

# Diversion Not Decriminalisation Is The Key To Rehabilitation



# Abstract

The evolving crisis of drug addiction and its intersection with the criminal justice system has prompted critical reassessment of punitive legal models. This paper argues that meaningful rehabilitation is best achieved through judicially guided diversion rather than decriminalisation alone. Drawing from case studies such as Unit 104 at the Kenton County Detention Center, Portsmouth's city-wide recovery initiatives, the Dalgarno Institute's advocacy for the "Judicial Educator" model, and innovative rehabilitative programs including animal-assisted therapy and financial literacy initiatives, this paper explores the integration of restorative justice, individualised treatment, and community-based alternatives to incarceration. By synthesising field-based innovations with a progressive vision for reform, the paper illustrates how shifting from punishment to rehabilitation promotes long-term public safety, reduces recidivism, and restores human dignity.



# Introduction

In recent years, growing recognition of the failures of punitive drug policies has led to increased calls for decriminalisation. While well-intentioned, decriminalisation alone does not guarantee access to rehabilitation — in reality it more often than not ‘diverts’ away from rehabilitation due to its tokenistic offerings of ‘detox’ only, and its powerlessness to facilitate behaviour change.



Nor does it adequately address the root causes of substance use or its entanglement with crime. This paper advocates for a more robust and human-centered approach: judicially supported diversion programs rooted in rehabilitation. Drawing on the lived experiences of incarcerated individuals, evidence-based interventions, and community models of recovery, the following sections explore how criminal justice systems can shift from punishment to purposeful restoration.

# From Retribution To Restoration

Traditional punitive models of justice often overlook the social, psychological, and economic drivers of drug-related offenses. The article *From Punishment to Rehabilitation: A Progressive Vision for Criminal Justice Reform* underscores the limitations of incarceration and calls for a justice system grounded in evidence-based rehabilitation. These approaches—such as cognitive-behavioral therapy, vocational training, and mental health counseling—are shown to be more effective at reducing recidivism and promoting societal reintegration than incarceration alone.

This perspective aligns with initiatives in places like Kenton County, Kentucky. In addition to its pioneering Unit 104, the Kenton County Detention Center has implemented the Strong Start Comprehensive Opioid Response with 12 Steps and Reentry program in partnership with the Hazelden Betty Ford Foundation. Initiated in 2018, Strong Start includes a structured three-month in-jail treatment phase with medication-assisted treatment options, followed by a three-month aftercare program. The impact is compelling: only 24% of participants who completed both phases were rearrested and jailed within three years—a stark contrast to the national recidivism rate of 68%.



An equally important aspect of Kenton County's approach is its staffing model. Staff like David Wray serve dual roles as deputies and certified addiction counselors, cultivating a therapeutic environment that bridges authority and empathy. The program also includes reentry specialists with lived experience and interns from Northern Kentucky University's social work program, reinforcing a holistic and human-centered approach to rehabilitation.

# Diversion As A Judicial Strategy

Diversionary justice through Drug or better titled Problem Solving Courts empowers the Judiciary to channel eligible offenders—particularly those with substance use disorders—away from traditional sentencing and into supervised treatment programs. This strategy is neither lenient nor indiscriminate. It maintains judicial oversight while recognizing that addiction is often a chronic, relapsing condition requiring therapeutic rather than punitive responses. At the same time, the illicit status of both substance use and the often attending (causal or correlate) criminal activity are being addressed, not dismissed. Empowerment for change and growth is lost in a decriminalised or depenalised system of management.

Portsmouth, Ohio, offers a broader community model. Once overwhelmed by opioid addiction and the legacy of "pill mills," Portsmouth now exemplifies integrated recovery. With expanded Medicaid access, vacant properties repurposed into treatment centers, and wraparound services including job training and childcare, the city illustrates how structural change can follow legal reform. These programs are supported by research affirming the value of community-based alternatives to incarceration—programs that maintain ties to employment, family, and purpose while ensuring accountability.



# The Role Of The Judicial Educator

The Dalgarno Institute introduces the concept of the "Judicial Educator," emphasising the judiciary's role not merely as enforcers of the law but as educative facilitators of recovery and rehabilitation. This model advocates for the integration of drug/problem-solving courts and secure welfare systems to provide structured, therapeutic interventions for individuals with substance use disorders. By re-tasking the judiciary to focus on rehabilitation, the legal system can serve as a proactive agent in guiding individuals towards recovery and growth in agency and capacity, rather than perpetuating cycles of incarceration.

