Should we sentence drug users to treatment programs instead of jail?

Kleber Offers Expert and Blunt Opinions on Addiction

Herbert Kleber, psychiatrist; Constance Holden

Kleber Offers Expert and Blunt Opinions on Addiction Yale University psychiatrist Herbert Kleber seems to be made to order for the job of deputy to drug chief William Bennett. Widely respected in his field, he has 25 years of experience in research and the administration of treatment programs. His own pioneering research focused on drugs to block addictive craving. He is also a registered Republican—a rarity for a Yale professor, much less a psychiatrist.

Kleber took an indefinite leave from Yale to be Bennett’s “deputy for demand reduction” in the President’s drug war, which is much sniped at by other academics for being wrong-headed and underfunded. However, a Yale colleague, psychiatrist David Musto, says Kleber knows “what it takes to make things work.”

Kleber is not shy about his accomplishments. “I am considered one of the leading experts on treatment and policy aspects of substance abuse.” Like his boss, Kleber has a sizable portfolio of blunt opinions. Of needle exchange programs, he says, “Morality aside, it won’t work.” He cites data from England showing that only 60% of clients came back after the first visit and 20% after the tenth, indicating “impulsive” addicts are unlikely to comply. As for the supposed futility of criminal punishment, he responds, “Criminologists say deterrence does work if applied swiftly and surely,” but the present system offers little deterrence because so few suspects end up in jail. On pregnant women addicts, Kleber says those already in trouble with the law could be compelled to stay in a treatment facility for the duration of the pregnancy. The others pose a “much harder” question.

Kleber is unequivocal on the subject of drug legalization. Most advocates of the policy, he says, waffle when asked whether they would permit cocaine sales, which Kleber says would be an unqualified disaster. Government-regulated prices would not drive out drug crime, he argues, because if prices were kept up, illegal trade would continue to flourish; and if they were kept down, cocaine would be put “in the reach of every third grader.” He believes crime would become more widespread and there would be more drug-associated violence because crack, in particular, causes “paranoia, irritability, and the need for action.” Furthermore, he thinks legalization would result in rampant cocaine addiction, maybe even approaching alcoholism in scope.

Kleber’s job centers on drug abuse treatment, prevention, and research. One of his major tasks will be prodding states to formulate systematic plans. Although many people have called for radical increases in funding for treatment, Kleber says the system is going to have to be improved first. One immediate need, he says, is

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for more “accountability.” Quality reviews may be handled by a new branch of the Alcohol, Drug Abuse and Mental Health Administration, the Office of Treatment Improvement, which will administer demonstration programs and grants to states. Many think that treatment should be provided for all addicts. But Kleber points out that there are many who don’t want help and many others who will fail to benefit even if offered it. Of the 4 million estimated heavy drug users, Kleber thinks about 1 million fall in this category. Another 1 million are sufficiently motivated to stop on their own. The drug strategy is aimed at the remaining 2 million who might benefit from treatment.

Another big issue in treatment is “co-morbidity,” the fact that recent studies show a high proportion of drug abusers also suffer from some psychopathology such as depression or schizophrenia. “Most programs don’t have the capacity or sophistication” to treat such problems, says Kleber, who thinks treatment centers should be better coordinated with mental health providers.

Furthermore, “most of the treatment money out there now is for heroin,” but the big problem now is cocaine, which is being regularly used by close to 3 million people. Despite the special challenges posed by crack addition, Kleber says the main reason it is so difficult to treat is “because of who’s using it.” There is not much leverage available from “competing reinforcers”—that is, inner city crack addicts are less likely to have jobs, families, and reputations at stake.
The effects of methamphetamine use are working their way through our criminal justice system. The rapid rise in meth arrests is one of the main factors in sharply higher prison populations. The cost of housing drug offenders has renewed an old debate—what works best, prison or treatment? The debate over state drug policies came into sharp focus this year in a case involving methamphetamine, jail time and a young Minnesota mother.

St. Paul, Minn.—The numbers tell a troublesome story. About 40 percent of the state’s felony drug convictions involve methamphetamine. That’s more than 1,300 cases. About 90 percent of those offenders spend time behind bars in local jails or state prisons.

Minnesota corrections officials can feel the explosion. Inmates convicted of a drug charge, including meth, make up about one-fourth of the 7,600 adults in prison. That number has doubled in just six years.

Amber Bluhm is one of those heading to jail. Bluhm, 22, faces a six-month sentence after pleading guilty to methamphetamine possession. It’s her second meth conviction. She also pleaded guilty to possession in 1999. In the days before she’s sent away, she regrets her drug use.

“I’d love to go back to high school. I’d do it all over, I’d go to prom, I’d be in more sports,” says Bluhm. “I missed everything. I missed my graduation ceremony. I missed living.”

A church-going, small-town girl, Bluhm once considered herself “goody-goody.” She says her path to jail began with cigarettes. Marijuana followed, then methamphetamine. Her life was filled with tragedy. She says two of her friends killed themselves because of meth.

Bluhm says she hasn’t used meth for two years, but still feels the effects. She hears and sees things that aren’t there. She warns teenagers to stay away from meth.

