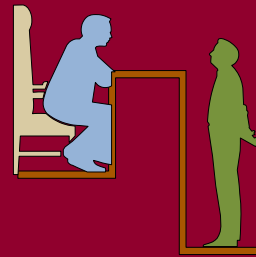


# EQUITY AND INCLUSION IN TREATMENT COURTS

**DOUGLAS B. MARLOWE, JD, PhD**

*NATIONAL ASSOCIATION OF DRUG  
COURT PROFESSIONALS*

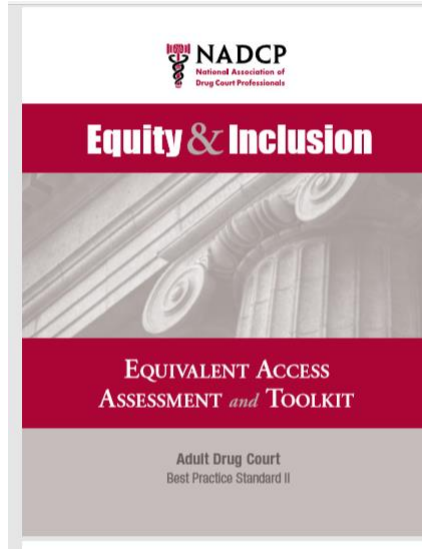


## Disclosure

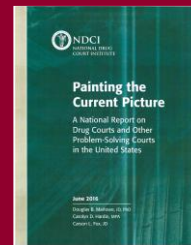
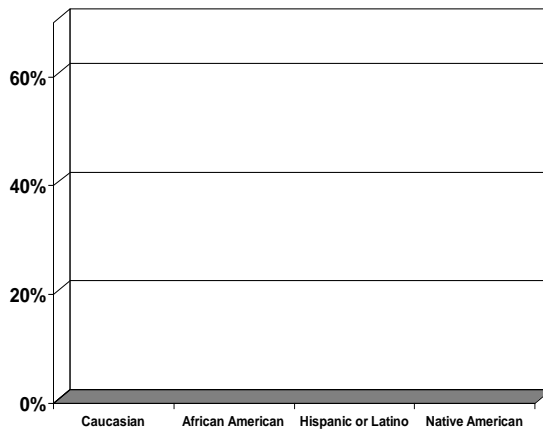
- This project was supported by Grant No. 2016-DC-BX-K007 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office.
- Points of views or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

# Equity and Inclusion Toolkit

- <https://www.ndci.org/wp-content/uploads/2019/02/Equity-and-Inclusion-Toolkit.pdf>

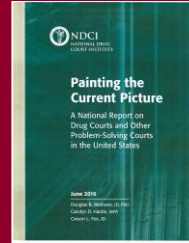
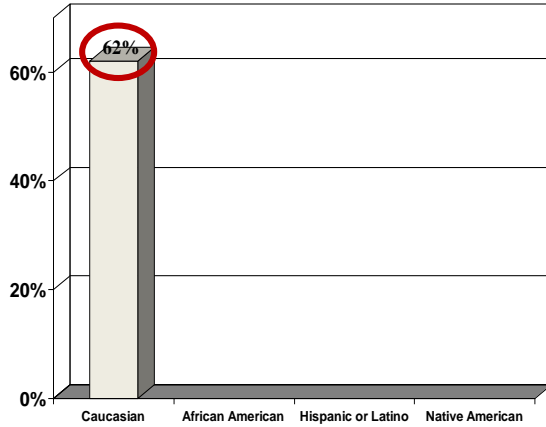


## Access & Representation



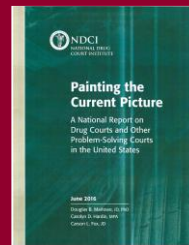
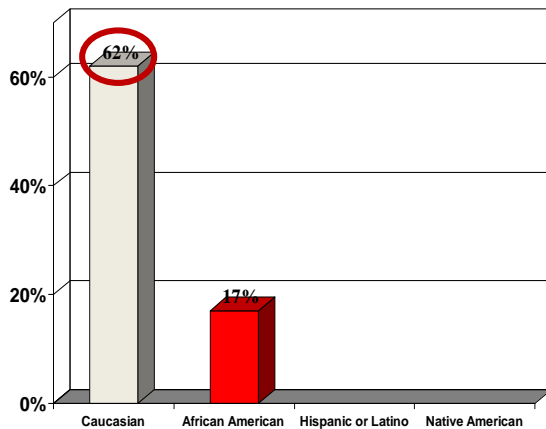
Marlowe et al. (2016)

# Access & Representation



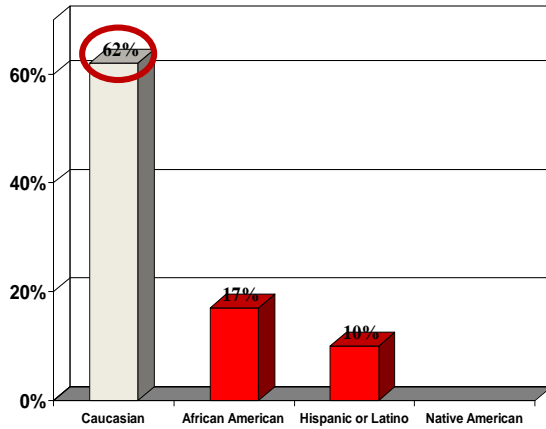
Marlowe et al. (2016)

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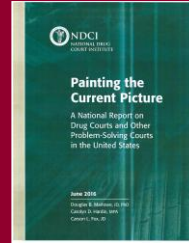


Marlowe et al. (2016)

