Policy Analysis

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Executive Summary

Prohibition is an awful flop.
We like it.
It can't stop what it's meant to stop.
We like it.
It's left a trail of graft and slime,
It don't prohibit worth a dime,
It's filled our land with vice and crime.
Nevertheless, we're for it.

-- *Franklin P. Adams (1931)*

On Thursday, March 17, 1988, at 10:45 p.m., in the Bronx, Vernia Brown was killed by stray bullets fired in a dispute over illegal drugs.[1] The 19-year-old mother of one was not involved in the dispute, yet her death was a direct consequence of the "war on drugs."

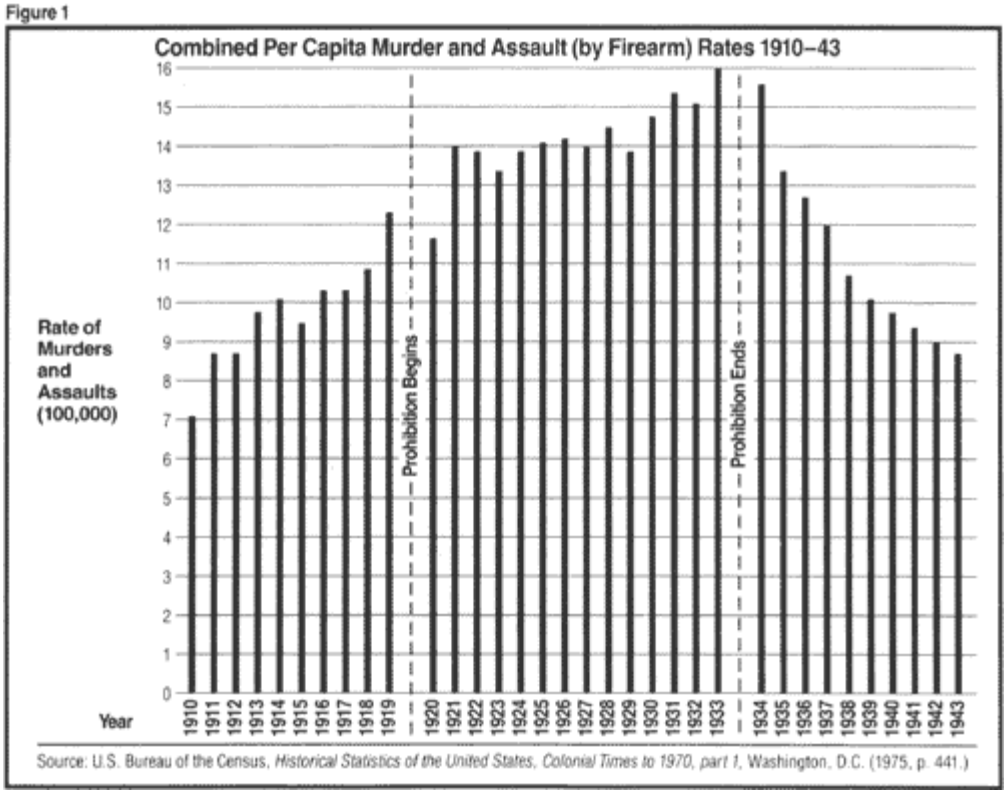
By now, there can be little doubt that most, if not all, "drug-related murders" are the result of drug prohibition. The same type of violence came with the Eighteenth Amendment's ban of alcohol in 1920. The murder rate rose with the start of Prohibition, remained high during Prohibition, and then declined for 11 consecutive years when Prohibition ended.[2] The rate of assaults with a firearm rose with Prohibition and declined for 10 consecutive years after Prohibition. In the last year of Prohibition--1933--there were 12,124 homicides and 7,863 assaults with firearms; by 1941 these figures had declined to 8,048 and 4,525, respectively.[3] (See Figure 1.)

Vernia Brown died because of the policy of drug prohibition.[4] If, then, her death is a "cost" of that policy, what did the "expenditure" of her life "buy"? What benefits has society derived from the policy of prohibition that led to her death? To find the answer, I turned to the experts and to the supporters of drug prohibition.

In 1988, I wrote to Vice President George Bush, then head of the South Florida Drug Task Force; to Education Secretary William Bennett; to Assistant Secretary of State for Drug Policy Ann Wrobleski; to White House drug policy adviser Dr. Donald I. McDonald; and to the public information directors of the Federal Bureau of Investigation, Drug Enforcement Administration, General Accounting Office, National Institute of Justice, and National Institute on Drug Abuse. None of these officials was able to cite any study that demonstrated the beneficial effects of drug prohibition when weighed against its costs.[5] The leaders of the war on drugs are apparently unable to defend on rational cost-benefit grounds their 70-year-old policy, which costs nearly $10 billion per year (out of pocket), imprisons 75,000 Americans, and fills our cities with violent crime. It would seem that Vernia Brown and many others like her have died

for nothing.

Figure 1



Source: U S Bureau of the Census, Historical Statistics of the United States, Colonial Times to 1970, part 1, Washington, D C. (1975, p. 441.)

Some supporters of drug prohibition claim that its benefits are undeniable and self-evident. Their main assumption is that without prohibition drug use would skyrocket, with disastrous results. But there is little evidence for this commonly held belief. In fact, in the few cases where empirical evidence does exist it lends little support to the prediction of soaring drug use. For example, in two places in the Western world where use of small amounts of marijuana is legal--the Netherlands and Alaska--the rate of marijuana consumption is arguably lower than in the continental United States, where marijuana is banned. In 1982, 6.3 percent of American high school seniors smoked marijuana daily, but only 4 percent did so in Alaska. In 1985, 5.5 percent of American high school seniors used marijuana daily, but in the Netherlands the rate was only 0.5 percent.[6] These are hardly controlled comparisons--no such comparisons exist--but the numbers that are available do not bear out the drastic scenario portrayed by supporters of continued prohibition.

Finally, there is at least some evidence that the "forbidden fruit" aspect of prohibition may lead to increased use of or experimentation with drugs, particularly among the young. This phenomenon apparently occurred with marijuana, LSD, toluene-based glue, and other drugs.[7] The case for legalization does not rely on this argument, but those who believe prohibition needs no defense cannot simply dismiss it.

History of Prohibition

If the value of drug prohibition is not self-evident,one might ask why it was put into effect in the first place.Drugs in one form or another were in effect legal for thousands of years before the Harrison Act of 1914, but the period of greatest availability in the United States was the 19th century. For most of the century, opium, morphine, and cocaine were legally and cheaply available without a prescription at drugstores and grocery stores and through the mail.[8] And yet, far from being marked by drug-crazed criminals and drug-paralyzed workers, that period was a time of unprecedented economic growth and productivity.

Regarding the impact of pre-prohibition drug use in theUnited States:

> *There was very little popular support for a law banning [narcotics]. "Powerful organizations for the suppression of alcoholic stimulants exist throughout the land" [citation omitted], but there were no similar anti-opiate organizations. The reason for this lack of demand for opiate prohibition is simple: the drugs were not viewed as a menace to society and . . . they were not in fact a menace.[9]*

The situation in l9th-century England was remarkably similar:

> *Consumption under conditions of free supply in effect plateaued out. . . . Incapacity from use of opium was not seen as a problem of such frequency and severity as to be a leading cause for social anxiety.The prime image of the opium user was dissimilar to that of the wastrel and disruptive drunkard. Opium users were not lying about in the streets, or filling the workhouses, or beating their wives. It seems fair to conclude that at the saturation level which the plateau represented, opium was not a vastly malign or problematic drug in terms of its impact on social functioning.[10]*

If there was no catastrophic drug problem before prohibition, why then was the Harrison Act enacted? In 1926, after11 years of narcotics prohibition, an editorial in the Illinois Medical Journal stated:

> The Harrison Narcotic law should never have been placed upon the statute books of the United States. It is to be granted that the well-meaning blunderers who put it there had in mind only the idea of making it impossible for addicts to secure their supply of "dope" and to prevent unprincipled people from making fortunes, and fattening themselves upon the infirmities of their fellow men. As is the case with most prohibitive laws, however, this one fell far short of the mark.So far, in fact, that instead of stopping the traffic, those who deal in dope now make double their money from the poor unfortunates upon whom they prey. . . .The doctor who needs narcotics, used in reason to cure and allay human misery, finds himself in a pit of trouble. The lawbreaker is in fact in clover. .. . It is costing the United States more to support bootleggers of both narcotics and alcoholics than there is good coming from the farcical laws now on the statute books.As to the Harrison Narcotic law . . . people are beginning to ask, "Who did that, anyway? "[11]

The most important "who" was Secretary of State William Jennings Bryan:

> A man of deep prohibitionist and missionary convictions and sympathies, he urged that the law be promptly passed to fulfill United States obligations under the new international [drug control] treaty. The supporters of the Harrison bill . . . said little about the evils of narcotics addiction in the United States. They talked more about the need to implement the Hague Convention of 1912. . . .Far from appearing to be a prohibition law, the Harrison Narcotics Act on its face was merely a law for the orderly marketing of opium, morphine, heroin, and other drugs--in small quantities over the counter, and in larger quantities on a physician's prescription. . . . It is unlikely that a single legislator realized in 1914 that the law Congress was passing would later be deemed [by the courts] a prohibition law.[12]

Two other reasons for the passage of the Harrison Act were the association of opium and its derivatives with the scorned minority of Chinese Americans,[13] and the lobbying of physicians and pharmacists eager to gain a legal monopoly over distribution of the prescribed drugs.[14]

As for marijuana, when it was banned in 1937, no medical testimony was presented to Congress.[15] Drug prohibition was thus not based upon even a semblance of analysis and research.

The Current Crisis of Drug Prohibition

Several recent events have dramatized the failures and costly side effects of the war on drugs: a woman sitting in her kitchen in Washington, D.C., is killed by a stray bullet from a drug dealers' shootout. A policeman guarding a witness in a drug case is brutally executed in Queens. In Los Angeles, drug-related gang warfare breaks out. General Manuel Noriega engineers a coup d'etat in Panama after he is accused of being one of history's great drug dealers. Colombia's courts refuse to extradite major drug dealers to the United States, and its attorney general is brazenly murdered by the Columbian drug cartel. An update of the Kerner Report concludes that the economic status of blacks relative to whites

has not improved in 20 years--in part because many blacks are trapped in drug crime-infested inner cities, where economic progress is slow.

In spite of the greatest anti-drug enforcement effort inU.S. history, the drug problem is worse than ever. What should be done now? Get tougher in the war on drugs? Imprison middleclass drug users? Use the military? Impose the death penalty for drug dealing? Shoot down unmarked planes entering the United States?

The status quo is intolerable--everyone agrees on that. But there are only two alternatives: further escalate the war on drugs, or legalize them. Once the public grasps the consequences of escalation, legalization may win out by default.

Escalating the war on drugs is doomed to fail, as it did under President Richard M. Nixon, Gov. Nelson A. Rockefeller,and President Ronald Reagan.[16] It is confronted by a host of seemingly intractable problems: lack of funds, lack of prison space, lack of political will to put middle-class users in jail, and the sheer impossibility of preventing consenting adults in a free society from engaging in extremely profitable transactions involving tiny amounts of illegal drugs.

But none of these factors ultimately explains why escalating the war on drugs would fail. Failure is guaranteed because the black market thrives on the war on drugs and benefits from any intensification of it. At best, increased enforcement simply boosts the black market price of drugs, encouraging more drug suppliers to supply more drugs. The publicized conviction of a drug dealer, by instantly creating a vacancy in the lucrative drug business, has the same effect as hanging up a help-wanted sign saying, "Drug dealer needed--$5,000 a week to start--exciting work."

Furthermore, there is a real danger that escalating the war on drugs would squander much of the nation's wealth and freedom, causing enormous social disruption. No limit is yet in sight to the amount of money and new enforcement powers that committed advocates of prohibition will demand before giving up on prohibition.

It is instructive to note the parallel between the current debate over the drug problem and the debate over the alcohol problem in the twenties and thirties. In the earlier debate, one side called for intensified enforcement efforts, while the other called for outright repeal. The prohibitionists won all the battles: Enforcement efforts escalated throughout the duration of Prohibition. Convictions rose from 18,000 in1921 to 61,000 in 1932.[17] Prison terms grew longer and were meted out with greater frequency in the latter years of Prohibition.[18] The enforcement budget rose from $7 million in 1921 to $15 million in 1930.[19] The number of stills seized rose from 32,000 in 1920 to 282,000 in 1930.[20] In 1926, the Senate Judiciary Committee produced a 1,650-page report evaluating enforcement efforts and proposing reforms.[21] In 1927,the Bureau of Prohibition was created to streamline enforcemente fforts, and agents were brought under civil service protection to eliminate corruption and improve professionalism.[22] In1929, the penalties for violating the National Prohibition Act were increased.[23]

Also in 1929, President Hoover appointed a blue-ribbon commission to evaluate enforcement efforts and recommend reforms. The 1931 Wickersham Commission report (satirized in the poem that serves as the epigraph for this paper), while concluding that "there is as yet no adequate observance or enforcement," nevertheless urged that

> appropriations for the enforcement of the Eighteenth Amendment should be substantially increased and that the vigorous and better organized efforts which have gone on since the Bureau of Prohibition Act,1927, should be furthered by certain improvements in the statutes and in the organization, personnel,and equipment of enforcement, so as to give enforcement the greatest practical efficiency.[24]

But the proponents of legalization won the war: In 1933, just two years later, Prohibition was dead. In light of this history, it should not be at all surprising that increasing support for drug legalization is coming at the same time that the war on drugs is intensifying. There is nothing incongruous about a highly respected big-city mayor endorsing legalization at the same time that the first "drug czar" is appointed. Rather, it means that the nation may be ready for a major change in its policy toward drugs.

