

[The Breach—'We Don't Heal from It', Episode Four: The Catch-22 of Drug Courts](#)

WELCOME TO THE BREACH, I'M YOUR HOST, LINDSAY BEYERSTEIN.
THIS SEASON, WE'VE BEEN FOLLOWING ONE STORY WHEREVER IT TAKES US.

WHAT HAPPENS WHEN DRUG USE DURING PREGNANCY IS A CRIME?

WE STARTED OUT IN BIG HORN COUNTY, MONTANA WHERE A LOCAL PROSECUTOR THREATENED TO JAIL SUBSTANCE-USING PREGNANT WOMEN.

THAT LED US TO THE REMOTE NATIVE AMERICAN RESERVATION OF FORT PECK, WHERE DRUG OR ALCOHOL USE DURING PREGNANCY IS A FELONY.

IN OUR LAST EPISODE, WE MET RENÉE, A YOUNG WOMAN WITH A SEVERE ADDICTION TO METHAMPHETAMINE, WHO WAS LOCKED UP FOR RUNNING AFOUL OF 240-D, THE FORT PECK LAW THAT CRIMINALIZES SUBSTANCE USE IN PREGNANCY.

RENEE WAS A PARTICIPANT IN A SPECIAL COURT WITHIN THE FORT PECK JUSTICE SYSTEM KNOWN AS HEALING TO WELLNESS COURT.

HEALING TO WELLNESS COURTS ARE THE DRUG COURTS OF THE TRIBAL SYSTEM.

DRUG COURTS ARE SUPPOSED TO BE A MORE HOLISTIC WAY TO HELP PEOPLE WHO COMMIT ADDICTION-RELATED CRIMES GET THEIR LIVES BACK ON TRACK.

THERE ARE OVER [3100 DRUG COURTS](#) OPERATING IN THE US TODAY, INCLUDING MORE THAN 70 WELLNESS COURTS.

THERE ARE DIFFERENCES BETWEEN DRUG COURTS AND WELLNESS COURTS, INCLUDING [HOW THEY ARE FUNDED](#) AND WHAT PROGRAMS ARE OFFERED. BUT THERE'S ALSO A LOT OF COMMON GROUND.

DRUG COURTS ARE OFTEN BILLED AS A [MORE HUMANE SOLUTION](#) TO DRUG-RELATED CRIME.

THEY'RE SUPPOSED TO BE BASED ON TREATMENT AND COOPERATION RATHER THAN PUNISHMENT AND STIGMA.

THE STAKES COULDN'T BE HIGHER: DRUG OVERDOSES KILLED [AT LEAST 70,000 AMERICANS](#) LAST YEAR, [A RECORD HIGH](#), AND OVERDOSE RATES CONTINUE TO RISE. DEATHS FROM ALCOHOL HAVE ALSO [INCREASED](#) SHARPLY IN THE LAST DECADE.

NEARLY [300,000 AMERICANS](#) ARE SERVING TIME FOR DRUG OFFENSES TODAY, UP FROM JUST 25,000 IN 1980. INCARCERATION HAS DEVASTATING EFFECTS ON [FAMILIES](#) AND [COMMUNITIES](#).

IT'S COMMON TO SEE THE SAME PEOPLE COMMITTING THE SAME DRUG-RELATED CRIMES OVER AND OVER. SOCIETY IS EAGER FOR SOLUTIONS TO BREAK THAT CYCLE OF ADDICTION AND RE-OFFENSE.

LIKE ATTEMPTS TO CRIMINALIZE DRUG USE DURING PREGNANCY, DRUG COURTS ARE A PRODUCT OF THE DRUG WAR OF THE [1980'S](#).

THE NATION'S FIRST THERAPEUTIC DRUG COURT [BEGAN IN MIAMI-DADE COUNTY](#) IN 1989 AS A DESPERATE STOP-GAP MEASURE TO DEAL WITH THE SURGE IN NUMBERS OF PEOPLE IMPRISONED FOR DRUG-RELATED OFFENSES. THE COURTS [WERE FLOODED](#) WITH FIRST-TIME OFFENDERS WHO FOUND THEIR WAY INTO THE SYSTEM BECAUSE OF CRACK COCAINE.

THE [NEW MODEL](#) WAS NON-ADVERSARIAL, MEANING THAT THE PROSECUTOR, THE DEFENSE, AND THE JUDGE WORKED TOGETHER TO HELP OFFENDERS WHOSE CRIMES WERE RELATED TO DRUG USE.

THE NEW APPROACH [SOON ATTRACTED NATIONAL MEDIA ATTENTION](#), AND LATER SPAWNED IMITATORS ALL OVER THE COUNTRY.

ANY APPROACH THAT HELPS PEOPLE OVERCOME ADDICTION, SAVES MONEY, AND REDUCES THE HUMAN TOLL OF INCARCERATION SOUNDS ALMOST TOO GOOD TO BE TRUE.

