

# Breaking Out: New directions for recovery for people with mental illness in the justice system



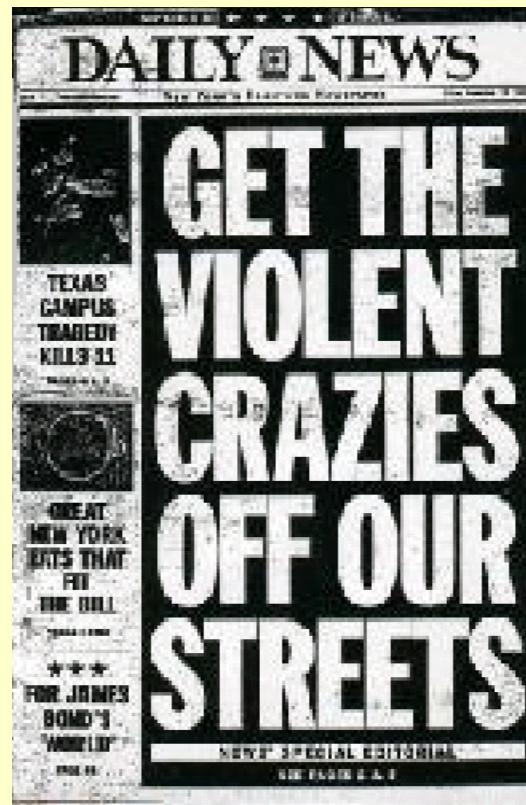
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# Objectives

- Re-framing the basic issues
- Re-sorting the available evidence
- Re-invigorating ideas on interventions for people with co-occurring mental illness and substance abuse in the justice system

# Usual policy premise



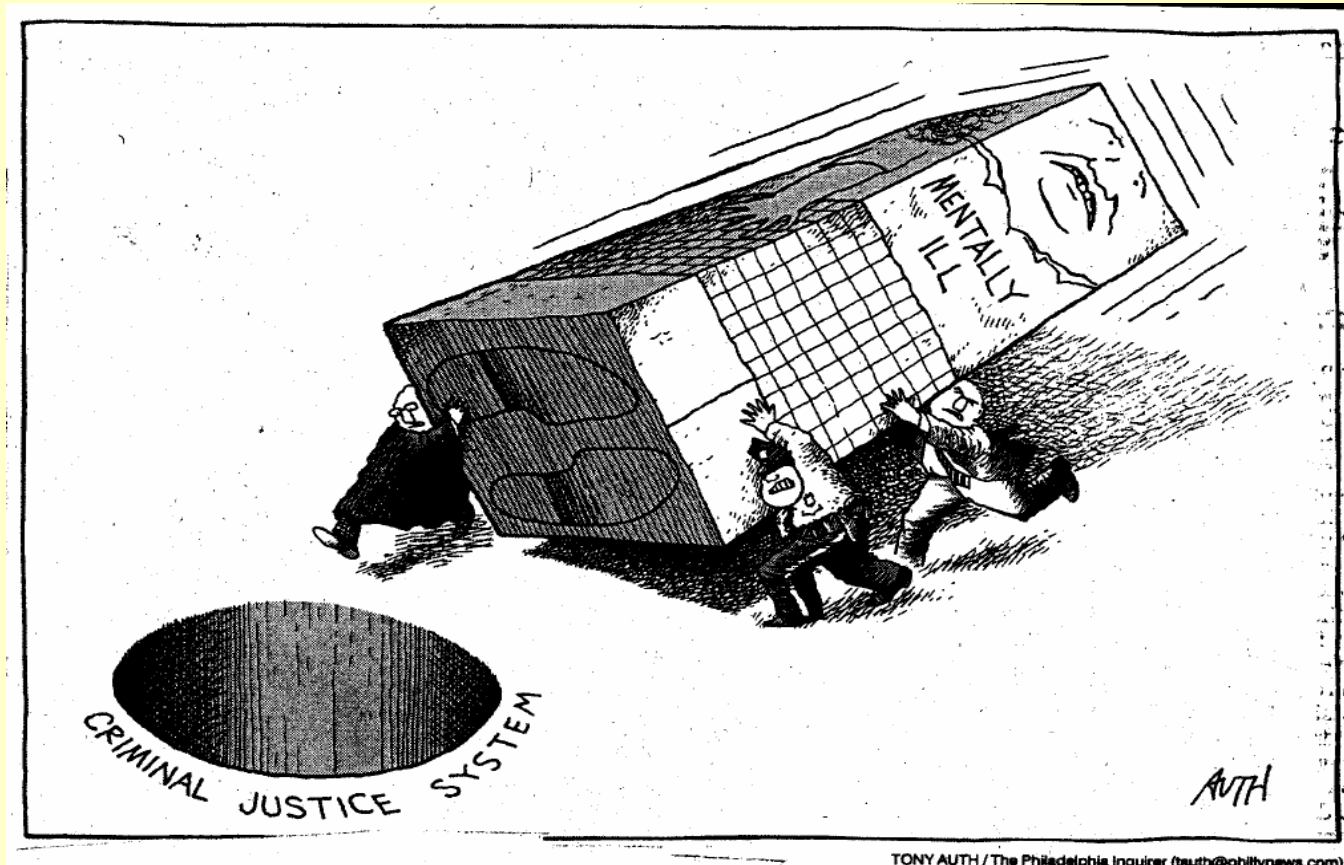
In responding to madness today, untenable distinctions between 'mental' and 'criminal'



