

CHARLES J. HYNES,  
DISTRICT ATTORNEY, KINGS COUNTY



# DTAP

*DRUG TREATMENT ALTERNATIVE-TO-PRISON*  
SEVENTEENTH ANNUAL REPORT

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## Executive Summary

The Kings County Drug Treatment Alternative-to-Prison (DTAP) program, created by District Attorney Charles J. Hynes in October 1990, has been recognized as one of the nation's most successful diversion programs. DTAP aims to treat nonviolent, drug-addicted felons who face a mandatory prison sentence under New York State's second felony offender law. DTAP's objective is threefold: to (1) reduce drug abuse, (2) improve public safety, and (3) save money.

DTAP provides substance abuse treatment under a deferred sentencing model. Participants must plead guilty to a felony prior to their admission into the program. The plea agreement includes a specific prison term that will be imposed in the event of treatment failure. The prospect of prison has proven very effective in maintaining high treatment retention rates. In recognition that relapse is part of the recovery process, DTAP also has a selective readmission policy. Defendants who relapse or experience treatment setbacks are readmitted to DTAP if they express a genuine desire to continue treatment and pose no threat to the provider or the community. Defendants who successfully complete DTAP are allowed to withdraw their guilty pleas, and the charges against them are dismissed.

This "tough and compassionate" approach to this drug offender population has yielded very positive results. As of October 14, 2007, the end date of DTAP's "fiscal" year, 2,539 defendants had been accepted into DTAP. In its seventeenth year of operation, DTAP continued to maintain high treatment retention and low recidivism rates and to produce enormous cost savings.

- One thousand and sixty-six (1,066) DTAP participants have successfully completed treatment since the program's inception. In this past fiscal year alone, 72 participants completed DTAP. The diversion of all these DTAP graduates represents over 42 million dollars in economic benefits that have been realized from lower costs of incarceration, public assistance, healthcare, and recidivism, combined with the tax revenues generated by the graduates.
- Under DTAP's original deferred prosecution model, participants showed a one-year retention rate of 64 percent. Since 1998, when DTAP shifted to a deferred sentencing model, that rate has increased to 76 percent.
- DTAP graduates have a five-year post-treatment recidivism rate that is almost half the rate for comparable offenders who served time in prison.
- The success of the DTAP model has prompted the program's implementation by all of the New York City district attorney's offices and several others throughout the New York State. Replication in other states appears imminent. A key section of the Second Chance Act of 2007, signed into law by President Bush on April 9, 2008, authorizes Congress to appropriate up to \$10 million dollars so that state and local prosecutors around the country can establish alternative-to-prison programs based on the DTAP model.
- The National Center on Addiction and Substance Abuse (CASA) at Columbia University has issued a report on its federally funded five-year evaluation of DTAP. CASA's positive findings confirm that DTAP is a cost-effective measure for reducing crime and substance abuse among chronic drug-addicted offenders. In addition, in 2005, a consensus panel of national experts assembled by the Substance Abuse and Mental Health Services Administration of the U.S. Department of Health and Human Services recommended DTAP as one of the treatment models that exemplified effective diversion programs.

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## TABLE OF CONTENTS

|  | <b>Page</b> |
|--|-------------|
| <b>Introduction</b> .....                                      | <b>1</b>    |
| <b>Part I. Program Operations</b> .....                        | <b>5</b>    |
| Program description.....                                       | 6           |
| Program procedures.....  | 7           |
| Treatment modality.....  | 11          |
| Demographics.....  | 13          |
| <b>Part II. Program History and Evaluation</b> .....           | <b>15</b>   |
| A brief history of DTAP .....                                  | 16          |
| Outcomes for all screened defendants.....                      | 24          |
| Court dispositions for refusals, rejects,<br>and dropouts..... | 25          |
| Screening, intake, and completion .....                        | 26          |
| Retention .....  | 27          |
| DTAP and community safety .....                                | 29          |
| DTAP and crime reduction .....                                 | 30          |
| Employment .....   | 31          |
| Cost-savings .....   | 34          |
| The family connection.....                                     | 35          |
| <b>Part III. Commentary</b> .....                              | <b>37</b>   |
| From independent researchers:                                  |             |
| The CASA Report .....  | 38          |
| From public officials.. ..                                     | 41          |
| From DTAP graduates.....                                       | 44          |
| Annotated bibliography of published DTAP<br>research.....      | 49          |
| DTAP press.....  | 58          |
| <b>Conclusion</b> .....  | <b>69</b>   |

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## INTRODUCTION

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The Drug Treatment Alternative-to-Prison program created by District Attorney Charles J. Hynes is now in its second decade. In 1989, the explosion of crack-cocaine use and the growing demand for heroin besieged Brooklyn's most disadvantaged neighborhoods. In that year, a record number of 12,640 felony drug arrests were made in Brooklyn. But by 2007, the number had decreased nearly 30 percent, to 9,249.<sup>5</sup>

What happened during these years? A number of factors have caused the drop in felony drug offenses. This report is about one of those factors: DTAP.

DTAP offers treatment to nonviolent drug-addicted felons in lieu of a prison sentence. If the defendant completes treatment, the charges are dismissed. If the defendant fails to complete treatment, he or she is sentenced on the original charges.

This Annual Report explains DTAP's philosophy and includes an overview of basic program operations and a historical account of how an idea conceived by a local prosecutor has evolved into a recognized and replicated model for effective drug treatment. Updates are provided on core measures of effectiveness: retention, recidivism, and employment. A high retention rate, excellent enforcement record, and substantial cost savings are indicators of DTAP's success.

DTAP's success rests in large part on the cooperation among all of the parties who play a role in the program's day-to-day operations. From the bench, the Honorable Judy Harris Kluger, who is Deputy Chief Administrative Judge for Court Operations and Planning, and the Honorable Juanita Bing Newton, who is both Deputy Chief Administrative Judge for Justice Initiatives and Administrative Judge of the Criminal Court for the City of New York, have exercised outstanding leadership on integrating substance abuse treatment into the criminal justice system. The Honorable Neil Jon Firetog, Administrative Judge of the Supreme Court (Criminal Term), Second Judicial District, during the period covered in this report, and the Honorable William Miller, Supervising Judge of the Criminal Courts, Kings and Richmond Counties, have provided substantial support to DTAP. State Supreme Court Justices Danny Chun, Vincent Del Giudice, Matthew D'Emic, Patricia DiMango, Deborah Dowling, Jo-Ann Ferdinand, Michael Gary, Joseph Gubbay, Joseph McKay, William Murphy, Sheryl Parker, and John Walsh have presided over most of the cases that have diverted drug offenders into DTAP early in the court process. These judges employ a system of sanctions and rewards that greatly enhances substance abuse treatment.

Many individuals, organizations, and agencies deserve our appreciation for their ongoing support. Thanks are extended to Lisa Schreibersdorf, Esq. and the Brooklyn Defender Services; Dawn Ryan, Esq. and the Legal Aid Society; Barbara DiFiore, Esq., and the Assigned Counsel Panel (18-B); and members of the private defense bar. We also thank Paul N. Samuels and Anita R. Marton, President and Vice-President, respectively, of The Legal Action Center, for their guidance on confidentiality issues and

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<sup>5</sup> NYS Division of Criminal Justice Services, Computerized Criminal History Database. Available at <http://www.criminaljustice.state.ny.us>.

on bars to reentry. Thanks to George B. Alexander, Chief Executive Officer of the New York State Division of Parole and his agency for their continued support. Similar cooperation has been provided by Martin Horn, who is both Commissioner of the New York City Department of Correction and Commissioner of the New York City Department of Probation. Thanks also go to Commissioner Karen M. Carpenter-Palumbo of the New York State Office of Alcoholism and Substance Abuse Services (OASAS) and to Ken Perez and Howard F. Halligan, OASAS's Coordinator of Criminal Justice Services and Program Development Specialist, respectively. And thanks are also extended to John Feinblatt, the Criminal Justice Coordinator for New York City, and to the New York State Division of Criminal Justice Services: Commissioner Denise E. O'Donnell, Program Specialists Larry Signer and Rich Hunter, and Program Representatives Michael Passaro and Paul Chesley.

We also wish to recognize the important input provided by the other district attorneys' offices which have adopted DTAP over the past seventeen years. Prosecutors from these offices continue to offer helpful ideas on how to improve the program. Their commitment to the program's continued vitality is much appreciated.

We wish to express profound gratitude to the treatment providers for the partnerships that they have formed with our program. DTAP owes many thanks to Argus Community, Inc., Crossroads, Damon House, Inc., Daytop Village, Inc., El Regresso Foundation, Inc., J-Cap, Narco Freedom, National Recovery Institute, Odyssey House, Phoenix House, Inc., Pride Site, Palladia, Inc., Promesa, PSI, Samaritan Village, Inc., New York Therapeutic Communities, Inc. (Serendipity), Su Casa, Veritas Therapeutic Community, Inc., and Villa Outpatient Services.

We are also grateful to Florida Congressman John L. Mica, who in the past repeatedly introduced legislation in the House of Representatives to obtain federal funding for DTAP, and to Senator Charles E. Schumer and Senator Orrin G. Hatch, who introduced such DTAP legislation in the United States Senate. We also wish to thank Senator Joseph R. Biden, Jr., who has provided unflagging support for DTAP and has encouraged other jurisdictions to adopt the program. The efforts of Senator Biden and of other members of Congress too numerous to name culminated in April 2008, with the enactment of federal DTAP legislation contained in a section of the Second Chance Act of 2007.

The program's main mission, which is to divert predicate felons from prison and place them into treatment, could not be achieved without the invaluable partnership that Brooklyn's Treatment Alternatives for a Safer Community (TASC) has formed with our program. The staff at DTAP would like to extend their gratitude to the following individuals for their assistance in the screening, placement, and the monitoring of treatment progress of DTAP participants: Kenneth Linn, Vice President of NYC TASC and Mental Health Services; Tania Chandler, Regional Director of Administration; Michelle A. Arcamona, Program Director; Elisa Ruiz, Supervisor; Raquel Colon, Case Manager Coordinator; Henry Algarin, Case Manager Coordinator; Lauren D'Isselt, Director of Mental Health Services; Susan Stark, Deputy Director for Mental Health Services; and Alma Sevhoic, Program Director for the Enhanced Employment Initiative. They and their entire staff help maintain the program's success.



DTAP staff members and other employees of the Kings County District Attorney's Office play an integral role in the program's success. During fiscal year 2006-2007, David Heslin, Jonathan Laskin, Roland Klengler, Michelle Patten-Coy, Sharlene Browne-Lee, and Michelle Needle, all assistant district attorneys in the Alternative Programs Bureau, prosecuted and followed the DTAP cases through successful completion or treatment failure, including representing the District Attorney's Office in court and providing screening and case management assistance. Vincent Rada acted as DTAP liaison and administrative coordinator and he was assisted by Nagib Ferzan and Gerald Pacheco. Cases referred to the Treatment Alternatives for Dually Diagnosed Defendants (TADD) program, were handled by Assistant District Attorney David Kelly, who was assisted by paralegal Verhay Gill Lewis. Supervising Detective Investigator Katherine Latawiec and Detective Investigator Douglas Little of DTAP's Enforcement Team ensured public safety through verification of community contacts for all DTAP participants and coordinated the apprehension of program absconders. Dr. Hung-En Sung, a professor at John Jay College of Criminal Justice and a research consultant for DTAP, assisted by Ms. Angela Doonachar, provided statistical analysis for this Annual Report as well as compiled the Report's annotated bibliography. Assistant District Attorney Caroline R. Donhauser provided editorial assistance with all written materials, including this Annual Report. MaryAnn Cardin and Myrna Levenhar, Principal Administrative Associates, generously lent their time and skills to support DTAP staff members. Former Deputy District Attorney Hillel Hoffman, even in retirement, continued to provide invaluable support for DTAP, especially with regard to DTAP federal legislation. Senior Appellate Counsel Camille O'Hara Gillespie, graciously contributing her time and talent, produced the cover art for this year's Annual Report.

The Seventeenth Annual Report offers some insight into DTAP's history, operations, progress, and impact. We hope that this knowledge will be of use to criminal justice professionals, public health officials, and all others interested in the development of viable treatment alternatives.

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**-Part I-**

***Program Operations***

## PROGRAM DESCRIPTION

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District Attorney Charles J. Hynes created DTAP in 1990, to divert substance-abusing, nonviolent, repeat felony offenders into treatment. Defendants in DTAP's target population face mandatory prison sentences under New York State law if convicted of their charged crimes.<sup>6</sup> Thus, all those screened, whether ultimately placed in DTAP or not, and all those who fail treatment, face substantial periods of incarceration as the alternative to treatment.

Defendants accepted into DTAP plead guilty to a felony charge and have their sentence deferred while they undergo 15-24 months of rigorous, intensive residential drug treatment followed by after-care. Those who successfully complete DTAP return to court to withdraw their guilty plea and have the charges dismissed. Employment assistance is provided to graduates upon reentry into the community and is available to them on a long-term basis. DTAP graduates are encouraged to become members of the DTAP Alumni Association, which serves as a support network to address graduates' ongoing needs.

Since DTAP's inception in October 1990, 6,926 nonviolent felony offenders have been screened, of whom 4,387 (63%) have refused to participate or have been rejected and 2,539 (37%) have been placed into treatment. Of those who were accepted by the program and entered treatment, 1,066 (42%) have graduated; 345 (14%) are currently in treatment; 41 (2%) have been transferred to "TADD," a diversion program dedicated to mentally ill defendants with a concurrent substance abuse disorder (see discussion, *infra*, at pp.22-23); and 1,087 (43%) have dropped out of treatment.<sup>7</sup>

### Research Informing the Design

The design of DTAP is based on scientifically tested drug treatment principles. DTAP is distinguished by its use of legal pressure for coerced treatment, choice of lengthy residential treatment, readmission of qualified failures, and emphasis on job counseling and placement. These program features have been identified by the National Institute on Drug Abuse as proven attributes of effective treatment.<sup>8</sup> To monitor the continuing efficacy of these program features, DTAP has its own research unit assessing daily operations. The DTAP program has also been closely reviewed by independent evaluators, such as the Vera Institute of Justice and the National Center on Addiction and Substance Abuse at Columbia University. This verified ongoing research consistently shows that the DTAP model works.

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<sup>6</sup> The Drug Law Reform Act of 2004 (Act of Dec. 14, 2004, ch. 738, 2004 N.Y. Laws 1462) produced several significant changes in the so-called Rockefeller Drug Laws. The harshest sentences were eliminated and many sentences, especially for first-time offenders, were reduced. Non-violent predicate felony drug sellers, however, still face a minimum of 3½ years' imprisonment.

<sup>7</sup> Percentages do not add up to 100 because of rounding.

<sup>8</sup> See National Institute on Drug Abuse, 1999, *Principles of Drug Addiction Treatment: A Research-Based Guide*. Rockville, MD: NIDA.

## **PROGRAM PROCEDURES**

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### **Identification of Potentially Eligible Cases**

To be considered as a possible DTAP candidate who should be screened, the defendant must meet certain basic criteria. The defendant must (1) be at least 18 years old; (2) be currently charged with a felony; and (3) have at least one prior felony conviction. In addition, there must be some indication that the defendant is drug-addicted and that the defendant's crime was motivated by that addiction. Identification of potentially eligible defendants most regularly occurs at the defendant's arraignment on the felony complaint, but it may also occur at a later pre-indictment date or even post indictment. Identification is often made by those assistant district attorneys staffing the arraignment and pre-indictment court parts and by assistant district attorneys in the Narcotics Bureau of the District Attorney's Office. However, assistant district attorneys throughout the Kings County District Attorney's Office are well aware of the DTAP program and its criteria and they regularly forward cases to DTAP personnel in the office's Alternative Programs Bureau. Additionally, defense attorneys, judges, treatment specialists working in the city jail, and defendants' families or friends all, on occasion, directly contact the Alternative Programs Bureau to suggest the review of potentially eligible cases.

In 2003, the New York State Office of Court Administration, in collaboration with the Kings County District Attorney's Office and the defense bar, launched the Enhanced Drug Screening Project, by which court personnel began assisting in the identification of potentially eligible cases based on the pending charges and the offender's criminal history (i.e., "rap sheet") and started directing those cases to two centralized court parts (Brooklyn Treatment Court [BTC] and the Screening and Treatment Enhancement Part [STEP]) immediately after arraignment. Prosecutors and defense attorneys appearing in those court parts, as well as the judges presiding over them, report that the wide majority of cases forwarded to these court parts have been correctly identified as potential DTAP cases. This faster identification of potential cases has meant that defendants can be more quickly screened and evaluated and can begin getting treatment, if found program eligible, at a time when the crisis moment of their arrest is still fresh in their minds. Faster treatment delivery also means that jail costs are reduced.

After a defendant is identified as potentially DTAP eligible, the defendant then undergoes a screening process as described below.

### **The Assistant District Attorney**

Assistant district attorneys assigned to the Alternative Programs Bureau screen all cases, identified as described above, for program eligibility. Additionally, they staff the court parts in which diverted cases are adjudicated and monitored.

To determine program eligibility, the assistant district attorney reviews the defendant's criminal history and scrutinizes the facts of the case. Narcotics sale, narcotics possession, and theft-related cases are the types of cases most

commonly evaluated. Cases that will not be prosecuted as felonies are ruled out from DTAP consideration, because these defendants will not fall within the defined targeted population of defendants who face mandatory prison sentences upon conviction. For that same reason, defendants who have no prior felony convictions are also not eligible for DTAP.<sup>9</sup> Rejections following screening by the assistant district attorney most often include cases that involve defendants who are major drug traffickers and those who have significant histories of violence.

Defendants who meet the screener's eligibility criteria then receive a clinical assessment by Treatment Alternatives for a Safer Community (TASC), a not-for-profit criminal justice case management organization. Next, defendants are reviewed by DTAP's enforcement team. Final acceptance decisions are then made by the Alternative Programs Bureau of the District Attorney's Office after a careful review of all of the screening information on a candidate.

If the defendant is offered DTAP and agrees to participate in the program, then the Alternative Programs Bureau assistant district attorney, through regular contact with the TASC case manager, carefully monitors the defendant's progression through treatment. The assistant district attorney consults with the court regarding appropriate sanctions and rewards. Finally, once a defendant appears to have successfully finished all phases of the drug treatment plan and to have fulfilled other criteria for graduation, TASC, in consultation with the treatment provider, will make a recommendation to the District Attorney's Office that the defendant be considered as having completed DTAP. The decision of whether the defendant has completed DTAP is then made by the office's Alternative Programs Bureau.

### **Treatment Alternatives for a Safer Community**

TASC performs clinical screening and assessment of all defendants who are initially identified by the assistant district attorney in the Alternative Programs Bureau as potential DTAP candidates. TASC performs a psychosocial assessment, verifies substance abuse history, and matches defendants to the most appropriate treatment facility. Once a defendant is accepted into DTAP, TASC arranges for a defendant's placement and then performs case management functions that include site visits and monthly reports to the court, assistant district attorney, and defense counsel regarding the defendant's progress. There is daily contact between TASC and the Alternative Programs Bureau to discuss potential program candidates and enrolled participants.

Defendants rejected by TASC include defendants who do not present substance abuse problems and those who choose not to participate in the evaluation process.

Once a defendant successfully completes the residential portion of treatment, TASC monitors the defendant's aftercare and re-entry process, including the defendant's employment, housing, and compliance with a drug-free lifestyle. TASC conducts this function until the defendant's graduation from DTAP.

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<sup>9</sup> Drug-addicted offenders facing misdemeanor charges or their first felony charges, although not eligible for DTAP, are eligible to be diverted into treatment through the court-run programs in Brooklyn's three drug court parts: Misdemeanor Brooklyn Treatment Court, Brooklyn Treatment Court, and the Screening and Treatment Enhancement Part.

### **The District Attorney's Warrant Enforcement Team**

The District Attorney's Warrant Enforcement Team conducts a field investigation of each DTAP candidate. This investigation entails interviews with a candidate's family members and friends with an emphasis on verifying community ties and determining whether the prospective participant has characteristics that might make placement into treatment inappropriate. Individuals who exhibit violent tendencies or an unwillingness to participate in treatment, or who do not have any roots in the community are not diverted into a treatment setting. The objective of the investigation is to protect public safety and to ensure that in the event that the defendant absconds from the treatment facility, he or she can be easily located and quickly returned to court.

Due to the stringent criteria imposed by the District Attorney's Enforcement Team, 90 percent of all program absconders have been returned to court in a median time of 21 days, for imposition of the prison sentence previously agreed-upon at the guilty plea.

The background investigation also serves additional purposes. By speaking directly with an addicted offender's family and friends, investigators enlist their support in convincing the offender to enter and stay in treatment. Further, this positive contact with the detective investigators enhances the relationship in general between criminal justice personnel and community members. Finally, because a DTAP participant is aware that the Enforcement Team has checked his or her contact information and is therefore ready to swiftly return any absconder to court, the participant perceives an increased pressure to stay in and complete treatment. Researchers have posited that dedicated warrant enforcement squads such as DTAP's Enforcement Team can boost retention rates.<sup>10</sup>

### **Probation and Parole**

Because DTAP targets second felony offenders, many of the candidates are under the supervision of the New York City Department of Probation or the New York State Division of Parole at the time of their arrest. These individuals are eligible for DTAP consideration on the new arrest, if the supervising agency grants its approval and violations are cleared prior to the defendant's admission into the program. Prior substance abuse treatment opportunities are reviewed with these agencies.

