

Alternatives to incarceration in Portugal: Lessons for US based Colleagues

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Disclosure Information

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☀ No Disclosures



OVERVIEW

- ✦ The ultimate alternative to incarceration: do not incarcerate anyone for drug consumption
- ✦ What happened in Portugal?
 - ✦ Details of 2000 strategy (enacted 2001)
- ✦ What is decriminalization?
- ✦ What do we actually know about what worked and what didn't?
- ✦ Putting drug strategy into context



A Map of
SPAIN
 & **PORTUGAL,**
 Drawn from the
 Best Authorities.





The long read

Portugal's radical drugs policy is working. Why hasn't the world copied it?

by [Susana Ferreira](#) Tue 5 Dec 2017 06.00 GMT

The Guardian



How to Win a War on Drugs

Opinion
Portugal treats addiction as a disease, not a crime.



By [Nicholas Kristof](#)

Sept. 22, 2017

DRUG DECRIMINALIZATION IN PORTUGAL

LESSONS FOR CREATING FAIR
AND SUCCESSFUL DRUG POLICIES



GLENN GREENWALD

Oregon's Pioneering Drug Decriminalization Experiment Is Now Facing The Hard Test

June 18, 2021 · 5:00 AM ET



Oregon Health Justice Recovery Alliance

Even many recovery leaders here who support ending the criminalization of addiction are deeply concerned the state basically jumped off the decriminalization cliff toward a fractured, dysfunctional and underfunded treatment system that's not at all ready to handle an influx of more people seeking treatment.

Oregon's Pioneering Drug Decriminalization Experiment Is Now Facing The Hard Test

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Oregon supporters of decriminalization point to [Portugal as a reform model](#). In 2001, Portugal dramatically changed its approach and decriminalized all drugs. The nation began treating addiction as a public health crisis. There, anyone caught with less than a 10-day supply of any drug gets mandatory medical treatment.

Sources

- ☀ SICAD Portugal
- ☀ Legal analysis
- ☀ Discussions with journalists, writers, medical researchers, criminologists, harm reductionists, other stakeholders
- ☀ Site visits and historical interviews

Previously published literature:

- ☀ Historical and sociological accounts e.g., Raphael Costa, David Birmingham
- ☀ RAND Europe
- ☀ EMCDDA (Euro Monitoring Centre for Drugs and Drug Addiction)
- ☀ Beckley Foundation – UK foundation (Caitlin E Hughes)
- ☀ Hannah Laqueur, “Uses and Abuses of Drug Decriminalization in Portugal,” *Law & Social Inquiry* 40, no. 3 (2015): 746–81

Portugal pre-reform

- ✦ Portugal under a totalitarian regime until 1974 – fully prohibitionist



Portugal pre-reform

- ✦ Portugal under a totalitarian regime until 1974 – fully prohibitionist
 - ✦ Emerges with strong constitution naming health care a human right, limiting state interference in private lives
- ✦ Drugs more visible as country opened up –anti-drug campaigns in 70s and 80s
- ✦ As early as 1983, one law suspended punishment for some drug-related offenses if offender accepted integration in treatment

Portugal pre-reform

- ☀ 1987, “Project Vida” – “Prevention, treatment, reinsertion, supply reduction”. Shock tactics.
- ☀ 1980s and 1990s, following a macro trend, large influx of heroin. worsening consequences of drug use. AIDS, Hepatitis B+C open air drug markets



Portugal pre-reform

- ✦ By the dawn of the 21st century, Portugal grappled with one of the highest incarceration rates in Western Europe:
 - ✦ 145 prisoners per 100,000 citizens
 - ✦ Also, the highest proportion of people incarcerated for drug offenses



Portugal Reform

- ☀ 1998-on: New gov't institutes and committees established.
“Commission for a National Drug Strategy” (CNDS) produces a comprehensive report recommending major shift along “humanistic” and “pragmatic” principles
- ☀ drug users should not be regarded as criminals, but as full members of society
- ☀ not to attempt unachievable perfection such as "zero drug use," but will instead try to "make things better" for all segments of society.

