

Addicted offenders face harsher sentencing

February 25 2020, by Tom Walters

Addicted offenders are more likely to receive harsher criminal sentences than those with similar brain conditions, even when those conditions result from the use of drugs, according to a team led by University of Sussex psychologists.

Dr. Nicholas Sinclair-House, lead author of the study, said:

"Neuroscience tells us that [addiction](#) is a [disease](#) that changes the brain. Ordinarily, brain changes brought on by disease would impact perceptions of criminal blameworthiness. We see this impact when brain changes are attributed to a fictional disease, we just don't see it with addiction".

For the research, magistrates were asked to consider a criminal [sentencing](#) scenario in which evidence of a defendant's brain damage and impaired impulse control was presented. This [brain damage](#) was attributed to either a fictional disease or to addiction. When the same neuropsychiatric profile resulted from disease, rather than heroin addiction, custodial sentences were significantly reduced.

In the second stage of the study, similar reductions were seen even where the disease in question resulted from drug-use.

Dr. Sinclair-House, Research Fellow in Psychology at the University of Sussex, said: "At first it seemed to be about choice. The choice to initially use drugs appeared to be the driving factor behind the reluctance to reduce sentences, but that doesn't tell the whole story.

"When disease leads to [brain changes](#), we see this taken into account in reduced sentences. We don't see that effect when addiction is given as the cause of those same changes.

"What's curious, though, is that we see some measure of reduction even where the disease in question is said to have been brought about by drug use, just as long as it isn't named as addiction".

The research, published in *Psychology, Public Policy and Law*, sampled over 300 magistrates around the UK and found that brain disease leading to impulsivity and a lack of self-control promotes leniency in sentencing. Moreover, when asked directly, magistrates generally agree that addiction is a [brain](#) disease. However, they don't appear to treat it as such in practical terms when it comes to sentencing.

According to study co-author and co-director of the Crime Research Centre at the University of Sussex, Dr. Hans Crombag, "In England and Wales, and most international jurisdictions, [legal rules](#) have developed to prevent substance-involved and addicted defendants from escaping responsibility for their misdeeds; even when they suffer from co-morbid mental health conditions.

"But at sentencing, such rules do not apply. This makes research into decision-making at the sentencing stage a particularly fruitful focus for psychologists."

Over 95% of criminal cases in England and Wales are dealt with in Magistrates' Court, and it is estimated that the majority of offenders in these cases exhibit some form of drug or alcohol problem. There is currently no guidance available on the sentencing of addicted offenders, despite their over-representation in the criminal justice system.

Dr. John Child, Director of the Birmingham Centre of Crime, Justice

and Policing, and co-author of the study, said: "The Sentencing Council have recently consulted on revised guidance for the sentencing of mentally disordered offenders. Though the proposals drawn from this consultation represent a significant step forward, they do not directly address addiction and they are still silent on the issue of choice."

The authors have recently begun working with the Sentencing Council to review their guidance on sentencing mentally disordered offenders, as well as to explore how the issue of choice might be approached through future guidance revisions.

Dr. Child added: "This project demonstrates not only a role for science in informing sentencing guidance and decision-making, but also the willingness of legal practitioners to engage with the results of that work in a meaningful way. It's a productive area where more research is needed".

More information: Nicholas Sinclair-House et al. Addiction is a brain disease, and it doesn't matter: Prior choice in drug use blocks leniency in criminal punishment., *Psychology, Public Policy, and Law* (2019). [DOI: 10.1037/law0000217](https://doi.org/10.1037/law0000217)

Provided by University of Sussex

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