### **The Defense Attorney**

Defense attorneys play a crucial role in explaining to their clients the ramifications of becoming a DTAP participant. The defense attorney, who often has a particular insight into the defendant's character, personal history, and family situation, sets out for the defendant both the challenges of entering treatment in lieu of incarceration and the personal rewards that completing DTAP might bring to the defendant. Additionally, defense attorneys are important in advocating on their clients' behalf. If an addicted offender has been arrested for a non-violent, non-drug crime, such as larceny, it is often the defense attorney who will alert the assistant district attorney to the offender's potential suitability for DTAP, as the history of drug abuse may not be evident from the

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<sup>10</sup>See Young, Douglas & Steven Belenko, *Program Retention and Perceived Coercion in Three Models of Mandatory Drug Treatment*, 32 J. Drug Issues 297, 321 (2002).

charges, arrest history, or other paperwork in the case file. Likewise, if a DTAP participant relapses while in treatment or drops out of treatment for a period of time before returning to court, it is the defense attorney who will discuss with the defendant the possibility of readmission into DTAP and will set out for the assistant district attorney and the court the reasons why the defendant deserves a second chance at treatment.

### **The Presiding Judge**

The judiciary is a very important component of the DTAP program. All DTAP candidates must obtain the approval of the presiding judge prior to admission into the program and entry of the guilty plea. Although it is extremely rare, a judge may refuse to allow a particular defendant to be diverted into the DTAP program.

Once a defendant enters DTAP, the presiding judge monitors compliance with the treatment mandate and applies sanctions and rewards designed to shape and change the defendant's behavior. This function is vital to both the success of an individual defendant and to the program as a whole.

### **The DTAP Graduation**

To celebrate the achievement of Brooklyn DTAP graduates, the Kings County District Attorney's Office sponsors a graduation ceremony every year. On this auspicious occasion, District Attorney Hynes presents the graduates with certificates acknowledging their achievement and he meets those family members and friends who have played crucial roles in the graduates' efforts to face their drug addiction and maintain sobriety. Two or three graduates often share with the audience their unique perspectives on their struggle with drugs and their DTAP experience. In addition, the president of the Alumni Association traditionally presents an award to an outstanding DTAP alumnus or alumna of the year. Finally, a keynote speaker will often deliver an address. Past keynote speakers have included Asa Hutchinson, the former head of the federal Drug Enforcement Administration, and Joseph A. Califano, Jr., president of the National Center on Addiction and Substance Abuse (CASA) at Columbia University and former United States Secretary of Health, Education and Welfare, and Reverend Doctor Johnny Ray Youngblood, Senior Pastor of St. Paul Community Baptist Church in Brooklyn.

Over the years, several DTAP graduates have expressed amazement that they managed to travel such a distance -- only a few years earlier, they had been either in jail or on the street running from the police, and now, they were embracing their families and friends and shaking the hand of the district attorney. The graduation ceremony brings into sharp focus the incredible achievement of the DTAP participants and the success of the DTAP program.





*District Attorney Hynes among some of the graduates at the DTAP graduation, July 17, 2007, at Borough Hall in Brooklyn, New York*

## **TREATMENT MODALITY**

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When drug addiction causes an individual to have multiple contacts with the criminal justice system, an assumption can be made that the extent of personal, familial, and societal damage is profound. Offenders with extensive drug histories who engage in criminal activities to finance their drug habits require intensive intervention and rehabilitation to support their reintegration into society. This is the essence of long-term residential treatment.

Referred to as a Therapeutic Community (TC), this mode of treatment is a highly structured and supervised community-based residential environment with an emphasis on self-help through the use of a peer community where individuals go through successive stages of rehabilitation.<sup>11</sup>

### **Orientation**

During the first three months of treatment, defendants go through induction to assimilate into the therapeutic community. During this time, they learn the policies and procedures

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<sup>11</sup> See De Leon, George, 2000, *The Therapeutic Community: Theory Model and Method*. New York: Springer.

of the program. They also gain crucial insight into the core issues of their drug addiction and the demands for recovery.

### **Primary Treatment**

After acquiring such a foundation during the first three months, defendants then focus on resolving personal and relationship problems through individual, group, and family counseling in the latter part of their first year (4-18 months). During this phase, defendants undergo vocational training, develop job skills, and gain work experience. They are provided with assistance in finding housing and employment as they prepare to return to the community.

The residential facilities have rules and regulations with which all the clients must comply. The rules are enforced not only to maintain order at the facility, but also to instill new values and to enable client to internalize models of productive social behavior.<sup>12</sup>

### **Re-entry**

Once a defendant secures a job and appropriate living arrangements, the defendant's gradual re-entry into the community begins. The focus of treatment shifts to maintaining sobriety, preventing relapse, and adjusting to independent living.

***“Both research and the impressions of DTAP practitioners and graduates indicate that knowing the consequences of failure and the rewards for succeeding has a positive effect on treatment retention and outcomes.”***

--- Vera Institute of Justice

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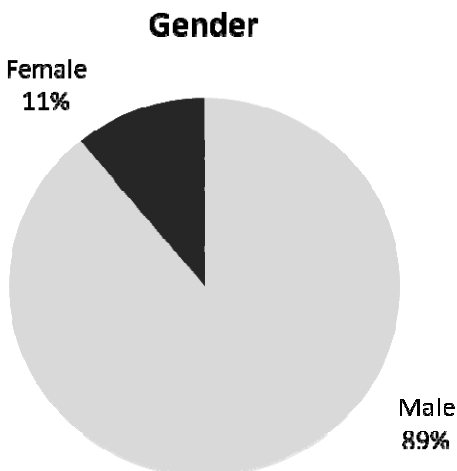
<sup>12</sup> See Hung-En Sung et al., *Predicting Treatment Noncompliance among Criminal Justice-Mandated Clients: A Theoretical and Empirical Exploration*, 26 J. Substance Abuse Treatment 315, 315 (2004).

## DEMOGRAPHICS

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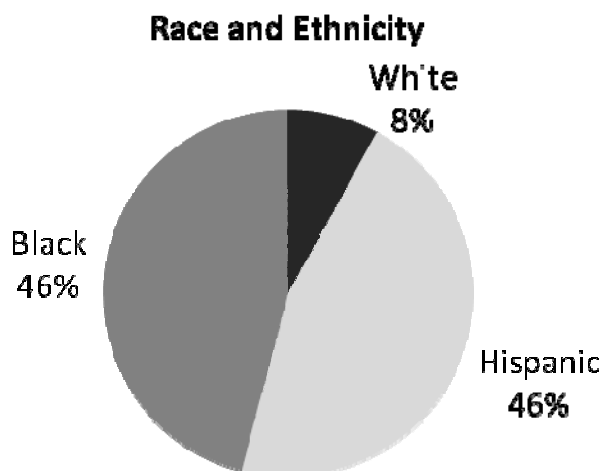
### Gender

Between October 15, 1990 and October 14, 2007, 2,539 defendants were accepted into treatment. The gender split of this population reflects the male dominance in the drug market.<sup>13</sup> It also reflects the District Attorney's Office's screening process that permits some female predicate felons to receive long term residential treatment through the Brooklyn Treatment Court, which received additional funding to address the specific needs of this population. Eighty-nine percent of DTAP participants are male and 11 percent are female.



### Ethnicity

The ethnic composition of this group has remained fairly stable over the past seventeen years. Felony offenders from disadvantaged minority and immigrant communities continue to participate in the program at a higher rate than others. In total, 46 percent of DTAP participants were Hispanic, 46 percent were African-American, and eight percent were Caucasian.



### Age

Since DTAP targets repeat drug felons, program participants tend to be somewhat older than the average criminal justice population. The average age at admission is 36.

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<sup>13</sup> See Mahler, Lisa, 1997, *Sexed Work: Gender, Race, and Resistance in a Brooklyn Drug Market*. New York: Oxford University Press.

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# **-Part II-**

## ***Program History and Evaluation***

## A BRIEF HISTORY OF DTAP

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### Background

Drug abuse is one of the most devastating public safety and public health problems to have afflicted Brooklyn residents in the past four decades. It enslaves individuals, breaks up families, engenders violence, and destroys neighborhoods.

When the AIDS epidemic began in New York City in the 1980s, a large group of individuals who had been injecting heroin since the 1970s was severely hit by the disease. By 1995, almost 2,000 residents had died in Bushwick, one of Brooklyn's poorest neighborhoods. Many of these people had contracted the HIV virus due to intravenous drug use.<sup>14</sup>

The crack-cocaine era that began around 1988 further ravaged the poorest population in an unprecedented way.<sup>15</sup> The number of adult felony drug arrests in Brooklyn dramatically increased from 15,173 for the 1981-1985 period to 49,345 for the 1986-1990 period.<sup>16</sup> The crack-cocaine boom led to a surge in turf violence among drug sellers and the incarceration of thousands of young men from the community. By 1990, drugs were ruining the health of addicts; violence was causing injuries and deaths among youth (in 1990 alone, there were 759 reported murders in Brooklyn); and the lengthy incarceration of drug offenders was taking a terrible emotional and economic toll on families and children.

The criminal justice system was stretched to its limits. Driven by accelerating increases in felony drug convictions, New York State's prison population doubled in the 1980s. In 1982, drug felons constituted 11 percent of the 12,000 new prison admissions; in 1990, 48 percent of the 34,000 new admissions were drug felons.<sup>17</sup> Incarceration, an expensive criminal justice sanction, provided interim incapacitation but did not stop the growth of drug crime or drug addiction.

### Conception

The war against drugs has regularly been fought by the police using aggressive law enforcement techniques and by the judiciary imposing lengthy sentences of incarceration. When Charles J. Hynes was first elected as the District Attorney of Kings County in November 1989, prosecutors in major American cities were

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<sup>14</sup> See Brooklyn AIDS Task Force, 1996, *1996 Brooklyn AIDS Fact Sheet*. New York: Brooklyn AIDS Task Force Technical Assistance Project.

<sup>15</sup> See Johnson, Bruce D., Andrew Golub, and Eloise Dunlop, 2000. "The Rise and Decline of Hard Drugs, Drug Markets, and Violence in Inner-City New York". Pp. 164-206 in *Crime Drop in America*, edited by A. Blumstein and J. Wallman. New York: Cambridge University Press.

<sup>16</sup> Data obtained from New York State Division of Criminal Justice Services (DCJS). *Criminal Justice Indicators*.

<sup>17</sup> See DCJS, 1991, *1990 Crime and Justice Annual Report*. Albany, NY: DCJS.

mainly the passive processors of drug cases that inundated their offices. Their ability to make significant contributions to reducing drug crime was described as “spotty and uneven.”<sup>18</sup> District Attorney Hynes was frustrated with the ineffectiveness of incarcerating individuals who engaged in criminal behavior because of their substance abuse. He envisioned a strategy that would transcend the traditional adjudication of drug cases to mobilize community resources and involve addicted offenders themselves as active participants in the strategy.

At that time, important research findings from studies supported by the federal government indicated the promise of carefully designed mandatory treatment to rehabilitate drug-addicted offenders.<sup>19</sup> Mr. Hynes quickly embraced the idea of providing the right kind of treatment to the most hardened criminal population -- second felony offenders. When he assumed office in January 1990, he publicly declared:

More prisons are not the answer. There are too many cells already. We must treat addiction to eliminate dependency and inculcate life and job skills to enable offenders to resist return to drug-related crime.<sup>20</sup>

DTAP was thus conceived.

## **Initiation**

In designing a new diversion program, the focus was placed on securing funding, establishing procedures, setting goals, and gaining the support of judges, defense attorneys, and other agencies, such as New York City Department of Probation and New York State Division of Parole.

In addition to the District Attorney and his staff, DTAP planning sessions were regularly attended by representatives of the New York State Division of Alcohol and Substance Abuse Services, the Legal Aid Society, the Assigned Counsel Panel (18-B), and treatment providers. Two therapeutic communities, Daytop Village, Inc. and Samaritan Village, Inc., agreed to reserve long-term residential treatment beds for the pilot, while the Legal Action Center supplied advice on the Federal Rules of Confidentiality governing privileged treatment information. Good will and trust grew out of these meetings; by the end of this planning process, all parties were invested in the success of DTAP.

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<sup>18</sup> Page 165 in Jacoby, Joan E. and Heike P. Gramckow, 1994, “Prosecuting Drug Offenders,” in *Drugs and Crime: Evaluating Public Policy Initiatives*, edited by D. L. MacKenzie and C. D. Uchida. Housand Oaks, CA: Sage.

<sup>19</sup> See, for example, National Institute on Drug Abuse (NIDA), 1988, *Compulsory Treatment of Drug Abuse: Research and Clinical Practice*. Rockville, MD: NIDA.

<sup>20</sup> Powers, Susan and Paul A. Dynia, 1992, *Drug Treatment Alternative-to-Prison: Process Evaluation and Preliminary Research Report*. Paper presented at the American Society of Criminology annual meeting, November 1992.

## **Implementation**

DTAP began its operations as a deferred prosecution program on October 15, 1990. It targeted defendants who had been previously convicted of a nonviolent felony offense and were presently under arrest for a class “B” felony drug offense pursuant to a “buy-and-bust” undercover operation. Facing a mandatory prison sentence, these chronic offenders were given the option of deferring prosecution and entering a residential treatment program for 18 to 24 months. The reason DTAP originally focused on “buy-and-bust” cases was that the strength and availability of the evidence backing such cases (police testimony and recovered drugs and pre-recorded buy money) would usually remain unaffected during the time that the defendant spent in treatment. Thus, under DTAP’s deferred-prosecution model, a successful prosecution could still be undertaken in the event that the defendant failed DTAP.

The Robert Wood Johnson Foundation provided the funding to assess and report on the pilot phase of the program. A total of 138 participants were accepted during the first year. The evaluation findings were encouraging. DTAP participants had a one-year treatment retention rate of 58 percent, which was significantly higher than the 13 percent to 29 percent reported by national and local studies.<sup>21</sup> Given that the research literature was reporting a positive association between the length of treatment and the reduction in drug use and crime, this finding of high retention immediately led to the anticipation of the program’s overall success. And there was success: just three years after DTAP began, there were more than 50 program graduates, living and working in the community as productive members of society.

DTAP’s initial achievement rapidly attracted public attention, as well as the curiosity of the research community. Mainstream media welcomed the success of Mr. Hynes’ unusual “limited experiment,” as DTAP was often known.<sup>22</sup> The National Institute of Justice awarded a grant to the Vera Institute of Justice to study the way in which DTAP’s legal coercion affected its high retention rate.<sup>23</sup> The enthusiastic response to DTAP precipitated widespread interest in prosecutor-based diversion programs for addicted felons.

## **Routinization**

Although some new projects can stop working after the initial enthusiasm and scrutiny wane, DTAP continued to perform successfully and to improve under institutional routine. When DTAP celebrated its fifth anniversary in October 1995, 598 repeat felons had been accepted and 178 participants had successfully completed treatment. The program was producing an average of 120 new admissions and graduating an average

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<sup>21</sup> See footnote 15, above.

<sup>22</sup> See, for example, Clines, Francis X., “Dealing with Drug Dealers: Rehabilitation, Not Jail,” *The New York Times*, Jan. 20, 1993, at B1.

<sup>23</sup> Results of study reported in Young, Doug, 1996, *Retaining Offenders in Mandatory Drug Treatment Programs: The Role of Perceived Legal Pressure*. New York: Vera Institute of Justice.



of 57 participants every year.<sup>24</sup> The number of contracted treatment providers grew from two in 1990 to seven in 1996, and some of these providers were offering services to participants with special needs (e.g., Spanish-speaking clients or individuals under 24 years of age). In the fourth year, a job developer was added to the permanent staff to provide job counseling and placement services to DTAP graduates. Findings from the first assessment of post-treatment recidivism showed that the two-year rearrest rate for treatment completers was less than half of that for a comparison group (19% vs. 46%).

The work and impact of DTAP were now regularly covered by national and local news media. In 1994, the National Institute on Drug Abuse awarded to the National Center on Addiction and Substance Abuse at Columbia University a two-million-dollar grant for a five-year DTAP evaluation. In December 1997, the U.S. Department of Justice selected DTAP as one of the six most effective programs among the 500 programs that had received funding from the Edward Byrne Memorial Law Enforcement Assistance Formula Grant Program.<sup>25</sup> In 2001, the Citizens Budget Commission (CBC), a nonpartisan, nonprofit civic organization devoted to influencing constructive change in the finances and services of New York State and New York City governments, selected the Kings County District Attorney's Office as one of six finalists for its Prize for Public Service Innovation. In awarding the Kings County District Attorney's Office an honorable mention for DTAP, the CBC's Innovations Committee noted that the Office deserved special recognition for implementing a "creative and cost-effective alternative to incarceration for drug-addicted felony offenders."

### **Enhancement and Expansion**

District Attorney Hynes made four program changes in January 1998, to enhance DTAP's model of coerced treatment and to extend the benefits of effective treatment to a larger population. These changes were based upon the expansion of research into the therapeutic mechanisms leading to recovery and upon the experience and skill of DTAP staff and participating organizations.

First, DTAP shifted from a deferred prosecution model to a deferred sentencing program. In DTAP's original form, the DTAP defendant entered treatment and the criminal prosecution was "deferred." The indictment that formed the basis of the defendant's prosecution was held in abeyance and not filed against the defendant. A defendant who failed to cooperate with treatment risked the continuation of the criminal action, which would likely result in a prison sentence if the defendant pleaded guilty or was convicted after trial.

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<sup>24</sup> The first 18 months were excluded for the calculation of graduates because no graduate was expected for the period.

<sup>25</sup> Reported in Bureau of Justice Assistance, 1997, *Improving the Nation's Criminal Justice System: Findings and Results from State and Local Program Evaluations*. Washington, D.C.: Office of Justice Programs.

Evidence suggested, however, that higher treatment retention followed an increased certainty of punishment.<sup>26</sup> Thus, DTAP was modified to a “deferred sentencing” program. Defendants entering treatment are now required to first plead guilty to a felony with a stated prison sentence that will be imposed in the event of treatment failure. Hence, the risk associated with failure has shifted from a probability of a prison sentence to a virtual guarantee of a prison term.

Second, DTAP adopted a more flexible readmission policy: individuals who have relapsed are now reviewed and considered for readmission into either the same or a different treatment facility. This practice acknowledges that treatment of drug addicts is a recovery process in which relapse and adjustment problems are part of successful rehabilitation. From January 1, 1998, to October 14, 2007, 780 individuals were readmitted. Of those, 220 (28%) have successfully completed treatment and 160 (21%) are currently progressing towards program completion. This new readmission policy is better managed under a deferred sentencing model.

The third modification was to offer treatment opportunities to a greater number of nonviolent offenders, not just defendants facing drug charges pursuant to a “buy and bust” operation. Now, all predicate felons who are nonviolent and have cases that resulted from their drug addiction are eligible for program consideration. Seventy-one such defendants have already graduated, and 77 are currently in treatment.

Finally, Brooklyn’s TASC was enlisted to reach a greater number of defendants without expending additional prosecution resources. Collaboration with TASC also allowed DTAP to have access to the wealth of TASC’s expertise in treatment assessment, placement, and progress management.

As a result of these changes, DTAP’s average active treatment population has grown from less than 120 to 363, while the one-year treatment retention rate has increased 12 percentage points.

### **Other DTAP Programs**

In his January 8, 1992, message to the New York State Legislature, then Governor Mario Cuomo praised DTAP and announced:

We will expand residential treatment opportunities so that district attorneys can use the successful DTAP model developed in Brooklyn by Kings County District Attorney Charles J. Hynes.<sup>27</sup>

In response to the governor’s request, the New York State Office of Alcohol and Substance Abuse Services provided 350 new residential treatment beds for DTAP

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<sup>26</sup> See Hynes, Charles J. and Anne Swern, 1999, *Drug Treatment Alternative-to-Prison: Ninth Annual Report*. New York: Kings County District Attorney’s Office.

<sup>27</sup> From Hynes, Charles and Susan Powers, 1992, *Drug Treatment Alternative-to-Prison of the Kings County District Attorney: First Eighteen Months of Operations*. New York: Kings County District Attorney’s Office.

programs. The New York State Division of Criminal Justice Services allocated \$700,000 in Federal Anti-Drug Abuse Act monies in Fiscal Year 1992-93 to support the DTAP program in Brooklyn and to enable its replication by other prosecutors in New York City. New York County (Manhattan) and the New York City Special Narcotics Prosecutor established their DTAP programs in 1992, and Queens County in 1993. Bronx County and Richmond County (Staten Island) joined in 1998 and 1999 respectively. By October of 2000, fifteen prosecutors' offices in the State of New York, including Brooklyn's, had a prosecutor-based drug treatment diversion program.<sup>28</sup>

In October of 2003, then New York Governor George E. Pataki and New York State Senate majority leader Joseph Bruno, announced the launch of "Road to Recovery," an initiative designed to encourage district attorneys throughout the state to establish and maintain their own drug treatment diversion programs. Since that time, the initiative has been renamed "Structured Treatment to Enhance Public Safety (STEPS)," and undergone some modifications. Nevertheless, with over \$4.5 million in state money set aside for STEPS, sixteen district attorneys offices outside New York City, as well as the district attorneys' offices in the City, are now diverting non-violent, drug-addicted second felony offenders into treatment.

### **Federal DTAP Legislation: A Brief History**

As a consequence of the demonstrated success of DTAP, the United States Congress has repeatedly entertained legislation to promote the DTAP model beyond the boundaries of New York State. Those efforts finally proved successful in 2008.

