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DRUGS AND THE EVOLUTION OF AN AMERICAN PUBLIC POLICY CRISIS

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1. Introduction

In the 1970s and 1980s, the American drug problem escalated from a minor political issue into one of the most critical public policy crises facing the federal government. Two presidents, Richard Nixon and Ronald Reagan, acted upon the national fears caused by illegal drug use, and initiated so-called "wars on drugs". But while the priority placed by these two presidents on finding a solution to the drug problem was unprecedented, fear of an American drug plague has been a constant part of American history.

Public perception of the severity of the drug crisis has wavered through time, yet the issue is one of the most enduring national concerns. Americans associate drug use with a multitude of social problems including: deviancy, crime, prostitution, poverty, and violence. It is unknown whether drug use is a cause or a symptom of these other problems, yet most social policy in the area of drug abuse is based on a belief that it is a cause. The related belief that eradication of drug use in the United States would also bring an end to the associated social problems has frequently initiated searches for effective anti-drug policies.

The search for effective drug control in the United States evolved out of these fears and beliefs. The federal government considered drug use a policy problem that required a solution. The sense that drugs destroyed the foundations of American society and threatened the national interest led to

periodic full-scale attempts to cleanse the nation through anti-drug reforms. Beginning in the Progressive Era, the anti-drug crusade reached a plateau with the development of the "war on drugs" concept. Modeled by the Nixon administration in the early 1970s, the Reagan administration reintroduced the drug war in the 1980s.

The drug wars were allegedly all-out attempts to eliminate non-medical drug use within the United States. The efforts characteristically relied on increased law enforcement, leading to unprecedented numbers of drug arrests and seizures. But the drug wars tended to ignore or underemphasize strategies not connected with law enforcement and supply reduction. After the perceived failure of anti-supply dominated strategies, both Nixon and Reagan broadened their respective efforts to include some anti-demand measures. Nevertheless, the success of the drug war strategy remains questionable. No proof exists that the efforts of these two presidents led to more than temporary and minimal declines in national drug use. Some believe that severe drug laws actually created more problems than they solved. Yet in spite of the seeming failure to find a solution to the problem, the predictions of a drug-induced Armageddon have not materialized. Why then does the United States continue to perceive the drug issue as being as severe as ever and maintain its seemingly fruitless efforts to eliminate American use of illegal drugs? The history of the evolution of American drug policy, with specific focus on the drug war concept developed by Nixon and Reagan, gives evidence to those factors that have motivated the federal government to treat the drug problem as a critical issue.

Building on the fear that drugs instilled in American society, Nixon and Reagan initiated large-scale efforts to "eliminate" illegal drug use. The drug wars received relatively little criticism as most Americans were in favor of finding a solution. Moreover, the wide-spread publicity and political rhetoric that surrounded the wars may have heightened awareness of the drug crisis and augmented Americans' fears. Correspondingly, increased fear logically created even greater support for the federal government's effort to find a solution. Thus, the popularity of these policies seemed to be self-perpetuating as the mere existence of a drug war created the fear component necessary for wide-scale political support.

Analysis of the specific policies adopted in the drug war efforts and the associated rhetoric demonstrate that political motives were a major impetus in the development of these policies. Nixon and Reagan chose to declare war on the drug issue because it seemingly affected all Americans. The two presidents presented a social policy crisis that could mobilize a maximum amount of support at relatively minor costs. Drug war rhetoric purposefully attacked the credibility and morality of those persons who opposed the policies. The drug problem became a moral issue testing the patriotism of every American. Drug use was called un-American, and those who opposed the policies of Reagan and Nixon became enemies of a nation "at war".

But closer evaluation of the drug wars and the result of these massive anti-drug efforts, reveals many problems and inconsistencies within drug war policy. Not only was total elimination of drug use an unquestionable failure, but critics dispute whether the drug wars had any positive impact on the effort to find a solution to the American drug abuse problem. By exposing the

arguments of various critics in relation to specific policies adopted by Nixon and Reagan, the political motives within the drug wars become even more apparent. The wars were not perpetuated due to any verifiable success or statistical reductions in American drug use. Rather, the well-publicized notion of a spiraling drug epidemic and the fear promoted by the drug wars themselves, led to rising American concerns and the perceived urgent need to continue anti-drug efforts at any cost.

By examining anti-drug policy before the Nixon war, the origins of the drug war concept become apparent. The relationship between these early policy measures and Nixon and Reagan's efforts, expose the motivations behind American drug policy and the drug wars. Apparently, American drug policy has not always been motivated by a sole desire to minimize the deleterious effects drugs have on our society. By treating the drug problem as a political issue, anti-drug policy has often been directed at mobilizing political support rather than at finding effective solutions. Policy has thus focused on more popular measures such as increased law enforcement and ignored many alternative solutions that may work but are rejected due to political infeasibility. The Nixon and Reagan drug wars demonstrate that part of the failure of American anti-drug policy was due to the narrow scope of policy alternatives. Moreover, limits on policy alternatives are a direct result of the fact that politicians control drug policy in the United States, and they consider policy on the basis of perceived popularity as much as they focus on probability of success.

2. American Drug Policy Before Nixon

While the use of mind-altering substances dates back many centuries in various parts of the world, widespread drug use did not occur in the United States until the latter part of the nineteenth century. This was particularly true of the post-Civil War era. During the war, military doctors frequently used opiates as analgesics for wounded soldiers, and apparently, many soldiers continued their use after the war. As knowledge of the pain-killing properties of opiates became more widespread, the medical and pharmaceutical industries began to take advantage of the substance. Opium and its various derivatives became common ingredients in patent medicines, and doctors frequently prescribed them. Opium was used not only as a pain killer, but "for almost any ailment for which a physician might be consulted."[1] By the turn of the century, opiates had become the panacea of the American medical profession.

The drug manufacturing industry also made use of several other mind altering substances. Physicians prescribed cocaine as a remedy for hay fever and other nasal disorders, as well as for treatment of opium addiction and alcoholism. Its stimulating properties also made it a favorite ingredient in many beverages including wine and Coca Cola until 1906. Other addictive drugs commonly found in the patent medicines of the nineteenth century

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1 David Musto, The American Disease: Origins of Narcotic Control (New York: Oxford Univ. Press, 1987) 70.

included barbituates, chloral hydrate, cannabis[2] , and many of their various derivatives.[3]

The medical community began to recognize the addictive qualities of drugs as their use increased in patent medicines. But most physicians believed that the medical benefits of the substances far outweighed the dangers. Alternative remedies in the nineteenth century included "bloodletting, large doses of laxatives, mercurials, and other harmful applications, including various forms of skin irritation or denudation such as blistering".[4] Given these options, it is not surprising that both doctors and their patients saw these substances as attractive options. However, many Americans soon discovered that although the immediate effect of drug treatment was preferable to more primitive medical alternatives, continued drug use could also prove harmful, even fatal. By the 1890's, the discovery of the addictive nature of these substances motivated progressive reformers to lobby for legislative control of the drug industry.[5]

The drive to control the dispensing of illicit drugs was only one of many goals of the progressive movement. The attempt to curb drug addiction was part of a broader attempt by reformers to create a new moral decency in American society. Through the use of governmental legislation,

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2 Cannabis has not been proven to be physically addictive, but experts debate the psychologically addictive qualities of the substance.

3 H. Wayne Morgan, Drugs in America (Syracuse: Syracuse Univ. Press, 1981) 13.

4 Musto, 70.

5 Morgan, 117.

the progressives attempted to end political corruption, preserve the environment, regulate big business, etc. But the progressives did not limit their goals to the reform of various institutions; they were also determined to reform the individual. In an increasingly complex and urban nation, some Americans believed that deviant individuals could adversely affect the people around them. Therefore, reforming the individual became a major component in efforts to purify society as a whole.[6] The culmination of this goal was the enactment of Prohibition in 1919. Advocates of Prohibition perceived alcoholism and drunkeness as a cause of deviancy. By eliminating the nation's access to alcohol, the Prohibitionists hoped also to eliminate the negative effects that this deviant behavior had on the community. Another impetus was the traditional American effort to set a higher moral standard in the eyes of the world. The drive to control the drug industry and the use of illicit drugs developed in this environment and included many of the same reformers. According to advocates of drug reform, physicians dispensed most drugs solely for their own financial interests, and for the interests of a greedy pharmaceutical industry. The United States needed legislative measures to protect the public from the dope profiteers and the vices that they promoted.[7] While the drive to enact alcohol prohibition overshadowed efforts to eliminate non-medical drug use, the problem had nevertheless been perceived on a national scale.

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6 Ibid, 88.

7 Musto, 72.

While the discovery of drug addiction was a primary impetus to efforts to enact legislation, several other factors increased the perceived seriousness of the drug issue. One primary public concern was the widespread belief that the drug problem compromised the ability of law enforcement officers to control racial minorities. Southerners relayed stories of mythical incidents in which "cocainized Negroes" possessed super-human strength and could not be subdued -- even by bullets.[8] Upon completion of the railroads in the western United States, the railroad industry could no longer employ the hordes of Chinese immigrants. Nativist westerners soon developed drug myths to persecute the Chinese. Opium supposedly made the Chinese deceitful and cunning. Decades later, myths deemed Mexican immigrants uncontrollable due to excessive sexual drives caused by an indulgence in marijuana.[9] While all of these drugs were common ingredients in patent medicines and used by all races, the association of the drug problem with the immigrant and minority problems made the reformers' objectives attractive to nativist elements of the population.[10]

Foreign policy developments also gave impetus to efforts for domestic drug control. In the latter part of the nineteenth century, the United States began to see the opportunity for immense financial profits in China. All of the world's major trading nations had already penetrated the Chinese market,

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8 Ibid, 7.

9 Musto, 220.

10 Ibid, 244-246.

and American business was eager to take a share. [11] However, the Chinese were increasingly resentful of imperial domination and believed that opium use was contributing to their passive subservience to the European powers. The Boxer Rebellion of 1900 attempted to eliminate the foreign domination of China. The rebels also attempted to end China's opium problem. The rebels believed that Chinese opium addiction sapped the nation's strength, benefitting the imperialists, who imported the drug for precisely this purpose. Although the imperialists crushed the uprising, the settlement led to reductuions in the Sino-British opium trade in 1906, improving trade relations. But this did not solve the trade problem for the United States.[12]

Several developments strained relations between the United States and China at the turn of the century. Congress had greatly restricted the immigration of Chinese laborers, and racist Americans violently persecuted many who had already immigrated to the United States. This reinforced the anti-imperialism of the Chinese, and they organized an unofficial boycott of American products. By late 1906, Washington perceived the harmful effects of the boycott. President Theodore Roosevelt's first idea was to send troops back to Asia, but the State Department decided that the United States would instead take the lead in solving the world opium problem. Not only was this characteristic of the Progressive view that America should set an example for

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11 Arnold H. Taylor, American Diplomacy and the Narcotics Traffic, 1900-1939 (Durham, NC: Duke Univ. Press, 1969) 28-29.

12 Ibid, 21-22.

the rest of the world, but the Roosevelt administration also hoped that the initiative would help to conciliate the Chinese.[13]

Many nations participated in a series of conferences convened at the Hague in 1911, 1912, and 1914, but the accomplishments were negligible. The primary difficulties lay in the fact that the drug trade was highly profitable for many nations. Moreover, the United States was pushing for global drug control when it had not even enacted any domestic drug legislation of its own. It was clear that before the United States could become a leader in the global effort to eliminate non-medical drug use, it would have to set an example domestically.[14]

This was not as easy as it may seem; opposition to federal regulation of the drug trade was strong. The primary difficulty was in determining what legitimate medical drug use was and who was most qualified to define it. The issue led to heated debate between reformist politicians and the medical and pharmaceutical industries. Although one would expect physicians to be best qualified, medicine was far from an exact science in 1900, and the licensing procedures of doctors were precarious. Thus, the American Medical Association, the American Pharmaceutical Association, and the drug manufacturers presented strong opposition to a national drug policy.[15]

Until 1914, the only regulatory legislation of the drug industry was the Pure Food and Drug Act of 1906. The act forced manufacturers of ingestible

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13 Musto, 31.

14 Taylor, 128; Musto, 37.

15 Ibid, 44-48.

products, including pharmaceutical companies, to clearly label all ingredients on their packaging. Although many manufacturers now felt it wiser to remove addictive substances from their products, their inclusion remained legal as long as the proper labeling was used.[16] In 1910, an attempt at national drug legislation failed. The Foster Bill was designed to eliminate non-medical drug use, require detailed records from all dispensors, and create severe penalties for violators.[17] Powerful lobbying by the medical and pharmaceutical industries, and advocates of state's rights led to the defeat of the Foster Bill. The federal government was not ready to accept broad-based police powers (a breach of its traditional role) in light of so much opposition.

