

Ethics and moralisation in drug policy: A proportionality approach

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- Questions about the ethics of drug policy are complicated by a history of moralisation of drug use

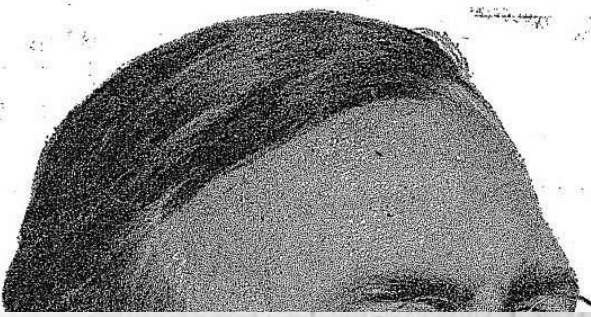
NEGRO COCAINE "FIENDS" ARE A NEW SOUTHERN MENACE

By Edward Huntington Williams, M. D.
Murder and Insanity Increasing Among Lower Class Blacks Because They Have Taken to "Sniffing" Since Deprived of Whisky by Prohibition.

FOR some years there have been rumors about the increase in drug taking in the South—vague, but always insistent rumors that the addition to such drugs as morphine and cocaine was becoming a veritable craze to the colored race in certain regions. Some of these reports of alleged conditions read like the wildest flights of a sensational fiction writer. Stories of cocaine orgies and "sniffing parties" followed by gruesome soborings. And since the printed records of insane hospitals, police courts, jails, and penitentiaries there is no escaping the conviction that drug taking has become a real menace in certain regions south of the line.

In the North drug addiction is prevalent enough in all conscience. The hospitals for the insane in New York State admitted one insane drug taker in every 385 other patients last year; and New York's record is about the same as that of her immediate neighbors. But in Georgia the proportion was 1 to 42, in North Carolina about 1 to 84, in Tennessee 1 to 74, and in one of the Mississippi hospitals 1 to 23. Stated otherwise, these Southern States had from five to fifteen times as many insane drug takers as New York State.

But these comparisons, although sufficiently startling, fail to show the extent of drug addiction in the South. For most of these insane drug users, both North and South, were the victims of morphine; whereas the negro drug "fiend" uses cocaine almost exclusively. This preference is not explained by the difference in the effects of the two drugs; but rather in the manner that each may be taken. Morphine when taken into the stomach acts slowly,



MARIJUANA THE BURNING WEED WITH ITS ROOTS IN Hell

AMERICA'S NEWEST NARCOTIC MENACE

A PUFF OF SMOKE STARTED HER ON HER WAY

'REEFER MADNESS'

THIS PICTURE WILL BE SHOWN TO ADULTS ONLY

THE DEADLY SCOURGE THAT DRAGS OUR CHILDREN INTO THE QUAGMIRES OF DEGRADATION

Your child may be next!

so Georgia, North Carolina, South Carolina, Mississippi, Tennessee, and West Virginia passed laws intended to abolish the saloon and keep whiskey and the negro separate.

These laws do not, and were not intended to, prevent the white man from the well-to-do negro getting his accustomed beverage through legitimate channels. They obliged him to forego the pleasure of loitering at a bar and "taking his drink periodically," to be sure; but a large proportion of the intelligent whites were ready to make this sacrifice if by doing so they could eliminate the drunken negro.

That their only sacrifice was in method of taking, not in the amount of ardent spirits consumed, is shown by the records of liquor shipments that go to individual consumers. The Interstate Commerce Commission reported in 1911, using the figures presented by the Southern Express Company as a basis, that "the total annual movement indicated (for the South alone) is 6,085,264 gallons," almost exclusively into prohibition territory, of course.

In December, 1912, the officials in Asheville, N. C., reported that they were receiving 400 gallon-packs daily, 12,000 gallons monthly, or about three gallons per month for each family. And Asheville is quite as abundant as the other well-governed cities of the South.

But none of these counties galleries reached the lower class negro, the "one man in every three" in the South. His own ignorance and poverty make this a certainty, as the governing white intended.

Of course it is nothing short of "class legislation," this giving to the rich and depriving the poor. But what of it, so long as the discrimination applies to whiskey? Nothing, of course—provided, always, that those discriminated against do not find some substitute worse than the original trouble-maker. But unfortunately for the negro and for his community, such a substitute was found almost immediately—a substitute that is nastily worse even than the "moonshine whisky," drug-store nostrum, or the dead-

TYKE drug Pusher

DRUGS AND ALCOHOL MESS UP YOUR MIND.

DRUGS AND ALCOHOL MESS UP YOUR BODY.

DRUGS AND ALCOHOL ARE A WASTE OF MONEY

DRUGS AND ALCOHOL CAN BE ADDICTING

THE TOP 10 REASONS TO SAY NO TO DRUGS

THEY INCREASE CRIME IN YOUR NEIGHBORHOOD

DRUG AND ALCOHOL USERS HURT OTHER PEOPLE

NO TO DRUGS

DRUG AND ALCOHOL CAN KILL YOU

DRUG AND ALCOHOL USERS DO POORLY IN SCHOOL

F

IF YOU GET CAUGHT WITH THEM YOU'LL GO TO JAIL

DRUG AND ALCOHOL USERS ARE LOSERS

Introduction

- Questions about the ethics of drug policy are complicated by a history of moralisation of drug use
- Some drug policy researchers take any talk of ethics, values as regressive (eg. Keane 2003)
- How to distinguish reasoned ethical debate from unthinking moralisation?



NEGRO COCAINE "FIENDS" ARE A NEW SOUTHERN MENACE

By Edward Huntington Williams, M. D.

FOR some years there have been rumors about the increase in drug taking in the South—vague, but always insistent rumors that the addiction to such drugs as morphine and cocaine was becoming a veritable curse to the colored race in certain regions. Some of these reports of alleged conditions read like the wildest flights of a sensational fiction writer. Stories of cocaine orphans and "sniffing parties," followed by wholesale murders, seem like lurid exaggerations of the yellowest variety. But in point of fact there was nothing "paltry" about many of these reports. Nine men killed in Mississippi on one occasion by crazed cocaine fiends, five in North Carolina, three in Tennessee—these are facts that need no imaginative coloring. And since his gruesome evidence is supported by the printed records of insane hospitals, police courts, jails, and penitentiaries, there is no escaping the conviction that drug taking has become a race menace in certain regions south of the line.

In the North drug addiction is prevalent enough, in all conscience. The hospitals for the insane in New York State admitted one insane drug taker every 381 other patients last year; and New York's record is about the same as that of her immediate neighbors. But in Georgia the proportion was 1 to 42, in North Carolina about 1 to 84, in Tennessee 1 to 74, and in one of the Mississippi hospitals 1 to 29. Stated otherwise, these Southern States had from five to fifteen times as many insane drug takers as New York State.

But these comparisons, although sufficiently startling, fail to show the extent of drug addiction in the South. For most of these insane drug users, both North and South, were the victims of morphine; whereas the negro "drug fiend" uses cocaine almost exclusively.

This preference is not explained by the difference in the effects of the two drugs, but rather in the manner that each may be taken. Morphine when taken into the stomach acts slowly, stagger the man. And a second shot that pierced the arm and entered the chest had just as little effect in stopping the negro or checking his attack. Meanwhile the Chief, out of the corner of his eye, saw infuriated negroes rushing toward the cabin from all directions. He had only three cartridges remaining in his gun, and he might need those in a minute to stop the mob. So he saved his ammunition and "finished the man with his club."

The following day the Chief exchanged his revolver for one of heavier calibre. Yet the one with which he shot the negro was a heavy army model, using a cartridge that Lieut. Townsend Whelan, who is an authority on such matters, recently declared was large enough to "kill any game in America." And many other officers in the South, who appreciate the increased vitality of the cocaine-crazed negroes, have made a similar exchange for guns of greater shooting power for the express purpose of combating the "fiend" when he runs amuck.

The list of dangerous effects produced by cocaine just described—hallucinations and delusions, increased courage, homicidal tendencies, resistance to shock—is certainly long enough. But there is still another, and a most important one. This is a temporary deadening of the nervous and muscular system, so as to increase, rather than interfere with, good marksmanship.

Makes Better Marksmen.

Many of the wholesale killings in the South may be cited as indicating that injury to shooting is not interfered with—in fact, indeed, probably improved—by cocaine. For a large proportion of such shootings have been the result of drug taking. But I believe the record of the "cocaine nig-

Murder and Insanity Increasing Among Lower Class Blacks Because They Have Taken to "Sniffing" Since Deprived of Whisky by Prohibition.