IN THIS EPISODE, WE'RE GOING TO DELVE INTO THE DRUG COURT MODEL.

AS MY GUEST DENISE TOMASINI-JOSHI EXPLAINS, THE REALITY OF DRUG COURT DOESN'T ALWAYS LIVE UP TO THE NOBLE-SOUNDING THEORY.

[TOMASINI-JOSHI IS](#) THE DIVISION DIRECTOR OF THE PUBLIC HEALTH PROGRAM FOR THE OPEN SOCIETY FOUNDATIONS. SHE'S A LAWYER AND AN EXPERT ON DRUG COURTS. SHE'S TRAVELLED AROUND THE COUNTRY [OBSERVING THESE](#) COURTS UP CLOSE...IN A BID TO SEPARATE FACT FROM FICTION.

LINDSAY: COULD YOU GIVE AN OVERVIEW OF WHAT DRUG COURTS ARE FOR A LAYPERSON?

DENISE: YEAH, SO DRUG COURTS ARE ESSENTIALLY AN INTERVENTION WHERE SOMEBODY WHO GETS ARRESTED FOR SOME DRUG-RELATED CRIME, USUALLY FOR

THINGS RELATED TO DRUG USE, AND WHO IS DEEMED TO HAVE A SUBSTANCE USE PROBLEM, IS CONNECTED TO SERVICES THROUGH THE COURT. SO THAT'S THE GENERAL IDEA OF THE DRUG COURTS. YOU GET ARRESTED FOR SOME DRUG RELATED CRIME, AND THE JUDGE SAYS, "I'M GONNA TO TELL YOU TO GO TO TREATMENT."

SO THE IDEA BEHIND IT IS POSITIVE, IN THE SENSE THEY'RE TRYING TO CONNECT PEOPLE WHO OTHERWISE WOULDN'T BE CONNECTED TO SERVICES, TO SERVICES, AND HOPEFULLY ALSO REDUCE THE BURDEN ON THE CRIMINAL JUSTICE POPULATION. THE THEORY BEHIND IT IS GREAT.

IN PRACTICE, "WHAT IS A DRUG COURT," IS A MORE COMPLICATED MATTER BECAUSE DRUG COURTS LOOK VERY DIFFERENTLY DEPENDING ON WHERE YOU SEE THEM OPERATE. AND A LOT OF THAT DEPENDS ON, WHO THE JUDGE RUNNING IT IS, WHAT ARE THE DIFFERENT STANDARDS THAT ARE IMPOSED ON THE COURTS BY THE PARTICULAR STATE'S COURT SYSTEM, WHAT KIND OF FUNDING IS AVAILABLE, WHAT KIND OF SERVICES ARE IN THE COMMUNITY THAT PEOPLE COULD, OR CANNOT, BE CONNECTED TO AS PART OF TREATMENT? AND ALSO WHAT KIND OF PEOPLE YOU EVEN ACCEPT OR TAKE INTO YOUR DRUG COURT? WHAT ARE THE TYPES OF DRUGS THAT THESE PEOPLE USE?

SO DEPENDING ON ALL OF THESE DIFFERENT THINGS, DRUG COURTS CAN LOOK VERY, VERY DIFFERENT. WHEN YOU'VE SEEN ONE DRUG COURT, YOU'VE SEEN ONE DRUG COURT, AND YOU HAVE NOT NECESSARILY SEEN HOW DRUG COURTS GENERALLY OPERATE.

LINDSAY: CAN YOU CONTRAST A BEST CASE SCENARIO DRUG COURT WITH A WORST CASE SCENARIO DRUG COURT IN TERMS OF WHAT YOU'VE SEEN IN ALL YOUR TRAVELS?

DENISE: SURE SO A GOOD DRUG COURT MAKES SURE THAT THEY ARE TAKING IN THE PEOPLE WHO HAVE THE HIGHEST NEED AND ALSO ARE MAKING SURE THAT THEY'RE REDUCING THE CRIMINAL JUSTICE INTERVENTION WITH THAT PARTICULAR PERSON. AND IT'S A COURT THAT ALSO HAS ACCESS TO EVIDENCE-BASED TREATMENT IN THE COMMUNITY. THAT IS A GOOD DRUG COURT.

A BAD DRUG COURT IS THE TYPE OF DRUG COURT THAT OCCURS IN A TOWN WHERE THERE IS VERY LITTLE TREATMENT AVAILABLE, WHERE ALL OF THE TREATMENT THAT IS AVAILABLE IS ESSENTIALLY RESERVED FOR THE DRUG COURT. BECAUSE THEN WHAT YOU'RE DOING IS CREATING A SITUATION WHERE IN THAT TOWN, THE ONLY WAY FOR PEOPLE TO ACCESS TREATMENT IS TO GET ARRESTED. AND YOU DON'T REALLY HAVE PEOPLE WHO ARE RESISTANT TO TREATMENT OR WHO DON'T WANT TO GO TO TREATMENT. WHAT YOU HAVE ARE PEOPLE WHO CANNOT ACCESS

TREATMENT. AND THEN, YOU'RE GIVING THAT TREATMENT THAT IS AVAILABLE ONLY TO PEOPLE WHO HAVE BEEN ARRESTED AND TO PEOPLE WHO MAY NOT NECESSARILY BE READY FOR IT.