The drive to regulate drug use triumphed in 1914. The Democrats gained control of both houses in the prior year, and the Wilson administration supported the development of new legislation. The Harrison Bill, introduced to Congress in June of 1913, was a compromise formulated from the stricter Foster Bill of 1910. The National Drug Trade Conference, comprised of representatives of drug manufacturers, the American Medical Association, and the American Pharmaceutical Association, endorsed the new compromise bill. The Harrison Act became law in December of 1914.[18]

The drafters of the Harrison Act created it as a tax measure to avoid possible constitutional challenges to greater federal police powers. The

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16 Donna J. Wood, Strategic Uses of Public Policy: Business and Government in the Progressive Era (Marshfield, MA: Pitman Publishing Co., 1986) 104-105.

17 Morgan, 106.

18 Ibid, 107.

Internal Revenue Bureau was placed in control of all enforcement. The act stipulated that anyone who dispensed drugs had to be registered by the federal government and keep detailed records of all drug transactions for a period of two years. Bureau agents could investigate the records at any time. To conciliate the American Medical Association, the procedure was not required when drugs were administered under the supervision of a physician. All drugs also required a tax stamp. The possession of any illicit substances without a stamp was a criminal offense. This allowed prosecution of street peddlers and smugglers. The act also set limits on the amounts of illicit substances permitted in over-the-counter products.[19] The federal government could now isolate those retailers who were dispensing inordinate amounts of narcotics and prosecute them for unethical medical or trade practices. The act also provided a base for future anti-drug measures.

The courts clarified various aspects of the Harrison Act over the subsequent decades. The most important debate centered on the issue of maintenance therapy. With the recognition of the addictive qualities of narcotics, theories abounded on how to treat the problem. Many physicians felt that it was hopeless to attempt to cure addiction, and simply dispensed the required narcotics to their addict patients -- a treatment termed maintenance therapy. Arguments for maintenance centered on evidence that rapid withdrawal often resulted in death. Moreover, if the Harrison Act prevented physicians from maintaining degenerates, the patients would inevitably turn to crime in order to obtain their fix. The federal government held a

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19 Musto, 122.

completely opposite stance but was wary of the constitutionality of dictating how physicians must treat their patients. Although the government felt that quack doctors were merely seeking profits from helplessly addicted maintenance patients, a challenge to the practice jeopardized the constitutionality of the entire Harrison Act. But in 1919, the Supreme Court refuted the policy of maintenance. In Webb and Goldbaum v. United States, the court ruled that gradual withdrawal was preferable to maintenance and that the practice of maintenance should be eliminated. The government did permit temporary maintenance after 1919 to avoid addict crime caused by forced withdrawal; but bureau agents soon made it risky for physicians to continue the practice of maintenance.[20]

With the enactment of Prohibition in 1919, the federal government created a special Narcotics Division within the Treasury Department's Prohibition Unit. With the Prohibition Unit now in control of implementation of the Harrison Act, the Unit was able to greatly alter the nature of its enforcement. It became increasingly evident that although Congress introduced the act strictly as a tax measure, the federal government intended to use the legislation to curb drug-induced behavior through law enforcement and police measures. The Anti-Saloon League had frequently lobbied for stricter drug control because of fears that the elimination of alcohol would inevitably lead to increased use of mind altering drugs. Although the enforcement of alcohol prohibition lacked widespread popularity, drug use had become increasingly detestable to the public. The

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20 William O. Walker, "The Politics of Drug Control" (unpublished dissertation, Univ. of California, Santa Barbara, 1974) 33-34.

public identified drug use with subversive activity, including "some Americans [who] believed that narcotics might make otherwise 'normal' citizens susceptible to Bolshevism."[21] Coincidentially, the "Red Scare" of 1919 coincided with several Supreme Court decisions intended to strengthen the Harrison Act the same year.[22] Judges were more likely to give longer sentences for drug-related crimes as opposed to liquor violations. The new popularity of anti-drug measures allowed agents of the Narcotics Division to crack down on all offenders. By the 1920's, challenges to the constitutionality of the Harrison Act seemed hopeless, leading to unprecedented fear of narcotics agents and stricter compliance with the act.[23]

The Narcotics Division held an increasingly stable role for the remainder of the 1920's. Physicians were aware of the punishments for maintenance violations and all dispensers kept detailed records. The Anti-Saloon League successfully exaggerated the problem and created an environment of public abhorrence of drugs. The league formed affiliated anti-drug societies, such as the White Cross and the International Narcotics Education Society, which served to provide public support for increased drug control.[24] But the Narcotics Division's primary problem was its affiliation with the Prohibition Unit.

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21 Christian Kryder and Stephen P. Strickland, et al. Americans and Drug Abuse: Report from the Aspen Conference (New York: Aspen Institute for Humanistic Studies, 1977) 4.

22 Ibid, 5.

23 Walker, 35.

24 Musto, 192.

As popularity of Prohibition subsided, narcotics agents became embarrassed by their association with the unit's "dry agents".[25] Respectable citizens soon found it acceptable to break the laws of Prohibition, and the agents who enforced these laws were increasingly detested. They were seen as focusing on petty crime while major criminals reaped enormous profits solely due to this unpopular amendment. When the government formed a separate Federal Bureau of Narcotics in 1930, its first commissioner, Harry Anslinger, was acutely aware of this problem. Anslinger realized that if the bureau continued to focus on neighborhood pharmacists and physicians, it would soon be as unpopular as the Prohibition Unit. Anslinger completely altered the philosophy of U.S. drug enforcement by turning his attention to international smugglers and racketeers. The new Federal Bureau of Narcotics attempted to eliminate illegal the drug trade from the top instead of focusing on minor offenders. Moreover, Anslinger believed that if the United States set an example, the world would soon follow in a crusade to eliminate smuggling.[26]

Anslinger, commissioner of the Federal Bureau of Narcotics from 1930 until 1962, was able to create a unified national drug policy by developing close working ties between several government agencies. He had been a diplomat before becoming commissioner of the Federal Bureau of Narcotics,

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25 Ibid, 185.

26 Douglas Kinder and William O. Walker, "Stable Force in a Storm: Harry Anslinger and Narcotic Foreign Policy, 1930-1962". Journal of American History, March, 1986, 909-910.

and saw a need for international cooperation in fighting the drug problem. By exaggerating the threat that the foreign drug trade posed to the United States, Anslinger was able to form strong ties between the Federal Bureau of Narcotics and the State Department. By associating the goals of these two agencies , Anslinger created a foreign policy issue out of America's drug problem. He also developed working relations with the Justice Department (especially with the FBI), the Treasury Department, military intelligence, and with foreign informants. This consolidation of power and the association of the drug issue with foreign policy gave the Federal Bureau of Narcotics unprecedented powers and provided the basis for modern drug enforcement. Moreover, Anslinger's ability to sensationalize the drug problem, such as blaming it on the communists after World War II, created even greater public support for the elimination of the drug trade.[27] Many of the anti-drug innovations Anslinger introduced during his long tenure became hallmarks in the future development of the drug war strategies of Nixon and Reagan. The development of inter-agency coordination, international aspects of enforcement, scapegaoting, and a sensationalism of the problem set significant precedents for future policy.

Anslinger's domestic policies were characterized by a focus on traffickers, and the continued prohibition of maintenance therapy. The most substantial legislation of the Anslinger era was the nationally instituted Marijuana Tax Act of 1937. Pushed by police departments in the Southwest during the Depression, this act banned marijuana smuggling and was primarily created to deport Mexican immigrants whom the Southwest no

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27 Kinder and Walker, 926-927.

longer needed for migrant farming. Drug control had never been more powerful or popular than under Harry Anslinger, allowing for severe legislation. The Boggs Act of 1951 and the Narcotic Control Act of 1956, created severe mandatory punishment for drug traffickers (capital punishment in some cases), and permitted Federal Bureau of Narcotics agents to carry firearms.[28]

When Harry Anslinger was forced to retire at age sixty-five in 1962, the federal government changed its stance on narcotic policy. In that same year, the Supreme Court, in Robinson v. California, ruled that drug addiction was a disease and not a crime. The court concluded that arrest and imprisonment without drug treatment was cruel and unusual punishment under the Eighth Amendment, and thus, unconstitutional. Incarceration could occur only in combination with treatment, or if the defendant had broken another law.[29]

Moreover, the Kennedy Administration greatly expanded the National Institute of Mental Health, which provided research and treatment of drug addiction. A federal "drug farm" that the government established in Lexington, Kentucky in 1935 officially as a treatment center for drug addicts but that was simply a prison, removed the bars from its windows in 1963.[30] The medical solutions proposed by the mental health agency were a direct

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28 Morgan, 147.

29 See "Criminal Law -- Narcotics -- Criminal Prosecution for Addiction Is a Cruel and Unusual Punishment Violating Eighth and Fourteenth Amendments". Vanderbilt Law Review, vol. 16, December, 1962, 216-218.

30 Musto, 235

challenge to the unitary policy of law enforcement that had characterized American drug control since the enactment of the Harrison Act in 1914.

In 1962, Dr. Vincent Dole and Dr. Mary Nyswander discovered a new method of maintenance treatment. By orally administering methadone, a synthetic opiate discovered in Germany in the 1930's, they were able to eliminate the addict's craving of heroin. Because clinics could administer methadone orally once a day, addicts could resume fairly normal lives with no need to turn to crime. Although many felt that methadone simply substituted one addiction for another, methadone maintenance had gained acceptance by the NIMH by the mid-1960's. The Drug Abuse Control Amendments of 1965 essentially legalized this form of treatment by leaving it up to the discretion of the physician.[31] Methadone maintenance later became a major component of Nixon's anti-drug strategy in the early 1970s. Increasing degrees of tolerance for minor drug use characterized the remainder of the 1960's. The dominance of law enforcement gave way to the possible alternative of finding medical solutions to the drug problem.

The 1960's were also characterized by a tremendous increase in the recreational use of illegal drugs. Drug use was associated, in particular, with the rising New Left and the counter-culture movement of the 1960's. Organized mainly by college students and young adults, the counter-culture expressed its disenchantment with the values of traditional Americans and the conservative national leadership. Counter-culture activists fought for civil rights, freedom of expression and free speech, world peace and an end to

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31 Dorothy Nelkin, Methadone Maintenance: A Technological Fix (New York: George Braziller, Inc., 1973) 41.

American involvement in Vietnam, and various other political causes. In addition to political activism, the counter-culture also expressed a rejection of certain aspects of American society by developing its own unique culture. An acceptance of drug use was one symbol of the movement's ability to develop its own values and differentiate itself from conservative Americans.[32] One writer summed up the result of the movement's disenchantment: "[W]e left, dropped out, lit up our pipes and popped our acid. There was nothing left to do . . . [Hippies] are a concept, an act of rejection, a militant vanguard, a hope for the future."[33] The counter-culture justified personal drug use as freedom of expression. Drug gurus, such as Harvard professor, Timothy Leary, and writer, Ken Kesey, supported drug use as a means of mind expansion and an intellectual tool that could overcome the stale ideas of the dominant culture.[34] The gurus saw drug use as a natural and educational experience, not as a dangerous activity.

As Richard Nixon campaigned for the presidential election of 1968, traditional America questioned the causes of discontent among the counter-culture generation. Parents could not understand why their sons would dodge the draft, or why young men and women would openly disavow patriotism and "demonstrate against their government in the midst of a

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32 Todd Gitlin, The Sixties: Years of Hope, Days of Rage (New York: Bantam Books, 1987) 205.

33 Massimo Teodori, et al., The New Left: A Documentary History (New York: Bobbs-Merrill Co., Inc., 1969) 364-365.

34 Gitlin, 206-207.

war."[35] In attempting to explain the counter-culture phenomenon, most Americans concluded that two causes were primarily to blame -- "radical intellectuals" and drug use.[36]

As Nixon assumed the presidency in 1969, he subsequently inherited the ongoing Vietnam conflict, and the discontented counter-culture. The anti-war issue now dominated the counter-culture's political goals, and Nixon's inauguration was attended by "six thousand demonstrators [who chanted] such slogans as 'Peace Now' . . . and 'Four more years of death!'."[37] Therefore, the logical opportunity to solve both problems -- Vietnam and the counter-culture discontent -- seemed to involve ending the war quickly. If the government terminated the conflict, the activists would have lost their main issue, and Nixon could have rid his administration of these two inherited problems. But Nixon soon perceived another link between the counter-culture and those serving in Vietnam -- drug use. To Nixon, the two groups seemed to expose a major drug epidemic within the United States. In the following years, Nixon responded by launching the first war on drugs.