Back in 2000, the House of Representatives passed legislation, introduced by Congressman John L. Mica of Florida, which provided funding for prosecution-run drug treatment alternatives to prison. The Senate passed similar legislation, but, Congress adjourned before the two versions could be finalized. Then, on February 13, 2001, at the request of Senator Charles E. Schumer, federal funding for state and local DTAP programs was included in an omnibus "Drug Abuse Education, Prevention and Treatment Act of 2001" (S.304), which was introduced by Senator Orrin G. Hatch and co-sponsored by Senators Patrick J. Leahy, Joseph R. Biden, Jr., Strom Thurmond, Michael DeWine, Dianne Feinstein, Robert Graham, Tim Hutchinson, and Charles E. Grassley. On July 20, 2001, Congressman Mica introduced in the House of Representatives the "Prosecution Drug Treatment Alternative to Prison Act of 2001" (H.R.2580), which also provided federal funding for state and local DTAP programs. Congressman Mica said:

This bill is an important step in our federal efforts to save lives, preserve families and contribute to the well-being of our communities by assisting nonviolent addicted offenders to break their chains of drug addiction and to become productive taxpaying citizens. This bill provides state and local prosecutors with a new

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<sup>28</sup> See New York State Commission on Drugs and the Courts, 2000, *Confronting the Cycle of Addiction and Recidivism: A Report to the Chief Judge Judith S. Kaye*. New York: New York State Commission on Drugs and the Courts.

tool to combat drugs and crime, while providing eligible offenders with a real opportunity for rehabilitation.<sup>29</sup>

Although this DTAP legislation was not enacted by the 107th Congress, it was reintroduced in the 108th Congress, both as a section in a very broad Senate bill and as part of a more narrowly tailored bipartisan Senate bill. Unfortunately, neither bill was enacted prior to the end of the congressional session.

Nevertheless, interest in DTAP never ceased to percolate among federal legislators, and in March, 2007, federal DTAP legislation was reintroduced in the 110th Congress. Representative Danny Davis, joined by fourteen bipartisan members, introduced the House version of the Second Chance Act of 2007 (H.R.1593), and Senators Joseph Biden, Jr., Arlen Specter, Sam Brownback, and Patrick Leahy, introduced a Senate version of the Act (S.1060). The House passed its version of the bill on November 13, 2007. The bill was then passed by unanimous consent in the Senate on March 11, 2008, and signed by President George Bush on April 9, 2008.

Section 112 of the Second Chance Act of 2007 authorizes the Attorney General to make grants to state and local prosecutors to develop, implement, or expand drug treatment alternative-to-incarceration programs based on the DTAP model. Section 112 further authorizes Congress to appropriate \$10 million dollars for each of fiscal years 2009 and 2010 for these DTAP grants. As of the date of this report, Congress had not yet passed legislation appropriating these funds, but given the strong bipartisan support for the Second Chance Act, we remain hopeful that such legislation will be enacted in the near future.

### **A New Application of the DTAP Concept: TADD**

In 1998, District Attorney Hynes created Treatment Alternatives for Dually Diagnosed Defendants (TADD), an alternative to incarceration program that is based on the DTAP model and that targets non-violent mentally ill offenders, most of whom have a concurrent substance abuse disorder. The screening procedures are similar to those used for DTAP, and the Forensic Linkage Program of EAC (EAC is the non-profit parent organization of TASC) provides clinical assessment, placement, and monitoring. A verifiable substance abuse disorder, as well as a serious and persistent major mental illness, generally determines clinical eligibility. Psychiatric diagnoses of defendants who have been accepted into treatment include depressive disorders, schizophrenia, schizoaffective, bipolar disorder, anxiety disorder, post-traumatic stress disorder, psychosis NOS (“not otherwise specified”), and organic brain disorder.

In 2001, the Substance Abuse and Mental Health Services Administration (SAMHSA) of the U.S. Department of Health and Human Services, recognizing TADD’s potential for producing positive change, awarded the Kings County District Attorney’s Office \$400,000 per year, for the following two years, to expand TADD to serve a greater number of defendants, create a replicable program, and research and analyze the diversion process.

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<sup>29</sup> Press release issued by Congressman John L. Mica on July 20, 2001.

The immediate success of TADD, the lessons learned from implementing the program, and the collaborations fostered along the way all helped to lay the groundwork for New York State's first mental health court, the "MD 1 court part," which opened in Brooklyn on October 1, 2002.

### **DTAP: An Exceptional Success**

Public policy experts are usually skeptical of unconventional criminal justice policies because:

[I]t is rare to find an innovation that is carefully initiated and even rarer to see one successfully implemented. But it is rarer still to find a workable new idea well institutionalized.<sup>30</sup>

DTAP is one of those rare exceptions. What was born seventeen years ago as a daring idea of how to fight drugs and crime has now become a cause that has attracted the support of a broad alliance of public agencies, private organizations, professionals, and ordinary citizens. Because of this civic partnership, stories of recovered lives and reunited families are told day after day in Brooklyn and other parts of the State of New York. New pages of DTAP history are yet to be written.

***“Drug courts and programs such as DTAP provide a return on investment that would toast Ebenezer Scrooge’s cold heart.”***

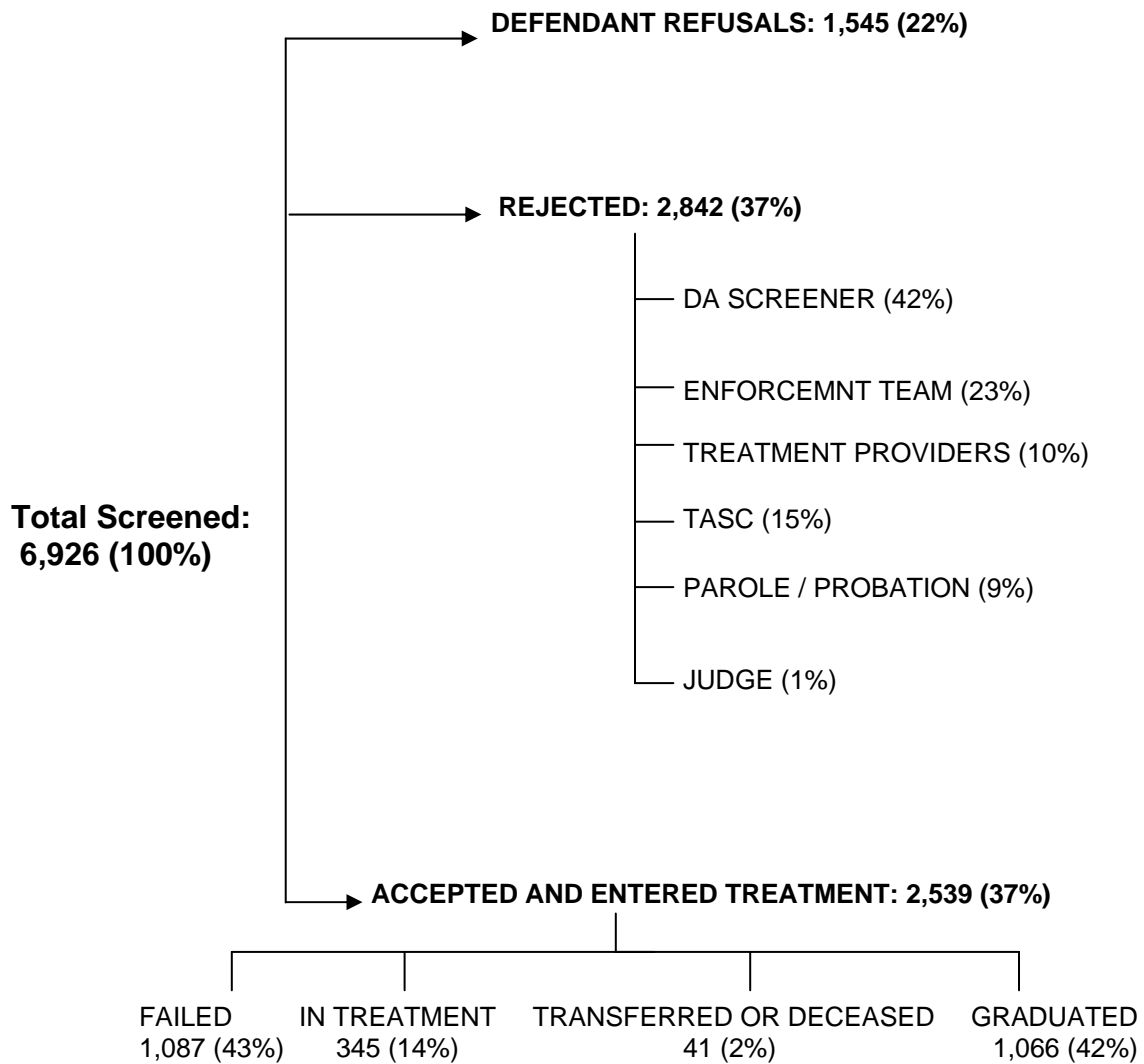
-- Joseph A. Califano, Jr.,  
2007, *High Society: How Substance Abuse Ravages America and What to Do About It*. NY: PublicAffairs, p. 94.

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<sup>30</sup> From page 200 in Feeley, Malcom M., 1983, *Court Reform on Trial: Why Simple Solutions Fail*. New York: Basic Books.

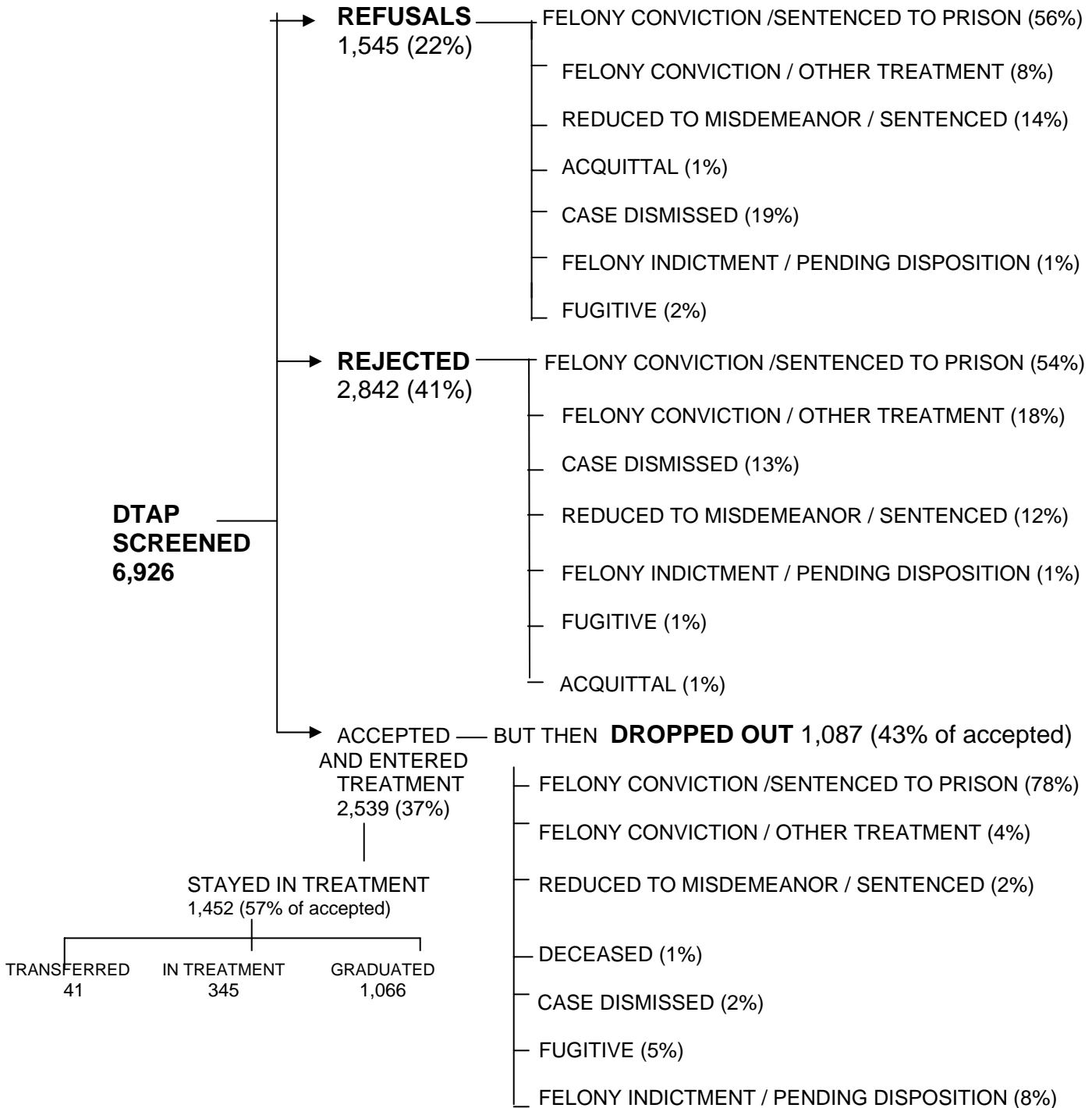
# OUTCOMES FOR ALL DEFENDANTS SCREENED FOR DTAP

October 15, 1990 to October 14, 2007<sup>31</sup>



<sup>31</sup> Percentages may not add up to 100 because of rounding.

**COURT DISPOSITIONS FOR  
DEFENDANT REFUSALS, REJECTED CASES, AND TREATMENT FAILURES**  
October 15, 1990, to October 14, 2007<sup>32</sup>

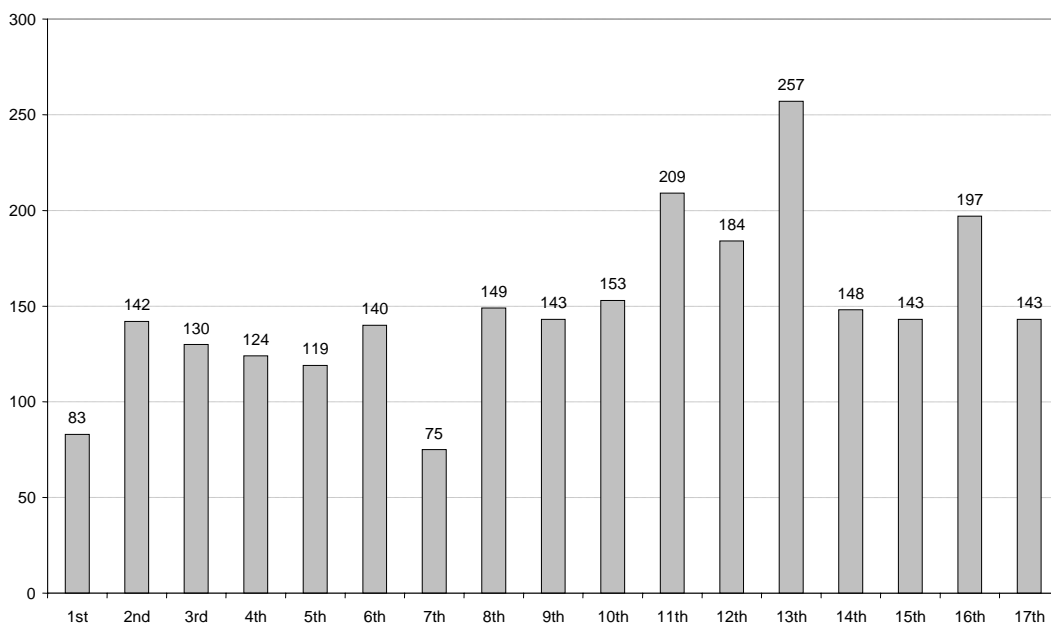


<sup>32</sup> Percentages may not add up to 100 because of rounding.

## SCREENING, INTAKE, AND COMPLETION

A total of 6,926 paper-eligible, felony offenders have been screened during DTAP's seventeen years of operation, which yields an annual average of 407 screened defendants. Between October 15, 2006, and October 14, 2007, 285 offenders went through the screening process.

Number of Defendants Accepted into Treatment per Fiscal Year:  
October 1990 - October 2007



During the past seventeen years, a total of 2,539 screened defendants were accepted into the program and entered treatment -- a number which represents 37 percent of the total screened. The average annual admission is 149 new participants, and the average acceptance rate is 36 percent. Between October 15, 2006 and October 14, 2007, 143 new admissions were accepted, representing 50 percent of the people screened in that year.

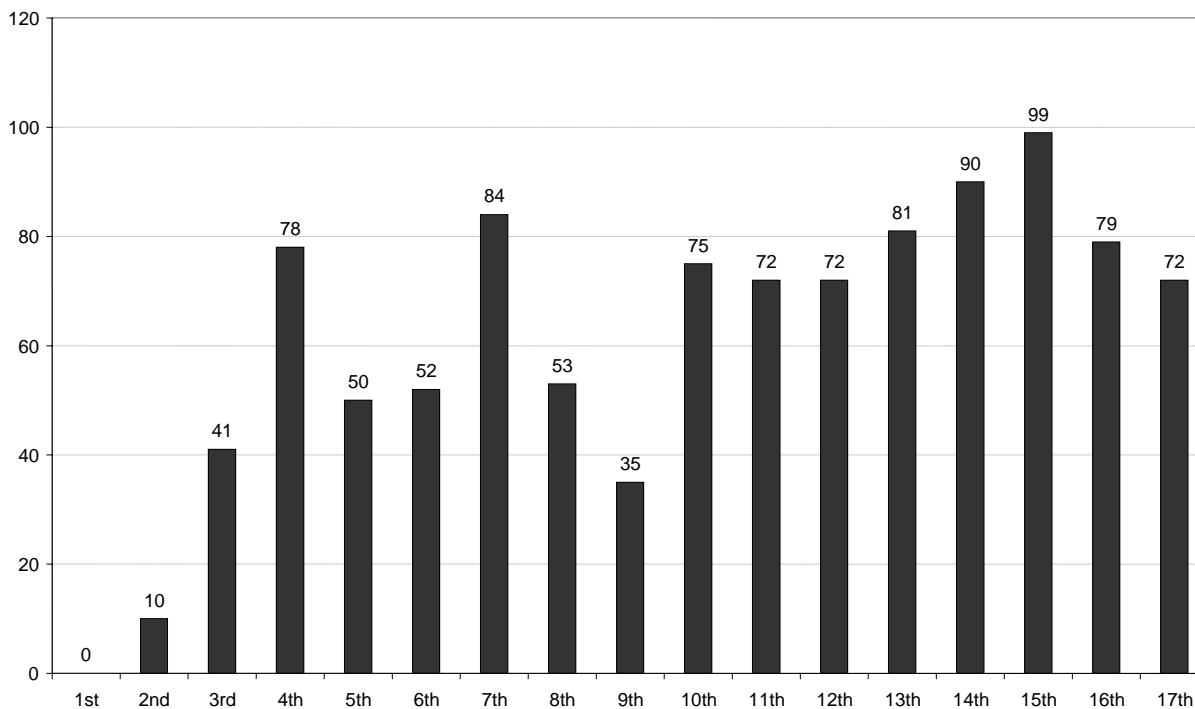
***“This DTAP program demonstrates that we don’t have to throw away the key for repeat drug addicted offenders, even those who sell drugs to support their habit. In this time of burgeoning prison populations and shrinking federal and state budgets, every prosecutor in the nation should consider this program.”***

--- Joseph A. Califano, Jr., Chairman and President of the National Center on Addiction and Substance Abuse at Columbia University, and former United States Secretary for Health, Education and Welfare



High completion rates among treatment participants have always distinguished DTAP. During DTAP's seventeen years of operation, 1,066 participants have graduated from the program and have returned to the community. Between October 15, 2006 and October 14, 2007, 72 DTAP participants successfully completed treatment.