LINDSAY: HAVE YOU EVER BEEN TO A DRUG COURT THAT YOU WENT TO VISIT WHERE YOU WERE JUST LIKE, "OH MY GOD, WHAT ARE THESE PEOPLE EVEN DOING HERE?"

DENISE: YEAH, ABSOLUTELY. A LOT OF TIMES. I WAS AMAZED TO GO PLACES WHERE THERE WAS ACTUALLY NO TREATMENT AT ALL EXCEPT FOR NARCOTICS ANONYMOUS, WHICH IS SOMETHING THAT'S FREELY ACCESSIBLE IN THE COMMUNITY AND THAT PEOPLE COULD HAVE ACCESS WITHOUT HAVING TO BE ARRESTED AND WITHOUT HAVING TO GO TO THE COURT EVERY WEEK AND TELL THE JUDGE WHAT THEY'VE BEEN DOING, AND WITHOUT HAVING TO DO DRUG TESTS, IN PARTICULAR. THE AMOUNT OF MONEY THAT DRUG COURTS SPEND ON DRUG TESTS IS ALSO REALLY HEARTBREAKING, BECAUSE PART OF SUCCESSFUL DRUG TREATMENT IS DEVELOPING A RELATIONSHIP OF TRUST WITH THE PARTICIPANT, AND COMING TO A PLACE WHERE YOU BOTH UNDERSTAND THAT THE REASON FOR BEING THERE IS THIS PERSON'S WELLBEING. AND ASKING PEOPLE TO PROVE THAT THEY'RE TELLING YOU THE TRUTH IS ANATHEMA TO THAT CIRCUMSTANCE OF TRUST, TO CREATING THAT RELATIONSHIP OF TRUST.

LINDSAY: HAVE YOU SEEN CASES WHERE SOMEBODY'S BROUGHT IN ON SOMETHING REALLY MINOR LIKE PUBLIC URINATION AND THEY END UP STAYING WAY LONGER IN JAIL THAN IF THEY'D JUST DONE THEIR TIME?

DENISE: YEAH, ABSOLUTELY. THERE IS, IF YOU ASK ANY PUBLIC DEFENDER, THEY'LL TELL YOU ABOUT THEIR CLIENTS WHO REFUSE TO GO INTO DRUG COURT BECAUSE THEY KNOW THAT THE AMOUNT OF TIME THAT THEY WILL SERVE IF THEY JUST GO TO JAIL AND DO THEIR TIME, IS LESS THAN IF THEY WERE TO GO INTO THE DRUG COURT. AND IN DIFFERENT PLACES THEY HAVE DIFFERENT WAYS OF REFERRING TO THIS.

IN NEW YORK CITY, A FIRST OFFENSE FOR, YOU KNOW, CRACK POSSESSION MIGHT LEAVE YOU WITH SEVEN TO 10 MONTHS IN PRISON, BUT IF YOU'RE IN DRUG COURT, YOU HAVE TO COMMIT TO A YEAR OR YOU HAVE TO COMMIT TO ANY OTHER PARTICULAR AMOUNT OF TIME. AND IT MAY END UP BEING MORE, BECAUSE EVERY TIME YOU FAIL A URINE TEST OR EVERY TIME YOU FAIL TO SHOW UP FOR YOUR NARCOTICS ANONYMOUS APPOINTMENT OR FOR SOME OTHER PARTICULAR APPOINTMENT, YOU CAN GET JAIL. AND IF YOU GET SANCTIONED, THEN THAT EXTENDS THE AMOUNT OF TIME THAT YOU END UP SPENDING IN THE DRUG COURT.

IN PUERTO RICO, PEOPLE CALL THIS PHENOMENON "LA PARIDORA", WHICH ESSENTIALLY MEANS, "THE BIRTHING MACHINE," AND THEY SAY THAT THE DRUG COURT IS A BIRTHING MACHINE. IT JUST GIVES BIRTH TO MORE AND MORE TIME IN THE COURT. AND SOMETIMES PEOPLE WHO WOULD HAVE SPENT SIX MONTHS IN JAIL, END UP TWO YEARS IN THIS REVOLVING DOOR OF BEING SANCTIONED, COMING OUT, GOING UNDER SUPERVISION, BEING SANCTIONED AGAIN, GOING TO THE JAIL, COMING OUT, GOING UNDER SUPERVISION AGAIN. UNTIL FINALLY THEY SAY, "I GIVE UP. I JUST WANT TO SERVE MY TIME AND BE OUT. I DON'T WANT TO PARTICIPATE IN THE DRUG COURT PROGRAM ANYMORE."

