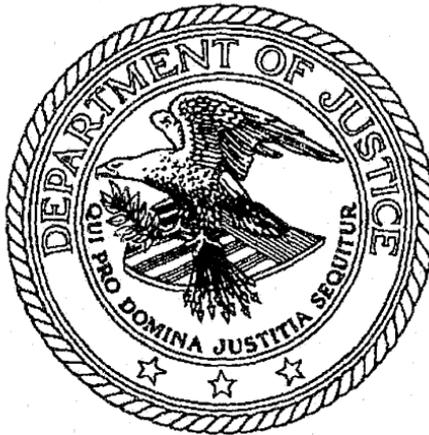


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LEGALIZATION OF DRUGS:
THE WRONG ANSWER
TO A
COMPLEX PROBLEM



United States Attorney's Office
Northern District of Ohio
November, 1991

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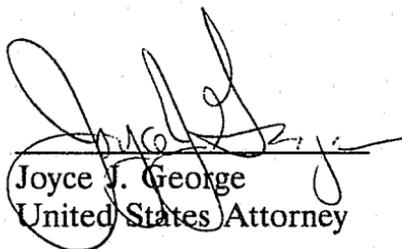
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PREFACE

This document was prepared to respond to some of the confusing colloquy being advanced by the proponents of the legalization of drugs and to provide factual data to refute the legalization position. While every possible argument cannot be included, this document does address the majority of those arguments made by the proponents of legalization and it suggests a number of practical premises for rejecting the legalization of drugs.

Advocates for the legalization of drugs make arguments which initially appear to be sound. However, as the pages that follow will show, under close analysis, each argument will fail. This document will highlight the deficiencies evident to those arguments made as well as offer persuasive rebuttals and appropriate responses for why the legalization of drugs is the **WRONG ANSWER TO THIS COMPLEX PROBLEM.**

We hope this document will prove useful to you in your efforts to help dissuade others from accepting the legalization argument while also silencing the legalization proponents.



Joyce J. George
United States Attorney

TABLE OF CONTENTS

Introduction.	1
Alcohol Prohibition Didn't Work	3
Supply Reduction Policies	4
Supply of Drugs	7
Demand for Drugs	8
Living With Legalization	11
Legalization in Other Countries	14
Legalization and Individual Rights	16
Choice of Own Lifestyle	19
Obtaining Legal Drugs	22
Regulation of Drugs	24
Elimination of Violent Behavior	26
Elimination of Drug Lords' Profits	29
Taxation of Legal Drug Sales	30

Reduction of Law Enforcement Needs 31

Conclusion 32

Bibliography 33



SAY NO TO THE
LEGALIZATION OF DRUGS.
IT'S THE WRONG ANSWER!

INTRODUCTION

The willingness to contemplate legalization of drugs is not necessarily an endorsement of drugs, but a cry of desperation, a sign that a consensus is developing that the drug problem is intolerable. Americans look for the quick fix for any problem. Supply and demand reduction professionals have stated for years that there is no quick solution to our drug problem, a problem that has been developing for a long time.

There is no real outcry from the American public for legalization or for decriminalization. A recent New York Times poll showed that over three-quarters of adults wanted all drugs kept illegal and that almost 90% of high school students wanted to keep marijuana illegal. Although there is undisputable validity in recent polls, the new advocates of legalization should not be simply dismissed. No longer are they just drug users and their political friends. They now include many decent, well-intentioned, nonusers who are frustrated and eager for a quick solution. As their level of frustration grows, so will their numbers.

Perhaps discussing the legalization of drugs is a positive step in America's war on drugs. Such a discussion, at least, brings the problem into focus.

To suggest legalization of drugs is to suggest a simplistic, and wrong, answer to an extremely complex issue.

Drugs, and not the laws concerning those drugs, are the cause of many economic, medical, criminal and social problems. Thus, the legalization argument is flawed when we examine the cause of America's drug problems. For this reason, this nation's focus should be aimed at the culprit--drugs--and not at drug laws.

The recent drug abuse prevention and education programs have not had sufficient time to alter American life. We must be patient and permit them the time needed to become effective.

Americans seek the quick, simple answer that they believe may be the cure-all for the drug problem. Hence, the discussion of legalization persists. But it is not the answer, as will be shown in the pages that follow.

The following format is used: First, the argument for legalization is stated, then a reasoned look at why drug legalization is not only indefensible, but is costly to society.

ALCOHOL PROHIBITION DIDN'T WORK

PROPOSERS SAY: Speakeasies, organized crime, and illegal behavior among the citizenry flourished during Prohibition (1920-1933); a situation similar to today's drug epidemic. "If drugs were legal," the argument goes, "drug black markets worth tens of billions of dollars would evaporate, the empires of drug gangsters would collapse, addicts would stop committing street crimes to support their habits, and the police, courts, and prisons would no longer be overwhelmed by a problem they cannot hope to defeat."

