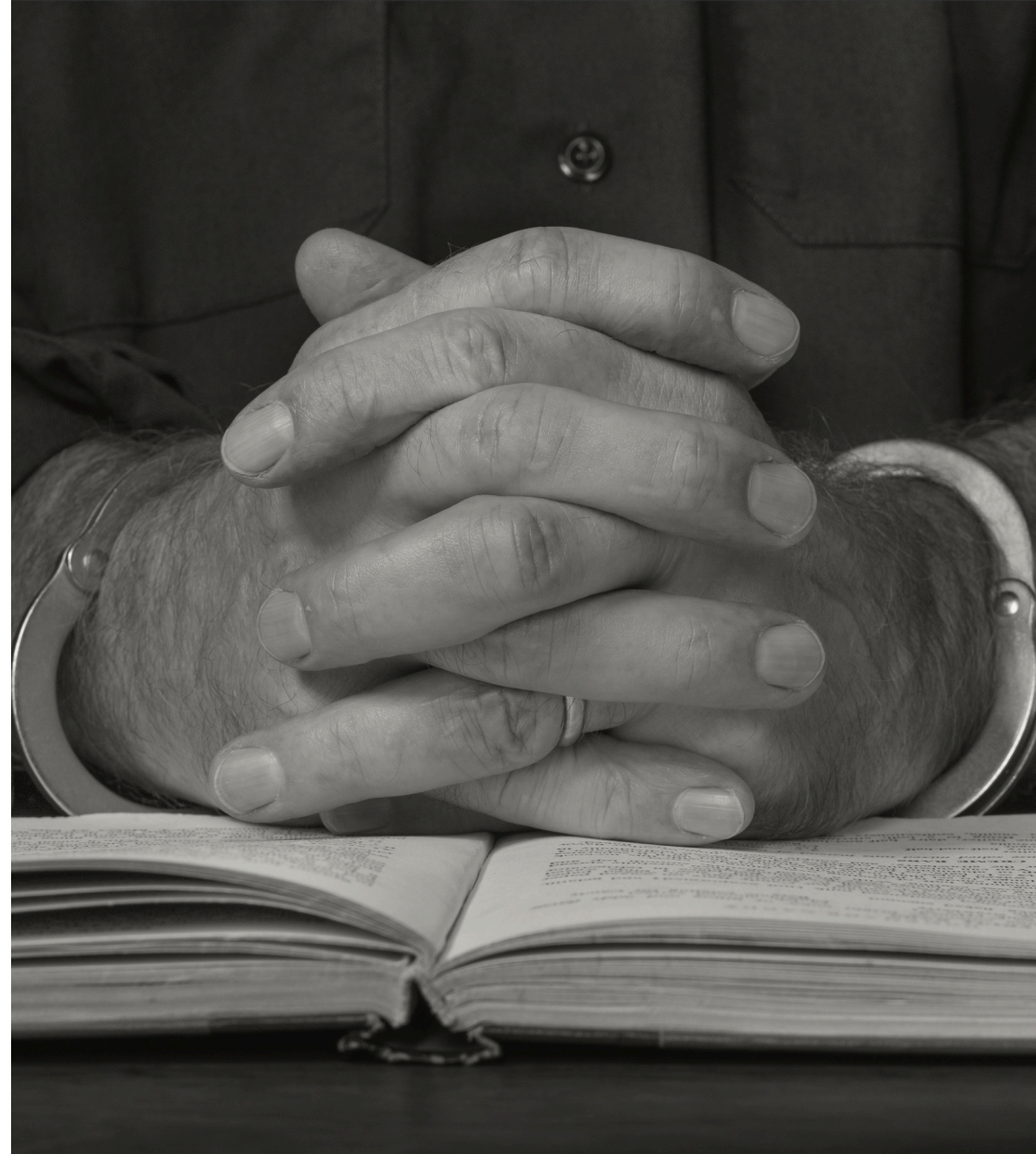


Drug Policy Reform and Rehabilitation:  
Opportunities to Reduce Recidivism  
and Improve Lives  
Isaac Hoffman