LINDSAY: THAT'S REALLY A STRIKING THING, 'CAUSE IT'S ALWAYS PROMOTED AS BEING THIS INCREDIBLY PROGRESSIVE, THERAPEUTIC, AND EVEN INTERVENTION THAT REDUCES THE AMOUNT OF TIME PEOPLE ARE SUPPOSED TO SPEND IN THE CRIMINAL JUSTICE SYSTEM.

DENISE: AND IT COULD BE, BUT THE REALITY IS THAT YOU ARE PUTTING THIS PARTICULAR INTERVENTION, THIS PARTICULAR IDEA, IN A SYSTEM THAT DOESN'T KNOW HOW TO DO COMPASSION. THAT DOESN'T KNOW HOW TO DO TOLERANCE, THAT DOESN'T KNOW HOW TO DO NUANCE. ALL OUR SYSTEM KNOWS HOW TO DO IS PUT PEOPLE IN JAIL, FORCE THEM TO DO THINGS THAT THEY DON'T WANT TO DO, PUNISH THEM FOR FAILING, TACKING ON RESTRICTIONS TO THINGS THAT ARE UNNECESSARY.

LINDSAY: IS THERE AN ETHICAL PROBLEM WITH CREATING A SYSTEM IN WHICH SOMEBODY HAS NO OPPORTUNITY TO GO TO TREATMENT EXCEPT WHEN THEY COMMIT A CRIME?

DENISE: YEAH. ABSOLUTELY. I MEAN I THINK THAT, AS A SOCIETY, WE REALLY SHOULD AIM TO PROVIDE PEOPLE SERVICES THAT ARE CLIENT-CENTERED AND THAT ARE VOLUNTARY. WHEN YOU TALK ABOUT EVIDENCE-BASED PRACTICES, DRUG COURTS CLAIM TO BE EVIDENCE-BASED. BUT PART OF BEING AN EVIDENCE-BASED PRACTICE IS THAT THERE'S A VENN DIAGRAM OF EVIDENCE-BASED PRACTICES. AND A THIRD OF IT IS THAT IT PROVIDES CLIENT CHOICE, CLIENT VALUES THAT IS CLIENT CENTERED. AND YOU CAN'T HAVE THAT IN A MANDATED INTERVENTION. SO WHEN WE SAY, WELL WE HAVE TO TELL PEOPLE TO GO TO DRUG COURT BECAUSE OTHERWISE THEY WON'T GO, IT REALLY AVOIDS THE TRUTH, THE PAINFUL TRUTH THAT THERE IS NO TREATMENT OUT IN THE COMMUNITY FOR MOST PEOPLE. MOST PEOPLE DON'T HAVE INSURANCE THAT WILL PAY FOR TREATMENT, GOVERNMENT ASSISTANCE FOR TREATMENT IS LIMITED TO PARTICULAR PLACES AND THERE ARE WAIT LISTS, VERY LONG WAIT LISTS. AND SOME TYPES OF DRUG USE AND SOME TYPE OF ISSUES DON'T HAVE TREATMENT ATTACHED TO THEM. THERE'S VERY LITTLE THAT WORKS FOR CERTAIN TYPES OF PROBLEMATIC DRUG USE AND THERE'S ALSO VERY LITTLE THAT WORKS FOR CERTAIN TYPE OF CONCURRING CONDITIONS.

LINDSAY: THE NATIONAL ASSOCIATION OF DRUG COURT PROFESSIONALS HAS SOME PRETTY HIGH FLYING CLAIMS ABOUT THE EFFICACY OF DRUG COURTS. ON THEIR WEBSITE THEY CLAIM THAT TREATMENT COURTS ARE THE SINGLE MOST SUCCESSFUL INTERVENTION IN THE HISTORY OF THE UNITED STATES FOR GETTING PEOPLE OUT OF THE CRIMINAL JUSTICE SYSTEM. NOW IN YOUR REPORT YOU SAY THERE ARE OFTEN SOME TRICKS AND SHORTCOMINGS OF THE RESEARCH OR THE ANALYSIS THAT THEY'RE DOING TO MAKE IT COME OUT SO WELL FOR THEM. CAN YOU KIND OF DECONSTRUCT WHAT THEY'RE DOING TO MAKE THEMSELVES LOOK BETTER ON PAPER?