Portugal reform

- ✦ “humanistic” and “pragmatic” principles translated into THIRTEEN strategic options.
 - ✦ Intenational cooperation
 - ✦ Decriminalization
 - ✦ Primary prevention
 - ✦ Improve quality and access in health care network
 - ✦ Harm reduction (including explicit SSPs and SCFs, MOUD)
 - ✦ “Social and professional reintegration”
 - ✦ Access to incarcerated people, harm reduction in prison
 - ✦ Voluntary treatment as alternative to prison
 - ✦ Research / evaluation
 - ✦ Intedepartmental political cooperation
 - ✦ Increase fight against trafficking
 - ✦ Double public investment over 5 years

What is decriminalization?

- ✦ Very important to disentangle DECRIMINALIZATION, DEPENALIZATION, LEGALIZATION, and other legal reforms
 - ✦ Key question is what is the actual effect on the citizen.
- ✦ International legal scholars struggle to track what decriminalization means in different contexts
- ✦ In Portugal:
 - ✦ the acquisition, possession, or use of small quantities of all psychoactive substances was decriminalized.
 - ✦ Non-incarceration sanctions were still available, including fines or non-monetary sanctions for drug use

Portugal decriminalization

- ✦ Had to closely study international conventions.
- ✦ UN 1988* established international obligations to establish "prohibitions".
 - ✦ Economic and political sanctions.
 - ✦ Portugal prohibited drug use as an administrative violation.

* 1988 United Nations convention against illicit traffic in narcotic drugs and psychotropic substances

Medical / epi research



Baseline of problem?

** general population surveys not introduced until 2001...the year these changes were introduced

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☀️ Opinion/estimate, 50,000 to 100,000 out of 10 million people had addiction around time of reform

Baseline

- ☀ Lifetime prevalence of illicit drugs = generally low in Portugal!
 - ☀ E.g., 2001, 7.8% of 15–64-yo had ever used an illicit drug
 - ☀ (Same year in UK, 34% of 16–59)



Tiago S Cabral, "The 15th Anniversary of the Portuguese Drug Policy: Its History, Its Success and Its Future," *Drug Science, Policy and Law* 3 (January 2017): 205032451668364, <https://doi.org/10.1177/2050324516683640>.

Treatment

- ☀ of people in MOUD: 6,040 in 1999 → 14,877 in 2003 (increase of 147%)
- ☀ Role of “Dissuasion”?

CDTs- dissuasion

- ☀ CDTs are regional panels made up of three people, including social workers, legal advisors and medical professionals,
- ☀ Drug users are referred to CDTs by police officers. Name and address sent to administrative committee.
 - ☀ Non-appearance and disobedience is not defined as a criminal offense.. In any case this is rare
- ☀ targeted responses to drug users
 - ☀ sanctions such as community service, fines, ban on visiting certain places, requirement to report periodically
 - ☀ CANNOT mandate treatment, although can encourage. SOCIAL pressure

*primary aim is to dissuade new drug users *

Dissuasion committees

- ☀ 520 cases a month (i.e., >6,000 a year)
- ☀ Frequently cited by commentators abroad (i.e., US) as important
- ☀ Frequently described by Portuguese informants and in formal qualitative surveys as relatively toothless, disconnected from meaningful resources, and bureaucratically complex
 - ☀ ?more rhetorical, about preventing international criticism?

Harm Reduction

- ☀ In law, rules established for harm reduction and risk reduction
- ☀ Support centers, shelters, mobile centers, other general social support
- ☀ SSPs established relatively fast

- ☀ Create supervised consumption sites (not until 2020!)