Fortunately, as the nation's drug problem has worsened in recent years, proposals for legalizing illegal drugs have come more frequently. In December 1986, National Review, President Reagan's favorite magazine, featured two articles sharply critical of the current drug war. Richard Cowan, one of the authors, wrote:

> In his anti-drug speech, President Reagan urged: "Please remember this when your courage is tested: You are Americans. You're the product of the freest society mankind has known. No one--ever--has the right to destroy your dreams and shatter your life."Precisely, Mr. President. And we should remember the same thing when our urine is tested. This tragi-comical, degrading, dehumanizing invasion of private bodily functions is the perfect symbol of drug prohibition, the logical conclusion of the subordination of the individual to a failed policy. We are not going to be drug-free, just unfree.[25]

Supporters of some form of legalization or decriminalization [26] represent all bands of the political spectrum: trial attorney Louis Nizer; economists Thomas Sowell and Milton Friedman; psychiatrist Thomas Szasz; columnists Stephen Chapman,William F. Buckley, Jr., and Richard Cohen; law professors Alan Dershowitz and Randy Barnett; criminologist Ernest vanden Haag; and "20/20" host Hugh Downs, to name a few.[27]

Baltimore mayor Kurt Schmoke kicked the debate into high gear with his April 1988 speech to the U.S. Conference of Mayors urging serious consideration of drug legalization. That same month, New York State Senator Joseph Galiber, a Democrat from the South Bronx, introduced legislation to legalize drugs.[28] In September 1988, the Select Committee on Narcotics, chaired by Rep. Charles Rangel (D-N.Y.), held a two-day hearing on the issue of legalization of drugs.[29]

Legalization has been justified on both philosophical and pragmatic grounds. Some argue that it is no business of government what individuals do with their bodies and minds. Thomas Szasz is the foremost exponent of the libertarian view:

> I believe we have a right to eat, drink, or inject a substance--any substance--not because we are sick and want it to cure us, nor because a government supported medical authority claims it will be good for us, but simply because the government--as our servant rather than our master--hasn't the right to meddle in our private dietary and drug affairs.[30]

This paper takes no position on this important philosophical issue. Rather, it argues on purely practical grounds that drug prohibition has been an extremely costly failure. It challenges advocates of prohibition to rise above the level of platitudes and good intentions and to present hard evidence that prohibition, *in actual practice*, does more good than harm.

This paper does not suggest that legalization would solve the drug problem in its entirety. Legalization is offered as a solution only to the "drug problem problem,"[31] that is, the crime, corruption, and AIDS caused not by the biochemical effects of illegal drugs but by the attempt to fight drug use with the criminal justice system. The repeal of alcohol prohibition provides the appropriate analogy. Repeal did not end alcoholism--as indeed Prohibition did not--but it did solve many of the problems created by Prohibition, such ascorruption, murder, and poisoned alcohol. We can expect no more and no less from drug legalization today.

Defining the Issue

Much of the confusion surrounding drug policy discussions could be alleviated by asking the right question initially.The question that must be addressed in determining whether to legalize drugs is this: Do drug laws do more harm than good?

The focus here is not how dangerous drugs are or how much damage drug users inflict upon themselves. If these factors were decisive, then surely alcohol and tobacco would be banned (see appendix). Rather, the proper focus is how effective drug laws are in preventing damage from drugs, compared with the amount of injury the laws themselves cause.

With this emphasis in mind, the respective burdens of proof resting upon the parties to the debate can now be specified. Supporters of prohibition must demonstrate all of the following:

> (1) that drug use would increase substantially after legalization;

(2) that the harm caused by any increased use would not be offset by the increased safety of legal drug use;

(3) that the harm caused by any increased use would not be offset by a reduction in the use of dangerous drugs that are already legal (e.g., alcohol and tobacco); and

(4) that the harm caused by any increased drug use not offset by (2) or (3) would exceed the harm now caused by the side effects of prohibition (e.g., crime and corruption).

In the absence of data supporting these propositions, neither the theoretical danger of illegal drugs nor their actual harmful effects can be a sufficient basis for prohibition. Neither can the bare fact, if proven, that illegal drug use would rise under legalization.

Prohibitionists face a daunting task--one that no one has yet accomplished or, apparently, even attempted. It might be noted, parenthetically, that a 1984 study by the Research Triangle Institute on the economic costs of drug abuse [32] has been erroneously cited in support of drug prohibition.[33] This report, which estimates the cost of drug abuse at $60 billion for 1983, is not, and was not intended to be, an evaluation of the efficacy of prohibition or the wisdom of legalization. It does not mention the terms "legalization" and"decriminalization" and makes no attempt to separate the costs attributable to drug use per se from the costs attributable to the illegality of drug use. In fact, the study seems to include some costs of *legal* drugs in its estimates.[34] Many of the costs cited are clearly the result of prohibition, for example, interdiction costs ($677 million). Furthermore, the report considers only costs that prohibition has failed to prevent, making no attempt to measure the costs prevented--or caused--by prohibition. In its present form, the study is therefore almost entirely irrelevant to the issue of legalizing drugs.

The case for legalization is sustained if any of the following propositions is true:

(1) prohibition has no substantial impact on the level of illegal drug use;

(2) prohibition increases illegal drug use;

(3) prohibition merely redistributes drug use from illegal drugs to harmful legal drugs; or

(4) even though prohibition might decrease the use of illegal drugs, the negative effects of prohibition outweigh the beneficial effects of reduced illegal drug use.

This paper relies primarily upon point (4) and secondarily upon points (1) and (3). The paper does not rely upon point (2), but Edward Brecher presented much historical evidence for that point in his masterly work *Licit and Illicit Drugs*, coauthored by the editors of *Consumer Reports*.

The Costs of Prohibition

As Thomas Sowell writes, "policies are judged by their consequences, but crusades are judged by how good they make the crusaders feel."[35] So the inquiry must be, do drug laws cause more harm than good?

Street Crime by Drug Users

Drug laws greatly increase the price of illegal drugs, often forcing users to steal to get the money to obtain them. Although difficult to estimate, the black market prices of heroin and cocaine appear to be about 100 times greater than their pharmaceutical prices. For example, a hospital-dispensed dose of morphine (a drug from which heroin is relatively easily derived) costs only pennies; legal cocaine costs about $20 per ounce. It is frequently estimated that at least 40 percent of all property crime in the United States is committed by drug users so that they can maintain their habits.[36] That amounts to about four million crimes per year and $7.5 billion in stolen property.[37]

Supporters of prohibition have traditionally used drug-related crime as a simplistic argument for enforcement: Stop drug use to stop drug-related crime. They have even exaggerated the amount of such crime in the hopes of

demonstrating a need for larger budgets and greater powers. But in recent years,the more astute prohibitionists have noticed that drug-related crime is in fact *drug*-law-related. Thus, in many cases they have begun to argue that even if drugs were legal and thus relatively inexpensive, drug users would still commit crimes simply because they are criminals at heart.

The fact is, while some researchers have questioned the causal connection between illegal drugs and street crime, many studies over a long period have confirmed what every inner-city dweller already knows: Drug users steal to get the money to buy expensive illegal drugs. These studies were reviewed in 1985 in an article entitled "Narcotics and Crime: An Analysis of Existing Evidence for a Causal Relationship."The authors conclude:

> [H]eroin addiction can be shown to dramatically increase property crime levels. . . . A high proportion of addicts' pre-addiction criminality consists of minor and drug offenses, while post addiction criminality is characterized much more by property crime.[38]

Moreover, prohibition also stimulates crime by:

- criminalizing users of illegal drugs, creating disrespect for the law;
- forcing users into daily contact with professional criminals, which often leads to arrest and prison records that make legitimate employment difficult to obtain;
- discouraging legitimate employment because of the need to "hustle" for drug money;
- encouraging young people to become criminals by creating an extremely lucrative blackmarket in drugs;
- destroying, through drug crime, the economic viability of low-income neighborhoods, leaving young people fewer alternatives to working in the black market; and
- removing the settling of drug-related disputes from the legal process, creating a context of violence for the buying and selling of drugs.
- Every property crime committed by a drug user is potentially a violent crime. Many victims are beaten and severely injured, and 1,600 are murdered each year.[39] Last year, a 16-year-old boy murdered 39-year-old Eli Wald of Brooklyn, father of a baby girl, taking $200 to buy crack.[40] Another New York City crack user murdered five people in an eight-day period to get the money to buy crack.[41] The user survived the crack, but his victims did not survive the user.

Black Market Violence

Prohibition also causes what the media and police misname"drug-related violence." This *prohibition-related* violence includes all the random shootings and murders associated with black market drug transactions: ripoffs, eliminating the competition, killing informers, and killing suspected informers.

Those who doubt that prohibition is responsible for this violence need only note the absence of violence in the legal drug market. For example, there is no violence associated with the production, distribution, and sale of alcohol. Such violence was ended by the repeal of Prohibition.

The President's Commission on Organized Crime estimates a total of about 70 drug-market murders yearly in Miami alone. Based on that figure and FBI data, a reasonable nationwide estimate would be at least 750 such murders each year.[42] Recent estimates from New York and Washington would suggest an even higher figure.

About 10 law enforcement officers are killed enforcing drug laws each year. In New York City, 5 officers were killed in 1988. These men--Robert Venable, Edward Byrne, John F.McKormick, Christopher Hoban, and Michael Buczek--were also victims of drug prohibition.

Do Drugs Cause Crime?

It is often thought that illegal drugs cause crime through their biochemical effects on the mind. In fact, marijuana laws were originally justified on that basis. Today, the notion that marijuana causes crime "is no longer taken seriously by even the most ardent [anti-]marijuana propagandists."[43] Regarding heroin:

> There is no doubt that heroin use in and of itself. . . is a neutral act in terms of its potential criminogenic effect upon an individual's behavior.. . . There is nothing in the pharmacology, or physical or psychological impact, of the drug that propels a user to crime.[44]

Cocaine, like other stimulants such as nicotine and caffeine, can stimulate aggressive behavior. However,

> personality and setting as usual make all the difference. . . . Jared Tinkelberg, commenting on a DEA study and in general on the relation between cocaine and violence, expresses some surprise that it seems to produce "amphetamine-like paranoid assaultiveness" so seldom and concludes that at present it is not a serious crime problem. . . . Most violence in the illicit cocaine trade, like the violence in the illicit heroin traffic today and in the alcohol business during Prohibition, is of course not necessarily related to the psycho-pharmacological properties of the drug. Al Capone did not order murders because he was drunk, and the cocaine dealer "Jimmy" does not threaten his debtors or fear the police because of cocaine-induced paranoia.[45]

When the New York City Police Department announced that 38 percent of murders in the city in 1987 were "drug-related," Deputy Chief Raymond W. Kelly explained:

> When we say drug-related, we're essentially talking about territorial disputes or disputes over possession. . . . We're not talking about where somebody is deranged because they're on a drug. It's very difficult to measure that.[46]

Drugs Made More Dangerous

Because there is no quality control in the black market, prohibition also kills by making drug use more dangerous. Illegal drugs contain poisons, are of uncertain potency, and are injected with dirty needles. Many deaths are caused by infections, accidental overdoses, and poisoning.

At least 3,500 people will die from AIDS each year from using unsterile needles, a greater number than the combined death toll from cocaine and heroin.[47] These casualties include the sexual partners and children of intravenous drug users. Drug-related AIDS is almost exclusively the result of drug prohibition. Users inject drugs rather than taking them in tablet form because tablets are expensive; they go to"shooting galleries" to avoid arrests for possessing drugs and needles; and they share needles because needles are illegal and thus difficult to obtain. In Hong Kong, where needles are legal, there are no cases of drug-related AIDS.[48] Legalization would fight AIDS in three ways:

- by making clean needles cheaply available;
- by making drugs in tablet form less expensive; and
- by helping to break up the drug subculture, withits "shooting galleries" and needle-sharing.

As many as 2,400 of the 3,000 deaths attributed to heroin and cocaine use each year--80 percent--are actually caused by black market factors.[49] For example, many heroin deaths are caused by an allergic reaction to the street mixture of the drug,[50] while 30 percent are caused by infections.[51]

The attempt to protect users from themselves has backfired,as it did during Prohibition. The drug laws have succeeded only in making drug use much more dangerous and in driving it underground, out of the reach of moderating social and medical influences. As indicated in Table 1, drug prohibition causes at least 8,250 deaths each year.[52]

Table 1
Annual Deaths Caused by Drug Prohibition

Murders incident to street crime	1600
Black market murders	750
Drug-related AIDS	3,500
Poisoned drugs/no quality control	2,400

Total	8,250

A point that is implicit throughout this paper should be made explicit here: The users themselves do not benefit from prohibition. Rather, they die of overdoses caused by the uncertain quality of illegal drugs, and of AIDS contracted through dirty needles. They are murdered in remarkable numbers while buying or selling drugs. They are led into a criminal lifestyle by the need to raise large sums of money quickly, and must associate with professional criminals to secure a drug supply. Many users have long records of convictions for drug offenses, making it difficult for them to secure legitimate employment. As Randy Barnett notes, "It is difficult to overestimate the harm caused by forcing drug users into a life of crime. Once this threshold is crossed, there is often no return."[53]

And yet, isn't the point of drug prohibition the salvaging of those who, for whatever reasons, are unable to resist the lure of drugs? The 250,000 users infected with AIDS are a grim reminder of the failure of prohibition to do so.[54]

Economic Impact of Prohibition

What about the economic impact of prohibition? First,take a common estimate of annual black market drug sales--$80 billion.[55] Because the black market price of drugs is in-flated at the very least 10-fold over what the legal price would likely be, 90 percent of this figure, or about $70 billion,constitutes an economic loss caused by prohibition. That is, the drug user (and his dependents) is deprived of the purchasing power of 90 percent of the money he spends on illegal drugs without any *net* benefit accruing to the economy as a whole.[56]

The added expenditure by the drug user under prohibition pays for the dramatically increased costs of producing and selling illegal drugs. Large amounts of land, labor, and capital, not required in the legal drug market, are utilized in the illegal drug market. The high prices drug users pay for illegal drugs compensate drug dealers for their expenditure of these resources, as well as for the risk of violence and imprisonment drug dealers face.

The economic loss to drug users is evident in such phenomena as wealthy users squandering hundreds of thousands of dollars on drugs, middle-class users losing their houses and cars to drug expenditures, and poor users going without food or shelter because the bulk of their funds is spent on expensive illegal drugs. One crack user described how she financed her habit as follows: "I sold my car. I sold my daughter's bedroom set. The living room set. The rugs. The refrigerator. The washing machine."[57]

Ironically, the economic loss to drug users under prohibition is frequently cited as a justification for prohibition. But this harm is a major cost of prohibition, to be held against it in the debate over legalization.