**Abstract\***

The drug crisis in the United States is one of extreme magnitude, and one that is highly divisive because there is no clear solution. There are certainly some people who will never have the desire to get clean nor to stay out of prison; and they will remain in a cyclical system of release and re-arrests. However, many addicts and other chronic drug offenders do in fact desire to get clean and lead legitimate lives, but it is impossible to accomplish this without a proper support system or while living on the streets. That is why I believe it is essential to shift the criminal justice system's focus from a punitive one to a rehabilitative one, in cases in which there is a clear problem that must be addressed (e.g., homelessness, addiction, unemployment, mental health). This literature review utilizes both qualitative and quantitative studies with evidence to support the following claim: More lenient sentences for low-level drug crimes, combined with wider utilization of rehabilitation-oriented programs (e.g., drug counseling, job training, education, and treatment for addicts), will produce a drop in recidivism numbers. In addition, it will save money, and improve the overall quality of life of ex-offenders and addicts. The qualitative studies in this literature review make cogent arguments which speak to the unjustness of drug crime sentencing, and provide insight into the benefits of rehabilitative-focused methods. The quantitative studies in this review also find benefits in rehabilitative-focused drug court and prison educational/job-training participation. These benefits are not only represented in reductions of future criminal behavior, but also improvements in other socioeconomic factors.

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## **Introduction**

The drug crisis in the United States is one that is interconnected with many other issues such as mass incarceration, homelessness, and far too few programs that are designed to help ex-offenders reintegrate into society. It seems a nearly impossible task to attempt to solve the drug epidemic without examining the other underlying contributors. Major criminal justice reform is needed to make progress towards ending the drug crisis, and it will require a shift from a punitive focus to a rehabilitative one. This research paper examines issues regarding the duration of punishment for drug-related crimes, and it explores less punitive methods of punishment focused on rehabilitation for offenders. First, it addresses the opposing viewpoints to drug sentencing reform and rehabilitation; this section also presents counter arguments and evidence to support sentence reform and rehabilitation. In the next two sections, it examines both qualitative and quantitative studies which discuss the unjust sentencing practices used for drug offenders and demonstrate the benefits of rehabilitative programs.

Excessive sentencing, even for simple possession charges, is a major contributor to mass incarceration due to previous convictions, mandatory sentencing laws, and add-on charges that can force sentences to be served consecutively. All of these can turn what would otherwise be a one year maximum sentence into a life sentence. To use one example, a Mississippi man was recently given a mandatory sentence of life in prison for the possession of 43 grams of marijuana, due to a prior conviction in 2004. His case will be addressed more in-depth later in this paper, but it serves as just one example to illustrate the unjustness of current drug sentencing practices, and how they prey on society's vulnerable populations, sometimes giving no opportunities for second chances.

The practice of handing out high sentences for low-level charges contributes greatly to the problem of mass incarceration and is extremely taxing on federal and state budgets. In many studies, drug courts have proven to be an effective solution to combat recidivism. In a 154-participant study published by the *Journal of Criminal Justice*, titled *Assessing the Effectiveness of Drug Courts on Recidivism*, it was found that: “The vast majority of adult drug court evaluations, even the most rigorous evaluations, find that participants have lower recidivism than non-participants. The average effect of participation is analogous to a drop in recidivism from 50% to 38%; and these effects last up to three years” (Mitchell et al., 2011, p. 60). More lenient sentences for low-level drug crimes, combined with wider utilization of rehabilitation-oriented programs (e.g., drug counseling, job training, education, and treatment for addicts), will produce a drop in recidivism numbers, save money, and improve the overall quality of life of ex-offenders and addicts. This should influence policymakers’ decisions to implement these changes into the corrections system.