**Number of Program Graduates per Fiscal Year:  
October 1990 - October 2007**

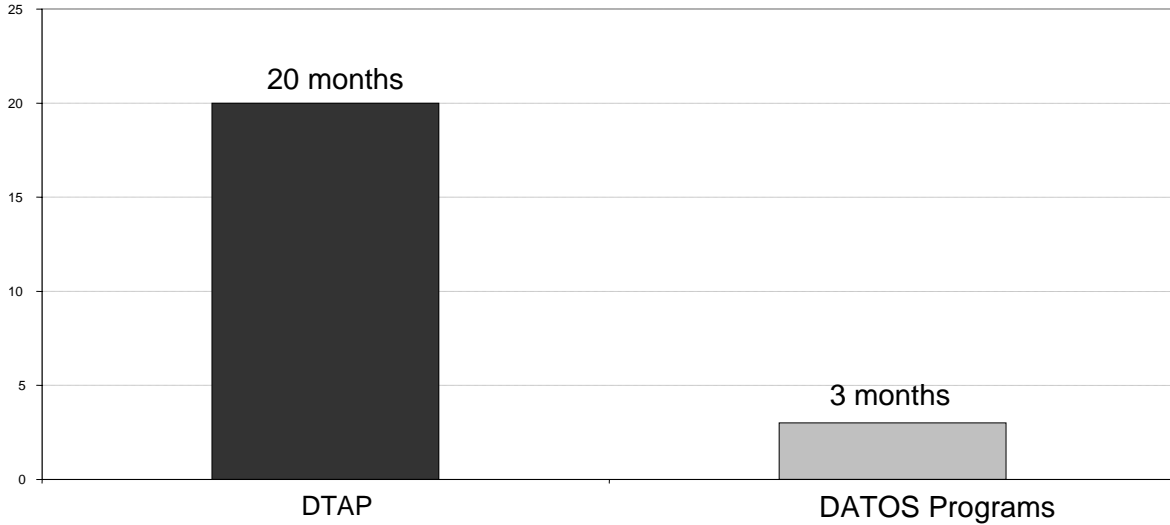


## RETENTION

Time spent in treatment decreases the likelihood of returning to drugs and crime. Unfortunately, many of those who voluntarily seek treatment do not stay there long enough. DTAP uses legal coercion, a form of external motivation, to keep participants in treatment. It has produced a one-year retention rate of 72 percent, which means that more than two-thirds of those who were accepted into the program remained in treatment for at least a year. DTAP participants' median length of stay is 20 months which is far higher than the median length of three months found for the 19 long-term residential treatment programs that participated in a widely cited national study.<sup>33</sup>

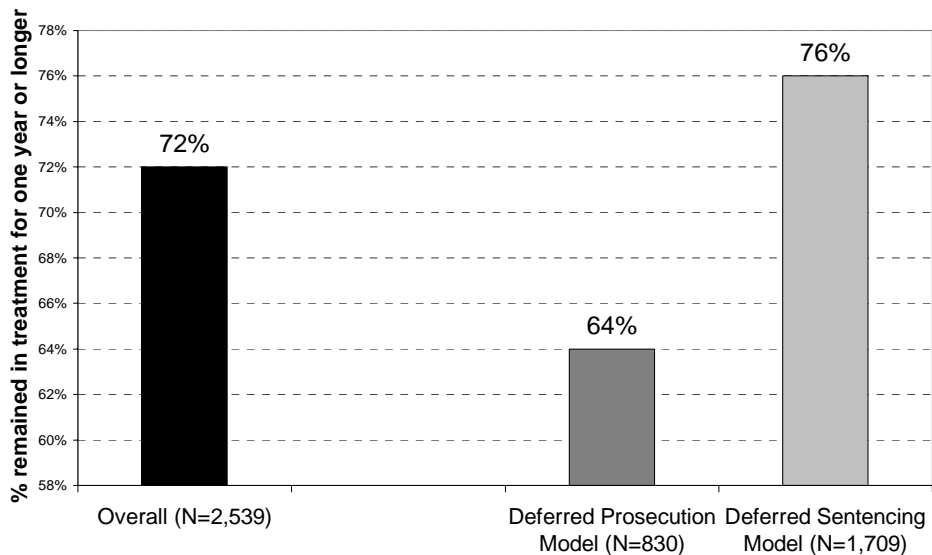
<sup>22</sup> The Drug Treatment Outcome Studies (DATOS) were initiated by the National Institute on Drug Abuse in 1990. Their findings are considered the most authoritative in the field. For retention results, see Simpson, D. D., Joe, G. W., & Brown, B. S. (1997). "Treatment retention and follow-up outcomes in the Drug Abuse Treatment Outcome Study (DATOS)." *Psychology of Addictive Behaviors*, 11(4), 294-307.

### Comparison of Median Length of Treatment Stay



In January 1998, in an effort to improve retention as well as divert a greater number of addicted defendants and include those charged with non-drug crimes, DTAP shifted from a deferred prosecution program to a deferred sentencing program by requiring all participants to plead guilty to a felony charge prior to admission into treatment. It is believed that the certainty of lengthy incarceration is more powerful than the certainty of prosecution as an incentive for defendants to remain in treatment. Retention data support this hypothesis. For those admitted under the deferred prosecution model, the rate of retention at the twelfth month was 64 percent, but for those admitted under the deferred sentencing model, the rate increased to 76 percent.

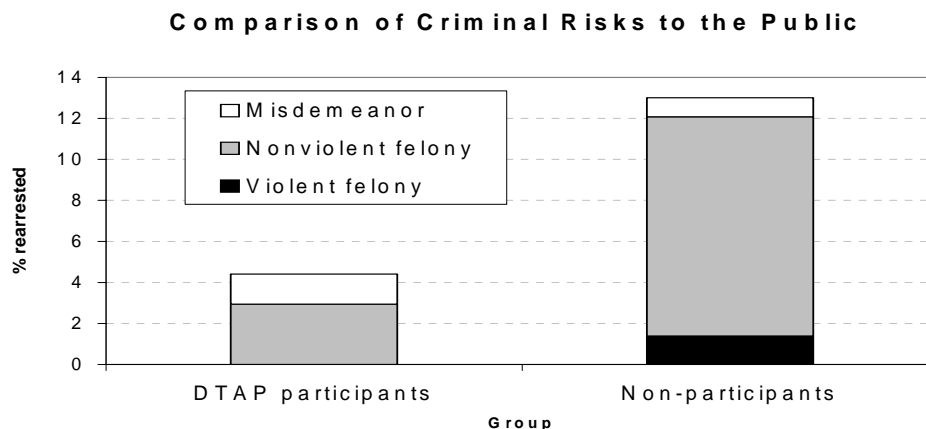
### DTAP One-Year Retention Rate



## DTAP AND COMMUNITY SAFETY

DTAP's screening procedures ensure public safety by excluding those defendants who pose a risk to public safety. In order to limit risk, candidates with histories of serious violence and those who are clinically unsuitable for treatment are systematically rejected during the screening process. After pleading guilty to a felony, participants enter closely monitored treatment while deferring a pending sentence of incarceration. When a participant absconds from treatment, DTAP's Enforcement Team and the court are immediately notified. The Team quickly apprehends and returns absconders to court for sentencing, thereby reducing risk to the community. As of October 14, 2007, 90 percent of DTAP participants who had absconded had been returned within a median of 21 days.

In a recent study, the in-treatment and at-large arrest rate for a sample of DTAP participants was compared to the pretrial and incarceration arrest rate for another sample of individuals who, although paper-eligible for DTAP, did not participate in the program.<sup>34</sup> The rate of pretrial and incarceration arrests reflects the risk to public safety associated with traditional criminal justice processing. Of the 272 DTAP participants, 12 (4%) were rearrested while undergoing treatment. Of these 12, four were charged with misdemeanors and eight were charged with nonviolent felonies. In contrast, 28 (13%) of the 215 non-participants were rearrested. Of these, 23 were charged with nonviolent felonies, three were charged with violent felonies, and two were charged with misdemeanors. These findings indicate that the diversion of drug offenders into community-based residential facilities does not pose additional risk to the community while the offenders are undergoing treatment.



<sup>34</sup> Dynia, Paul and Hung-En Sung, 2000, "The Safety and Effectiveness of Diverting Felony Drug Offenders into Residential Treatment as Measured by Recidivism." *Criminal Justice Policy Review*, 11(4), 299-311.

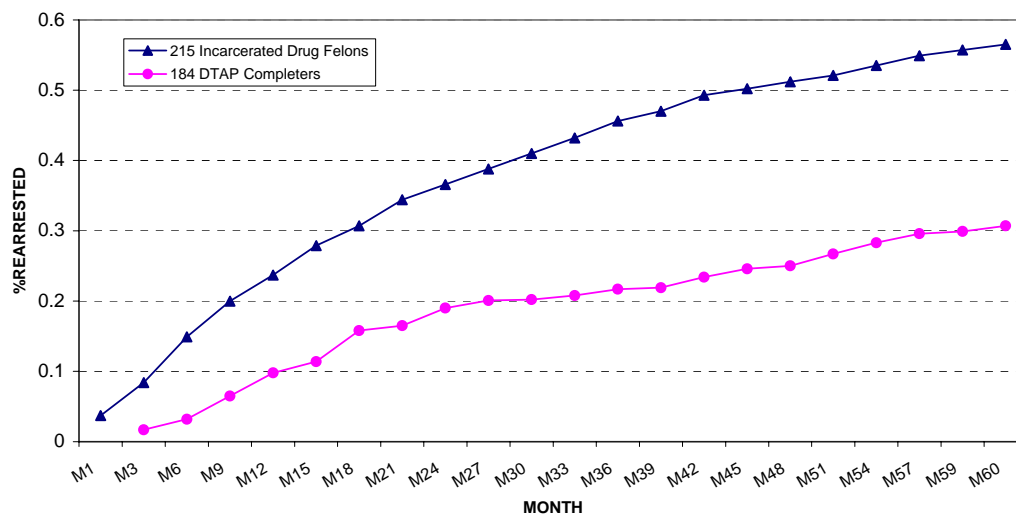
## DTAP AND CRIME REDUCTION

One major objective of DTAP is to reduce crime rates by breaking the link between drug abuse and criminal behavior. The DTAP 2001 Annual Report included the findings of a recently completed five-year recidivism study. These findings are again summarized below, because they so emphatically demonstrate the importance of DTAP to an effective, long-term strategy for reducing drug-related crime. The sample analyzed in the study included 184 drug offenders who completed DTAP and a comparison group of 215 drug offenders who, although meeting DTAP's initial eligibility criteria, did not participate in the program and instead served prison terms.

In the five-year recidivism study, a much lower recidivism rate for DTAP completers was reported than for the offenders in the comparison group. Of the 184 DTAP completers, 30 percent were rearrested within five years of the date that they had completed DTAP. In contrast, 56 percent of the 215 drug offenders comprising the comparison group were rearrested within five years of the date of their prison release. This difference is statistically significant, meaning that the difference did not arise because of sample error.

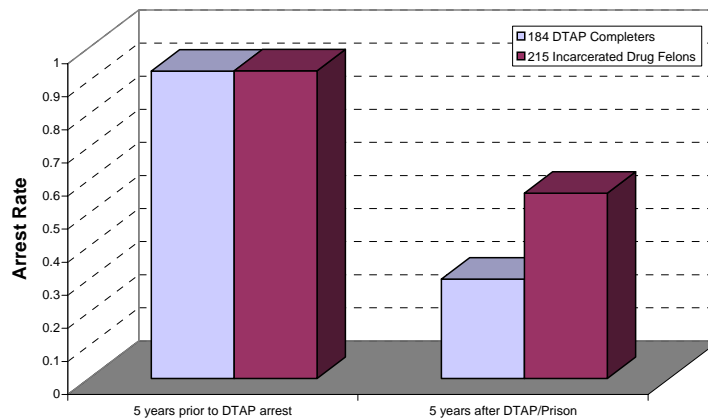
Additionally, DTAP completers were rearrested 0.70 times on average during those five years, while individuals in the comparison group were rearrested 1.30 times. This difference is also statistically significant. However, with regard to the seriousness (misdemeanor versus felony) of the crimes for which members of each group were rearrested, no significant difference was found.

**Comparison of 5-Year Recidivism  
between Incarcerated Drug Felons and DTAP Completers**



Notably, almost all of the members of both groups (92.9% of the DTAP completers versus 93.0% of the comparison group) had been arrested at some point during the five-year period preceding the arrest which prompted their consideration for DTAP (“the DTAP arrest”). A comparison for each group between the arrest rate during the five-year period before the DTAP arrest and the arrest rate during the five-year period after DTAP completion or incarceration supports the conclusion that successful DTAP participation is almost twice as effective in reducing crime as incarceration.

Comparison of Arrest Rates for 5-year Period before DTAP Arrest vs. 5-Year Period after DTAP/Incarceration



## EMPLOYMENT

DTAP seeks to reduce recidivism among program participants by strengthening their ties to the world of legitimate employment and by helping them to adopt a more responsible and productive lifestyle. Work is not simply a way to make a living. It imposes discipline and regularity on one's daily behavior and enhances one's self-esteem.

Many DTAP participants come from Brooklyn's impoverished neighborhoods. They have poor educational credentials and long histories of unemployment and underemployment. DTAP participants get in-treatment educational and vocational training to redress the lack of basic education and of marketable job skills. Additionally, DTAP's Enhanced Employment Initiative is designed to assist DTAP clients in dealing with specific issues and problems such as unemployment, poor vocational and employment-related skills, parenthood, and child support. These employment specialists not only work with each DTAP participant to develop a plan addressing each individual's employment needs and personal aspirations, but the specialists also work with the employers who are considering hiring or who have hired DTAP graduates to address the concerns of these businesses and troubleshoot any problems that may arise. Collaboration between the job developers of the Enhanced Employment Initiative and a Business Advisory Council remedies deficiencies in job networks and job market information. By bringing the drug treatment system and the business community together, DTAP seeks to

cultivate and enhance an environment of trust and understanding that ultimately benefits not just the DTAP graduates but also the businesses which employ them.

**In-treatment educational and vocational training:** Treatment providers help to implement educational and job skills training programs to sustain positive changes in participants' behavior and attitudes through life skills enhancement. General Educational Development (GED) preparation courses and on-site high school programs are the most common educational opportunities. Seven of this fiscal year's graduates obtained GED diplomas while in treatment. The most popular vocational programs are those which provide training in home health care, commercial driving, copying and printing, counseling, auto mechanics, and data entry. Participants also receive job readiness counseling on effective techniques in gaining and maintaining employment, including resume writing and job interviewing skills.

**Employment specialists of the Enhanced Employment Initiative:** In 2002, the staff of the Enhanced Employment Initiative began serving DTAP clients. The employment specialists not only continue to provide those varied services which were previously available to DTAP graduates from the program's job developer, but they also offer new services.

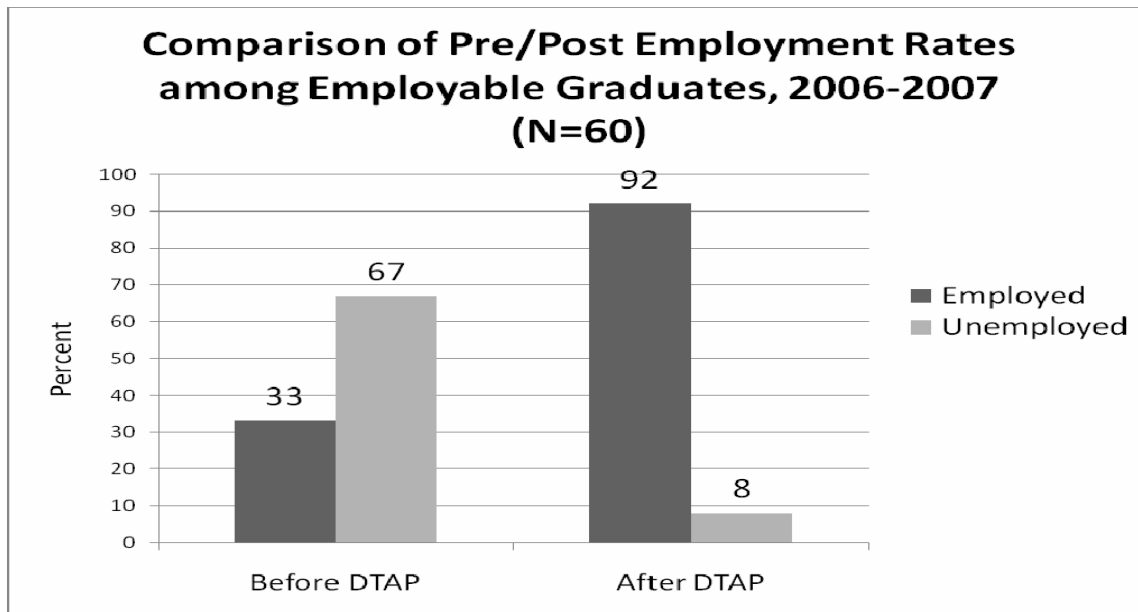
The employment specialists wear several hats, acting as vocational rehabilitation counselors, as well as job developers and on-site job coaches. The employment specialists work with treatment facilities to identify the work histories and skills of DTAP clients and match them to the needs of the business community. DTAP's employment specialists conduct vocational assessments of all DTAP clients, making referrals to GED programs, if necessary, and conduct informative employment workshops on a variety of subjects related to finding, securing, and maintaining a job. They assist graduates with obtaining either a Certificate of Relief from Civil Disabilities or a Certificate of Good Conduct. In addition, the Enhanced Employment Initiative staff members, working with the Office of Child Support Enforcement Unit, assist each DTAP non-custodial parent in establishing paternity and resolving child support issues that can interfere with the client's employability and earnings. Another key aspect of the specialists' mission is to act as liaisons with businesses to make specific job referrals and negotiate with employers to gain jobs for DTAP graduates and increase their opportunities for competitive employment. DTAP graduates are encouraged to maintain contact with the employment specialists, particularly when the graduates want to return to the labor market after a lay-off or want to look for a better job.

**The Business Advisory Council:** The community plays an active role in helping DTAP graduates to remain law-abiding and productive citizens. The Business Advisory Council is a community body formed by the District Attorney and composed of dozens of large and medium businesses located in Manhattan and Brooklyn. Participating businesses work with DTAP's job developers and they identify and develop employment opportunities for DTAP graduates. These collaborative efforts have allowed a number of DTAP graduates to access established business organizations.

**The DTAP Alumni Association:** The Alumni Association was founded in 1999, by a group of DTAP graduates to provide a formal framework of support for their colleagues. Through networking via the peer community, this association aids graduates with post-treatment assistance in an effort to promote continued productivity. Alumni are referred to Kings County District Attorney's Office's resources in the event of unemployment or for career advancement. Membership is based upon the simple desire to maintain a productive, crime-free, drug-free lifestyle and to encourage other members of the association to do the same. Members of the Alumni Association and graduates are some of the best spokespeople for publicizing the concept that quality substance abuse treatment is available within the criminal justice system and that it works!

**DTAP Fosters Employment**

Of the 60 people who were interviewed at time of program completion in the seventeenth fiscal year (there was a total of 72 graduates for the year), all of them were employable.<sup>35</sup> At the time of their DTAP arrest, only 20 (33%) of these 60 employable graduates had been working. In contrast, over double that number -- 55 (92%) -- of these employable graduates are now working in various fields such as food service, commercial driving, building maintenance, construction, office management, medical assistant, substance abuse counseling, sales, and retail management. Their salaries range from minimum wages to more than \$72,800 per year.

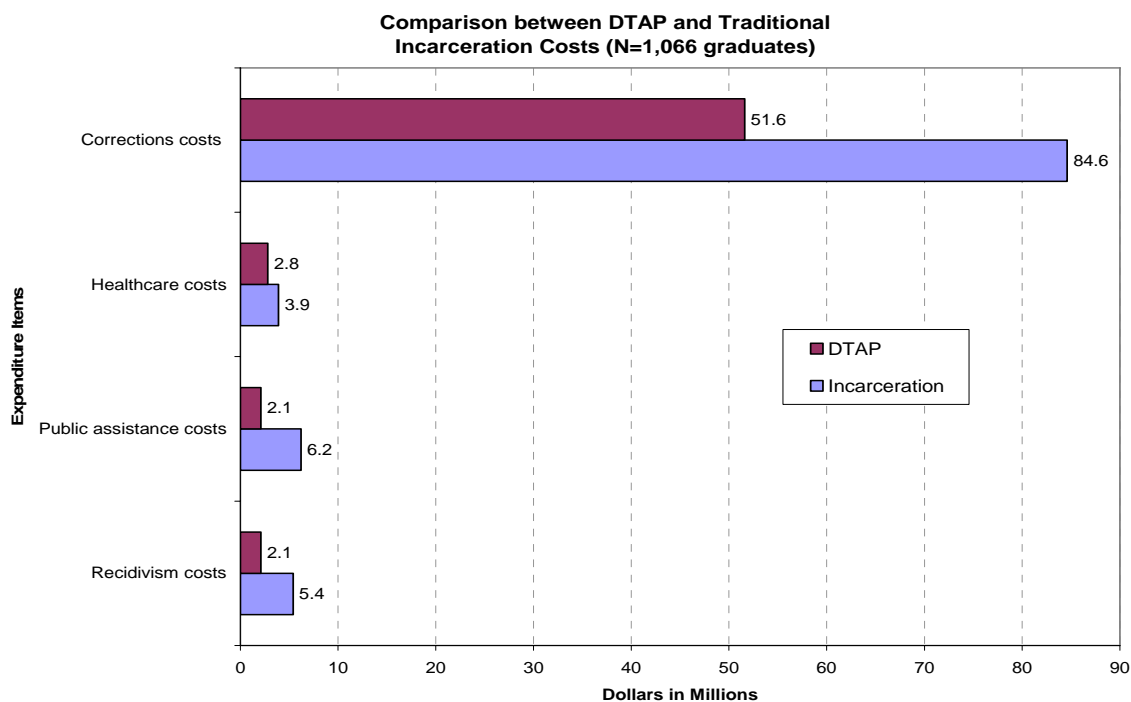


<sup>35</sup> Of the 72 program completers, 12 were excluded for the following reasons: physical disability, retirement, and interview unavailability.

## COST-SAVINGS

The benefits of DTAP are shared not only by the participants and their loved ones, but also by society at large. Many of these benefits are monetary and include reduced criminal justice costs, lower health care costs, and increased productivity.

The figure below compares the costs of treating 1,066 DTAP graduates to the costs of incarcerating the same number of drug felons. It shows that diverting addicted offenders into residential treatment is much more cost-effective than sending them to prison. The total economic benefits, based on correction savings, socio-economic savings, and income taxes paid by the 1,066 DTAP graduates, are \$42,465,899. Had DTAP not been available, more than 42 million taxpayer dollars would have been spent to finance the incarceration of 1,066 drug-addicted felons and to cover the associated social and health costs.



### DTAP Economic Benefits Based on 1,066 Graduates

|                                   |            |
|-----------------------------------|------------|
| Correction savings                | 33,015,953 |
| Healthcare savings                | 1,084,122  |
| Public Assistance savings         | 4,047,900  |
| Recidivism savings                | 3,307,346  |
| Increased income tax contribution | 1,010,568  |

**TOTAL benefits: 42,465,899**



## THE FAMILY CONNECTION

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Although less quantifiable in numerical terms than the significant cost benefits produced by DTAP, the emotional and psychological benefits reaped by DTAP graduates and their families are also important.

