

Treatment for People with Drug Use Disorders in Contact with the Criminal Justice System: Alternatives to Conviction or Punishment

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Overview of presentation

1. UNODC-WHO Initiative and publication
 - **Chapter 1.** Scope of the problem and reasons to consider the provision of treatment as an alternative to conviction or punishment
 - **Chapter 2.** Choosing treatment and care in line with the international legal framework
 - **Chapter 3.** Treatment and care for offenders with drug use disorders
 - **Chapter 4.** Diversion options to treatment as an alternative to conviction or punishment

UNODC-WHO initiative: Treatment and Care of Persons with Drug Use Disorders in Contact with the Criminal Justice System



Alternatives to conviction or punishment

- Compilation of experiences and practices from around the world – **Please share!**
- Expert consultations (October 2016 and 2017)
- Development of handbook



Preliminary findings (49 countries reported)

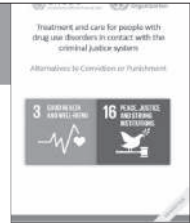
- 63 % of countries: provision of treatment for drug using offenders as alternative to criminal justice sanctions (ARQ data)
- Ca. **40%** of countries (N=49) report such measures **during trial** (usually at sentencing stage)
- Ca. **33%** of countries report measures at **pre-trial stage**, the usually as diversion from prosecution
- Less than **20%** countries indicate treatment as alternative at **post-sentencing** stage (eg early conditional release)
- Some (6) countries reported on drug courts

Launch at 59th session of Commission on Narcotic Drugs 2016

Launched by UNODC and WHO at 59th session of Commission on Narcotic Drugs 2016, in response to **CND resolution 58/5** entitled:

“Supporting the collaboration of public health and justice authorities in pursuing alternative measures to conviction and punishment for appropriate drug related offences of a minor nature”





Purpose

- Enhance potential for alternative measures to conviction or punishment in line with conventions
- Provide knowledge regarding treatment and care alternatives to policy makers for people in contact with justice for substance use.
- Inform criminal justice actors on treatment and care for substance use disorders.
- Encourage coordination of health sector and justice system sectors.

Outline of document

- **Chapter 1.** Scope of the problem and reasons to consider the provision of treatment as an alternative to conviction or punishment
- **Chapter 2.** Choosing treatment and care in line with the international legal framework
- **Chapter 3.** Treatment and care for offenders with drug use disorders
- **Chapter 4.** Diversion options to treatment as an alternative to conviction or punishment

CHAPTER 1 Scope of the problem and reasons to consider the provision of treatment as an alternative to conviction or punishment



Why to consider treatment as an alternative to conviction or punishment for people with drug use disorders in contact with the criminal justice system?

5 rationales suggested



R1. Many people with drug use disorders are in contact with the criminal justice system and many people in the criminal justice system have a history of drug use and drug use disorders



Global prison population

- On any given day, more than **10.2 million people** are held in penal institutions throughout the world
(WDR, 2015)
- Although women make up less than 10% of the world's prisoners, the **female prison population** is increasing at a much faster rate than that of the male prison population (50% increase since 2000, compared to 18% in men).
- **People who use drugs** often have a history of incarceration (WDR 2015), increasing further their vulnerability to infectious diseases



Drug use in prison (WDR 2017)



Cannabis, Heroin, IDU

Drug use – prison -community

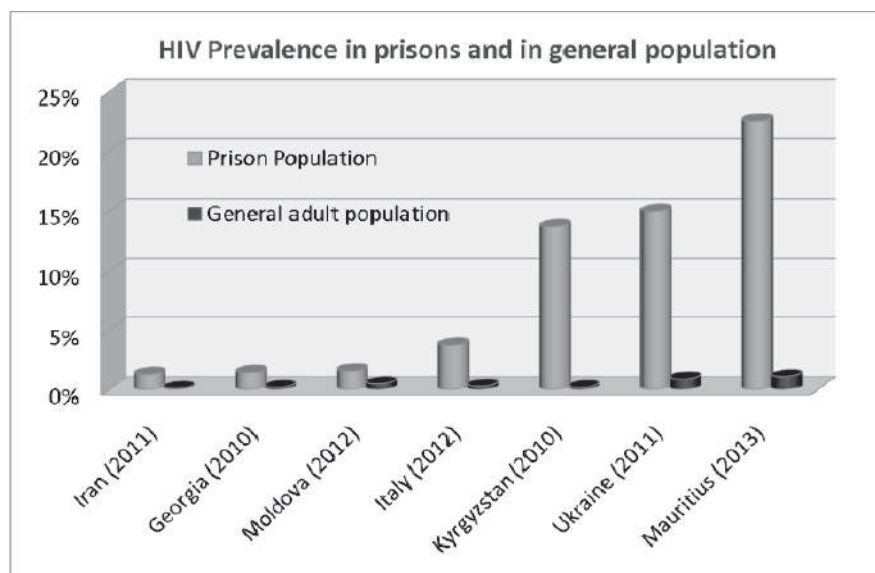
- About half of the people who inject drugs will be incarcerated once or more during their life.
- A significant portion of people going through the criminal justice system worldwide, if not the majority, suffer from drug use disorders

**A higher proportion of women than men are in prison
for drug-related offences**



Source: Based on Roy Walmsley, "World prison population list", 11th ed. (Institute for Criminal Policy Research, 2016) and Roy Walmsley, "World female imprisonment list", 4th ed. (Institute for Criminal Policy Research, 2017).
Share of prisoners for drug offences based on 50 Member States (UNODC, Special data collections on persons held in prisons (2010-2014), United Nations Surveys on Crime Trends and the Operations of Criminal Justice Systems (UN-CTS).

HIV AND PEOPLE WHO INJECT DRUGS IN PRISONS



Prison health is community health

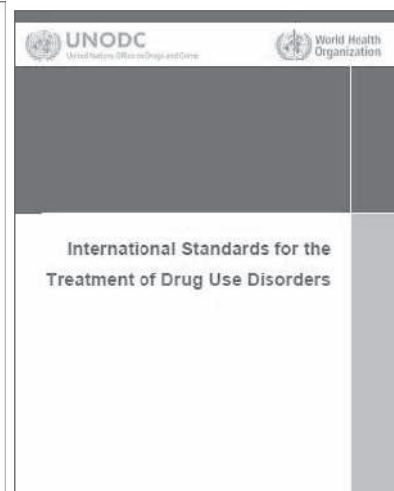
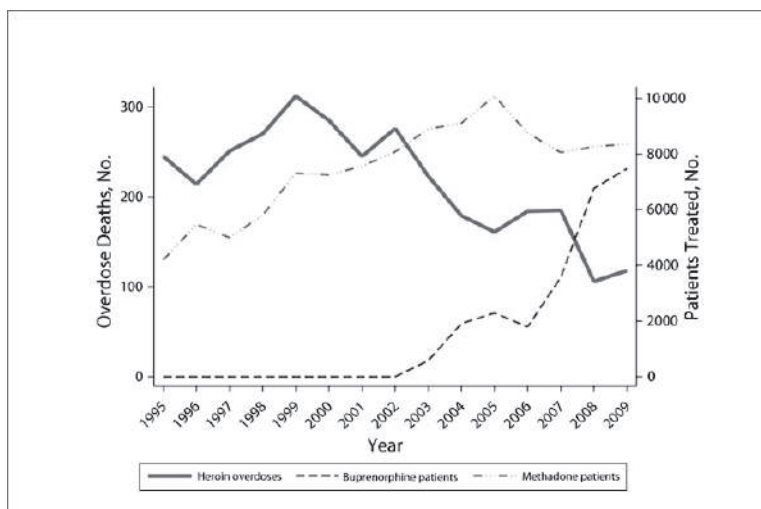
- The rapid turnover of a large number of people between the prison environment and their wider communities outside prison means that prison health merits consideration as an integral part of public health.
- The right to health extends to people in contact with the criminal justice system – no matter the charge.



R3. It is an effective public health strategy

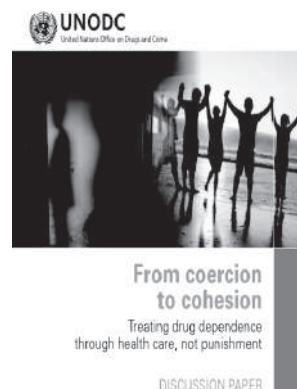


Remember the TX standards presentation



From coercion to cohesion - Treating drug dependence through health care, not punishment (2010)

- Consider underlying biopsychosocial susceptibility to drug use and dependence
- Drug use disorders are **multifactorial brain disorders** that often take a chronic and relapsing course – **best approached by health approach**
- Prison can worsen situation, alternative interventions better placed to reduce drug use, recidivism and prevent HIV, Hepatitis and TB
- **No compulsory treatment:** Legal pressure may encourage engagement in treatment, but the decision whether or not to enter treatment should remain with the individual.



Compulsory treatment is ineffective

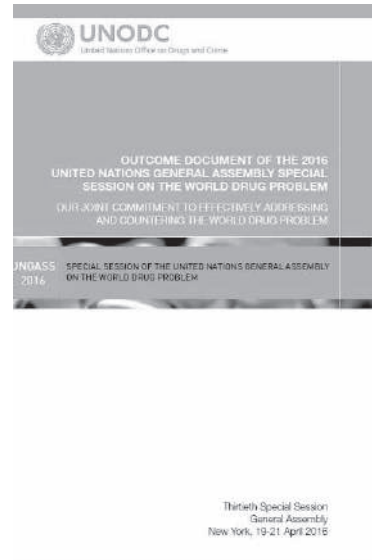
- Drug-addicted repeat offenders involuntarily admitted to a drug addiction treatment centre for a maximum of 2 years.
- The compulsory placement of addicts in the Penal Care Facility for Drug Addicts have been shown to be ineffective for the persons concerned.