The total cost of drug-related law enforcement--courts, police, prisons, on all levels of government--is about $10 billion each year.[58] In a sense, each dollar spent on drug enforcement yields seven dollars in economic *loss*. That is, prohibition takes $10 billion from taxpayers and uses it to raise $80 billion for organized crime and drug dealers, impoverishing many drug users in the process. To pay for expensive black market drugs, poor users then victimize the taxpayers again by stealing $7.5 billion from them. All told, the economic cost of prohibition is about $80 billion each year.

But even this $80 billion figure does not include a number of other negative economic consequences of prohibition that are difficult to estimate. These include

- the lost productivity of those who die as a result of prohibition;
- the lost productivity of those in prison on drug convictions and of drug users who must "hustle" all day to pay for their drugs;[59]
- the costs imposed by organized crime activities funded by drug profits;
- government and private funds spent on prohibition-created illnesses such as AIDS, hepatitis, and accidental overdose; and the funds spent on private security to fight drug-related crime.

Another difficult-to-measure economic cost of prohibition merits special mention: the negative impact of prohibition on the economic viability of inner cities and their inhabitants. Prohibition-related violence and property crime raise

costs, make loans and insurance difficult or impossible to secure, and make it difficult to attract skilled workers. Prohibition lures some workers away from legitimate businesses and into the black market, where salaries are astronomically higher. As long as a black market in illegal drugs thrives in the inner cities, it is difficult to see how they can ever become economically viable.

Economic Costs of Drug Use

If prohibition causes at least $80 billion in economic loss each year, what are the economic costs of illegal drug use per se? That is, what costs of drug use would remain even after legalization? The author is unaware of any studies that attempt to directly measure these economic costs. However, an examination of the various components of economic cost indicates that the costs of legal drug use would be less than the costs of legal alcohol and tobacco use.

Crime. As noted above, the biochemical effects of cocaine, heroin, and marijuana in causing violent crime are slight.The drug whose biochemical effects are most closely linked with crime and violence is alcohol.

Accidents. The primary drug associated with accidents is, again, alcohol. Huge numbers of drunk drivers have killed themselves and others on the nation's roads. In a study of 440 fatally injured drivers, "alcohol was by far the drug found most frequently, and the crash responsibility analysis provided evidence of its causal role in crashes," but the role of marijuana and other illegal drugs could not be determined.[60] Heroin was present in very few of the victims. Cocaine, a stimulant, is unlikely to constitute a major accident problem. The Research Triangle Institute study discussed earlier was unable to find evidence that illegal drugs play a major role in causing auto accidents.[61] The point here is not that legalization would have no impact on accidents, but that the impact would likely be far less than that of the already legal drug alcohol.

Health care costs. In the appendix it is argued that tobacco and alcohol are more lethal on a per capita basis than the main illegal drugs. In addition, since the pernicious effects of tobacco and alcohol are primarily chronic and long-term, there can be little doubt that users of these drugs do *and will consume greater health care resources than the users of the illegal drugs.*

Productivity. Some legal drugs, such as caffeine and nicotine, seem to make people more productive. Others, such as alcohol, seem to make them less productive. Many illegal drugs could impair productivity if used on the job. As with alcohol, however, on-the-job use of a drug is no reason to make a drug illegal.

As a general rule, a worker's productivity is visible and measurable. Thus, when productivity falls, the employer can take action, including firing the worker if appropriate.However, the fact that many companies are adopting drug testing suggests that the impact of illegal drug use on the job is not readily apparent. If it is difficult to discern, it is unlikely to be significantly affecting productivity.

Possibly, the key motivation behind drug testing is the prevention of employee theft. Under legalization, which would greatly reduce the retail price of drugs, theft by employees might well decline. Some of the other reasons given for drug testing, such as the desire to reduce health care costs and increase productivity, seem disingenuous. Few companies test for (or ban) off-the-job nicotine use (associated with high health care costs and absenteeism) or alcohol use (associated with lower productivity), even though the Constitution probably does not bar such testing by private employers.

It is remarkable that the Research Triangle Institute study, so often relied upon to demonstrate the negative impact of illegal drugs on productivity, contains so little solid evidence of such an impact. First, the report concedes that "the statistical analysis of the impact of consumption of drugs other than marijuana yielded no significant results relating abuse of the drugs to household income," arguing that the relatively small number of users of other illegal drugs makes statistical analysis difficult.[62]

Second, the study's conclusion that marijuana use causes a $33 billion economic loss each year is highly dubious. According to the study itself,

> The cause and effect relationships among . . . drug abuse, the work environment, and other social factors

> are not clear. . . . [T]he *attitudes, values, and personality traits* which underlie substance abuse behaviors as well as others should be incorporated in future analysis; however, it was not possible with the data sets presently available. . . . The drug abuse study, unlike the study on alcohol abuse, obtained no information about events [that] might have been due to abuse of drugs. Questions were not asked about areas in which abuse of alcohol is known to have an impact such as symptomatic drug consumption, interpersonal problems, difficulties in the household, legal entanglements, or problems on the job. By analogy, it would be *predicte*d that drug abuse has impacts in the same areas as alcohol abuse, *but this has not been examined by any of the national surveys on drug abuse*. . . . It would be too simplistic to suggest that the [cost attributed to marijuana use] could only be due to . . . drug abuse. Plausible alternative explanations can be offered. One alternative may be that . . . drug abuse may be symptomatic of other personal problems.. . . Drug abusers may be self-destructive or have other personality disorders, *low orientation toward achievement or low motivation*.[63] (emphasis added)

As noted earlier, the Research Triangle Institute study does not separate the costs attributable to prohibition from those attributable to drug use per se. Per se costs could be estimated by discounting the Research Triangle Institute figures by the extent to which they represent costs attributable to prohibition, except that the figures given for lost productivity are unwarranted estimates. The study's estimate of $26.4 billion in economic loss from drug abuse sets the upper limit of possible economic loss from drug use per se. This figure must be discounted by the percentage of costs attributable to prohibition.

The major remaining cost component is crime costs. The study divides these costs into the following categories: "crime careers, drug trafficking, property crime, and various consensual offenses," "victims of crime," "incarceration," and enforcement expenses. The overwhelming majority of these costs--involving drug law enforcement, black market violence, and street crime committed by drug users to pay for expensive illegal drugs--are a direct or indirect cost of prohibition.[64] One can therefore estimate that 90 percent of crime costs are prohibition-related. In addition, federal drug interdiction costs can be completely attributed to prohibition.

The study's estimate of mortality costs can be discounted by 80 percent because, as discussed in the appendix, about 80 percent of illegal-drug-related deaths can be traced to prohibition factors. As for the remaining cost components, there is little doubt that some are prohibition-related. However, for the sake of a conservative estimate, it will be assumed that they would all be incurred under legalization. Table 2 presents the revised Research Triangle Institute figures for the economic cost of drug abuse. In summary,the gross costs of drug abuse are $26.4 billion. Of that, $21.4 billion is the result of prohibition, while $5 billion is the result of drug use per se.

Clogged Courts and Prisons

Each dollar spent enforcing drug laws and fighting the violent crime these laws stimulate is a dollar that cannot be spent fighting other violent crime. The one law enforcement technique that definitely works is the specific deterrence of incarceration. Put a violent career criminal in prison for five years and that person simply will not commit his usual quota of over 100 serious crimes per year.

But right now, there are not enough judges and prosecutors to try cases or enough prison spaces to house convicts. In 1987, the federal prison system had 44,000 inmates, including 16,000 drug offenders, while official capacity was only 28,000.[65] About 40statewide prison systems are operating under court orders due to overcrowding or poor conditions.[66]

Table 2
Discounted Costs of Drug Abuse

Type of Cost	Total Cost ($ millions)	Costs Caused by Prohibition (%)	Costs Caused by Prohibition ($ millions)
Treatment	2,049	0	0
Mortality	2,486	80	1,988

Lost Employment	405	0	0
Crime	20,781	90	18,702
Welfare	3	0	0
Interdiction	677	100	677
Total	26,401	270	21,367

Cost of drug use per se = $5,034 ($26,401 - $21,367).

Source: Author's calculations from H. J. Harwood et al., *Economic Costs to Society of Alcohol and Drug Abuse and Mental Illness* (Research Triangle Park, N.C.: Research Triangle Institute, 1984).

Note: This calculation omits the $33.3 billion loss attributed tomarijuana use because of the study's dubious methodology.

Because of the sheer lack of prison space, violent criminals frequently are given deals, probation, or shorter terms than they deserve. Then they are back on the streets, and often back to serious crime. For example, in 1987 in New York City, a man who had been released after serving 5 years of a 15-year term for robbery was arrested again for auto theft, released on bail, and finally arrested once more and indicted for rape and robbery at knife point.[67]

In a world of scarce prison resources, sending a drug offender to prison for one year is equivalent to freeing a violent criminal to commit 40 robberies, 7 assaults, 110 burglaries, and 25 auto thefts.[68]

Corruption

Drug money corrupts law enforcement officials. Corruption is a major problem in drug enforcement because drug agents are given tremendous power over desperate persons in possession of large amounts of cash. Drug corruption charges have been leveled against FBI agents, police officers, prison guards, U.S. Customs inspectors, even prosecutors. In 1986, in New York City's 77th Precinct, 12 police officers were arrested for stealing and selling drugs. Miami's problem is worse. In June 1986, seven officers there were indicted for using their jobs to run a drug operation that used murders, threats, and bribery. Add to that two dozen other cases of corruption in the last three years in Miami alone.

We must question a policy that so frequently turns policeofficers into organized criminals. Logically, there are two solutions to drug corruption: Make police officers morally perfect or eliminate the black market in drugs.

Assault on Civil Liberties

The recent drug hysteria has created an atmosphere in which long-cherished rights are discarded whenever drugs are concerned. Urine testing, road blocks, routine strip searches, school locker searches without probable cause, preventive detention, and non-judicial forfeiture of property are now routine weapons in the war on drugs.

These governmental intrusions into our most personal activities are the natural and necessary consequence of drug prohibition. It is no accident that a law review article entitled "Crackdown: The Emerging 'Drug Exception' to the Bill of Rights" was published in 1987.[69] In explaining why drug prohibition, by its very nature, threatens civil liberties, law professor Randy Barnett notes that drug offenses differ from violent crimes in that there is rarely a complaining witness to a drug transaction.[70] Because drug transactions are illegal but their participants are willing, the transactions are hidden from police view. Thus, to be at all effective, drug agents must intrude into the innermost private lives of *suspected* drug criminals.

The term "innermost" here is no exaggeration. In one case,the Supreme Court "approved a prolonged and humiliating detention of an incomer who was held by customs agents to determine, through her natural bodily processes, whether or not she was carrying narcotics internally," even though probable cause was lacking.[71] In other words, a woman

was forced to defecate even though there was no probable cause to believe she was carrying drugs. Because firm evidence of guilt, if it exists, is not obtained until *after* such intrusions, the privacy of large numbers of innocent people must be violated in the process of enforcing drug laws.

The same principle operates in enforcement efforts seemingly far removed from the invasive practice of body searches. Road-blocks, used with greater frequency in the war on drugs, impose an inconvenience on all citizens for the sake of allowing the police to ferret out a few drug suspects. One of the main purposes of currency reporting laws is to allow government agents to trace cash from drug transactions that is being"laundered." Currently, most cash transactions involving more than $10,000 must be reported to the government. Thus, to allow government agents to search for a relatively small number of drug criminals, the financial privacy of *all* must be sacrificed. This intrusion is simply another cost of criminalizing an activity in which all the participants are willing.

The dangerous precedents described here are tolerated in the war on drugs, but they represent a permanent increase in government power for all purposes. The tragedy is how cheaply our rights have been sold. Our society was once one in which the very thought of men and women being strip-searched and forced to urinate in the presence of witnesses was revolting. That now seems like a long time ago. And all this for a policy that simply does not work, since it is prohibition itself that causes the very problems that make these extreme measures seem necessary to a befuddled public.

Destruction of Community

Drug prohibition has had devastating effects on inner-city minority communities. A poorly educated young person in the inner city now has three choices: welfare, a low-wage job, or the glamorous and high-profit drug business. It is no wonder that large numbers of ghetto youth have gone into drug dealing, some of them as young as 10 years old. When the most successful people in a community are those engaged in illegal activities, the natural order of the community is destroyed. A recent *New York Times* article reported that "the underground drug economy . . . puts more power in the hands of teen-agers" and makes the entire community more violent.[72] How can a mother maintain authority over a 16-year-old son who pays the rent out of his petty cash? How can a teacher persuade students to study hard, when dropouts drive BMWs? The profits from prohibition make a mockery of the work ethic and of family authority.

A related problem is that prohibition also forces drug users to come into contact with people of real criminal intent. For all the harm that alcohol and tobacco do, one does not have to deal with criminals to use those drugs. Prohibition drags the drug user into a criminal culture.

Once used to breaking the law by using drugs and to dealing with criminals, it is hard for the drug user and especially the drug dealer to maintain respect for other laws. Honesty, respect for private property, and other marks of a law-abiding community are further casualties of the drug laws. When the huge illegal profits and violence of the illegal-drug business permeate a neighborhood, it ceases to be a functioning community. The consequences range from the discouraging of legitimate businesses, to disdain for education, to violence that makes mail carriers and ambulance drivers afraid to enter housing complexes. The destruction of inner-city communities must be judged one of the major evils of prohibition.

The Consequences of Legalization

As a general rule, legal drug use is less dangerous than illegal drug use and is influenced by the mores of society. Legal drug use involves non-lethal doses, non-poisoned drugs, clean needles, and warning labels. The night basketball star Len Bias died from a cocaine overdose, his friends, fearing the police, waited until after his third seizure before calling an ambulance. Illegal drug users have been arrested at hospitals after seeking medical attention. Legalization would put an end to this kind of nonsense. Users would be free to seek medical attention or counseling, if needed, and would not be alienated from family and friends as many are now. For a drug user to kill himself with drugs under these conditions would be tantamount to suicide.