Associated Press

**A front-page article** in China's Yancheng Evening News tells the story of Deng Qilu, who has been kept in a cage for at least five years. The newspaper says Deng wounded a police officer with a knife. He has not been tried because he is considered mentally ill.

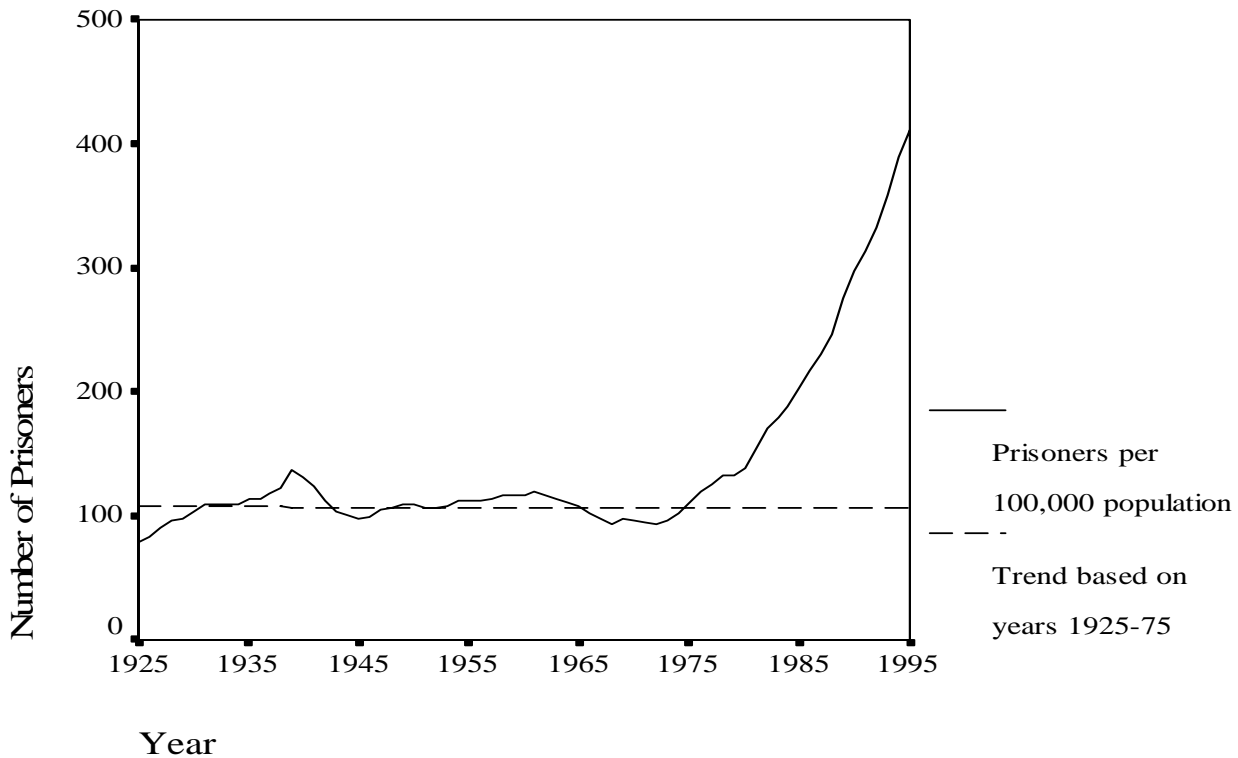
...raises policy issues



# Criminalization?



# Debate often misses broader social policy context.



Data from Maguire & Pastore (1997).