DENISE: I MEAN FIRST OF ALL, EVEN WITH THE MOST GENEROUS READING OF WHAT THEY PRESENT THAT CLAIM IS OVERBLOWN. BUT WHEN YOU LOOK ALSO AT WHAT THEY SHOW AS EVIDENCE, AND THEY'LL TELL YOU WE HAVE ALL OF THIS RESEARCH ON DRUG COURTS, AND IT'S JUST A PILE HIGH OF PAPERS. WHEN YOU LOOK AT MOST OF IT, WHAT IT GENERALLY IS, IS A LITTLE EVALUATION THAT WAS DONE BY THE DRUG COURT ITSELF THAT WAS MANDATED BY THE PROVIDER OF THE FUNDS, SOMETIMES THE BUREAU OF JUSTICE ASSISTANCE OF THE DEPARTMENT OF JUSTICE, WHICH REQUIRES THEM TO COLLECT SOME DATA. AND THEY LOOK AT THAT DATA, AND THEY PROVIDE YOU A BEFORE AND AFTER. SO THEY'LL DO SOMETHING LIKE THIS, THEY'LL LOOK AT A PERSON WHO HAD BEEN ARRESTED THREE TIMES IN THE PRIOR YEAR, AND THEY'LL SAY WELL THIS YEAR THEY WERE IN THE DRUG COURT AND THEY WERE ONLY ARRESTED ONCE. AND THEY COUNT THAT AS THIS GREAT REDUCTION IN RECIDIVISM.

WHAT IT DOESN'T SHOW YOU IS THAT THE PERSON MIGHT HAVE BEEN SANCTIONED INSIDE THE DRUG COURT THREE TIMES. SO IT ACTUALLY, IF THEY WERE IN THE DRUG COURT IT WOULD HAVE COUNTED AS FOUR ARRESTS, POSSIBLY. WHAT THEY DON'T TELL YOU ABOUT ARE THE PEOPLE WHO DROPPED OUT VOLUNTARILY OF THE DRUG COURT OR THE PEOPLE WHO WERE KICKED OUT OF THE DRUG COURT. IT DOESN'T TELL YOU ANYTHING ABOUT WELLNESS, ABOUT WHETHER THOSE PEOPLE HAVE BETTER MARKERS OF HEALTH IN TERMS OF MENTAL HEALTH, IN TERMS OF HAVING A HOME, HAVING A JOB. THERE'S ALL OF THESE DIFFERENT THINGS THAT TELL YOU WHETHER THAT PERSON'S LIFE HAS IMPROVED, BUT ALL THEY LOOK IS WHETHER THEY ARE USING DRUGS ON THE DAY WHEN THEY GRADUATE FROM THE DRUG COURT. THERE'S VERY LITTLE FOLLOW-UP THAT IS DONE, THERE'S VERY LITTLE REVIEW OF ANYTHING ELSE RELATED TO THAT PARTICULAR INDIVIDUAL'S WELL BEING.

SO THESE SO-CALLED STUDIES ARE JUST DATA COLLECTION BY INDIVIDUAL DRUG COURTS AND THEY DON'T REALLY STAND UP TO A WHOLE LOT OF SCRUTINY. WHEN YOU LOOK AT THEM IN THE AGGREGATE OR WHEN YOU LOOK AT THEM AGAINST TRUE EVIDENCE-BASED RESEARCH PRACTICES, IN ORDER FOR SOMETHING TO BE

EVIDENCE-BASED YOU WOULD HAVE TO LOOK AT PEOPLE WHO WENT THROUGH A DIFFERENT INTERVENTION AND THE PEOPLE WHO WENT THROUGH THE DRUG COURT. MAKE SURE THAT THESE COMPARISON GROUPS ARE SIMILAR, THAT YOU'RE PROVIDING SIMILAR TYPES OF TREATMENT, AND THEN COMPARE AND CONTRAST THE OUTCOMES OF THOSE PEOPLE, AND FOLLOW THEM UP FOR A PARTICULAR AMOUNT OF TIME. AND THAT HASN'T BEEN DONE. YOU DON'T HAVE ANYTHING THAT SAYS, "WHEN COMPARED TO CLIENT CENTERED VOLUNTARY EVIDENCE-BASED TREATMENT IN THE COMMUNITY, DRUG COURTS STILL DO BETTER." AND YOU COULDN'T DO THAT RESEARCH BECAUSE CLIENT CENTERED VOLUNTARY, AFFORDABLE TREATMENT IN THE COMMUNITY DOESN'T EXIST. SO THERE IS ALWAYS GONNA BE THAT CLOUD HANGING OVER DRUG COURTS. THE FACT THAT THE ALTERNATIVE, WHICH WOULD BE THE EVIDENCE-BASED ALTERNATIVE, DOESN'T REALLY EXIST IN ORDER TO COMPARE THEM TO THAT.

LINDSAY: HAVE YOU EVER HEARD OF SOMEONE PLEADING GUILTY TO SOMETHING THEY DIDN'T DO JUST BECAUSE THEY WANT TREATMENT SO BADLY?