Changes – Prevalence of use

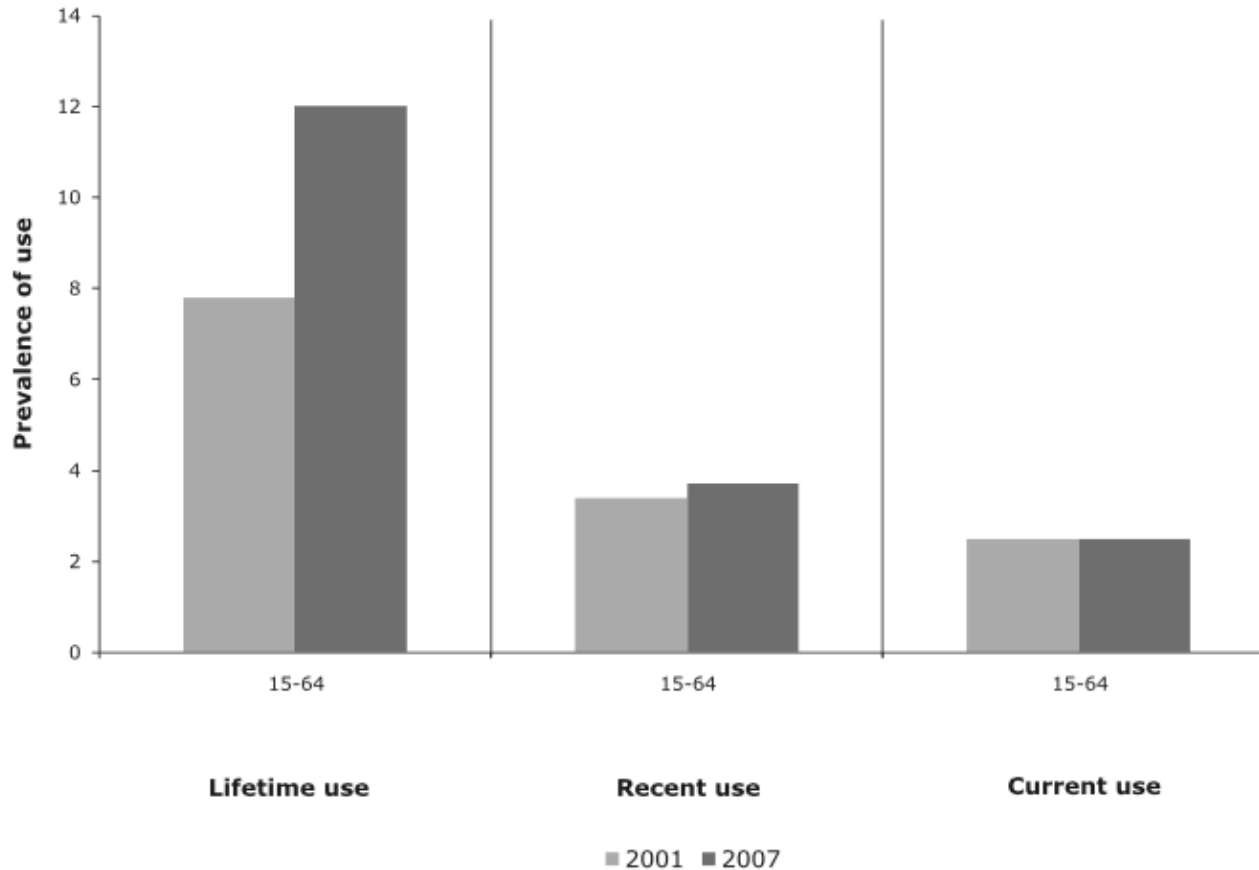


Figure 2. Prevalence of lifetime, recent (last 12 months) and current (last month) use of any illicit drug in Portugal among individuals

More recent data?

- ✦ E.g., cannabis: “The number of hospitalizations with a primary diagnosis of PD and schizophrenia associated with CU rose 29.4 times during the study period, from 20 to 588 hospitalizations yearly (2000 and 2015, respectively)

Psychotic disorders hospitalizations associated with cannabis abuse or dependence: A nationwide big data analysis