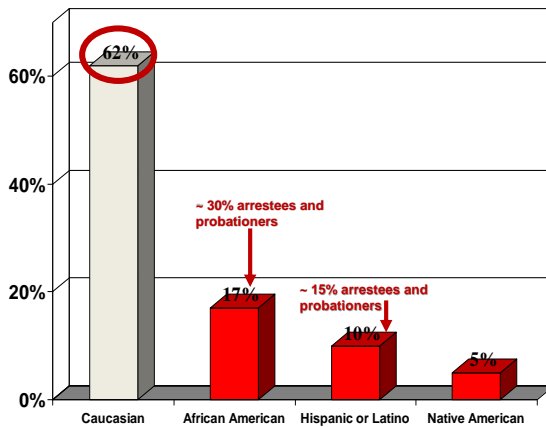
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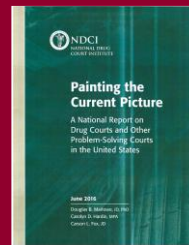
Marlowe et al. (2016)



# Access & Representation

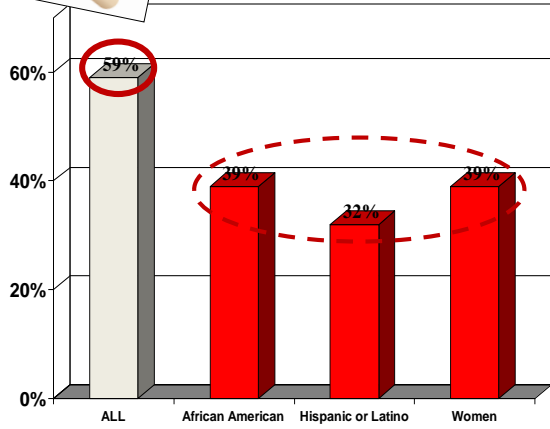


Marlowe et al. (2016)

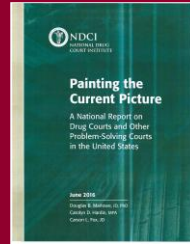




# Graduation Rates

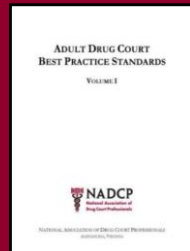


Marlowe et al. (2016)



# BEST PRACTICE STANDARDS

- Duty to avoid disparate access, services, and impacts **regardless of intent**
- **Affirmative obligation to know** whether disparities exist (annual monitoring)
- **Take corrective actions** unless doing so would demonstrably threaten public safety or program effectiveness
- **Evaluate success of the corrective actions** and adjust, as necessary, until disparities are eliminated (annual monitoring)



[www.AllRise.org](http://www.AllRise.org)

# Pre-Entry Attrition

Effects are cumulative and subtractive:



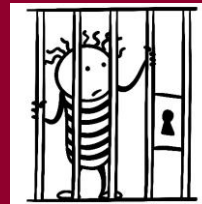
- Pre-trial release vs. detention
- Public defender philosophy and private counsel knowledge (6<sup>th</sup> Amendment applies)
- Plea offer from prosecution
- Plea acceptance by defendant
- Screening tools (?)
- Eligibility criteria
- Suitability determinations

Can be influenced but not controlled by the drug court

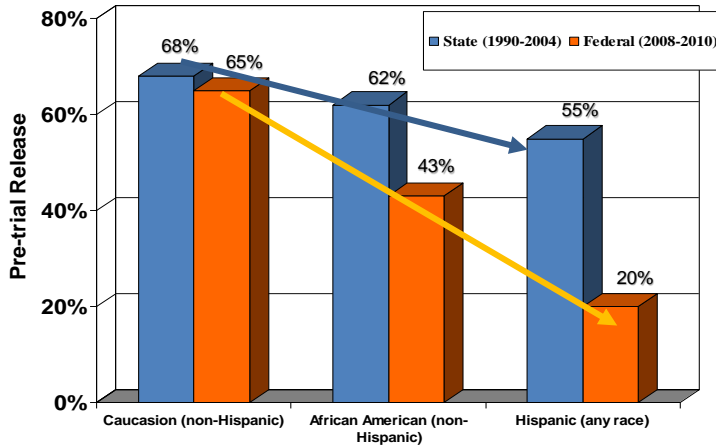
Directly within control of the drug court

# Impact of Pretrial Detention

- Approximately two thirds of jail inmates are (presumed innocent) pretrial detainees
- Approximately 70% are charged with nonviolent, non-weapon-related crimes
- Approximately 80% cannot pay \$2,500 bail/bond
- Compared to matched released defendants:
  - More likely to plead guilty or be convicted
  - More likely to receive a jail or prison sentence
  - Receive longer incarceration or probation sentences
  - Have lower employment and educational attainments
  - Earn lower salaries
  - Are less likely to own a home
  - Experience greater family conflict and dysfunction



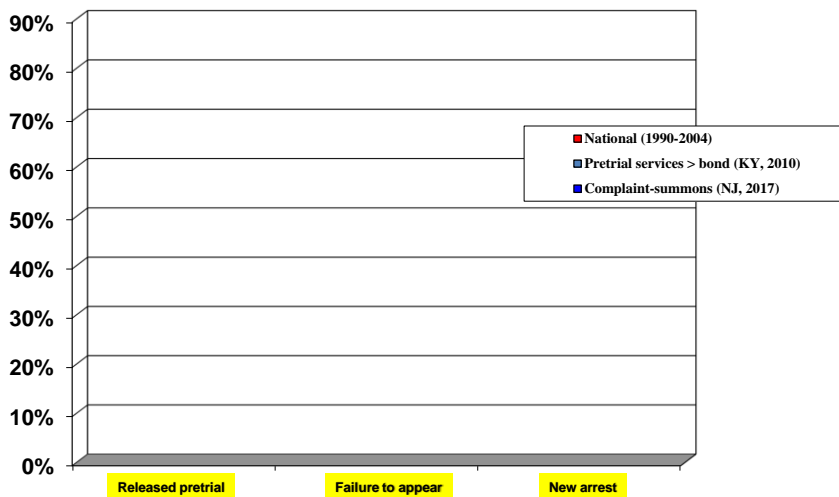
# Disparities



BJS (2007; 2012)