Drug abuse unravels the fabric of society by straining, or even severing, the ties between a substance abuser and his or her family and friends. A desire to mend those ties plays an important role in motivating DTAP participants to complete drug treatment. For example, when DTAP participants were interviewed at the time of program completion in fiscal year 2006-2007, 91 percent gave a rating of high or highest importance (8-10, on a scale of 1-10) when asked whether the following reason had helped them decide to stay in and complete drug treatment: "I hurt my family and friends. Staying in the drug program gave me the chance to prove to them that I really wanted to stop using drugs and change my life." Significantly, when those same DTAP graduates were asked to rate their satisfaction with their treatment program, 95 percent confirmed that the program had indeed helped them to get along better with their family, friends, and coworkers.

Additionally, for those DTAP graduates with young children, the fact that the graduates have stopped abusing drugs will undoubtedly have a positive effect on their offspring. Research indicates that, for children ages 10 to 17, substance abuse by a parent is a very strong predictor that such children will themselves develop alcohol and drug abuse problems.<sup>36</sup> Indeed, according to Joseph H. Autry III, M.D., the acting Administrator of the Substance Abuse and Mental Health Services Administration in 2001, "Children of substance abusers are the highest risk group for future drug and alcohol dependence and are more likely to suffer a variety of ills such as depression and anxiety."<sup>37</sup> Conversely, a recent study established that when fathers recover from substance abuse, their children exhibit significant improvements in psychosocial functioning.<sup>38</sup>

In short, a drug offender's cycle of crime and prison affects not only the offender's own life, but also the lives of his or her family. By breaking that cycle, DTAP seeks to strengthen a participant's bonds to family and friends and thereby enhance not just the life of one individual, but the lives of many.

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<sup>36</sup> See page 1 in Office of Justice Programs, 2000, *Promising Strategies to Reduce Substance Abuse*. Washington, D.C.: U.S. Department of Justice. Available at <http://www.ojp.usdoj.gov/docs/psrsa.pdf>

<sup>37</sup> Reported in Office of National Drug Control Policy, Oct. 17, 2001, Press Release: "One in Four Children Affected by Parental Substance Abuse." Available at <http://www.whitehousedrugpolicy.gov/news/press01/101701.html>

<sup>38</sup> Reported by the Research Institute on Addictions, Buffalo, N.Y., June 5, 2002, Press Release.

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**-Part III-**

***COMMENTARY***

## FROM INDEPENDENT RESEARCHERS

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### The CASA Report

Program success should be defined in terms of measurable impact as well as smooth operations. Independent researchers have confirmed the claims of DTAP's effectiveness. For example, Doug Young, a researcher who was formerly affiliated with the Vera Institute of Justice and who has studied numerous alternative-to-incarceration programs in New York City, concluded in 1997:

Funded by New York State, Vera's research on DTAP provides evidence of the model's achievement: DTAP participants stay in treatment longer and have higher completion rates compared with people in similar programs; they are unlikely to commit crime during treatment – to date there have been no arrests for violent crimes among participants; and early data indicate low rates of recidivism among DTAP graduates.<sup>39</sup>

More recently, a five-year evaluation sponsored by the federal government also reached that same conclusion. In March of 2003, the **National Center on Addiction and Substance Abuse (CASA) at Columbia University**, issued a White Paper report, *Crossing the Bridge: An Evaluation of the Drug Treatment Alternative-to-Prison (DTAP) Program*.<sup>40</sup> The White Paper was based on findings that are part of a long-term analysis of the DTAP program by CASA which has been funded by a grant from the National Institute on Drug Abuse (NIDA). The Principal Investigator on that project is Steven Belenko, Ph.D. Formerly a senior researcher at CASA, Dr. Belenko then became a Senior Scientist at the Treatment Research Institute at the University of Pennsylvania, and he is now a Professor in the Department of Criminal Justice at Temple University. CASA's research partners for this study have been the University of Maryland, College Park, Maryland; the Research Triangle Institute in Research Triangle Park, North Carolina; and the Vera Institute of Justice in New York City, New York. The White Paper was prepared under the direction of Susan E. Foster, M.S.W., CASA's Vice President and Director of Policy Research and Analysis.

**Retention and graduation rates.** Using data from more than 1,400 DTAP participants, the CASA research team concluded that program participants remain in treatment a median of 17.8 months, six times the three-month median stay for long-term residential treatment reported in the most recent national study of the general

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<sup>39</sup> From page 43 Young, Douglas, 1997, "New York: Drug Treatment Alternative to Prison Program." Pp. 37-44 in *Improving the Nation's Criminal Justice System: Findings and Results from State and Local Program Evaluations*. Washington, DC: Office of Justice Assistance.

<sup>40</sup> CASA. National Center on Addiction and Substance Abuse at Columbia University. 2003. *Crossing the Bridge: An Evaluation of the Drug Treatment Alternative-to-Prison (DTAP) Program*. A CASA White Paper, March 2003. The report can be downloaded for free from the publications list on CASA's website: [www.casacolumbia.org](http://www.casacolumbia.org).

drug treatment population, the Drug Abuse Treatment Outcome Studies (DATOS).<sup>41</sup> Data from over 1,000 DTAP participants who were admitted into the program before November 2000, revealed that more than half (52.6%) graduate from the program.<sup>42</sup>

**Reduced recidivism.** CASA researchers compared a group of 280 DTAP participants (a group which included both dropouts and graduates) to a group of 130 defendants who went through the criminal justice process in New York City.

According to CASA's findings, DTAP participants, two years after leaving the program, had rearrest rates that were 26 percent lower (43% vs. 58%) and reconviction rates that were 36 percent lower (30% vs. 47%) than those of the offenders in the matched comparison group two years after leaving prison. DTAP participants were also 67 percent less likely to return to prison (5% vs. 15%) two years after leaving the program than were members of the matched comparison group two years after leaving prison.<sup>43</sup>

CASA's analysis comparing just those who graduated from DTAP to those of the matched comparison group who served time in prison reveals findings that are even more dramatic. DTAP graduates had rearrest rates that were 33 percent lower (39% vs. 58%), reconviction rates that were 45 percent lower (26% vs. 47%), and were 87 percent less likely to return to prison (2% vs. 15%) two years after completing the program than the matched comparison group two years after leaving prison.<sup>44</sup>

**Employment.** CASA's research revealed that DTAP graduates are three and one-half times likelier to be employed than they were before arrest and entrance into the program (92% vs. 26%). According to the report, "[r]econnecting ex-offenders to the world of legitimate employment is crucial to maintaining recovery and reducing future criminal behavior." For example, CASA found, from an analysis of 117 employable graduates, that among those DTAP graduates who were working at the time of program completion, 13 percent were rearrested during the three-year follow-up. In contrast, 33 percent of those who were not working were rearrested during the same period.<sup>45</sup>

**Reduced costs.** The CASA team concluded that DTAP's results were achieved at about half the average cost of incarceration. CASA calculated that the average cost for a DTAP participant was \$32,975, and compared that to the average cost of \$64,338, if that same person had been sent to prison.<sup>46</sup>

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<sup>41</sup> *Id.* at 4, 7

<sup>42</sup> *Id.* at 5

<sup>43</sup> *Id.* at 6

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* at 10

<sup>46</sup> *Id.* at 13

***Additional areas of investigation.*** CASA’s research invites investigation into other aspects of DTAP, such as the effects of the 1998 changes to the DTAP program; predictors of treatment compliance, including perceptions of legal pressure; reduction in relapse/drug use by DTAP participants; and relative economic costs and benefits of DTAP.

The results of the CASA research as reported in the White Paper confirm DTAP’s own analyses of its data and validate District Attorney Hynes’ faith in the DTAP model as an effective means to reduce crime and drug use. DTAP joins in CASA’s recommendation that “courts and prosecutors offices across the Nation should consider this type of program as a possible cost-effective alternative to incarceration.”

***“The Brooklyn Bridge is a spectacular symbol of accomplishment—sound, functional, beautiful and enduring. For individuals facing the certainty of incarceration because of drug dealing and drug use, the Brooklyn DTAP program provides a sound and functional bridge to a long life of independence, self-sufficiency and achievement.”***

---Joseph A. Califano, Jr., Chairman and President, National Center on Addiction and Substance Abuse (CASA) at Columbia University, from his Accompanying Statement in CASA’s March 2003 White Paper, *Crossing the Bridge: An Evaluation of the Drug Treatment Alternative-to-Prison (DTAP) Program*

## FROM PUBLIC OFFICIALS

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Public officials at all government levels -- federal, state, and city, and executive, legislative, and judiciary -- have praised the DTAP program.

At the state level, funding for DTAP has to be secured on a yearly basis. In 1997, State Assembly Speaker **Sheldon Silver** and the Chairman of the Assembly Codes Committee **Joseph R. Lentol** pushed for the continuing and expanding funding of the program by maintaining that:

A continuation of the DTAP program is supported by a broad based coalition including district attorneys and drug treatment professionals. The fact that the program is strongly supported by some of New York's toughest D.A.'s is a powerful testament to its success.<sup>47</sup>

A press release from State Senator **Joseph L. Bruno** regarding the March 2001 unveiling of an extensive plan to create and expand treatment options for drug- and alcohol-addicted felony offenders specifically noted that the new plan would build "on a series of successful state substance abuse initiatives," including the "district attorney-based Drug Treatment Alternatives to Prisons (DTAP) program."<sup>48</sup>

At the end of October 2003, then New York Governor **George E. Pataki**, in launching the state's \$2.8 million "Road to Recovery" initiative with State Senator Bruno, noted that the program was modeled after the DTAP program first tried in Brooklyn by District Attorney Hynes and later adopted in the other New York City counties. The governor said, "This is not a soft-on-crime initiative."<sup>49</sup> The mayor of New York City, **Michael R. Bloomberg**, has also voiced his approval of DTAP, calling it "an outstanding program."<sup>50</sup>

The Chief Judge of the State of New York, **Judith S. Kaye**, has facilitated a number of criminal justice-based treatment initiatives. Based on her first-hand knowledge of how effective these programs can be, she has become one of the most enthusiastic advocates of diversion programs, like DTAP:

[T]reatment programs that are backed by strong systems of monitoring and sanctioning for noncompliance can work. They can achieve good outcomes, better outcomes than traditional sanctions

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<sup>47</sup> See Silver, Sheldon and Joseph R. Lentol, 1997, *Public Safety 2000: The Assembly's Crime Fighting Plan*. Albany, NY: New York State Assembly.

<sup>48</sup> See Press Release issued by State Senator Joseph L. Bruno on March 15, 2001.

<sup>49</sup> "Twelve more counties sign on to drug treatment program." *Associated Press and Local Wire*. Oct. 27, 2003 (Retrieved April 1, 2008 from NEXIS online database)

<sup>50</sup> Message conveyed at the March 12, 2003 DTAP graduation by Dr. Martha Sullivan, Deputy Commissioner for Health Promotion and Chemical Dependency Services

in many cases, by reducing recidivism, producing more productive citizens and saving public resources in the process. With every new program, with every year of experience, we are getting smarter in this area. And this leads to a final point about courts, drugs and the need for change.

Here we suggest that a new Article be added to the Criminal Procedure Law that would authorize trial courts--with the consent of the prosecutor-- . . . to allow the defendant an opportunity to complete a program of drug treatment while under the authority of the court. Essentially, the new Article would codify standards for drug offender diversion programs, like DTAP and TASC.<sup>51</sup>

In October of 2007, the **New York State Commission on Sentencing Reform**, after holding a series of public hearings and information-gathering meetings, issued its preliminary report. In that report, the Commission noted that it had

heard, consistent testimony from prosecution, defense and judicial representatives that proven treatment options such as the Kings County District Attorney's "Drug Treatment Alternatives to Prison" ("DTAP") program, and other community-based treatment alternatives available through the Judiciary's Drug Treatment and Mental Health Courts, can offer a cost-effective option to mandatory prison sentences by eliminating the underlying behavior that often leads to further involvement in the criminal justice system.<sup>52</sup>

DTAP has also received support from those in the federal government. On April 4, 2000, the House Subcommittee on Criminal Justice, Drug Policy, and Human Resources, heard testimony on "Drug Treatment Options for the Justice System." In his opening statement, Chairman **John L. Mica** (R-FL) noted:

This program [DTAP] represents an important step in fighting the war on drugs and addressing the treatment needs of eligible non-violent offenders. Experience has shown that this approach can break addictions, protect lives, assist families, promote employment, and save substantial taxpayer dollars. When I visited the DTAP program and talked personally with offenders in drug treatment, I saw that it was making an important difference in their lives.<sup>53</sup>

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<sup>51</sup> From Chief Judge Judith Kaye's 1999 State of the Judiciary Address. Available at: <http://www.courts.state.ny.us/State99.htm>

<sup>52</sup> New York State Commission on Sentencing Reform, *The Future of Sentencing in New York State: A Preliminary Proposal for Reform* (Oct. 15, 2007), at page 24.

<sup>53</sup> Available at <http://www.house.gov/reform/cj/hearings/00.04.04/OpeningStatement.htm>



Senator **Joseph R. Biden, Jr.** (D-DE) has for several years been a strong supporter of federal DTAP legislation. In 2003 on the publication of the National Center on Addiction and Substance Abuse (CASA) White Paper Report, *Crossing the Bridge: An Evaluation of the Drug Treatment Alternative-to-Prison (DTAP) Program*, he said:

Why is DTAP so successful? In large part because of the hard work and inspirational leadership of Brooklyn District Attorney Joe Hynes and the way he and his team have structured the program. . . . I hope that CASA's evaluation will inspire other jurisdictions to start a DTAP program, confident that it is an innovative, cost-effective way to deal with repeat non-violent drug offenders.<sup>54</sup>

Public officials from other states have expressed support for DTAP. For example, in July 2007, Senior Criminal District Court **Judge Larry Gist** of Jefferson County, Texas, who is also the Chairman of the State of Texas Judicial Advisory Committee, was a guest at the DTAP graduation. Judge Gist pronounced DTAP as "inspiring" and expressed hope that it would soon be implemented in Texas.

DTAP is also becoming known overseas. In a policy study commissioned by the United Kingdom's Home Office, DTAP and its effectiveness were cited as part of the evidence supporting a recommendation to adopt pre-sentence diversion of drug offenders.<sup>55</sup>

***"The Kings County District Attorney's Office deserves special recognition for implementing a creative and cost-effective alternative to incarceration for drug-addicted felony offenders."***

---2001 Prize for Public Service Innovation Committee,  
New York Citizens Budget Commission, Awarding  
Honorable Mention to DTAP

<sup>54</sup> March 11, 2003 press release.

<sup>55</sup> See Hough, Michael, 1996, *Drug Misuse and the Criminal Justice System: A Review of the Literature*. London: Horseferry House.

## FROM DTAP GRADUATES

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Program graduates are the true spokespeople of DTAP's success. Numbers and charts cannot capture the extraordinary efforts that paved the way to their transformation. Their voices make it clear that recovering from drug addiction can be as difficult as incarceration in prison. But, unlike incarceration, drug treatment has given them self-knowledge and self-respect.

Year to year, certain themes repeatedly surface in the accounts of DTAP graduates, including pride in having gained control over their lives, the emotional satisfaction from having reconnected with their families, and their positive outlook on the future.

### V.

A forty-year-old mother of six children, V started her criminal career as a juvenile drug seller. She did not begin to use drugs until the age of seventeen when she wanted to know what her clients felt from the experience. In order to support her habit, V engaged in prostitution and was unable to care for her children. When she was arrested and offered treatment through DTAP in 2005, she accepted the challenge and spent the next 24 months receiving treatment at Phoenix House. V completed DTAP in April 2007 and now works two jobs to maintain her home. V earned her GED while in DTAP and is planning to pursue an associate's degree in social work. V spoke at the 2007 DTAP graduation:

Good evening. First I would like to take this time out to give honor to God because without him I wouldn't be here today. Then I would like to take the time to thank my family who has supported me through my whole recovery process. I would also like to thank Mr. Hynes for creating the DTAP Program an alternative program to prison because I really didn't feel that I can get recovered by being in prison.

I became curious on what the drugs were doing for the people I was selling it for and I thought that I had control. It was like a once a month thing that I would indulge and then it became an every weekend thing and then it became an every day thing.

I didn't do drugs, drugs did me. I lived to get high and I got high to live. I lost contact with my children. My children were no longer my priority. I had to go to bed high, if I went to bed at all, and when I opened my eyes I had to be high. My children really missed out – I really missed out on a lot of years of my children's lives.

...

I sold everything. I lied and manipulated my way for more money for drugs. I have done everything except selling my children. I am

not proud to say that. What I am proud to say is that I decided to surrender. I decided to change my life. I felt that no longer should my children have to go on without a mother.

...

While in treatment I worked on many childhood issues that I had with my father, and I got a closure after 30 years. That was a big step for me. Taking a personal inventory of myself and searching, myself esteem was a big thing for me to really figure out who I really am and I am so grateful today that even though I am still in the learning process, in this recovery process, I do have a sense of who I am and what I want to be today . . . . So I salute the DTAP Program for helping me to want to help myself.

**A.**

Forty-five-year-old A is one of twelve siblings who were all addicted to one substance or another. Growing up in a troubled single-parent household, A experimented with marijuana and alcohol when he was thirteen, and by sixteen, he was already addicted to cocaine, selling drugs, and getting arrested and incarcerated. In 2005, after 25 years of drug abuse, A entered DTAP. He considers his time at Veritas, where he received treatment, a blessing. A is now a contractor, running his own business. He is very active in the substance abuse recovery community and spends time helping and encouraging others to lead sober lives. A spoke at the 2007 DTAP graduation:

I graduated to more hard drugs like heroin and cocaine. I truly lost myself. I became so self-centered. I was like a prisoner in my own mind; I used everything and manipulated anyone I could.

I spent thirteen years in prison and I was offered drug treatment after drug treatment after drug treatment after drug treatment and I always denied it. I told myself, "I don't need no help, I don't need no help. I can do this on my own". . . . But in the end I begged for it. I sat up in Riker's Island for about eight months and I begged for it and they wouldn't give it to me. I was a three-time loser and all my cases – all 35 of them – had to do with drugs or were drug related. Finally, I was given DTAP.

...

I am so grateful. I want to thank DTAP for giving me the opportunity to enter treatment. I want to thank Veritas for all their help . . . I want to thank My Hynes for saving my life. I am truly grateful today. Today, I am running a small corporate contracting business. Although I can't say it's doing great, I'm better off than I was yesterday . . . I have my children back in my life and I have a wonderful girlfriend now that supports me in my recovery.

I never though I'd see this day. I just thank God for saving me, for being with me because I always though he was never there. He allowed me to go through everything and carried me all the way here. And I am here healthy, sane and able to tell my story. He has blessed me to carry a message to those who still suffer.

#### **E.**

E, now forty-one years old, began selling drugs as a teen to make extra money. His mother, who divorced her husband and had to struggle with extreme poverty, could not control the boy or afford to meet his material desires. Soon, E went from a petty drug dealer to become a cocaine and heroin user. Many arrests and convictions at both federal and levels ensued. E was arrested once again for selling drugs in 2003. His fellow jail inmates and his defense attorney encouraged him to give DTAP a try. He took their advice and entered DTAP. E was sent to Argus Community for treatment. During the 34-month period, he not only overcame his addiction but also decided to train as a substance abuse counselor. Today he works for the Department of Health and Mental Hygiene as a discharge planner at Rikers Island jail. Working in that facility keeps him in check and serves as a clear reminder of his former life. Now, he is free from drugs and crime, and glad to be helping others. E spoke at the 2007 DTAP graduation:

I started selling drugs and then I ran into the club thing. When you are in the club, you drink. When you drink, you want to be the man so I tried cocaine. We were making a lot of money from dealing dope, so for me doing cocaine and drinking was like a normal thing. Everyday we had something exciting to celebrate.

So my drug abuse worsened. I got caught by the federal government, was bailed out. Being out on bail, I got caught again – this time by the state. I had to face two charges. Even when I was locked up, I used heroin to vent out the pressure I was experiencing all this time. I tried it and it took my worries away, I even nodded out in my cell.

...

I lost a lot of years of my life. I have a 21-year-old son and I was never there for him. He's my best friend. Now I'm glad to have him back. And I'm grateful for the program because it changed me. I never thought I'd be able to change. But DTAP made it a reality.

#### **The Family View: M, Ca, and Ct**

Family members of DTAP participants often provide crucial and steadfast support during the recovery process. A participant's graduation from DTAP and his or her successful treatment outcome can have a tremendous positive impact on those loved ones who have watched the addict struggle with substance abuse. M completed DTAP

in 2004. The road to recovery was long, but for M, his wife Ca, and son Ct, every step has been worth it. They spoke with a DTAP research assistant:

M and Ca lost friends and family in the September 11th terrorist attacks. Soon thereafter, both also lost their jobs. These crises precipitated M's return to his old habit of abusing heroin and dealing drugs. M was arrested in 2002. Soon afterwards, he pleaded guilty and was admitted to the DTAP program.

M spent two years in a therapeutic community and worked hard to address his addiction during his treatment stay. Support from his loved ones was the key reason behind his success, "Having to see my family suffer motivated me to do the right thing this time." By the time he graduated DTAP in 2004 and the case was dismissed, M was drug-free and completely devoted to his family. Nevertheless, reentry was an intimidating challenge. "Living life is difficult especially in a clean and sober mind," says M, "the temptation is there and you have to live one day at a time." But, his roles as an employee, provider, husband, and father keep him motivated and focused. M received training in HIV/AIDS and substance abuse counseling and is currently a clinical supervisor at the drug treatment facility where he was once a patient. He strives to become an effective professional and is participating in a mental health training program at Hunter College.