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35 Stephen E. Ambrose, Nixon: The Triumph of a Politician, 1962-1972 (New York: Simon and Schuster, 1989) 71.

36 Ibid, 71.

37 Jonathan Schell, Time of Illusion (New York: Alfred Knopf, Inc., 1975) 25.

3. Nixon Initiates the War on Drugs

While the nation had unquestionably focused attention on the drug problem before Richard Nixon assumed the presidency in January, 1969, he was the first American president to declare that the drug issue was one of the highest priorities of his administration. Nixon campaigned for the presidency on a platform of restoring effective law enforcement to American society, and by June, 1971, the increasing drug problem was a focal point of this domestic agenda. No prior president had expressed such abhorrence for the social impact of drugs and their abuse. But Nixon's overall stance on drugs also evolved in reaction to new developments during his tenure in office.

The first major step of the Nixon administration was the passing of the so-called "No Knock Drug Bill" in February of 1970. Nixon had criticized Congress for sacrificing effective law enforcement in exchange for excessive protection of civil liberties. The Nixon administration created the bill, officially part of a larger Comprehensive Drug Abuse and Control Act, to give law enforcement officers sufficient power to " intensify the federal attack on the drug traffic".[1] As the bill's nickname implies, the greater power was to come at the expense of altering the traditional rights of targeted criminal

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1 "The No Knock Drug Bill", Time, February 9, 1970, 11-12.

suspects, regarding searches and seizures. Specifically, the bill authorized officers, with probable cause, to conduct unannounced searches of suspected drug dealer's premises at any time they wished. Despite some minor opposition in Congress, an overwhelming majority were willing to accept increased police powers in arrests involving known drug dealers. The bill passed the Senate 82-0, and the majority in the House was only slightly less lopsided.[2]

Another significant accomplishment of the Comprehensive Drug Abuse and Control Act, was the categorization of all known drugs into degrees of dangerousness for means of their legal control. The act created five classes of drugs, ranging from those that absolutely no one was authorized to prescribe or sell, to prescription drugs of little or no known danger.[3] The Nixon administration wanted to make it clear that heroin was the focus of its efforts to solve the drug problem, and by classifying each drug, with heroin in the Class One group, the administration reinforced this point. Throughout his presidency, Nixon frequently argued against the legalization of drugs for non-medical purposes. But he also implied that focusing on small-time marijuana experimenters would no longer be a focus of the federal government, and that his administration's chief goal was to crush those criminals who dealt in hard drugs[4]. The bill also established a no minimum

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2 Ibid, 11-12.

3 Musto, 262

4 "Drive to Curb Hard Drugs Gets No. 1 Priority". U.S. News and World Report, April 3, 1972, 36.

sentences statute that allowed judges to be lenient on those who were guilty of lesser drug crimes, while at the same time it allowed them to make powerful examples of guilty heroin dealers[5].

The Nixon administration's early initiatives were clearly part of its overall stance on law enforcement, but developments in Vietnam also began to shape this new federal policy. Not only were drugs associated with the counter-culture that was avidly protesting the war, but by 1971 the public perceived that the war was in a large part responsible for the increase in the American drug problem.[6] These beliefs stemmed from new reports that a large percentage of U.S. soldiers were using drugs in the fields of Vietnam. In 1966, there had only been four cases of disciplinary action for the use of hard drugs by American military personnel in Vietnam, but by 1970 this number had risen to 1751 cases. Moreover, the military estimated that as many as 75 percent of their G.I.'s were regular users of marijuana, and that as many as 25 percent experimented with heroin. Enterprising Vietnamese drug dealers made their products easily available to soldiers in the field, and while a heroin habit could cost as much as fifty dollars a day in New York City, an addict could survive on only seven dollars in Southeast Asia.[7]

Apparently, officers were afraid to discipline G.I.'s in the field for fear of reprisals. The military had initiated prior campaigns to stamp out marijuana

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5 Musto, 261

6 Graham S. Finney. Drugs: Administering Catastrophe (Washington, D.C.: Drug Abuse Council, Inc., 1975) 2.

7 "As Common as Chewing Gum". Time, March 1, 1971, 14-15.

use among its soldiers. But the military now believed that this had merely caused the servicemen to turn to heroin, which servicemen could more conveniently conceal, and was also easier to smoke or inject without being discovered by a superior officer. The army began to distribute leaflets that informed their men of the dangers of drug addiction, but these warnings, as well as the slogans such as "Don't Let Heroin Be Your Bag or You May Come Home in One", went largely unnoticed.[8] At the same time, the federal government discovered that large numbers of Vietnam veterans were indeed returning home with severe drug problems.

The situation in Vietnam was a major impetus to the next step in the Nixon administration's efforts to curb the drug problem. The belief that the war had increased American substance abuse became widespread. Not only had the problem grown but it was now unquestionably clear that the drug plague was penetrating previously unaffected sectors of American society. A 1971 article in Time magazine bluntly stated that, "each returned planeload of G.I.'s adds to the drug malaise at home . . . . Once confined to Black urban ghettos, the disease has come to invade the heartland of white middle-class America."[9] Nixon echoed these sentiments:

> [The drug problem] has moved from the ghetto to the suburbs, from the poor to the upper-middle and upper class in terms of economic income. It afflicts the rich and the poor, the

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8 Ibid, 14.

9 "The New Public Enemy No. 1". Time, June 28, 1971, 20

> blacks and the whites, the sevicemen and the civilians . . . it spreads like a plague throughout our society.[10]

As is common in American history, problems are often perceived as urgent only when they also begin to affect the privileged social classes. The perception of the drug crisis was no different.

This revelation led the President to declare that drugs were America's "Public Enemy Number One", and to initiate what came to be known as the "Nixon War on Drugs". He believed that a successful solution to the drug problem was critical if the United States was to end the Vietnam conflict peacefully, and he also publicly conceded that his failure to find a solution might jeopardize his own reelection.[11] It is also possible that he may have been willing to gamble his reelection on this one issue. Most administration experts were optimistically predicting that the problem was indeed solvable. The president went on to say that the problem, "strikes at the fabric of American life" and that drug dealing was " the most reprehensible of all crimes . . . worse than a crime like murder".[12] Moreover, he spoke of pulling out of Vietnam if the problem continued to grow.[13]

The administration's new agenda centered around the creation of the Special Action Office of Drug Abuse Prevention. This newly formed body would coordinate the efforts of thirteen federal agencies that were already

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10 The Public Papers of the Presidents of the United States (Richard Nixon), 1971 (Washington, D.C.: Government Printing Office) 765.

11 Ibid pg. 22

12 "Drive to Curb Hard Drugs Gets No. 1 Priority". U.S. News and World Report, April 3, 1972, 36.

13 " The New Public Enemy No. 1". Time, June 28, 1971, 20.

combatting the drug problem. According to the president, "its direct responsibilities [would] be major federal drug abuse prevention, education, treatment, rehabilitation, training , and research programs".[14] The administration budgeted the office $371 million, through the Drug Abuse Office and Treatment Act of 1972, to launch a two pronged attack that would "stamp out hard drugs in the United States." The Special Action Office was not only charged with eliminating domestic problems that led to drug abuse, but the administration was also intent on making the drug issue a focus of American foreign policy. The foreign policy goals included both solving the drug problems within the United States military forces in Vietnam, and putting diplomatic pressure on those nations that produced illicit substances for export to the United States. By early 1972, the Special Action Office was in full operation.

On March 21, 1972, Nixon met with Prime Minister Nihat Erim of Turkey, to negotiate plans to abolish the cultivation of poppies by Turkish farmers. Drug traffickers used Turkish poppies to produced raw opium that they transported to the southern port cities of France, where chemists refined it into high grade heroin. Most of the heroin that reached the streets in the United States was apparently the result of this so-called "French connection". By putting diplomatic pressure on both the governments of France and Turkey, Nixon hoped to eliminate this major source of supply. In exchange for promises of full cooperation by the Turkish government, Washington allocated $35 million in aid and the services of the United States Bureau of

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[14] Ibid, 24

Agriculture to assist Turkish farmers in developing alternative crops.[15] The Turkish government subsequently banned opium production within its borders, although the opportunity for tremendous profit led many farmers to ignore the law.

In France, agents from the United States Federal Bureau of Narcotics worked in close connection with French authorities to seize the laboratories where chemists refined so much of the world's heroin. Despite the apparent plentitude and mobility of these clandestine operations, officials in the United States maintained that when authorities apprehended experienced chemists, they were extremely difficult to replace.[16] Another, and more significant threat to the success of the Turkish Opium Ban was the simple fact that Turkey was only one of many opium producers throughout the world. In July of 1972, a CIA report supported the fact that Southeast Asia could compensate for any heroin shortages created by the ban in Turkey, but other agencies of the Nixon administration seemed much more optimistic.[17]

In Vietnam, the Nixon administration ordered the military to test all discharged soldiers for traces of drug use, and those found to be users were to undergo a one week dry out period before returning home. Upon arrival, the military admitted those who desired rehabilitation to treatment centers

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15 "Drive to Curb Hard Drugs Gets No. 1 Priority". U.S. News and World Report, April 3, 1972, 36.

16 "Victory Soon in the Fight Against Drug Traffic". U.S. News and World Report. Sept. 25, 1972, 50.

17 Seymour Hersh, "Report to U.S. Sees No Hope of Halting Asian Drug Traffic",New York Times. July 24, 1972, 1 & 4.

through the Veterans Administration. But this only applied to soldiers who received honorable discharges. The policy resulted in the exclusion of many of the most severely addicted veterans; the government simply left them to fend for themselves.

Domestically, the Special Action Office coordinated the actions of various branches of the federal government with the explicit goal of attacking narcotics dealers. By late 1972, the president was giving strong praise to the accomplishments of these efforts. The Office of Drug Abuse and Law Enforcement, which was created in January, 1972, was in charge of apprehending major drug dealers. Working in conjunction with local law enforcement agencies, it claimed to have acquired information on over 3000 dealers and boasted 1000 arrests, in only eight months. Similarly, the Bureau of Narcotics and Dangerous Drugs, a subdivision of the State Department, had targeted 33 American cities for an intensive crackdown on drug pushers. It also had agents located abroad in order to help local authorities break up major drug rings. The Federal Bureau of Narcotics and Dangerous Drugs had confiscated over $1.5 billion worth of illegal drugs in the first year of the drug war. The Internal Revenue Service organized an anti-narcotics unit in August, 1971, that attempted to prosecute major drug dealers for tax irregularities, and the Treasury Department increased funding to its Customs Bureau, resulting in 7860 arrests at border stations in the first year.[18]

By early 1973, optimism was high among the Nixon administration. Law enforcement officials were confiscating six times as much heroin in 1972 as

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18 "New Progress in the War on Drugs", U.S. News and World Report. August 7, 1972

they had just three years earlier, and this was indicative of the drugs that were being sold on the street. The administration boasted that the prices of illegal drugs had risen substantially, while at the same time, chemical analysis showed that the purity of the heroin was greatly diminished. But all of these glamorous statistics needed to be compared with the amount of money the administration was allocating to the drug war. Whereas in 1969 the federal government spent $65.9 million on anti-drug measures, the Nixon administration spent $729 million in 1973.[19]

While Nixon was intent on eliminating the supply of illegal drugs available in the United States, his administration also intended to diminish the demand created by the American public. This second strategy involved expanding the nation's public treatment and rehabilitation facilities, providing drug education to the nations youth, and conducting research in the field of drug abuse. By 1974, the administration allotted Special Action Office $462 million for these purposes. But rather than a balanced, multi-faceted approach, the administration relied heavily on one controversial solution -- methadone maintenance.[20]

Methadone was developed in Germany during the Second World War for analgesic purposes. Originally called "Dolophine" in honor of Adolf Hitler, it came to be known as methadone in the medical world after the

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19 "Victory Soon in the Fight Against Drug Traffic". U.S. News and World Report. Sept. 25, 1972, 50.