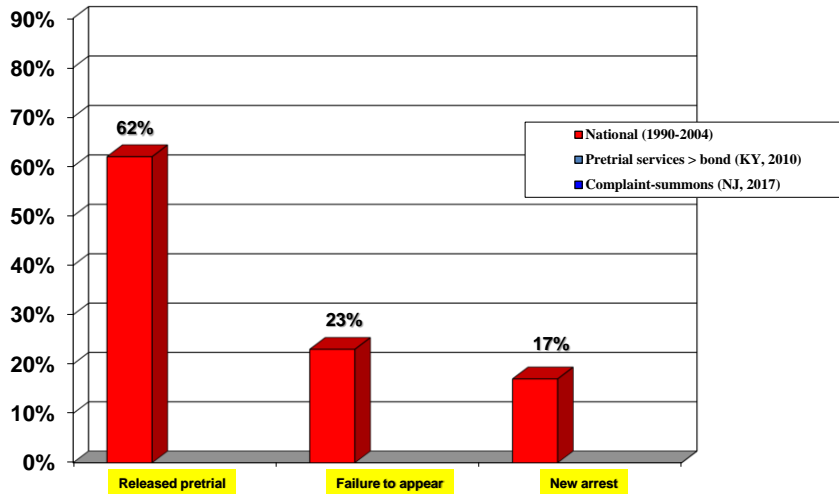


# Pretrial Release Outcomes



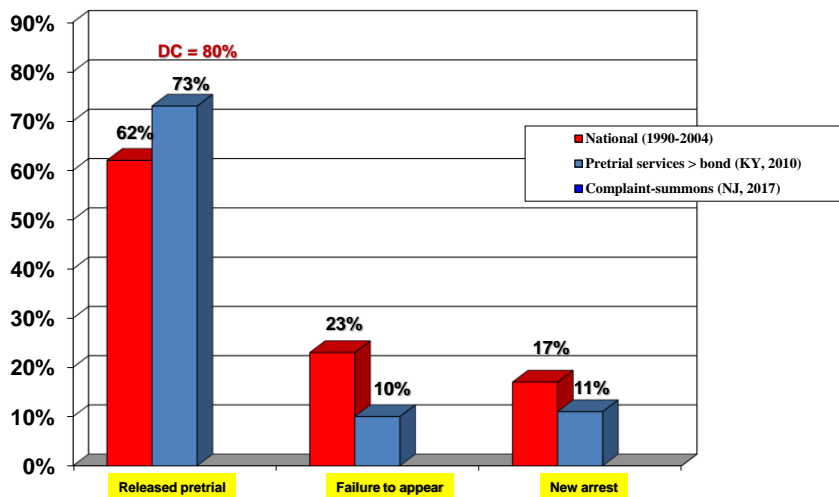
BJS (2012); COSCA (2013); NJ-AOC (2018); VanNostrand & Lowenkamp, 2013)