Ned Tijdschr Geneeskd.

Treatment of drug-addicted detainees:
an advisory report by the Health Council of the
Netherlands. van de Klippe, 2003

UNGASS 2016 on Drugs

- Encourage the **voluntary participation** of individuals with drug use disorders in treatment programmes, with informed consent



Compulsory treatment can only be emergency exception

Höppener et al. 2013

- Emergency short term involuntary treatment at acute risk for self or others or coma/psychotic crisis
- Rules: rigorous oversight procedures involving more than 1 institution (primary health care, mental health dept., municipality)
- Duration: few days/2 weeks
- Follow up: autonomy respected and consent given to continue treatment

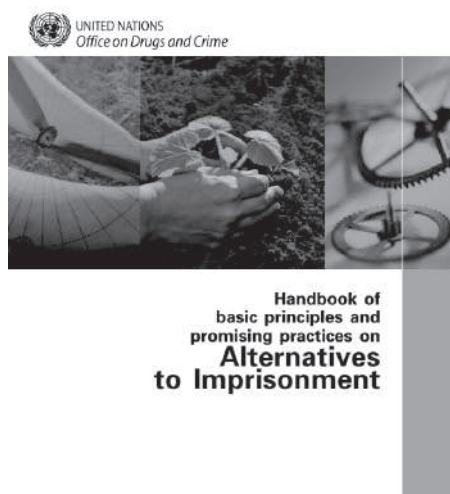


R3. It is an effective criminal justice strategy



Handbook of basic principles and promising practices on Alternatives to Imprisonment.

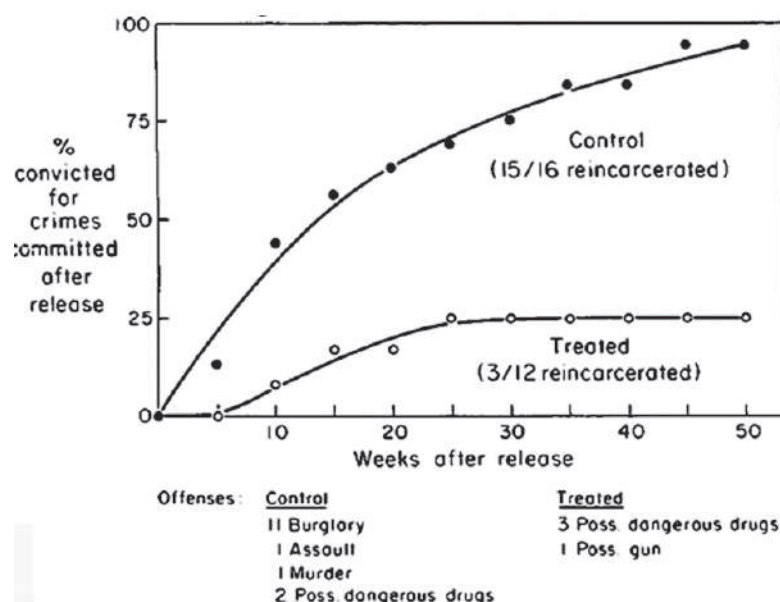
- No evidence that increasing imprisonment rates are improving public safety
- Prison is expensive (direct & indirect costs)
- Alternative strategies can reduce prison overcrowding and associated risk factors & might be more effective (health and safety)
- Human rights (liberty & dignity)





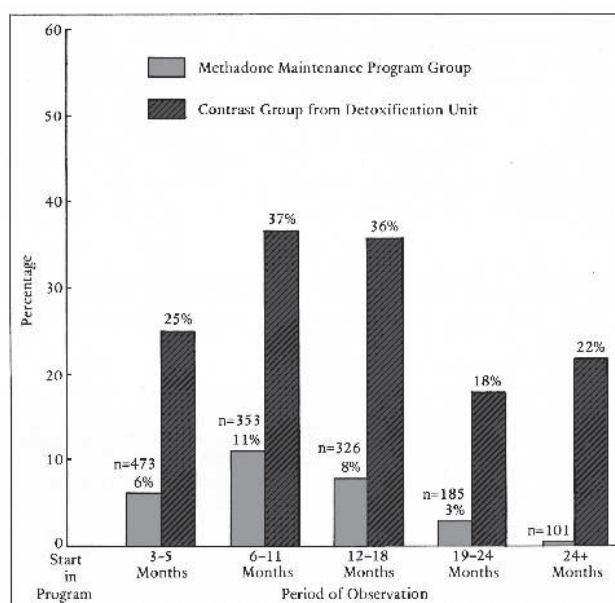
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Pharmacological treatment reduces reincarceration



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Reduction in arrests through evidence-based treatment



N=544



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Community-based treatment reduces crime rate (Zhang, 2017)

Psychosocial and pharmacological treatment:

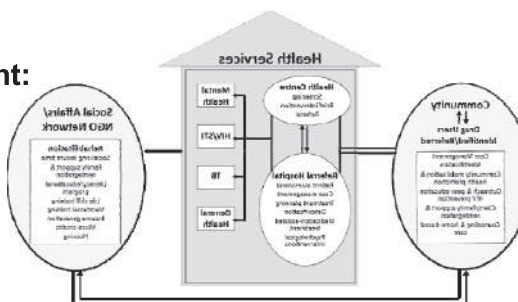
Retention at 12-months: 91.9%, at 24-months: 88.1%

Morphine-positive subjects:
from 61.4% at baseline to 36.2% and 30.5%

Crime rate: from 32.4% at baseline to 2.2% and 1.6%

Employed: from 24.3% at baseline to 37.8% and 50.8%

Addiction-related issues and mental health status improved

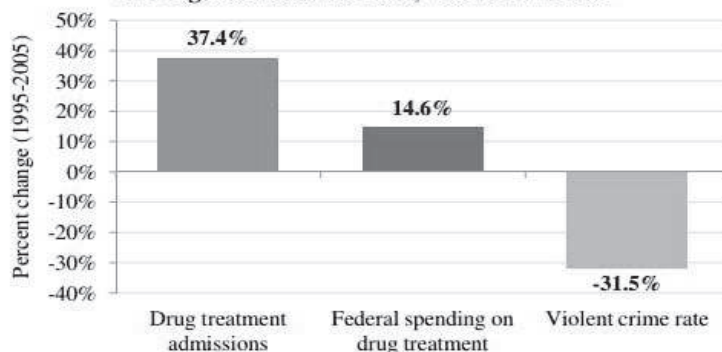


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Association between investment in treatment and crime reduction

While drug treatment admissions and federal spending on drug treatment increased, violent crime fell.



Sources: National Admissions to Substance Abuse Treatment Services, 2005. *Treatment Episode Data Set (TEDS) Highlights-2005*. Drugs include heroin and other opiates, cocaine, marijuana, methamphetamines/amphetamines; Federal Bureau of Investigation, Uniform Crime Report, *Crime in the United States, 1995, 2000, 2005*; Office of National Drug Control Policy, 2005. *National Budget Control Policy: FY 2005 Budget Summary Table 3: Historical Drug Control Funding by Function 1997-2006*.



R4. It contributes to public health and public safety in an integrated way



Treatment in community is cost-effective

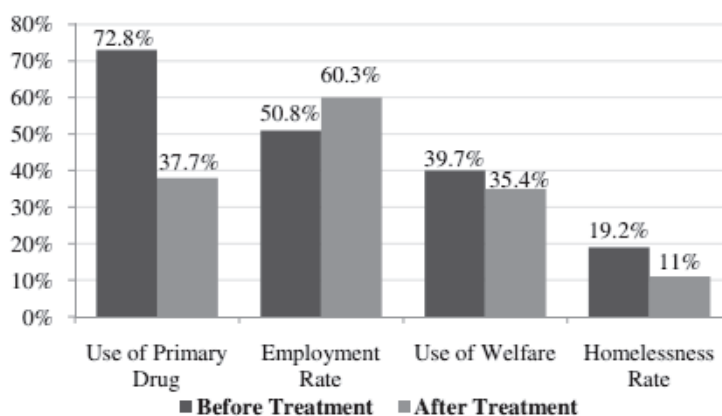
- Every 1\$ spent on drug treatment in the community is estimated to return \$18.52 in benefits to society in terms of reduced incarceration rates and associated crime costs



Washington State Institute for Public Policy (2006).

Treatment improves quality of life and benefits community

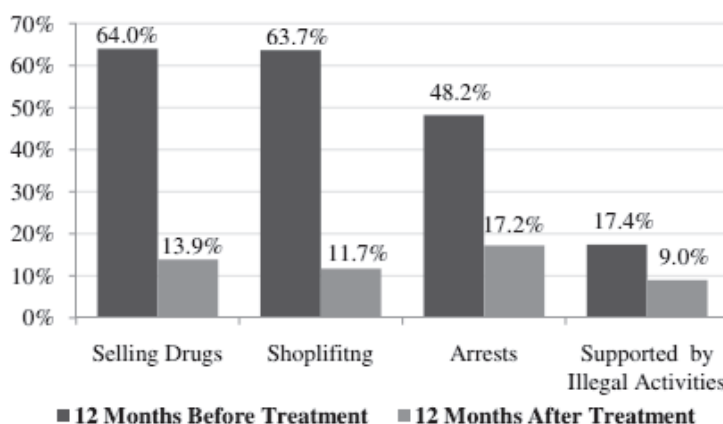
Treatment can improve quality of life and can benefit the community.