20 Musto, 258.

war.[21] Physicians had used methadone as a substitute for heroin in the treatment and rehabilitation of addicts since 1948, but researchers did not discover its use in maintenance therapy until 1963. Drs. Marie Nyswander and Vincent Dole of the Rockefeller Institute accidentally discovered that it not only minimized heroin withdrawal symptoms, but it also reduced the addict's craving for drugs. While this may seem insignificant in light of the fact that the patient remained addicted (albeit to another drug), there are several important differences between the two addictions.[22]

Methadone maintenance seemed to solve many of the problems associated with the treatment of heroin addicts. While the substance was entirely synthetic and chemically unrelated to the family of opiates, it produced similar effects in humans. But because methadone was administered orally, it produced longer lasting effects. The addict was not forced to inject heroin intravenously several times a day, but could be maintained for 24 hours on a single oral dose. The absence of hypodermic needles also lowered the risk of narcotic related hepatitis, a significant concern in the early 1970's. Dole and Nyswander conducted several intensive studies on the use of methadone maintenance as a viable therapy in the treatment of heroin addiction, and concluded that under clinical supervision,

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21 James Inciardi argues that methadone was not named after Adolf Hitler, as many other experts contend. He maintains that the word Dolophine was coined by the drug company Eli Lilly Inc. as a marketing name for methadone. From the Latin root "dolor", meaning pain, the company coined Dolophine to connotate "pain relief". Thus, Inciardi argues that the association with Hitler is a myth. See James A. Inciardi, The War on Drugs (Mountain View, CA: Mayfield Publishing Co., 1984), 146.

22 Dorothy Nelkin. Methadone Maintenance: A Technological Fix (New York: George Braziller, Inc., 1973) 41.

methadone could be effective.[23] Methadone maintenance gained acceptance from the National Institute of Mental Health in the mid-1960's and was deemed legal therapy under the supervision of a physician in the Drug Control Amendments of 1965. But the Nixon administration put methadone maintenance to the ultimate test by adopting it as a major part of the strategy in its war on drugs. [24]

The Nixon administration supported methadone maintenance therapy as a compromise between drug legalization and Nixon's own contradictory position. The president's primary goal in promoting methadone maintenance was to provide the addict with cost-free drugs, thus eliminating the need to turn to crime. Methadone conveniently seemed to solve this problem while at the same time silencing proponents of legalization. Legalization advocates had argued that law enforcement was responsible for addict-related crime because it raised the cost of drugs to exorbitant levels, forcing the addict to steal.[25] Methadone maintenance provided the administration with solutions to the legalization argument without adopting its policy proposals. By 1972, there were over 275 licensed methadone treatment clinics in over 200 cities, with most of them practicing methadone maintenance exclusively.[26]

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23 Luiz R. S. Simmons and Martin B. Gold, et al. Discrimination and the Addict. (Beverly Hills, CA: Sage Publications, 1973), 102.

24 Musto, 241.

25 See Milton Friedman, "Prohibition and Drugs", Newsweek, May 1, 1972, 104.

26 Donald Hutchings, Methadone: Treatment for Addiction (New York: Chelsea House Publishers, 1985) 65.

As stated earlier, monies were also allocated for educational and research purposes. Under the Drug Abuse Office and Treatment Act of 1972, $15 million was appropriated for community action aid. The administration set up local drug education programs and trained counselors and advisors. The "Help Communities Help Themselves" program established eight national training centers, and sent $2400 to 800 communities to aid in the development of drug counseling centers. But a 1973 study concluded that the educational program was grossly inadequate and that the counselors' training and knowledge was minimal.[27] The administration did increase allotments for anti-demand strategies, but funding remained inadequate in this area of the drug war.

The administration continued its war on drugs until the end of Richard Nixon's presidency, but paid little attention to these efforts after early 1973. National exposure to Watergate soon dominated all national press coverage of Nixon and his administration. In August, 1974, Nixon became the first American president to resign from office, and so came the end of the Nixon War on Drugs. The presidency was turned over to a man who did not perceive the drug problem with the same severity as his predecessor did. Although the drug war ended with the inauguration of the more tolerant Gerald Ford, Nixon's stand on drugs greatly affected future policy -- in particular, the policies of Ronald Reagan.

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27 General Research Corp., Mclean, VA, "Evaluation of Selected Components of the Office of Education: Help Communities Help Themselves Drug Abuse Prevention Program",Published by Dept. of Commerce, 1973, 13.

How did Nixon's drug war effect drug use in the United States, especially considering the cost in monetary expenditures and public services allocated towards the effort? Critics from across the political spectrum have agreed that there were several problems with the Nixon strategy. The most obvious failure was the Turkish opium ban. Although the administration estimated that almost 50 percent of the heroin that reached the streets in 1971 originated from Turkish poppies, and the ban effectively stopped the flow of Turkish heroin, it simply served to change the source of the heroin smuggled into the United States. Yet, the Nixon administration ignored reports by several experts, many within the administration itself, and proceeded with the ban at a cost of $35 million a year in subsidies to the displaced farmers. The immediate effects of the ban had been encouraging. One Connecticut doctor optimistically noted a sharp decrease in heroin related emergencies.[28] But that was in mid-1973; by the end of the year critics generally agreed that Mexican and Southeast Asian crops had completely replenished the supply of heroin in the United States. In fact, Turkey resumed poppy cultivation in 1975 but stated that the crops would be used exclusively for legitimate production of pharmaceutical opiates. In any case, the subsidizing of Turkish farmers, only a portion of those capable of producing opium, was futile when others thereby had a greater incentive to continue production at a higher profit.[29]

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28 "The Tide Has Turned in the War on Heroin". U.S. News and World Report. July 16,1973.

29 Steve Slade. "The Holy War Against Heroin". The Progressive. January, 1974, 28.

Critics also found fault with the Nixon administration's exaggeration of the effects of Vietnam veterans on the rise in heroin use in the United States. A study conducted at Washington University in St. Louis,in 1973, refuted the assumption that the veterans had started a heroin epidemic. Commissioned by the Defense Department, the study found that although as many as 300,000 to 400,000 soldiers experimented with drugs while in Southeast Asia, the large majority terminated their drug use once they arrived home. The researchers estimated that only about 4,000 veterans remained addicted and that as many as half of those were heavy drug users before they ever went to Vietnam. What Nixon as a major factor in beginning the war on drugs proved to be unfounded.[30]

Other observers noted that the Nixon War on Drugs lacked coordination and cooperation between the government agencies charged with the immense effort. These problems led to unnecessary competition and several disputes between the various agencies. With the Special Action Office in charge of most of the funding, the drug war became a game of numbers between agencies vying for allotments. The more arrests, seizures,etc. each agency made, the more revenues an agency would theoretically be entitled. The allotment procedures wholly redirected agencies' strategies and almost certainly distorted the original goals of the war. The infighting also led to the resignations of two of the top men in the administration's drug war.[31] Both

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30 John W. Finney, "Army Reports Few in War in 1970-'72 Are Addicts Today", New York Times. April 24, 1973, 1.

31 Martin Tolchin, "Ambrose to Quit as Nixon Advisor and Drug Enforcement Chief", New York Times. May 22, 1973, 12. Accusations that Ambrose had connections with a known

Myles Ambrose, head of the Office of Drug Abuse and Law Enforcement, and John Ingersoll, head of the Bureau of Narcotics and Dangerous Drugs, resigned in 1973. They openly opposed a new focus on small time drug offenders and accused the president of using it as an election year stunt.[32] But this crackdown was also attributable to a numbers game that encouraged the disunity of the drug war and excessive competition over funding.

The renewed attack on small-time drug offenders showed severe flaws in Nixon's "No Knock Drug Bill". Originally intended to aid law enforcement officers in arrests of known drug dealers, the bill resulted in the violation of the rights of many innocent Americans. One incident in particular exposed the reality of the "No Knock" law to the American public. A series of warrantless searches in Collinsville, Illinois in June of 1973 resulted in the rampant and wanton destruction of many homes. No drugs were found, and the residents' outcry drew national exposure. A New York Times follow-up story and survey reported that since the enactment of the bill, the intrusion on innocent citizens and their property had become much more frequent than the government had admitted.[33] After the national exposure of the Collinsville incident, law enforcement officers rarely used the "No Knock" tactic, and the House of Representatives initiated legislation for its repeal.

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drug smuggler in Texas may have also contributed to his departure. For Ingersoll see "Drug Agency Chief Quits and Charges White House Interference", New York Times, June 30, 1973, 26.

32 Musto, 258.

33 Andrew H. Malcolm, "Violent Drug Raids Against Innocent Found Widespread", New York Times. June 25, 1973, 1 & 22.

Gerald Ford, who assumed the presidency in August of 1974, signed the repeal of the "No Knock Drug Bill" in October of 1974.[34]

Another major criticism of Nixon's efforts concerned his support of methadone maintenance therapy. In spite of the early optimism surrounding this approach, it came under heavy criticism when subjected to further study. Besides those who believed that methadone therapy was simply substituting one drug for another, another valid criticism arose as its use became more widespread. According to criminology expert, James Q. Wilson, methadone clinics only attracted certain types of patients. They tended to be older heroin addicts who had essentially burned themselves out with their own addiction and no longer craved the intense heroin high but were satisfied with simply avoiding the painful, and frequently fatal, withdrawal symptoms. The clinics provided free treatment and let them resume fairly normal lives.[35] Two other types of addicts also frequented the methadone clinics of the 1970's. One was the addict who came only when heroin was difficult to buy on the street, or for some reason the addict was unable to obtain the required money. This type of addict preferred to get his drugs from the street and only used the clinic as a temporary expedient. The third type of addict simply used free methadone to supplement his or her own heroin addiction. These addicts registered at clinics and received their daily methadone dose every morning and then searched for heroin, that combined with methadone produced

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34 "Seatbelt Linkage Not Required Now", New York Times. October 29, 1974, 29.

35 James Q. Wilson. "Dealing with Drugs: What Policy Towards Heroin". Current. January, 1973, 29.

euphoria, the effect they desired all along. The clinics simply minimized the amount of illegal heroin they needed to obtain each day.[36]

Another result of the rise in methadone clinics was a development of an illegal market for methadone itself. Some clinics were plagued by people who registered for methadone doses and were not even addicts. These "patients" would put the medicine in their mouths at the clinic but would not swallow. They would then leave, spit out the methadone and sell it. A black market also developed with homemade or stolen methadone. Many observers believed that the clinics had merely created a new wave of methadone addicts.[37]

But perhaps the most surprising criticism of methadone therapy came from the two people who had discovered it -- Dole and Nyswander. Ten years after their promising discovery, they published an evaluation of methadone as a means of treatment for heroin addiction. Much of the optimism that they had expressed in 1963 had diminished. Dole and Nyswander admitted that methadone therapy had not lived up to its initial expectations and accepted the validity of much of the criticism directed at methadone therapy. But they were careful to point out that the actual implementation of methadone therapy had little in common with the programs they had originally proposed. The methadone clinics developed in the Nixon era never focused on therapy and rehabilitation, which was supposed to act as a

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36 Ibid, 28.

37 Hutchings, 71-73. For an argument supporting methadone maintenance, see Timothy Hannan, The Economics of Methadone Maintenance (Toronto: D.C. Heath Co., 1975) 134-135.

main accompaniment to the methadone therapy. Most clinics, they noted, acted strictly as dispensaries for the drug, inevitably leading to poor results.[38] They concluded that, "the compassion and skillful counseling needed for rehabilitation of addicts are not replicated in the climate of bureaucracy . . . Bureaucratic control of methadone programs has given us [treatment] 'slots', a rule book, and an army of inspectors, but relatively little rehabilitation."[39] Other observers noted that the quality of clinics varied greatly and that many were extremely poor; the number of treatment clinics was also seen as deficient.[40]

In analyzing the various criticisms of the Nixon War on Drugs, the alternative approaches that were being proposed at the time are important. These alternative strategies not only allow examination of more criticism but also put Nixon's policies into perspective, and see how they might have been changed in order to promote a more successful campaign. James Q. Wilson identified the range of alternatives as follows: tougher law enforcement and penalties or a punitive approach, therapy and rehabilitation, maintenance, and legalization.[41] While these theories can in turn be subdivided, it is simpler to discuss the two broad sides of the debate -- the decriminalization of

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38 Vincent P. Dole and Marie E. Nyswander, "Methadone Maintenance Treatment: A Ten Year Perspective", Journal of American Medicine, vol. 235, no. 19, May 10, 1976, 2117-2119.