# Pretrial Release Outcomes



*BJS (2012); COSCA (2013); NJ-AOC (2018); VanNostrand & Lowenkamp, 2013)*

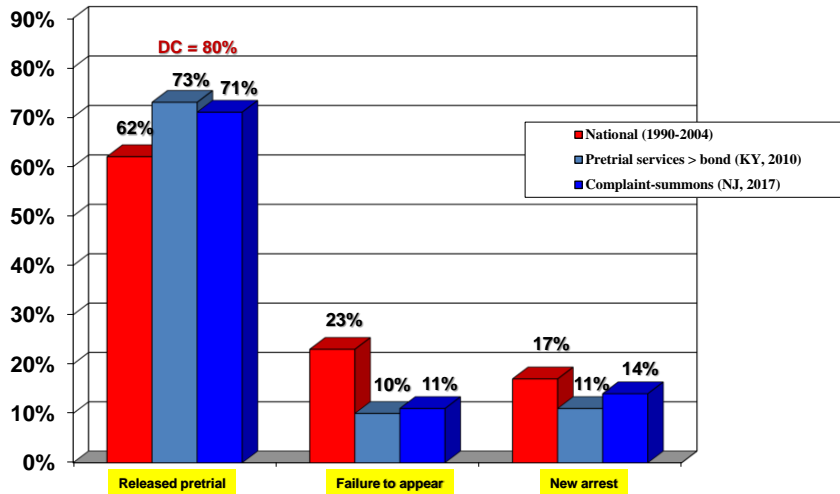
# Pretrial Release Outcomes



*BJS (2012); COSCA (2013); NJ-AOC (2018); VanNostrand & Lowenkamp, 2013)*

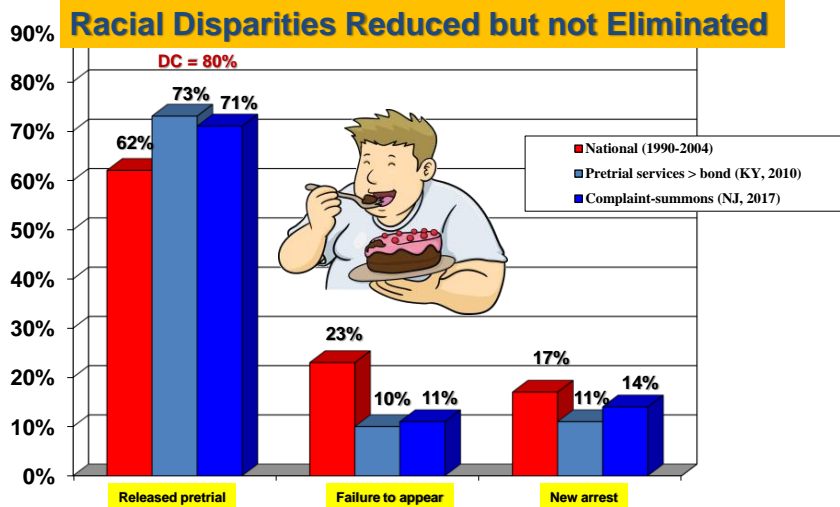


# Pretrial Release Outcomes

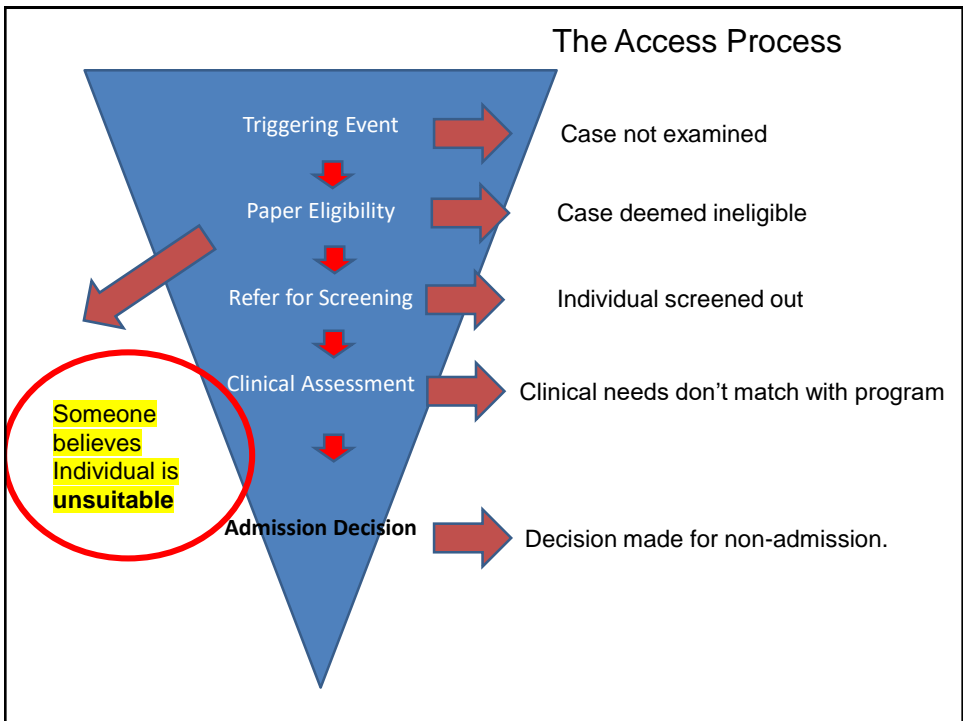
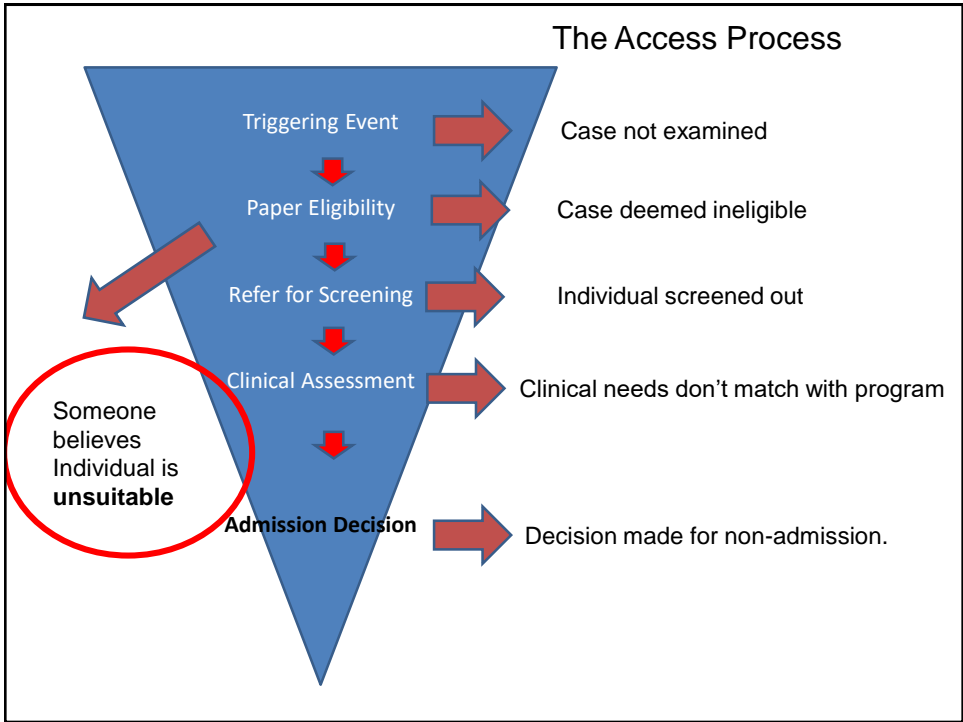