DENISE: OH YEAH, NOT JUST THAT, I HAVE HEARD POLICE OFFICERS RESPOND TO OVERDOSES AND TELL THE PARENTS, "WELL IF YOU REALLY WANT THEM TO GO TO TREATMENT, YOU SHOULD LET ME ARREST THEM; BECAUSE THAT'S THE ONLY WAY THAT THEY'RE GOING TO GET HELP. IF I ARREST THEM I CAN GET THEM IN THE DRUG COURT, AND THEN THEY CAN GET TREATMENT. BUT IF I DON'T ARREST THEM, THEN I CAN'T GET THEM INTO TREATMENT." SO THERE IS A HUGE INCENTIVE FOR PEOPLE TO GET THEMSELVES ARRESTED, AND FOR FAMILY MEMBERS TO GET THEIR FAMILY MEMBERS ARRESTED IN ORDER TO GET THEM TO SOME SORT OF TREATMENT. AND PEOPLE DO PLEAD GUILTY TO THINGS THAT THEY FEEL LIKE THEY HAVE NOT DONE, THEY PLEAD GUILTY TO HIGHER CHARGES. THEY DON'T WANT TO FIGHT IT BECAUSE THEY WANT THE TREATMENT AND THEY KNOW THAT THEY CANNOT ACCESS IT VOLUNTARILY IN THE COMMUNITY BECAUSE OF A LONG WAIT LIST, BECAUSE THEY CAN'T PAY, BECAUSE OF LACK OF INSURANCE, FOR A NUMBER OF DIFFERENT REASONS.

LINDSAY: THAT'S REALLY SHOCKING.

DENISE: YEAH, IT'S REALLY SAD. IT'S REALLY, REALLY SAD BECAUSE DRUG COURTS ARE MUCH MORE EXPENSIVE THAN VOLUNTARY TREATMENT. SO IF YOU HAVE A SYSTEM, AND THAT'S ALSO BY THE WAY PART OF MY QUIBBLE WITH THE WAY THAT THESE DRUG COURTS ARE PROMOTED...THEY'RE PROMOTED AS SAVING MONEY. BUT THERE IS ABSOLUTELY NO WAY THAT THESE DRUG COURTS CAN POSSIBLY SAVE MONEY. FOR SOMEBODY TO GO TO TREATMENT BY THEMSELVES IS WAY CHEAPER THAN TO HAVE A PUBLIC DEFENDER, A PROSECUTOR, A COURT SOCIAL WORKER, A JUDGE, A PROBATION OFFICER, ALL OF THESE PEOPLE INVOLVED IN MONITORING WHETHER SOMEBODY'S GOING TO TREATMENT. I MEAN THERE IS

ABSOLUTELY NO WAY TO MAKE ONE OF THESE THINGS BE CHEAPER THAN THE OTHER.

WHAT THEY USUALLY SAY IS, "WE'RE SAVING ON JAIL DAYS." BUT PEOPLE SPEND LOTS OF TIME IN JAIL AS PART OF THEIR DRUG COURT PROGRAM. THEY SPEND TIME IN JAIL WHEN THEY'RE FIRST ARRESTED, BEFORE THEY GET TAKEN TO COURT TO ARRAIGNMENT. SOMETIMES THEY SPEND TIME IN THE TANK DETOXING. THEY SPEND TIME WHEN THEY GET SANCTIONED FOR RELAPSING. THEY SPEND TIME SOMETIMES BECAUSE THERE IS NO SPOT IN THE TREATMENT CENTER FOR THEM. SO THEY WAIT EVEN AFTER HAVING PLED GUILTY AND HAVING AGREED TO GO INTO THE DRUG COURT. THEY STILL HAVE TO SPEND TIME IN JAIL WAITING FOR A SPOT TO OPEN UP. SO THERE IS QUITE A LOT OF MONEY THAT GOES INTO THE CORRECTION SYSTEM AND THERE'S QUITE A FEW JAIL DAYS THAT GET PAID FOR AS PART OF DRUG COURT, AND IT IS EXPENSIVE.

LINDSAY: DO YOU FEEL LIKE DRUG COURT CAN BE A KIND OF WELFARE PROGRAM FOR BAD TREATMENT PROVIDERS OUT IN THE COMMUNITY WHO CAN'T ATTRACT PEOPLE TO THEIR SERVICES JUST ON A SELF-PAY BASIS, OR HAVING PEOPLE COME IN OFF THE STREET TO BE HELPED, BUT THEN, ALL OF A SUDDEN, THEY'VE GOT ENDLESS NUMBERS OF PEOPLE WHO ARE BEING ORDERED TO SHOW UP BY A JUDGE?