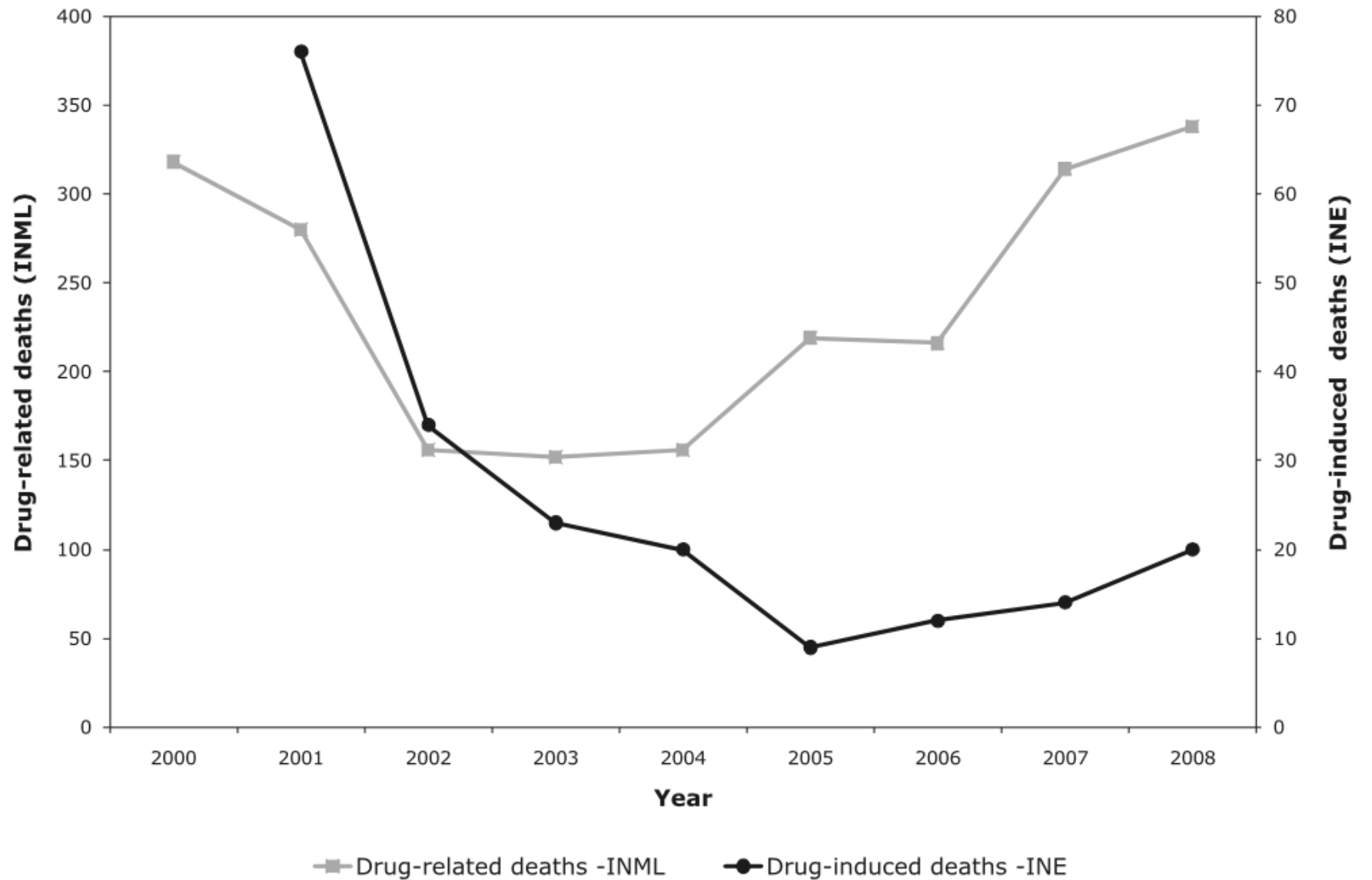
Manuel Gonçalves-Pinho^{1,2}  | Miguel Bragança³ | Alberto Freitas^{1,2}

Int J Methods Psychiatr Res. 2020;**29**:e1813.
<https://doi.org/10.1002/mpr.1813>

Deaths

- ✱ Portugal has not traditionally tracked deaths “directly attributable to drug intoxication”
- ✱ Overdose only measured in 2010!
- ✱ Can see “drug related deaths” (any positive tox) and “drug-induced deaths” (more recent, backdated, but not overdoses still)