39 Ibid, 2119.

40 Ninth Institute on Rehabilitation Services, "Rehabilitation of the Drug User", (Washington, D.C.: Dept of Health, Education and Welfare, 1972) 44.; CONSAD, "The Evaluation of Selected Drug Abuse Programs Administered by the NIMH"(Washington, D.C.: Dept. of Health, Education, and Welfare, 1974) 247.

41 Wilson, 10.

drug use, and increased law enforcement. Because Nixon's program unquestionably sat at the latter end, some of the most interesting and thought-provoking criticism of his campaign comes from proponents of decriminalization.

Decriminalization was not the same thing as legalization; legalization was the most radical subdivision of decriminalization. Proponents of decriminalization simply did not believe that society should treat drug users and addicts as criminals. Proposals ranged from heavy fines for drug offenders, but no jail time, to legalization. Proponents argued that drug laws created more harmful social effects than drug use itself. Drugs accounted for an enormous black market, they pointed out, in which prices were extremely high. Not only did high prices force addicts to commit crimes in order to obtain drugs, but it forced them to get the most for their money. The high cost of drugs resulted in intravenous mainlining that produced stronger effects, but also led to narcotics related disease. Moreover, stringent anti-drug laws and the accompanying rejection of the addict from society kept drug abusers from seeking help. These critics also argued that the government wasted enormous amounts of money on law enforcement that could be better spent on effective drug treatment programs. They regularly invoked the British system of decriminalization as a model.[42] Britain avoided the rise in drug use that characterized the 1960's in the United States, and proponents of decriminalization cited the British system as the reason.[43]

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42 The British system of decriminalization pertains only to heroin.

43 Slade, 25-29.

Although Nixon never concurred with any of these alternatives, the ideas did have an impact in the 1970's. The National Commission on Marijuana and Drug Abuse (1972-73) conducted a study into the effects of marijuana use and concluded that the drug should be decriminalized. Nixon chose not to publish the report and stated publicly that the government would not legalize or decriminalize any drug while he was in office. Although Nixon had originally commissioned the study himself, it obviously did not come up with the results he desired.[44]

But the most surprising refutation of Nixon's drug policies came from his successor. In 1974, the Ford administration published its "White Paper on Drug Abuse". The paper never mentioned Nixon or his administration but simply stated that the United States needed new direction in its drug policy. The paper was combination of criticism of past policy (most of it Nixon's) and an outline for a new strategy. The "White Paper" stated openly that the government did not have the capability to stop all drug use and must focus only on that which is most harmful to society. The paper also stated that penalties for drug use should never be more devastating to the user than the drugs themselves. The Ford administration was willing to accept the argument that the government could not eliminate drug use entirely, a point Nixon refused to acknowledge. In short, no amount of money and no laws, regardless of severity, could bring a total end to the drug problem; the

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44 "Drive to Curb Hard Drugs Gets No. 1 Priority". U.S. News and World Report, April 3, 1972, 36.

government could only attempt to minimize the deleterious effects of drug use.[45]

The White Paper illuminated many of the major problems and illusions surrounding the Nixon anti-drug campaign. During the period between 1968 and 1973, drug related arrests rose nationally from 162,177 to 431,608. Similarly, marijuana seizures rose 776 percent in those same years, and authorities confiscated 361 percent more heroin in 1971 than in 1968.[46] But when one contrasts this with an increase in annual anti-drug related spending from $65.9 million to $729 million, one questions the cost-benefit analysis of this trade-off.[47] Moreover, there is no evidence that drug use decreased during this period of immense federal spending in the drug war. In fact, while only four percent of Americans reported using marijuana in 1969, eleven percent said they had tried it in 1972 (the peak of the Nixon war).[48] Unquestionably, the Turkish opium ban did account for a decrease in the use of heroin from 1972 to 1974[49], but this was a costly measure considering the ban's short-term effectiveness. All these statistics prove is that authorities enforced drug laws more effectively. There is no evidence that this factor had

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45 Domestic Council Drug Abuse Task Force. White Paper on Drug Abuse, 99.

46 The U.S. Justice Department. Sourcebook of Criminal Justice Statistics, 1974, 361.

47 "Victory Soon in the Fight Against Drug Traffic". U.S. News and World Report. Sept 25, 1972, 52.

48 Ibid, 360.

49 See Irving Leveson, et al., Quantitative Explorations in Drug Abuse Policy (New York: Spectrum Publications, Inc., 1980) 100-101.

any impact on the original goals of the campaign -- to stop drug use in the United States.

Even claims of marginal success are debatable. The administration had optimistically predicted that it could eliminate the drug problem in the United States. Some officials had estimated that it could be done in as little as two years.[50] Nixon himself stated optimistically that, "[t]he final issue is not whether we will conquer drug abuse but how soon."[51] But as Professor Robert Byck of Yale University pointed out in the New York Times opinion page, the administration drew its support from a moral but equally uninformed society, and fought its war ignoring concrete evidence, the history of the drug problem, and the extensive research available on this subject.[52] When it became apparent that these lofty goals were unattainable, the Nixon administration turned its war into a game of numbers. While the high rates of arrests and seizures maintained the strong support of the American public, it is questionable whether these statistics provide any evidence that the war had a significant long-term impact in reducing the drug problem in the United States. By examining some of these statistics, one can see the difficulty in arriving at a definitive answer as to the success of the war.

Another intensive and similar drug campaign, that of the Reagan administration, allows for analysis of the rationality of this type of federal

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50 "Victory Soon in the Fight Against Drug Traffic". U.S. News and World Report. Sept 25, 1972, 50.

51 The Public Papers of the Presidents of the United States. Richard Nixon, 1971, 749.

52 Robert S. Byck, "The Drug Muddle", New York Times. June 27, 1975, 35.

drug policy. The the latter war clearly evolved from the Nixon model, and by examining the similarities of the two campaigns, and more recent statistical research, the viability of the drug war strategy can be put into perspective. Furthermore, the drug war models can provide clues to possible policy alternatives for the future.

4. Reagan's Reintroduction of the War on Drugs

The Watergate scandal and Richard Nixon's subsequent resignation in August, 1974, appeared to bring an end to the federal government's intensive anti-drug policy. Nixon's successor, Gerald Ford, held different views on the severity of the American drug problem. Ford's "White Paper outlined the direction of his administration's anti-drug policy. The paper concluded that total elimination of illegal drug use was highly unlikely if not impossible. Furthermore, the paper recommended that anti-drug efforts should focus on large-scale traffickers, and on harder drugs that inflict the most damage on society.[1] The Ford administration accepted the inevitability of a drug problem and attempted to minimize those aspects that proved most devastating to the nation. The paper concluded that "if all [the commission's] guidelines are followed, the war can be fought adequately without spending [increasing sums of] money."[2] The Ford administration rejected Nixon's perception of a drug "epidemic" that would spread uncontrollably if not eliminated. In contrast to Nixon's firm stance, Ford turned to a policy of containment of the drug problem with increased tolerance of the small-time drug user. Ford believed this would bring a halt to the spiraling increase in anti-drug spending, while maintaining adequate policies and realistic goals.

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1 Domestic Council Drug Abuse Task Force. White Paper on Drug Abuse, 97.

2 Ibid, 9.

Ford's shifting of the federal government's role in fighting drug abuse continued throughout the 1970's. Jimmy Carter adopted a similarly tolerant stance on the drug issue. This period of toleration was due in large part to the nation's subsiding fears of a heroin "epidemic". The tremendous rise in heroin use of the 1960's and early 1970's had leveled off. Most heroin users had started use during the period of the perceived epidemic while the rate of new heroin addicts had sharply dropped.[3] Moreover, cocaine had replaced heroin as the new fad among drug users. The medical community did not yet understand the dangers of cocaine, and most experts believed the drug was pleasurable but non-addictive. With the drug culture's apparently favorable switch to a more benign drug, the Carter administration further encouraged drug toleration for recreational or personal use and even flirted with the idea of marijuana decriminalization.[4]

The years of drug toleration reached a turning point in the late 1970's with a challenge to seemingly lenient federal policy and decriminalization efforts. The challenge came from groups of outraged parents throughout the country who joined to form the Parent Resources Institute on Drug Education(PRIDE) in 1977.[5] But it was not until the election of Ronald Reagan, and his support of the parents' movement, that the powerful

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[3] James Q. Wilson, "Against the Legalization of Drugs". Commentary, February 1990, 21.

[4] In 1977, the Carter administration endorsed a plan to decriminalize possession of less than one ounce of marijuana. But Carter was forced to change his position when his chief drug advisor and proponent of decriminalization, Dr. Peter Bourne, was charged with providing false prescriptions and using cocaine at parties in Washington, D.C.

[5] Michael Lyman, Narcotics and Crime Control (Springfield, IL: Charles C. Thomas Publisher, 1987) 178.

American anti-drug stance, initiated by Nixon, regained broad-based national support. The Parent Resources Institute on Drug Education changed its name to the National Federation of Parents for Drug Free Youth in 1980, and Reagan backed the movement and promised to reverse the federal government's shift to tolerant anti-drug policies.[6] Echoing Nixon's early anti-drug pledges, Reagan called drugs "one of the gravest problems facing us internally in the U.S.", and spoke of the urgent need to find a solution "because I think we're running the risk of losing a great part of a whole generation if we don't."[7] Reagan appointed Dr. Ian MacDonald, leader of the Florida chapter of the Parents Movement, to head his anti-drug campaign. While the Reagan administration acknowledged the need for intensive effort in five specific areas -- international cooperation, education and prevention, detoxification and treatment, and research -- the bulk of the efforts were geared toward the fifth strategy, law enforcement.[8]

Building from the Nixon model, a series of new laws and agencies laid the groundwork for the beginning of Reagan's anti-drug efforts in 1982. Poor inter-agency coordination had continued to plague the federal anti-drug effort, leading the Reagan administration to enact new legislation. In order to promote cooperation between the Drug Enforcement Agency and the FBI, legislation gave the two agencies concurrent jurisdiction in January, 1982. According to the administration, this would combine the single-mission anti-

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6 Musto, 271.

7 Federal Strategy for Prevention of Drug Abuse and Drug Trafficking, 1982, 1.

8 Ibid, 3-7.

drug efforts of the Drug Enforcement Agency with the FBI's expertise in combatting large-scale organized crime. The two agencies were required to share information and cooperate in major drug arrests and seizures.[9]

The administration also created a centralized agency, within the Office of Policy Development, to coordinate the entire anti-drug campaign. A Reagan executive order in June, 1982, created a new agency, the Drug Abuse Policy Office, and appointed a director to head the efforts. Congress, however, saw a need for even greater coordination and passed legislation that would have created a cabinet level office to lead the anti-drug campaign. But Reagan pocket-vetoed the Omnibus Crime Bill (H.R. 3936), stating , "The war on crime and drugs does not need more bureaucracy in Washington. It does need more action in the field and that is where my administration will focus its efforts."[10] Reagan did not want to create friction between a drug "czar" with cabinet level authority, and the heads of the other fifteen agencies charged with actually carrying out the policies. The veto was also characteristic of Reagan's pledges to limit the size and intrusiveness of the federal government. In his inaugural address, Reagan stated that, "It is no coincidence that our present troubles parallel and are proportionate to the intervention and intrusion in our lives that result from unecessary and excessive growth of government."[11] Ironically, while Reagan concerned

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[9] Presidents Commission on Organized Crime, America's Habit: Drug Abuse, Drug Trafficking, and Organized Crime. U.S Justice Department, 1986, 259.

[10] Ibid, 262.

[11] Inaugural Address of Ronald Reagan, January 20, 1981. Reprinted in Ronald Reagan, Speaking My Mind (New York: Simon and Schuster, 1989) 63.

himself greatly with this minor issue of administration, he was able to ignore the moralistic intrusiveness inherent in the anti-drug crusade itself.

