


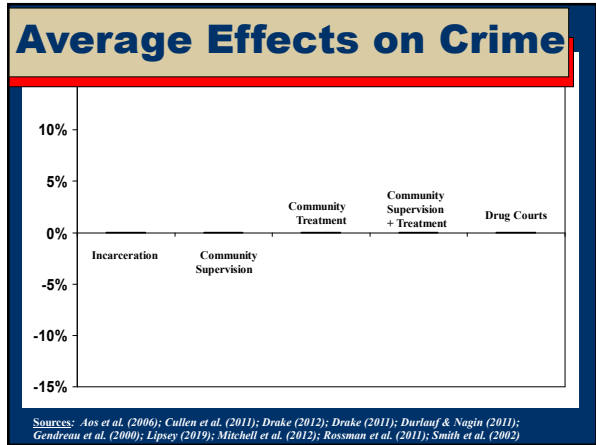
TAKING STOCK OF DRUG COURTS AFTER 30 YEARS

The Good, the Bad, the Misunderstood

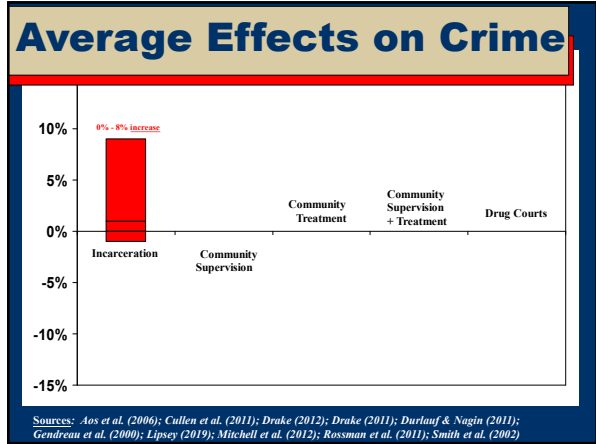
Douglas B. Marlowe, J.D., Ph.D.



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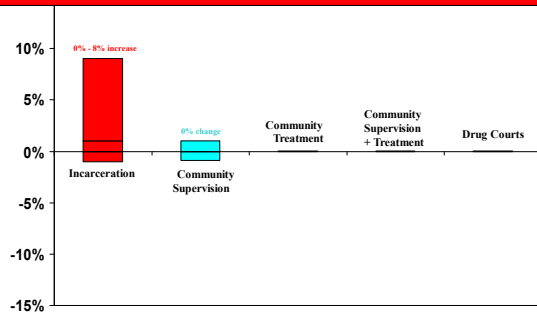


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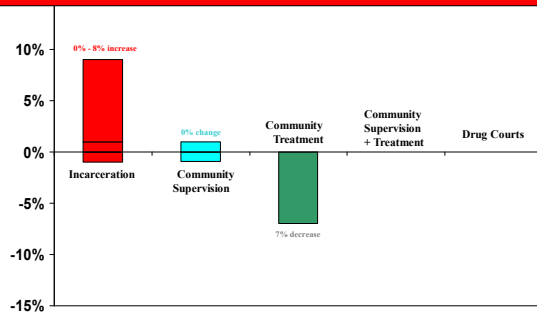
Average Effects on Crime



Sources: Aas et al. (2006); Cullen et al. (2011); Drake (2012); Drake (2011); Durlauf & Nagin (2011); Gendreau et al. (2000); Lipsey (2019); Mitchell et al. (2012); Rossman et al. (2011); Smith et al. (2002)

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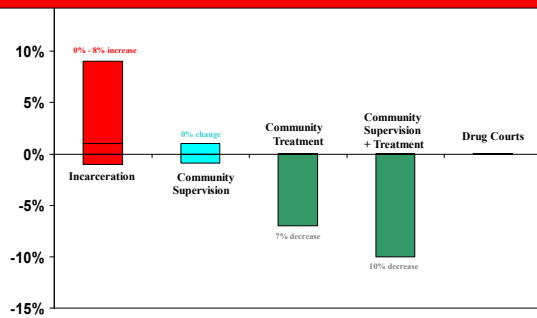
Average Effects on Crime



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Average Effects on Crime



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Model Validation

- **50% to 100% better outcomes:**
 - High risk and high need participants
(Alternate tracks for low risk and/or low need participants)
 - Court hearings at least every 2 weeks
 - 3 to 7-minute court interactions with procedural fairness
 - Multidisciplinary team staffings
 - Random drug & alcohol testing twice per week
 - 14 to 18-month curriculum

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Model Validation (cont.)