Sources: U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Association, Center for Substance Abuse Treatment. 1997. *The National Treatment Improvement Evaluation Study: NTIES Highlights*.

Treatment effects involvement in criminal behaviour

Treatment can reduce the chance that someone will be involved in criminal activity



Sources: U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Association, Center for Substance Abuse Treatment. 1997. *The National Treatment Improvement Evaluation Study: NTIES Highlights*.

Treatment as an alternative less costly than incarceration

Drug Treatment Alternative-to-Prison Program: the average cost of assigning an individual in DTAP was \$32,975 compared to an average cost of \$64,338 for incarceration

Justice Policy Institute US (2007).

Health-justice interaction

- It is therefore essential that police, prosecutors, judges and other judicial officials are aware of alternatives and use them
- It is equally important that qualified health and social service providers implement comprehensive clinical assessment and evidence-based treatment and have a good understanding of the realities of patients in contact with the criminal justice system



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R5. It is in line with the international policy and legal framework



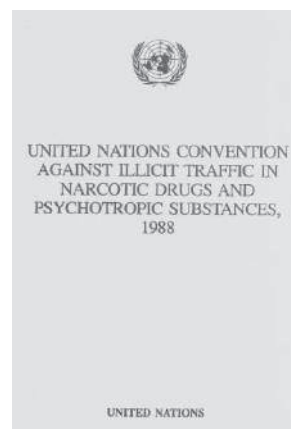
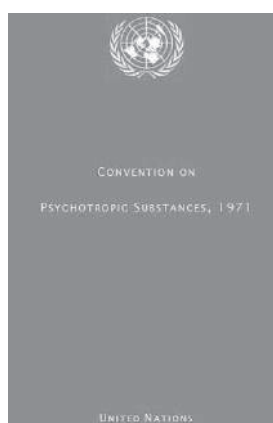
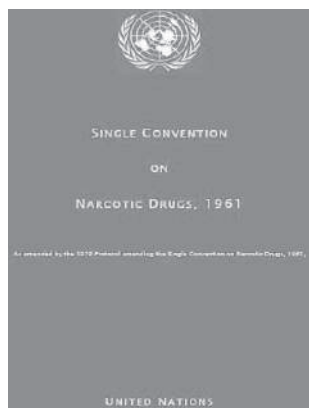
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Sustainable Development Goals

The Sustainable Development Goals



International Drug Control Conventions (1961, 1971, 1988)



- UNGASS (1998)
- Political declaration and plan of action (2009 -2019)
- High level review of Political declaration and plan of action (2014)
- UNGASS (2016)

What do the Conventions say?

- Do the conventions consider drug users as criminals that need to be punished?
- Do the conventions consider the health needs of people with drug use disorders?
- Can treatment, in some cases, be applied as an alternative to criminal justice sanctions?



What do the Conventions say?

- Conventions to ensure access to internationally controlled substances for medical and scientific purpose
- No illegal/legal drugs as such, it is the non-medical use that needs to be treated as an offence
- For personal use related offences and other eligible minor offences, treatment, education, rehabilitation, can be applied as complete alternatives to conviction or punishment
- Offering treatment is a requirement under the conventions

International drug control conventions

(1961, 1971, 1988)

- **Community:** Parties shall take all practical measures for the prevention of abuse of drugs and for the early identification, treatment, education, after-care, rehabilitation and social reintegration of the persons involved
- **Persons in contact with the criminal justice system:** Parties may provide (those measures) either as an alternative to conviction or punishment or in addition to conviction or punishment
- Measures above as alternative in cases of **drug consumption offences** and cases of (drug trafficking) of a minor nature

UNGASS on World Drug Problem 2016

Encourage the **development, adoption and implementation**, with due regard for national, constitutional, legal and administrative systems, of **alternative or additional measures with regard to conviction or punishment** in cases of an appropriate nature, in accordance with the three international drug control conventions and taking into account, as appropriate, relevant United Nations standards and rules, such as the UN Standard Minimum Rules for Noncustodial Measures (the Tokyo Rules)



Commission on Narcotic Drug (CND) Resolution

- CND Resolution 58/5 **“Supporting the collaboration of public health and justice authorities in pursuing alternative measures to conviction or punishment for appropriate drug related offences of a minor nature”**. The Commission on Narcotic Drugs invited UNODC - in consultation with States and, as appropriate, other relevant international and regional organizations - to “provide guidelines or tools on the collaboration of justice and health authorities on alternative measures to conviction or punishment for appropriate drug-related offences of a minor nature”. (2015)

Commission on Crime Prevention and Criminal Justice (CCPCJ) Resolution

- **CCPCJ Resolution L.8: Promoting and encouraging the implementation of alternatives to imprisonment as part of comprehensive crime prevention and criminal justice policies:** encourages Member States, in implementing holistic and comprehensive crime prevention and criminal justice policies, to promote, as appropriate, alternatives to imprisonment, from the pretrial stage to the post-sentencing stage, taking into account the background, gender, age and other specific circumstances of offenders, including their vulnerability, and the objective of their rehabilitation and reintegration into society. (2017)

International Narcotics Control Board

- ***“The Conventions and the Political Declarations clearly determine that an effective drug control policy must rely on a balanced, comprehensive and integrated approach, where health and welfare are at the core of drug control policy, where human rights are promoted and the principle of proportionality is applied. That means that Governments should make greater use of the flexibility which is given by the Conventions, and provide, as appropriate, for alternatives to conviction and punishment.”*** (2016)

Guidance from international standards and norms

- International human rights law
 - Provides general rules on due process and treatment of offenders
- Tokyo Rules
 - Elaborate on the types and implementation of non-custodial alternatives
- Bangkok Rules

Based on the principle of non-discrimination: non-custodial measures for women offenders; treatment of women prisoners

International human rights framework

- Right to health
- Right to personal liberty
- Right to fair trial
- Right to be free from torture or cruel, inhuman or degrading treatment or punishment, no one shall be subjected without his/her free will to medical or scientific experimentation

UN standard minimum rules for non-custodial measures (Tokyo, 1990)



- Legal safeguards
- Supervision
- Duration
- Conditions and non-compliance
- Treatment process
- Staff and training
- Public awareness
- Research and evaluation



Tokyo rules



- Consideration shall be given to develop new non-custodial measures and dealing with offenders in the community
- Within non-custodial measure various schemes, such as case-work, group therapy, residential programmes and specialized treatment of various categories of offenders, should be developed
- Treatment needs professionals who have suitable training/experience
- For treatment: understand the offender's background, personality, aptitude, intelligence, values and, especially, the circumstances leading to the offence.
- The failure of a non-custodial measure should not automatically lead to the imposition of a custodial measure.



Tokyo rules -1-

- 2.4 The development of new non-custodial measures should be encouraged
- 2.5 Consideration shall be given to dealing with offenders in the community, avoiding as far as possible resort to formal proceedings or trial by a court, in accordance with legal safeguards and the rule of law.
- 2.6 Non-custodial measures should be used in accordance with the principle of minimum intervention.
- 13.1 Within the framework of a given non-custodial measure, (...) various schemes, such as case-work, group therapy, residential programmes and the specialized treatment of various categories of offenders, should be developed to meet the needs of offenders more effectively.



Tokyo rules -2-

- 13.2 Treatment should be conducted by professionals who have suitable training and practical experience.
- 14.3 The failure of a non-custodial measure should not automatically lead to the imposition of a custodial measure.



Tokyo rules -3-

- 14.4 In the event of a modification or revocation of the non-custodial measure, the competent authority shall attempt to establish a suitable alternative noncustodial measure. A sentence of imprisonment may be imposed only in the absence of other suitable alternatives.



Gender-specific alternatives?

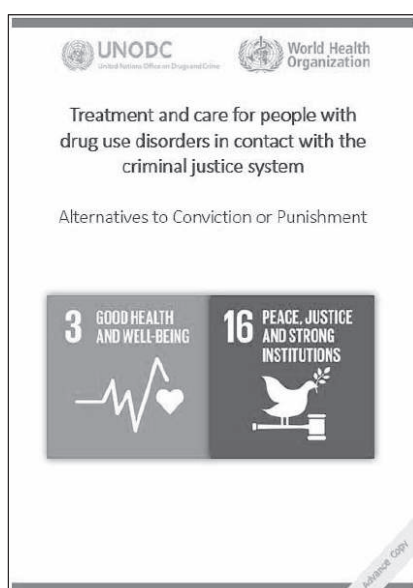
- Most jurisdictions do not have gender-specific alternatives to imprisonment tailored to meet the specific requirements of women offenders.
- Alternatives to imprisonment are well-suited for women offenders as they rarely pose a risk to society and have specific needs (e.g. health care, related to domestic violence and sexual abuse) and responsibilities (e.g. child care)

UN Rules for Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok, 2010)

- Gender-sensitive non-custodial measures (background and family ties of women, best interests of their children)
- Gender-sensitive, trauma-informed risk-assessment and specialized female substance abuse treatment programmes in the community and in prisons



Reasons suggested – other ideas?



- Many people with DUD are in contact with CJS in their life
- It is an effective public health and public safety strategy
- It is saving costs
- It is in line with international policy obligations

CHAPTER 2 Choosing treatment and care in line with the international legal framework



- For what kind of offences might there be contact between people with drug use disorders and the criminal justice system?
- Can alternatives be offered?
- Can treatment be offered?