A given amount of legal drug use would cause much less death and illness than the same amount of illegal drug use. A realistic estimate is that illegal drug use is five times more dangerous than legal use, (see appendix, "Acute Effects"). Thus, even a highly unlikely five fold increase in drug use under legalization would *not* increase the current number of

drug overdose deaths. The yearly number of heroin and cocaine deaths combined is about 3,000 per year.[73] Eighty percent,or 2,400, are caused by black market factors (see appendix,"Acute Effects"); 20 percent, or 600, are caused by the intrinsic effects of the drugs. If, under legalization, legal use remained at the same level as current illegal use, there would be only 600 deaths each year. Only a 500 percent increase in use would match the current black market death toll. (Note that historians' estimates of the increase in alcohol use in the decades after the repeal of Prohibition range from zero to a maximum of 250 percent.[74])

Furthermore, it would take a 1,275 percent increase in legal drug use to produce as many deaths as drug prohibition--through murder, AIDS, and poisoned drugs is already causing. Prohibition now causes 8,250 deaths, while 600 are the result of the drugs themselves. Thus, in order for legalized drug use to match the overall death toll of prohibition, use would have to increase more than 13-fold

There are now about 5 million regular cocaine users and 500,000 regular heroin users. To prove that prohibition saves more lives than it destroys, one would have to show that legalization would result in more than 6.5 million *additional* heroin users and more than 65 million *additional* cocaine users. Such enormous increases are inconceivable at a time when the overall trend is toward *less* legal and illegal drug use.

The economic effects of drug use are subject to the same analysis. Since the economic cost of prohibition is $80 billion and the economic cost of drug use per se is about $5 billion, legalization of drugs could have a negative economic impact only if it led to a 1,500 percent increase in drug use.

Drug Switching

However, even if prohibition advocates could prove that such astronomical increases would occur, prohibition would still not be vindicated because of "drug switching."

Any increase in the use of newly legalized drugs is likely to involve some drug switching by smokers and drinkers. Since the death rate for these activities is greater than the death rate from heroin, cocaine, and marijuana (see appendix, "The Numbers"), any deaths avoided by switching would have to be subtracted from the deaths caused by the legal use of heroin and cocaine. (The marijuana death rate is apparently zero.) Depending on the rate of switching, it is possible that the increased use of these drugs could actually reduce the total number of drug deaths.

For example, assume that legalization led to 10 million new cocaine users, which, all else equal, could cause an additional 400 deaths per year. However, assume also that a mere 5 percent of these users switched to cocaine from tobacco (tobacco and cocaine both stimulate the central nervous system). Tobacco-related deaths would eventually decrease by about 3,250 per year, and the result would be a net gain in lives saved of 2,850.[75]

Drug switching is a critical issue that any regime of drug control must face. What is the point of attempting to limit access to certain drugs, when the user merely turns to other, more dangerous drugs? For example, opium use in China may or may not have been vastly reduced, but "weak tranquilizers and sedative pills have been widely used in China, and they are easily available on the market."[76] Furthermore, two-thirds of all Chinese men now smoke cigarettes.[77]

Examples of drug switching abound. When narcotics were first outlawed, many middle-class users switched to "barbiturates . . . and later, to sedatives and tranquilizers. . .The laws did nothing to terminate this group of addicts. .They simply changed the drug to which the users were addicted."[78] Marijuana smoking first became popular as a replacement for alcohol during Prohibition. Similarly, it is common for alcoholics trying to stay sober to take up tobacco smoking instead. Recently, it has been reported that some intravenous heroin users have switched to smoking crack to avoid the risk of AIDS.

In sum, even if prohibitionists can prove that the use of drugs would greatly increase under legalization and that the increase would not be offset by gains in drug quality, they must then show that new users would not be switching from more dangerous drugs (e.g., alcohol) to less dangerous drugs (e.g., opium). They must also prove that the damage caused by any increase in legal use would exceed the tremendous damage, both social and medical, caused by the current level of illegal use. Until these proofs are given, prohibition will remain a policy in search of a justification.

Would Drug Use Increase?

Long-term trends in legal drug use suggest that there would be no substantial increase in drug use under decriminalization. As a society, we are gradually moving away from the harmful use of alcohol and tobacco:

> In 1956, 42 percent of adults smoked; in 1980 only 33 percent. In 1977, 29 percent of high school seniors smoked; in 1981, 20 percent. . . . We did not declare a war on tobacco. We did not make it illegal. . . . We did seek to convince our citizens not to smoke through persuasion, objective information, and education.[79]

Alcohol consumption and deaths caused by alcohol have also been gradually declining as people switch from hard liquor to less potent formulations.[80] Finally, use of marijuana--now a de facto legal drug in many states--declined 11 percent from 1982 to 1985, according to the National Institute on Drug Abuse (NIDA).

As our society grows increasingly health- and fitness conscious, heavy drug use loses its appeal. Many people are trading the tavern for the health club and choosing vitamins instead of martinis. The values of health and moderation clearly have less influence on the illegal drug scene, where hard-core drug users form subcultures that reinforce heavy, reckless drug use.

It is a mistake to assume that the mere availability of a drug leads to drug use or abuse:

> For most of human history, even under conditions of ready access to the most potent of drugs, people and societies have regulated their drug use without requiring massive education, legal, and interdiction campaigns.[81]

Before drug prohibition, in both America and England, narcotics use peaked and then declined long before national prohibition was adopted.[82] Today, in spite of the availability of alcohol, problem drinkers are considered to compose only about 10 percent of the population.[83] In spite of the fact that marijuana can be purchased on virtually any street corner in some cities, only about 10 percent of the population has done so in the last month, according to NIDA. Significantly, the figures for cocaine are quite similar, in spite of the drug's reputation for addictiveness. About 20 million have tried the drug, but only 25 percent of that number have used it in the last month and only about 10 percent are considered addicts.[84] It bears remembering that for cocaine, the sample population is drawn from that segment of the population already interested enough in drugs to break the law to obtain them. Thus, an even lower percentage of repeat users could be expected from the overall population under legalization. These numbers support Stanton Peele's belief that "cocaine use is now described [incorrectly] as presenting the same kind of lurid monomania that pharmacologists once claimed only heroin could produce."[85]

The fatal flaw in the policy of prohibition is that those who need to be protected most from drug use--hard-core users--are at the same time those least likely to be deterred by laws against drugs. For these individuals, drug use is one of the highest values in life. They will take great risks, pay high prices, and violate the law in pursuit of that value.

Further, it is naive to think that prohibition relieves prospective or even moderate drug users of the need to make responsible decisions with respect to illegal drugs. It is just too easy and inexpensive to obtain a few batches of crack or heroin to claim that prohibition obviates individual choice. Individual preference--not law enforcement--is the likely explanation for the existence of 20 million marijuana smokers but only 500,000 heroin users. If 20 million people demanded heroin, the black market would meet that demand, perhaps with synthetic substitutes, just as it met the enormous demand for alcohol in the 1920s. Prohibition is at best a comforting illusion.

Perhaps the most telling indicator of the ineffectiveness of U.S. drug laws is their failure to reduce the overall use of illegal drugs. On a per capita basis, the use of narcotics was no more prevalent before prohibition than it is today, and the use of cocaine is more widespread today than when it was legally available. In 1915, the year the first national control laws became effective, there were about 200,000 regular narcotics users and only 20,000 regular cocaine users.[86] Today,there are about 500,000 regular heroin users and two million regular cocaine users.[87] (Opium and morphine, also narcotics,have essentially been driven out of circulation by the more profitable heroin. Prohibition has not reduced narcotics use, but it has made narcotics more powerful.) Thus, with a population more than twice what it

was in 1915, the percentage of the population using narcotics has remained about the same, while cocaine use has increased by more than 4,000 percent. Seventy years of intensive law enforcement efforts have failed to measurably reduce drug use.

The failure of drug control should not be surprising. During Prohibition, alcohol consumers merely switched from beer and wine to hard liquor often of dubious quality, resulting in a drastic increase in deaths from alcohol poisoning.[88] Whether Prohibition actually reduced total consumption is disputed,[89] but it is known that the repeal of Prohibition did not lead to an explosive increase in drinking.[90] More recently, in those states that have decriminalized marijuana, no substantial increase in use has occurred.[91] When the Netherlands decriminalized marijuana in 1978, use actually declined.[92]

The Failure of Enforcement

Common sense indicates that illegal drugs will always be readily available. Prison wardens cannot keep drugs out of their own institutions--an important lesson for those who would turn this country into a prison to stop drug use. Police officers are regularly caught using drugs, selling drugs, *stealing* drugs. How are these people going to lead a drug war?

Regarding Reagan administration enforcement efforts, the *New York Times* reported on September 4, 1986:

> Four and a half years after Vice President Bush established the South Florida Task Force, the most ambitious and expensive drug enforcement operation in the nation's history, the Federal officials who run it say they have barely dented the drug trade here.
>
> On August 10, 1986, a *Times* analysis concluded that "20 years of intensive enforcement has done little to reduce drug abuse."The same article quoted Judge Irving R. Kaufman: "Law enforcement has been tested to the utmost, but let's face it, it just hasn't worked." And even President Reagan admitted that "all the confiscation and law enforcement in the world will not cure this plague." Law enforcement die hards should take note of the failure of the death penalty--liberally applied--to stop drugs in Malaysia. Despite 18 death sentences and 4 executions, "authorities reported the widespread use of illicit drugs."[93]

A General Accounting Office (GAO) report recently released at the White House Conference for a Drug Free America contains overwhelming evidence of the failure of the Reagan administration's war on drugs.[94] Contrary to the claims of some critics, the war on drugs did not fail for lack of effort. The federal drug control budget increased from $1.2 billionin 1981 to nearly $4 billion in 1987. The FBI and the military were brought into drug enforcement. Two major pieces of legislation were passed to toughen penalties and give enforcers more powers: the Comprehensive Crime Control Act of 1984 and the Anti-Drug Abuse Act of 1986. Arrests rose 58 percent and federal prisons became filled with convicted drug dealers. Drug seizures greatly increased--362 percent in the case of cocaine.

The GAO reported the results:

- Drug abuse in the United States has persisted at a very high level throughout the 1980's."
- *Cocaine*. The amount of cocaine consumed more than doubled. The price declined about 30 percent. The average purity doubled. Cocaine-related deaths rose substantially.
- *Heroin*. The price of heroin declined 20 percent. The average purity rose 33 percent. Heroin-related deaths rose substantially.
- *Marijuana*. While use declined, "marijuana continues to be readily available in most areas of the country, with a trend toward increased potency levels."Marijuana is now grown in all 50 states and "to avoid detection, marijuana growers are moving their operations indoors and are growing smaller and more scattered plots outdoors."

In short, prohibition has failed to eliminate or even seriously reduce the use of illegal drugs.

A Synoptic History of Drug Prohibition

The failure of the Reagan administration's war on drugs is simply the latest in a series of prohibition failures going

back several centuries:

16th c.	Coffee banned in Egypt and supplies of coffee burned--use spreads rapidly.[95]
17th c.	The czar of Russia executes tobacco users.[96]
1650	Tobacco prohibited in Bavaria, Saxony, Zurich; the Ottoman sultan zealously executes smokers to no avail.[97]
1736	The Gin Act fails to halt consumption in England.[98]
1792	The penalty for opium selling in China is strangulation.[99]
1845	New York bans the public sale of liquor--repeals law two years later. [100]
1875-1914	27 states and cities ban opium smoking--opium smoking increases sevenfold.[101]
1914	Passage of Harrison Narcotics Act controlling opium and coca derivatives.
1914	The czar bans alcohol--the Bolshevikslift ban in 1924.[102]
1914-1970	Congress passes 55 laws to strengthen Harrison Act.[103]
1918	Special Committee studies Harrison Act effects--widespread smuggling and increased use of narcotics--and calls for stricter enforcement.[104]
1919	Eighteenth Amendment banning alcoholis passed--repealed in 1933.
1919-1933	Use of marijuana, ether, and coffee increases.[105]
1921	Cigarettes are illegal in 14 states.
1924	Congress bans heroin completely--after law passed, heroin replaces morphine in black market.[106]
1937	First federal law against marijuana.
1949	Law enforcement crackdown on non-prescription barbiturates--use increases 800 percent 1942-69.[107]
1955	Shah of Iran bans opium--ban partially repealed in 1969.[108]
1956	U.S. Narcotic Drug Control Act provides for death penalty for selling heroin to minors
1958	Soviet premier Khrushchev raises alcohol prices 21 percent to reduce consumption--he later deems the program a failure.[109]
1959	Campaign against glue-sniffing begins--causes increase in glue-sniffing by1969.[110]
1962	FDA halts legal production of LSD--LSD use skyrockets by 1970.[111]
1965	Amphetamine enforcement intensifies--causes "a boom in cocaine

	smuggling" by 1969.[112]
1968	Campaign against marijuana use among U.S. troops in Vietnam--soldiers switch to heroin.[113]
1969	New York City increases drug arrests by 9,000--no impact on drug availability noted.[114]
1971	All-out campaign against heroin use inVietnam fails.[115]
1971	900 pounds of heroin seized in NewYork City--no increase in price occurs.[116]
1971	President Nixon declares drugs "America's public enemy No. 1."[117]
1972	The House passes a $1 billion anti-drug bill.[118]
1972	President Nixon declares drugs "America's public enemy No. 1"--again.[119]
1973	Rockefeller's tough drug bill is passed in New York.
1973	President Nixon announces, "We have turned the corner on drug addiction in America."
1975	Malaysia enacts death penalty for drug trafficking.[120]
1975	Singapore enacts death penalty for drug trafficking--a few years later, top drug official says, "Heroin seems to be more widely used than ever."[121]
1977	Bar Association committee concludes that Rockefeller drug law had no effecton heroin use.[122]
1980	300,000 youths in Malaysia are using illegal drugs.[123]
1983	Malaysia toughens death penalty for drug trafficking.
1985	Soviets crack down on alcohol consumption.
1986	Moscow officials lower taxes on alcohol.[124]
1987	Malaysia's 12-foot-high, double-barbed-wire security fence protecting 32 miles of border with Thailand fails to halt drug traffic.[125]
1987	Soviets increase penalties against moonshining.[126]
1987	Legal alcohol production down 50 percent in Soviet Union; hard liquor moonshining up 40 percent; homemade wine production up 300 percent; 200,000 prosecuted for illegal home brewing.[127]
1987	Soviets launch "Operation Black Poppy" to stop opium use--2,000 poppy fields destroyed.[128]
1987	The Russian city of Murmansk bans sale of men's cologne (containing alcohol) until 2:00 p.m., when liquor stores open.[129]
1987	Glue-sniffing doubles among high school students in Soviet Union.[130]
1988	The Senate adds $2.6 billion to federal anti-drug efforts.
1988	Title of *Tampa Tribune* feature article: "The Joke among Federal Agents: 'We've Turned the Corner on Drugs.'"