'REEFER' MADNESS



- 1. How have ethical theories been applied to drug policy?**
- 2. Proportionality as an alternative approach**
- 3. Applications to drug policy: 2 examples**

1. How have ethical theories been applied to drug policy?

3 general approaches in drug policy:

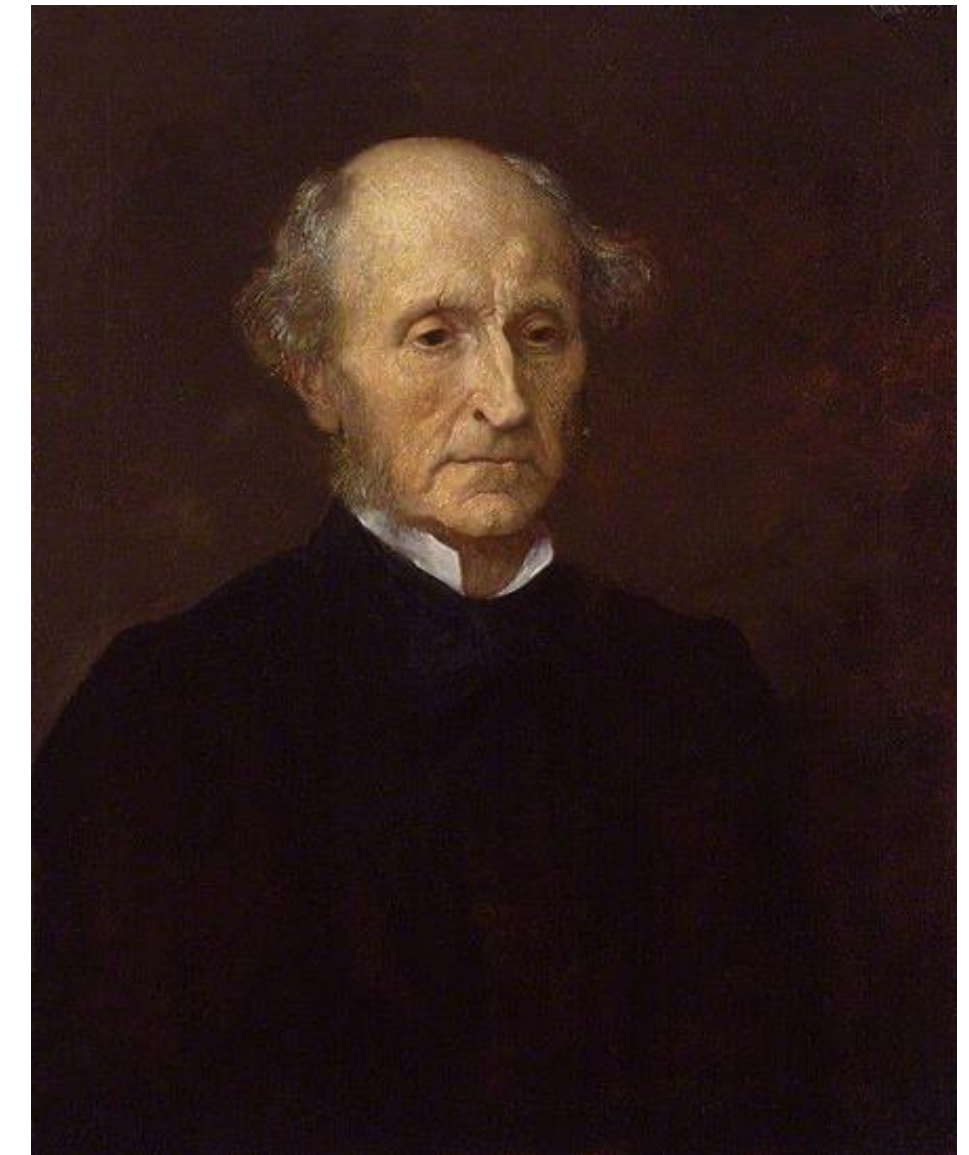
- Supply reduction
- Demand reduction
- Harm reduction



- Tends to support criminalisation
- Tends to support decriminalisation

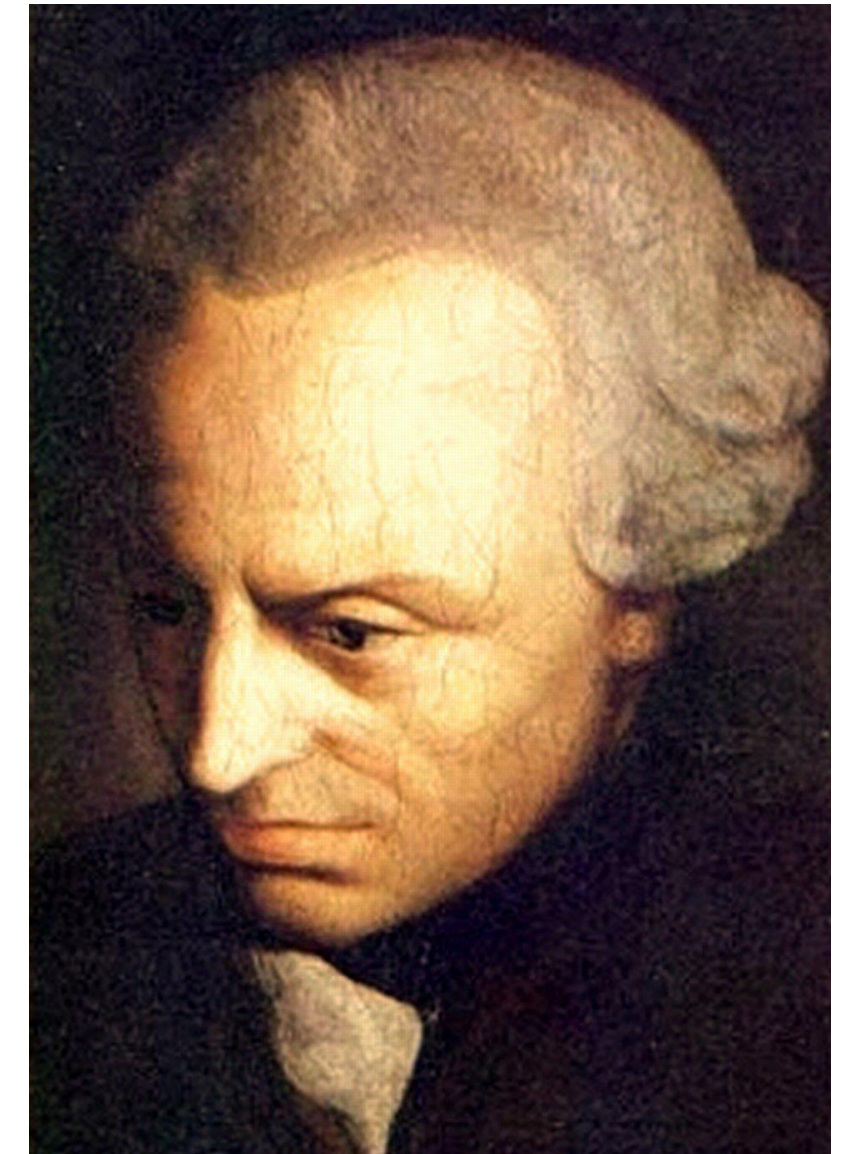
1. How have ethical theories been applied to drug policy?

- **Consequentialism**: often argued to support harm reduction, citing evidence that such policies reduce suffering (eg overdose deaths) (eg. Wodak 2007)
- But could argue it would support criminalisation, if this reduced harms of use at levels outweighing benefits of use (Weatherburn 2009)
- Problems of incommensurability of kinds of harm/benefits, quantification, etc



1. How have ethical theories been applied to drug policy?

- **Deontology:** Most argue deontology would imply that drug use is wrong (people who use drugs disrespect their own rational agency) and would support criminalisation to correct this wrongdoing (Wodak 2007; Christie et al 2008)
- Counterargument that deontology could support harm reduction because such policies best respect the dignity and humanity of people who use drugs (Hoffmann 2022)



1. How have ethical theories been applied to drug policy?

- Limitations of applying normative theories for policy guidance
- A turn to resources from applied ethics...

2. Proportionality

- Proportionality is a recognised principle for assessing: when it is ethically justifiable to impose harms/burdens/costs onto people in order to attain some benefit
- Both the ‘costs’ and ‘benefits’ can be physical, mental, social, economic (etc)
- May also be ‘ethical’ costs (eg. infringements of rights) and benefits (eg. promoting social justice, fostering autonomy)



2.1. Justifications for proportionality

- Two ways of justifying (proportionate) harm:
 - lesser evil justification (consequentialist)
 - desert justification (deontological)



2.1. Justifications for proportionality

- Self defensive harm example. If A threatens B, B is justified in harming A to prevent the threatened harm. Can be justified either:
 - ▶ because there will be less overall harm, if B harms A enough to prevent A from performing a greater (threatened) harm
 - ▶ because A deserves harm in response to their threatening B