Offences and possible responses

- a) Possession, purchase or cultivation of controlled drugs for non-medical or non-scientific use & personal consumption (Alt)
- b) Small-scale drug sale to finance a drug habit or international transport of limited quantities of drugs (Alt)
- c) Large-scale drug production and distribution involving violence or organized crime (Add)
- d) Non-violent property offences to finance a drug habit (Alt)
- e) Violent offences under the influence of drugs (Alt/Add)

Treatment and care for people with
 drug use disorders in contact with the
 criminal justice system

Alternatives to Conviction or Punishment



Advance Copy

- **What principles need to be considered when considering/offering treatment as an alternative to conviction or punishment?**

7 Principles: TX of people with DUD in contact with CJS



- 1) Drug use disorders are a public concern requiring responses that are health-centred. Individuals with drug use disorders should not be punished for their drug use disorder but provided with appropriate treatment.
- 2) The use of alternatives to conviction or punishment at all stages of the criminal justice system for offenders with drug use disorders based on an assessment of established criteria should be encouraged

7 Principles



- 3) Proportionality is required during all stages of the diversion and supervision process
- 4) A diversion to treatment should be made with the informed consent of the offender
- 5) The implementation of alternatives to conviction or punishment should respect legal and procedural safeguards



7 Principles

- 6) Specific attention to special groups and their access to treatment as an alternative to conviction or punishment is required to avoid discrimination
- 7) Prisoners with drug use disorders may not be deprived of their right to health and are entitled to the same level of treatment as the general population

How to start?

- Increase accessibility of treatment in the community
- Use flexibility in existing laws
- Review existing laws
- Training for legal professionals and institutions
- Public information and debate: community cohesion

Cooperation and coordination is key

- Close cooperation between Ministry of Justice, Ministry of Health and Ministry of Social affairs
- Shared vision oriented to recovery
- Shared vision for respect for dignity and human rights of people affected
- Interest in effectiveness and cost-effectiveness
- Costs to develop treatment seen as a national investment



Monitoring & evaluation is key

– **Process/implementation- Outcome evaluation:** still valuable evaluations!

➔ Goes hand in hand with systematic **monitoring** and data collection

– **Outcome domains/indicators:** e.g. drug use (not only prevalence, but also intensity, frequency, method and type of drugs), recidivism (criminal charge/conviction), psychosocial functioning (eg. sustained recovery/quality of life)

CHAPTER 3 Treatment and care for offenders with drug use disorders



Treatment and care for people with
drug use disorders in contact with the
criminal justice system

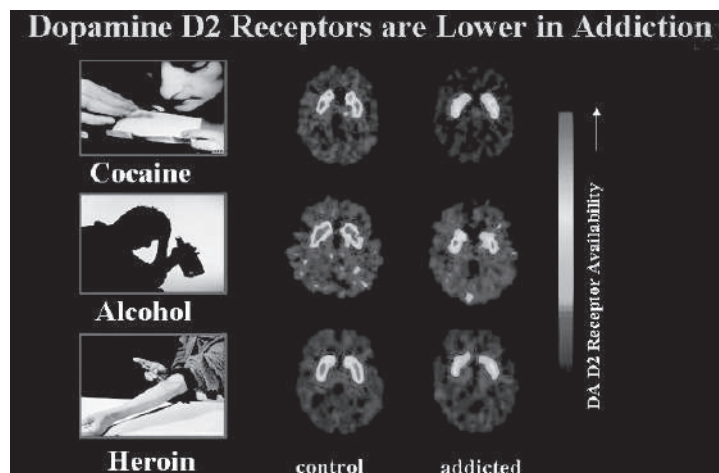
Alternatives to Conviction or Punishment



Advance Copy

- What kind of treatment shall be provided for people with drug use disorders in contact with the criminal justice system?

Drug dependence is a multifactorial disorder affecting the brain



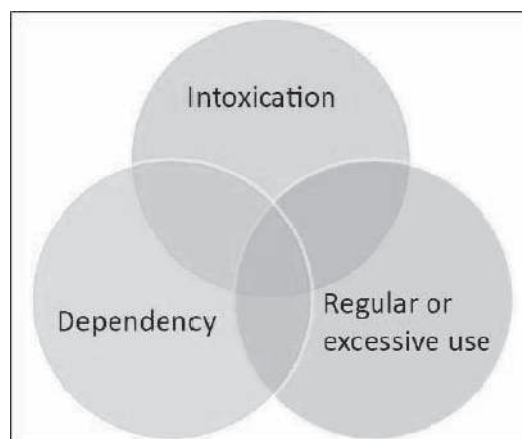
Neuroscience of psychoactive substance use and dependence



World Health Organization

Different stages of drug use disorders

- Intoxication
- Harmful use
- Dependence

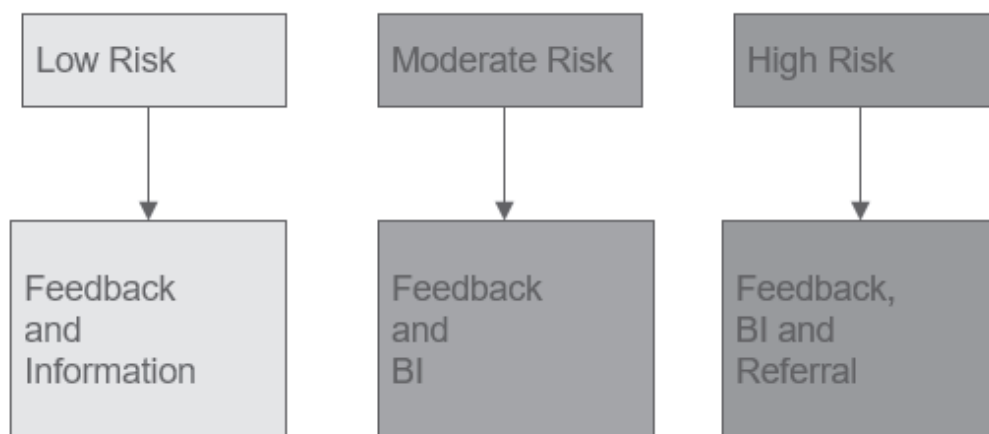


Different interventions
adjusted to addiction severity

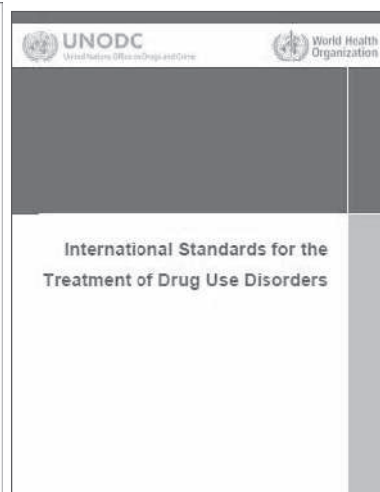
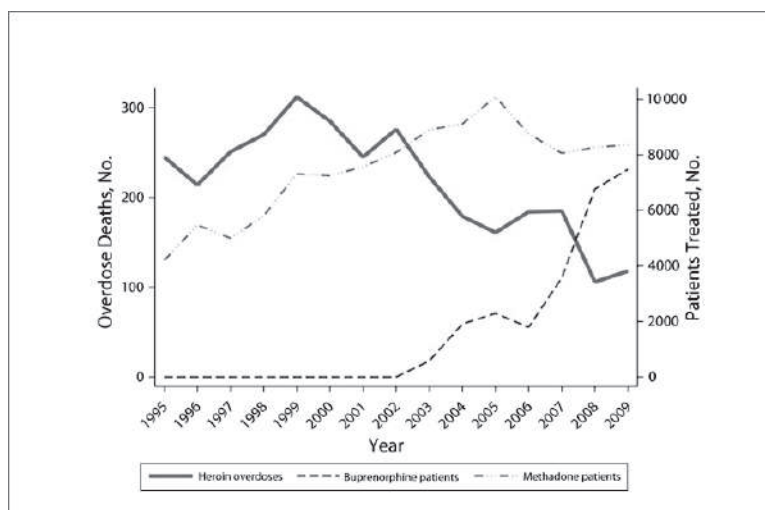
Health screening and assessment of offenders with drug use disorders I contact with the CJS

- **Interception points** for screening and assessment in the CJS: as early as possible after contact
- **Screening:** by trained professional
- **Clinical Assessment** conducted by trained health professional
- **Treatment intervention** in line with health needs
Additional care and support to be offered

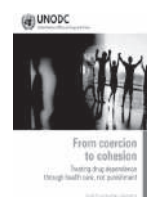
Screening and appropriate (brief) interventions



Remember the TX standards presentation



Health disorders can best
be addressed by an
individualized health and
social response



**Prison needs to be a
measure of last resort**

**Alternative strategies
depend on a network of
accessible treatment
services in the
community**



Accessible and attractive treatment & care in the community reduces criminal justice contacts §

CHAPTER 4 Diversion options to treatment as an alternative to conviction or punishment



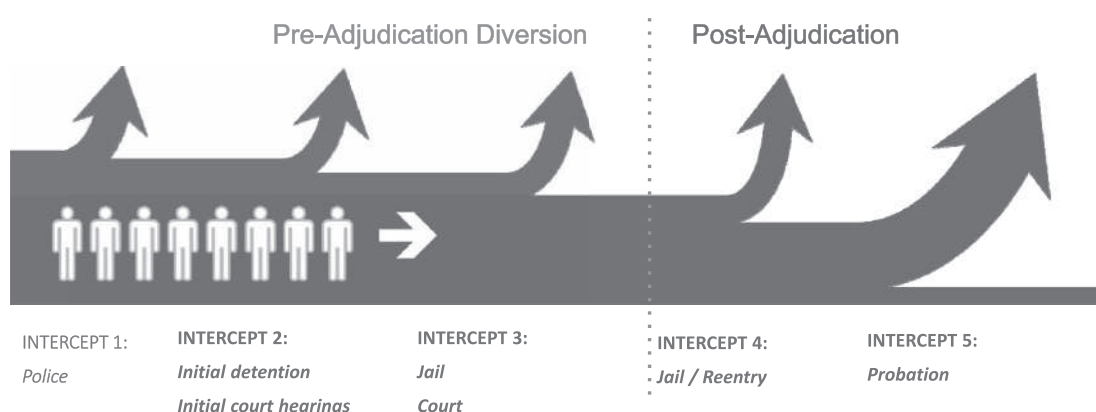
Developing and Implementing drug treatment alternatives in a legal system

- Every country's individual legal system and tradition particularly the process, timeframe and the role of judicial actors need to be taken into account



Alternatives can be applied throughout

Community-based services and recovery support




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Which experiences exist with treatment as an alternative to conviction or punishment?