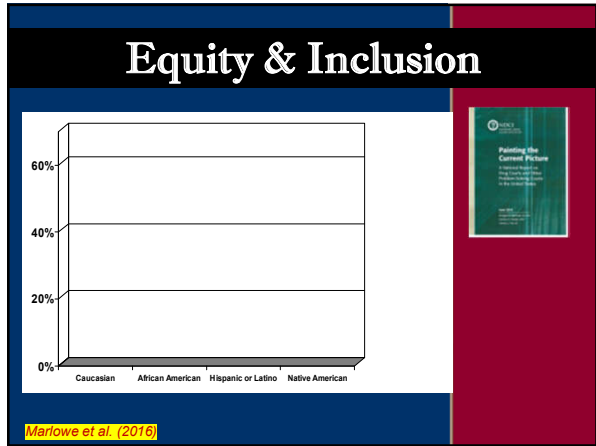
- **50% to 100% better outcomes:**
 - Copious low-magnitude rewards (4:1 ratio to sanctions)
 - Treatment adjustments or low-magnitude sanctions for “distal” infractions (relapse prior to clinical stabilization)
 - Higher magnitude sanctions for willful or “proximal” infractions (e.g., missed sessions, tampered drug tests)
 - Jail sanctions no more than 1 to 5 days
 - Legal leverage (avoided felony sentence)

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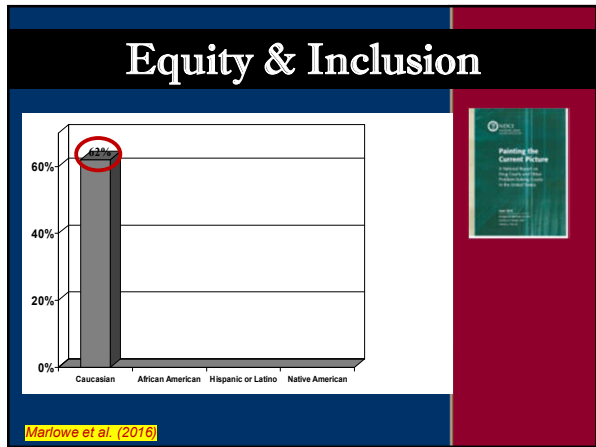
Now, the Bad News . . .

1. **Racial and ethnic disparities**
2. **Errors in targeting criteria**
3. **Prohibitions against MOUD**
4. **Overuse or misuse of jail sanctions**

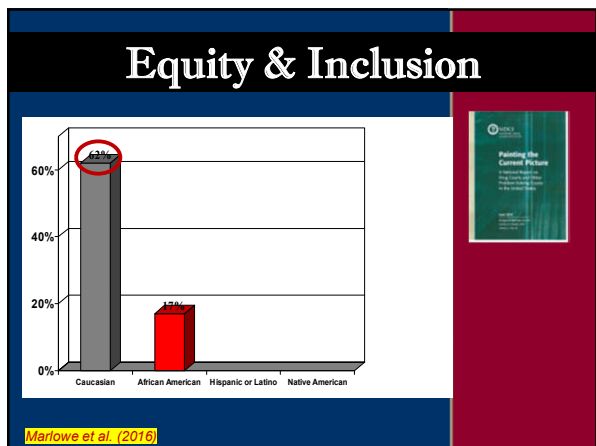
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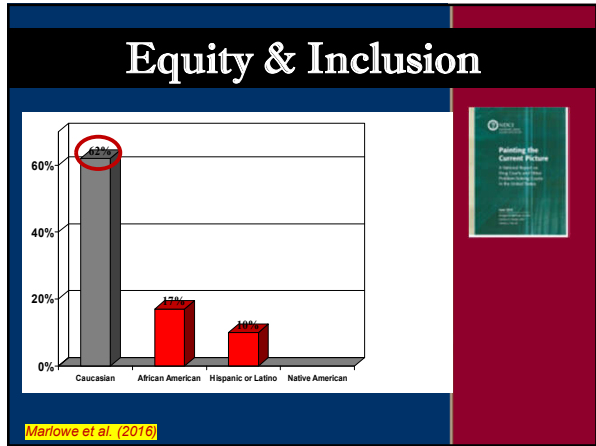
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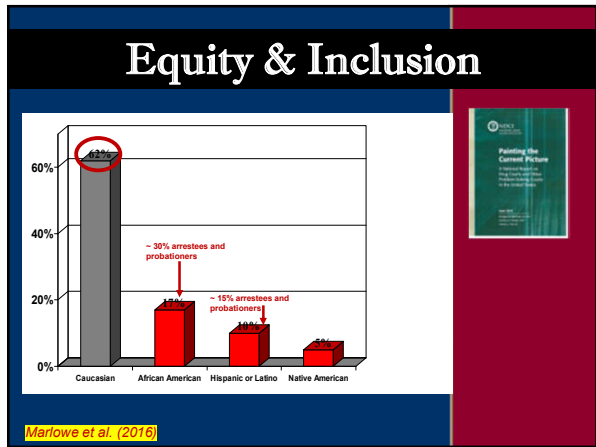
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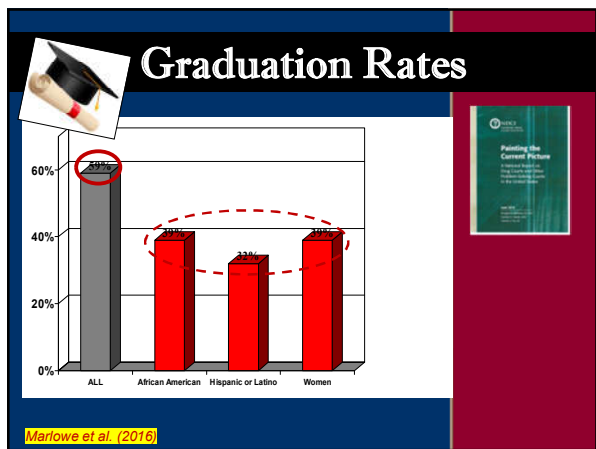
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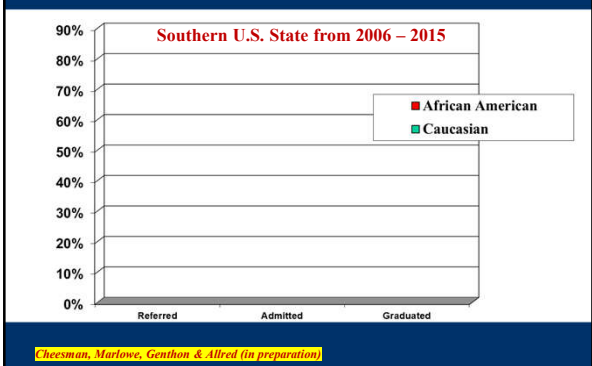