# Interpersonal factors that explain arrest in individuals:

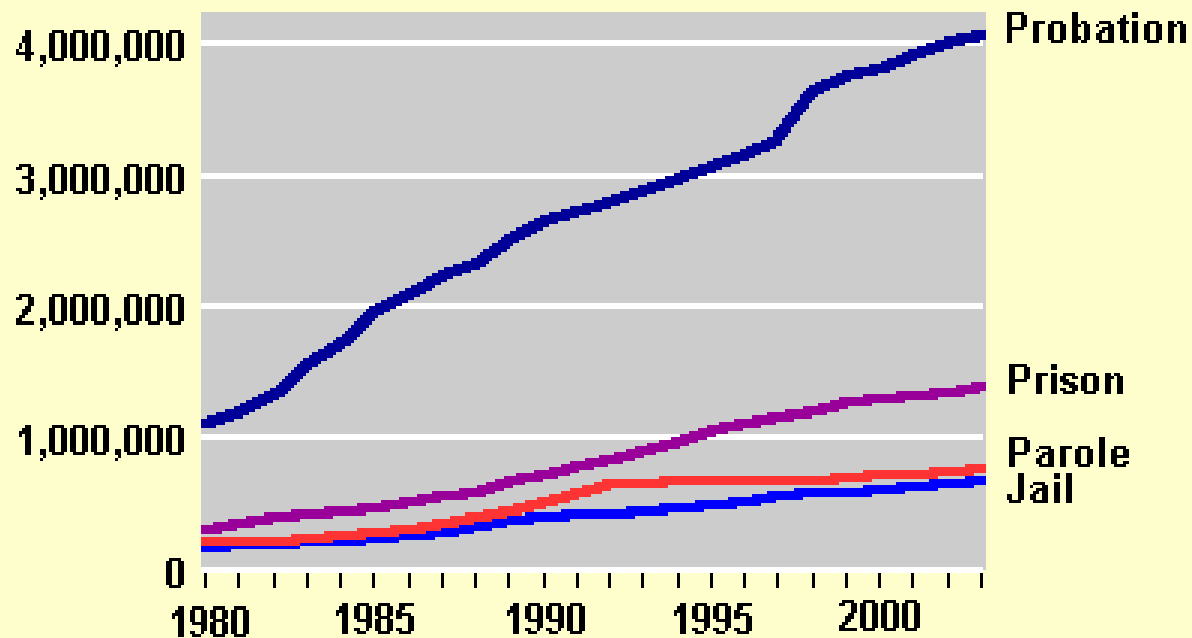
- Race, Gender, Age
- Low level of social attainment
- Residence in a high-arrest area
- Fewer 'pro-social' acquaintances
- Alcohol or drug use
- Unemployment

# Recent research accounts for other factors that explain crime:

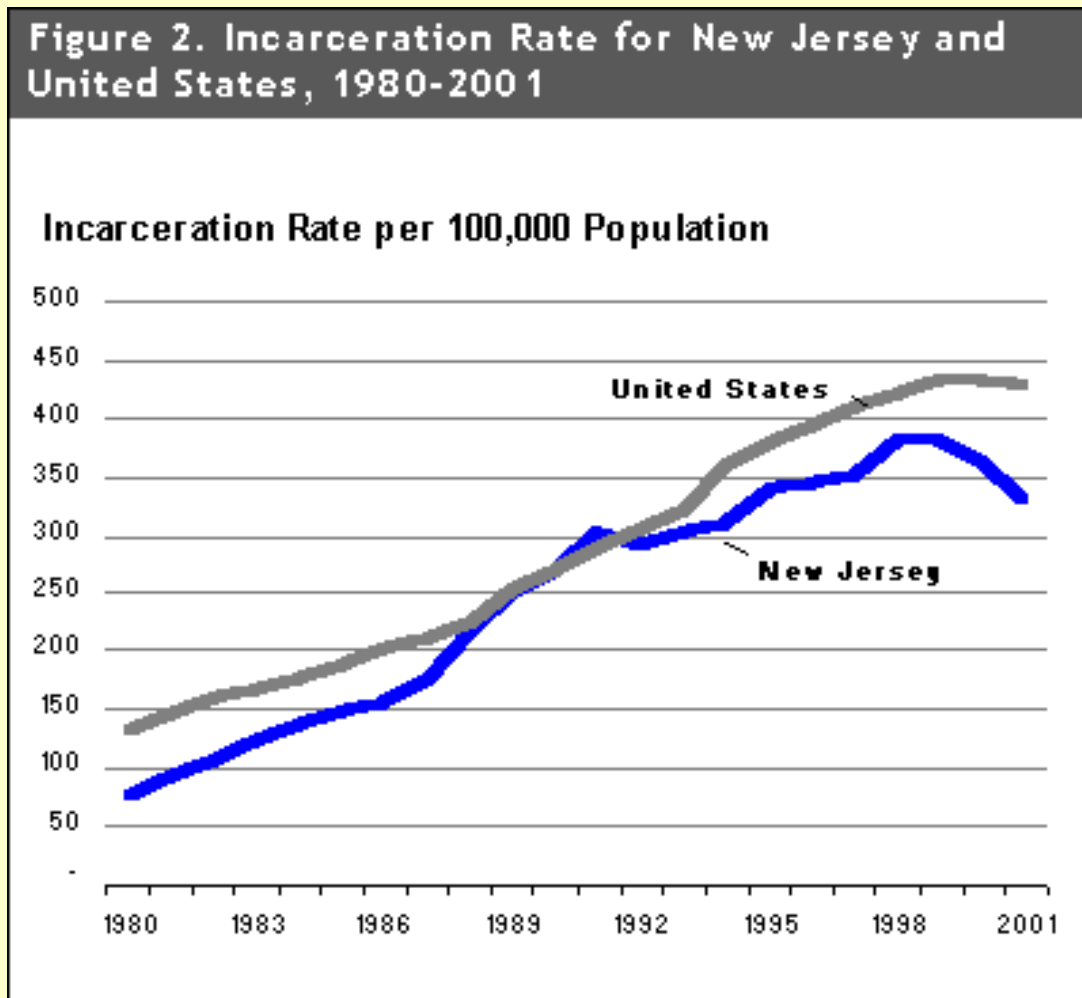
- Bonta, Law & Hanson (1998)—meta-analysis showed limited role for psychopathy in explaining crime.
- Mullen, Burgess, Wallace, Palmer & Ruschena D (2000). – schizophrenia did not explain arrest rates when other factors were controlled in post-deinst Australia.
- Engel and Silver (2001)—mental illness even a protective factor in explaining arrest when variables typically used to explain arrest are included in models.
- Schwartz and Lurigio (2007)—mental illness mediated significantly by substance abuse in explaining incarceration—almost entirely for non-violent crimes.