1989	Secretary of State James A. Baker III reports that the global war on narcotics production "is clearly not being won."[131]

Why Prohibition Fails

The reasons for the failure of wars on drugs are best seen by examining the motivations of drug users, sellers, and enforcers.

Drugs have a direct, powerful effect on human consciousness and emotions. Drug laws, on the other hand, have only an occasional impact on the drug user. For the many users who continue to take drugs even after being penalized by law, the subjective benefits of drugs outweigh the costs of criminal penalties.

Even without criminal sanctions, many users continue to take drugs despite the severe physical penalties drugs impose on their bodies. Again, they simply consider the psychic benefit of drug use more important than the physical harm. The fact is, drugs motivate some people--those who most need protection from them--more than any set of penalties a civilized society can impose, and even more than what some less-than-civilized societies have imposed. The undeniable seductiveness of drugs, usually considered a justification for prohibition, thus actually argues for legalization. The law simply cannot deter millions of people deeply attracted to drugs; it can only greatly increase the social costs of drug use.

As for drug sellers, they are simply more highly motivated than those who are paid to stop them. Drug sellers make enormous profits--much more than they could make at legal jobs--and they are willing to risk death and long prison terms to do it. They are professionals, are on the job 24 hours a day, and are able to pour huge amounts of capital into their enterprises. They are willing to murder competitors, informers,and police as needed.

On the other hand, law enforcement officers get paid whether they catch drug dealers or not. They have virtually no economic stake in the success of their efforts, aside from incremental salary increases. While it is true that police officers also risk their lives in their jobs, drug dealers face a much greater risk of violent death--perhaps a hundred times greater. Drug dealers have 10 times as much money to work with as do drug enforcers. Drug enforcement is a bureaucracy and suffers from all the inefficiencies of bureaucracies, [132] while drug dealers are entrepreneurs, unrestrained by arbitrary bureaucratic rules and procedures. They do what needs to be done based on their own judgment and, unlike drug enforcers, are not restrained by the law.

The public has the false impression that drug enforcers are highly innovative, continually devising new schemes to catch drug dealers. Actually, the reverse is true. The dealers, like successful businessmen, are usually one step ahead of the "competition":

Private firms [read: drug dealers] are constantly seeking new products and practices to give them a competitive edge. They adapt swiftly to changing market conditions, knowing that the failure to do so might lead to bankruptcy.

The rate of innovation in public operations [DEA] is much slower, and public services [drug enforcement] appear to change very slowly over time. During the time when a private sector good or service may change beyond recognition, the public sector seems to turn out the same products year after year. The low rate of innovation in the state's postal services, for example, contrasts sharply with innovations of private postal services.[133]

Finally, drug dealers can use their enormous profits to bribe the police. A minority of enforcement agents will always decide that the monetary benefit of a bribe is more important than the moral cost and legal risk, particularly when it is so clear that their legitimate enforcement efforts have been futile. Drugs are available in prisons not because friends and relatives smuggle them in, but because corrupt prison guards are eager to supplement their income.

It is easy to get lost in piles of numbers, names, dates, and places when evaluating the effect of drug enforcement. But it is more important to keep in mind the ultimately decisive facts of human motivation. These facts guarantee that wars on drugs will always fail.

The Policy Alternatives

Reform alternatives to prohibition can best be seen as gradations leading from outright criminal prohibition to outright free availability. The main options are presented in Table 3.

The arguments presented earlier indicate that Option D, legalization, would be the best choice. Non-prescription availability was public policy in the United States and England with respect to narcotics until 1914, and is still public policy today with respect to alcohol and tobacco. As noted, the medical dangers of alcohol and tobacco are even greater than those of heroin or cocaine (see appendix). There is simply no logical basis for the different legal treatments of these drugs. When prohibitionists attempting to articulate a distinguishing criterion confront the clear evidence of tobacco's and alcohol's greater deadliness, they lamely assert that the distinction is simply that legislatures have chosen to treat them differently. This is question-begging in its purest form: The very issue in dispute is the rationality of this choice.

In its simplest terms, the choice between decriminalization and legalization is a choice between solving part of the problem and solving the entire problem, or close to it. Since the black market in illegal drugs is the cause of most drug-related problems, the goal of reform should be *to eliminate the black market*. Legalization would do that; decriminalization would not. For example, dispensing drugs in federal clinics staffed by psychiatrists would probably draw some

Table 3
Alternatives to Prohibition

Status Quo: Prohibition	Criminal ban on production, sale, and use
Option A: Decriminization (new British System)	Government-controlled distribution through clinics only for short-term maintenance; criminal penalties for unauthorized sale and use.
Option B: Decriminalization	Government-controlled distribution through clinics for long-term maintenance; criminal penalties for unauthorized sale and use.
Option C: Decriminalization (old British System)	Government-controlled distribution; availability by prescription from any physician for treatment or maintenance; criminal penalties for non-prescription sale and use.
Option D:Legalization (British and American systems prior to 1914)	Distribution, sale, and use regulated on a par with the alcoholic beverage industry; alcoholic beverage industry; nonprescrption use by adults permitted.

business away from the black market. But users who did not want to be treated by psychiatrists or take drugs in a clinical setting would continue to fuel a violent and destructive black market. How many drinkers would go to a hospital to drink liquor while being harangued by psychiatrists?

The British Systems, Old and New

Since the goal of reform is to eliminate the black market and its attendant problems, the only valid test for judging the success or failure of reform is whether that goal has been accomplished. However, opponents of decriminalization or legalization sometimes proffer different criteria for evaluating the results of reform. The prime example is embodied in their ubiquitous claim that "the British system failed," pointing to the fact that overall heroin use in England rose substantially during the 1960s, when doctors were allowed to prescribe heroin on a long-term basis. However, their evaluation of the old British system cannot withstand scrutiny.

In the 1920s, the British elected to follow the "medical model" of drug control (while the United States adopted the "criminal model"). Private physicians were allowed discretion in prescribing heroin and other controlled drugs for their patients. By most accounts, the system worked fairly well for the next 40 years: The number of users remained low, they received quality-controlled drugs under medical supervision, and no substantial black market developed.

However, in the 1960s the number of heroin users increased substantially, especially among the young. These new users received heroin from illegal imports and from "gray market" sellers, users who received large amounts of prescribed heroin from a few cooperative physicians.

In response to this situation, the system was altered in the late 1960s. The right of individual physicians to pre-scribe heroin was revoked, and Drug Treatment Centers (DTCs) were set up to treat users. While heroin could still be prescribed at DTCs, the emphasis shifted to "curing" users instead of maintaining them on a long-term basis. As a result, prescription of heroin in England today has slowed to a trickle.

To argue that the system *caused* the increased use of heroin in England in the sixties is to confuse correlation with causation. If the system caused increased drug use in the sixties, why did it not do the same during the preceding four decades it was in effect? And if the system caused increased drug use in Britain, what caused the similar increase in the United States during the same period? It should be noted that drug use in England continued to rise even under the new British system.

Neither the American nor British systems--nor any other system--has been able to stop intermittent increases in drug use. As Arnold Trebach writes:

> The clinics . . . were instructed to stop the spread of heroin addiction in the general population. But no one--not the second Brain committee, not the other experienced drug abuse doctors, not the criminologists, not the police, and certainly not the visiting American experts--knew then, and no one knows now, how to perform that task.[134]

Erich Goode concurs:

> There is at present no possible solution to the drug problem. There is no program in effect or under discussion that offers any hope whatsoever of a "solution." Asking for the solution to the drug problem is a little like asking for the solution to the accident problem, the problem of crime and violence, the problems created by the economy.[135]

Given that neither the old British nor the American system stopped drug use, which minimized the social harmfulness of drug use? The obvious answer is the old British system, under which there was virtually no black market or organized crime and little drug-related crime or violence. The users were better off too, since they received quality-controlled drugs and medical treatment and were not branded as criminals and social outcasts.

When the British moved toward the criminal model of drug control, the effective termination of heroin maintenance forced users to turn to the black market, leading to an "explosion of heroin importation"[136] in the 1980s:

> The evidence suggests that the illicit market in heroin and the involvement of criminal syndicates, increased in direct relationship to the policy of the clinics in rapidly cutting heroin prescribing.[137]

Arnold Trebach agrees:

> Inspector [H. B.] Spear is convinced that the new crop of younger addicts, having been repelled in various ways by the clinics, is resorting to the street, to the black market, and to crime in order to obtain money to buy drugs. . . . Detective Chief Inspector Colin Coxall estimated in July 1979 that 3,700 heroin addicts were on the streets of London using illegal drugs and that these addicts were spending between 60 and 80 pounds per day to support their habits. Most were forced to resort to crime in order to find that much money. He calculated that 147 million pounds (approximately $382 million) worth of illegal heroin was being traded on the streets of London annually.[138]

Even the British government now acknowledges a "growing incidence of serious crime associated with the illegal supply of controlled drugs" and describes the drug problem as "the most serious peace time threat to our national well-being."[139] In adopting the American "criminal model" of drug control, the new British system created an American-style drug problem within only a few years.

Since the black market in illegal drugs is the source of most drug-related problems, that market must be eliminated to the greatest extent possible. The most efficient means of doing so is legalization.

Hope for the Future

It is clear that most of the serious problems the public associates with illegal drug use are, in reality, caused directly or indirectly by drug prohibition.

Let's assume the war on drugs was given up as the misguided enterprise that it is. What would happen? The day after legalization went into effect, the streets of America would be safer. The drug dealers would be gone. The shoot outs between drug dealers would end. Innocent bystanders would not be murdered anymore. Hundreds of thousands of drug "addicts" would no longer roam the streets, shoplifting, mugging, breaking into homes in the middle of the night to steal, and dealing violently with those who happened to wake up. One year after prohibition was repealed, 1,600 innocent people who would otherwise have been dead at the hands of drug criminals would be alive.

Within days of prohibition repeal, thousands of judges, prosecutors, and police would be freed up to catch, try, and imprison violent career criminals--criminals who commit 50 to100 serious crimes per year when on the loose, including robbery, rape, and murder. For the first time in years, our overcrowded prisons would have room for them. Ultimately, repeal of prohibition would open up *75,000* jail cells.

The day after repeal, organized crime would get a big paycut--$80 billion a year.

How about those slick young drug dealers who are the new role models for the youth of the inner cities, with their designer clothes and Mercedes convertibles, always wearing a broad, smug smile that says crime pays? They snicker at the honest kids going to school or to work at the minimum wage. The day after repeal, the honest kids will have the last laugh. The dealers will be out of a job, unemployed.

The day after repeal, real drug education can begin and, for the first time in history, it can be honest. No more need to prop up the failed war on drugs.

The year before repeal, 500,000 Americans would have died from illnesses related to over eating and lack of exercise;[140] 390,000, from smoking: and 150,000, from drinking alcohol. About 3,000 would have died from cocaine, heroin,and marijuana combined, with many of these deaths the result of the lack of quality control in the black market. The day after repeal, cocaine, heroin, and marijuana would, by and large, do no harm to those who chose not to consume them. In contrast, the day before prohibition repeal, all Americans, whether or not they chose to use illegal drugs, were forced to endure the violence, street crime, erosion of civil liberties, corruption, and social and economic decay caused by the war on drugs.

That is why, at this point in the argument, drug legalization unavoidably becomes a moral issue. The war on drugs is immoral as well as impractical. It imposes enormous costs, including the ultimate cost of death, on large numbers of non-drug-abusing citizens in the failed attempt to save a relatively small group of hard-core drug abusers from themselves. It is immoral and absurd to force some people to bear costs so that others might be prevented from choosing to do harm to themselves. This crude utilitarian sacrifice--so at odds with traditional American values--has never been,and can never be, justified. That is why the war on drugs must end and why it will be ended once the public comes to understand the truth about this destructive policy.

Appendix
The Relative Harmfulness of Tobacco, Alcohol, Heroin, and Cocaine

One of the many myths underlying the policy of prohibition is the belief that the prohibited drugs are much more dangerous than non-prohibited drugs. In reality, however, the main legal drugs--tobacco and alcohol--are more deadly than either heroin or cocaine would be if legally available, and infinitely more deadly than marijuana, which apparently has caused no deaths at all.

Chronic Effects

The chronic, long-term effects of heroin and cocaine are not as severe as those of alcohol and tobacco.

There is thus general agreement throughout the medical and psychiatric literature that the overall effects of opium, morphine and heroin on the addict's mind and body under conditions of low price and ready availability are on the whole amazingly bland.[141]

James Q. Wilson, an opponent of legalization, concurs:

> While it is true that heroin, by itself, does not cause, so far as we know, any organic illness and could, in principle, be taken safely . . . its use, and *especially in the setting in which it is used*, is far from benign.[142] (emphasis added)

After an exhaustive survey of the medical and social aspects of cocaine use, Drs. Lester Grinspoon and James Bakalar conclude:

> The dangers of cocaine are not of the nature or degree that the law now implies and the public now assumes. There is little evidence that it is likely to become as serious a social problem as alcohol (or firearms) or as serious a medical problem as tobacco. . . . The most humane and sensible way to deal with [drugs] is to create a social situation in which they can be used in a controlled fashion and with moderation.[143]

In contrast, the chronic effects of tobacco and alcohol are devastating. It is well known that tobacco causes cancer, heart disease, and emphysema. While the effects of heavy alcohol consumption are not as well known, they include anemia, fatty liver, hepatitis, cirrhosis, pancreatitis, gastritis, ulcer, hypoglycemia, congestive heart failure, ataxia, brain damage, blurred vision, dementia, cranial nerve palsy, circulatory collapse, and hemorrhages.[144]

Acute Effects

For the purposes of cost-benefit analysis, the purely medical effects of illegal drug use must be distinguished from the physical harm caused by black market factors. Use of illegal drugs is shrouded in mystery and ignorance and is cut off from the usual protections of legal drug use. The entire social, chemical, and informational context is different.