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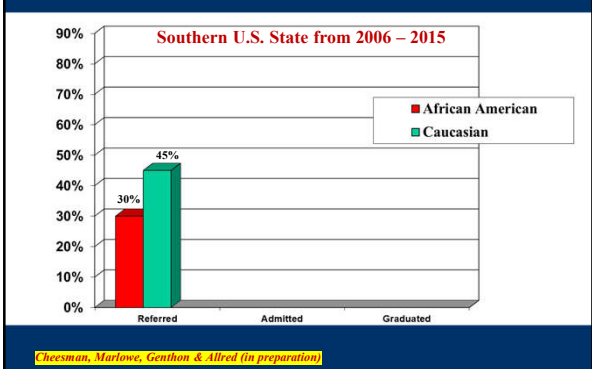
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Pipeline Analysis over 10 years



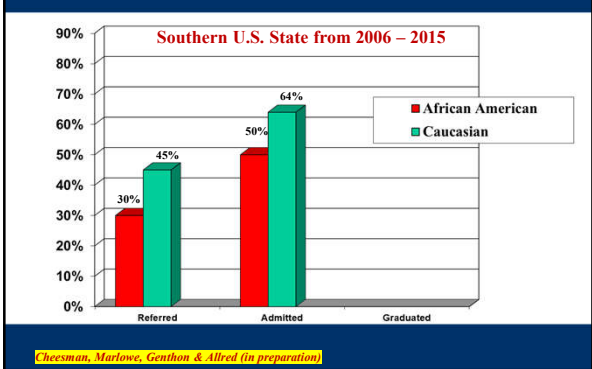
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Pipeline Analysis over 10 years



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Pipeline Analysis over 10 years



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MOUD is the Standard of Care

- U.S. Dept. of Health & Human Services (1997)
 - National Institute on Drug Abuse (2014, 2018)
 - U.S. Surgeon General (2018)
 - Substance Abuse & Mental Health Services Administration (2005, 2018)
 - National Academy of Sciences, Engineering & Medicine (2019)
 - World Health Organization (2004)
 - Centers for Disease Control & Prevention (2002)
 - American Medical Association (2017)
 - American Psychiatric Association (2017)
 - American Society of Addiction Medicine (2015)
 - American Academy of Addiction Psychiatry
 - American College of Obstetricians & Gynecologists (2016)
 - National Association of Drug Court Professionals (2013, 2015)
- Etc.



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~ 50% of Drug Courts

- Blanket MOUD prohibitions or arbitrary restrictions
- Violate CSAT/BJA grant conditions
- Violate NADCP's Best Practice Standards
- Violate the *Americans with Disabilities Act (ADA)*
- Violate the Rational Basis Test
- Turned the public health community against us ("science denial")
- Compared unfavorably to deflection-based programs



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Jail Sanctions

- *Treat sick behavior, punish bad behavior, & reward good behavior -- and don't confuse them!*
- Sanctions imposed for substance use prior to clinical stabilization
- Jail sanctions measured in weeks, not days
- Jail used as detox, treatment, or housing
- Jail off the table for proximal infractions
- Participants must waive defense advocacy
- No due process hearing for jail or revocation
- Drug courts reduce incarceration rates but not necessarily use of jail or prison beds

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Lessons Learned

- One size does not fit all (risk and need)
- Treatment and accountability for high risk and high need persons
- Public health contributes to public safety, and vice versa
- Harm reduction vs. criminalization is a false dichotomy
- Proximal vs. distal infractions & achievements
- Due process is therapeutic (“therapeutic jurisprudence”)
- Follow the science and data
- Are drug courts a program or a model for criminal justice reform?
