

# Editor's Introduction

## Debating the Legalization of Drugs

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**Public concern over the use and abuse** of illegal drugs has been critical throughout the 1980s. Regardless of political affiliation and ideology, socioeconomic status and ethnicity, or geographical and occupational location, most Americans continually rank "drugs" among the major problems facing the nation. During the closing years of the 1980s, furthermore, both politicians and the public at large have been examining American drug policy, pondering its problematic effectiveness, and considering alternatives. New "solutions" have been advocated, ranging from a mandatory death penalty for anyone convicted of selling or trafficking in drugs, to broad legalization of all drugs of abuse.

Within the context of these concerns, assessments, and proposals, it is the intention of this opening commentary to review briefly American drug policy, consider the evidence of its impact and effectiveness, and to present the backdrop for the legalization of drugs debate.

### THE AMERICAN DRUG SCENE

The American drug scene evolved within the broader context of the historical relationship between people and the psychoactive organic compounds in their immediate environments. Historians and archaeologists have noted that the use of alcohol is for the most part a human cultural universal. The chewing of coca and other psychoactive plants has existed in many societies for millennia. Marijuana and the opium poppy are indigenous to several regions of the world and have been used as intoxicants and in rituals likely since prehistoric times. The explosion of world trade following the European discovery of America brought

local psychoactive plants—from tobacco and marijuana, coca and the opium poppy, and related techniques of distillation, refining, and crossbreeding—to the attention of world consumers. The American drug experience emerged, evolved, and endured within the framework of this worldwide trafficking of what were originally local psychopharmacological agents.<sup>1</sup>

It began with the widespread use of opium in home remedies and over-the-counter patent medicines during the latter part of the eighteenth century, followed by the discovery of morphine, cocaine, heroin, and the hypodermic needle during the ensuing 100-year period. By 1905 there were more than 28,000 pharmaceuticals containing psychoactive drugs readily available throughout the nation, sold in an unrestricted manner by physicians, over-the-counter from apothecaries, grocers, postmasters, and printers, from the tailgates of medicine show wagons as they traveled throughout rural and urban America, and through the mails from newspaper advertisements and catalog sales (Young, 1961: 19-23). Although little data are available as to the number of people dependent on opiates and cocaine during these years, estimates of the addict population at the close of the nineteenth century ranged as high as 3 million (Terry and Pellens, 1928: 1-20; Morgan, 1974). Regardless of the accuracy of the estimates, addiction had become so visible and widespread that the medical community, the media, and the public at large called for government restrictions on the availability of drugs.

With the passage of the Pure Food and Drug Act in 1906, the Harrison Narcotics Act in 1914, and subsequent federal and state legislation combined with the social and economic upheavals of the Great Depression and World War II, as the United States approached midcentury drug abuse had significantly receded. During the postwar era of expanded world trade, economic growth, and increased urbanization, however, the drug problem grew apace. In the 1950s heroin addiction emerged in the inner cities at epidemic levels, particularly among youth. In the 1960s drug abuse expanded from the cities to suburbia. As part of the social revolution of the decade, adolescents and young adults began to *tune in*, *turn on*, and *drop out* through a whole new catalog of drugs—marijuana, hashish, and LSD, plus newly synthesized prescription analgesics, stimulants, and sedatives. By the 1970s the psychedelic revolution of the previous decade had run its course, but the heroin epidemic had endured, marijuana consumption continued to increase, cocaine reentered the drug scene after its half century sojourn in the netherworlds of vice and the *avant garde*, and Quaalude and PCP became prominent as the new drugs of the moment.

And here in the 1980s most of the old drugs have remained prominent, while new entries—designer drugs, ecstasy, and crack—have staked out positions.

## FIGHTING THE “WAR ON DRUGS”

Since the passage of the Harrison Act in 1914, the federal approach to drug abuse control has included a variety of avenues for reducing both the supply of, and the demand for, illicit drugs. At first, the supply-and-demand reduction strategies were grounded in the classic deterrence model: Through legislation and criminal penalties, individuals would be discouraged from using drugs; by setting an example of traffickers, the government could force potential dealers to seek out other economic pursuits. In time, other components were added: treatment for the user, education and prevention for the would-be user, and research to determine how to best develop and implement plans for enforcement, treatment, education, and prevention.