Under legalization, drug use would gradually return to lower dosages and safer forms of administration, as did alcohol use after repeal of Prohibition. The universal tendency of prohibition, in addition to eliminating quality control, is to encourage use of the most potent drug formulations administered in the most radical ways. From the producer's perspecive, the need to smuggle encourages the sale of potent, less bulky drugs. From the consumer's perspective, the radical means of administration, such as injection, give him "more bang for the buck" he pays for an expensive drug. This trend was apparent in the early days of drug prohibition:

> The various laws designed to restrict the use of narcotics by addicts have almost completely done away with opium smoking, and have tended to drive laudanum (alcohol mixed with morphine) and gum opium users, who have failed to be cured, to the use of the alkaloids, because in this form the drug is much less bulky and consequently can be more easily obtained and concealed.[145]

The main intrinsic danger of both cocaine and heroin is acute intoxication (overdose). Because they must buy drugs in the black market, however, users do not know the exact strength of the doses they take. Nor do they know the lethal dose. To prove that deaths resulting from such ignorance are caused by anything other than the black market context, it would have to be shown that a user would knowingly take a lethal dose in spite of warnings on the label to the

contrary.

There is also a great deal of specific evidence that deaths from illegal drugs are the result of the black market.

Heroin. Edward Brecher reported that many heroin deaths are caused by an allergic reaction to the unpredictable potency and composition of the street mixture of the drug.[146] Another 30 percent of the deaths are caused by "tetanus, hepatitis, or bacterial endocarditis, all contracted from bad heroin or dirty syringes."[147]

Many deaths originally attributed to heroin use have later been found to have been caused by AIDS.[148] As noted in the text, drug-related AIDS is almost entirely a creation of the black market in illegal drugs. That is one possible explanation for the sharp rise in so-called heroin deaths in recent years, at a time when the level of heroin use has been relatively stable.

The medical literature indicates that the main causes of acute heroin death are the use of heroin with alcohol, the presence of quinine and other impurities in the heroin street mixture, and the unpredictable and unknown potency of blackmarket heroin. Each is largely the consequence of the blackmarket context of drug use.

Prohibition contributes to alcohol/heroin deaths in several ways. First, since heroin is illegal, the usual warning labels of over-the-counter drugs are lacking. Second, given a social philosophy of "zero tolerance" for drug use, no attempt is made to publicly warn heroin users not to mix alcohol and heroin. Brecher rightly decried this failure in 1972, but17 years later there are still no public warnings about mixing the two drugs. One pamphlet put out by New York State warns against mixing alcohol with a long list of drugs but fails to mention heroin. Drug users often alternate alcohol with heroin because of high heroin prices. In contrast, when inexpensive opiates are available, the tendency to use both drugs is reduced, even among former alcoholics.[149]

There is no doubt that even after receiving warnings and reliable information, some reckless individuals will continue to mix heroin and alcohol. However, legalization and the free flow of reliable drug information would certainly save the lives of many other users, who simply do not know that mixing the two drugs can be deadly.

The presence of quinine in the blood of supposed overdose victims has often been noted. Quinine, which has long been used as an adulterant in heroin street bags, is known to cause rapid death by pulmonary edema (fluid in the lungs).[150] Brecher urged in 1972 that researchers study whether quinine could be the cause of many heroin-related deaths. In 1983, 11 yearsand thousands of deaths later, a Centers for Disease Control report stated, "The association between quinine and [heroin related deaths] . . . conflicts with past reports and merits further consideration."[151] A 1984 article "suggest[ed] the potential lethality of the quinine injected by decedents in this epidemic."[152] In 1985, another report stated, "The relatively high occurrence of . . . quinine in narcotism cases is also noteworthy."[153]

Three important lessons can be drawn from these facts. First, it is difficult and time-consuming to gain accurate knowledge about *illegal* drug deaths. Second, there is virtually no political or social pressure to determine the causes of deaths from illegal drugs and to do anything about them. Finally, even with perfect knowledge of the causes of these deaths and the will to do something about them, no legal or social structure exists within which to act as long as the drugs remain illegal. Quality control over an illegal drug is an oxymoron.

The other major cause of heroin-related deaths is the variable potency of the street mixture of the drug. "Heroin related deaths are associated with the amount of heroin in street packages."[154] In fact, an examination of the patterns of heroin deaths over the years confirms that most of these deaths are the result of unpredictable changes in the heroin street mixture. For example, the level of heroin deaths in New York City was steady and low until the 1950s, when it started to rise much faster than heroin use increased.[155] Thus, this sharp rise must be attributable to some factor other than the level of heroin consumption. Similarly, the pattern of heroin deaths in the District of Columbia from1971 through 1982 is so unusual that it could not possibly correlate with the level of heroin use. In the third quarterof 1972, for example, no deaths occurred, while in the second quarter of 1981, 42 deaths were reported.[156] The varying and unknown potency of the drug is the most likely explanation for such widely varying mortality rates.

It should be noted that there is no evidence that the low price of heroin (or cocaine) under legalization would lead users to consume ever-increasing concentrations of the drug until they died from an overdose. Historically, very few users

with cheap and easy access to narcotics have done so, whether in l9th-century England or America, in Vietnam during the war, or among physicians and pharmacists at any time.

Finally, there is a well-known antidote to narcotics overdose--naloxone. Whether the risk of overdose can be reduced by putting naloxone or another narcotic antagonist into the heroin mixture would likely be explored by pharmaceutical companies under legalization. While companies doing so should be immune from liability for any side effects fully disclosed on labels, they undoubtedly would attempt to make heroin products as safe as possible to avoid the high costs of even spurious lawsuits (and to avoid losing customers). Naturally, the product could be successful only if the antidote did not block the euphoric effect of the drug, forcing the user back to the black market.

Many might be outraged at the notion of making presently illegal drugs safer, arguing that doing so would prompt more people to use them. In other words, the gratuitous dangers of drug use should be perpetuated because people should not use dangerous drugs. This is nonsense. It is also inhumane. Some human beings are likely to use drugs whether others want them to or not. Ultimately, the reason drugs should be made safer is simple: As Gov. Mario Cuomo stated in his Notre Dame speech,"Life is better than death."

Cocaine. The medical literature affords abundant evidence that a large number of cocaine-related deaths are traceableto the side effects of drug prohibition:

- On the street, [cocaine's] purity is highly variable (up to 95 percent) and reflects 'cutting' with various sugars, local anesthetics, caffeine, amphetamines, heroin, phencyclidine, and quinidine. . . . Most of these [77 cocaine] fatalities were due to nonspecific pulmonary edema believed secondary to either an anaphylactic reaction to impurities or rapid absorption of the drug. . . . Either cocaine or one of its contaminants could contribute to [coronary thrombosis]."[157]
- No cases were encountered where sudden death occurred following the medical administration of cocaine. Hence, cocaine, in this presentation, actually refers to the illicit street drug of variable purity and usually diluted ('cut') with mannitol. The preparation may also contain other additives such as procaine, lidocaine, or amphetamine."[158]
- The purity of cocaine purchased on the street may vary from 25% to 90%, with unpredictable effects."[159]
- [T]he relative purity of street cocaine has increased from about 10% to nearly 35% over the time when these cases [cocaine deaths] were identified."[160]

As with heroin, it appears that adulterants and uncertain potencies play a major role in cocaine-related deaths, a thesis that is strongly suggested by the sporadic outbreak of "epidemics" of cocaine-related deaths, such as a 1985 epidemic in Utah.[161]

Because cocaine is illegal, it is very difficult to gather accurate information about cocaine deaths. Evidence is destroyed, witnesses lie, and any labeled containers vanish. Moreover, it is common to understate the amount of cocaine that caused a death because the drug is broken down quickly by the body and is metabolized even after death.[162] Under legalization, this information gap could be closed substantially.

There is speculation that a relatively small number of people are particularly sensitive to cocaine because they lack the enzymes needed to metabolize the drug.[163] Also, people with liver disease may be at risk for cocaine overdose. Under prohibition, however, no structure or incentives exist to determine, in advance of tragic death, just who these people are. Under legalization, tests for sensitivity to cocaine would likely be developed and administered to those who chose to use the drug.

Finally, antidotes to the lethal effects of cocaine now exist, the most effective of which appears to be nitrendipine. When administered to rats concurrently with cocaine, nitrendipine increased the animals' survival time fourfold and also increased the lethal dose of cocaine fourfold.[164] The authors of the experiment concluded:

> This study illustrates the protective effects of nitrendipine on the cardiotoxicity of cocaine and also indicates that nitrendipine is an antidote to the lethal toxicity of cocaine. . . . Nitrendipine also appears to antagonize some of the effects of cocaine on the central nervous system.[165]

Five million Americans are using cocaine in spite of the concerted effort of the war on drugs to stop them. At the sametime, a drug exists that could substantially reduce the danger of using cocaine. Just as black market drug sellers cut cocaine with adulterants, perhaps legal drug manufacturers could cut cocaine with protective agents such as nitrendipine.[166]

Alcohol. As discussed earlier, the chronic effects of heavy alcohol consumption are devastating. These effects are not cured by legalization and quality controls. However, the acute effects of alcohol are directly affected by prohibition. During alcohol prohibition, about 40 Americans per million died from acute alcohol poisoning.[167] Today, in contrast, the acute alcohol death rate is about 4 per million.[168]

Designer Drugs. "Designer" drugs are powerful synthetic drugs originally created to take advantage of loopholes in federal and state criminal drug laws. Their other function is to compete with natural opiates and cocaine made expensive by prohibition. Designer drugs can be as much as 6,000 times more potent than their natural counterparts and are usually indistinguishable from them.[169] Lethal doses of these drugs are so small that they are often undetectable. Because designer drugs are themselves a response to prohibition, deaths from these drugs must be counted as yet another cost of prohibition.

Conclusion. In conclusion, it can be reasonably estimated that at least 80 percent of deaths from illegal drugs today are attributable to the effects of drug prohibition.

The Numbers

Table 4 presents the estimated per capita death rates for each drug. (While a number of people have died as a result of marijuana *enforcement*, there are apparently no confirmed deaths traceable to marijuana use.) The figures for cocaine and heroin have been adjusted downward, in accordance with the previous analysis, to include only those deaths due to drug use per se. The unadjusted death rate for these drugs is in parentheses.

Table 4
Estimated Per Capita Death Rates by Drugs

Drug	Users	Deaths per Year	Deaths per 100,000
Tobacco	60 million	390,000 (a)	650
Alcohol	100 million	150,000 (b)	150
Heroin	500,000	400 (c)	80 (400)
Cocaine	5 million	200 (c)	4 (20)

a "Reducing the Health Consequences of Smoking: 25 Years of Progress," Surgeon General's Report (1989).

b Estimates vary greatly, depending upon whether all health consequences, or only those traditionally associated with alcoholism, are considered. The Fifth Special Report to the U.S. Congress on Alcoholism and Health from the Secretary of Health and Human Services contains two references indicating a death toll of 200,000: The report states, first, that alcohol "plays a role in 10% of all deaths in the United States,"which comes to about 200,000 each year. P. vi. It further states that present estimates of the death toll from alcohol abuse are as high as 93.2 per 100,000. Ibid., p. x. This ratio translates into a total of about 210,000.

c These figures were determined as follows: Drug Abuse Warning Network (DAWN) heroin and cocaine fatalities for 1984, 1985,and 1986 were averaged. The number of suicides was subtracted.The figures were discounted to account for deaths in which both heroin and cocaine played a role. Since DAWN covers about one-third of the nation's population but almost all major urban areas where drug use flourishes, totals were doubled to arrive at yearly estimates of 2,000 for heroin deaths and 1,000 for cocaine deaths. Finally, these figures were discounted by 80 percent in accordance with the analysis presented in the text.

It is clear from the data presented in the table that for every death caused by the intrinsic effects of cocaine, heroin kills

20, alcohol kills 37, and tobacco kills 162. These numbers raise an interesting prospect: If tobacco and alcohol users switched to heroin or cocaine under legalization, a substantial reduction in deaths would occur. Furthermore, if the use of opium and coca derivatives returned to pre-prohibition practice--drinking low-dose cocaine and drinking or smoking opium or morphine (each weaker than heroin)--the death rate would decline even further.

Popularity and Addictiveness

To complete the analysis, two additional factors must be considered. First, not only are alcohol and tobacco inherently more dangerous than heroin and cocaine, but because they are more popular, their danger is magnified. The greater popularityof alcohol and tobacco in the Western world has been demonstrated over the centuries, was manifest in pre-prohibition days, and continues today. If one assumes that alcohol and tobacco are only five times more popular than their illegal counterparts, the likely ratio of deaths would actually be tobacco, 810; alcohol, 185; heroin, 20; cocaine. 1.

As for addictiveness, "the most detailed longitudinal report on the natural history of drug involvement that charts changes in the use of a variety of [legal and illegal] drugs[including cocaine and heroin] by a general population sample in their late twenties," concluded that "alcohol shows by far the most persistence, followed by cigarette smoking."[170] Any doubts that nicotine is an addictive drug were put to rest last year by the Surgeon General's report on nicotine addiction: "The pharmacologic and behavioral processes that determine tobacco addiction are similar to those that determine addiction to drugs such as heroin and cocaine."[171] The data in Table 5, based on a 1983 survey of young adults by the National Institute on Drug Abuse, suggest a similar conclusion.

Thus, the percentage of repeat users for alcohol is 71 percent, for tobacco, 51 percent; and for cocaine, 24 percent. Data on heroin were not available, but on the basis of one survey stating that about 2.5 million people have tried heroin, one can estimate heroin's recidivism rate at about 20 percent.These results confirm Stanton Peele's claim that "no data of any sort support the idea that addiction is a characteristic of some mood-altering substances and not of others."[172]

Table 5
Estimated Percentage of Repeat Drug Users

Drug	People Who Have Used Drug (%)	People Who Used Drug in Last Month (%)
Alcohol	95	67.9
Tobacco	77	39.9
Cocaine	28	6.8

Source: National Institute on Drug Abuse.