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ADMINISTRATIVE RESPONSE	CRIMINAL JUSTICE RESPONSE		
PRE-ARREST	PRE-TRIAL	TRIAL/SENTENCING	POST-SENTENCING
Police	Police, Prosecutor, Defence, Examining magistrate	Judge, Probation officers	Prison Director, Parole Board, Minister of Justice
Administrative response with information referral to treatment	Caution with a diversion to education/treatment	Postponement of the sentence with a treatment element	Early release/parole/pardon with a treatment element
	Conditional dismissal/ Conditional suspension of the prosecution	Deferring the execution of the sentence with a treatment element	
	Conditional bail (alternative to pre-trial detention)	Probation/judicial supervision	
		Special courts/ lock (i.e. the Drug Treatment Court)	

Divert to treatment?

Treatment needs?

ADMINISTRATIVE RESPONSE




Treatment and care for people with
drug use disorders in contact with the
criminal justice system

Alternatives to Conviction or Punishment



Advance Copy

- What administrative measures can you think of?
- Do you know any examples?

 UNODC United Nations Office on Drugs and Crime			
ADMINISTRATIVE RESPONSE	CRIMINAL JUSTICE RESPONSE		
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Administrative responses instead of criminal sanctions

- Administrative instead of criminal sanctions often used for minor breaches of the law (e.g. road traffic violations): When such violations are committed by people with drug use disorder, sanction could be diversion to treatment
- Non-criminal justice response to possession of drugs for personal consumption without aggravating circumstances: possession is still unlawful, but response is administrative legal

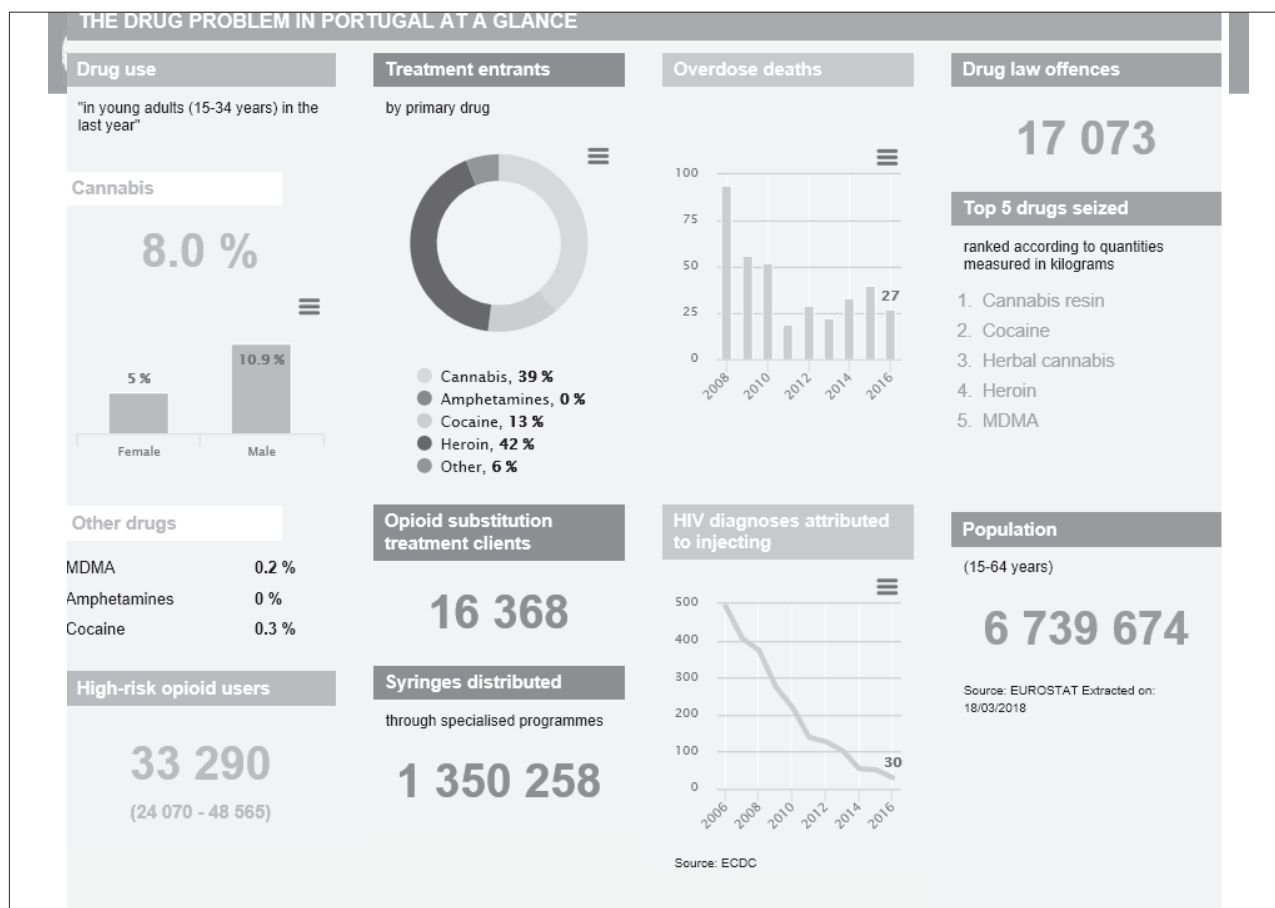
Administrative measures as alternative to conviction

Transforming administrative measures
into fruitful contacts
with social / health institutions
and therapeutic opportunities



Example Portugal – administrative sanctions

- 2001 Portugal eliminated criminal penalties for low-level possession (10 days supply) of all types of controlled drugs
- Personal consumption offences reclassified as administrative violations
- Commissions for the Dissuasion of Drug Abuse (justice/health/social) evaluate possible treatment needs and a) refer to voluntary TX b) pay a fine or impose other administrative sanctions



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PRE-TRIAL DIVERSION



Treatment and care for people with
drug use disorders in contact with the
criminal justice system

Alternatives to Conviction or Punishment



Advance Copy

- What pre-trial legal options can you think of?
- Do you know any examples?

ADMINISTRATIVE RESPONSE	CRIMINAL JUSTICE RESPONSE		
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	Conditional bail (alternative to pre-trial detention)	Probation/judicial supervision	
		Special courts/docks (f.e. the Drug Treatment Court)	

Pre-trial diversion options

- **Caution (with diversion to education/treatment):** A caution is an alternative to arrest or prosecution. A conditional caution is often used in conjunction with a referral to an education session, assessment and/or a brief intervention or treatment instead of being charged with an offence. Generally, the defendant has to admit the offence and agree to be cautioned. When breaching the conditions, the defendant could be prosecuted. In several countries, a conditional caution is often used in cases of possession of cannabis for personal consumption.
- **Suspension of the prosecution, conditional dismissal:** The relevant judicial actor (e.g. the prosecutor) may suspend the proceedings on the condition that the defendant completes treatment and complies with the conditions. In this way, the case does not proceed to the court for trial.
- **Conditional bail:** Conditional bail can be granted on the condition of participation in treatment. They are less intensive forms, such as release on recognizance with obligations attached, and more intensive forms, such as long-term residential treatment as a condition of bail. A pretrial supervision agency or probation officers supervises compliance with the conditions. If the offender fails to comply with the conditions, he or she may be sent to jail prior to trial. Successful completion of the conditions may mitigate the sentence if the offender is convicted.

Example: Cannabis Caution Schemes (Australia)

~~Diversions scheme for adults found in the possession of cannabis for~~
 personal consumption

- Under this scheme, police officers who find someone in the possession of cannabis can opt to issue them with a caution rather than a formal charge.
- Caution includes a warning about the legal and health consequences of using cannabis and contains phone numbers for the Alcohol and Drug Information Service (ADIS). On a second caution a person is required to contact ADIS and attend an education session about their cannabis use.