## **Review of Literature**

### ***Oppositional View: Mandatory Minimum Sentencing is Just in Drug Cases***

There are some that contend that current drug sentencing laws are just, and that they deter criminals from [re]offending. Jodi L. Avergun, former chief of staff to the head of the DEA, argues this stance in an essay published by Greenhaven Press. Her main argument supports the use of mandatory minimums to target particularly egregious drug crimes, such as trafficking, and drug crimes that involve children. Avergun (2010) cites advances made by the PROTECT Act of 2003, which enhanced law enforcement

and prosecutorial authority against crimes committed against children and made changes to federal sentencing policy. She states, “The people who would sink to the depths of inhumanity by targeting their trafficking activity at those with the least ability to resist such offers are deserving the most severe punishment” (Avergun, 2010, p. 9). Obviously, no one would argue with this point. It is irrefutable that any crime which targets children is abhorrent, and those criminals deserve to be punished to the full extent of the law.

Avergun’s other arguments are that mandatory minimum laws are an essential tool to force criminals to cooperate with law enforcement, that they deter criminals, and that they provide “uniformity and predictability in sentencing” (Avergun, 2010, p. 9). However, the use of mandatory minimums as a prosecutorial tool to force cooperation is one that is susceptible to abuse because prosecutors are able to threaten defendants with lengthy prison sentences to get them to sign plea deals and force convictions. Also, while mandatory minimums do provide predictability and uniformity to drug sentences, that isn’t necessarily a positive outcome when they are applied consistently to low-level offenders (regardless of prior convictions) in both federal and state cases; and when judges are forced to ignore extenuating circumstances due to some states’ harsher sentencing guidelines. This point is exemplified by the case of Allen Russell, a Mississippi man who was sentenced to life in prison for the possession of 43 grams of marijuana. His case will be discussed next.

### ***Injustice in Sentencing***

In 2019, Allen Russell was sentenced to life in prison for the possession of 43 grams of marijuana, and the sentence was recently upheld by a Mississippi circuit court on appeal, despite dissenting

opinions from many judges. His charge came with a mandatory life sentence due to a home burglary he committed in 2004 (Brown, 2021). During that time, burglary was not considered a violent crime in Mississippi unless there was evidence of violence. However, that changed in 2014, making all burglaries violent crimes. That is why Russell is now serving life without the possibility of parole—For a crime in which another person in Mississippi may only serve one year. His case is just one of many examples of injustices that occur in the sentencing of drug offenders in the United States criminal justice system.

### ***Sentencing Impacts on Mass Incarceration***

Mass incarceration, as it is often labeled in the United States, can be characterized by a rate of incarceration which significantly exceeds either historical norms, or trends seen in similar countries (Garland, as cited in Adelman, 2021, p. 1). And, despite only 5% of the world’s population residing in the United States, “it houses 25% of the world’s prison population.” This is stated by Judge Lynn Adelman, a district judge for the Eastern District of Wisconsin, in a paper published by the *Federal Sentencing Reporter* law journal. Adelman (2021) goes on to explain a couple of contributing factors to the rise of mass incarceration in the nation which include the tough-on-crime sentiments of the past fifty years (which are largely the same today), as well as the rise of the drug trade during the Nixon administration. During which, federal and state lawmakers turned their sights onto more punitive sentencing policies, and the labor market in urban areas for young men dwindled; these factors, combined with the already high levels of drug use in the nation, contributed to the immense profitability of the illegal drug trade. Therefore, it became a “major source of economic opportunity for inner-city males” (Adelman, 2021, p. 2).

With this rise of the drug trade came increased addiction, unemployment, and much harsher sentences for drug crimes, culminating in extremely high incarceration rates. Adelman (2021) describes the use of “harsh penal laws as a surrogate social policy” (p. 3) to attempt to manage a struggling population through incapacitation, while legitimate social policies and rehabilitative approaches seem to be the most viable answer. Additionally, incarceration does not even seem to be a deterrent to drug crime; if anything, it makes the drug trade more profitable. This is the issue that arises when black markets, of any sort, are created. As it is stated by Adelman, “The Sentencing Commission and other researchers have acknowledged that incapacitating a low-level drug seller for a long time prevents little, if any, drug selling; the crime is simply committed by someone else” (Adelman, 2021, p. 3). This then begs the question: Why not pour more resources into implementing sweeping policies, especially as it pertains to these low-level offenders, focused on rehabilitation, when it is so difficult to combat the illegal drug trade with a punitive focus? The next section analyzes studies that have found benefits in drug court and prison educational/job-training participation with quantitative data. These benefits are not only represented in reductions of future criminal behavior, but also improvements in a multitude of other socioeconomic factors.