These studies cannot be explained away by pointing to the illegal status of heroin and cocaine, since the studies consider only users willing to violate prohibition to try illegal drugs initially; we can assume that less committed users would be even less likely to become addicted. Tobacco and alcohol are simply very attractive and physically addicting drugs. Referring to tobacco, Brecher writes, "No other substance known to man is used with such remarkable frequency."[173]

Crack

In recent years, the cocaine derivative crack has become the drug of the moment. In spite of the fact that crack is a more pure and potent form of cocaine, there is little evidence that its use has increased cocaine fatalities. The author was unable to obtain statistical information about crack fatalities in phone calls to the National Institute on Drug Abuse, the1-800-Cocaine Hotline, or the New York State Division of Substance Abuse Services. The National Institute on Drug Abuse does not record crack deaths separately, but includes them instead in its figures for cocaine deaths. While cocaine-related deaths have increased since crack first appeared in1984 and became popular a year later, the rate of increase in cocaine deaths had been rising even before 1984.

There is no doubt that crack is a potentially dangerous drug that can disturb the chemistry of the human brain. The important point to remember is that the drug laws have failed to stop the use of crack. Instead, they have encouraged the development of a profitable and violent black market for this drug. In fact, it is arguable that crack exists because of the drug laws:

> The iron law of drug prohibition is that the more intense the law enforcement, the more potent thedrugs will become. The latest stage of this cycle has brought us the crack epidemic.[174]

Regarding crack's potential for inducing violence, the analysisof cocaine presented in the text applies.

Conclusion

In summary, "the commonly used illegal drugs--narcotics,marijuana, and cocaine--are much less dangerous medically thanalcohol and less addicting than cigarettes, both of which wehave been living with for some time."[175]

Footnotes

[1] New York Times, March 19, 1988, p. 29.

[2] The murder and assault rates had been rising even before Prohibition. Nevertheless, Prohibition's causal role in stimulating violence is indicated by the following facts: (1) the murder rate during Prohibition reached levels not surpassed until 1973, and (2) the rate declined sharply immediately after repeal. While there is apparently no comprehensive study of Prohibition-era violence, it is reported that there were more than 1,000 gangland murders in New York City alone during Prohibition. David E. Kyvig, Repealing National Prohibition (Chicago: University of Chicago Press, 1979), p. 27. Another writer estimates that 2,000-3,000 people died during law enforcement raids, auto chases, and arrests--casualties that by and large would not show up in murder statistics. Henry Lee, How Dry We Were: Prohibition Revisited (London:Prentice-Hall, 1963), p. 8.

[3] U.S. Bureau of the Census, Historical Statistics of theUnited States Colonial Times to 1970 Part 1, Washington, D.C. (1975), p. 441.

[4] It is necessary to distinguish between individual and policy notions of causation. When a social policy changes the context within which individuals act, with the result that more murders occur, one can say that the policy caused these murders to occur without at all denying the proximate cause of the murders.

[5] On April 1, 1988, each official was asked in writing to supply or cite any study, regardless of source, that demonstrated the net benefits of prohibition. Additionally, each official was provided a copy of the author's August 1987 cost-benefit analysis of drug legalization to comment upon.The responses were as follows: Vice President Bush: a spokesman, Kevin Cummings, said he did not know of any study in support of prohibition (April 29, 1988); Ann B. Wroblewski:"I am not aware of any cost-benefit studies of the type to which you refer"; no comment on my analysis (letter, May 2,1988); FBI Public Affairs Office (Milt Ahlerich): "The FBI has not conducted research comparing the costs with the benefits of drug prohibition"; the FBI does not comment on policy studies (letter, April 18, 1988); William J. Bennett (John P. Walters): argued mainly that insufficient data exist for an adequate cost-benefit study of prohibition (letter, April 21, 1988); National Institute of Justice: referred me to the National Clearinghouse on Drug and Crime Information, where Glenn Holly informed me that he was not aware of any cost-benefit studies of the overall effects of prohibition; Dr. Donald I. McDonald: no written reply was received and a detailed phone message was not returned; Drug Enforcement Administration: no response was received to a letter and detailed phone message; National Institute on Drug Abuse: no response to letter or phone call; General Accounting Office: provided an excellent study on the results of the Reagan administration's drug enforcement effort but did not supply or cite any cost-benefit studies.

[6] Arnold Trebach, The Great Drug War (New York: Macmillan,1987), pp. 103, 105.

[7] See generally, Edward M. Brecher and the Editors of Consumers Reports, Licit and Illicit Drugs (Boston: Little,Brown, 1972).

[8] Ibid., pp. 3-7.

[9] Ibid., p. 7.

[10] Virginia Berridge and Griffith Edwards, Opium and the People (New Haven, Conn., and London: Yale University Press,1987), pp. 262, 264.

[11] Brecher, p. 52.

[12] Ibid., p. 49. Trebach disagrees with Brecher's analysis,believing drug control to have been the motive behind the bill. But even Trebach admits that the congressional discussion of the bill was ;limited; and that, ;on its face, the Harrison Act was a tax law.; Furthermore, Trebach believes that the bill was not intended to deprive physicians of the power to prescribe opiates. Finally, Trebach does not present evidence that opiate use at the time was a major social problem, beyond the fact that it might have been disapproved of by some people; nor does he present evidence that the likely consequences of drug prohibition were carefully considered by Congress. See Arnold Trebach, The Heroin Solution (New Haven, Conn.: Yale University Press, 1982), pp. 118-24.

[13] Brecher, pp. 42-43.

[14] David F. Musto, The American Disease: Origins of Narcotics Control (New Haven, Conn., and London: Yale University Press,1973), pp. 56-59; idem, ;The History of Legislative Control over Opium, Cocaine, and Their Derivatives,; in Dealing with Drugs: Consequences of Government Control, ed. Ronald Hamowy(San Francisco: Pacific Research Institute, 1987).

[15] Brecher, p. 416.

[16] On Nixon, see Charles E. Silberman, Criminal Violence Criminal Justice (New York: Vintage Books, 1980), pp. 232-45;on Rockefeller, see National Institute of Law Enforcement and Criminal Justice, The Nation's Toughest Drug Law: Evaluating the New York Experience, Final Report of the Joint Committee on New York Drug Evaluation, March 1978, p. 7; on Reagan, see; The Failure of Enforcement; in this paper.

[17] Annual Reports of the Attorney General, 1921, 1932.

[18] National Commission on Law Observance and Enforcement, Report on the Enforcement of the Prohibition Laws of the United States, January 7, 1931, pp. 144-45.

[19] Ibid., p. 18.

[20] Ibid., p. 123; Annual Report of the Commissioner of Prohibition 1930, pp. 110-11.

[21] Report on the Enforcement, p. 14.

[22] 44 Stats. 1381 (1927).

[23] 45 Stats. 1446.

[24] Report on the Enforcement, p. 83.

[25] Richard Cowan, ;How the Narcs Created Crack,; National Review, December 5, 1986, pp. 30-31.

[26] For the purpose of this paper, ;legalization; means availability to adults without a prescription, and with quality control, production, and distribution governed by regulations similar to those imposed on the sale of alcohol and nonprescription drugs generally. ;Decriminalization; is a more restrictive regime in which production and distribution are more strictly controlled and a prescription is required for use.

[27] Nizer, New York Times, June 8, 1986; Sowell, Compassion Versus Guilt and Other Essays (New York: William Morrow, 1987),p. 32; Chapman, Chicago Tribune, June 12, 1988; Cohen, Los Angeles Times Syndicate, March 10, 1988; Downs, ABC-TV, March14, 1985.

[28] New York State Senate Bill no. S8176, April 18, 1988.

[29] House Select Committee on Narcotics Abuse and Control,; Legalization of Illegal Drugs: Impact and Feasibility,; September 29-30, 1988.

[30] Thomas Szasz, The Therapeutic State (Buffalo: Prometheus Books, 1984) p. 271.

[31] A term coined by Dr. Helen Nowlis. Brecher, p. 521.

[32] H. J. Harwood, D. M. Napolitano, P. L. Kristiansen, J. J. J. Collins, Economic Costs to Society of Alcohol and Drug Abuse and Mental Illness (Research Triangle Park, N.C.: Research Triangle Institute, 1984).

[33] New York Times, May 15, 1988, pp. 1, 24; Morton Kondracke,; Don't Legalize Drugs,; New Republic, June 27, 1988, p. 16;see also, Time, May 30, 1988, pp. 14-15.

[34] Harwood et al., pp. 49-50.

[35] Sowell, p. 74.

[36] Estimates of drug-related crime vary widely. Trebach, summarizing various surveys, puts the figure at 50 percent in urban areas. Arnold Trebach, ;The Potential Impact of 'Legal' Heroin in America,; in idem, ed., Drugs. Crime and Politics169 (New York: Praeger, 1978). A Wharton Econometrics survey found that local police officials believe that drug users commit about 25 percent of auto thefts, 40 percent of robberies and assaults, and 50 percent of burglaries and larcenies. See Gerald G. Godshaw, Hoss K. Koppel, and Russell P. Pancoast,; Anti-Drug Law Enforcement Efforts and Their Impact,; prepared for U.S. Customs Service, August 1987. Assistant Police Chief Isaac Fulwood of Washington, D.C., estimated that 50-60 percent of crime in his city is drug-related. Washington Post, November7, 1986, p. Bl.

[37] Estimate based on the FBI Crime Index for 1985, which provides crime totals and the average value of property stolen. Also considered is an unreported crime factor of about 50percent for less serious crimes, such as larceny. Silberman, pp. 611-13.

[38] George Speckart and M. Douglas Anglin, ;Narcotics and Crime: An Analysis of Existing Evidence for a Causal Relationship,; Behavioral Sciences and the Law 3 (1985): 273.

[39] According to the FBI Crime Index, there were about 19,000murders in 1985, a figure close to the annual average for the1980s. The FBI attributes 10 percent of murders to robberies and 19 percent to unidentified felonies, and lists the circumstances of 25 percent as unknown. Given the scanty information provided, this paper relies on certain assumptions to generate a complete statistic. Assume that a fair number of the unidentified felonies are burglaries, say, one-third (burglaries are in fact second to robberies in felony-linked homicide where a stranger was the victim). Further, assume that a small number of the ;unknown; murders result from property crime, say, and one-fifth. This estimate is based on the fact that most ;circumstances unknown; murders are also ;relationship unknown; murders and about 20percent of these are robbery-related. By adding the three percentages, one can conclude that21 percent of all murders, or 3,990, result from property crime. Finally, multiplying by the 40 percent figure for drug-related property crime gives a final total of about 1,600.According to one study, in 1980 there were 460,000 drug-related assaults. In 140,000 of these cases, the victims required hospitalization totaling 50,000 hospital days. P. Goldstein, ;The Drugs/Violence Nexus: A Tripartite Conceptual Framework,; Journal of Drug Issues (Fall 1985): 494.

[40] New York Times, March 12, 1988, p. 36.

[41] New York Times, January 1, 1988, p. 1.

[42] The base figure is 570, based on FBI calculation that 3 percent of all murders involved narcotics as the motive. However, this figure is certainly an underestimate since the motive of 25 percent of all murders was ;unknown,; and drug-related murders can be expected to frequently fall into this category. Testimony before the President's Commission on Organized Crime by Dr. Charles V. Welti, deputy chief medical examiner in Miami, indicates that 30-40 percent of all murders in Miami--about 70 per year--are drug-related. Record of Hearing IV, p. 536. One study found that 42 percent of murders in one precinct in New York City were drug-related. R. Heffernan, ;Homicides Related to Drug Trafficking,; Federal Probation 3 (September 1982): 3. These figures indicate that the3 percent FBI estimate is very low.

[43] Erich Goode, Drugs in American Society, 2d ed. (New York: Alfred A. Knopf, 1984), p. 124.

[44] Trebach, The Heroin Solution, p. 286.

[45] Lester Grinspoon and James B. Bakalar, Cocaine--A Drug and Its Social Evolution, rev. ed. (New York: Basic Books,1985), p. 227.

[46] New York Times, March 23, 1988, p. Bl.

[47] This very conservative estimate is based on the following figures: According to the AIDS Weekly Surveillance Report, new cases of drug-related AIDS in 1988 will total more than6,000. The Centers for Disease Control estimate that 1.5million Americans carry the AIDS virus, and that at least one-fourth of that number will develop the disease itself. Deaths from AIDS in 1991 are expected to total over 50,000. Assuming that the percentage of AIDS cases related to drug use remains at about 18 percent, drug-related AIDS deaths would total 9,000in 1991. According to an unpublished National Institute on Drug Abuse survey, there were 250,000 AIDS-infected drug users in 1987.

[48] New York Times, June 17, 1987, p. 1.

[49] See the table and explanatory notes in the appendix,; The Numbers; and ;Acute Effects.;

[50] Brecher, pp. 101-14.

[51] N. Zinberg and J. Robertson, Drugs and the Public (New York: Simon & Schuster, 1972), p. 204.

[52] Not included in this estimate are deaths caused by ;designer; drugs. Estimates range from 100 to 1,000. ;The net effect, tragic and ironic, of drug prohibition has been the creation of synthetic drugs that are more potent, dangerous, and unpredictable than the drugs originally banned. . . .Unless we turn away from drug prohibition, and learn to live with the drugs we have, we will be awash in a flood of cheap and deadly synthetic drug substitutes.; Jack Shafer, ;The War on Drugs Is Over--The Government Has Lost,; Inquiry, February1984, p. 14.

[53] Randy E. Barnett, ;Curing the Drug-Law Addiction,; in Hamowy, p. 85.

[54] Estimate based on an unpublished study by the National Institute on Drug Abuse. See also ;On Drug-Related AIDs and the Legal Ban on Over-the-Counter Hypodermic Needle Sales,; report of the Committee on Law Reform of the New York County Lawyers Association, January 12, 1988.

[55] The National Narcotics Intelligence Consumer's Committee, Narcotics Intelligence Estimate, 1980.