# Trends in the correctional system 1

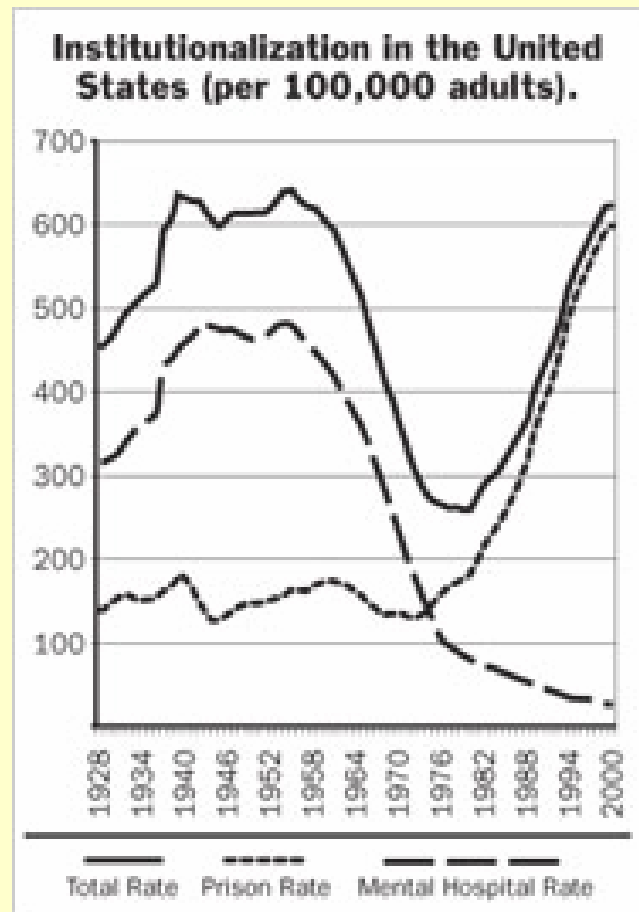
Adult correctional populations, 1980-2003