### ***Benefits of Rehabilitation Programs Represented in Statistical Data***

The drug court model is a rehabilitative method that has shown to be an effective way of handling offenders with substance-abuse issues. It diverts offenders away from prison, jail, or probation, and into a supervision and treatment program that is overseen by a judge, with additional communication between law enforcement,

treatment staff, and the court throughout the duration of the program. Studies have shown drug courts to be highly effective in treating addiction, lowering recidivism, and helping to reduce some of the societal strains mentioned by Adelman (2021), such as the “...disenfranchisement” of released prisoners, the harmful impacts of prison on them, and to the communities they come from as a whole (p. 2).

In an article published by the *Journal of Criminal Justice*, Ojmarrh Mitchell et al. measure the impact of drug court participation on recidivism. It is a meta-analysis, collecting data from 154 studies: 92 from adult drug courts, 34 from juvenile drug courts, and 28 from DWI drug courts. The compiled results from these findings showed that drug court participants had lower recidivism rates than non-participants. Mitchell et al. (2012) stated that, on average, the effect of participation in drug court programs is equal to “...a reduction in drug-related recidivism from 50% to approximately to 37%” (p. 69). They also noted that adult drug courts were the most effective in reducing recidivism of the three. This finding alone supports the claim that drug courts simply make people less likely to reoffend, while at the same time treating issues of addiction.

These reductions in recidivism have also remained consistent during the study of follow-up periods of offenders after the completion of their programs. This includes follow-up periods of three years, as noted by Mitchell et al. in their study, and one-and-a-half years, as echoed in a similar study by Michael Rempel et al., published 2012 by the *Journal of Experimental Criminology*. Rempel et al. use self-reported criminal behavior, re-arrests up to 2 years, and sentence length of the cases on 1,156 drug court participants and 625 comparison offenders to answer the question of whether drug court participation deters future criminal activity.



Their findings indicated that “...drug court participants were significantly less likely to engage in any criminal behavior (40% vs. 53%), drug-related crime (36% vs. 50%), DWI/DUI (19% vs. 27%), and property crime (4% vs. 10%)” (Rempel et al., 2012, p. 181). They did note that this follow-up period of 18 months is relatively short, and could be a possible limitation in their research.

Nevertheless, this should open the door for consideration of expanding treatment programs to a greater number of jurisdictions, and implementing rehabilitation programs for different drug crimes. Mitchell et al. address a hypothesis which suggests that lowering the criteria for programs similar to the drug court treatment model and expanding the number of eligible offenders could prevent a significant number of drug crimes that would otherwise be committed (Bhati & Roman, 2010, as cited in Mitchell et al., 2012, p. 70). This reduction would likely be due to improvements in socioeconomic factors, which have shown in research to be a benefit of rehabilitative programs, and they are seldom addressed through the criminal justice system’s typical approach.

### ***Benefits of Rehabilitative Programs Represented in Qualitative Data***

The main goal of rehabilitative programs is obviously to prevent future drug-related crime and reduce recidivism, however these socioeconomic improvements are an important byproduct of their implementation, particularly in familial relationships, increased employment, and minor improvements in physical and mental health. As it pertains to drug courts, the benefits that mainly emerge are increased employment, and decreased conflict within families. This was indicated in another 18-month follow-up study written by Mia Green and Michael Rempel in 2012, consisting of

interviews with past offenders. During these follow-up interviews, they reported less of a need for “employment, educational, financial assistance, and public financial assistance services,” and they also reported significant decreases in family conflict (Green & Rempel, 2012, p. 169). Moreover, rehabilitative programs such as vocational training and prison education programs are even better suited to combat these issues, in addition to homelessness and mental/physical wellbeing.