“If they don’t want to hear voices and stuff, then they shouldn’t use,” says Bluhm. “If they don’t want to hear the insanity and the craziness. It’s evil. I pray every day that it will go away.”

That’s not all she’s dealing with. The mother of a 2-year-old son, Bluhm is scared to go to jail. She pleaded guilty two years ago to her second meth charge, but is free while she appeals. She argues jail is too harsh a punishment—that it will do more harm than good, and punish her son as well. Bluhm says she’s beat her addiction. She went through drug treatment, finished high school and held a job.

“I’m sober now, and I don’t see why I need to get punished for being an addict—when I got help. Now it’s just going to make things worse for me,” Bluhm says. “I’ve straightened my life up and my life’s going great. Now I’m just going to go to jail, everything’s just going to fall apart on me again, and I’ve got to pick it up again when I get out of jail.”
That's a real life summary of the anti-prison, pro-treatment argument. It's gaining support from some influential members of Minnesota government.

Amber Bluhm’s appeal went to the Minnesota Supreme Court. The court upheld Bluhm’s six-month jail sentence, but not without reservation. The court said Minnesota law requires jail time for a second drug conviction. But the justices also noted their “disfavor” with mandatory sentences. Many feel it takes away their discretion.

In a separate opinion, Associate Justice James Gilbert said Bluhm “has turned her life around.” Noting her sobriety, Gilbert wrote, “Bluhm has done everything the criminal justice system could hope for.” Gilbert said given that progress, jail time for Bluhm was “unnecessary” and “harsh.” He agreed, however, that because of the way state drug laws are written, Amber Bluhm must go to jail.

Justice Gilbert would not comment directly on the Bluhm case. But he did talk about how Minnesota’s criminal justice system is being tested by the increase in drug arrests.

“There’s no question that the problem is there. And it’s not going to go away if we just pretend it’s not there. It’s been there for a long time, in some counties it’s getting worse,” says Gilbert. “Now methamphetamine in greater Minnesota is the drug of choice, and in my opinion that’s almost like an epidemic.”

Justice Gilbert says the state should look for alternatives to imprisonment. He promotes the use of drug courts. Currently there are seven drug courts operating in Minnesota. In a drug court, offenders are sent to treatment. Gilbert says there is a powerful incentive for offenders to complete the program.

“They realize if they step out of bounds and don’t follow the mercy—if you will—that has been granted them by the court, they’re going to be going into jail real quick,” says Gilbert.

The sheer cost of imprisonment is incentive for some to rethink state drug laws. Rep. Eric Lipman, R-Lake Elmo, says too many people are being imprisoned. He says Minnesota taxpayers will pay another $300 million in prison costs over the next 10 years, unless it changes drug sentencing.

Lipman says Minnesota drug laws are among the harshest in the nation. A person can spend more than seven years in jail for possessing 25 grams of meth. That’s the weight of 25 paper clips. In most other states, the sentence would be one year behind bars.

“So we are many, many times higher then most every place else in the U.S.,” says Lipman, “in ways that I think are very expensive to the taxpayer and corrosive to the community, in comparison with what deterrent effect we’re getting and what rehabilitative effect we’re getting.”

Lipman says without adequate treatment, many offenders start using drugs as soon as they’re released. Lipman has tried, without luck, to get the Legislature to send more people to treatment instead of jail.

A report by the Minnesota Sentencing Guidelines Commission says treatment would save money. The study says prison costs the state nearly $30,000 a year per inmate, while the cost of treatment is just over $4,000.
But those against relaxing drug laws say something more important than money is at risk. Rep. John Lesch, DFL-St. Paul, says easing penalties will lead to more drug use. Lesch says any relaxation of state law is basically a free sales pitch for the drug industry.

“It strikes me as the Wal-Mart bill for drug dealers,” says Lesch. “You know—low, low prices for buying in bulk.”

Lesch works as a prosecutor for the city of St. Paul. He says judges have enough leeway now to deal with drug offenders. He says judges often give lighter sentences for drug crimes then state law recommends.

The Sentencing Guidelines Commission report offers support for that claim. About half the people convicted of manufacturing meth receive a lighter sentence then called for in state guidelines. In fact, the report says, judicial departure from state recommended sentences has been “consistently high” for drug offenses. But not in all cases.

Amber Bluhm awaits jail time, even though one state Supreme Court justice said that sentence amounts to “unmitigated harshness.” Bluhm says it sends a signal.

“I’m one of the few that did straighten up and I did get my life together. Went to treatment. I’ve been trying to go to school and everything else. And I feel like they’re just telling me that’s not good enough. Like who cares if you get sober, you’re still a piece of crap,” says Bluhm.

That sense of worthlessness is the kind of attitude that can contribute to more drug use. Bluhm says that won’t happen to her, she says her son is all the incentive she needs to stay away from methamphetamine.

But many others fall victim to the drug time after time. That means more crime, and offers state lawmakers a challenge—spend money for more prisons, or take the politically risky step of sending more offenders to treatment instead.