# Trends in the correctional system 2



# Trends in the correctional system 3



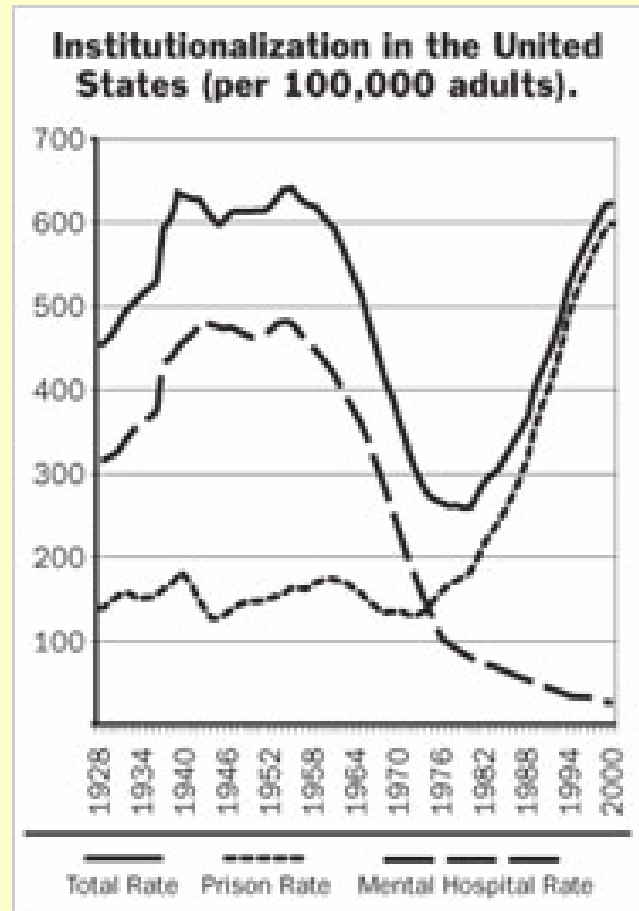
# Penrose, 1939

- Study of 18 European countries in the early 20<sup>th</sup> century
- Found a “hydraulic” relationship between numbers of psychiatric beds and number of prison beds
- Posed that both institutions coordinated to serve an underlying social control function

# Did he say fundamentalist?

- Contextual—more thoroughly specifying models of process and outcome that account for underlying social and economic causes
- Fundamentalist—underlying pattern of disadvantage acting through multiple mechanisms—if one problem is addressed, another may provide an opportune mechanism.

# So, what is happening in the seventies?













# Explaining the 70's

- Social shifts, migration, civil rights
- Economic shifts and stagnation
- Aging of the baby boom
- Changes in drug treatment philosophy
- Changes in corrections approaches
- Sentencing reform

# Drug offenders in Federal prisons

<b>Year</b>	<b>Total Sentenced Population</b>	<b>Total Sentenced Drug Offenders</b>	<b>% of Sentenced Prisoners Who Are Drug Offenders</b>
1970	20,686	3,384	16.3%
1980	19,023	4,749	24.9%
1990	46,575	24,297	52.2%
1994	73,958	45,367	61.3%
2000	112,329	63,898	56.9%
2004	143,864	77,867	54.1%

# Incarceration by Race and Education

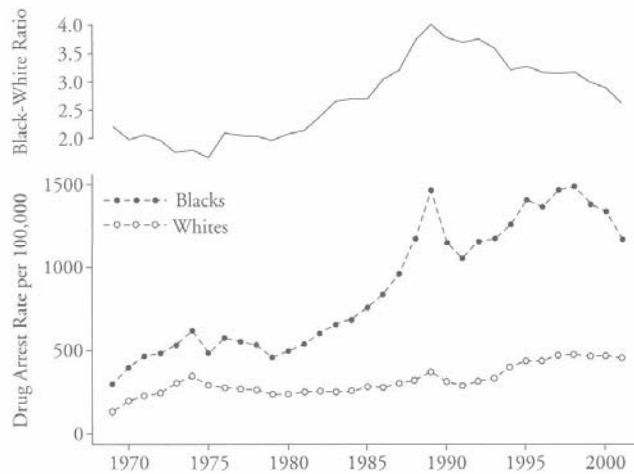
**Table 1: Percentage of Non-institutional Men, Ages 20-39, Annually Entering Prison, by Education and Race**

	1983-1988	1989-1994	1995-2001
<b>Whites</b>			
Less than High School	1.55	2.45	3.37
High School or GED	.32	.39	.56
Some College	.06	.06	.06
<b>Blacks</b>			
Less than High School	7.09	14.59	16.33
High School or GED	1.42	2.43	2.87
Some College	.49	.72	.54

**Source:** Figures are calculated with data from the National Correctional Reporting Program (1983-2001), and the Outgoing Rotation Group files of the Current Population Survey (1983-2001).

# Who gets high, who gets jail?

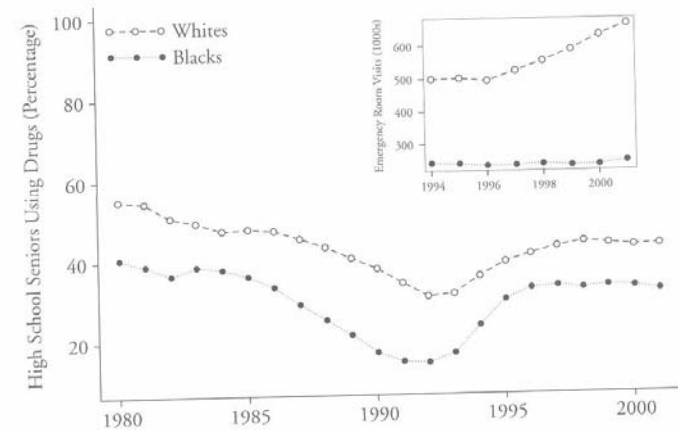
**Figure 2.2 Drug Offenses and Arrest Rate Ratio**



Source: Federal Bureau of Investigation (1993, 2003).