B

A

2.1. Justifications for proportionality

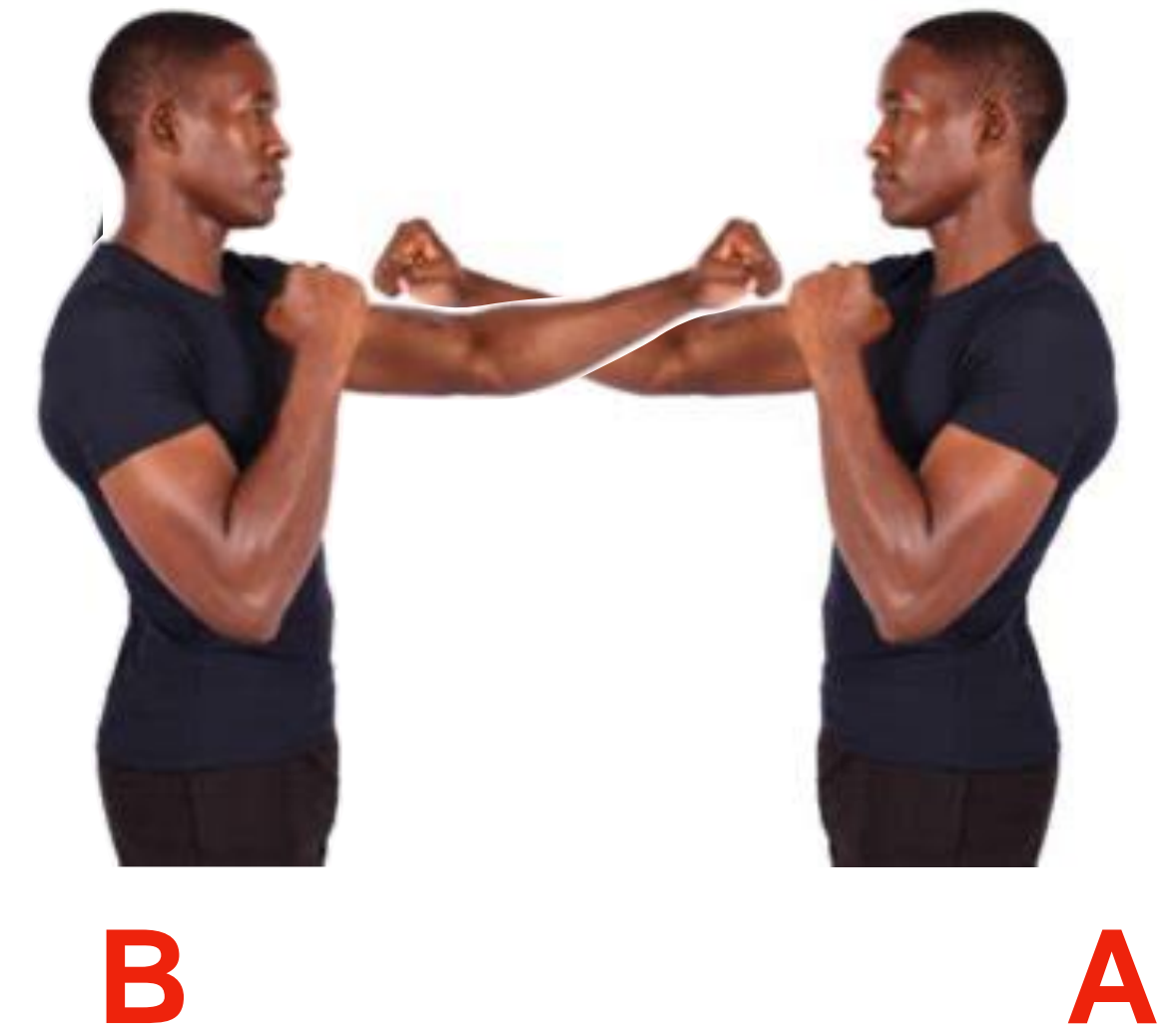
- Criminal punishment example. If A in fact harms B, society is justified in harming A in response. Can be justified either:
 - ▶ because there will be less overall harm, if harming A deters more future wrongdoing
 - ▶ because A deserves the punitive harm as retribution for their action



A

2.2. Interacting justifications

- Rodin (2011) and Uniacke (2011) suggest ways these 2 justifications affect each other
- Self-defensive harm example:
 - ▶ In threatening B, A makes themselves liable to harm — but only harm proportionate to the threat. Desert judgements (*what A is liable to*) thus affected by comparisons of outcomes
 - ▶ Conversely, part of what makes the harm to A more acceptable than the harm to B may be A's aggression. That is, judgement of A's desert affects how much the harms 'weigh'



3. Application to drug policies

- How does proportionality apply to drug policies? 2 examples:
 - ▶ Criminalise use and imprison users (supply reduction)
 - ▶ Supervised injecting rooms (harm reduction)

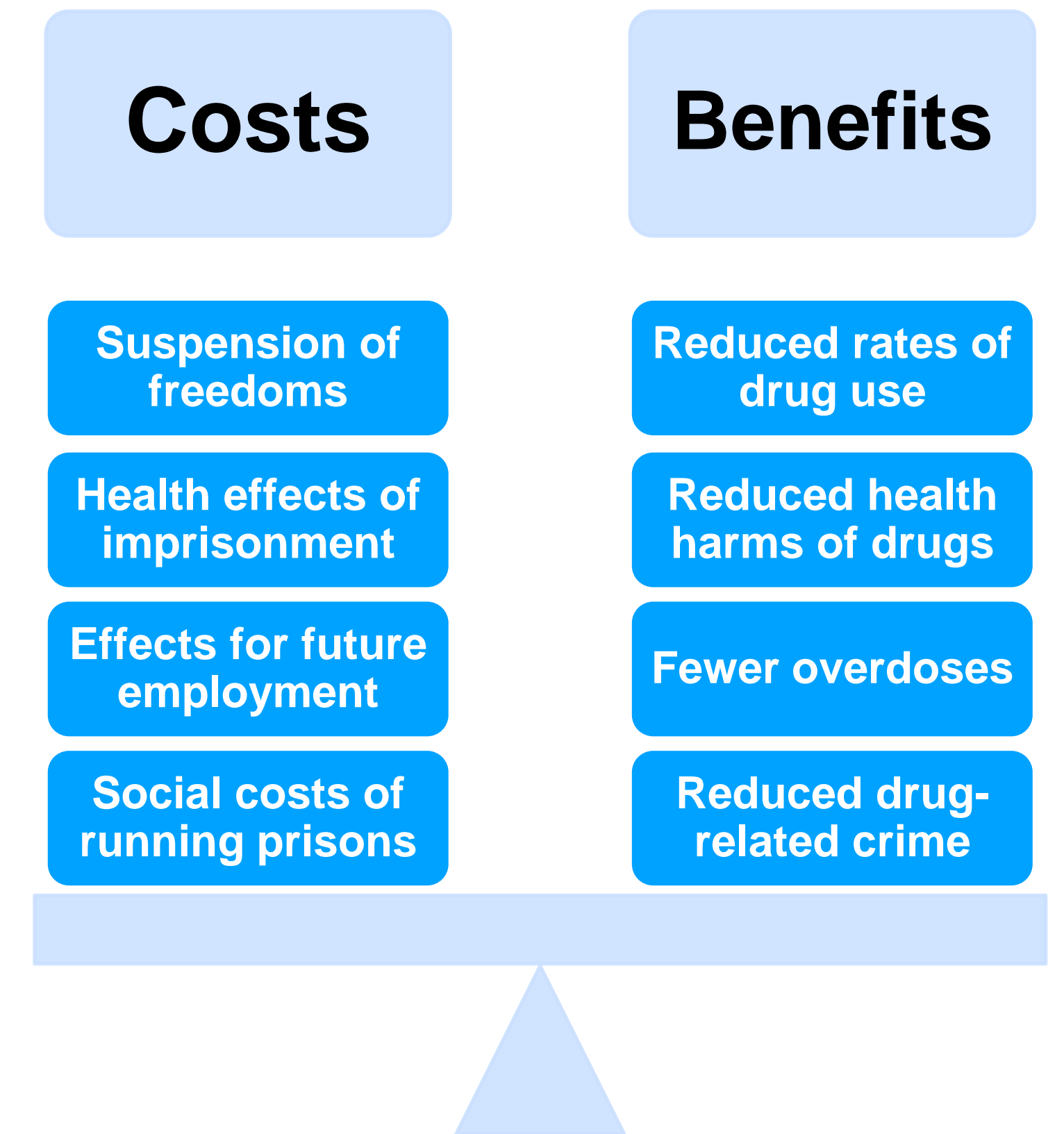
3. Application to drug policies

- Example 1: criminalise drug use



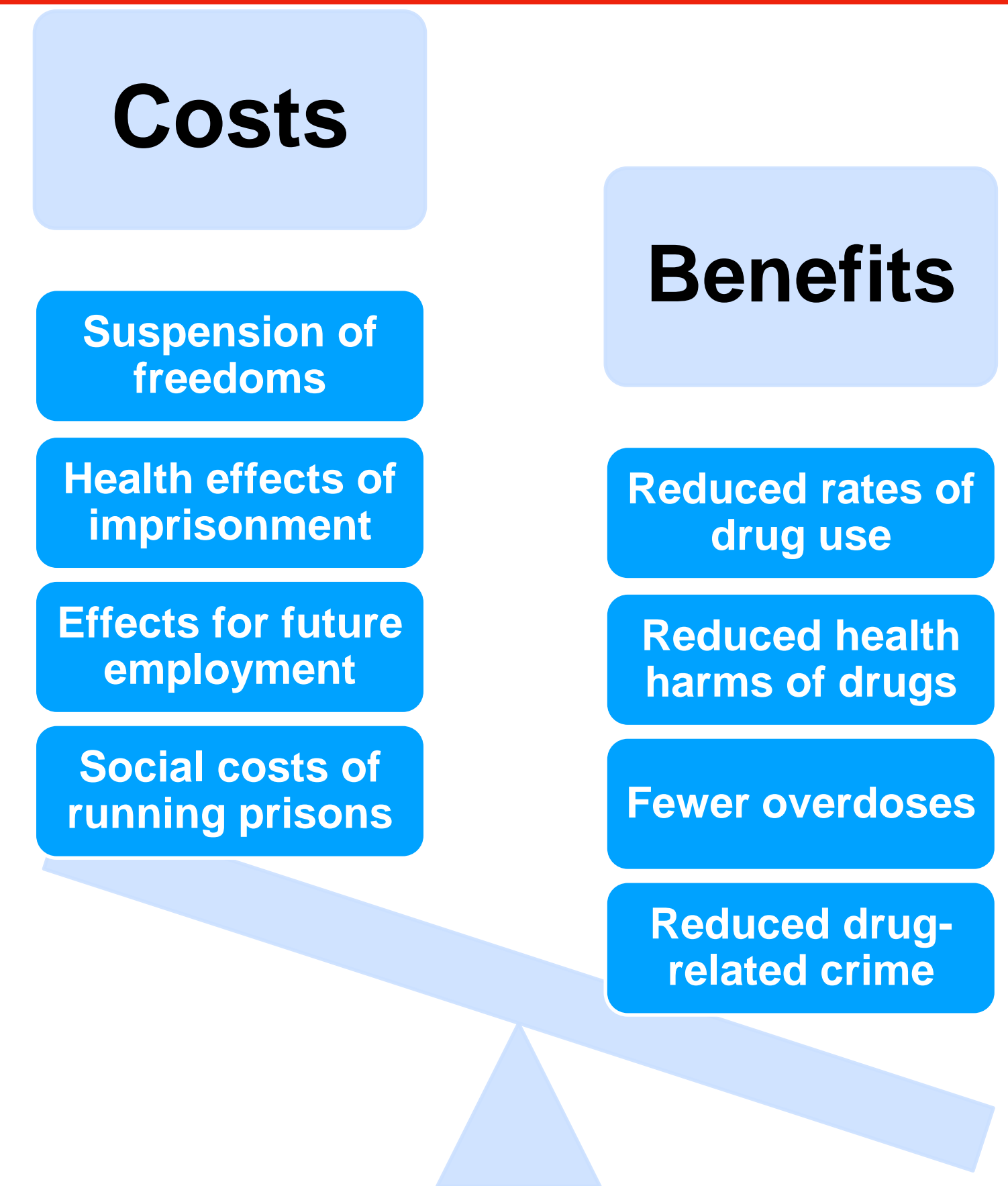
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 - ▶ Lesser evil justification: Benefits vs costs