Life is now filled with goals, plans, and rewards. M is expecting to become a certified CASAC counselor in the State of New York and will be working with the New York City Department of Correction in the addiction screening and assessment of jail inmates. Because of his own experiences, he is convinced that the lives of other addicts can be rescued from the deadly cycle of drugs and crime if proper assistance is provided. "DTAP was a chance for me to get my life together. I had the opportunity to get a job and an education." Having adopted a proactive and more responsible perspective on life, M currently works two jobs, owns vehicles, and rents an apartment. Because life remains stressful, M cannot afford lowering his guard: "I am more aware, careful and stricter with the decisions that I make."

Many people have witnessed and participated in M's struggle and recovery. Ct, Miguel's sixteen-year old son, recalled that he had a good relationship with his father but M's addiction spoiled everything. After his relapse, M spent most of his time hanging out in the streets and not with the family. M's lengthy stay in the treatment center was also difficult for Ct because he was not able to see him when he wanted to. "It bothered me to wake up and not see my father in the house." For more than a year Ct had to visit his father in the treatment center. But Ct never relented: "I had faith in him." His perseverance paid off. "The tough times we had together make us stronger. I am looking forward to moving on and to having a bright future with my dad. Everything is going well with the family now. If it weren't for DTAP, my dad would be in jail serving 12 years. The program has helped my dad. I am extremely proud of and happy for my father."

Ca, M's wife and Ct's mother, concurred, "DTAP was the best thing to happen to my husband". Her life had been repeatedly devastated by M's chronic involvement with heroin and numerous periods of incarceration. At one time Carmen lost everything and lived in a shelter for 24 months. "Thank God he graduated from the DTAP program and

got his life together. DTAP is what helped him and I would recommend it to anybody.” Ca is now proud of her husband, who in her eyes is a well respected counselor who gets along well with everyone. “Yes, M is my knight in shining armor,” Ca concluded.

***“A drug offender’s cycle of crime and imprisonment splinters families, alienates friends, and destroys communities. By breaking that cycle, DTAP repairs the social fabric that drugs had torn apart.”***

---District Attorney Charles J. Hynes, from a speech in Washington, D.C., March 11, 2003, marking the release of CASA’s report: *Crossing the Bridge: An Evaluation of the Drug Treatment Alternative-to-Prison (DTAP) Program*

## ANNOTATED BIBLIOGRAPHY OF PUBLISHED DTAP RESEARCH

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Over the years, DTAP has been continuously monitored and examined with rigorous scientific methods. This array of studies has made DTAP one of the most scrutinized prosecutorial innovations in the country. External agencies that have participated in the evaluation of the program include the Vera Institute of Justice, New York City Criminal Justice Agency, the National Center on Addiction and Substance Abuse at Columbia University, the Treatment Research Institute at the University of Pennsylvania, and the Research Triangle Institute. Findings from these research collaborations have been reviewed by leading experts in the field of drug abuse treatment and published in prestigious scholarly journals. DTAP research publications have made a tremendous contribution to current understanding of the impact of criminal justice interventions in the rehabilitation of drug-abusing offenders. As new assessment efforts are being planned, DTAP will remain a valuable source of information and inspiration for the years to come.

Below is a brief annotated bibliography of this rich DTAP literature. References are grouped by topics and listed in chronological order.

### Cost-Benefits

**Zarkin, G., Dunlap, L., Mamo, D., Belenko, S., & Dynia, P. (2005). A benefit-cost analysis of the Kings County District Attorney's Office Drug Treatment Alternative to Prison (DTAP) program. *Justice Research and Policy, 7, 1-25.***

ABSTRACT: This study analyzed the costs and benefits of DTAP. Findings indicated that in comparison to the traditional criminal justice process, DTAP provided a cost-beneficial alternative to prison for nonviolent felony drug offenders. The results indicated that 57 percent of DTAP participants were rearrested during the follow-up period compared with 75 percent of the comparison group. Moreover, only 30 percent of DTAP participants had a new jail sentence and only 7 percent had a new prison sentence compared with 51 percent and 18 percent, respectively, of comparison subjects. The benefits increase in each subsequent year of analysis, underscoring the importance of adopting a long-term perspective to criminal justice policy. The 6-year cumulative cost of the programs indicated that the DTAP program saved an average of \$88,554 over the study period. Data from a 6-year longitudinal quasi-experimental design with 2 groups--150 DTAP participants and a matched comparison group of 130 drug offenders who entered prison-- were analyzed.

### Employment and Reentry

**Sung, H.-E., & Richter, L. (2006). Contextual barriers to successful re-entry of recovering felony offenders. *Journal of Substance Abuse Treatment, 31, 365-374.***

ABSTRACT: Recidivism among recovering ex-offenders is usually conceptualized as an outcome of the interplay between personal traits and treatment interventions. This focus on the individual to the exclusion of the socio-legal context in which recovery and reintegration take place has limited extant policy initiatives. Recidivism data from 440 DTAP graduates were examined. All else equal, recovering offenders who began their

reentry during times of high unemployment and/or low risk of incarceration for new offenses were found more likely to recidivate during their first year in the community. These findings highlight the promise of blending effective drug abuse treatment with credible sanctions against drug offenses as well as the need for job training, placement, and advocacy services.

**Sung, H.-E. (2001). Rehabilitating felony drug offenders through job development: A look into a prosecutor-led diversion program. *Prison Journal, 81*, 271-286.**

ABSTRACT: Drug offenders develop chronic dependence on the drug economy for their subsistence. DTAP seeks to correct this problem by diverting drug-addicted felons into residential treatment with strong educational and vocational training components and by providing job counseling and placement to program graduates through a job developer and a business advisory council. Data from 406 DTAP graduates revealed that participants made extensive use of the educational and vocational opportunities during treatment and that employment rates increased from the 26 percent pretreatment level to 92 percent after treatment completion. Graduates who were working at the time of treatment completion were more than 50 percent less likely to be rearrested during the 3-year follow-up. Findings indicated that DTAP improved employment, which reduced recidivism. However, the massive restructuring of the urban economy will quickly dissipate such short-term successes unless jobs offering real opportunities for achieving permanent economic emancipation are created.

**Sung, H.-E. (2000). Employment and recidivism reduction: A Brooklyn tale. *Alternatives to Incarceration, 6*, 14-15.**

ABSTRACT: Between 1989 and 1998, more than 224,000 adult arrests for felony and misdemeanor drug offenses were made in Brooklyn, New York. The DA's office created DTAP to break the vicious cycle of poverty and drug abuse. The program seeks to improve the human capital of participants through in-treatment educational and vocational training and to enhance their social capital through job counseling and placement services. Data show DTAP graduates enjoy improved employment, which is associated with lower recidivism.

HIV/AIDS Risk and Mental Health Needs

**Belenko, S., Lin, J., O'Connor, L., Sung, H.-E., & Lynch, K. G. (2005). Sexual and physical victimization as predictors of HIV risk among felony drug offenders. *AIDS and Behavior, 9*, 311-323.**

ABSTRACT: Injection and other drug use and high-risk sexual behaviors put criminal offenders at increased risk for HIV infection. Studies in other populations, especially females, have found that a history of sexual or physical victimization increases engagement in HIV-risk behaviors, and drug-involved offenders have high rates of such prior victimization. However, there has been little research among male offenders. In a sample composed of 247 DTAP participants and comparable inmates from New York City, prior sexual victimization was related to a higher number of sex partners and lower proportion of protected sex acts in the 30 days before arrest. Prior physical abuse was related to cocaine injection, but not heroin injection or high-risk sex behaviors. These results suggest a complex relationship between sexual and physical abuse and HIV risk among male offenders. Assessing for specific prior abuse histories of offenders and



providing targeted interventions may be useful for developing more effective primary and secondary HIV prevention services for this high-risk population.

**Belenko, S., Lang, M. A., & O'Connor, L. (2003). Self-reported psychiatric treatment needs among felony drug offenders. *Journal of Contemporary Criminal Justice*, 19, 9-29.**

**ABSTRACT:** This study estimated dual diagnosis in felony drug offenders with substance use disorders and was based on self-report of psychiatric treatment need and present symptomatology. Participants were 150 DTAP participants and 130 prison comparisons that were arrested during 1995 and 1996. The sample was primarily male, 33 years-old, and Hispanic. The individuals were categorized into two groups: the first reported a history of receiving psychological treatment and the second had no such history. The findings suggest that depending on the criteria used between 40 and 60 percent of the sample of felony drug sale offenders with substance use or abuse disorders may be dually diagnosed. Forty-three percent of the sample may have a co-existing mental health disorder. A history of inpatient psychiatric treatment was not significantly associated with self-report of current psychiatric treatment need. A history of outpatient rather than inpatient psychiatric treatment was significantly associated with self-report of treatment need. There were four significant predictors associated with reporting a need for psychiatric treatment. The need treatment respondents were more likely than the no need group to experience recent cognitive difficulties, more likely to experience any recent mental or emotional problems, and more likely to have a history of psychiatric outpatient treatment. The strongest predictor found the need treatment group 35 times more likely to report being distressed over psychiatric symptoms within the past 30 days.

**Lang, M. A., & Belenko, S. (2001). A cluster analysis of HIV risk among felony drug offenders. *Criminal Justice and Behavior*, 28, 24-61.**

**ABSTRACT:** A study was conducted to investigate HIV risk among felony drug offenders using cluster analysis. Findings identified two clusters of risk type, one distinguished by high frequency of unprotected sex behaviors and one by high frequency drug use, which suggested that HIV risk reduction interventions may be tailored to target specific types of HIV risk behaviors, either sex- or drug-related.

**Sung, H.-E., Tabachnick, C., & Feng, L. (2000). Heroin injection among felons: Testing extant theories. *Deviant Behavior*, 21, 381-406.**

**ABSTRACT:** The study tested the stratification, market forces, social network, risk-taking syndrome and career intensification hypotheses. Sample included 366 DTAP participants. Variables derived from these hypotheses correctly predicted 76 percent of the cases. Hypotheses with the strongest empirical support were the social network and risk-taking syndrome. According to the social network hypothesis, age, gender and ethnic groups developed their own heroin subcultures that influence injecting behavior. In the risk-taking hypothesis, users who engaged in other non-drug reckless behaviors were at a higher risk of injecting heroin. The availability (street price) of heroin was the strongest correlate of heroin injection as more users self-identified as injectors during periods of lower availability. Age and longevity of heroin use negatively correlated with injection.

## History and Philosophy

**Belenko, S., Sung, H.-E., Swern, A., & Dornhauser, C. (In press). Deferred sentencing in the war on drugs: The Drug Treatment Alternative-to-Prison program. In J. L. Worrall and M. E. Nugent (eds.), *The changing role of the American prosecutor*. Albany, NY: SUNY Press.**

ABSTRACT: The birth and growth of DTAP is analyzed in the context of the broader war on drugs. The evolution and performance of the program are documented. Eight lessons for future prosecutorial innovations are drawn. They are: targeting high-risk prison-bound offenders, sustaining political support, building in program flexibility, maintaining continuous evaluation, manipulating and calibrating legal coercion, demanding long-term treatment, striving for cost-savings, and emphasizing social integration.

**Sung, H.-E., & Belenko, S. (2006). From diversion experiment to policy movement: A case study of prosecutorial innovation in the United States. *Journal of Contemporary Criminal Justice*, 22, 220-240.**

ABSTRACT: This analysis of the DTAP program documents the process by which the medical model of drug addiction was revived in the midst of a severe drug epidemic in the county. The Kings County District Attorney's Office (KCDA) first changed the procedures for the local adjudication of serious drug cases to reflect the view that drug addiction is a medical problem that requires treatment rather than punishment as the primary strategy for addressing it. At the initial planning stage, Brooklyn prosecutors focused on securing funding; establishing procedures and protocols; and gaining the support of judges, defense attorneys, and probation and parole boards. These interactions across agencies and personnel ensured that open and frank discussions would not only ensure support for the program but also make clear what was expected from each party in implementing the DTAP strategy. As a consequence of the demonstrated success of the DTAP program, the KCDA has rallied bipartisan support for its strategy at the Federal level.

**Hynes, C. J. (2004). Prosecution backs alternative to prison for drug addicts. *Criminal Justice*, 19, 28-38.**

ABSTRACT: In examining and understanding the disease of drug addiction and adopting effective means of confronting it in the criminal justice system, criminal justice practitioners are becoming better acquainted with meeting the challenge of maintaining a safe society. Two key premises behind DTAP are that the criminal recidivism of addicts can be reduced if the addiction is treated and that legal coercion can be a powerful motivator to get addicts to succeed in treatment. This article presents an overview of the DTAP program, specifically how it works, the evolution of DTAP, identifying DTAP candidates, the screening process, plea agreement and guilty pleas, the treatment phase, sentencing in the event of program failure, successful program completion and post-completion assistance, and the success of DTAP.

**Belenko, S., Sung, H.-E., & O'Connor, L. (2003). *Crossing the bridge: An evaluation of the Drug Treatment Alternative to Prison (DTAP) program*. New York: The National Center on Addiction and Substance Abuse at Columbia University.**

ABSTRACT: This five-year evaluation focuses on the Drug Treatment Alternative-to-Prison (DTAP) Program in Brooklyn, NY. Findings revealed that DTAP participants had rearrest rates that were 26% lower and reconviction rates that were 36% lower two years after leaving the program, compared a matched group. More than half of participants graduated from DTAP, and these offenders were 3 1/2 times more likely to be employed than they were before arrest. Moreover, graduates' rearrest rates were 33% lower, their reconviction rates were 45% lower, and they were 87% less likely to return to prison. The results were achieved at about half the average cost of incarceration

### Legal Coercion

**Young, D. (2002). Impacts of perceived legal pressure on retention in drug treatment. *Criminal Justice and Behavior*, 29, 27-55.**

ABSTRACT: Legal coercion in any given criminal justice/treatment situation can be viewed as the extent to which the offender believes that the legally imposed consequences of not complying with treatment mandates are certain, severe, and swift. The study focused on the DTAP program; it designed and used a Perceived Legal Pressure (PLP) scale. Findings offered support for mandatory treatment programs and the idea that progressively higher levels of perceived legal pressure can increase treatment retention. The study recommends expanding use of programs that provide clear mandates to participants and convince clients that they face certain but not necessarily severe legal consequences.

**Young, D., & Belenko, S. (2002). Program retention and perceived coercion in three models of mandatory drug treatment. *Journal of Drug Issues*, 32, 297-328.**

ABSTRACT: Despite the proliferation of drug courts and other mandatory treatment models, few studies have compared the impact of different program features comprising these models. This study compared three groups of clients mandated to the same long-term residential treatment facilities. Study participants were referred from DTAP, TASC, probation or parole. These clients varied substantially in their perceptions of legal pressure, and these perceptions generally corresponded to the programs' different coercive policies and practices. Retention analyses confirmed that the odds of staying in treatment for six months or more was nearly three times greater for clients in the most coercive program compared to clients in the third group. Results support the use of structured protocols for informing clients about legal contingencies of participation and how that participation will be monitored, and developing the capacity to enforce threatened consequences for failure.

### Merit Mentions by Federal Government Agencies

**Substance Abuse and Mental Health Services Administration. (2005). *Substance abuse treatment for adults in the criminal justice system*. Rockville, MD: SAMHSA.**

ABSTRACT: The Substance Abuse and Mental Health Services Administration (SAMHSA) is a services agency of the U.S. Department of Health and Human Services charged with the responsibility of focusing attention, programs, and funding on the

improvement of the lives of people with or at risk for mental and substance abuse disorders. SAMHSA convened a consensus panel of leading national experts to provide best practice guidelines in the treatment of substance-abusing criminal offenders. The panel recommended Brooklyn's DTAP program as one of the treatment models that "exemplify effective diversion programs" (p. 151). DTAP's program description, process statistics, and performance measures were examined vis-à-vis other criminal justice-based diversion programs.

**Bureau of Justice Assistance. (1997). *Improving the nation's criminal justice system: Findings and results from state and local program evaluations effective programs (NCJ 166821)*. Washington, DC: BJA.**

ABSTRACT: The Bureau of Justice Assistance (BJA) is an agency of the U.S. Department of Justice and provides leadership and services in grant administration and criminal justice policy development to support local, state, and tribal justice strategies to achieve safer communities. Through its Effective Program Initiative, BJA identified six most successful criminal justice programs assisted by Byrne Formula Grant Program. Brooklyn's DTAP, recognized as representing exceptional advances in combating drug abuse based on sound programming, was presented as one of the six model programs. An entire chapter was devoted to the discussion of the history, modality, and impact of DTAP with data collected and analyzed by the Vera Institute of Justice.

### Treatment Process and Dynamics

**Sung, H.-E., Belenko, S., Feng, L., & Tabachnick, C. (2004). Predicting treatment noncompliance among criminal justice-mandated clients: A theoretical and empirical exploration. *Journal of Substance Abuse Treatment* 26:13-26.**

ABSTRACT: This study presents five hypotheses of treatment noncompliance among criminal justice-mandated clients. They include: physical prime, supportive social network, conventional social involvement, treatment motivation, and risk-taking propensity. Data from 150 DTAP participants were analyzed to test the hypotheses. Physical prime and supportive social network were the most useful in explaining variations in treatment compliance. Conventional social involvement and treatment motivation hypotheses were also partially validated. Client age emerged as the strongest and most consistent individual correlate of treatment compliance. The specific dynamics of these relationships are worthy of more study.

**Sung, H.-E., Belenko, S., & Feng, L. (2001) Treatment compliance and problem incidents among criminal justice clients. *Journal of Substance Abuse Treatment*, 20, 153-162.**

ABSTRACT: This study analyzed incidents of drug treatment noncompliance among 150 DTAP participants. Seven problem types and seven dimensions of noncompliance were identified. The seven problem types are: (1) psychological withdrawal; (2) conflicts or fights with peers; (3) incidents of disobedience or insubordination toward staff; (4) sexual acting-out; (5) theft; (6) drug relapse; and (7) leaving treatment without permission. The seven dimensions of treatment noncompliance were identified as: (1) prevalence; (2) frequency; (3) types; (4) specialization; (5) temporal distribution; (6) paths; and (7) correlates. Problems among clients were described as common, nonspecific, or sporadic. Client characteristics associated with drug treatment

noncompliance included young age, poor educational attainment, and early involvement with the criminal justice system. Policy implications include the importance of designing treatment rules and regulations with more flexibility to encourage compliance and treatment retention.

### Treatment Retention

**Sung, H.-E., & Richter, L. (2007). Rational choice and environmental deterrence in the retention of mandated drug abuse treatment clients. *International Journal of Offender Therapy and Comparative Criminology*, 51, 686-702.**

ABSTRACT: This study proposes a rational choice framework in which treatment retention is viewed as a decision-making process involving calculation of costs and benefits of remaining in treatment. Environmental factors not directly related to the treatment process are theorized to either reward or punish the course of action taken by each treatment client. Criminal sanctions against drug offenses, violence in local drug markets, and lack of legitimate job opportunities are hypothesized to be deterrents against premature termination of treatment. Data from 1,984 DTAP participants were analyzed to test the three hypotheses. Results corroborated the criminal sanction and unemployment hypotheses. Holding background factors and treatment experiences constant, mandated clients who had entered treatment during times of high incarceration rates for drug offenders and/or of high unemployment rates stayed in treatment for longer periods of time. No support was found for the violence hypothesis. These findings highlight the necessity of reinforcing perceptions of arrest risks and job prospects during treatment.

**Lang, M. A., & Belenko, S. (2000). Predicting retention in a residential drug treatment alternative to prison program. *Journal of Substance Abuse Treatment*, 19, 145-160.**

ABSTRACT: One hundred and fifty DTAP participants completed a comprehensive interview as part of a longitudinal study. Treatment completion predictors were sought examining intake data (demographics, family, social, employment, medical, psychological, criminal, sexual behavior, drug use and treatment histories). Logistic regression results found completers had more social conformity and close friends, and less need for employment counseling, felony drug convictions, drug dealing income, and unprotected sex than dropouts. Completers were also less likely to encounter recent problems with significant other, have a psychiatric history, experience gunshot or stabbing, and commenced heroin use at older ages than dropouts. However, completers reported higher alcohol use than counterparts. Further analyses explored subcategory models: life choice (substance use, criminal and sexual behavior), static (background and dispositional), and dynamic situational influences (employment, psychological state, recent and past encounters). Clinical implications considering findings are discussed.

## Recidivism

**Sung, H.-E. & Belenko, S. (2005). Failure after success: Correlates of recidivism among subjects who successfully completed coerced drug abuse treatment. *Journal of Offender Rehabilitation, 42, 75-97.***

ABSTRACT: This study examined correlates of recidivism among a sample of DTAP graduates. Offenders who recidivated after completing coerced drug treatment were likely to be younger, to have more juvenile arrests, to have disliked treatment rules, and to have found treatment oppressive. Moreover, these recidivists viewed treatment as unnecessarily long and were unemployed and living alone following treatment completion. The findings suggest that in order to lower recidivism rates for drug treatment program completers, it is important to offer highly intensive aftercare that focuses on rule compliance, employment readiness, job placement, and family reunification skills.