*BJS (2012); COSCA (2013); NJ-AOC (2018); VanNostrand & Lowenkamp, 2013)*

# Pretrial Release Outcomes

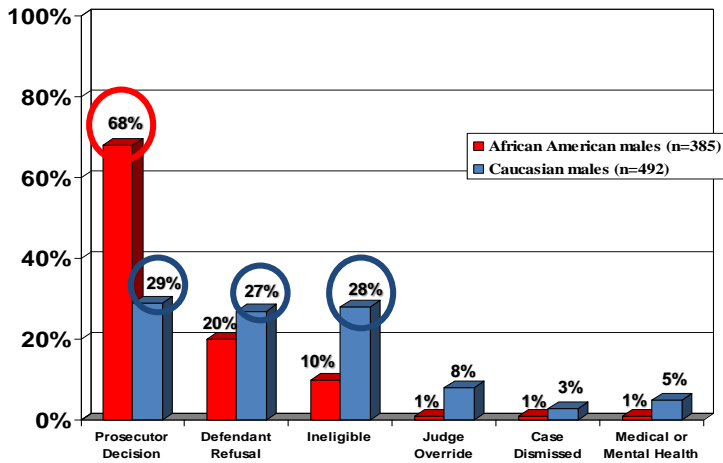


*BJS (2012); COSCA (2013); NJ-AOC (2018); VanNostrand & Lowenkamp, 2013)*



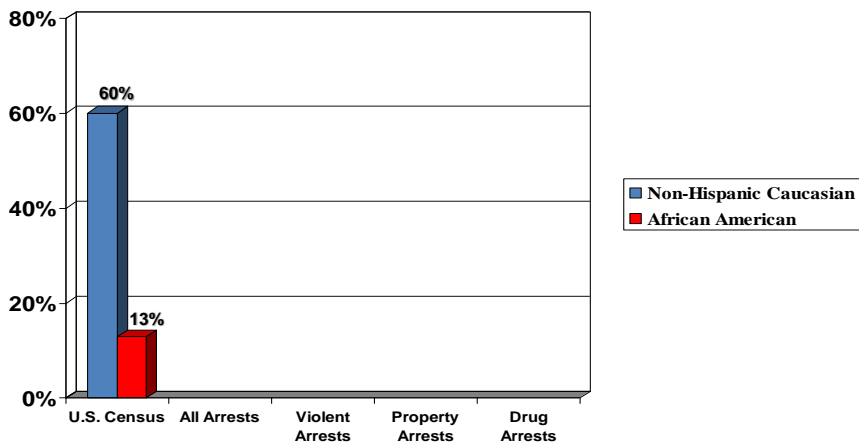
# Reasons for Non-Admission

## "Paper-Eligible Candidates"



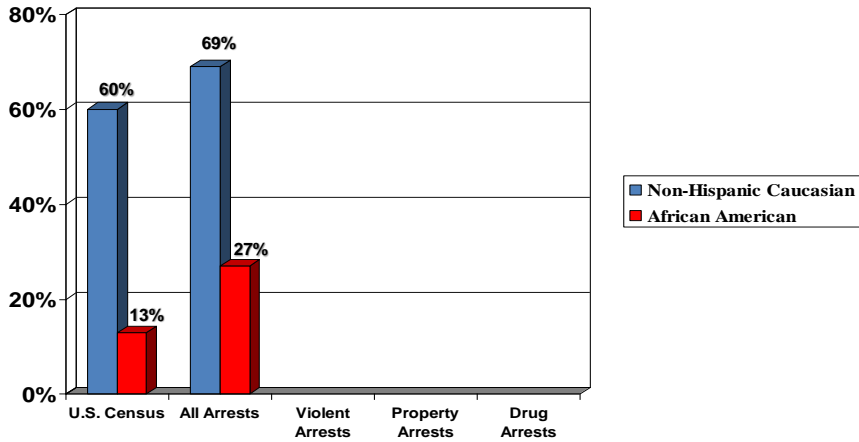
Janku (2016)

# Exclusionary Charges



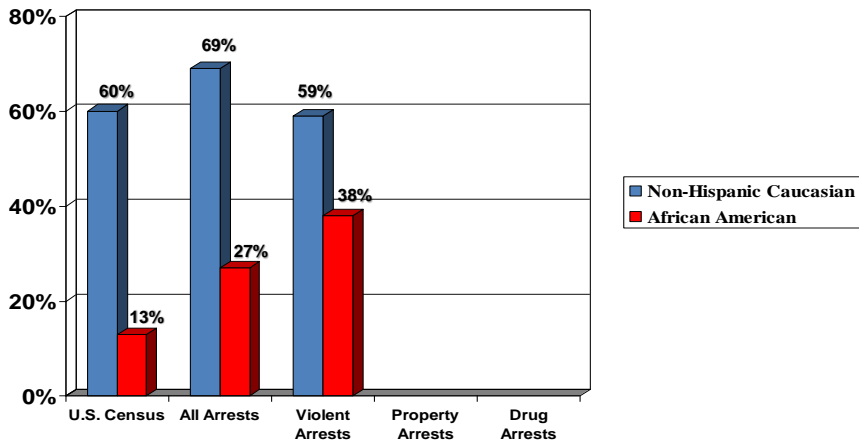
Uniform Crime Reports (FBI, 2017)

# Exclusionary Charges



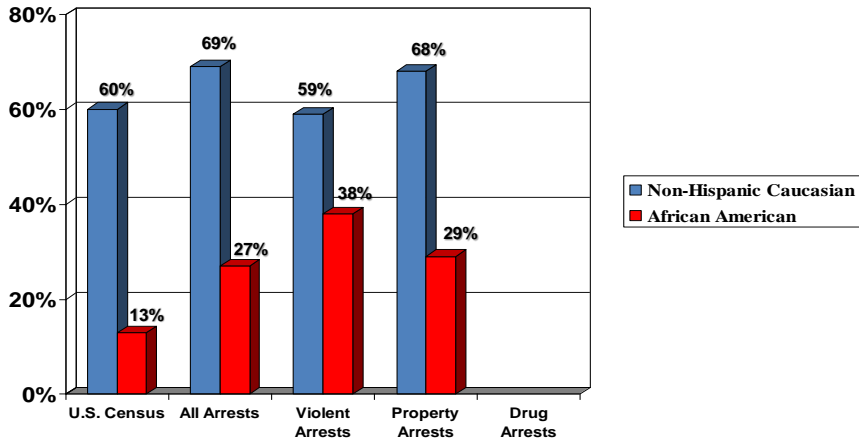
Uniform Crime Reports (FBI, 2017)