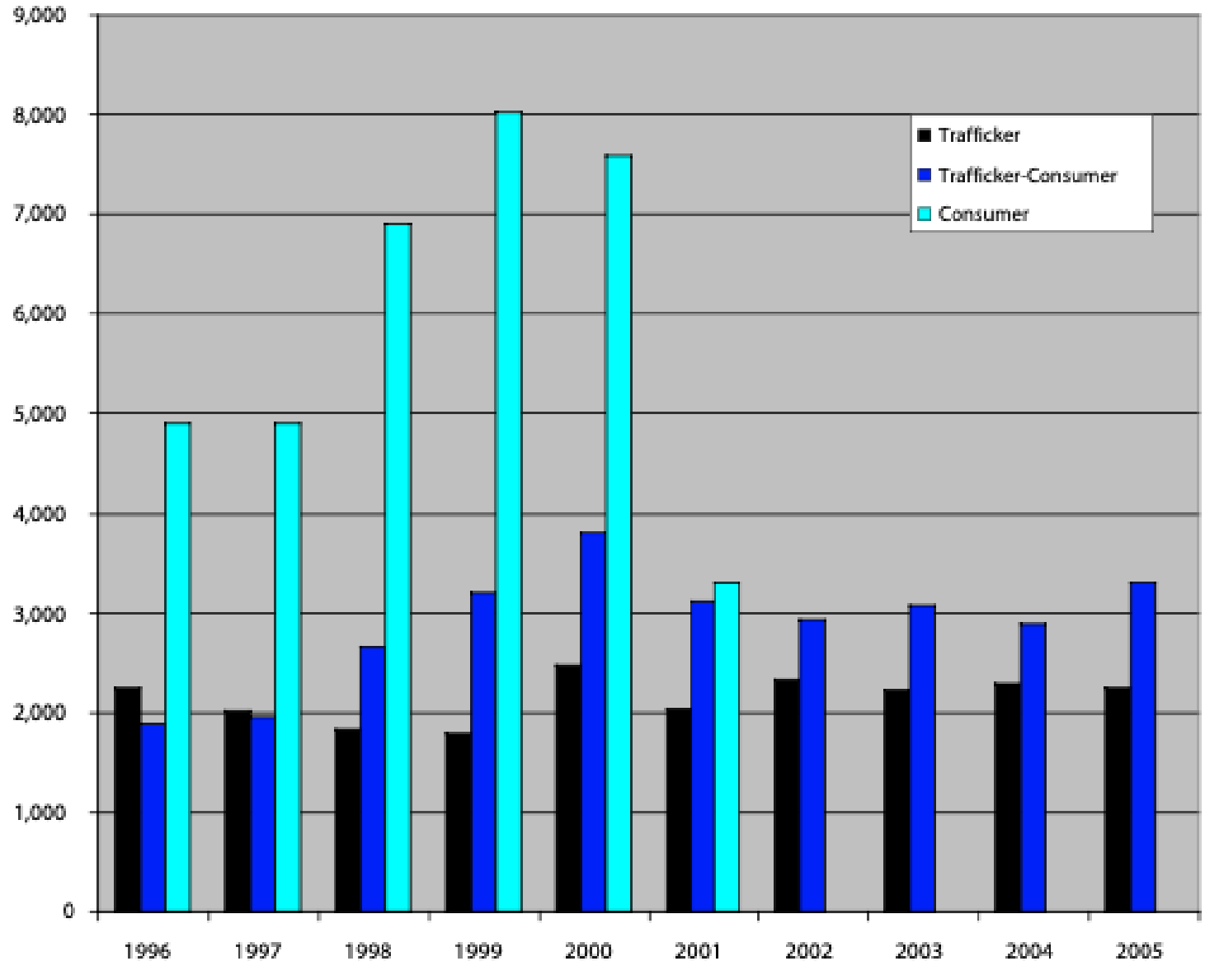
Deaths



Criminal/legal

- ☀ Reduction in trafficker sanctions, but INCREASE in seizures
- ☀ Decrease in number and proportion of people sentenced for drug offenses. Decrease in prison overcrowding