**Belenko, S., Foltz, C., Lang, M., & Sung, H.-E.. (2004). Recidivism among high-risk drug felons: A longitudinal analysis following residential treatment. *Journal of Offender Rehabilitation, 40, 105-132.***

ABSTRACT: This study assessed the long-term effectiveness of DTAP in terms of recidivism reduction. A longitudinal quasi-experimental design was used that included an experimental sample of 150 DTAP participants and a control group of 130 offenders matched on arrest charges, prior felony convictions, age, race, gender, drug use, and desire for drug treatment. Results indicated that DTAP participants showed reductions in the prevalence and annual rate of recidivism, as well as delayed time to first rearrest compared with the control group. These results remained significant after controlling for criminal history and other covariates. Long-term, coercive therapeutic community treatment models can be effective at reducing recidivism among serious felony offenders.

**Sung, H.-E. (2003) Differential impact of deterrence vs. rehabilitation as drug interventions on recidivism after 36 months. *Journal of Offender Rehabilitation, 37, 95-108.***

ABSTRACT: Official arrest data were examined for 263 DTAP participants. Of these, 182 successfully completed treatment, and the remaining 81 failed treatment and were subsequently prosecuted and sentenced to prison. Both "completers" and "failures" were detained in jail during the preadmission screening period, which averaged 49.5 days for the entire sample. Recidivism was defined as the first official rearrest that occurred within the 3-year period following treatment completion or prison release. Eighty (30 percent) of the 263 subjects were rearrested during the 3-year follow-up period. Lengths of incarceration and treatment were the main predictors and reflected the hypothesized conceptual constructs of deterrence and rehabilitation. Findings show that although all subjects were exposed to both incarceration and residential drug treatment, only treatment decreased the likelihood of recidivism. No evidence of deterrence was found, and there were some indications of the criminogenic influence of incarceration among studied subjects. These findings support current efforts to reform draconian mandatory sentence laws for nonviolent drug offenders.

**Dynia, P. & Sung, H.-E. (2000) The safety and effectiveness of diverting felony drug offenders into residential treatment as measured by recidivism." *Criminal Justice Policy Review*, 11, 299-311.**

ABSTRACT: The goal of DTAP is to treat offenders in community-based facilities without endangering public safety and to decrease their recidivism following treatment. Among 487 comparable defendants, 4 percent of DTAP participants were rearrested during treatment, whereas 13 percent of nonparticipants were rearrested during the pretrial and sentence periods. Of DTAP completers, 23 percent were rearrested during the 3-year period following treatment completion, which was less than half the rate for DTAP failures and nonparticipants. The study concludes that, when appropriate screening and monitoring procedures are implemented, diverting drug felons to residential treatment is at least as safe as traditional prosecution and sentencing, and that successful completion of treatment is much more effective in reducing recidivism than completion of traditional sentences.



### LOU DOBBS TONIGHT

Intelligence Outrage: New Study on Global Warming; What Foreign Policy? United States and Iran; Combat Stress

Aired May 4, 2007 - 18:00 ET

CHRISTINE ROMANS, CNN CORRESPONDENT (voice-over): Norma Fernandez is making her daughter's lunch for school, a family routine once unimaginable.

NORMA FERNANDEZ, DTAP GRADUATE: I was tired, you know, going back and forth to prison, getting up in the morning with withdrawals from heroin. I was tired. I was tired. And you know, I was young, I was only 15 years old, and I needed to get my life together.

ROMANS: Addicted, stealing and selling drugs, she spent a year in Rikers Island.

FERNANDEZ: You know, jail didn't help me. I did a year in prison and it didn't help me. I came back out and did the same thing, the same thing.

ROMANS: She was given a choice, four-and-a-half to nine years in prison or 24 months of in-patient drug treatment. She chose the Drug Treatment Alternative to Prison program, DTAP, started in 1990 by Brooklyn District Attorney Charles Hynes.

...

ROMANS: It's about more than turning around the life of the individual addict for advocates of treatment over prison. It's about public safety. If addiction is a disease at the root of the crime, they say you punish for the crime but you also address that disease and you make the community more safe. You stop the cycle of violence, not for all criminals, but for those who are drug addicted, nonviolence felons.

DOBBS: Well, D.A. Hynes is to be commended. That's a great -- and actually you have to give him credit for great courage because often the community is clamoring more for punishment and wanting to discard treatment. But as we all learn more and more, as we've been focusing on the "War Within" and addiction in this country, it is so rampant, to see this kind of success, and good for Norma. I mean, she seems like a delightful lady and obviously doing very well.

ROMANS: And now she is working for the D.A., Lou, and she is helping convicts who come out of prison re-enter society. She is getting them jobs. She is getting them housing. She is trying to give them some of the skills that she has learned to try to ease that transition. So she is sort of living what she did.

DOBBS: You know, we report here so much on what is going wrong in government and so much of public officials who simply don't have that commitment to public service, serving the community and the people who make it up. It's nice to see this kind of story, this wonderful result. Let's hope it's replicated across the country and soon.



# The NEW YORK Sun



WEEKEND EDITION, APRIL 15-17, 2005

### *'System Isn't Working'*

With his book, "But They All Come Back," Jeremy Travis once again contributes valuable insights to the criminal-justice system ["Author Says Criminal-Justice System Isn't Working," Geoffrey Gray, New York, April 12, 2005]. Although your article focused on the roles of the Department of Corrections and the Division of Parole, I would add the following observation:

Traditionally, the role of prosecutors has been to just "put the bad people in jail" — a tragically simplistic view held by many citizens, including prosecutors. That view must change. A district attorney is elected, ultimately, to protect the public's safety. Incarceration, in the short run, incapacitates the criminal and protects the public, but unless the issue of recidivism is tackled, members of the community, in the long run, remain vulnerable to harm. Prosecutors can play a crucial role in reducing recidivism.

First, and as independent researchers have concluded when studying our DTAP (Drug Treatment Alternative to Prison) program, the diversion of nonviolent drug-addicted or mentally-ill offenders into community-based residential treatment can reduce recidivism more successfully (as well as more cheaply) than incarceration in prison. Prosecutors' involvement in such diversion programs is key in order to ensure that the public's safety is never compromised during an offender's treatment.

Second, a district attorney's office, with both its criminal justice links to corrections and parole and its community links to substance

abuse treatment and social-services providers, can weave an effective safety net for ex-offenders re-entering the community. Our ComALERT (Community and Law Enforcement Resources Together) program works with prison and parole officials to help connect former inmates to substance abuse treatment and housing, and educational, mental health, and, perhaps most importantly, job placement services, so that these individuals can successfully reintegrate into society.

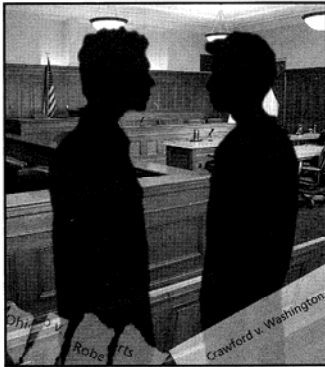
Like Mr. Travis, I believe that, as a society, we must all commit ourselves to the idea that individuals can change for the better. Recurring crime and imprisonment does not have to be a destiny written in stone, and the constant threat to public safety that such recidivism entails does not have to always loom over our community.

CHARLES J. HYNES  
District Attorney  
Kings County  
Brooklyn

# CRIMINAL JUSTICE

American Bar Association Section of Criminal Justice Summer 2004 Volume 19, Number 2

## FEATURES



Page 4

### 4 Adjusting to *Crawford*: High Court Decision Restores Confrontation Clause Protection

By **Richard D. Friedman**

In a stunning move, the Supreme Court reversed course in March 2004 and overturned its own 1980 decision that allowed hearsay evidence under certain conditions. In *Crawford v. Washington*, the Court returns the right to confront one's accuser to what many experts believe to be its true intent. While purists applauded the move, many practitioners contemplate with unease the impact it will have on the daily workings of the criminal justice system. Professor Richard Friedman, who filed an amicus brief in support of the decision, examines where the previous law failed, what has changed and what has not under the new law, and, finally, he discusses the important issues likely to arise in the wake of *Crawford*.



Page 14

### 14 Time to Reform Rape Shield Laws

Kobe Bryant Case Highlights Holes in the Armor

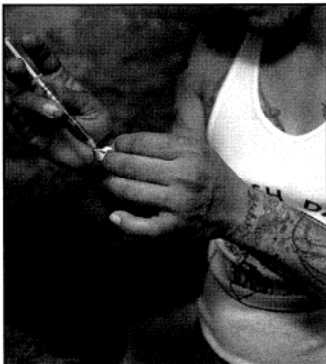
By **Michelle J. Anderson**

The author's impassioned argument that lingering Puritanism and sexism still shape the American judicial attitude toward rape calls into question the effectiveness of laws enacted by states in the 1970s and early 1980s to protect rape victims from character attacks based on their past sexual histories. Professor Anderson reviews the various kinds of shield laws currently in place, using the high-profile Kobe Bryant case to illustrate how judges, juries, and prosecutors circumvent the laws' intent.

### 20 Evidentiary Tactics: Selecting the "Best" Evidence to Simplify the Case

By **Edward J. Imwinkelried and David A. Schlueter**

When is enough too much? Two experts discuss how excessive "paper" can sink a case, and offer examples of how to separate the wheat from the chaff, choosing only the most effective evidence in order to win at trial.



Page 28

### 28 Prosecution Backs Alternative to Prison for Drug Addicts

By **Charles J. Hynes**

Faced with repeat felony offenders who committed their crimes to support a drug habit, New York's Kings County District Attorney Charles Hynes became an early proponent for finding a solution other than incarceration. His answer? DTAP—Drug Treatment Alternative to Prison—that emphasizes treatment backed up by tough sanctions if the offender fails to comply with the program.

### 34 Drug Courts an Effective Treatment Alternative

By **Michael Rempel, Dana Fox-Kralstein, and Amanda Cissner**

# DAILY NEWS

www.nydailynews.com

NEW YORK'S HOMETOWN NEWSPAPER

Thursday, May 27, 2004



KEN MURRAY DAILY NEWS

District Attorney Charles Hynes addresses graduates of his Drug Treatment Alternative to Prison program. The program was set in 1990 to help repeat nonviolent felony offenders who are drug addicts avoid steep sentences.

## Hynes program helps addicts find a way out

By MELISSA GRACE  
DAILY NEWS STAFF WRITER

In 2001, Louis Acevedo was presented with a choice: Go back to prison or get off heroin — something he'd been addicted to for 18 years.

Offered enrollment in an alternative-to-prison program, he decided to get clean.

"I was facing 25 years in prison," Acevedo said of his incentive to stop using the powerful narcotic. "I didn't need incarceration, I needed help."

Acevedo, 33, was one of 76 men and six women — one of whom had 29 arrests — who graduated from Brooklyn District Attorney Charles Hynes' Drug Treatment Alternative to Prison program this week.

The program works, prosecutors say, only because of the threat of a prison term. Each participant is required to plead guilty to the felony

they were charged with — which in Acevedo's case was burglary.

The charge is dismissed after they've completed a 15-to-24-month residential treatment program.

The program curriculum was set up in 1990 as a way to help repeat nonviolent felony offenders who are drug addicts avoid steep prison sentences mandated under the state's Rockefeller drug laws.

In an appeal to the Legislature at Tuesday night's graduation ceremony, Hynes called the laws "morally reprehensible" for sending addicts to jail.

"The success of changing the Rockefeller drug laws is right here in front of you," Hynes said of the graduates. "Do away with those Draconian laws."

If the program were expanded across the country, crime rates "will plummet," he said.

A federally funded study of the program done by the National Center on Addiction and Substance Abuse at Columbia University found that graduates were 87% less likely to return to prison than people who were put behind bars.

A report issued by the Drug Treatment Alternative to Prison found that of its 711 graduates, 75%, or 533, were employable. At the time of their arrests, just 32% of them were working.

Of those 533, 90% have jobs today, the report said.

The graduation's keynote speaker, Dean Meminger, the former New York Knicks guard who was famously sidelined by substance abuse, told the graduates that they had been given a second chance — but also warned them.

"Don't pick up, don't use — no matter what," said Meminger, 56, after talking

about how he got high before games and about his long road to recovery.

The graduates were grateful.

Ada Rodriguez, a 38-year-old mother of three boys and a former heroin addict who sold crack in East New York, said she is drug-free, has earned her GED and is a full-time counselor at Phoenix House, where she spent 21 months as a client.

"I am somebody today," she told the audience.

Robert Erskine, 47, the son of jazz musician Les Erskine, said that since he has been clean, he made it through his parole without being rearrested.

"I've never done that before," he said.

Acevedo, who said he has never graduated from anything before and who has a job as a maintenance worker, called Tuesday "the happiest day" of his life.



## New Report Boosts Hynes' Drug Program

BY JOHN CAHER

ALBANY — While Rockefeller Drug Law reform remains a politically iffy proposition, Brooklyn District Attorney Charles J. Hynes believes he has a remedy that addresses many of the issues without legislative action. And a report issued yesterday in Washington, D.C., suggests he may have a point.

Yesterday, the National Center on Addiction and Substance Abuse at Columbia University released a report on the Drug Treatment Alternative-to-Prison Program (DTAP) that Mr. Hynes initiated in Kings County 13 years ago and has been replicated in 15 counties. DTAP uses the Damocles sword of the Rockefeller Drug Laws to force non-violent felony drug offenders into an intensive, prosecutor-controlled treatment regimen. The report released yesterday by former U.S. Secretary of Health, Education and Welfare Joseph A. Califano Jr. said that even repeat offenders have far lower recidivism rates and higher employment rates if they are dealt with through DTAP rather than prison.

"This DTAP program demonstrates that we don't have to throw away the key for repeat drug addicted offenders, even those who sell drugs to support the habit," Mr. Califano, president of the Center on Addiction and Substance Abuse (CASA), said in a statement. "Prosecutors can help repeat felony offenders become responsible citizens if they combine treatment and vocational training with the certainty of punishment for noncompliance."

Under DTAP, an offender is placed in residential treatment for 15 to 24 months, receiving vocational training, social and mental health services. If they successfully complete the program, their guilty plea is vacated and the charges are dismissed. If they do not, they face mandatory punishment under the harsh Rockefeller Drug Laws.

The white paper, "Crossing the Bridge: An Evaluation of the Drug Treatment Alternative-to-Prison Program," resulted from a five-year evaluation. Analysts found that DTAP graduates were 33 percent less likely to be re-arrested, 45 percent less likely to be reconvicted and 87 percent less likely to return to prison than offenders who were not part of the program. It also showed that DTAP participants, who face the threat of a lengthy and possibly a life sentence if they fail, are six times more likely to complete the program than offenders placed in other residential treatment.

Mr. Califano said the program makes economic sense as well. According to the report, DTAP costs an average of about \$33,000 per successful participant, while it costs an average of \$64,338 for the time spent in prison by DTAP dropouts.

### Drug Law Reform

In Albany, the key players all agree the Rockefeller Drug Laws should be reformed, but disagreements over the details have stymied progress. Last year, the Senate and the Assembly passed one-house bills (S.4237 by Senator Dale Volker, R-Erie County, and A.8888 by Assemblyman Jeffrion L. Aubry, D-Queens). The differences — which mainly involved issues of judicial discretion and the drug felonies that would be covered — proved irreconcilable. This year, the Senate has already passed the same bill, which Governor George E. Pataki supports, but it has little if any chance of passing the Assembly.

Yesterday, the New York State Catholic Conference lobbied the Legislature on a number of issues, including the Rockefeller Drug Laws. The conference contends that the laws are outdated and mandate a punishment that is wildly disproportionate to the offense. It argues for greater judicial discretion in sentencing, judicial review of all current sentences and other measures.

Meanwhile, Mr. Hynes said in an interview, prosecutors can use DTAP to achieve meaningful reform within the current legislative framework. He said the combination of "coercive treatment" and threat of harsh sanctions, coupled with prosecutor control, is key.

"We have a golden opportunity to show we have a methodology that works and that has been validated by a respected research institute," Mr. Hynes said. "This is the time for the New York Legislature to craft legislation that would create a transitional period of moving the Rockefeller laws into DTAP. ... We now have a road map for how this can be done. If someone is offered the opportunity of taking DTAP or accepting the alternative now in place [of a long prison sentence], I can't see people rejecting this very often."

### Prosecutorial Control

DTAP is in some ways similar to the drug courts that Chief Judge Judith S. Kaye has opened statewide to deal with nonviolent offenders. The difference, however, is that once a defendant is diverted to drug court, the judge — as opposed to the prosecutor — takes virtually total control.

"In DTAP ... there is no judicial supervision or intervention once the person is sent on to residential drug treatment with a plea hanging over their head," Mr. Hynes said.

The district attorney said prosecutorial control is essential because "there have been too many examples in this county where we have had ... judges who violated their discretion and ordered inappropriate placement."

Anne J. Swern, counsel to the district attorney and director of the Kings County DTAP program, said the Brooklyn program and the Brooklyn drug court — the largest in the state — work in tandem.

"They compliment each other very well," she said. "There are cases that drug court can't take. DTAP can happen in any courtroom, so you don't need a specialized drug court. DTAP is designed for a very specific, targeted population: the predicate felon. Many drug courts target misdemeanors or first-time felons."

# The New York Times

Final National Edition

Northern California: Some morning low clouds near the coast. Linger- ing clouds in the northern Sierra. Other- wise, ample sunshine, rather cool. Weather map appears on Page 25.

"All the News That's Fit to Print"

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SUNDAY, SEPTEMBER 3, 2000

Printed in California

FOUR DOLLARS

## Making a Dent in the Demand for Illegal Drugs

By ALAN FEUER

**W**HEN Andrés Pastrana, the president of Colombia, said last week that the key to winning the war against drugs was taming demand in the United States, he rattled some American feathers.

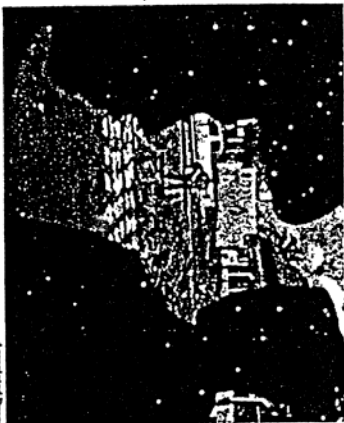
Part of the problem was timing: President Clinton was about to hand him a check for \$1.3 billion in aid to train and outfit a new Colombian anti-drug brigade. But Mr. Pastrana's words also ruffled some people because they took no account of the myriad demand-reduction programs that are already in place in the United States. Officials in the office of Gen. Barry R. McCaffrey, the White House drug czar, have a landslide of little-noted statistics that show domestic demand for drugs has plunged. Use of cocaine, both crack and powder, has decreased by 70 percent in the last 15 years, said Bob Weiner, a spokesman for General McCaffrey. Consumption of all drugs by youths aged 12 to 17 went down 21 percent from 1997 to 1999, Mr. Weiner said. And while drug use went up among people 18 to 25, it was still far below what it had been 20 years ago, he said.

those pioneered by the Brooklyn district attorney's office. That office, which spends a good deal of time making cases against dope dealers and crack addicts, has in the last decade also focused on getting drug dealers into treatment programs, as well as educating the young about the perils of illegal drugs.

"It was very clear that the problems Brooklyn was having when I took over this office could not be addressed by law enforcement alone and needed something other than a traditional approach," the district attorney, Charles J. Hynes, said last week from San Francisco, where he was speaking at a conference on drug treatment programs. "And if drugs were the operative reason for the crime increase, then something had to be done about demand."

The centerpiece of his efforts is a program called D-TAP, or Drug Treatment Alternative to Prison, which was the first of its kind in the nation when it was introduced in 1990, the first year of Mr. Hynes's tenure. Under the program, people convicted of nonviolent, drug-related crimes may choose between going into treatment or going to jail.

"The D.A. said I'm going to take this population that would otherwise end up in prison and divert them into treatment," said Anne Swern, a deputy district attorney who runs D-TAP. "If they fail the program, they go to jail. But what we've found is that D-TAP can deal with these people with risks to the public that are low and benefits that are very high both financially and reedivision-wise." Ms. Swern said about 50 percent of the people sent to prison in Brooklyn for drug crimes since the program started were re-arrested after three years, while only 23 percent of those who had entered D-TAP were back before a judge over the same period.



Associated Press

Police officers examine packets of cocaine paste seized from a truck in Colombia. Right, a rock of cocaine, seized in New York.



Associated Press

The program has saved millions of dollars in taxpayer money, too, Ms. Swern estimated. She said it cost \$69,500 a year to house an inmate with a drug habit on Riker's Island, the city's largest jail. And it cost \$32,000 a year, she said, to hold a criminal in New York City before his trial and then imprison him in an upstate cell. But to treat a convict for drug abuse, even in New York State — which has the highest such costs, she said — takes between \$18,000 and \$21,000 a year.

Mr. Hynes also requires every prosecutor in his office to spend at least two days each month talking to students in more than 300 schools in Brooklyn about the consequences of using drugs. This initiative, called Legal Lives, teaches children that there is a price to pay for snorting cocaine or smoking pot by having them act out situations they are certain to encounter on the street. In one script, "Pot Luck," three youths are hanging out in the schoolyard after class, and one puts out a joint. They light up. Then the cops arrive, and everyone is arrested. "We stop the action there and ask the kids questions," said Mary Hughes, who runs the program. "Why was Bob arrested? Why was Ernie arrested? Did the police have a right to arrest them? Why? What choices did everybody make?"

So as it turns out, crime-busters, from Mr. Hynes's office to the federal Drug Enforcement Administration, are, in fact, in agreement with Mr. Pastrana.

"Everybody knows the D.E.A. as the guys who throw people in jail," said Jack Hook, who runs the agency's demand-reduction section. "But the bottom line is that to solve the drug problem in this country means education, prevention and treating those who are already addicted."