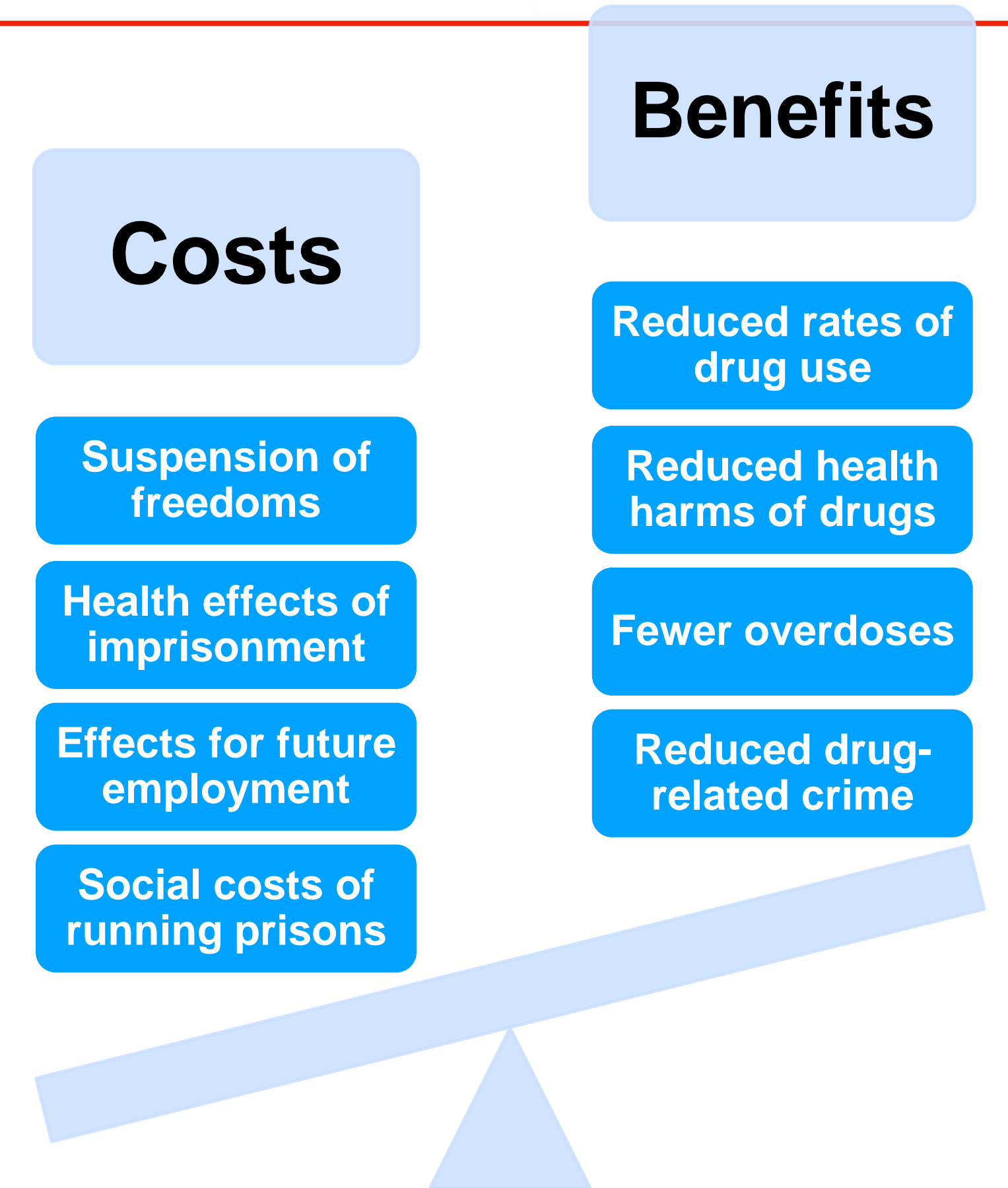
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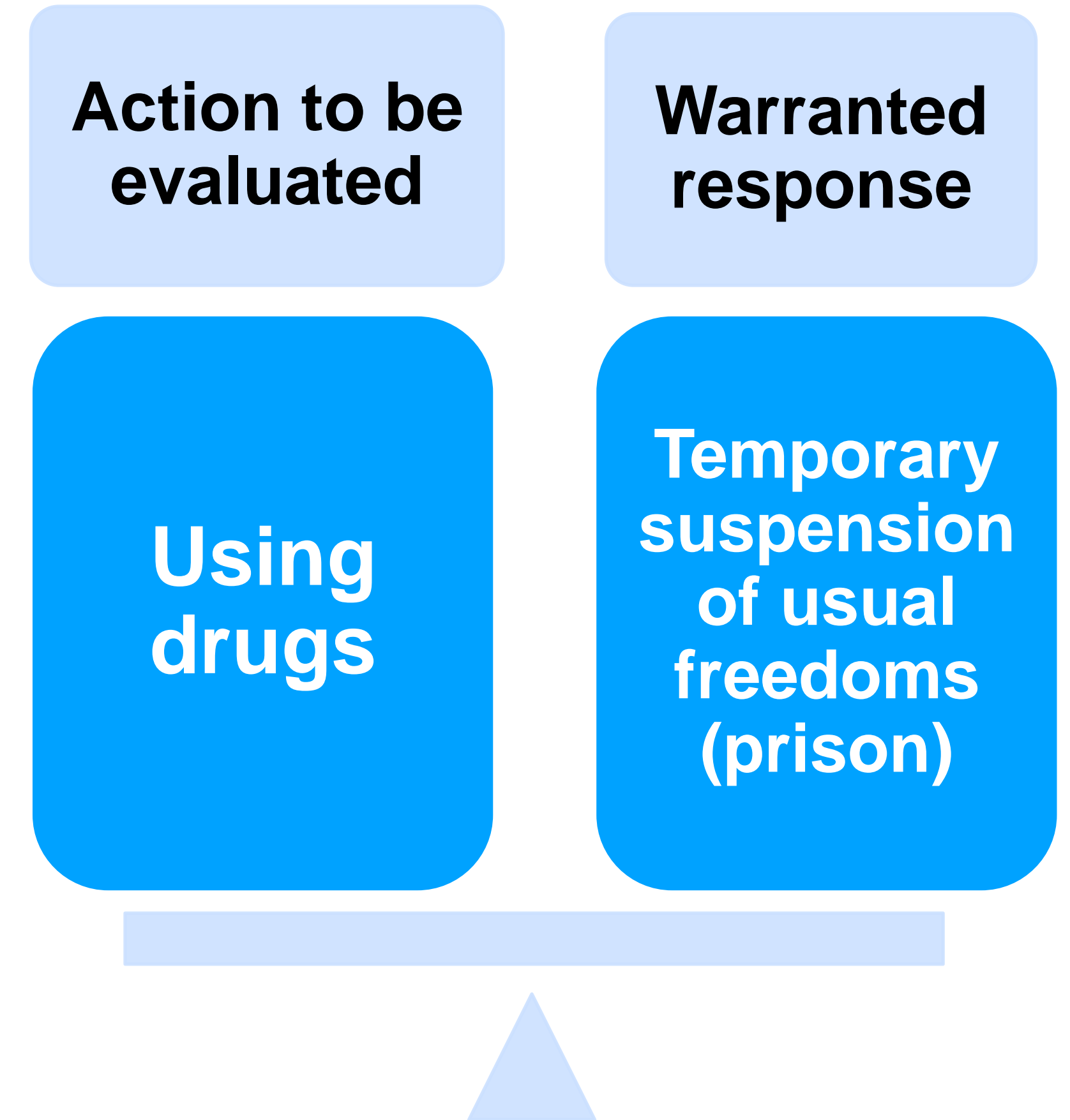
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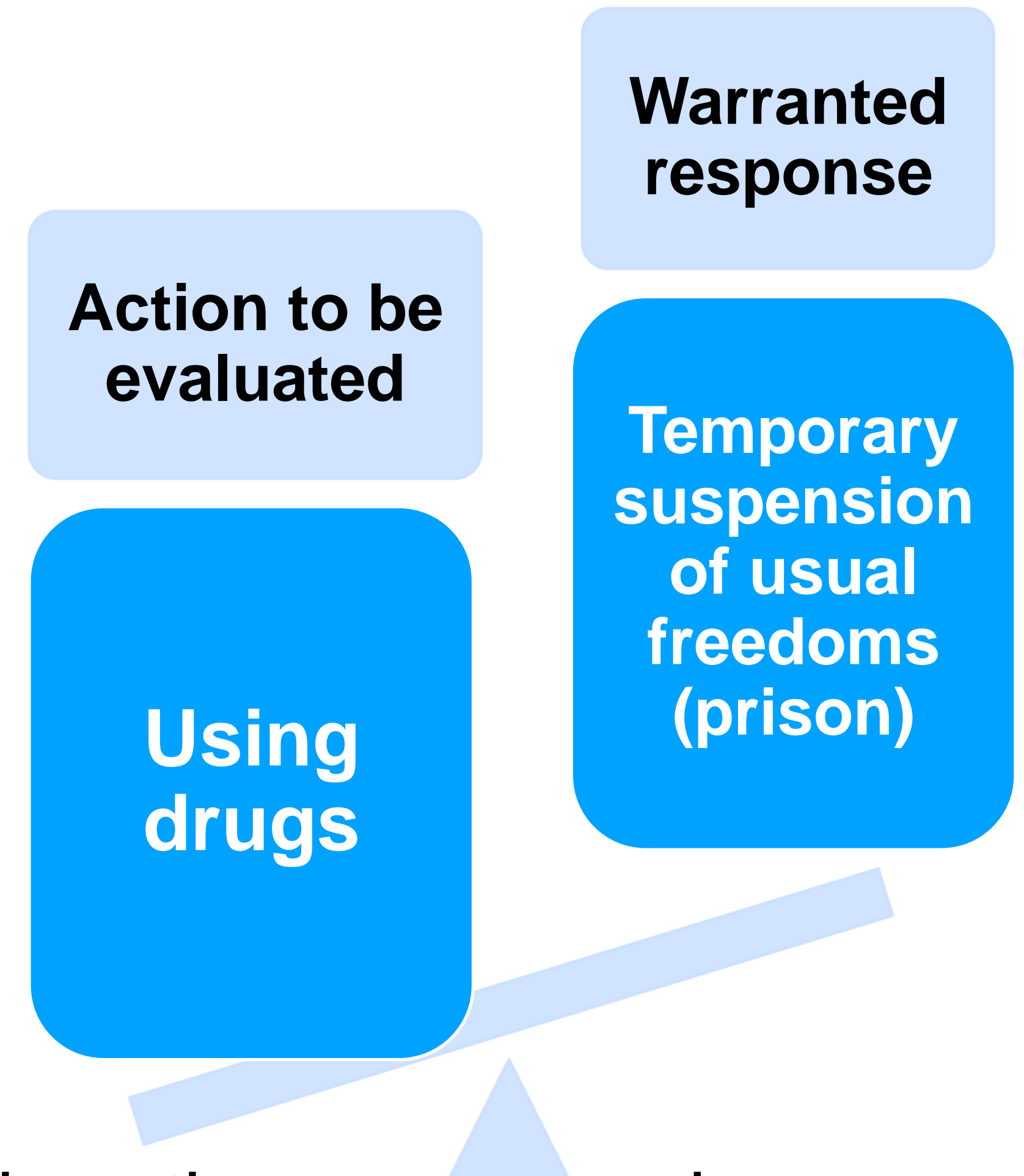
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- Example 1: criminalise drug use
 - ▶ Lesser evil justification: Benefits vs costs
 - ▶ Desert justification: Ethical evaluation of an action (eg via agents' intent) warrants a certain response
- The judgements may interact:



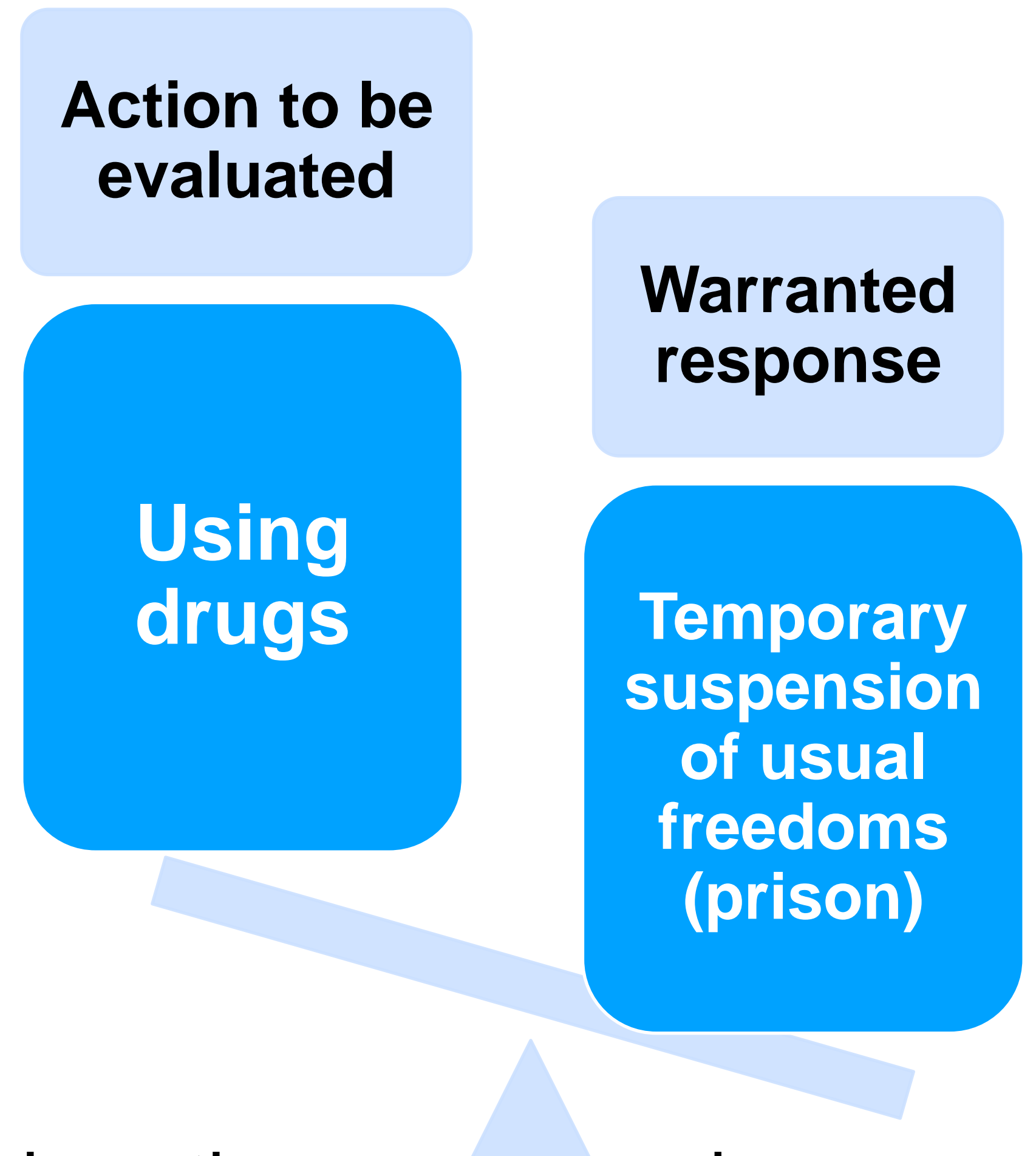
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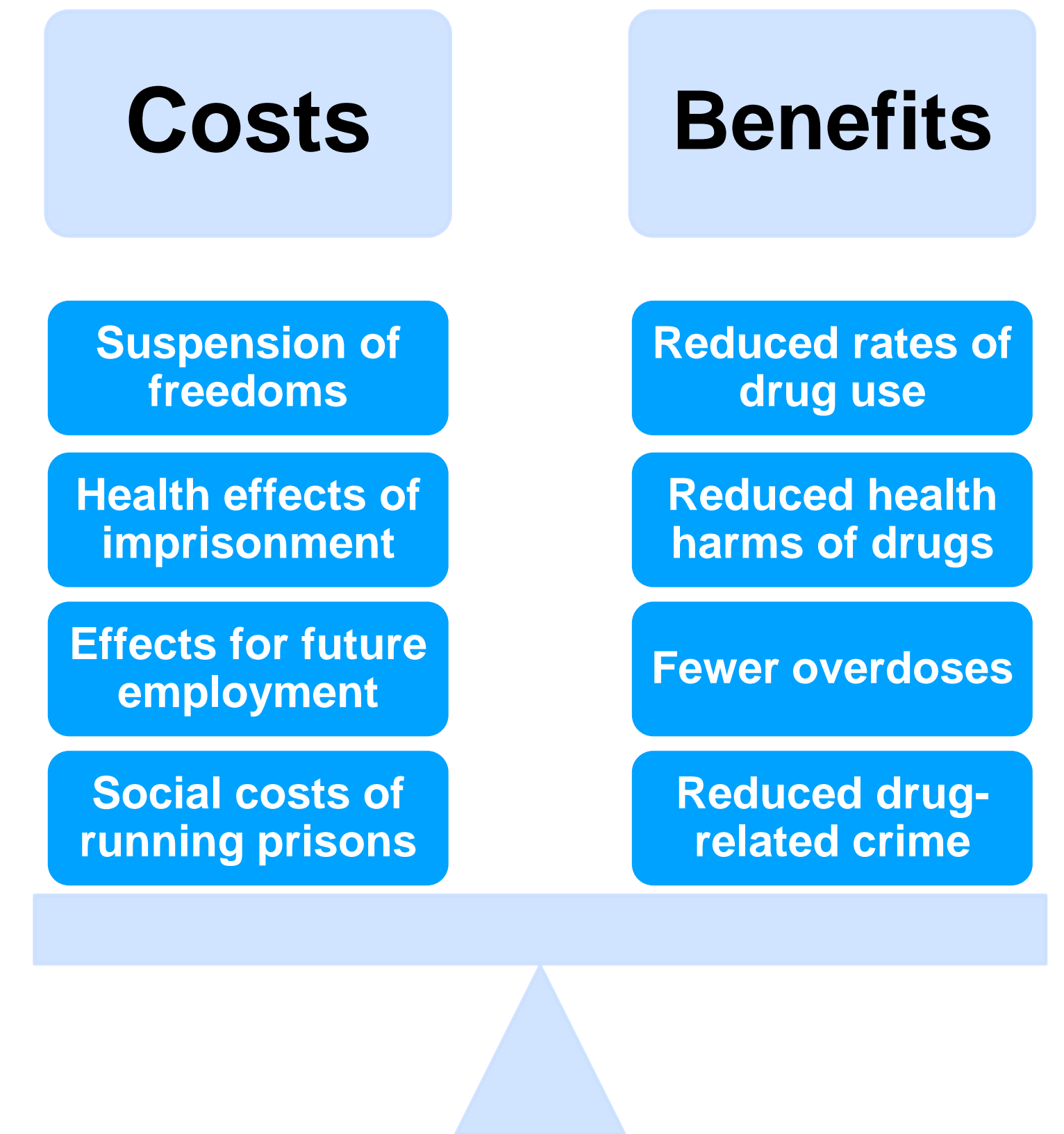
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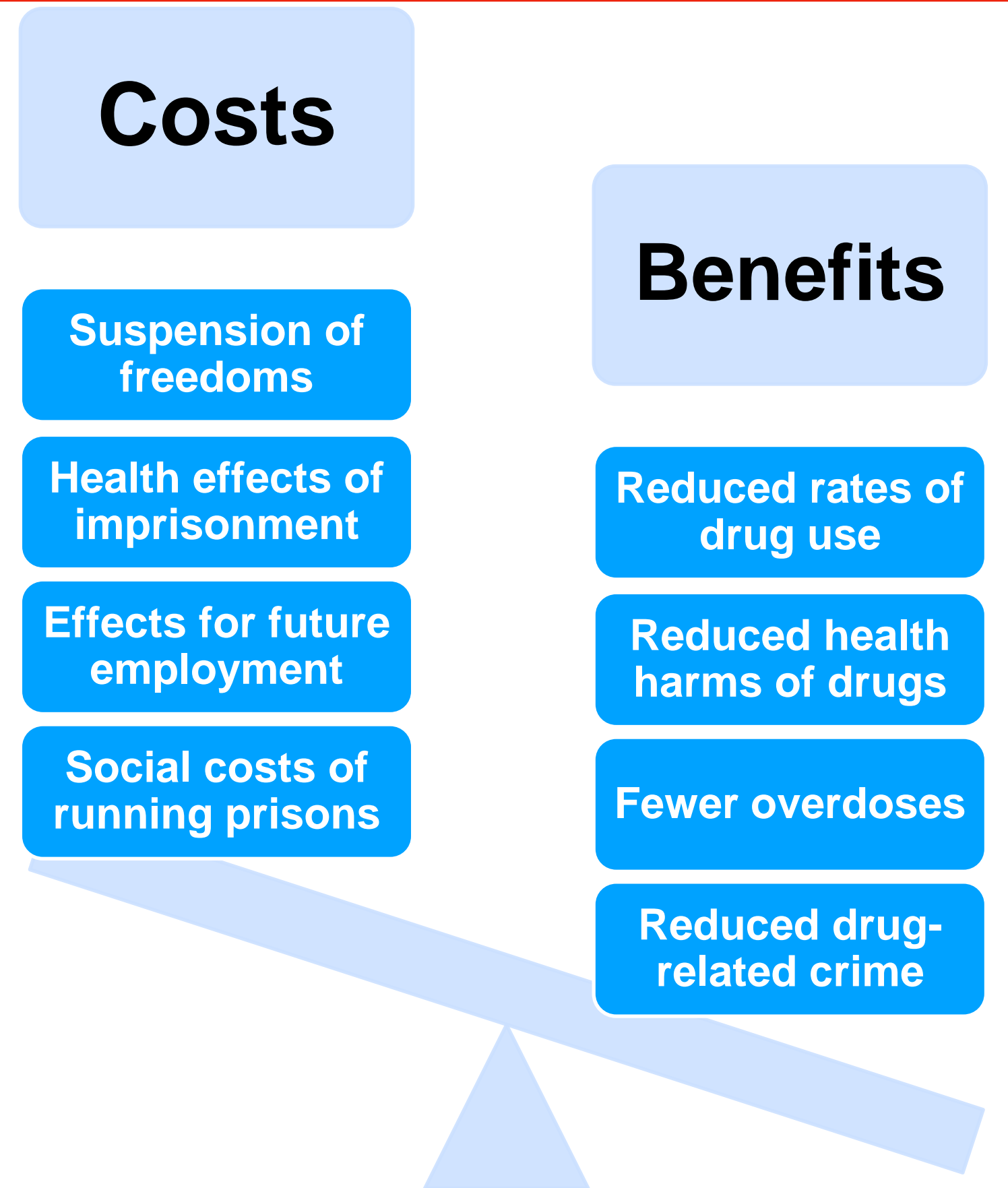
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- The judgements may interact:
 - ▶ Consequentialist calculus may be affected by a judgement that PWUD have done something wrong, thus suspending their rights 'weighs less'