[56] In a value-free economic analysis, one must treat a black market business the same as a legitimate one. Thus, it might be argued that the high price that drug users pay for drugs is offset by the high profits made by drug dealers and that drug transactions are thus a zero-sum game with no net economic loss to the economy. While this logic applies to transfers of property by theft--which are therefore not included in the cost analysis of this paper--it does not apply to black-market drug sales. It is true that the money paid for illegal drugs goes to black market ;businesses,; but there is no net economic benefit because if the drugs were made legal, this money would flow to legal business. Thus, drug prohibition operates to transfer gross sales from legal to illegal business entities in zero-sum fashion, while the drug consumer and his dependents are net losers. For an analogous discussion of the economic consequences of a broken

window, see Henry Hazlitt, Economics in One Lesson, 2d ed. (New York: Arlington House,1979), pp. 23-24.

[57] New York Times, June 23, 1988, p. B4.

[58] Wharton Econometrics estimates that $6.2 billion is spent on drug-related police activities alone, excluding the cost of courts and prisons. Godshaw et al. Total criminal justice spending was $40 billion in 1983, three-quarters of which went for police and prisons. ;Justice Expenditure andEmployment,; Bureau of Justice Statistics Bulletin, 1983.

[59] ;The addict who is able to obtain an adequate supply of drugs through legitimate channels and has adequate funds usually dresses properly, maintains his nutrition, and is able to discharge his social and occupational obligations with reasonable efficiency. He usually remains in good health, suffers little inconvenience, and is, in general, difficult to distinguish from other persons.; Brecher, p. 38.

[60] Allan F. Williams, Michael A. Peat, Dennis J. Crouch, Joann K. Wells, and Bryan S. Finkle, ;Drugs in Fatally Injured Young Male Drivers,; Public Health Reports 100 (1985): 24.

[61] Harwood et al., p. 4.

[62] Ibid., p. A20.

[63] Ibid., pp. A3, A20, A24.

[64] The study does hint that the purely chemical effects of drugs may play a role in crime. Ibid., pp. C6-C7. This issue was addressed earlier in this paper. The study does not contain any data from which the quantity of chemically induced crime can be measured. Proof that the chemical effects of drugs cause crime would have to separate the effects of personality and environment from the effects of the drugs themselves--every difficult task.

[65] New York Times, September 25, 1987.

[66] New York Times, March 1, 1987.

[67] New York Times, October 23, 1987, p. B5.

[68] These figures are based on a 1978 study of the behavior of career criminals. Alfred Blumstein, ;Criminal Careers and Career Criminals,;' (National Research Council, 1986).

[69] Steven Wisotsky, ;Crackdown: The Emerging Drug Exception to the Bill of Rights,; Hastings Law Journal 38: 889 (July 1987).

[70] Barnett, in Hamowy, pp. 88-89.

[71] People v. Luna, 1989 WL 13231 (N.Y. Court of Appeals,1989), discussing, U.S. v. de Hernandez. 473 U.S. 531.

[72] Gina Kolata, ;Grim Seeds of Park Rampage Found in East Harlem Streets,; New York Times, May 2, 1989.

[73] See the table and explanatory notes in the appendix,; The Numbers.;

[74] See David V. Kyvig, Repealing National Prohibition (Chicago: University of Chicago Press, 1979), pp. 24, 112-13,131, 186; Robert O'Brien and Morris Chafetz, Encyclopedia of Alcoholism (New York: Facts on File Publications, 1982), pp.72-73; Morton Kondracke, ;Don't Legalize Drugs,; New Republic, June 27, 1988, p. 17.

[75] Using the more sophisticated method of ;years of potential life lost; (YPLL) would be unlikely to change the analysis significantly. Although people who die from alcohol and tobacco use are generally older than those who die from illegal drug use, alcohol and tobacco also cause a significant number of sudden deaths that take the lives of people of all ages (e.g., car accidents, fires).

[76] Chinese journalist Shen Chenru claims that the Communist Chinese government completely eliminated the opium problem three years after coming to power and that ;drug-taking became extinct.; But in the same article, he admits that heroin is being smuggled into China and that 18 people were charged with drug trafficking in one month in a city there. Shen Chenru,; Keeping Narcotics under Strict Control: Some Effects in China,; Impact of Science on Society 34, no. 1 (1984): 136.

[77] CBS News, April 24, 1988.

[78] Goode, p. 221.

[79] Arnold Trebach, ;Peace Without Surrender in the Perpetual Drug War,; Justice Quarterly 1 (1984): 136.

[80] Per capita alcohol consumption declined 0.7 percent from 1974 to 1984, while distilled spirit consumption declined 15.4 percent. Total deaths caused directly by alcohol declined 12percent over this period even as the population rose. Morbidity and Mortality Weekly Report 35, no. 2SS, Centers for Disease Control, August 1986.

[81] Stanton Peele, ;A Moral Vision of Addiction: How People's Values Determine Whether They Become and Remain Addicts,; Journal of Drug Issues 17 (Spring 1987): 209.

[82] Musto, in Hamowy, pp. 41-42.

[83] Brecher, p. 260.

[84] Testimony of Dr. Arnold Washton before the President's Commission on Organized Crime, November 27, 1984. Record of Hearing IV, p. 11.

[85] Peele, p. 200.

[86] Lawrence Kolb and A. G. Du Mez, ;The Prevalence and Trend of Drug Addiction in the United States and the Factors Influencing It,; U.S. Public Health Reports 39: 1179ff.

[87] Numbers based on an unpublished study by the National Institute on Drug Abuse.

[88] Sean Cash man, Prohibition--The Lie of the Land (New York: Macmillan, 1981), pp. 251-56.

[89] Kyvig, pp. 24, 112-13.

[90] Ibid., p. 186. Some commentators have cited the sizable alcohol consumption rates in postwar America as evidence that Prohibition repeal may have been unwise. But surely some of this increase in consumption was due to the increased purchasing power of Americans in that era and not solely to the legal availability of alcohol. It is reasonable to assume that even if Prohibition had not been repealed, an increase in disposable income would have led to increased alcohol consumption.

[91] ;Monitoring the Future: A Continuing Study of Lifestyles and Values of Youth,; (Ann Arbor, Mich.: National Institute on Drug Abuse, University of Michigan, 1986).

[92] Kevin Zeese, ;No More Drug War,; National Law Journal(July 7, 1986): 32, citing Scientific Study of Alcohol, and Drug Use, ;The Use of Drugs, Alcohol, and Tobacco,; Netherlands Ministry of Welfare, Health, and Cultural Affairs, 1985.

[93] Arnold Trebach, ;The Lesson of Ayatollah Khalkali,; Journal of Drug Issues (Fall 1981): 383-84.

[94] General Accounting Office, Controlling Drug Abuse: A Status Report. 1988.

[95] Brecher, p. 197.

[96] Thomas Szasz, Ceremonial Chemistry, rev. ed. (Holmes Beach, Fla.: Learning Publications, 1987), pp. 183-86. Many of these data are borrowed from Szasz's own ;Synoptic History of the Promotion and Prohibition of Drugs.;

[97] Ibid., p. 186.

[98] Ibid., p. 187.

[99] Ibid., p. 188.

[100] Ibid., p. 190.

[101] Brecher, pp. 44-45.

[102] ;In Time of Change, USSR Seeks to End Tradition of Extensive Alcohol Use by Majority of Citizens,; Journal of the American Medical Association (August 21, 1987): 884.

[103] Brecher, p. 56.

[104] Ibid., p. 51.

[105] Ibid., p. 266.

[106] Ibid., p. 51.

[107] Ibid., pp. 254-55.

[108] Szasz, Ceremonial Chemistry, p. 203.

[109] ;Soviets Attack Alcohol Problem Anew, This Time Armed with' Perestroika,;' Journal of the American Medical Association(November 6, 1987): 2342.

[110] Brecher, pp. 321-33.

[111] Ibid., p. 367.

[112] Ibid., p. 302.

[113] Ibid., p. 189.

[114] Ibid., p. 61.

[115] Ibid., p. 189.

[116] Ibid., p. 61.

[117] Szasz, Ceremonial Chemistry, p. 209.

[118] Ibid., p. 211.

[119] Ibid., p. 211.

[120] Trebach, ;The Lesson,; p. 383.

[121] Ibid., p. 384.

[122] National Institute of Law Enforcement and Criminal Justice, The Nation's Toughest Drug Law: Evaluating the New York Experience, Final Report of the Joint Committee on New York Drug Evaluation, March 1978, p. 7.

[123] Trebach, ;The Lesson,; p. 384.

[124] ;In Time of Change,; p. 885.

[125] New York Times Magazine, March 22, 1987, p. 82.

[126] ;Soviets Attack Alcohol,; p. 2342.

[127] ;In Time of Change,; p. 884.

[128] U.S. News & World Report, August 31, 1987, p. 13.

[129] ;Soviets Attack Alcohol,; p. 2347.

[130] Ibid.

[131] Michael Isikoff, ;Opium, Cocaine Crops Rose Sharply in 1988,;Washington Post, March 2, 1989, p. A3.

[132] These inefficiencies are detailed by Madsen Pirie in Dismantling the State: The Theory and Practice of Privatization,(Dallas: National Center for Policy Analysis, 1985).

[133] Ibid., pp. 12-13.

[134] Trebach, The Heroin Solution, p. 220.

[135] Goode, p. 253.

[136] Editorial, British Journal of Addiction 82 (1987): 457.

[137] Kenneth Leach, ;Leaving It to the Market,; New Statesman, January 4, 1985, p. 9.

[138] Trebach, The Heroin Solution, p. 212.

[139] ;The Prevention and Treatment of Drug Misuse in Britain,; British Information Services, 1985, p. 1.

[140] One million Americans die each year from cardiovascular diseases. According to Dr. Regan Bradford of the National Heart, Lung, and Blood Institute, in countries with lower fat diets, such as Japan, the cardiovascular death rate is only about one-tenth the U.S. rate (personal communication, June21, 1988).

[141] Brecher, p. 27.

[142] James P. Wilson, ;The Fix,; book review, New Republic, October 25, 1982, p. 25.

[143] Grinspoon and Bakalar, pp. 232-33.

[144] A. McGehee Harvey, Richard J. Johns, Victor A. McKusick, Albert H. Owens, and Richard S. Ross, The Principles and Practice of Medicine, 12th ed. (New York: Prentice-Hall, 1980),p. 1452.

[145] Kolb and Du Mez, p. 1190.

[146] Brecher, p. 101ff.

[147] Zinberg and Robertson, p. 204.

[148] A recent, unpublished study by Dr. Rand Stoneburner, director of AIDS research for the New York City Health

Department, concluded that thousands of deaths previously thought to have been drug-related, were actually caused by AIDS.

[149] Brecher, pp. 10, 112.

[150] Ibid., p. 110.

[151] ;Heroin-Related Deaths--District of Columbia, 1980-1982,;Morbidity and Mortality Weekly Report 32, no. 25, Centers for Disease Control, July 1, 1983.

[152] A. James Ruttenber and James L. Luke, ;Heroin-Related Deaths: New Epidemiologic Insights,; Science 22 (October 1984:19 .

[153] Yale H. Caplan, William E. Ottinger, Jongsei Park, and Thomas D. Smith, ;Drug and Chemical Related Deaths: Incidence in the State of Maryland--1975 to 1980,; Journal of Forensic Sciences 30 (1985): 1018.

[154] Ruttenber and Luke, p. 17.

[155] Brecher, p. 103.

[156] ;Heroin-Related Deaths.;

[157] David W. Mathias, ;Cocaine-Associated Myocardial Ischemia,; American Journal of Medicine 81 (1986): 677.

[158] Roger E. Mittleman and Charles V. Welti, ;Cocaine and Sudden 'Natural Death,;' Journal of Forensic Sciences 32 (1986):677.

[159] Louis L. Cregler and Herbert Mark, ;Cardiovascular Dangers of Cocaine Abuse,; American Journal of Cardiology 57 (1986):1185.

[160] Charles V. Welti and David A. Fishbain, ;Cocaine-Induced Psychosis and Sudden Death in Recreational Cocaine Users,;30 (1985): 879.

[161] Richard Sander, Monique A. Ryser, Terry C. Lamoreaux, and Kevin Raleigh, ;An Epidemic of Cocaine Associated Deaths in Utah,; Journal of Forensic Sciences 30 (1985): 478.

[162] Henry D. Tazelaar, Steven B. Karch, Boyd G. Stephens, and Margaret E. Billingham, ;Cocaine and the Heart,; Human Pathology 18 (1987): 1961.

[163] Barbara J. Loveys, ;Physiologic Effects of Cocaine with Particular Reference to the Cardiovascular System,; Heart and Lung 16 (March 1987): 176. Deficiency of pseudocholinesterase, one of the enzymes that breaks down cocaine, can be discovered by lab tests.

[164] Renaud Trouve and Gabriel Nahas, ;Nitrendipine: An Antidote to Cardiac and Lethal Toxicity of Cocaine,; Proceedings of the Society for Experimental Biology and Medicine 183 (1986):392.

[165] Ibid., p. 395.

[166] Again, as with heroin, any antidote that would completely blocks the ;high; from the drug is pointless, as no one would leave the black market to buy such a drug. The author was told by Dr. Renaud Trouve, one of the authors of the nitrendipine study, that ;there is no clear answer; to whether nitrendipine would block the cocaine high (April 27, 1988).

[167] Szasz, Ceremonial Chemistry, p. 200, citing A. Sinclair, Era of Excess: A Social History of the Prohibition Movement (New York: Harper-Colophon, 1964), p. 201. In 1927, there were almost 12,000 deaths from acute alcohol poisoning. Mendelson and Mello, Alcohol: Use and Abuse in America (1985): 87.

[168] Acute alcohol poisonings averaged 380 per year from1980 to 1983. Morbidity and Mortality Report 35, no. 2SS,Centers for Disease Control, August 1986.

[169] Gary C. Henderson, ;Designer Drugs: Past, History, and Future Prospects,; Journal of Forensic Sciences 33 (1988):572-73.

[170] Victoria H. Raveis and Denise Kandel, ;Changes in Drug Behavior from the Middle to the Late Twenties: Initiation, Persistence, and Cessation of Use,; American Journal of Public Health 77 (1987): 609.

[171] The Health Consequences of Smoking,; Surgeon General's Report, 1988, p. 9.

[172] Peele, p. 200.

[173] Brecher, p. 223.

[174] Cowan, p. 26.

[175] Andrew Weil, The Natural Mind, rev. ed. (Boston: Houghton Mifflin, 1986), p. 49.

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