# The Boston Globe

TUESDAY, APRIL 17, 2001

## Officials say prisons don't win drug war

By Fred Kaplan  
GLOBE STAFF

NEW YORK — Keith Hollar was lucky to be in Brooklyn on the cold January night he was busted for selling heroin to an undercover policeman. Though he was no drug kingpin and sold barely enough drugs to support his own habit, Hollar would be doing some serious jail time in most cities.

But in Brooklyn, repeat felons convicted of certain nonviolent drug crimes get a choice: go to prison or get treatment for drug addiction. Hollar chose treatment. Brooklyn's district attorney, Charles J. Hynes, came up with the idea a decade ago.

"We were spending enormous resources for more police, more assistant DAs, more prisons, yet drug use and crimes related to drug use were still climbing,"

Hynes recalled. "I realized that unless you tried to reduce drug demand, all the other strategies simply weren't working."

Today, two decades after President Reagan launched the War on Drugs, a number of prosecutors, judges, and governors across the nation have begun to join Hynes in questioning whether long prison sentences are the best cure for the problems of drug addiction and the crime it feeds.

"The War on Drugs is a miserable failure," Governor Gary E. Johnson of New Mexico, a conservative Republican, said in a phone interview. "Let's stop getting tougher on drug use. It does not work. Drugs are a medical problem, not a criminal problem."

In New York state, Governor George Pataki, a Republican, pro-

**DRUGS, Page A6**

### ► DRUGS

Continued from Page A1

posed earlier this year to repeal the state's mandatory sentences for some drug crimes.

Last November, California voters overwhelmingly passed Proposition 36, which mandates up to one year of treatment, rather than prison time, for nonviolent drug offenders. Experiments along these lines are being tried, with some success, in Connecticut, Delaware, Arizona, Oregon, and Texas.

Driving the shift in strategy has been a desire to relieve overcrowding in courts and prisons, as well as the hope that the change will reduce both addiction and drug-related crime.

"We are drowning in drug cases, and it's affecting our entire criminal justice system," Judith S. Kaye, chief judge of the New York state courts, said in her Manhattan office. "We, the courts, have a drug problem. You can't be in denial if you have a drug problem."

Two years ago, Kaye recommended extending the Brooklyn program statewide. "The fear, when people talk about treatment, is that they'll be labeled 'soft on crime,'" she said. "But I think it's smart on crime."

New York has more serious problems with prison overcrowding than most states because it has more addicts and because the punishment for drug use is so severe.

In 1973, Governor Nelson Rockefeller signed the most stringent drug laws in the nation. The legislation required that anyone possessing 4 ounces of heroin or

cocaine or selling 2 ounces must be sentenced to at least 15 years in prison, the same penalty as for arson or kidnapping.

As the crack epidemic took hold, the Rockefeller laws swelled the prison population. In 1986, just 3,000 New Yorkers were doing state time for drug offenses. By the early 1990s, the number had multiplied 10 times. Even now the number stands at 32,600, half of all state inmates.

Judge Jo Ann Ferdinand presides over the Brooklyn Treatment Court, which Kaye ordered be set up in June 1996 to deal exclusively with felons arrested for possessing drugs or, like Hollar, for selling small quantities to support their own drug habits. (As with other alternative sentencing, there is no leniency for big-time dealers or those who sell to children.) Since then, 20 such courts have opened across the state, with plans for another 20 this year.

"We used to have this notion that if you put addicts in jail where they couldn't get drugs, that would cure their addiction," Ferdinand said. "But it turned out curing addiction doesn't mean just not using drugs. Send addicts to state prison, [and] 50 percent of them get rearrested within a year of their release, because they go back on drugs."

Ferdinand holds a prison sentence over defendants' heads, but wipes the felony off the books if they complete the program at a treatment center.

"We still consider it an experiment," she said.

So far, the numbers are good. Of 1,700 people Ferdinand has

sent into treatment in the past four years, 500 are still in treatment, and 550 have completed it. Of the graduates, just 12 percent have committed new crimes, one-quarter the recidivism rate of similar criminals who went to jail rather than treatment.

Many of those involved in such programs — judges, prosecutors, and addicts — say that most defendants will opt for treatment only if the alternative is a fairly stiff prison sentence.

Anne Swern, the deputy district attorney who runs Brooklyn's program, said: "You offer someone six months or a year in prison as the alternative to treatment, a lot of them will take the prison. Hold out three years, they'll take treatment."

"The average age of success in our program is 32," she said. "It happens when defendants are tired of their lives, tired of their failure, tired of their families' seeing them as losers."

Of 13 convicted drug felons who came before Judge Ferdinand one recent morning, four chose prison over treatment. They were under 25, some under 20. Their crimes demanded sentences of a year or less. By Swern's measure, they weren't ready to change.

Keith Hollar, the heroin dealer who was arrested on the streets of Brooklyn, was ready to deal with his drug problem.

Hollar, 38, had been jailed twice before, with no lasting impact on his behavior. A self-described "lifelong criminal," he took his first drink at age 8, his first puff of marijuana at 12, his

Continued on next page



# Many drug programs seen as too short

Continued from preceding page  
first heroin injection at 16.

After his arrest last January, the court offered him treatment or three to seven years in prison.

Years earlier, he chose prison the first time he was arrested, for armed robbery. "I wasn't interested in treatment," he recalled. "I enjoyed getting high."

This time, though, Hollar made a different choice. "I was tired; I needed a change," he said, sitting in a counselor's office at the Brooklyn waterfront branch of Phoenix House, one of the oldest drug-rehabilitation centers. There are no locks on the door at Phoenix House, but few leave.

Hollar is barely into a 12- to 18-month program, but he already feels hopeful about the future for the first time in his life.

"I would have never come here on my own," he said. "Now I don't think they could kick me out the door. Not a day goes by that I don't feel like getting high. I know it's going to be a lifelong process of controlling myself. But it is a wonderful thing to wake up in the morning and not feel addicted."

Phoenix House is one of 150 drug centers that the Brooklyn Treatment Court uses. The center's counselors treat addictive behavior as much as drug addiction itself. The program provides at least 12 months of residential treatment, followed by three to six months of job training, job placement, and followup care.

Most drug programs across the country offer one to three months of treatment, but many studies have concluded that longer treatment is needed.

"When we talk about effective drug treatment, we're not talking 28 days or three months" said Joseph Califano, president of Columbia University's National Center on Addiction and Substance Abuse. "That doesn't work, especially for heroin addicts. They need at least a year of residential treatment."

One recent morning, Darryl Eaton inspected a new drug-treatment center, called Serendipity II, in Brooklyn's Bedford-Stuyvesant section. Eaton, 46, is a counselor with the center's parent organiza-



AP FILE PHOTO

Governor Gary E. Johnson of New Mexico describing potential benefits of drug legalization during a forum in 1999.

tion, Stay'n Out, and, like many in his profession, is a former addict.

"Just last night, I had a dream where my ex-wife had three bags of dope and I was figuring out where we were going to go shoot it up," Eaton said. "I've been off drugs for 13 years, and I still dream about it."

Even now, he will not go to his old neighborhood in the Bronx, though he has family there. That's where he used to take drugs, and he does not want to trigger the associations.

After all this time, does he really think that he might take drugs again if he went back? "I don't know," he replied, "but I don't want to chance it."

A growing number of law-enforcement officials recognize the appeal of a drug policy centered around treatment, Califano said.

The hurdles are politics and cost. "In the private sector, insurance companies won't pay for it" he said. "In the public sector, state legislators tell me, 'How can I fund treatment centers for people who have been in jail, for *criminals*, when my people want new schools and better roads?'"

Califano tells them that treatment is cheaper than jail. According to the Correctional Association

consumption eight times as much as imprisonment.

If the addict recovers for good, there are greater savings still, in preventing the losses due to crimes that might have been committed to support a drug habit and in the savings on court and jail costs that might have followed another arrest.

In the short run, a greatly expanded drug-treatment policy may require more money for treatment centers and the specialists to run them.

But, to Ferdinand, who was a judge in a regular criminal court for 10 years before moving to Brooklyn Treatment Court, there is no choice.

"When we asked ourselves why the system wasn't working, the answer was that we weren't dealing with the fact of the addiction," she said. "Most addicts find their way into the criminal justice system over and over."

"Each time they're here is a window of opportunity to intervene in that cycle. We waste so many opportunities by just throwing them in jail."

of New York, a state prisoner costs taxpayers \$32,000 a year, compared with \$20,000 for a drug-treatment resident.

A study by the RAND Corp. calculated that, dollar for dollar, treatment reduces national drug

# FINANCIAL TIMES

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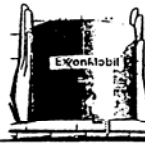
USA \$1.00 Canada C\$2.00 Bermuda \$2.00



**Weekend FT Tomorrow**  
The looting of Tibet's culture; Township rituals in South Africa's suburbs



**War on drugs**  
The dark side of the prison programme  
Page 4



**Exxon Mobil**  
How to succeed with a plain speaking, no-frills image  
Page 10

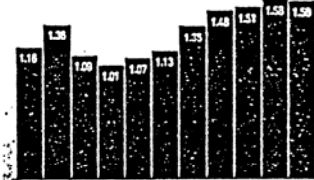
## WORLD NEWS: US & CANADA

# Dope wars: finding an alternative to prison

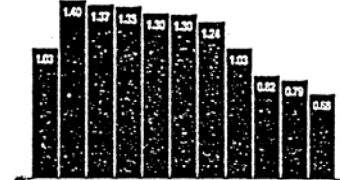
The political crusade to wipe out drug abuse has caused the population of prisons to soar. This has prompted the creation of a comprehensive diversion programme.

### US prisons: overdosing on minor offenders

Drug related arrests  
Arrests for drug abuse violations (m)



Drug related murders  
Number of deaths (000)



Part III: Doing time or treatment

They are called "America's disappeared". Their mothers parade in New York's Rockefeller Plaza, carrying placards bearing their children's pictures.



Credico: 'dark ages'

Unlike the Argentine mothers of the "disappeared", whose children were snatched by an authoritarian government in the 1980s, the New York mothers know where their children are - but that provides little consolation.

Most of their sons and daughters are doing hard time for relatively small drug offences, sentenced under laws passed under governor Nelson Rockefeller almost three decades ago.

"This is America's Dark Ages," says Randy Credico, once a rising young comedian, now an organiser of the demonstrations and purveyor of horror tales growing out of the so-called "Rockefeller laws" in the "Empire Prison State".

"Everyone's hurt by this war on drugs," he says. "People get pulled over without probable cause on the highways. Cops go into their houses and check around. I'm more frightened by the police than the guy selling drugs on my block."

The political crusade to wipe out drug use in the US has had many unforeseen consequences - not least the development of a corrections system with almost 2m

people in prison and 4.6m on parole and probation. About 24 per cent of them are serving sentences for drug possession or sale.

Illegal drugs have had a particularly damaging effect in the black communities throughout America, according to groups such as Human Rights Watch. In June, the US-based group issued a report saying the drug war was being waged overwhelmingly against blacks. There are plenty of statistics to support that view: the Lindesmith Centre's Drug Policy Foundation, an independent drug research group, says that while African-Americans constitute 13 per cent of the illegal drug users in the US, they account for 74 per cent of those sentenced for drug offences.

Attempts to divert drug addicts from prison programmes to treatment are often met with zealous oppo-

sition by lobbyists from the private prison industry and others which benefit from growth in the prison population.

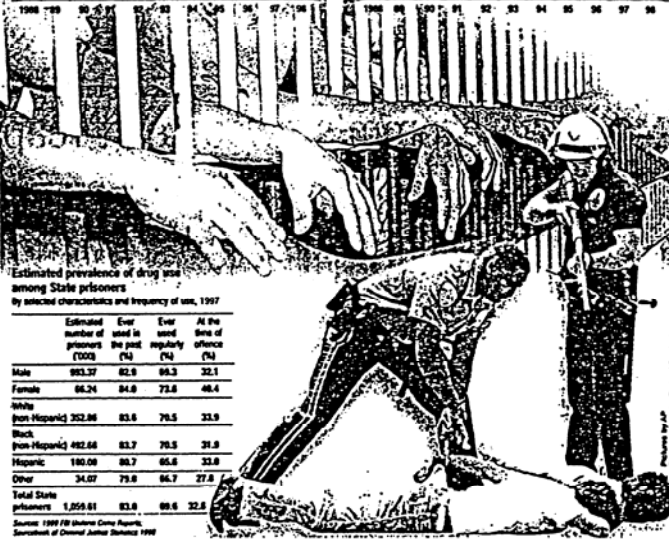
California, for example, has the highest incarceration rate for drug-related crimes of any US state. An initiative on next November's ballot would put many addicts into treatment, but the proposal is facing well-funded opposition from the California prison guard union, the second largest political lobby in the state.

"The penal system is big business," said Ed Barnett of Phoenix House, a drug treatment programme in Brooklyn, New York. "People make a lot of bucks on the backs of people going back and forth to jail. We're up against a tremendous push to expand the system."

While resistance to change is strong in state legislatures - particularly from districts where prisons provide much-needed jobs - the futility of long prison terms for drug addicts has been recognised at the federal level. "We cannot simply arrest our way out of the problems posed by chronic drug and alcohol abusers," said General Barry McCaffrey, who runs the Office of National Drug Control Policy.

As the Clinton administration's top drug policy official, Gen McCaffrey oversees programmes which channel funding into the creation of a comprehensive prison diversion system which includes drug testing, treatment and graduated sanctions for those who do not co-operate.

But it will be years before significant reform can be achieved in a system Gen McCaffrey describes as "ad hoc", with overflowing cas-



Estimated prevalence of drug use among State prisoners by selected characteristics and frequency of use, 1997

|                       | Estimated number of prisoners (000) | Ever used in the past (%) | Ever used regularly (%) | All the time (%) |
|-----------------------|-------------------------------------|---------------------------|-------------------------|------------------|
| Male                  | 983.37                              | 82.8                      | 66.3                    | 32.1             |
| Female                | 66.24                               | 94.8                      | 73.8                    | 48.4             |
| White                 |                                     |                           |                         |                  |
| Non-Hispanic          | 202.86                              | 83.6                      | 70.5                    | 33.9             |
| Black                 | 492.66                              | 83.7                      | 70.5                    | 31.9             |
| Hispanic              | 188.09                              | 86.7                      | 65.6                    | 33.6             |
| Other                 | 34.07                               | 79.8                      | 66.7                    | 27.8             |
| Total State prisoners | 1,050.61                            | 82.8                      | 66.6                    | 32.8             |

Source: 1998 US Sentencing Commission Report, Supplemental to Criminal Justice Statistics 1998

loads and prosecutors struggling to cope with "thousands of drug-addicted criminals windmilling through the jail and prison system".

Some drug offenders have been luckier than others. In Brooklyn 10 years ago, when drug crime was soaring and the public was beginning to give up on addicts, Charles

Hynes - a daring district attorney - launched the Drug Treatment Alternative-to-Prison Programme (D-Tap).

The D-Tap programme offers two years of treatment to non-violent offenders who have already served prison time. The dropout rate is still substantial, at about

one-third in some treatment centres.

But those who "graduate" get their lives back on track: 82 per cent are able to work, have jobs and are paying taxes, according to D-Tap figures.

Their two-year treatment costs an average \$42,500 compared with the \$82,500 it

would cost to keep an addict in prison, officials say.

Rhonda, who did not want to give her full name, was one of those fortunate enough to make it into the programme, and was sent to Phoenix House, a premier treatment centre. "She was facing big time if she didn't go into this," said David

Westlin, assistant district attorney. "It forced her to think about how she would miss her children growing up. She's someone we thought we could turn around."

Now the attractive African-American, sporting a stylish blue blazer, guides visitors around Phoenix House and describes tough rules it imposes on residents. Beds must be made and clothes hung. Some residents are taught for the first time to brush their teeth. They also receive medical care, job training and intensive counselling from both the Phoenix House officials and the district attorney's office.

Gen McCaffrey is a strong backer of Phoenix House and the D-Tap Programme. But he acknowledges "a significant gap" between those who need treatment and those who receive it. An estimated 5m drug users were classified as needing "immediate" help in 1998; only 21m received it and "certain parts of the country had little treatment capacity of any sort," Gen McCaffrey's office said in its 2000 annual report.

In Brooklyn alone last year, more than 11,000 were arrested for drug crimes, but few received treatment - even in one of the most progressive districts. Between 1990 and mid-2000, 1,174 offenders had been accepted in the D-Tap programme; 245 were still in treatment and 454 had completed the programme and had criminal charges against them dismissed. "We're very selective, and that's why this programme works," Mr Westlin said.

Although treatment has proven more successful than prison at rehabilitating addicts, its success is not guaranteed. "Prisons don't do anything more than house people. We try to effect change," said Mr Barnett. "But we have our own problems in terms of losing people... Every one we lose is a life we anticipate will be back on the corner using drugs."

Tomorrow: Can science win the drugs war?



# DAILY NEWS

50¢

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NEW YORK'S HOMETOWN NEWSPAPER

Tuesday, June 27, 2000

THE OP-ED PAGE

## Smart treatment for drugs



Only the ugly politics of crime can block Chief Judge Judith Kaye's plan to offer treatment instead of prison to nonviolent drug addicts.

This is not just an idea

whose time has come, it's backed by facts on the ground, particularly as established over a 10-year period by Charles Hynes, the Brooklyn district attorney.

Hynes is the pioneer, the first prosecutor in America to set up an alternative for felony addicts, called the Drug Treatment Alternative-to-Prison Program. Under this, a person who had a previous felony conviction can choose two years in a rehab facility over jail.

This deal is not open to drug traffickers, nor to violent criminals. In other words, it's there for junkies who, if they sold drugs, did it to keep their habits alive.

Hynes set up the program in 1990, and it has worked like a charm. He sports a 60% rate of guys and dolls who don't get back to junk. This is beyond belief.

The Drug Warriors, who have controlled the country since the war on drugs went into effect in 1914, never let a good statistic

stand in their way. The only cure was prison, and anyone who suggested an alternative was a legalizer or was soft on crime. Treatment instead of jail was wimpy, that was the message, and it apparently has not lost its steam. Else, why was Kaye's proposal not embraced by prosecutors and legislators across the board?

It was met, instead, by carping. Who the hell is she to tell the district attorneys what to do?

The chief judge of New York, like the Pope, has no army. She needs

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### *A rehab plan that's backed up by the facts*

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the district attorneys to go along, and perhaps the Legislature.

So the critics say, and this is true. Without the prosecutors, there will be nothing, for if they do not agree to drop jail sentences in favor of treatment, the prisons will continue to be filled with nonviolent junkies.

But against Joe Hynes' numbers, why the hell would any DA object, or any state legislator?

The problem is not just dealing with the previous-felony nonviolent addicts. Indeed, until now, they have been a small part of those whom Hynes has provided the alternative of rehab to prison.

The drug court in Brooklyn handles many more cases than the court that deals with second-time felons. This drug court handles mainly small-time druggies who deal to keep their habits. Even so, they usually fall under the draconian level of the Rockefeller drug laws, which require life sentences for those who possess 4 grams of cocaine or heroin or deal more than 2 grams.

In the drug court, defendants who plead not guilty do not have to serve two years in a rehab place. Ordinarily, they get outpatient treatment, and this has worked very well. The success rate closely approaches that of those who are sent to rehab centers.

The only thing that has never worked is prison. Yet prison is where the addicts go — we are talking about two-thirds of the population in the state joints. Which is the way it goes nationally.

So what do we do about it? Kaye is trying, against the politics of crime that makes it impossible even to suggest the medicalization of drugs. The war on drugs is the greatest failure in American history, dwarfing the Vietnam War. But no politician or judge dares to suggest its end.

What Joe Hynes pioneered and Judith Kaye promotes is the most pragmatic way to control the madness. You would hope that it would be embraced. Instead, we get Manhattan District Attorney Robert Morgenthau telling The New York Times that it's a theory. It's a fact, and I'm not crackin'.

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## CONCLUSION

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DTAP's seventeen years of continuous success have debunked the myth that “nothing works” in the treatment of chronic drug addiction. It has reduced crime and drug addiction by building a coalition of criminal justice practitioners, treatment providers, public policy experts, legislators, and concerned citizens. No less important is the commitment of hundreds of drug-addicted felony offenders, who seized an opportunity to enter treatment and become productive and responsible members of society. They are the true heroes in this endeavor.

Solid data supports the program's success: 2,539 Brooklyn drug offenders have been diverted into residential treatment through DTAP; 1,066 of them have successfully completed the program; and 345 are actively progressing toward the goal of program completion. DTAP's close monitoring, treatment providers' professionalism, and program participants' commitment have produced, since 1998, a 76 percent one-year treatment retention rate.

DTAP has proved to be a safe, effective, and cost-efficient model for combating drugs and crime. It maintains public safety by returning 90 percent of all treatment absconders to court to face sentence in a median time of 21 days. DTAP graduates are much more likely to be employed and less likely to commit new crimes and use drugs than drug offenders who were incarcerated in prison. They are more satisfied with their lives and have developed better social support. These 1,066 graduates represent over 42 million dollars in economic benefits derived from a combination of reduced correction costs and welfare and healthcare spending and increased tax payments.

Seventeen years ago, Kings County District Attorney Charles J. Hynes envisioned a proactive strategy for the prosecution of drug felony offenders. He continues to inspire his staff on a daily basis to translate his vision into reality. Today, the DTAP model provides a tested operational framework for prosecutor-led diversion programs that ensure efficiency and significant reduction of crime. With the timely involvement of the federal government, DTAP programs will likely restore many more lives and families across the nation in the coming years.





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