DENISE: ABSOLUTELY. AND I HEARD TREATMENT PROVIDERS ADMIT AS MUCH, WHICH IS REALLY SAD. I DON'T THINK THAT THEY WOULD SEE IT THAT WAY. BUT I REMEMBER GOING TO TREATMENT PROVIDERS IN PLACES LIKE OHIO, IN NEW ORLEANS AND HEARING PEOPLE SAY, "YOU KNOW WE REALLY USED TO STRUGGLE TO KEEP PEOPLE IN OUR TREATMENT PROGRAM. PEOPLE DIDN'T WANT TO STAY, AND NOW THAT WE ARE ASSOCIATED WITH THE DRUG COURT, IT'S GREAT, BECAUSE IF SOMEBODY WANTS TO LEAVE, THEY DON'T WANT TO STAY IN THE PROGRAM, ALL I HAVE TO DO IS CALL THE JUDGE, AND THE JUDGE SANCTIONS THEM AND FORCES THEM TO STAY."

LINDSAY: IF IT WERE UP TO YOU, WOULD YOU CHANGE DRUG COURTS OR ABOLISH DRUG COURTS?

DENISE: IF IT WERE UP TO ME, WE WOULD JUST HAVE MUCH MORE EVIDENCE-BASED TREATMENT IN THE COMMUNITY. WE WOULD JUST EXPAND BUPRENORPHINE AND METHADONE. WE WOULD EXPAND HOUSING FIRST PROGRAMS, WHERE PEOPLE GET HOMES. WE WOULD EXPAND THE AVAILABILITY OF COGNITIVE BEHAVIORAL THERAPY. WE WOULD EXPAND SERVICES FOR PEOPLE WITH POST TRAUMATIC STRESS DISORDER. GENDER SENSITIVE SERVICES WOULD BE A BIG THING. AND WE WOULD NOT NEED DRUG COURTS. WE REALLY WOULDN'T.

LINDSAY: THOSE ARE ALL MY QUESTIONS. IS THERE ANYTHING ELSE YOU'D LIKE TO ADD?

DENISE: YEAH. I MEAN I GUESS THE ONLY THING THAT I WOULD LIKE TO ADD IS THAT WHEN DRUG COURTS STARTED, IT WAS A MOMENT OF CRISIS. THEY STARTED IN MIAMI-DADE COUNTY, WHERE THEY WOULD DESCRIBE THE SITUATION WHERE THEY WERE SEEING THE SAME PEOPLE COME IN THROUGH THE COURTROOM DOORS OVER AND OVER AGAIN, AND THEY HAD LINES OUT THE DOOR, AND IT WAS JUST A REAL CRISIS IN THE COUNTY AT THAT MOMENT. AND THEY WERE PINPOINTING THE PEOPLE WHO WERE OBVIOUSLY INTOXICATED AT THAT MOMENT, AND TELLING THEM, "IF YOU GO TO A MEETING, IF YOU AGREE TO GO TO TREATMENT, WE WILL DROP THIS PARTICULAR CHARGE, AND TRY TO SEE HOW THAT WORKED OUT." AND THEN IT BECAME THIS MUCH MORE INVOLVED AND CONVOLUTED THING.

BUT AT THAT TIME, THEY ALWAYS SAID, "WE HAD TO DO SOMETHING AT THAT MOMENT. IT'S TRUE THAT WE NEED A MORE ROBUST TREATMENT SYSTEM. IT'S TRUE THAT WE NEED MORE HOUSING. IT'S TRUE THAT WE NEED MORE SERVICES, BUT WE'RE AT A CRISIS RIGHT NOW, AND THIS IS WHAT WE NEED TO DO RIGHT NOW."

AND THE RIGHT NOW THING HAS BECOME THE ONLY THING. WE HAVE NOT DONE PARTICULARLY WELL IN EXPANDING TREATMENT. WE HAVE NOT DONE PARTICULARLY WELL IN TRAINING PEOPLE BETTER. WE HAVE NOT INVESTED IN RESEARCH ON ADDICTION. WE DON'T HAVE STILL GOOD COUNSELING, GOOD SUPPORT FOR PEOPLE WITH POST TRAUMATIC STRESS DISORDER. BUT WE HAVE A LOT OF DRUG COURTS.

SO THE BAND-AID BECAME THE THING, AND NOW IT'S BEING TOUTED AS THE SOLUTION. WHEN YOU STARTED LISTENING TO JEFF SESSIONS AND TO OTHER PEOPLE TALK ABOUT THE OPIOID BILL, ONE OF THE THINGS THAT THEY WANTED TO INCREASE INVESTMENT ON WAS DRUG COURTS, AND IT'S JUST REALLY BACKWARDS HOW THE THING THAT WAS SUPPOSED TO BE THE EMERGENCY MEASURE, HOW IT WAS SUPPOSED TO BE THE THING THAT THEY HAD TO DO RIGHT NOW, BECAME THE THING THAT THEY WANT TO DO EVERY TIME THERE IS MORE ATTENTION BEING PAID TO THE PROBLEM OF PEOPLE WHO NEED TREATMENT.

SO IT'S REALLY QUITE TRAGIC THAT WE'RE STILL IN A PLACE WHERE AN EMERGENCY MEASURE IS BEING USED AS THE STRATEGY FOR LONG TERM SOLUTION.