TRIAL STAGE DIVERSION



Treatment and care for people with
drug use disorders in contact with the
criminal justice system

Alternatives to Conviction or Punishment



Advance Copy

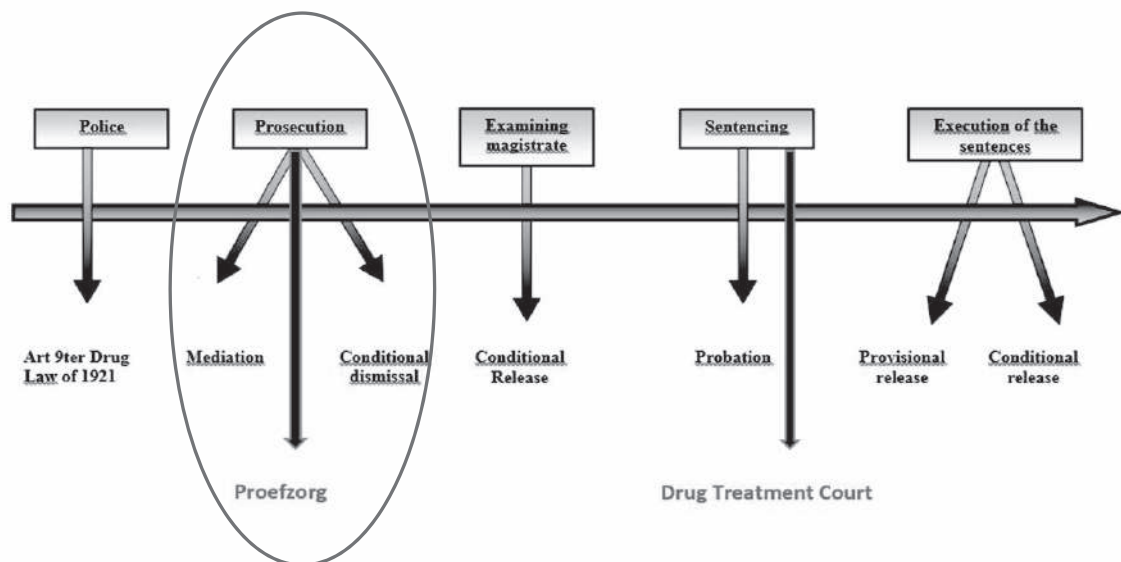
- What trial stage legal options can you think of?
- Do you know any examples?

ADMINISTRATIVE RESPONSE	CRIMINAL JUSTICE RESPONSE		
PRE-ARREST	PRE-TRIAL	TRIAL/SENTENCING	POST-SENTENCING
Police	Police, Prosecutor, Defence, Examining magistrate	Judge, Probation officers	Prison Director, Parole Board, Minister of Justice
Administrative response with information/referral to treatment	Caution with a diversion to education/treatment	Postponement of the sentence with a treatment element	Early release/parole/pardon with a treatment element
	Conditional dismissal/ Conditional suspension of the prosecution	Deferring the execution of the sentence with a treatment element	
	Conditional bail (alternative to pre-trial detention)	Probation/judicial supervision	
		Special courts/docks (f.e. the Drug Treatment Court)	

Sentencing stage

- **Conditionally deferred sentence:** the judge convicts the offender, but does not immediately pronounce a sentence although the facts are considered to be proven. During this period, the offender can be diverted to treatment under judicial supervision. Depending on the result, a (formal) sentence may not be pronounced. If the conditions of deferral are not met, a hearing will determine whether the terms have been violated and a sentence will be determined.
- **Conditionally suspended sentence:** the judge pronounces a sentence, but its implementation is suspended for a specific period of time and on certain conditions the defendant needs to comply with. Depending on the jurisdiction, there is a declaration of guilt and the measure will be mentioned on a criminal record but there is no deprivation of liberty. When a person breaches the conditions, a hearing will determine whether the terms have been violated and he/she will likely have to serve the original sentence.
- **Probation:** the convicted person is placed under the supervision of a probation officer for a specified length of time. There are some common practices such as supervision, guidance and assistance. Probation typically entails more intensive supervision of offenders than would be involved in a suspended sentence alone. This may result in increased control of probation services over offenders, it also provides scope for the provision of necessary psychological, social and material assistance.

Example: Belgian diversion approaches



Belgian practice: Profzoerg

- Treatment and care under judicial supervision (“Proefzorg”) started in 2005 now situated under the measure of mediation.
- The public prosecutor can decide to divert people, who have admitted to having committed offences stemming from their drug use disorder, to treatment services for a maximum of 6 months. Participants are placed within a 'short version' or a 'long version' of the programme, depending on their needs and the severity of their drug/criminal career.
- The short version (one assessment interview in a treatment centre) is reserved for users who have no problems in other life spheres.

Belgian practice: Proefzoerg

- Long version for persons who have problems in other spheres of life and who have previous drug related offences.
- Long version involves a referral to appropriate services (including outpatient treatment or a therapeutic community programme) based on their needs and for a maximum period of 6 months.
- A programme manager facilitates cooperation and communication between the public prosecutor and the treatment sector. The prosecutor has the final decision, with compliance resulting in the case statutory barred and non-compliance resulting prosecution.

Belgium Evaluation Proefzoerg

- ➔ Effect study (pre- and post-measurement, 2007): **recidivism reduction, progress in life domains**
 - A diversion to treatment at prosecution level (° 2005, Ghent - 'Proefzorg', similar projects in other districts)
- ➔ Process and impact evaluation
- This project has been subject of a process evaluation study that showed promising results. Only 3% of the participants failed (did not comply with the condition) in the short-version and 36% in the long-version. **Cooperation between the criminal justice system and the treatment services was successful**, with a majority of respondents expressing satisfaction with their role and a positive attitude towards the programme.

SPECIAL COURTS



Treatment and care for people with
drug use disorders in contact with the
criminal justice system

Alternatives to Conviction or Punishment



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- Do you have any special courts for people with drug use disorders in your country?

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	Conditional bail (alternative to pre-trial detention)	Probation/judicial supervision	
		Special courts/dockets (f.e. the Drug Treatment Court)	

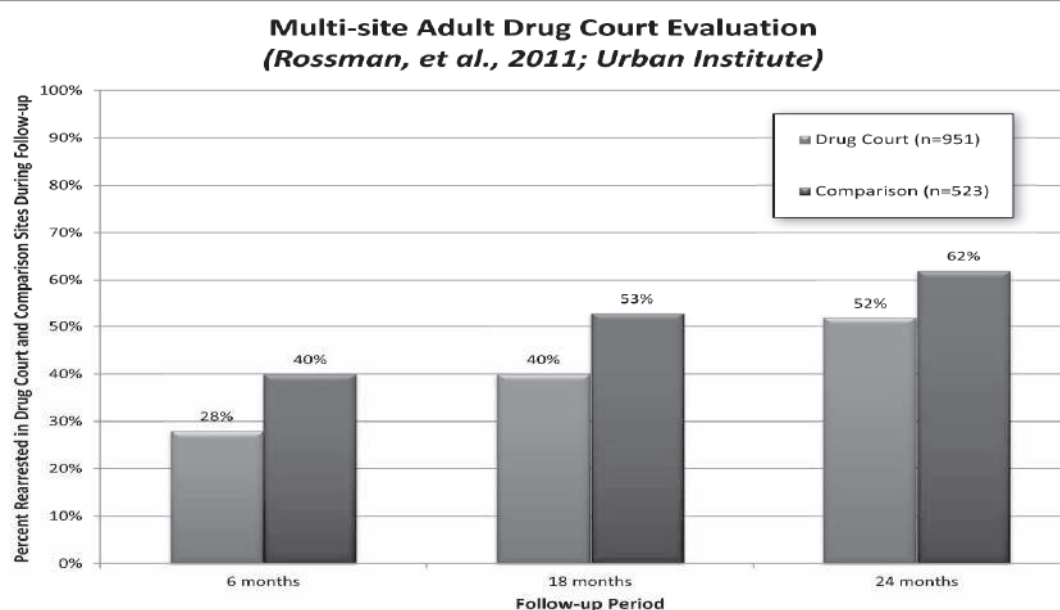
Special courts/dockets

- **Drug Treatment Courts (DTC):** legal eligibility criteria, drug cases considered, screening and referral, the organisation vary. The preference for rehabilitative goals, the very active role of the judge, and the collaboration between defence and prosecution in non-adversarial systems are elements highly conducive to the importation of the DTC model
- **DTC Type 1:** post-adjudication/sentencing programmes, requiring the defendant to plead guilty. In the US, most DTCs require the defendant to plead guilty and have their sentences deferred or suspended in order to be diverted to treatment. After completing the court proceeding, the sentence could be waived or reduced.
- **DTC Type 2:** People who enter a DTC before being convicted. In these drug courts, a guilty plea is not required and the defendant is only prosecuted if he or she fails to complete the programme. The defendant must however acknowledge having a drug use disorder.

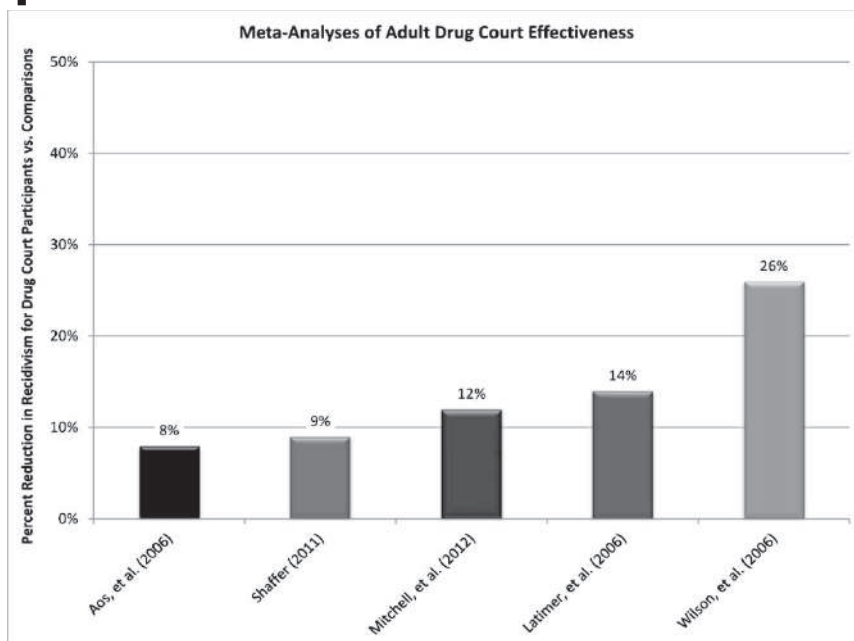
Drug Treatment Courts

- Specify the frequency, type and intensity of supervision and monitoring & focus beyond treatment also aim to address problems on other drug-related life domains
- More intensive treatment is used during the initial stages of treatment, followed by less intensive involvement later
- **DTCs are most effective when they target higher risk and higher need offenders²¹⁰. DTCs that serve only first-time or low-risk offenders are not likely to be cost-effective.**

DTC and re-arrest over time



DTC Percent reduction in recidivism vs. comparison in different studies



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POST-TRIAL DIVERSION



Grand Bassam, Cote D'Ivoire | 20-22 November 2017

Treatment and care for people with
drug use disorders in contact with the
criminal justice system

Alternatives to Conviction or Punishment



Advance Copy

- What post-trial stage legal options can you think of?
- Do you know any examples?