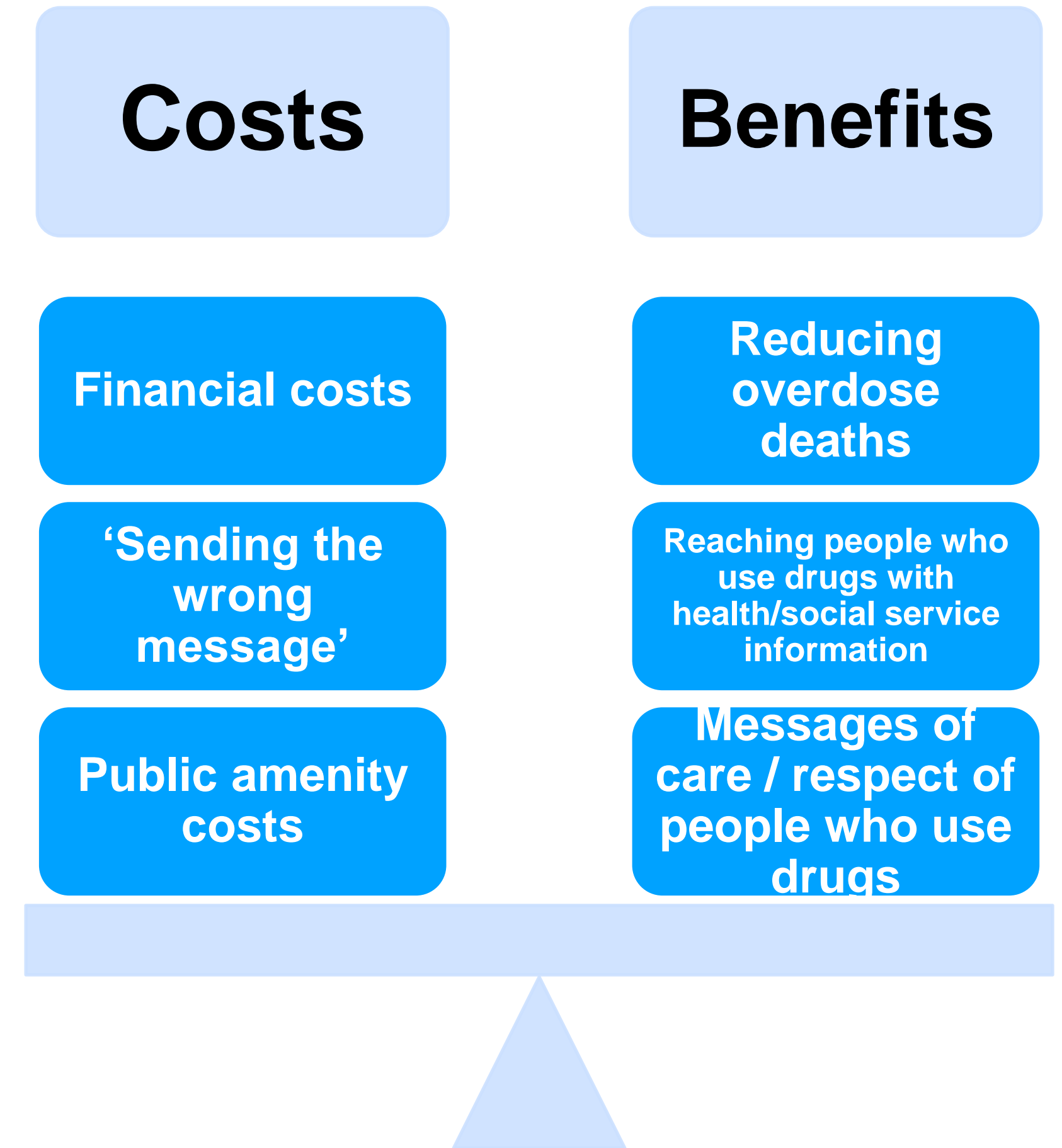
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- Example 2: Supervised injecting rooms