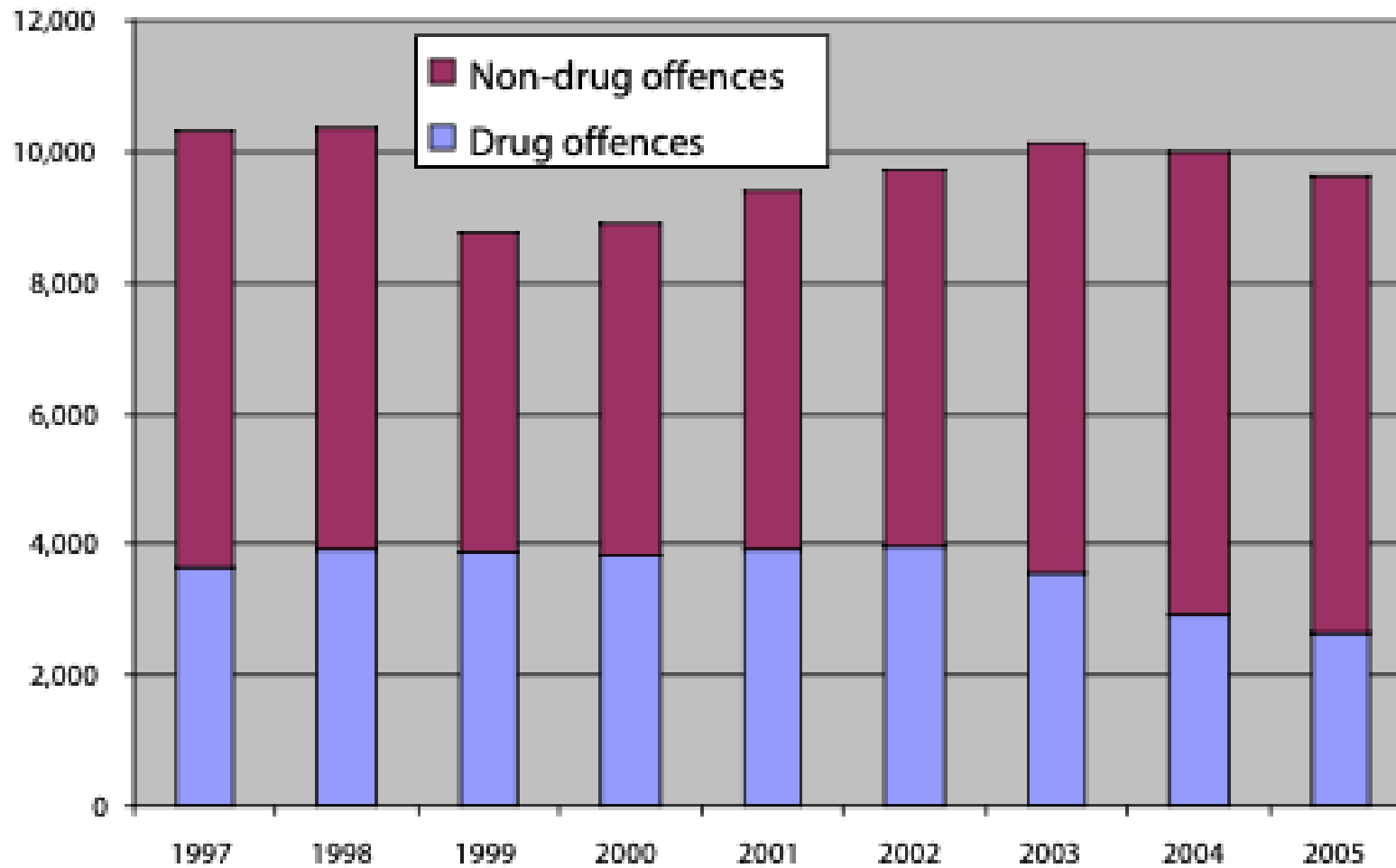
Figure 1: Number of individuals charged with drug use, drug trafficking and trafficking-consumption, 1996-2005



Hughes, Caitlin Elizabeth and Stevens, Alex (2007) The effects of the decriminalization of drug use in Portugal. Discussion paper. The Beckley Foundation, Oxford



Figure 2: Number of prisoners sentenced for drug and other offences, 1997-2005



Hughes, Caitlin Elizabeth and Stevens, Alex (2007) The effects of the decriminalization of drug use in Portugal. Discussion paper. The Beckley Foundation, Oxford

Decrim??

- ✦ “the de jure legal change largely codified de facto practices. In the years before the law's passage, less than 1 percent of those incarcerated for a drug offense had been convicted of use”



Hannah Laqueur, “Uses and Abuses of Drug Decriminalization in Portugal,”
Law & Social Inquiry 40, no. 3 (2015): 746–81,
<https://doi.org/10.1111/lsi.12104>.

Final Takeaways/Summary

- ☀ largely a symbolic and practical reinforcement of an emerging cultural shift: that drug problems should be treated as a public health problem, not a crime problem
- ☀ A pragmatic health effort, led by doctors
- ☀ Focus was on holistic, wrap-around services: central to these changes was the strategic governmental investment in and support of social, treatment, and harm reduction services
- ☀ Must consider: should core objective of reforms focus on the diversion of individuals with SUD to therapeutic interventions, or primarily aim to reduce incarceration rates as such?

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