### ***Prison Education***

According to John Esperian in an article published by the *Journal of Correctional Education*, the general consensus in this field of research is that “...educating prisoners contributes significantly to reducing recidivism,” and statistics support this claim (Esperian, 2010, p. 323). Esperian argues for further funding and implementation for prison education programs, on the basis that they significantly reduce recidivism and reduce costs associated with long-term incarceration. He uses qualitative interviews with professionals directly involved in prison education to support his research. Esperian (2010) claims that the number of offenders unable to be rehabilitated is quite small in comparison to most criminals, and the educational opportunities provided by these programs should be offered to all incarcerated persons (p. 331). He cites several studies to support this claim, including a 1997 study involving 3600 incarcerated men and women. The ones who participated in prison education programs showed 29% reductions in recidivism rates (Steurer et al., 1997, as cited by Esperian, 2010, pp. 323-324). These educational programs allow for prisoners to be better prepared to reintegrate into society following their release. They improve employment outcomes, “...sharpen rationality and

critical thinking” (Esperian, 2010, p. 329), and generally allow for a much easier transition into life after incarceration.

### ***Suggestions for Implementation***

These sentiments are echoed by Dewey et al. (2020), in their examination of methodological approaches to prison educational and vocational programs. They provide suggestions for widespread implementation of these programs in the nation’s prison administrations, and discuss how to gauge their success. The research team collected information on these programs through qualitative interviews and observations during in-person visits to eight different prison administrations. Dewey et al. (2020) provide a number of suggestions for successful implementation which include: Staff and stakeholders with a genuine investment in the future success of the prisoners, “...job driven vocational partnerships with the community,” providing incentives, encouraging success, providing individualized class environments which cater to different learning styles, providing the same opportunities for prisoners of all ages and sentence lengths, and increasing access to technology to ease the transition into a “technologically based society” (pp. 57-58). Arguably the most important of which is the “...offering [of] a range of vocational courses and training that provide trade certification in demand on the regional labor market” (Dewey et al., 2020, pp. 76-77). It should be ensured that legitimate and long-term employment opportunities that pay a living wage are made available to those who successfully participate in these programs, even those with felony convictions, because employment is one of the largest determinants of recidivism. Rehabilitation is the end goal, and it must be made clear to participants that an opportunity and a path to a legitimate life is attainable by them.

### ***HBCU Prison-to-College Pipeline***

Many HBCUs are creating programs with the goal of providing a path for incarcerated persons to continue their education after release. Carillo (2022) discusses this in an article published by NPR. Carillo interviews Stanley Andrisse, an endocrinologist and professor at Howard University's College of Medicine. Andrisse is a felon, once facing a 20 year sentence at the age of 21, and many of his medical students are formerly incarcerated themselves. With the help of a mentor he had while he was still incarcerated, he was able to acquire his Ph.D. and MBA. His path to where he is is extraordinary, but the goal of HBCUs with this program is to allow others to follow, through the construction of a "prison-to-college pipeline" (Carillo, 2022).

### **Proposed Research Methods**

The incarceration of drug criminals and the sentences imposed on them in the United States is a highly contentious issue. Concerning drug crime, a shift in the criminal justice system's focus from punitive to rehabilitative has shown to have been promising in multiple qualitative and quantitative studies. These studies have discussed the injustices in sentences imposed on low-level drug criminals, as well as demonstrated a multitude of benefits that would be made possible through wider implementation and funding of prison rehabilitative programs. Additionally, the studies covered demonstrate the reductions in recidivism related to drug court, educational, and vocational program participation and graduation, as well as improvements in other socioeconomic factors for the participants, their families, and the communities they hail from.