An illustrative example is Australia's Wandoo Rehabilitation Prison for women, which operates as a dedicated alcohol and other drug treatment facility. Recently celebrating its third anniversary, Wandoo boasts a return-to-prison rate of less than one percent, significantly lower than the national average of 46%. The prison's success underscores the efficacy of combining judicial oversight with comprehensive rehabilitation programs in a secure environment.



# The Case Against Decriminalisation Alone



Decriminalisation, while reducing immediate penal harm, can produce unintended consequences if not coupled with robust recovery pathways. Without mandated treatment, many individuals remain entrenched in cycles of substance use, homelessness, or untreated mental illness. Furthermore, decriminalisation may reduce the justice system's advantageous leverage to direct individuals into structured recovery—a leverage that diversion maintains, with far greater therapeutic benefit than incarceration.

Judicial education, as advocated by the Dalgarno Institute, plays a key role in this balance. It equips judges and law enforcement professionals to discern when to apply restorative interventions, navigate the ethics of sentencing, and uphold the dignity of defendants without abandoning accountability or disregard for public safety and well-being.

# Individualised And Holistic Care



A cornerstone of the progressive rehabilitation model is the emphasis on individualised treatment plans. Effective reform depends on tailoring services to each person's risk factors and strengths—whether through trauma-informed care, employment pathways, or ongoing mental health support. This principle is echoed in Kenton County's integration of addiction counseling, lived-experience mentoring, and academic partnerships. It is further mirrored in Portsmouth's city-wide network of social supports.

Moreover, restorative justice practices—such as victim-offender mediation and community accountability—offer a pathway to healing for all parties impacted by crime. These models do not erase responsibility; they redefine it within a context of growth and reintegration as the following innovations highlight.



# Innovative Rehabilitation Programs: Beyond Traditional Models That Secure Welfare Enables.

Success like Wandoo is not unique to the Australian context. There are many and growing examples of initiatives being deployed in various settings. Expanding upon these models, several innovative programs offer further evidence of the transformative potential of rehabilitative justice:



- **Animal-Assisted Rehabilitation:** At Monroe County Sheriff's Office Animal Farm, inmates care for abandoned and exotic animals. This fosters responsibility, empathy, and emotional healing, offering participants a connection to life and a renewed sense of purpose.
- **Financial Literacy and Empowerment:** At San Quentin State Prison, incarcerated individuals participate in a financial literacy program led by a fellow inmate, teaching money management and emotional resilience. Recognising that financial illiteracy and trauma often underlie criminal behavior, the program empowers inmates with tools for sustainable, lawful living post-release.
- **Wild Horse Training:** Northern Nevada Correctional Center's horse training program requires inmates to domesticate wild horses through non-violent methods, building patience, trust, and discipline. The program instills maturity and work ethic, and the trained horses are later utilized by government agencies.
- **Drama Therapy through Shakespeare:** Marin Shakespeare Company's program uses Shakespearean drama to facilitate self-reflection, emotional growth, and empathy. Acting enables participants to explore complex emotions and life experiences, aiding in personal healing and development.
- **Butoh Dance Therapy:** At Edgecombe Correctional Facility, inmates engage in Butoh, a demanding dance form that fosters self-knowledge, empowerment, and resilience—key attributes for successful reintegration.

These initiatives underline the critical need for rehabilitation programs that go beyond surface-level intervention. They demonstrate that restoring dignity, emotional health, and life skills is essential for reducing recidivism and promoting lasting societal reintegration. Again, these are best facilitated in a secure welfare context, one which is lost in a legislatively decriminalised context.

# Policy Implications And Conclusion

For jurisdictions grappling with addiction, recidivism, and overcrowded jails, the evidence is clear: diversion-based rehabilitation outperforms both punitive incarceration and stand-alone decriminalisation. It restores agency to the judiciary, respects the humanity of both victims and offenders. It also goes a long way to rebuild communities fractured by substance abuse.

Programs like those in Kenton County, Portsmouth, Wandoo, and the innovative rehabilitation initiatives discussed must be scaled, funded, and protected. Public healthcare expansion, housing support, and inter-agency collaboration are not luxuries—they are the infrastructure of lasting recovery. Criminal justice reform is not achieved by weakening enforcement, but by transforming its purpose: from punishment to renewal.

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## Endnotes

1. [\(PDF\) From Punishment to Rehabilitation: A Progressive Vision for Criminal Justice Reform.](#)
2. [Kenton County Jail working to help its inmates with their drug addictions.](#)
3. [Dalgarno Institute Website - The Judicial Educator At Its Best – Law for Recovery + Drug Courts + Secure Welfare = Rehabilitation!.](#)
4. [YouTube Video: "5 Incredible Prison Rehabilitation Programs"](#)