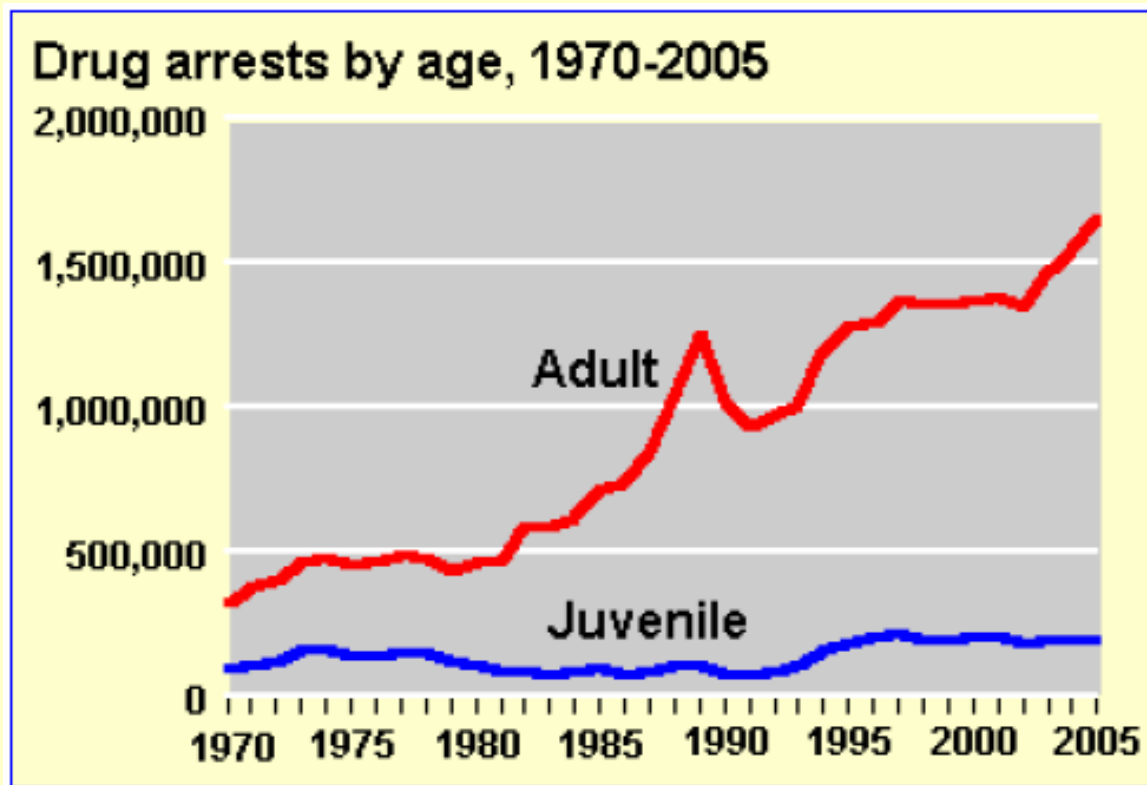
Notes: Bottom panel shows arrests for drug offenses per 100,000, 1970 to 2001, blacks and whites. Top panel shows black-white ratio of drug arrest rates, 1970 to 2001.