But the Senate refused to accept defeat and reintroduced the legislation, arguing that the Director of the Drug Abuse Policy Office did not possess adequate authority to head an effective anti-drug campaign. The senate action resulted in a compromise between the administration and Congress embodied in Title II of the Crime Control Act of 1984. Modeled on Nixon's Office of Drug Abuse and Law Enforcement, the legislation created the National Drug Enforcement Policy Board (Policy Board). In exchange for the Reagan administration's endorsement of the bill, Congress made amendments limiting the Policy Board's authority to issues of law enforcement, and placed the Attorney General as chairman instead of appointing a new cabinet-level official. The chair already had cabinet-level authority as head of the Justice Department, thus eliminating the need for a new cabinet post. According to the Attorney General's Office, "The creation of the Policy Board represent[ed] only the latest compromise between the President and Congress in the ongoing search for more effective coordination of all facets of the Federal drug abuse effort."[12]

The Reagan administration also set a precedent in utilizing the military in its efforts to fight the drug war. The Posse Comitatis Act of 1878 prohibited military intervention in domestic law enforcement, without specific approval by Congress. The act was originally created by the southern states during Reconstruction to prevent U.S. Marshalls from enforcing laws

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[12] Ibid, 266.

in their territory. The Department of Defense Act of 1982 amended the ancient Posse Comitatus Act, allowing federal drug officers to utilize all U.S. military equipment necessary to aid in the war on drugs. Moreover, drug enforcement authorities could acquire military personnel to operate any equipment that required special military training or authorization.[13] This included driving vehicles, operating radar and advanced surveillance equipment, and firing military weapons. The Reagan anti-drug crusade was now equipped with advanced military technology, but the administration also needed new weapons in the courtroom.

Legal limitations and numerous loopholes available to criminal defendants created several obstacles for government prosecution of the drug industry. To enhance the power of the legal system, the administration devised many reforms in the Comprehensive Crime Control Act of 1984. The Bail Reform Act of 1984 stated that a judicial officer must hold a hearing to insure a defendant's return to court in any case involving a narcotics offense with a maximum sentence of over ten years. If the defendant could not prove that "there [were] conditions that [would] ensure his appearance and the safety of the community", the judge had to detaine the offender until his trial.[14]

The Racketeer Influenced and Corrupt Organizations Act (RICO) and the Continuing Criminal Enterprise Act (CCE) were devised in 1970 to allow forced forfeiture of property and assets acquired through large-scale criminal

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13 James Inciardi, The War on Drugs (Mountain View, CA: Mayfield Publishing Co., 1986) 208.

14 America's Habit, 272.

activity. The two acts were crucial in combatting a drug industry that provided such enormous economic opportunity for drug dealers that threats of prison sentences created no deterrent. But ambiguity in the the RICO and CCE statutes had allowed many organized criminals loopholes through which they could escape prosecution and forced forfeiture. The Comprehensive Forfeiture Act of 1984 attempted to specify and reassert the power behind the two statutes, and specifically outlined how they could be used to combat large-scale narcotics operations. The legislation emphasized the Supreme Court's 1983 confirmation of the government's right to seize criminally obtained property and assets (Russello v. United States), and provided the Reagan administration with a new legal tool in prosecuting large-scale drug dealers.[15]

A series of additional provisions within the Comprehensive Crime Control Act of 1984 increased penalties for almost all drug violations. The act increased penalties for selling controlled substances, and an amendment mandated double sentences for persons caught selling drugs within 1000 feet of a school. The act gave the Attorney General the power to make illegal any newly manufactured drugs or "designer drugs", and to revoke licenses of any physicians or pharmacists who were found to be acting against the public interest. The Currency and Foreign Transactions Reporting Act greatly increased the penalties for money laundering, and attempted to make the practice more difficult through new transaction formalities. The federal government also attempted to limit drug dealers' access to top-quality legal

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[15] Ibid, 272.

counsel. The Revised Tax Reform Act of 1984 allowed forced forfeiture of assets including attorney's fees upon conviction of large-scale drug trafficking. The statute led to a reluctance on the part of high-priced lawyers to represent defendants in drug cases. If the defendant was convicted, the attorney could be forced to forfeit fees for services already rendered.[16] Through the use of a more powerfully equipped legal system, and a technologically superior anti-drug army, the Reagan administration hoped to win the drug war with a traditional focus on law enforcement.

Following the example set by Nixon, the Reagan administration focused the initial years of the anti-drug campaign on interdiction -- efforts to eliminate the supply of drugs imported into the United States. The administration hoped to solicit international cooperation to impede the flow of foreign drug imports and the export of the large sums of American currency tied up in the drug trade. Through executive order, Reagan solicited the services of the entire American intelligence community. Intelligence agencies were instructed to inform the president of any information related to drug trafficking within or into the United States. The South Florida Task Force was formed in 1982 to coordinate anti-smuggling efforts in Florida, where the rate of drugs and cash flow was highest. This cabinet-level body was headed by then Vice-President George Bush, and the administration specifically charged it with trying to minimize the disastrous effects crime was having on southern Florida. The Task Force concentrated specifically on drug "interdiction and the arrest and prosecution of drug dealers and smugglers".[17]

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16 Inciardi, 215.

The administration believed that a solution to the drug problem would minimize criminal activity as a whole in southern Florida. The Task Force utilized the services of both the Drug Enforcement Agency and the United States Customs Service to carry out follow-up investigations of all drug seizures and border arrests. Although the Task Force's efforts were successful in reducing the flow of drugs into Florida, it was soon evident that drug dealers had merely diverted their drugs to alternate points of entry, mainly other Gulf Coast ports.[18] But while the administration recognized that the success of the South Florida Task Force had exacerbated problems elsewhere, it hoped that the Task Force could serve as a model for broader-based efforts to limit foreign drug imports.

The regional success of the South Florida Task Force led to the formation of the Organized Crime Drug Enforcement Task Force in October,1982. Twelve regional branches located at the main entry points for drugs entering the United States comprised this broader-based task force. But while the administration modeled the Organized Crime Drug Enforcement Task Force after the South Florida Task Force, it was not focused specifically on confiscating drug imports. The twelve branches attempted to search out large-scale drug smuggling operations and their leaders. By disrupting the operations of the largest drug smuggling operations, the new agency hoped to further minimize the quantity of drug imports. In another attempt to coordinate multiple federal agencies on a specific goal, the administration formed the National Narcotics Border Interdiction System in 1983. The

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17 America's Habit, 288.

18 James Lieber, "Coping With Cocaine". The Atlantic Monthly, January, 1986, 40.

system, headed by then Vice-President George Bush attempted to coordinate the entire federal effort to intercept drug imports. Despite the formation of the Policy Board in 1984, the system remained the main coordinating body in the area of intercepting drug imports.[19]

By early 1986, it was evident to most observers that the Reagan drug war was having little if no impact on drug use within the United States. With interception of drug imports, the administration had hoped to succeed by focusing on the traditional method of fighting drug abuse -- eliminating the supply of drugs availible within the nation. But by 1986, Reagan seemed to have fallen into the same trap as Nixon. Even Reagan conceded that, "what we have to face is that there is a limit to what success we can have with simply trying to shut off the inflow of drugs . . . I think what ultimately must be the answer . . . is to take the user away from the drugs, to turn the user off."[20] The president was beginning to realize the futility of a strict anti-supply strategy. It was clear that authorities only intercepted a small fraction of illegal drugs were while most reached their intended destinations.[21] Moreover, experts speculated that by increasing the risk of drug smuggling by enacting longer mandatory sentences, the Reagan war did not deter the activity, but forced smugglers to import different drugs. Specifically, smugglers turned to cocaine and heroin rather than less-harmful marijuana, because in most states the penalties were identical. In order for smugglers to

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19 Ibid, 290-292.

20 The Public Papers of the Presidents of the U.S., Ronald Reagan, 1986, 911.

21 For discussion on the limits of interdiction strategies, see Steven Witsotsky, Breaking the Impasse in the War on Drugs (New York: Greenwood Press, 1986) 62-65.

make a comparable profit with marijuana, they had to import enormous quantities that were more difficult to transport and more easily detected by law enforcement. They turned to cocaine and heroin, which provide greater profits in smaller volumes. Unfortunately for the Reagan administration, these two drugs were also far more devastating to the nation.[22]

Reagan's focus on the interception of drug imports failed in several other ways. His administration failed to gain the international cooperation it believed was crucial to eliminate the major sources of supply. Just as Nixon was unable to promote crop reductions in other nations, except for the brief ban in Turkey, the Reagan administration failed to solicit significant international cooperation. The producer nations continued their reluctance to ban the production of these profitable crops when they were frequently a major source of income.[23] Moreover, weak nations were often helpless in combatting an industry that was more powerful than the government itself. But the primary problem was that the federal government was unwilling to jeopardize diplomatic relations with these nations, even though the administration repeatedly emphasized the severity of the American drug problem. Reagan refused to place his main domestic issue ahead of his foreign policy. Without the threat of sanctions, the drug producing nations continued to supply the United States.[24]

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[22] Lieber, 39-41.

[23] Thomas Molnar, "Exporting the Drug War". National Review, May 22, 1987, 38.

[24] Peter Reuter, "America's Eternal Hope". The Public Interest, September, 1986, 93-95.

With growing criticism of its emphasis on reducing supply, the Reagan administration reevaluated its policy in 1986. The cost of cocaine had steadily dropped, proving that supply was increasing in spite of intensive anti-smuggling efforts.[25] Drug importers had simply changed their ports of entry, avoiding those areas where the government focused its efforts. With 96,000 miles of land and ocean borders, alternative routes were almost infinite. With the introduction of "crack" or rock cocaine to the streets in 1985, the new emphasis on smuggling cocaine in preference to marijuana proved even more devastating. This new form of cocaine was more addictive than any other known drug and cheap enough to be sold to a broader market than regular cocaine. Some Americans feared that the introduction of crack would create the worst drug epidemic yet experienced in the United States.

While Reagan's use of military technology and multiple agency strategy failed to eliminate more than a small fraction of drug imports into the United States, it was also evident that the new legal tools were also inadequate. The administration was successful only in apprehending and prosecuting the lowest members in the major drug smuggling operations. The main figures avoided entry into the United States, eliminating the possibility of arrest and trial under Reagan's tough drug laws. Arrests were limited to the industry's pawns who actually smuggled and sold drugs in American territory. Moreover, inadequate prison facilities within the United States often limited the severity of the sentences of those who were convicted. The administration was unable to eliminate any of the crucial links in the

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[25] Lieber, 40.

foreign drug smuggling industry, and only threatened its most easily replaced figures.[26]

Rather than abandoning the its seemingly futile drug strategy, the administration decided to broaden the focus of the anti-drug effort in 1986. The Reagan administration launched an extensive media campaign to warn Americans of the dangers of drug abuse. The administration hoped to influence public opinion and increase awareness and support of the drug war. The National Institute for Drug Abuse had presented studies that showed minimal awareness on the part of Americans to the actual dangers of drug abuse. Developed by Needham Harper Worldwide, in conjunction with the Ad Council, the media campaign targeted Americans aged eighteen to thirty-five years. The National Institute for Drug Abuse had determined that this age group represented the majority of drug abusers. All services were rendered free-of-charge by these elite advertising agencies, and commercial time was donated by all of the nations major television networks. The administration subsidized all other costs resulting in anti-drug commercials of award winning quality that received extensive air-play beginning in 1985.[27]

The initial impetus was provided by the First Lady, Nancy Reagan, and the growing Parents Movement. The "Just Say No" campaign begun in 1984 targeted teenagers and attempted to refute myths that drugs were glamorous and harmless. Enlisting free services from all areas of the media industry, the media presented the "Just Say No" message on television and radio, in music

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[26] Ibid, 44.

[27] Pamela J. Shoemaker, Communication Campaigns About Drugs: Government, Media, and the Public (Hillsdale, NJ: Lawerence Earlbaum Associates, Publishers, 1989) 13-14.

videos, and in posters brochures and pamphlets. Furthermore, the First Lady made numerous speaking appearances in support of the movement and solicited support from national celebrities including sports stars, actors, and musicians. By gaining support of those individuals most admired by the nation's youth, the campaign hoped to acquire increased influence.[28]

With the widespread appearance of crack, and a large increase in cocaine related deaths and health emergencies, the administration launched the second phase of the media campaign. Modeled on the "Just Say No" campaign, the government, in conjunction with the same advertising groups, launched another drive in 1986 called "Cocaine: The Big Lie". It targeted young adults rather than teenagers, and through powerful ads, exposed the dangers of cocaine. More importantly, the administration developed the Toll-Free Drug Treatment Referral Line in conjunction with the ads. The campaign not only presented Americans with alarming messages, but also with an anonymous phone service that could provide information and direct users to treatment facilities.[29]

The Reagan administration's drug war reached its peak in 1986. While the success of the media campaign in deterring drug use was uncertain, there was no question that the nation was increasingly aware of the drug problem. The national media also began to increase public perception of the problem by presenting an unprecedented number of news stories related to drugs.[30] The

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[28] Ibid, 14-15.

[29] Ibid, 15-20.