# Exclusionary Charges



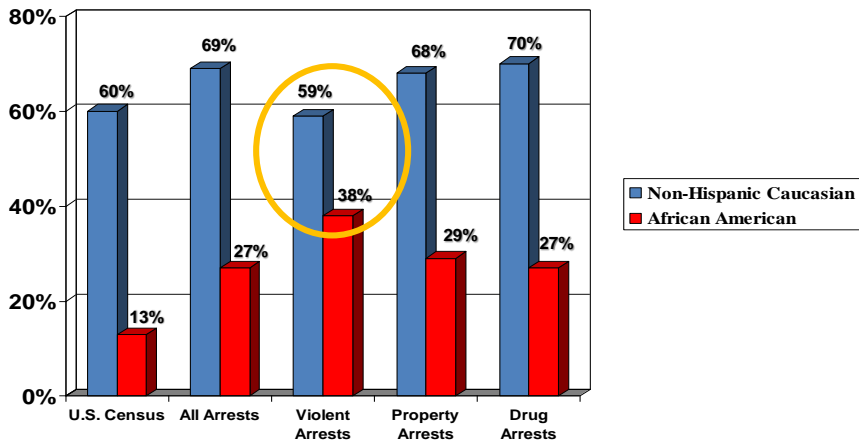
Uniform Crime Reports (FBI, 2017)

# Exclusionary Charges



Uniform Crime Reports (FBI, 2017)

# Exclusionary Charges



Uniform Crime Reports (FBI, 2017)

# Recidivism Rates

Re-Arrest Rate: 2005 - 2014 (9-year follow-up)

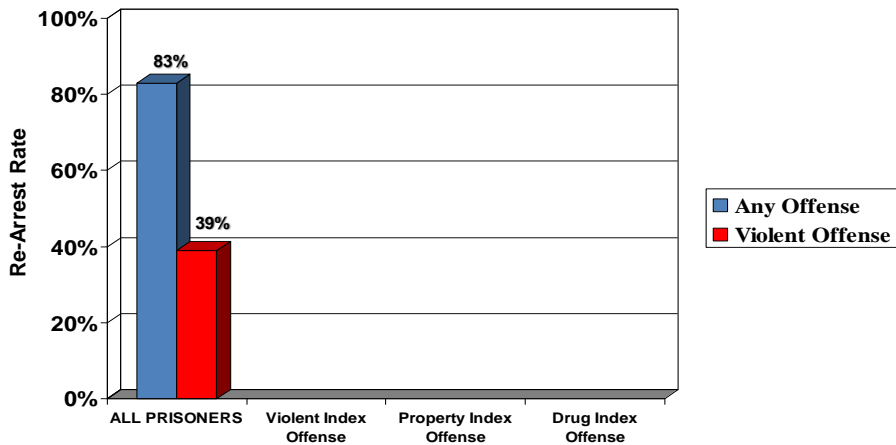


*BJS: Alper & Durose (2018)*

Excludes sex offenders

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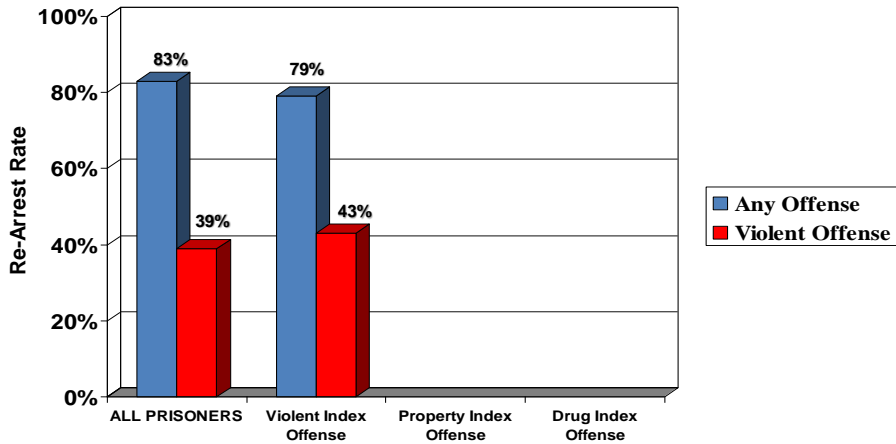


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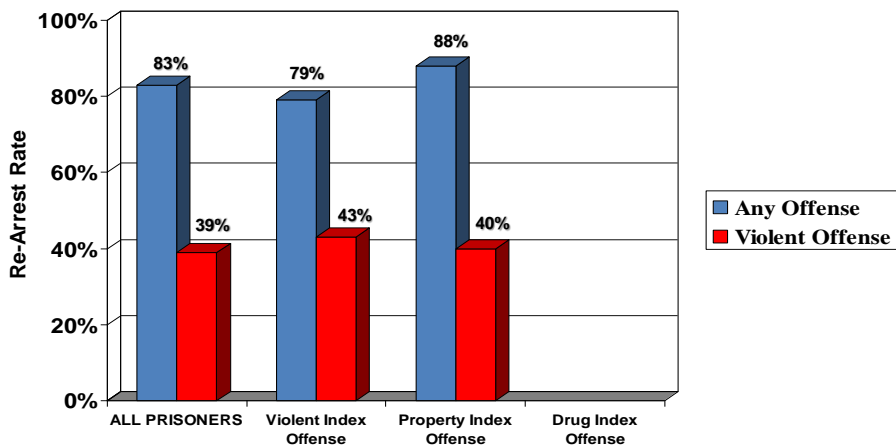