**Figure 2.3 High School Seniors Reporting Drug Use**

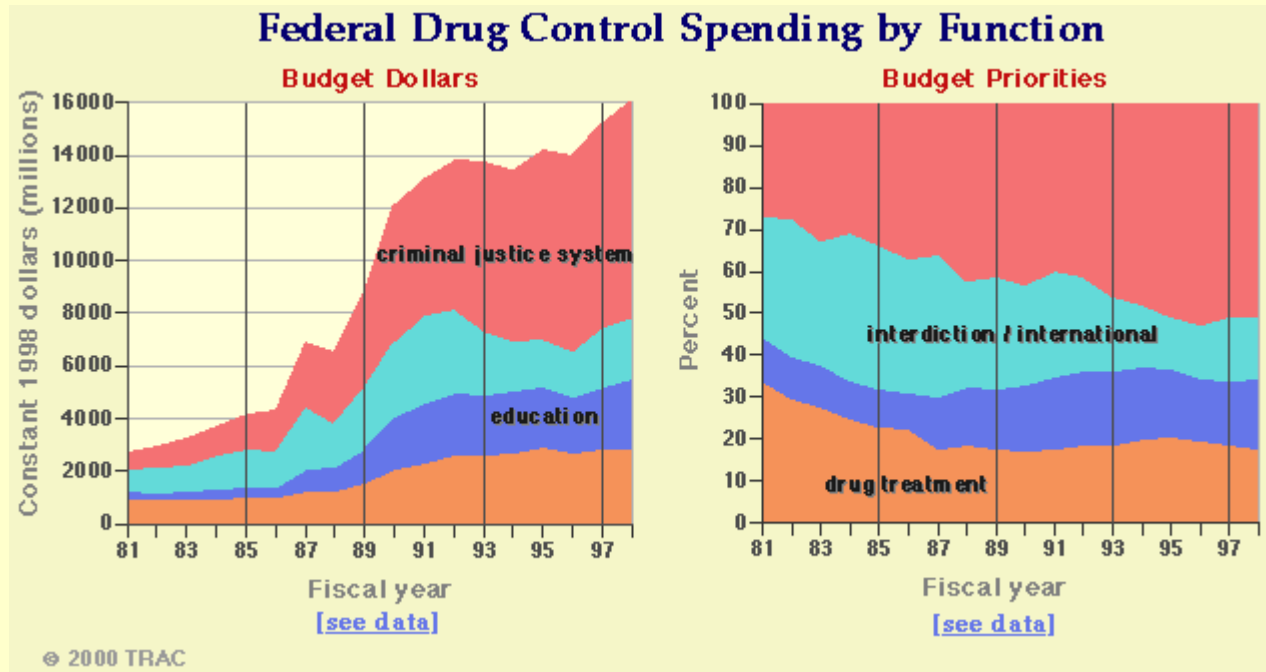


Sources: Johnston et al. (2004), Office of Applied Studies SAMHSA, Drug Abuse Warning Network (2003).

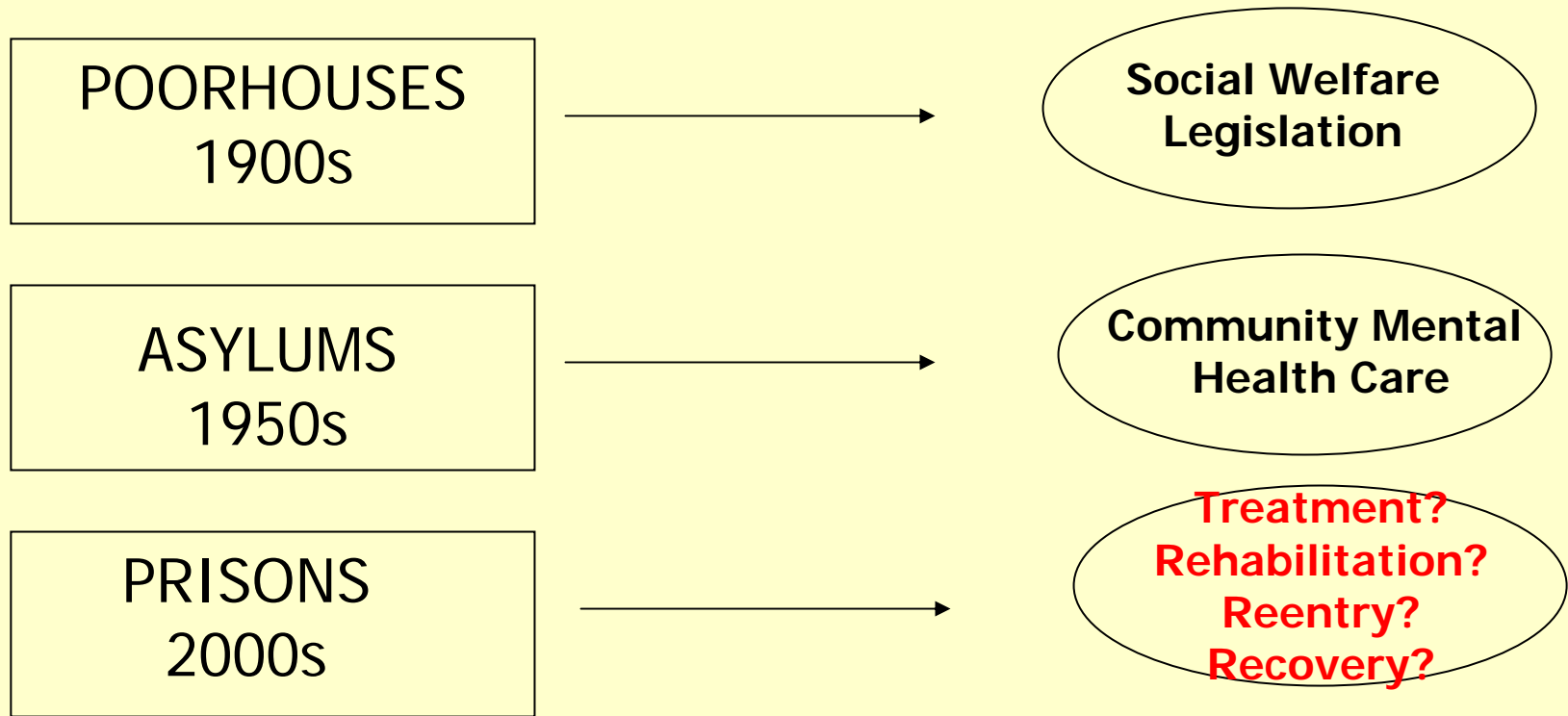
# The Role of Drug Laws



# A Focus on Drug Enforcement



# Social Control Loses Steam...



# Fundamentalizing Explanations

- What is the role of social and economic advantage and disadvantage as a risk factor?
- What new means become available as a mechanism?