[30] P. Kerr, "Anatomy of an Issue: Drugs, the Evidence, the Reaction". The New York Times, November 17, 1986, 1.

advent of crack and the murder of Enrique Camerena Salazar of the Drug Enforcement Agency, in 1985, captured national attention. The death of basketball star Len Bias, by cocaine overdose the following year, shocked the nation and drug related news stories reached a peak in the same year.[31] Drugs were competing with the AIDS epidemic as the nation's greatest domestic threat.[32]

Shortly afterward, Reagan reiterated the necessity of a strong anti-drug campaign, and on August 4, 1986, formally declared a "War on Drugs".[33] He announced that "the fight against drugs is another war for our freedom, just like World War II. It will take a national crusade to defeat the scourge." Nancy Reagan, who continued her activism in the anti-drug crusade, echoed the same sentiments. She warned, "There is a drug and alcohol abuse epidemic in this country and no one is safe from it, least of all our children, because the epidemic has their names written on it."[34] Other members of the administration were quick to jump on the anti-drug bandwagon. The White House Drug Advisor, Carlton Turner went as far as warning that marijuana might lead to homosexuality.[35] In addition to spending increasing sums of money, the administration followed this "war time" declaration with a series of unprecedented actions.

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[31] Shoemaker, 26.

[32] "The Age Of Hysteria", The Progressive, October, 1986, 9-10.

[33] The Public Papers of the Presidents of the U.S., Ronald Reagan, 1986, 1048.

[34] "High on Hot Air", The New Republic, October 6, 1986, 7.

[35] Harry Levine and Craig Reinarman, "What's Behind 'Jar Wars'", Nation, March 28, 1987, 389.

The backbone of Reagan's new strategy was drug testing. The president believed that mandatory drug testing for all employees could eventually deter drug use. Nixon had supported the same policies after the perceived success of testing all returning Vietnam veterans. But the constitutionality of forcing the entire American labor force to submit bodily fluids to the federal government was precarious. Reagan, however, had unprecedented support for his "War on Drugs" and decided to experiment with drug testing on federal employees. He stated, "The Federal government, as the largest employer in the nation, can and should show the way towards achieving drug-free workplaces . . . ."[36] Reagan himself, along with the Vice-President and the Cabinet volunteered for the first drug tests. The Defense Department, on Reagan's orders, had already instituted mandatory random drug testing within the military, but the president was wary of mandatory testing for all federal policies. Instead, he enacted mandatory testing for all those who could pose a threat to national security, while strongly encouraging voluntary testing for all other federal employees.[37] Moreover, Reagan attempted to get American companies to institute private drug testing of their own employees.[38]

The administration also reacted strongly to the murder of DEA agent Enrique Camerena Salazar. The DEA obtained a videotape that documented the torture and brutal murders of Camerena and his Mexican reconnaissance

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36 The Public Papers of the Presidents of the U.S., Ronald Reagan, 1986, 1183.

37 Ibid, 1183.

38 The Public Papers of the Presidents of the U.S., Ronald Reagan, 1986, 1325-1326.

pilot in Guadalajara. The administration pressured Mexico into bringing the culprits to justice, and also attempted to force the Mexican government to rid itself of corrupt officials. The U.S. Customs Service also increased the thoroughness of border inspections almost to a level of harassment. Although the actions drew widespread complaints from the Mexican government, the administration did not perceive any threat to American foreign policy.[39]

The Anti-Drug Abuse Act of 1986, of October, 1986, was a comprehensive attempt to "fine-tune" all existing drug policy in order that the federal government could fight a more effective drug war.[40] With the support of Congress, the administration increased spending in all areas of its anti-drug abuse effort. The act mandated longer minimum sentences for almost all drug violations, with career drug dealers and money launderers targeted in particular.[41]

The final major step of the Reagan administration's "War on Drugs" was the initiation of the "Zero Tolerance" policy in March, 1988.[42] In order to increase the deterrent factors invoved in drug smuggling, the administration used "Zero Tolerance" to confiscate any vessel on which authorities found drugs. The amount of drugs seized was irrelevant. The government

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39 Bryan Lake, "Who Killed Kiki Camerena", National Review, August 29, 1986, 34-35.

40 Michael D. Lyman, Practical Drug Enforcement: Procedures and Administration(New York: Elsevier Science Publishing Co., 1989) 370.

41 Ibid, 371.

42 Committee on Merchant Marine and Fisheries, House of Representatives, 'Zero Tolerance': Drug Policy and Confiscation of Property, May 26, 1988, 63.

intended to demonstrate the severity of the drug war by seizing boats on which they dicovered minute traces of drugs. Therefore, "Zero Tolerance" was not a new law but simply a stricter enforcement of existing policies. While the policy enraged members of the fishing and seagoing transport industries, Reagan would not back down. Admiral Paul A. Yost, who was in charge of the Coast Guard's efforts, described the new policy as "an important tool for law enforcement in the total war on drugs", and stated that "Illegal drugs have no place in the marine environment."[43] Within six months after implementation, the three largest cocaine seizures in history occurred[44]

But as Reagan left office in 1989, the success of his anti-drug effort was questionable. Although the tonnage of drug seizures increased from two to twenty-seven tons per year during his presidency, it was doubtful that either amount represented any substantial portion of total drug imports. Moreover, Reagan had increased federal anti-drug spending from $861 million to over $3 billion in those same years.[45] Many believed that he had simply proven what Nixon had shown years earlier -- spending more money leads to the confiscation of more drugs and more arrests, but does not necessarily lead to decreased drug use.

Critics began to reiterate many of the arguments used against Nixon's drug war. Proponents of decriminalization believed that Reagan's strict policies actually contributed to the drug problem more than they helped to

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[43] Ibid, 71.

[44] Ibid, 64.

[45] "The Long Losing Battle Against Drugs", The Economist, March 5, 1988.

solve it. Not only was Reagan accused of forcing drug smugglers to import heroin and cocaine instead of marijuana, but one critic credited the administration with the introduction of crack to the inner-cities. By this argument, the intensive efforts to eliminate major sources of supply served to increase competition in the market place. Because of the new risks associated with drugs, the dealer wanted a higher price that could be acquired by providing the "best" product available. In the drug market, the best product is most potent substance, and the result was the development of crack. According to this theory, Reagan's policies also forced users to get the most for their money, further increasing the appeal of crack cocaine to the buyer.[46]

More scathing indictments of the Reagan war came over the issue of his motives. One critic characterized the effort as follows: "Reagan has noticed a widespread fear, seized a popular issue, and turned temperance into a vehicle for moral mobilization and an excuse for social control. . . . [the war] is a political movement under the guise of a moral crusade."[47] Critics on the right charged the administration with trivializing a severe issue by falsely claiming victory. The administration's unrealistic goals and promises proved that even they did not take the issue seriously. According to one critic, the war was nothing more than a political tool for Reagan. He declared war on an unwinnable enemy, knowing that no one would vilify the noble effort. There were no powerful groups lobbying against an effort to solve the

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[46] Richard C. Cowan, "How the Narcs Created Crack", National Review, December 5, 1986, 26-27. For an alternate view see Wilson, "Against the Legalization of Drugs", Note 1, p. 2.

[47] "The Crackdown", Nation, August 30, 1986, 131.

nation's drug problem.[48] Another wrote, "Perhaps the one good result of [the war] will be a recognition that a serious problem is being manipulated rather than addressed".[49]

There was also criticism of the specific aspects of the Reagan war. The most widespread dissent came over the issue of drug testing. The most avid proponents of the policy conceded that test results were inaccurate at least two percent of the time. Most experts placed the rate of "false positives" at closer to five percent.[50] The issue of drug testing became a significant issue in political elections and appointments. In Georgia, Julian Bond lost a 1986 Congressional primary after his opponent, John Lewis[51], challenged him to submit to a urine test and he refused. Christian Century said of drug testing, "The attack on the freedom of the individual always begins with targets that are considered generally acceptable. The danger is that testing for drug use will eventually lead to other checks on personal freedom".[52] With drug testing and the Zero Tolerance search and seizure policies, some believed that Reagan had over-stepped the same bounds of constitutionality as Nixon. He had ignored inherent civil liberties in order that his anti-drug campaign have an air of seriousness and perceived success.[53]

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48 James M. Wall, "The Anti-Drug Bandwagon Promises a Quick Fix", Christian Century, October 8, 1986, 851.

49 Levine and Reinarman, 390.

50 Ibid, 389.

51 Ironically, Bond and Lewis had been close friends while working for the Student Nonviolent Coordinating Committee in the 1960's.

52 Wall, 851.

The most important question raised by the Reagan War is the feasibility of trying to eliminate drug abuse with repressive government policies. The specific methods chosen by the Reagan administration illustrate the problems associated with this strategy. Abbie Hoffman called the "simplistic" Just Say No campaign "the equivalent of telling manic depressives to just cheer up!".[54] Reagan also created a political issue in which several public figures became unwillingly involved. As was the case with Julian Bond, politicians who refused drug tests were labeled drug users, whether proof was available or not. Some likened this coercion to conformity and the administration's hasty accusations of those who refused to comply to the frequent Red Scares in American history.[55] Reagan created an environment inhospitable to those who opposed his administration's drug policies. Congress denied Douglas Ginsberg appointment to the Supreme Court because he admitted to having smoked marijuana in college. The irony was that Reagan continued to support Ginsberg, his own nominee, dismissing his drug experimentation as forgivable "youthful fancy".[56] But this contradicted everything the Reagan War was fundamentally built on, further indicating that it was a political tool that the administration manipulated as new circumstances presented themselves.

The alternatives to the method used by the Reagan administration appeared equally precarious -- namely, addressing the root problems in society

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53 "High on Hot Air", 8.

54 Abbie Hoffman, "Reefer Madness", Nation, November 21, 1987, 581.

55 Levine and Reinarman, 389.

56 Hoffman, 581.

that led to drug abuse. Liberal theorists promoted the idea that drug abuse was a symptom of greater structural problems within society. In order to win the drug war, these root problems had to be addressed along with drug abuse itself. In other words, the real problem was "the atomization of communities, the purposeless drift of individual lives, the impulse towards thrill-seeking and artificially induced excitement that accompanies a consumption-oriented society.[57] The national ethos promoted by the Reagan administration only increased the problem. "Psychological escape, self-destructive rebellion and anti-social activity are built into the system of competition, greed and authoritarianism that the Reagan revolution promote[d]".[58]

The Reagan anti-drug campaign unquestionably captured the attention of the nation as no other drug-war since Prohibition. Politicians, the media, and the public all became wrapped up in the latest attempt by the federal government to eliminate drug abuse in the United States. But whether this war was different from any of the previous futile attempts is questionable. Statistics provide no answers. In fact, one journalist noted that the range of drug statistics allowed journalists to paint any picture they wanted to on the issue.[59] On the issue of statistics, another critic said, "Estimates of drug use, money, etc. are so speculative and irrationally inflated that they should not be a factor in policy making".[60] In fact, NIDA, a federal agency, only discovered a

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57 "Oh, What a Lovely War", The Progressive, July, 1988, 7.

58 "The Crackdown", 132.

59 Adam Paul Weisman, "I Was a Drug Hype Junkie", The New Republic, October 6, 1986, 15.

one percent increase in cocaine use between 1982 and 1986.[61] Thus, as was the case with Nixon, the urgency of the Reagan war was questionable as was the institution of the severe anti-drug policies associated with drug wars.

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60 Peter Reuter, "The (Continued) Vitality of Mythical Numbers", The Public Interest, Spring, 1984, 146-147.

61 Weisman, 16.

5. Drug Wars as Social Policy

The drug wars of Richard Nixon and Ronald Reagan proved to be the most significant attempts to limit American consumption of mind-altering substances since Prohibition. While the intervening period is replete with drug legislation and efforts to limit addiction, Nixon and Reagan were the first presidents to make drugs a significant issue for the federal government. Each president perceived a nationwide drug epidemic that would spread uncontrollably if not checked by a strong federal anti-drug campaign. In 1970, Richard Nixon introduced the concept of a "War on Drugs", in which the federal government would use almost any means available to bring about the total elimination of illegal drug use in the United States. Approximately a decade later, Ronald Reagan reintroduced the drug war in an intensified form. But attempts at total elimination of drug use were a failure. In fact, many critics dispute the overall success of the drug war strategy. Nevertheless, the drug wars of Nixon and Reagan provide valuable information on the viability of specific anti-drug strategy and the nature of the American drug problem.

