

March 14, 2016: Drug Cases Need Balance

There are few topics that fuse life, love, and laws together with the intensity of drug abuse and drug addiction. Countless lives and families throughout Guam, indeed throughout the world, have been devastated by the relentless ravages of this unrepentant scourge. While the adverse effects of alcoholism can take years to undermine the family structure, the destructive impact of drug addiction sweeps into a family with the speed and force of a typhoon, leaving absolute chaos in its wake.

A once trusted and responsible loved-one suddenly becomes an unrecognizable monster whose sole mission in life is to find the next fix. The quest for drugs becomes a relentless pursuit for the addict who will lie, cheat, and steal to secure that next high. The bonds of love and respect are shattered. No parent, friend, spouse, or child is spared from the addict's deceit and destructive force. Within a very short period of time the addict's family is torn apart and left with a sense of helplessness and hopelessness. If there is hell on earth, this is it.

The question then becomes, how should society view the drug abuser or addict? Is he a criminal? Is she a victim of ruthless drug lords? Or, is he a sick person? This is a critical question to answer, because how we as a society respond to the addict depends on our answer. If we view the person as a criminal, punishing him becomes the primary goal. If the person is seen as a victim, the focus of criminal prosecution shifts from the user to the seller. And, if the abuser is diagnosed as a sick person, rehabilitation rather than punishment becomes the emphasis.

How we answer this question may depend on the facts. For example, what would the answer be if a 16 year-old is caught for the first time smoking marijuana in the school bathroom? Is he a criminal, victim, or sick person? How about if the 16 year-old is caught selling marijuana to other students in the school bathroom? Is he a criminal, victim, or sick person? Or, what if the 16 year-old breaks into your house and steals your new flat-screen TV so he can sell it to buy drugs? Is he a criminal, victim, or sick person? What if the abuser is 45 rather than 16? Or, what if this is the addict's third drug offense rather than his first? Finally, what if the abuser is YOUR son, daughter, husband, or wife rather than someone else's son, daughter, husband, or wife? Does your answer change?

I suspect that you felt a degree of discomfort as you considered these various scenarios. Under one set of facts, you probably thought you had a definitive answer. However, with a change in the facts, settling on one answer became more difficult. Clearly, dealing with drug abuse presents a challenging balancing act that must weigh several factors together when attempting to devise a solution to combating the world-wide problem of drug abuse while simultaneously addressing the plight of the individual abuser.

This same sense of discomfort has been a common denominator for the past fifty years as politicians, lawyers, psychiatrists, social workers, and American voters have all grappled with

the question of what label should we place on drug abusers? In America, where state sovereignty is embraced and guaranteed under our Constitution, finding a single solution is made even more daunting. Each state and territory is empowered to answer the question for itself. Frequently, both the answers and responses have differed significantly from jurisdiction to jurisdiction, resulting in a patchwork of laws that make devising a nationwide, common strategy to combating drug abuse nearly impossible.

However, there is a flicker of hope. Over the last several decades there has been a growing consensus spreading across the U.S. that the label applied to drug offenders can and should shift according to the unique circumstances of each case and offender. The drive for a clear judicial determination of “guilt” or “innocence” is frequently not appropriate when dealing with the intricacies of drug abuse and addiction. Rather, a more balanced approach to protecting our communities while simultaneously helping drug abusers is needed.

This balance is being sought through the growing trend of establishing specialized drug courts. Non-violent drug offenders can voluntarily choose to shift from a regular criminal court setting to a drug court where the abuser can participate in rehabilitative services while being monitored by a judge. There is much greater flexibility in addressing the unique needs of each defendant.