*BJS: Alper & Durose (2018)*

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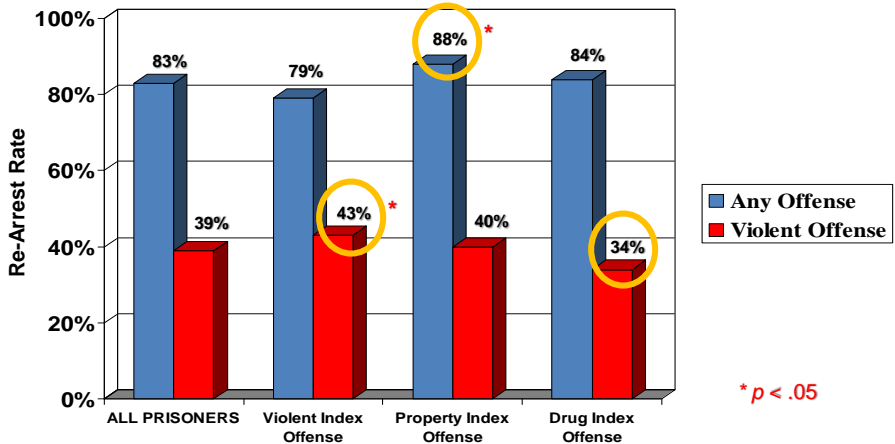


*BJS: Alper & Durose (2018)*

Excludes sex offenders

# Recidivism Rates

Re-Arrest Rate: 2005 - 2014 (9-year follow-up)

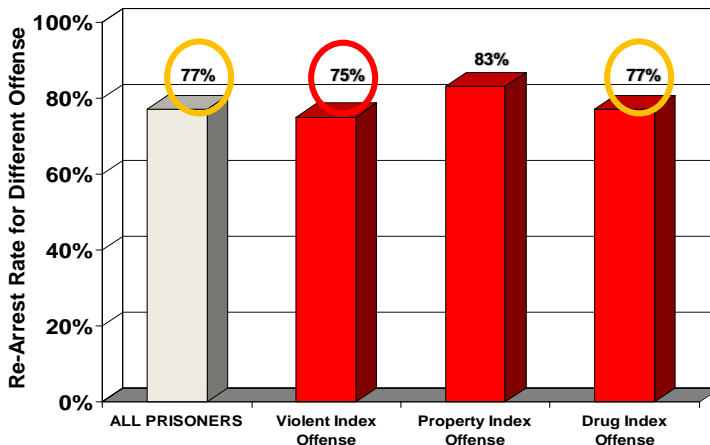


BJS: Alper & Durose (2018)

Excludes sex offenders

# Arrested for Different Offense

Re-Arrest Rate: 2005 - 2014 (9-year follow-up)



BJS: Alper & Durose (2018)



# Marketing & Outreach

## Social Marketing Surveys

- *What is the word on the street about drug court?*
- *Why did you decide to (not to) participate?*
- *Why did other people you know decide to (not to) participate?*
- *When did you first hear about drug court?*
- *Who first told you about drug court?*
- *What was their attitude about it?*
- *What might make it more appealing?*

Developed by Anne Janku, Ph.D., 2016



St. Louis Drug Court

**KEY TO YOUR FREEDOM**

Free from ...  
Felony Charge • Prison • Life of Crime  
Street Violence • Losing Your Kids  
Lack of Education • Unemployment  
Drug Dealers • Death by Overdose

Tell your lawyer...  
Ask the Judge  
to Screen for Drug Court

*Drug Court is the Key to Your Freedom*

www.stlcitycircuitcourt.com  
314-992-0858

# Turn-offs

- Already served a portion of their sentence or held pretrial for more than a month
- Heard drug court was a trap for the unsuspecting
- Heard about drug court from someone they didn't trust (e.g., prosecutor)
- Heard about it from defense counsel late in the case
- Orientation focused on rules and lists of obligations
- Alienating or disrespectful style during orientation
- Emphasis on intrinsic vs. concrete benefits
- Labeling or stigma



## WHICH AD REFLECTS SOCIAL MARKETING?



## Participant Views (N=70)

- Favorable views of frequent drug testing and contacts with the judge (100%)
- Negative views of treatment providers (70%)
  - Pressure to accept label of addiction
  - Ultimatums to comply with treatment
  - Judgmental responses
- Negative views of treatment quality (66%)
  - Exclusively group-based interventions
  - Unaddressed mental health needs (trauma, depression)
  - Prefer natural recovery supports (e.g., church) over 12-Step groups
- Unaddressed employment & educational needs (64%)

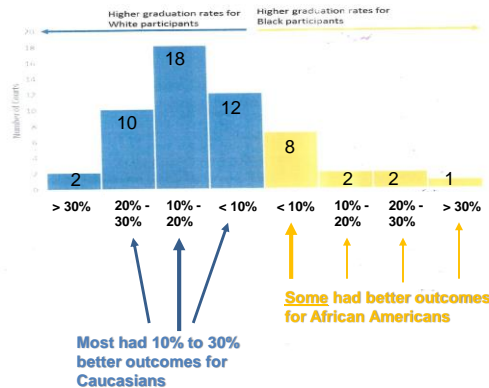
Gallagher, 2013; Gallagher & Nordberg, 2016; Gallagher et al., 2016; Gallagher & Wahler, in press; Dannerbeck-Janku et al., in press