ADMINISTRATIVE RESPONSE	CRIMINAL JUSTICE RESPONSE		
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		Special courts/docks (f.e. the Drug Treatment Court)	

Post-sentencing stage



- **Early conditional release or parole:** Early release of sentenced prisoners under individualized post-release conditions. A prisoner can be released conditionally after a certain period or when a fixed proportion of the sentence has been served. This conditional release can be mandatory when it takes place automatically, or it can be discretionary when a decision has to be made whether to release a prisoner conditionally. In the case of prisoners with drug use disorders, the condition often entails referral to treatment. Promoting the individual's compliance with the condition often requires sustained supervision and case management to ensure that underlying factors that might deter compliance – lack of housing, lack of transportation, negative peer relationships, for example – are promptly addressed before non-compliance becomes a problem. When breaching the conditions, the early release may be revoked and the person may be brought back to prison.

Example -Half-way houses

- Post-trial stage, e.g. early release
- Provided when there is a need for intermediate housing during the transition from prison to the community
- Typically provide self-help support groups and, in some cases, provide structured treatment options dedicated to those residing within the halfway house
- Average stay is 12 weeks



Example - Jail Discharge Programme

- Pre-release care
- Verification of insurance enrollment & medical provider selection
- Unifying medical and behavioral health care plans, & developing individual care plans to address all needs
- Coaching on how to access medication
- Client engagement, education, and motivation
- Post-release care:
- Client contact and support (30 days)
- Linkage to care
- Client and provider follow up
- Guidance, resources, motivation and health literacy information

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OPTIONS ALONG THE JUSTICE PROCESS - SUMMARY



Alternatives to conviction or punishment along the justice process

- Pre-trial: discharge the offender in appropriate circumstances or to impose non-custodial measures, including treatment and care services, for minor cases
- Trial: take into consideration the rehabilitative needs of the offender, the protection of society and the interests of the victim
- Post-trial: any form of release from an institution to a non-custodial programme shall be considered at the earliest possible stage

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TREATMENT IN PRISON



Treatment and care for people with
drug use disorders in contact with the
criminal justice system

Alternatives to Conviction or Punishment

3 GOOD HEALTH
AND WELL-BEING



16 PEACE, JUSTICE
AND STRONG
INSTITUTIONS



Advance Copy

- **Why to offer
drug use disorder
treatment in
prisons?**

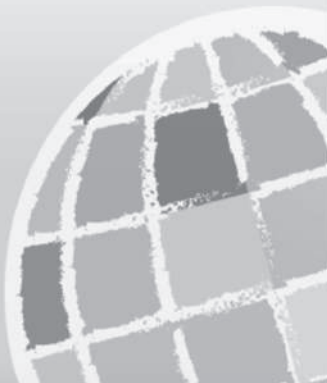
Prison as a measure of last resort



UNITED NATIONS
Office on Drugs and Crime

Treatnet
International network of drug dependence
treatment and rehabilitation experts

**Drug Dependence Treatment:
Interventions for Drug Users
in Prison**



UNODC
United Nations Office on Drugs and Crime



**The United Nations
Standard Minimum Rules for
the Treatment of Prisoners**

[the Nelson Mandela Rules]

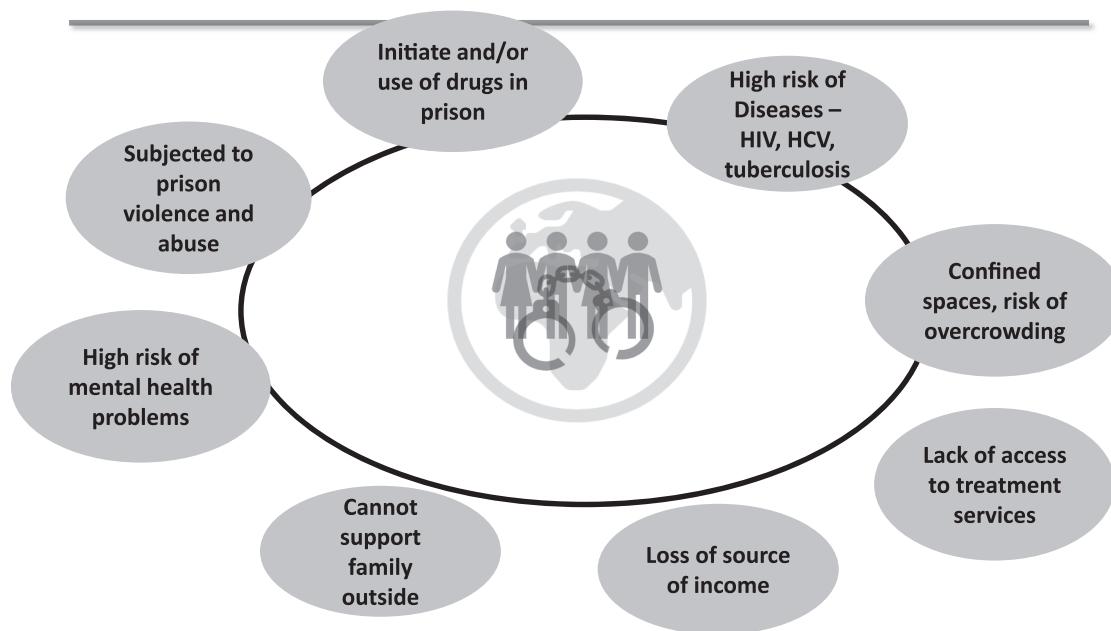




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Risks associated with incarceration



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Drug use does not stop in prisons^(WDR 2017)

- 1:3 prisoners has used an illicit substance at some time while incarcerated.
- Cannabis is by far the most commonly used drug in prison, while heroin ranks second.
- Approximately 10% of prisoners report using heroin at some time while incarcerated, 1/3 of whom report current (past-month) use within prison.

Principle of equity – Mandela rules

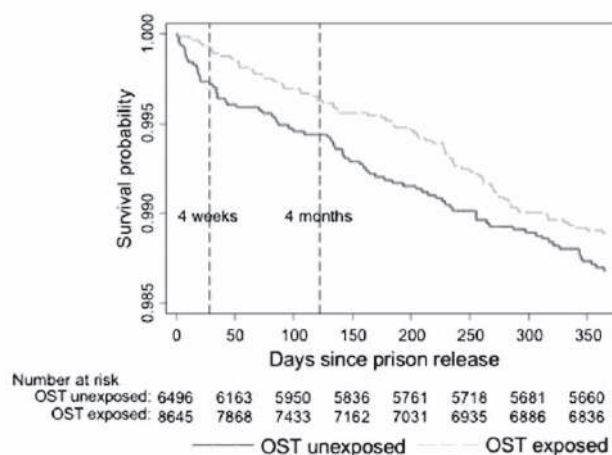
- Ensuring the same standards of health care that are available in the community and providing access to the necessary health-care services to prisoners free of charge without discrimination



The United Nations
Standard Minimum Rules for
the Treatment of Prisoners
(the Nelson Mandela Rules)

Pharmacological treatment in prisons reduced mortality after release

- In an English national study, prison-based opioid substitution therapy was associated with a 75% reduction in all-cause mortality and an 85% reduction in fatal drug-related poisoning in the first month after release



Therapeutic communities in prisons reduce re-offending

- Prison TC better than prison on it's own or Mental Health Treatment Programmes to prevent re-offending postrelease for inmates

Therapeutic communities for substance related disorder
(Review)

Smith LA, Gates S, Foxcroft D



Planning release to community

- Provide TX in prison and maintain engagement in treatment and care in the community
- Social support (housing, work, family)
- Overdose awareness/prevention/training and information on the range of community services available, including how to access them: active linkage
- Overdose management training and provision of naloxone pre-release



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Increased overdose risk– shortly after release

- Review: 6 out 10 deaths in the first 12 weeks after release drug-related
- Increased risk of drug-related death during the first two weeks after release from prison (remains elevated up to at least the fourth week)

Stop - Overdose - Safely

- http://www.euro.who.int/__data/assets/pdf_file/0005/249188/Prisons-and-Health.pdf?ua=1



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Protective effect of maintenance TX in prison (England)

- Being in methadone/ buprenorphine treatment associated with 85% reduction in drug related death mortality (compared to people with opioid use disorder not in treatment).