By the early 1970s, when it appeared that the war on drugs was winning few, if any, battles, new avenues for supply and demand reduction were added. There were the federal interdiction initiatives: Coast Guard, Customs, and Drug Enforcement Administration operatives were charged with intercepting drug shipments coming to the United States from foreign ports; in the international sector there were attempts to eradicate drug-yielding crops at their source. On the surface, none of these strategies seemed to have much effect, and illicit drug use continued to spread.

The problems were many. Legislation and enforcement alone were not enough, and early education programs of the “scare” variety quickly lost their credibility. For social scientists, clinicians, and others who were watching the drug scene closely, treating drug abuse as a medical problem seemed to be the logical answer. The difficulty there, however, was that, for the most part, a medical model of treatment had been structured around a belief in some curious yet poorly defined “addiction-prone personality”—a deep-rooted personality disorder characteristic of everyone suffering from addiction. However, all drug abusers are *not* the same. The result was high program failure rates, regardless of the method of treatment (Glasscote et al., 1972; Burt et al., 1979; Brown, 1979).

Given the perceived inadequacy of the traditional approaches to drug-abuse control, during the late 1970s federal authorities began

drawing plans for a more concerted assault on drugs, both legislative and technological. It began with the RICO (Racketeer-Influenced and Corrupt Organizations) and CCE (Continuing Criminal Enterprise) statutes. What RICO and CCE accomplish is the forfeiture of the fruits of criminal activities (Dombrink and Meeker, 1986). Their intent is to eliminate the rights of traffickers to their personal assets, whether these be cash, bank accounts, real estate, automobiles, jewelry and art, equity in businesses, directorships in companies, or any kind of goods or entitlements that are obtained in or used for a criminal enterprise.

Added to the perceived strength offered by RICO and CCE was a new extradition treaty between the United States and the Republic of Colombia, signed on September 14, 1979, and entered into force on March 4, 1982 (Committee on Foreign Relations, 1981). The treaty was notable in that it added to the list of extraditable crimes a whole variety of offenses related to drug trafficking, aircraft hijacking, obstruction of justice, and bribery. In addition, Article 8 of the treaty was a considerable innovation in international affairs in that it imposed an obligation on the government of Colombia to extradite all persons, including its nationals, when the offense was a punishable act in both countries and was intended to be consummated in the United States (e.g., the export of cocaine and/or marijuana into the U.S. from Colombia by Colombian citizens).

The new, evolving federal drug strategy considered it crucial to include the U.S. military in its war on drugs, but to do so something then had to be done about the Posse Comitatus Act, originally passed by the Forty-fifth Congress on June 18, 1878. The act had been a response to post-Civil War reconstruction policies that permitted U.S. marshals in occupied southern states to call upon federal troops to enforce local laws. It had been the goal of southern congressmen to prevent such a practice, and the Posse Comitatus Act accomplished exactly that. It prohibited the army (and eventually other branches of the military) from enforcing federal, state, and local civilian law, and from supplementing the efforts of civilian law-enforcement agencies (U.S. Statutes at Large, 1877-1879). But the Posse Comitatus Act was never a constitutionally mandated statute. In fact, its very wording permitted the assistance of the military if specifically authorized by an act of Congress.<sup>2</sup> As a result, when President Reagan signed the Department of Defense Authorization Act of 1982 into law, it included several amendments to the century-old Posse Comitatus Act. Although military personnel were still prohibited from physically intercepting suspected drug vessels and aircraft, conducting searches and seizures, and making

arrests, the entire war chest of U.S. military power did become available to law enforcement—for training, intelligence gathering, and detection. Moreover, members of the U.S. Army, Navy, Air Force, and Marine Corps could operate military equipment for civilian agencies charged with the enforcement of the drug laws (U.S. General Accounting Office, 1987a; Morrison, 1986; Zimmerman, 1982).

Beginning in 1982, the war on drugs had a new look. Put into force was the Bell 209 assault helicopter, more popularly known as the “Cobra.” There was none in the military arsenal that was faster, and in its gunship mode it could destroy a tank. There was the navy’s EC-2 and the air force’s AWACS—“eye-in-the-sky” aircraft equipped with radar disks capable of detecting other aircraft from hundreds of miles away. There were “Fat Albert” and his pals—surveillance balloons 175 feet in length equipped with sophisticated radar and listening devices. Fat Albert could not only pick up communications from Cuba and Soviet satellites, but could also detect traffic in Smugglers’ Alley, a wide band of Caribbean sky that is virtually invisible to land-based radar systems. There were NASA satellites to spy on drug operations as far apart as California and Colombia, airborne infrared sensing and imaging equipment that could detect human body heat in the thickest underbrush of Florida’s Everglades, plus a host of other high-technology devices. The U.S. Coast Guard also strengthened its equipment and U.S. Customs put Blue Thunder into service, a vessel specifically designed to outrun the high-performance speedboats that drug traffickers use in Florida waters. A 39-foot catamaran with 900 horsepower, Blue Thunder could cut through six-foot seas at speeds better than 60 mph. In all, drug enforcement appeared well-equipped for battle.<sup>3</sup>