My proposed research plan will focus on studying the positive effects of all of the rehabilitative programs previously

discussed through the use of qualitative interviews and quantitative surveys conducted with rehabilitative program participants, their families, and other important stakeholders including: prison and program staff and administrators, employers, and presiding judges. The data collected would focus largely on structural factors that contribute to the success of these programs, socioeconomic and psychosocial changes in the participants, and factors which contributed to sentences imposed.

## **Discussion**

### ***Practical Implications***

All of the findings put forward in this research point towards the conclusion that rehabilitative methods *can* be used as an effective alternative to incarceration where it concerns drug offenders. Further research in this field undoubtedly is required. However, in the present it seems apparent that, as a whole, drug crimes sentences are unreasonably high. In my analysis of Avergun's viewpoint essay on mandatory minimum sentencing, I addressed the unfortunate outcome of judges forced to comply with sentencing guidelines and to pass unreasonably long sentences down to low-level offenders. In his essay on justly sentencing drug offenders, Judge Adelman lists several cases in which he opted away from unnecessary guideline ranges in favor of sentences more conducive to the betterment of the offenders and their communities. He notes that the burden of correcting mass incarceration should not fall to judges. Instead, that burden rests on lawmakers, which is true. However, Adelman also states that judges should not shy away from the responsibility of addressing mass incarceration. "Ultimately, the only way to reduce or eliminate mass incarceration is to send fewer people to prison and for shorter periods. Many defendants in drug cases are likely to be eligible for such treatment"

(Adelman, 2021, p. 9). When it is viable, and in the shared interests of society and the offender, judges should use discretion—They should opt for shorter sentences, and treatment or rehabilitation as an alternative. It is also clear that rehabilitative programs (drug courts, prison education, and vocational programs) all show tremendous promise. All of which are statistically proven to reduce recidivism, which should, ultimately, be the main goal of the criminal justice system.

### ***Gap in the Literature***

One recurring gap in existing research on drug courts and rehabilitation is the small sample size of these studies due to a lack of widespread implementation of rehabilitative programs, as well as short follow-up periods studied, oftentimes of only three years. Each recidivism study referenced in this literature review indicated that participation in rehabilitative programs produced notable benefits in lowering recidivism. However, it is difficult to predict with any certainty if these same reductions in recidivism would translate to a federal policy in which rehabilitative programs were offered to *all* offenders whose cases were applicable. It is essential for this gap in the research on prison rehabilitation to be studied further, as this would help to answer the question of whether significant reductions in recidivism carry over to larger sample sizes. More extensive follow-up studies after program completion would also reveal if the benefits of rehabilitation remain consistent long term.

### ***Suggestions for Future Study***

Further research in this field of study should include interviews and surveys conducted with people directly involved in drug treatment and rehabilitation programs in order to determine what factors are

most conducive to the participants' success. Dewey et al. (2020) made valuable contributions in their research on different approaches to prison education, and that research should be built upon to make these programs better. As rehabilitation programs become more widely utilized in the country, further research should also include analysis of secondary sources that gauge their effectiveness by measuring recidivism, program completion rate, and conducting multiple-year follow-up studies after completion.

### **Conclusion**

Regardless of whether all, some, or none of the rehabilitative programs discussed in this paper are implemented at the federal level, most people who are incarcerated will be released at some point in time. Roughly 600,000 men and women are released every year, and it is essential to the health of the nation and its communities that they are provided with the best possible opportunities to remain out of prison; this is done by granting them the skills necessary to lead legitimate lives. This includes the provision of a job that pays a liveable wage, and the required knowledge and preparation for a transition into life after incarceration. The vast majority of people incarcerated for drug crimes are not irredeemable threats to society. "Unfortunately, there is no litmus test to determine which individuals have the potential to change or to recidivate. And that, it would seem, is the primary reason that the opportunity must be extended to all incarcerated felons" (Esperian, 2010, p. 331). Most offenders *can* be rehabilitated, and the most logical solution seems to be to prepare them for reintegration back into society.

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