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**War on Drugs and Sentencing Reform**

# Shifting the viewpoint from Intervention Models to Contexts

## INTERVENTIONS

(focused perspective)

- Jail Diversion
- Mental Health Courts
- Reentry

## CONTEXTS

(broader perspective)

- Police
- Courts
- Corrections

# Police and CIT

- “Memphis Model”
- Training of proportion of police force in encounters of people who may have mental illness, specialist status in force
- Dispatch training
- Expedited drop off site
- Connection to services

# CIT Evidence

- Attitudes, confidence of officers
- Effectiveness at identifying mental illness
- Reduction in arrests in encounters
- Mixed in increase (or decrease) in service use after diversion or arrest
- Initial rise in identification of MH calls

# Fundamentalist implications for Police and Mental Illness

- Neighborhood Organization
- Surveillance
- Stigma and procedural justice
- Interactions with substance use

# Mental Health Courts

- One response to incidents involving persons with mental illness and crime
- Dedicated court, docket, personnel for all mentally ill defendants
- Collaborative team with clinician to recommend treatment
- Assurance of placement before ruling
- Specialized court monitoring for compliance

# Evidence for MH Courts

- Linkages to follow up care seen as less coercive than other means
- Defendants/consumer may not be aware of options or how they came to a MH court
- Decrease in arrests in landmark courts pre and post, but does not hold up against comparison & control groups
- Some evidence of decrease in subsequent convictions and time incarcerated, even if arrests show no difference
- Randomized trial of MHTC with ACT showed effects for reduced criminal behavior, Substance Abuse, arrests. Provided access to housing as well as links to treatment.

# Contextualizing Courts and Mental Illness

Table 2. Differences between mental health treatment court and usual mental health services

Mental health treatment court	Treatment as usual
<i>Non-adversarial court proceedings</i>	<i>Adversarial court proceedings</i>
Decisions made by team	Decisions made by judge
Intensive court supervision and drug testing	Regular court supervision
Charges dropped with program completion or conditions of probation reduced	Regular sentencing
<i>Assertive community treatment</i>	Same judge as in MHTC
Case manager with 1:15 client ratio	<i>Long-term care team</i>
Section 8 housing	Case manager with 1:50 client ratio
Horticulture vocational program	Waitlist for Section 8 housing
Transportation	Department of Rehabilitation programs
Group skills training on substance abuse treatment and community re-entry	Other county programs available

# Fundamentalist implications on Courts and Mental Illness

- (De)criminalizing substance use, prostitution, and other poverty linked ‘crimes’.
- Harshness, deterministic nature of sentencing
- Differential access to legal support and assuring protection of procedural rights
- “Net Widening” and impact on effectiveness as well as civil liberties

# Corrections and Reentry

- FACT
- Critical Time Intervention
- Employment intervention
- Supported Housing intervention
- Jail case management
- In-reach and identification

# Fundamentalist Implications about Corrections, Reentry, & Mental Illness

- Reentry as a proxy for “rehabilitation”—but with greater burden placed on individual
- Intensive supervision without services
- Availability of substance abuse treatment and substance abuse treatment effectiveness
- Housing and Jobs
- Invisible Punishments (interaction with social ties, see Hawkins & Abram, in press)

# So, what do other ‘systems’ do?

## Substance Abuse Treatment

- Conviction (or arrest) nearly synonymous with diagnosis and assessment
- Aftercare treatment often seen by consumers as extension of incarceration, “doing time” in a program.
- Effectiveness?
- Near complete integration with the justice system, more trusted than MH system in courts.

# What do other 'systems' do?

## HIV/AIDS

- In-reach and post-release supports tend to not be linked to contingency or legal sanction
- Primary supports first
- Co-occurring health problems assumed
- Empowerment, response to Stigma
- Less savvy about CJ system than even MH

Did he say Donald Rumsfeld?



# Implications of reframing

- Mental illness should be a health concern for the person-- more focus on access to services and *less* on justice system operations, Specifically in light of Binswanger et al, NEJM 2007.
- More prominent conceptualization of substance abuse and use as a factor.
- **Create systemic, population based interventions that respond to fundamental causes of incarceration and its impact.**

# 3 Standards for New Interventions

- **Potency**—strength and focus of impact
- **Effectiveness**—theoretical and empirical basis for long term effects
- **Capacity**—potential for change in patterns across populations

# Extra Credit Challenges

- **Culpability**—can we create programs and interventions that are not premised on making judgments about the culpability of the individual for criminal behavior
- **Alliance**—can we create programs where the provider/service alliance is clearly identified with the consumer, advocating on their behalf with the CJ system

# Recovering our role in reentry: Bigger picture, more possibilities