The final component added to the drug war armamentarium was “zero-tolerance,” a 1988 White House antidrug policy that was never clearly articulated in the national media. It would appear that zero-tolerance is based on a number of premises: (1) that if there were no drug abusers there would be no drug problem, (2) that the market for drugs is created not only by availability, but also by demand, (3) that drug abuse starts with a willful act, (4) that the perception that drug users are powerless to act against the influences of drug availability and peer pressure is an erroneous one, (5) that most illegal drug users can choose to stop their drug-taking behaviors and must be held accountable if they do not, (6) that individual freedom does not include the right to self and societal destruction, and (7) that public tolerance for drug abuse must be reduced to zero (*Drug Abuse Report*, April 19, 1988: 6; *Drug Abuse Report*, May 3, 1988: 1-3; U.S. Department of Transportation, 1988).

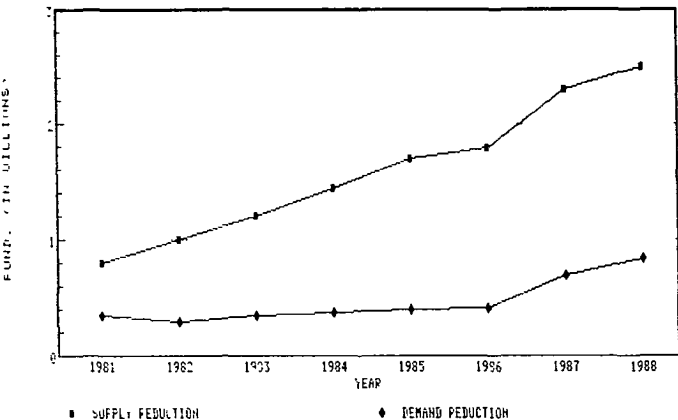


Figure 1: Federal Drug Control Strategies

## ASSESSING THE IMPACT OF AMERICAN DRUG POLICY

By 1988 it had long since been decided by numerous observers that the 74 years of federal prohibition since the passage of the Harrison Act of 1914 were not only a costly and abject failure, but a totally doomed effort as well. It was argued that drug laws and drug enforcement had served mainly to create enormous profits for drug dealers and traffickers, overcrowded jails, police and other government corruption, a distorted foreign policy, predatory street crime carried on by users in search of the funds necessary to purchase black market drugs, and urban areas harassed by street-level drug dealers and terrorized by violent drug gangs (Wisotsky, 1986; Trebach, 1987; Kraar, 1988; McBride et al., 1986; Rosenbaum, 1987; *Newsweek*, March 28, 1988: 20-29; *Miami Herald Neighbors*, April 24, 1988: 21-25; *New York Times*, March 20, 1988: E9; *Time*, March 7, 1988: 24).

Much of what these observers were remarking about indeed has been the case. To begin with, expenditures for the war on drugs have been considerable. As indicated in Figure 1, for example, federal disbursements for supply and demand reduction from 1981 through 1988 totaled some \$15.5 billion.<sup>4</sup> These figures, furthermore, do not include the many

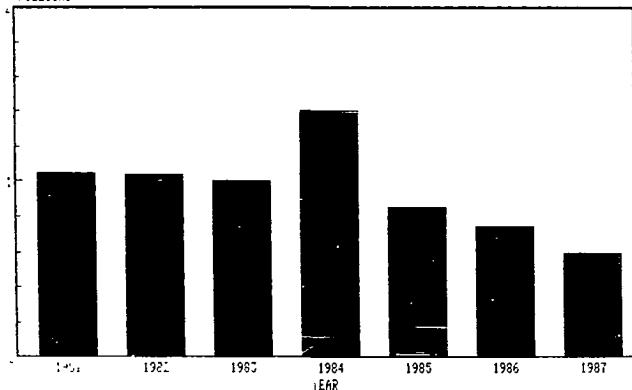


Figure 2: Marijuana and Hashish Confiscations

more billions spent by state and local governments on law enforcement and other criminal justice system costs, and on prevention, education, treatment, and research.