ADDICTION
RESEARCH REPORT

SSA
SPECIAL SURVEILLANCE
ANALYSIS

Does exposure to opioid substitution treatment in prison reduce the risk of death after release? A national prospective observational study in England

John Marsden¹, Garry Stillewell¹, Hayley Jones², Alisha Cooper³, Brian Eastwood³, Michael Farrell⁴, Tim Lawder⁵, Nino Maddalena⁶, Chris Metcalfe⁶, Jenny Shaw⁶ & Matthew Hickman²

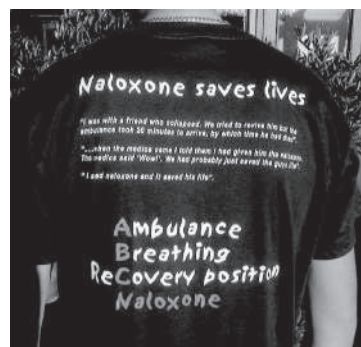
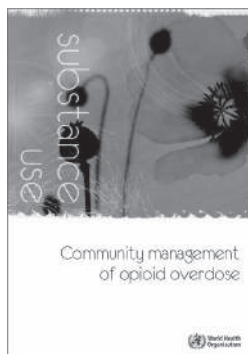
Addiction Department, Institute of Psychiatry, Psychology and Neuroscience, King's College London, London, UK; ²School of Social and Community Medicine, Faculty of Health Sciences, University of Bristol, Bristol, UK; ³Health, Drug and Alcohol Unit, Health and Wellbeing Directorate, Public Health England, London, UK; ⁴National Drug and Alcohol Research Centre, University of New South Wales, New South Wales, Australia; and Institute of Brain, Behaviour and Mental Health, University of Manchester, Manchester, UK

ABSTRACT

Background and Aims People with opioid use disorder (OUD) in prison face an acute risk of death after release. We estimated whether prison-based opioid substitution treatment (OST) reduces this risk. **Design** Prospective observational cohort study using prison health care, national community drug misuse treatment and deaths registers. **Setting** Recruitment at 39 adult prisons in England (32 male; seven female) accounting for 95% of OST treatment in England during study planning. **Participants** Adult prisoners diagnosed with OUD (recruited: September 2010–August 2013; first release: September 2013; last release: October 2014; follow-up to February 2016; $n = 15\,141$ in the risk set). **Intervention and Comparator** At release, participants were classified as OST exposed ($n = 8645$) or OST unexposed ($n = 6496$). The OST unexposed group did not receive OST, or had been withdrawn, or had a low dose. **Measurements** Primary outcome: all-cause mortality (ACM) in the first 4 weeks. Secondary outcomes: drug-related poisoning (DRP) deaths in the first 4 weeks; ACM and DRP mortality after 4 weeks to 1 year; admission to community drug misuse treatment in the first 4 weeks. Unadjusted and adjusted Cox regression models (covariates: sex, age, drug injecting, problem alcohol use, use of benzodiazepines, cocaine, prison transfer and admission to community treatment), tested difference in mortality rates and community treatment uptake. **Findings** During the first 4 weeks after prison release there were 24 ACM deaths in the OST exposed group and 18 in the OST unexposed group [mortality rate 0.93 per 100 person-years (py) versus 3.67 per 100 py; hazard ratio (HR) = 0.25; 95% confidence interval (CI) = 0.10–0.64]. There were 11 DRP deaths: OST exposed group mortality rate 0.47 per 100 py versus 3.06 per 100 py in the OST

Possibility of pre-release training on OD

- How to recognise overdose
- How to manage situation
- How to give naloxone
- Provide naloxone



Example - Jail Discharge Programme

- | | |
|--|--|
| <ul style="list-style-type: none"> • <u>Pre-release care</u> • Verification of insurance enrollment & medical provider selection • Unifying medical and behavioral health care plans, & developing individual care plans to address all needs • Coaching on how to access medication • Client engagement, education, and motivation | <ul style="list-style-type: none"> • <u>Post-release care:</u> • Client contact and support (30 days) • Linkage to care • Client and provider follow up • Guidance, resources, motivation and health literacy information |
|--|--|

Example –Supportive Release Center (SRC)

- Screening survey at the jail, transport eligible and interested participants from the jail to the nearby SRC for full needs assessments
- Facilitate linkages to services in the community, including substance use treatment, mental health services, supportive housing, job training programs, and legal aid resources



CHAPTER 5 - CONCLUSIONS





- **What would be your conclusions?**

Conclusions –1-

- Adopt a health paradigm: Drug use disorders can be treated in a health-oriented framework
- Use the criminal justice system as a gateway to treatment: the criminal justice system is an important setting for drug-related interventions
- Accept that recovery from drug use disorders is a process: drug use disorders are relapsing conditions

Conclusions -2-

- Diversify treatment: not every offender with drug use disorders requires (the same intensity) of treatment
- Alternatives to conviction or punishment are in line with the international legal framework
- Focus on diversion opportunities – it is an international obligation

Conclusions -3-

- Create partnerships: the treatment system and treatment services could and should work together, taking into account a proper role definition and respect for each other's principles
- Provide a stimulating environment for the provision of alternative, non-custodial measures



The Turning Point: Lana Sandas

- <https://www.youtube.com/watch?v=IHluo6ArJCc>

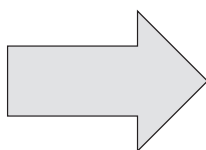


What is the response we want to give and why?

From coercion to cohesion



**From a sanction-oriented
approach**



**To an effective health-
centred focus**

From coercion to cohesion

**Contact with the Criminal
Justice System can be
turned into an opportunity
for screening and referral
to adequate health and
social services for people
with drug use disorders:
Good for public health and
public safety!**





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Improving access to prevention and treatment – for public health and public safety



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UNODC Justice and Health Sections

- Improving legal safeguards for prisoners;
- Introducing and widening the scope of alternatives to conviction or punishment
- Supporting offenders and ex-offenders to address their social reintegration needs



In collaboration with
WHO:

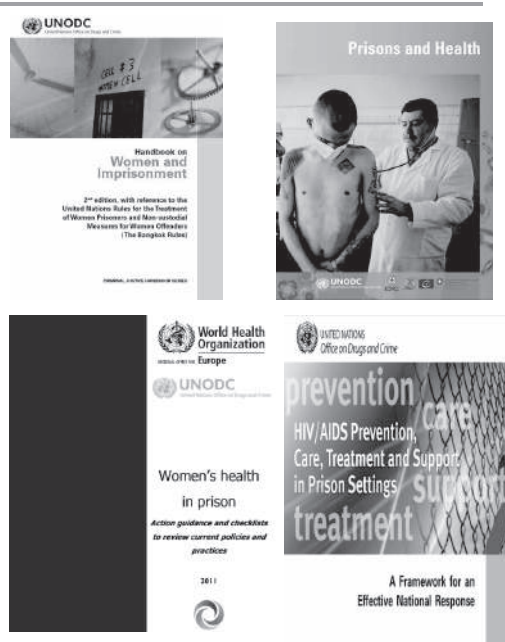
- Support improvement of treatment services and quality assurance
- Provide training for treatment providers
- Provide policy and technical guidance
- Support assessment and data collection



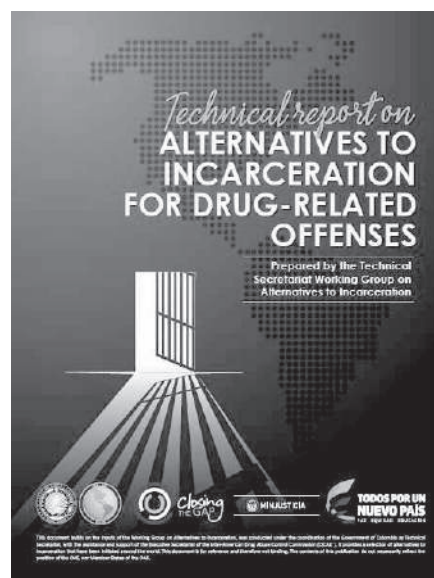
- In your country – are there any options on treatment as an alternative to conviction and punishment?
- How does it work?
- At what stage of the criminal justice continuum are alternatives possible?
- What are challenges?
- What benefits do you see?
- What barriers are there?

Some additional resources – health and justice

- **UNODC Handbook on Women and Imprisonment** (UNODC, 2014)
- **Prisons and Health** (WHO, 2014)
- **Prevention, Care, Treatment and Support in Prison Settings** (UNODC, 2006)
- **Women's health in prison – Checklist** (WHO, UNODC, 2011)

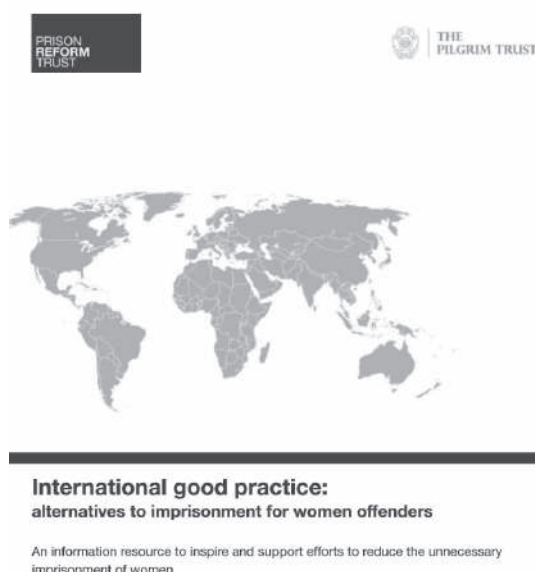


Further readings



Penal Reform Trust and The Pilgrim Trust, International good practice: alternatives to imprisonment for women offenders.

- International examples of alternatives to custody for nonviolent women offenders.
- From early intervention strategies to resettlement programmes
- Women's centres and one-stop-shop
- Community residential alternatives, and small units designed to accommodate women offenders.



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Thank you for your attention!

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