[END INTERVIEW PORTION]

LINDSAY: DRUG COURTS ARE BILLED AS A HUMANE ALTERNATIVE. THEY PAY LIP SERVICE TO THE IDEAL THAT PEOPLE WITH SUBSTANCE USE DISORDER ARE SICK

AND DESERVE TREATMENT RATHER THAN PUNISHMENT.

DRUG COURTS OFTEN MAKE THEMSELVES LOOK GOOD BY CHERRY PICKING THE CLIENTS WITH THE LEAST SERIOUS PROBLEMS, PEOPLE WHO MAY NOT EVEN HAVE ADDICTIONS. THE TREATMENT ON OFFER MAY NOT BE EVIDENCE-BASED. IN SOME CASES, THE TREATMENT ON OFFER IS NOTHING MORE SOPHISTICATED THAN A LIST OF LOCAL 12-STEP MEETINGS. SOME DRUG COURTS ACTUALLY [FORBID OPIOID AGONIST THERAPY](#) WITH DRUGS LIKE METHADONE AND BUPRENORPHINE, PUTTING PARTICIPANTS AT INCREASED RISK OF OVERDOSE.

RELAPSE IS A NORMAL PART OF RECOVERY. YET, AS WE'VE JUST HEARD, DRUG COURT PARTICIPANTS ARE ROUTINELY JAILED FOR BREAKING THE RULES OF DRUG COURT, INCLUDING RELAPSES.

IF SOMEONE IS STILL USING DESPITE BEING IN TREATMENT, THE TREATMENT ISN'T WORKING. YET IT'S THE PATIENT WHO FACES PUNISHMENT, INCLUDING JAIL TIME AND THE RISK OF BEING KICKED OUT OF DRUG COURT.

PARTICIPANTS WHO DON'T GRADUATE FROM THE PROGRAM HAVE TO SERVE THEIR ENTIRE ORIGINAL SENTENCE, NO MATTER HOW LONG THEY'VE SPENT IN DRUG COURT, OR HOW MANY DAYS THEY'VE ALREADY SPENT IN JAIL FOR DRUG-COURT RELATED INFRACTIONS.

IT CAN TAKE A YEAR OR MORE TO WORK THROUGH A DRUG COURT PROGRAM, EVEN UNDER IDEAL CIRCUMSTANCES.

IF SOMEONE GETS KICKED OUT OF THE PROGRAM--OR IF THEY GET FRUSTRATED AND QUIT--THEY TYPICALLY HAVE TO SERVE THE FULL SENTENCE FOR THE CRIME THAT LANDED THEM IN COURT IN THE FIRST PLACE.

IF THEY DON'T COMPLETE THE PROGRAM THEY CAN END UP SERVING MORE TIME THAN IF THEY'D JUST PLEADED GUILTY AT THE OUTSET.

TOO OFTEN, DRUG COURT IS A MASK THAT CONCEALS THE TRULY PUNITIVE INTENT OF THE CRIMINAL JUSTICE SYSTEM.

THIS PROGRAM IS PRODUCED BY REWIRE.NEWS, THE LEADING NON-PROFIT JOURNALISM OUTLET DEVOTED TO REPORTING ON REPRODUCTIVE AND SEXUAL HEALTH, RIGHTS, AND JUSTICE.

AS A NONPROFIT, REWIRE.NEWS RELIES ON YOUR DONATIONS TO FUND THE BREACH AND ALL OF OUR EVIDENCE-BASED JOURNALISM. IF YOU APPRECIATE THIS WORK AND YOU WANT TO HEAR MORE OF IT, PLEASE DONATE ONLINE. YOU CAN SUPPORT US AT REWIRE.NEWS/DONATION. THAT'S REWIRE.NEWS/DONATION.

THE BREACH IS CREATED, WRITTEN, AND HOSTED BY ME, LINDSAY BEYERSTEIN.

OUR PRODUCER IS NORA HURLEY.

OUR EDITORIAL ADVISOR IS MARY ANNETTE PEMBER.

LAURA HUSS IS OUR RESEARCH DIRECTOR.

OUR EXECUTIVE PRODUCER IS MARC FALETTI.

MUSIC IS COMPOSED AND PERFORMED BY DOUGLAS HELSEL.

OUR FACT-CHECKER IS JO CONSTANTZ.

ADDITIONAL RESEARCH WAS PERFORMED BY LAUREN CATON. ADDITIONAL PRODUCTION SUPPORT WAS PROVIDED BY LAURYN GUTIERREZ AND SASKIA HENNECKE.

CHARLIE CULBERT WAS OUR RECORDING ENGINEER FOR THE NARRATION OF EPISODES TWO AND THREE, WHICH WERE RECORDED AT DEGRAW SOUND.

AND THE REWIRE.NEWS EDITOR IN CHIEF IS JODI JACOBSON.