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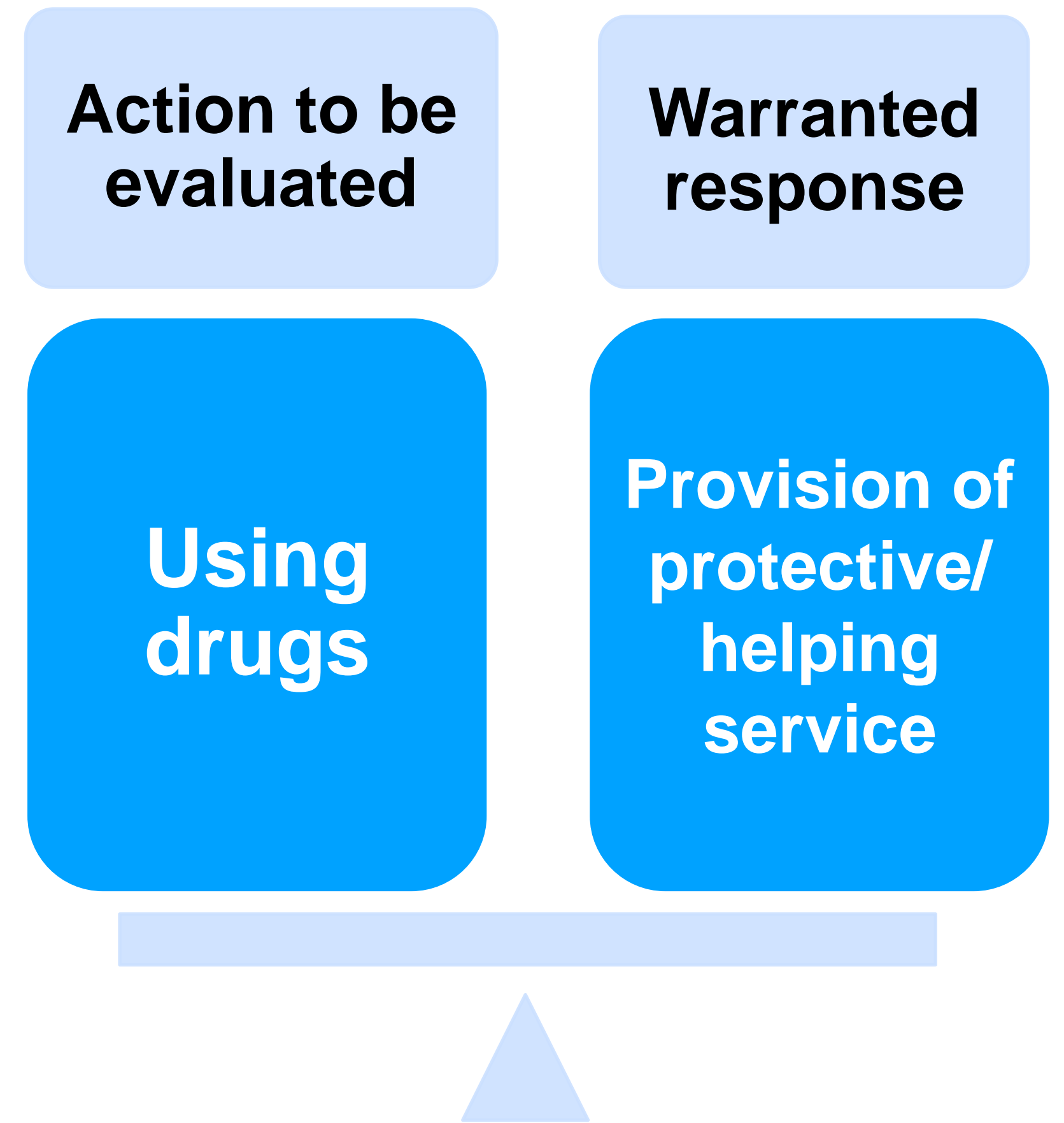
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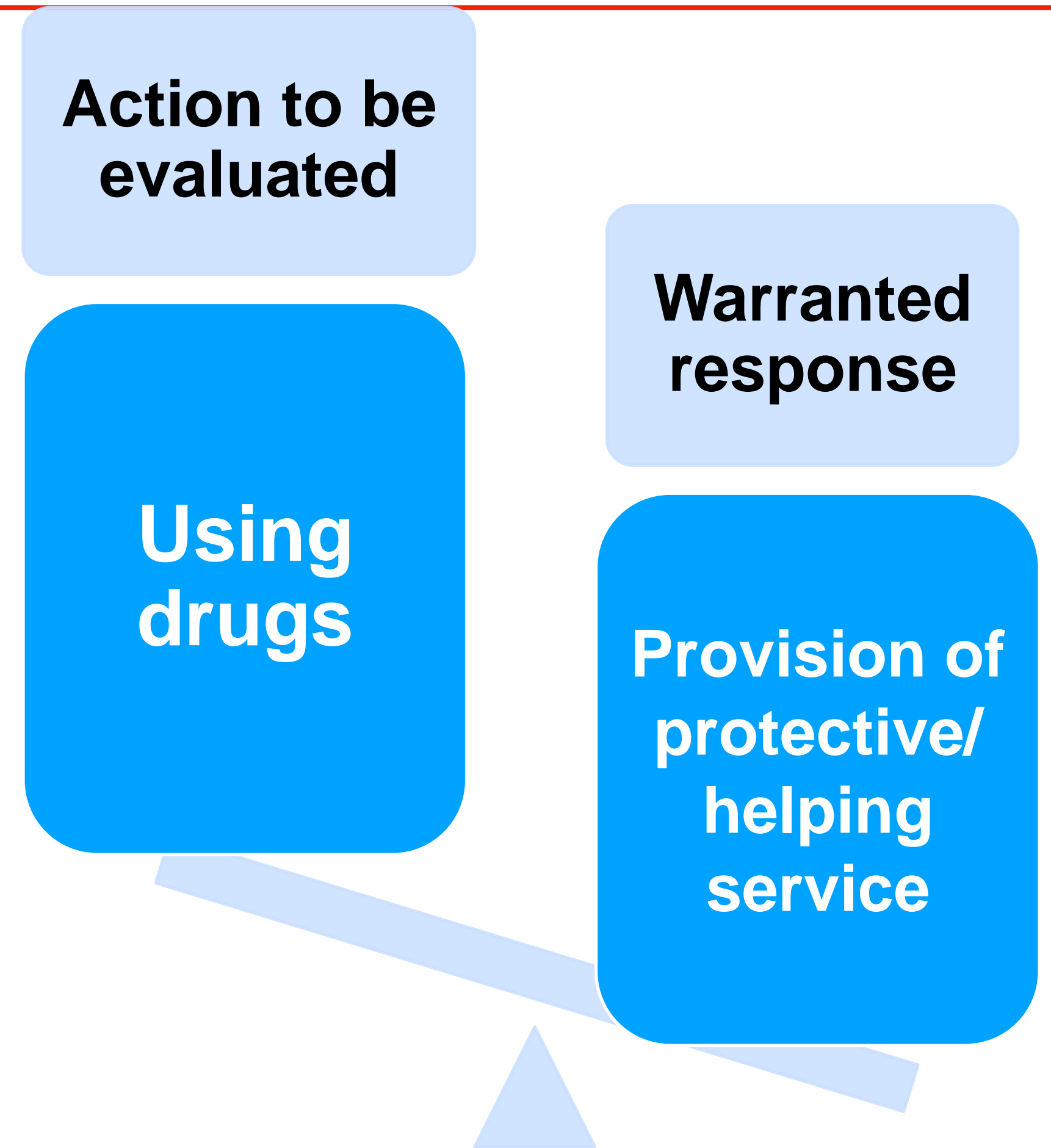
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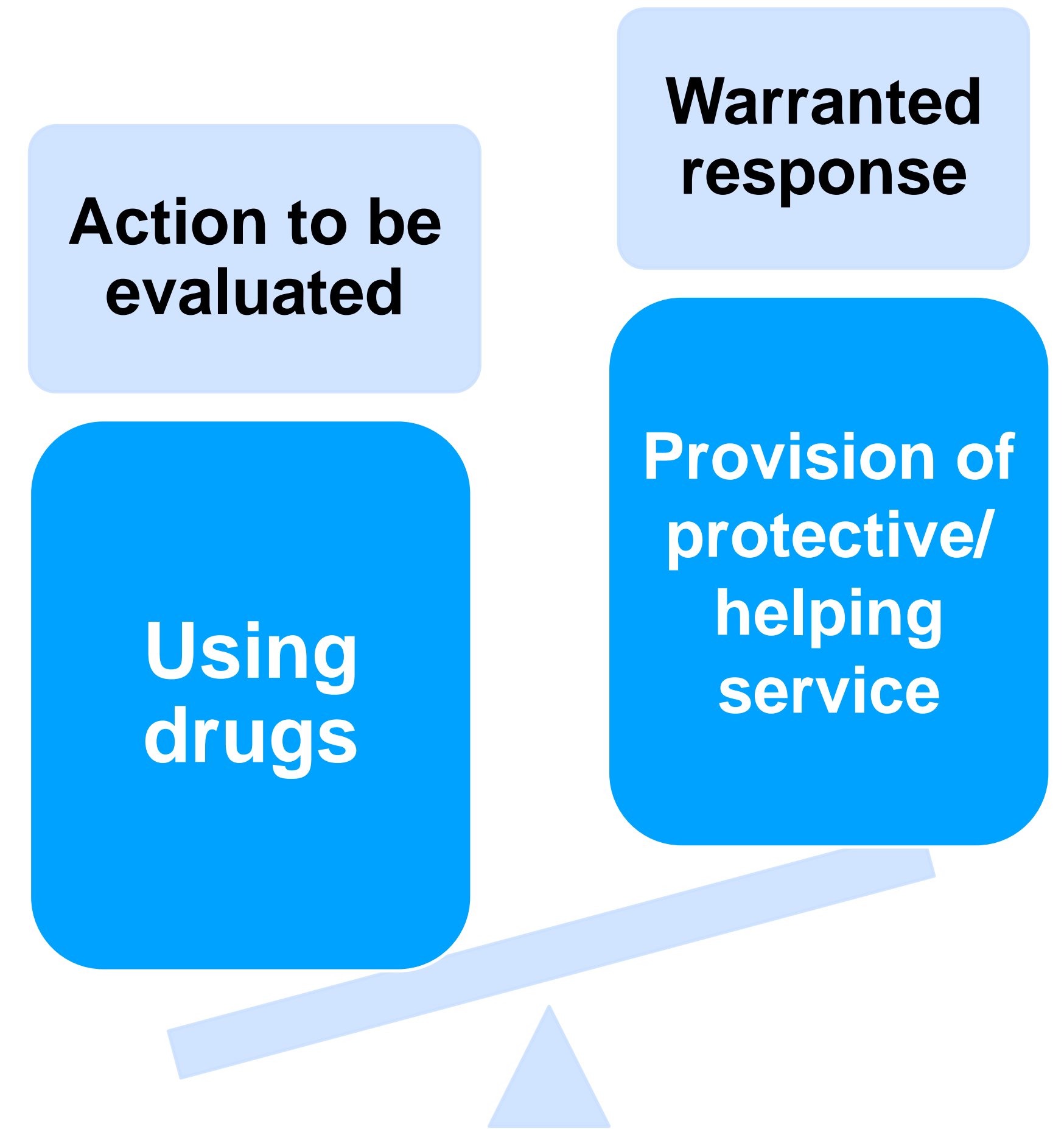
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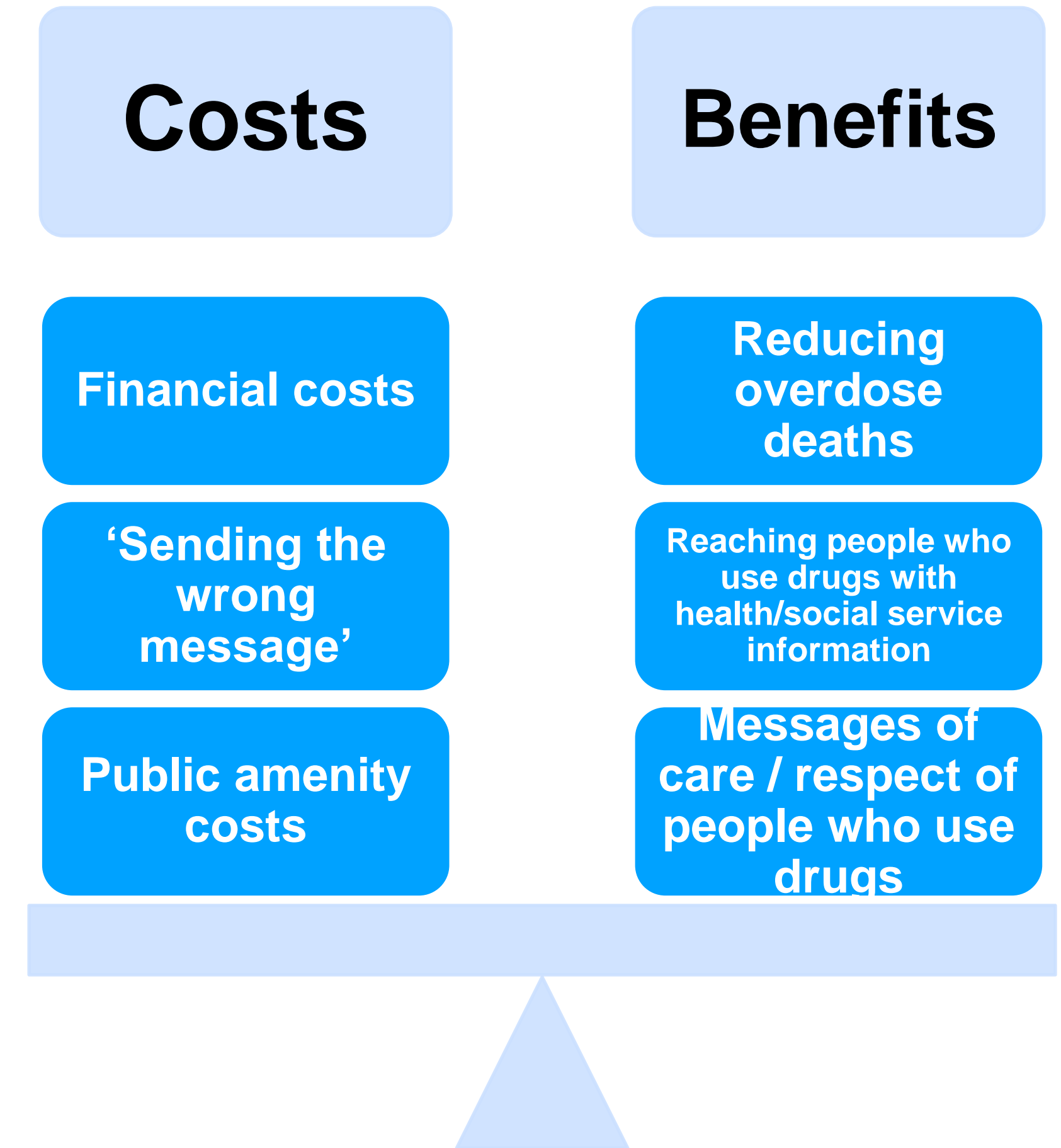
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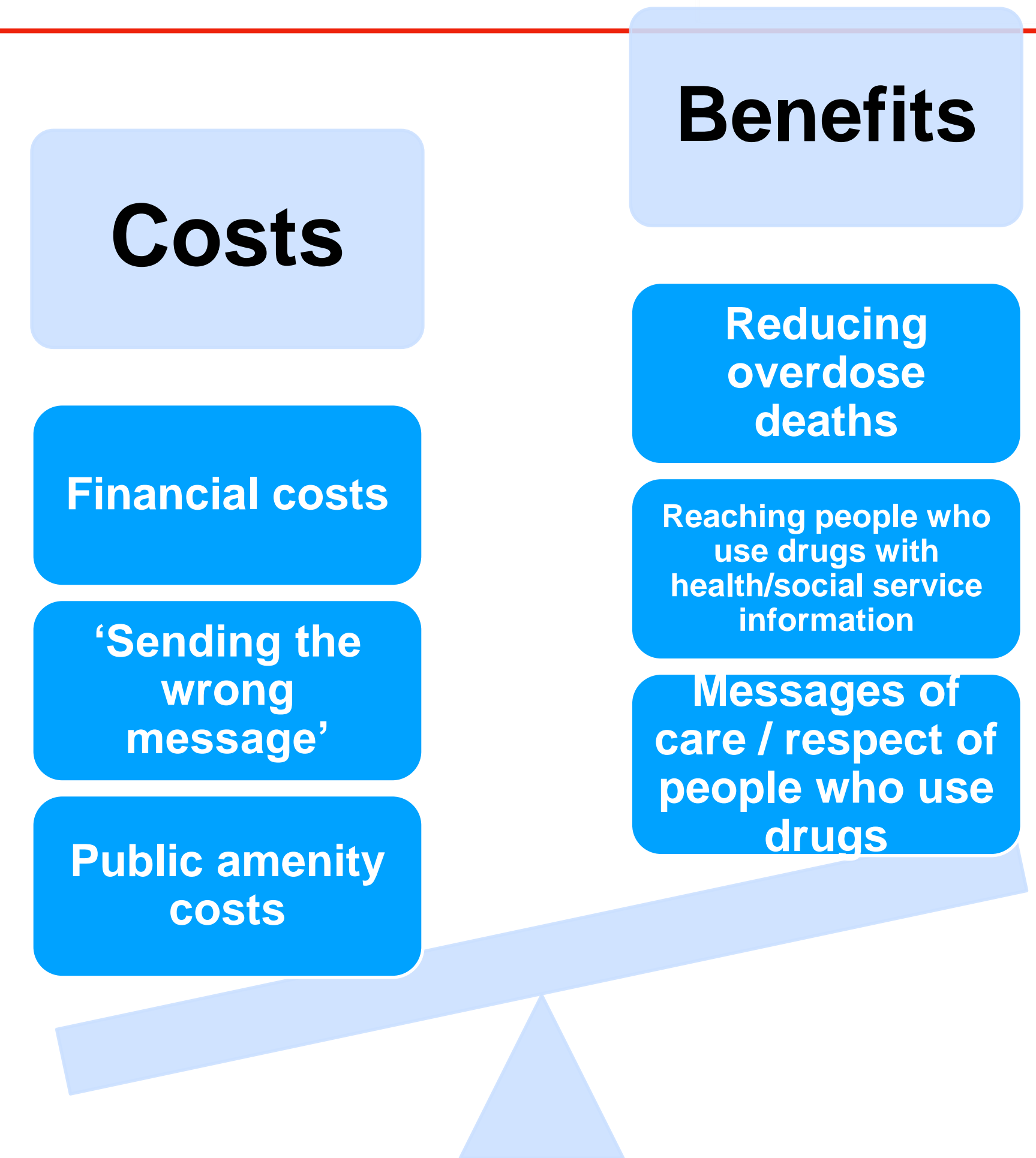
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- The proportionality approach provides:
 - ▶ a method for ethical assessment of drug policies, when combined with particular normative commitments or value judgements
 - ▶ a way to push for clarification of moral assumptions affecting policy thinking
 - ▶ A way to clarify when assumptions derive from the moralised status of drug use rather than robust ethical debate