# Outcome Variation

N = 21,008 participants in 142 Treatment Courts

87 courts (61%) had equivalent outcomes by race

Figure 7. Number of Treatment courts with Disparate Graduation Rates for White and Black Participants



Ho et al., in press

# Best Practices

- Community members on Steering Committee
- Arrest for drug possession does not lead to termination from the program (police presence)
- Program routinely offers family counseling
- All team members, including treatment and defense counsel, attend staffings and hearings
- Program regularly reviews data on services and outcomes and makes modifications as needed
- Program census is less than 125 participants
- 90 days of sobriety is required for graduation



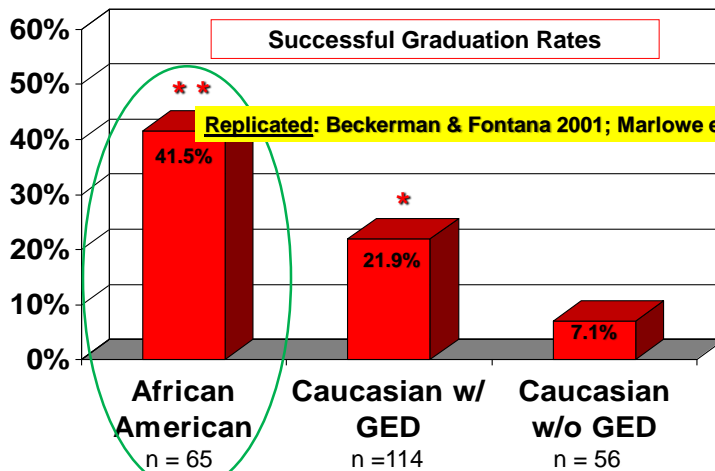
Ho et al., in press

# Other Best Practices

- Staff and organizational readiness for change; managerial & supervisor supportiveness
- Treatment programs located in community
- Emphasize vocational & educational services
- Provide cognitive behavioral therapy (CBT)
- Focus on drugs of choice in affected community
- Prepare participants for peer support groups
- Administer gender-specific groups
- Staff personally involved in community
- Linkages and resources in community
- Professionally trained mentors



# Culturally Proficient Treatment



Vito & Tewksbury (1998)

# H.E.A.T.

- Culturally tailored, strength-based, trauma informed
- African American males 18 to 29 years of age
- Not presumed to be drug or alcohol dependent
- 80 sessions over 9 months:
  1. Self – prevalent myths, stereotypes and misconceptions of African American manhood
  2. Family – unrecognized and unacknowledged trauma
  3. Community – neighborhood challenges and threats
  4. Spirituality – natural and preferred recovery communities
  5. Mentoring and employment

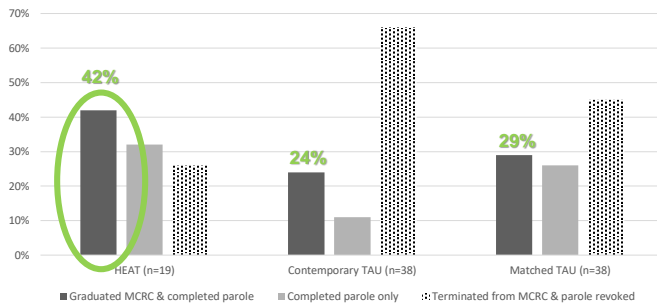


## Study 1: Feasibility

- Avg. 10 previous convictions
- Avg. 22 months of incarceration
- 90% of charges included drug trafficking
- Wide range of substances used
- 81% avg. session attendance rate
- Avg. of 65 sessions attended (SD=10 sessions)
- Avg. length of stay = 264 days
- 90% completed HEAT
- 71% on track to complete drug court
- Ratings of treatment satisfaction, counseling rapport, and peer support > 75<sup>th</sup> percentile

# Study 2: Effect Size

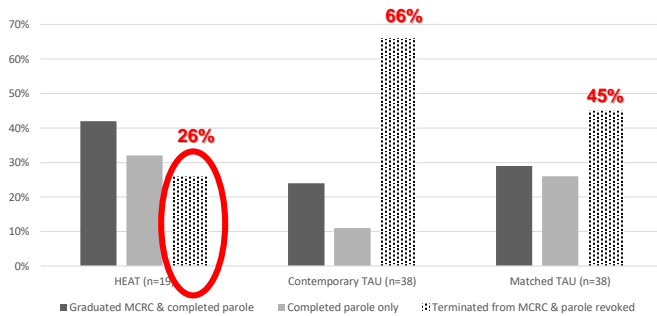
- Reentry drug court
- Condition of parole
- Administrative discharge from parole
- Contemporary comparison group
- Matched comparison group



# Study 2: Effect Size

- Reentry drug court
- Condition of parole
- Administrative discharge from parole
- Contemporary comparison group
- Matched comparison group

**Effect Size:**  
Cramer's  $V > 0.30$  (moderate)



$p < .05$

# Conclusions

- **Racial, ethnic and gender disparities permeate treatment courts**
- **Pretrial detention and bond contribute to disparities without protecting public safety**
- **Exclusionary charges (especially violence) contribute to disparities without protecting public safety**
- **Suitability determinations (especially by the prosecution) contribute to disparities**
- **Drug courts make poor efforts to sell their product**
- **Reflecting participants' community-of-origin improves outcomes and reduces disparities**

# Conclusions (cont.)

- **Following best practices improves outcomes and reduces disparities**
- **Culturally proficient interventions improve outcomes and reduce disparities**
- **There is no evidence that standardized and validated risk and need assessment tools exacerbate disparities, and substantial evidence they likely reduce disparities**
- **Ignoring these findings is a violation of the *Adult Drug Court Best Practice Standards***