

ISSUE 1: EXPERT COMMENTARIES

Issue 1: Explaining the Narrative of Carrots and Sticks

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The Chief Justice of Ohio's Supreme Court has issued a statement urging voters to vote No on Issue 1. To justify her position, she relies on a common policy narrative that centers around carrots and sticks. More specifically, she stated:

We know, through multiple studies, that drug courts are effective only when they combine the “carrot” of treatment and support with the “stick” of judicial accountability, including incarceration when needed. It is this carrot-and-stick approach that enables judges and drug court teams to use a variety of tools to help people overcome addiction. But Issue 1, while providing a lot of carrots by expanding treatment, takes away the stick... We are talking about Ohio becoming, in effect, unable by its constitution to offer drug court participation and to incentivize that involvement by the “carrot” of not having a felony conviction record. Who would want to participate in a drug court program knowing that they only face probation for possession of fentanyl, cocaine, methamphetamine, K2, heroin, and so forth?¹

Ohio's Chief Justice was joined by the Ohio Bar Association, the Ohio's Prosecuting Attorneys Association, and the Ohio Common Pleas Judges' Association. Such a stance is not unique to state laws and politics. Local prosecuting association attorneys, and other law enforcement agencies, testifying at congressional hearings on the opioid crisis have similarly argued for the need of the “stick” of incarceration to address the opioid crisis. Law enforcements' support for the stick is not surprising in light of their historic efforts to support the use of punishment to addressing problem drug use.

The support of the “stick” and its use in drug courts is part of a broader commitment of law enforcement interest groups to support a criminal justice approach to addressing the nation's drug problem, an approach that is defined by the use of the criminal justice system to deter bad behavior through the threat of punishment. In my previous analysis of congressional hearing testimony prior to the enactment of federal legislation to address the opioid crisis, I found that despite the dominance of the idea that problem drug use is a public health issue, law enforcement agencies continued to emphasize the need for the use of the criminal justice system to addressing the opioid crisis. This commitment endured despite the international trend moving away from the utilization of the criminal justice approach to address problem drug use and the acknowledgement by the international community that a public health approach makes for better drug policy.

Law enforcement groups' support of the criminal justice approach is, in part, a result of the groups' attempts to protect and further the interests of their members, attorneys, judges, and police personnel who rely heavily on state and federal budget allocations for survival. Narratives like the carrot and stick narrative positions criminal justice actors as “fixers” of the drug problem and in doing so, encourages the allocation of funding to the criminal justice system. It combats the idea that addiction is a medical disease, which is best treated by the health treatment system and not the criminal justice system, because such a redirection would result in both a transfer of money and power to health providers.

¹ <http://ohiopa.org/oconnor1.pdf>

Ironically, the Chief Justice ends her position statement with a reminder to voters that Issue #1 was funded by interest groups, a fact that she argues should make voters weary. However, voters should also be reminded that the Chief Justice is acting on behalf of a relatively powerful interest group herself. Her statement ignores the alternative fact that she is speaking as a representative of interest groups of judges and prosecuting attorneys – groups that have financial interest in directing money into the criminal justice system to address addiction. It is imperative that the public read the position statements of each of these attorney and judges associations with a greater understanding of each group's financial and political interests, so as not to be easily swayed by the simplicity of narratives of carrots and sticks.

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