

“DRUG ADDICTION IS A MEDICAL PROBLEM” (59)

I was gratified to see that the editorial board of the Daily Pilot endorsed Proposition 5, which is the Non-Violent Offender’s Rehabilitation Act, with the headline “Prison is for drug dealers, not customers.” They are right, and I commend them for their insight and sophistication. As I have said in previous columns, it makes as much sense to me to put the gifted actor Robert Downey, Jr. in jail for his cocaine addiction, and he certainly seems to have one, as it would to have put Betty Ford in jail for her addiction to alcohol.

Drug addictions are medical problems, and they are better addressed by healthcare professionals than by policemen. But if Robert Downey, Jr., Betty Ford, or you or I drive a motor vehicle while impaired by any of these drugs, or engage in any other offense while under the influence, bring them to us in the Criminal Justice System. What’s the difference? Because now by their actions these people are putting our safety at risk. So the answer is to hold people accountable for what they do, but not for what they put into their bodies.

In my mind, most of the people who support Proposition 5 on the ballot this November agree with that fundamental concept. Face it, you or I could come home any evening and drink ten martinis and, if we are over 21 years of age, we would not be violating the law. Obviously this would not be a healthy thing for us to do, but as long as we are not putting anyone else’s safety at risk, society wisely has left those problems to be addressed by drug education and treatment.

Why have we not done the same thing with regard to people who use other mind-altering and sometimes addictive substances? Our great country now leads the world in the incarceration of its people. And a large number of them are in custody only because they either possessed or were under the influence of some form of illicit drug. In fact, a ridiculously high number of people are put back into custody only because they were found to have been possessing or using drugs while on parole. That is an enormous waste of time, tax money, and lives. And it doesn’t begin to address the numbers of families who are placed onto welfare or children into foster care because their parents and breadwinners are taken away for such things as smoking marijuana or using other drugs.

Proposition 5 will go a long way in giving us judges more discretion to place these people into treatment programs instead of jail. Honestly, they should not be in court or jail in the first place simply for the usage of drugs. Former arch-conservative Republican Assemblyman Pat Nolan from Glendale used to favor putting lots of people in prison for all kinds of reasons until he was himself convicted of an election fraud and sentenced to prison. But now he is quoted as saying that there are many too many people in prison that should not be there. And then he goes on to say that “We should reserve our prison space for people we are afraid of, not people we’re mad at.” Our jails and prisons are hugely expensive, and all are seriously overcrowded, so I suggest we listen to people like former Assemblyman Nolan.

So who is opposed to Proposition 5? Many good people who have been led to believe that incarceration is the answer to these problems. We all need to take it upon ourselves to spread the word that this approach simply doesn't work. Of course, people who are in the prison construction business, and people who are in the prison guard's union are also against Proposition 5, but that opposition is logically governed by their own economic self-interest.

And I acknowledge that some of my fellow judges are also against Prop 5 as well. But for the most part they are still of the belief that drug abuse is a problem that should be first addressed by the police, and then the abusers should be forced into treatment after being placed into one of our drug courts. So for various reasons they do not want to give up that power over non-violent offenders. But since drug courts are really expensive to administer, wouldn't it be better to spend these scarce resources on the drug-addicted people who are actually causing harm to others, and leave those who aren't harming anybody else alone?

But there is another group that has formally expressed opposition that I hope will, upon reflection, reconsider its point of view. And that is the City Council of Newport Beach. As best I understand it, the council members are fearful that if Proposition 5 passes then more non-violent drug offenders might possibly come to their city for treatment. I request them to look inward and see if they would really trade having people actually lose their liberty and be sent to prison on the off chance that they might otherwise wind up in a sober-living facility in Newport. That is not to say that there should not be a limit to the numbers of people in treatment in any particular location, but do they really feel that this is the right way to keep those numbers down?

So I encourage you to support Proposition 5. It provides additional funding and other resources for drug treatment. It will reduce the number of non-violent drug offenders in our jails and prisons, and it also give judges more discretion to "call the shots" in determining how these drug users should be handled. And, yes, it will reduce the penalties for the possession of less than an ounce of marijuana.

But most importantly, it will also help judges and other healthcare professionals to attack the disease of addiction head on, and thereby reduce crime and the expenses to the taxpayer. And along the way it will also allow us to devote more money and prosecutorial attention to address the actions of the violent offenders who are causing so much harm to us all.

James P. Gray is a judge of the Superior Court, the author of the book "Why Our Drug Laws Have Failed and What We Can Do About It" (Temple University Press, 2001), and can be reached at JimPGray@sbcglobal.net, or at his website at www.JudgeJimGray.com.