On the positive side of the equation, interdiction initiatives resulted in a somewhat impressive set of figures. As indicated in Figures 2 and 3, for example, from 1981 through 1987 some 5.3 million kilograms of marijuana have been seized. And even more importantly, cocaine seizures have increased dramatically, from 2,000 kilograms in 1981 to 36,000 in 1987 (*New York Times*, April 11, 1988: A12).

Yet there is a negative side to the equation as well. Customs, Coast Guard, and Drug Enforcement Administration (DEA) officials have readily admitted that these seizures likely reflect only 10% of the marijuana and cocaine entering the country (U.S. General Accounting Office, 1987b). Furthermore, DEA figures indicate that despite the seizures and increased expenditures on interdiction, the growing supply of cocaine in the United States has resulted in increased availability and a dramatic decline in price. In 1982, the national wholesale price of a kilogram of cocaine hydrochloride ranged from \$47,000 to \$70,000. By mid-1988, the national price ranged from \$10,000 to \$38,000 per kilogram (Renfrey, 1988). To further complicate the picture, the purity of cocaine has increased dramatically over this period.

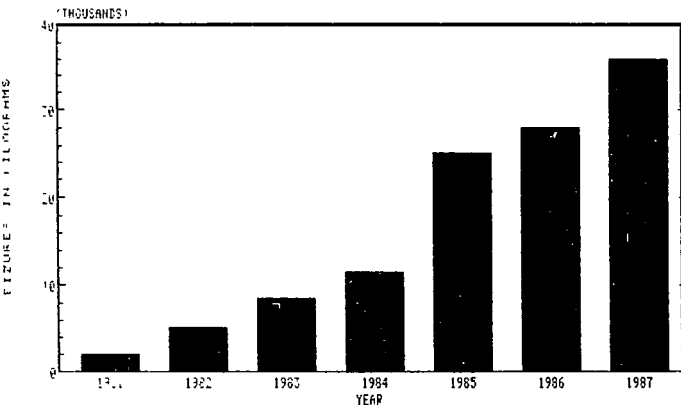


Figure 3 Cocaine Confiscations

Intimidating as well for the war on drugs has been the fact that in recent years worldwide production of both marijuana and opium has increased (U.S. Department of State, 1988). To this can be added the problem that many countries seem to be unable, or unwilling, to take a stand against major drug traffickers. The extradition of Colombian trafficker Carlos Lehder Rivas to stand trial in the United States was hailed as a courageous act when it occurred in 1987, but the subsequent intimidation of the Colombian justice system by traffickers and the de facto nullification of the extradition treaty between the United States and the Republic of Colombia set back international efforts to curtail drug distribution significantly.<sup>5</sup> And there have been other problems: the continued use of illegal drugs, with many cities seemingly overwhelmed with *crack*-cocaine; violence in the inner cities and elsewhere, as drug trafficking gangs compete for distribution territories; street crime, committed by users for the sake of supporting their drug habits; and corruption in law enforcement and other branches of government, brought on by the considerable economic opportunities for those involved in drug distribution.

It has been within the context of these problems and concerns that the debate over the legalization of drugs emerged in 1988, and the articles in this special issue of the *American Behavioral Scientist* address the many sides to the issue as well as comment on a variety of policy alternatives.



## NOTES

1. For a history of the drug problem in the United States, see Inciardi (1986: 1-47) and Courtwright (1982). For a review of the archaeological evidence of drug use in antiquity, see Terry and Pellens (1928: 53-60).
2. The Posse Comitatus Act did not, however, prevent the U.S. Coast Guard from intercepting and seizing vessels at sea that were transporting contraband to American ports.
3. For descriptions of the military involvement and the high-technology approaches to drug enforcement, see the *Wall Street Journal*, August 5, 1982: 1, 8; *Newsweek*, August 9, 1982: 14-15; *Motor Boating & Sailing*, September 1982: 46-49, 107-109; *Miami Herald*, January 23, 1983: 11A; *National Law Journal*, February 13, 1984: 1, 27-28; *Time*, May 13, 1985: 27; *New York Times*, June 30, 1985: E4; *Time*, May 30, 1988: 19.
4. Data supplied by the Office of Management and Budget, 1988 costs are estimated.
5. For the most complete account of trafficker intimidation in Colombia, see Castillo (1987). Also, see Eddy et al. (1988).

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