What motivated these two presidents to declare war on a problem whose solution has appeared so elusive throughout American history? Interestingly, there seems to be a connection between the motives of each president and general concerns of the American public. A prerequisite of launching a politically successful anti-drug campaign has been that the nation

perceives the drug problem as being unusually severe. But how does this fear evolve? While it is possible that Americans' concern rose due to widespread drug epidemics, giving impetus to the anti-drug efforts of Nixon and Reagan, the opposite is more likely. The Nixon and Reagan administrations may have actually created the fear that allowed their efforts to survive politically. Regardless of the actual origin of the fear, it is clear that the drug wars heightened existing national concern over the drug issue. In the absence of statistics or concrete evidence, the widespread media publicity, anti-drug messages, and political rhetoric fostered belief in a spiraling drug epidemic. Who could argue when Reagan stated in 1986, "Our country [is] threatened by an epidemic of drug abuse that's been growing in intensity since the 1960s. . . . America is losing its future by default."[1] Rarely has the public demand proof when a President exposes a crisis of these proportions. Whether Nixon and Reagan were quick to play on these national fears to promote their own political ambitions by mobilizing mass support is questionable, but this form of political manipulation has occurred in the past.

The similarity between the frequent Red Scares and the anti-drug issue is particularly striking. Both issues have appeared at various times in American history, while the fear was relatively absent at other times. More importantly, these issues have served to silence left-wing opposition to the policies of the federal government. By promoting "fear" issues which commanded widespread support, the Right put pressure on politicians to

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[1] The Public Papers of the Presidents (Ronald Reagan), 1986, 629.

support administration policies or at least silence their dissent. Nixon, for example, used the drug issue in attempts to discredit anti-war activists opposed to his administration's policies in Vietnam. He branded the Left as hippies and drug users, directing specific attacks on "young people". Reagan developed the drug issue as part of a greater moral crusade. In an address to the Convention of Florida Evangelicals, he said:

> [A] study has found that an overwhelming majority of Americans disapprove of adultery, teenage sex, and hard drugs. And this same study showed a deep reverence for the importance of family ties and religious belief . . . America is in the midst of a spiritual awakening and a moral renewal . . . I say today, yes, let justice roll on like a river, righteousness like a never failing stream!.[2]

Implicit in Reagan's moral crusade was the notion that if a politician refused to support him on moral issues, he or she must be guilty of the very evils Reagan was trying to eliminate.

This moralizing strategy was evident in Reagan's support for mandatory drug testing. While most Americans remained free to choose whether they wanted to be tested, campaign pressures forced politicians to submit to testing or almost assuredly lose their next election. The public paranoia inherent in massive anti-drug campaigns virtually eliminated the feasibility of open opposition to the Reagan drug war. For those who did not support the anti-drug policies, some assumed that they must be involved with drugs themselves. Just as the Left feared speaking out during the Red

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[2] Ronald W. Reagan, Speaking My Mind (New York: Simon and Schuster, 1989) 125.

scares for fear of being branded communist agents of Moscow, politicians hesitated in speaking out against drug wars for fear of being called advocates of drug use and crime. Reagan's innuendos and attacks on the character of his opponents cannot compare to the calamity of McCarthyism, but it is important to recognize the similarities.

While Nixon and Reagan pledged to use any means necessary to eliminate American drug abuse, implementation of their respective strategies emphasized law enforcement and attempts to cut off the supply of drugs coming into the United States. Both presidents perceived a strong connection between drug use and criminal activity and, therefore, believed that increased law enforcement was a logical method of curbing the drug problem. The focus on law enforcement led to increases in drug seizures and arrests, but opponents of the drug wars disputed whether this had any significant impact on the availability of drugs within the United States. Critics argued against an emphasis on reducing the supply of drugs, pointing out that increases in law enforcement made drug dealing more profitable and may have actually increased criminal activity. The Reagan administration was even criticized with forcing dealers to import heroin and cocaine, in place of less-harmful marijuana, and stimulating the development of crack cocaine.

Both Nixon and Reagan eventually realized that emphasis solely on the elimination of the drug supply was not adequate policy. The United States' 96,000 miles of borders and large population made the total elimination of supply inconceivable. The government also had to minimize national demand. Justifying failed policies, Reagan stated in 1986:

> [W]e felt from the very first, that the obvious, legitimate job of

> government was the interception of -- or the interdiction of the drugs . . . Nancy [Reagan], of course, had approached it from what I've always believed is the real way if we're ever to get control of this; and that is to take the users away from the drugs instead of the other way around.[3]

After failed efforts, Reagan assured the nation that he had been aware of proper methods all along and, as Nixon had, continued the anti-drug efforts in modified form.

Each president turned to anti-drug propaganda and "public education" to force Americans to reevaluate the morality of drug use. While Nixon focused primarily on young people and the military, Reagan's enhanced anti-drug crusade was able to target a broader audience. The Reagan administration solicited the services of the nation's premier advertising agencies and mass media outlets. The campaign spread the anti-drug message through commercials, posters, and celebrity speaking tours. Through the "Just Say No" and "Cocaine: The Big Lie" campaigns, the Reagan anti-drug effort turned into an advertising campaign which reached almost every American in some form. Another facet of each president's anti-demand strategy involved drug testing. While constitutional limitations prevented the institution of drug testing nation-wide, Nixon and Reagan still attempted to legitimize testing as a critical component in creating a drug-free America. Drug testing reached its highest level of acceptance late in the Reagan war, forcing politicians and other public figures to join the anti-drug bandwagon by submitting to voluntary testing, or risk public accusations of drug use.

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[3] The Public Papers of the Presidents (Ronald Reagan), 1986, 1038-1039.

Refusing a drug test became synonymous with pleading the Fifth Amendment; it was within a person's legal rights, but refusal inevitably led to public perception of guilt.

The conservative ideologies of Richard Nixon and Ronald Reagan also contributed to their adoption of the drug war concept. Republicans have traditionally opposed major increases in social policy expenditures. A desire to minimize social policy expenditures may have actually led the two presidents to promote drug wars. The drug war strategy served the dual purpose of appearing tough on crime, while at the same time, claiming to address significant social problems such as poverty, public health, unemployment, etc. While these efforts appear expensive, the cost was relatively small compared to alternative policy proposals designed to solve social problems. Expenditures targeted at "eliminating" poverty, for example, could dwarf drug war expenditures. Moreover, social programs that are directed at specific groups, such as the poor, are more difficult to get adopted -- especially if the programs are expensive. But the drug wars were supposedly directed at the entire nation. Therefore, every American had something to gain if the efforts were successful. The philosophy that drug abuse was a problem that affected all of American society helped to justify the strategy over that of greater welfare measures. The anti-drug strategy presented an image of a president who promoted meaningful social policies for all Americans, and doing it at a cheaper cost than had they focused, for example, only on the welfare of the poor, national health care, or urban renewal. Nixon and Reagan's seemingly strong stance on the "crucial" issue of drug abuse, then, was an inexpensive method of appeasing or discrediting criticism

from advocates of greater social policy measures.

Republican ideology also holds specific views of the individual in relation to society. Generally, Republicans stand by the ideals of rugged individualism, self-help, and individual duty to recognize personal moral obligations to society. When irregularities or social problems occur, Republicans have tended to search for causes in the individual rather than in the surrounding environment. In the case of drug use, Republicans use their ideology to blame the addict or dealer rather than examining the social conditions that are associated with drug abuse. The emotional pain of experiencing racism, the humiliation associated with being poor, or the emotional stress inherent in an over-worked national work force are only a few of the environmental characteristics of American society that may lead to drug abuse. But if policy makers continue to ignore environmental causation theories, as was largely the case in the drug wars, a solution may never be found.

The term "War on Drugs" and the associated rhetoric also give evidence of the motivation behind the efforts of Nixon and Reagan. Declaring policy toward the drug problem a "war" gave the appearance of a total effort. In fact, Reagan frequently referred to the efforts as a "crusade", evoking images of an even stronger response. Nixon and Reagan were able to convince the nation that drugs were an enemy of all Americans, and that the problem could only be solved with the coordinated efforts and support of the entire country. Moreover, those who spoke out against the anti-drug policies became enemies of a nation "at war". They attempted to make drugs an issue of patriotism and loyalty to American principles. The rhetoric

served not only to increase the perceived severity of the problem but created a moral bandwagon that discouraged dissent. There were no powerful groups lobbying for legalization or better treatment of the criminals involved in the drug trade. Both presidents were able to capture bipartisan support and Congressional approval of policies whose success was debatable. In a sense, Nixon and Reagan were able to utilize the war rhetoric to create a rally-round-the-flag effect and augment support of their drug policies. In an absence of real armed conflict, the drug "wars" may have simply been an attempt to capitalize on the political support that national leadership characteristically gains in war-time situations.

The disputed success of the drug war strategy raises questions about the direction of future anti-drug policy. Despite the apparent failures of a focus on law enforcement, President Bush decided to continue Ronald Reagan's drug war. But as the drug war strategy continues, alternative policies require thorough examination. If conservative drug policy continues to fail, a shift may occur towards the greater drug toleration characterized by the Ford and Carter terms. Whether drug policy will ever shift toward increased tolerance remains to be seen, but critics continue to propose drug legalization or decriminalization in the wake of conservative failures. On the issue of criminal activity associated with keeping drugs illegal, William Raspberry notes, "The sobering thought is that these problems, actual and potential, may represent a greater danger to our national well-being than the prospect of even the few zonked-out druggies that drug legalization might or might not

produce."[4] Another proponent of decriminalization argues that:

> At best, we can keep in mind that wars on drugs often make matters not better but worse. The only hope is to pursue a sensible, decent and humane drug policy that aims to minimize the harms that result from drug laws and drug use.[5]

But with the advent of crack cocaine and the medical mysteries surrounding the drug, legalization seems far off. Residents of the nation's ghettoes, where most drug related violence occurs, are reluctant to call for tolerance. One Los Angeles crack addict noted:

> I heard they were trying to legalize drugs. That would be the worst thing. Think about it. If they got better cocaine, everybody would try it. You won't have anybody in the country who isn't on their way to getting strung out.[6]

Selected drug decriminalization may be a more reasonable step towards experimentation with increased drug tolerance, but even here conservative opposition abounds. James Q. Wilson argues that the continuation of strict anti-drug laws only promises more of the same. Yet, the effects of turning to legalization or even decriminalization could prove disastrous.[7] In light of

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4 William Raspberry, "Facing Up to Just How Tough Drug War Will Be", Policy Review.

5 Ethan A. Nadelman, "Challenge Is Not Whether to Decriminalize But How", The Los Angeles Times, March 20, 1990, B7.

6 "Coke Is a Cruel Mistress, Man", The Los Angeles Times, March 12, 1990, B7.

7 James Q. Wilson, "Against the Legalization of Drugs", 30.

Wilson's argument, liberal politicians are unlikely to gamble with either alternative, but may simply revert to the tactics of Ford and Carter.

Substance abuse has been pervasive throughout American history. But at the same time, statistics do not support the perception of a growing drug epidemic. In fact, the instance of drug abuse appears to have remained remarkably constant through time. Nevertheless, periodically throughout history, the nation has perceived epidemics of drug use that required intensive government action. As the anti-drug efforts of Richard Nixon and Ronald Reagan demonstrate, the campaigns may have been more a cause than a reaction to the drug epidemic perception. In fact, the "Drug Wars" themselves were instrumental in increasing public fears of the drug menace, and thus justified their own existence when statistics did not.

If future drug policy is to prove more effective in eliminating drug abuse within the United States, policy makers must reevaluate past strategies, and be cognizant of the history and nature of the drug problem. There must be a realization that drug use is a symptom of greater social problems. Poverty, job stress, a cutthroat American economic system, and genetic factors that are not clearly understood, all contribute to the United States' overwhelming desire for drugs. Sole emphasis on the issue of drug abuse will, therefore, never solve the problem. Moreover, if substance abuse is a disease, the government must treat it as one. An overemphasis on law enforcement focuses only on the criminal aspects of the drug trade and ignores the root cause of the industry's existence. Therefore, it is likely the solution to the drug problem will be found within the medical or scientific community and not within the White House. But until that time, some

form of anti-drug policy must be maintained. Regardless of what policies future presidential administrations choose, government should not use the drug issue simply as an issue for the political ambitions of those in office. Effective anti-drug policy will eliminate rhetoric, educate rather than scare the American public, and be modified by policy makers according to valid data and specific successes or failures. With an elimination of the publicity and fear drug wars generate, the perceived severity of the problem will undoubtedly subside as will the popularity of the Nixon and Reagan tactics.

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