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"Go With What Works: U.S. must rethink drug policy and take a different approach toward nonproblem users."
By James P. Gray

How is actor Robert Downey Jr.'s problem with drug abuse any different than Betty Ford's problem with alcohol abuse? Why is it appropriate to send Robert Downey Jr. to jail but send Betty Ford to treatment? Shouldn't drug users who cause harm to others raise different questions, and answers, than users such as Downey who do not harm anyone but themselves?

Why don't we make distinctions between people who use drugs and people who abuse them? We automatically conclude that everyone who uses marijuana, for example, needs drug treatment. I agree that marijuana can have some harmful effects on the user, but, obviously, so can alcohol. I drink a glass of wine almost every night with dinner. Does that mean that I need an alcohol-treatment program?

Without making allowances for any of these distinctions, we have attempted to incarcerate our way out of our drug-use problems. That reminds me of the old saying, "If all you have is a hammer, everything you see looks like a nail."

As a result of the incarceration approach, our nation's jails and prisons are overcrowded severely, leading the world with 2 million inmates. But government statistics show that we have 20 million people in our country who regularly use illicit drugs. So even if we felt that prison for these other people was a good idea, where would we put them?

Based on my experience as a former federal prosecutor in Los Angeles, a former criminal defense attorney as a Navy JAG and a trial judge in Orange County since 1983, I am convinced that we must rethink our nation's drug policy completely. We clearly have only limited resources to spend, and we should focus those on what will actually reduce death, crime, disease and access by children to these dangerous drugs.

The best way to accomplish those goals is to use the criminal justice system in the way it works the best: by holding people accountable for their conduct. We are doing that fairly successfully today with regard to problem alcohol users, and there is no reason why we should not adopt the same approach to address problem users of other mind-altering and sometimes addicting drugs. The problem users will find their way into our criminal justice system by their conduct, and then can be jailed, imprisoned and coerced into drug treatment, as appropriate.

That would leave the needs of the nonproblem users, like Downey, to be met in the same way we are addressing the users of tobacco, which is education, controlled regulation of the market, treatment and societal pressure. Let's face it, tobacco is a killer and is at least as addictive as cocaine. But virtually everyone agrees that we would only be compounding our problems by making tobacco illegal.

If we did prohibit tobacco, we immediately would begin to receive the same results we have obtained with our drug prohibition laws: increased crime from artificially expensive cigarettes; the shooting of police officers and innocent bystanders by "tobacco dealers" and more corruption of our people, public officials and governments worldwide because of the influx of tobacco money and increased tobacco selling and because of the quick and obscene profits to be made by selling it.

Accompanying these are the decreased health of people smoking because of the absence of information about the quality and strength of cigarettes, a loss of civil liberties unmatched by anything in our nation's history and increased taxes to pay for all of these severe but unnecessary problems.

Why have we experienced all of these problems with drugs? Because there has been a complete collapse of the rule of law with regard to the manufacture, sale, transfer, uses and possession of these sometimes dangerous and addicting drugs. At least with alcohol, we have things like licensing, age restrictions and quality control. And the sales are taxed. But there are absolutely no controls with regard to drugs. Why? Because alcohol is regulated by the

government, and the other drugs are controlled by the mob.

Like Alcohol Prohibition before it, our laws of Drug Prohibition may sound good from a moral standpoint, but they simply don't work. We are unable to repeal the law of supply and demand. Once Alcohol Prohibition was repealed, crime went down in our country by 60 percent after only one year, and it continued to decline each year thereafter until the beginning of World War II. And problems with regard to corruption, contaminated "bathtub gin" and loss of respect for the law were decreased materially, as well.

Instead, let's go with what works.

In June of 1994, the RAND Corporation released a study that said that we get seven times more value for our tax money by drug-treatment programs than by the incarceration of even heavy users of drugs. So let's get the nonproblem users, like Ford and Downey, out of the criminal justice system and focus our scarce resources, like Proposition 36 programs and drug courts, on the problem users.

These criminal offenders can be sentenced to short periods of incarceration in order to get their attention, and then combine that with court-mandated, strictly enforced drug treatment. Those offenders, who are violent, furnish drugs to children or do not take their recovery seriously can be removed from society by putting and keeping them in prison.

This would reduce materially death, disease, crime, taxes, drug usage and access of these drugs to children. Why not go with what works? And in the meantime, what if we based prison wardens' promotions and bonuses on their ability to reduce the recidivism rates of inmates who have been released back into society from their custody? Do you think the wardens immediately would implement drug-treatment programs in their prisons? Now that might work.