OPPOSERS SAY: This nation's experience with alcohol is one of the strongest arguments against legalization. Prohibition, historically cited as a failure, did have a significant effect in curtailing the overall level of alcohol consumption and resulted in a comparative decrease in alcoholism and alcohol-related diseases. In addition, its repeal created an industry so successful at selling its product that there has been a major increase in illegal consumption and its subsequent problems.

If marijuana consumption were to triple, as alcohol did post-prohibition, we would have almost as many problem marijuana smokers as we have problem drinkers. Legalizing drugs is bound to convert a partially drugged society into a more pervasively drugged society. We do not legalize other anti-social activities just because they continue to occur and we find them difficult to control.

Additionally, contrary to public belief, sanctions against drug use have prevented and delayed millions of Americans from using drugs. Why? Because most people continue to have a natural respect for the law, especially children and young adults.

If we removed the legal sanctions that proscribe drug use, this would inevitably lead to more widespread use among our youth and more tolerance of drug use throughout our society.

SUPPLY REDUCTION POLICIES

PROPONENTS SAY: Proponents of legalization insist that despite law enforcement's best efforts, the supply and substance purity of drugs have increased while the price has decreased.

OPPONENTS SAY: Of all illicit drugs, only cocaine has increased in availability and purity at decreased prices. Marijuana, heroin, and hashish have remained relatively high priced, which is precisely the objective of supply reduction. The main reason cocaine has become more widely available is that the cocaine cartels have a surplus of the easily stored drug, which they have dumped on North America in order to increase the demand for it.

It is a fact that arrests, seizures, and forfeitures have significantly increased each year and continue to increase

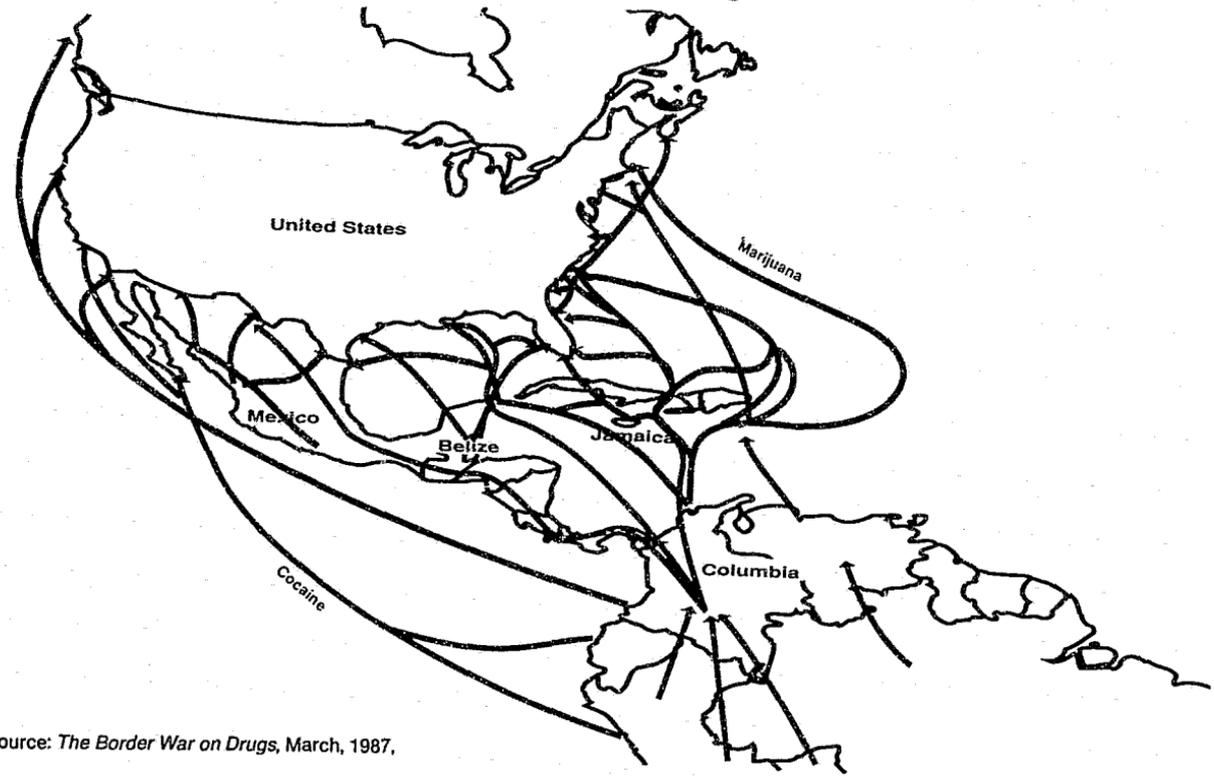
substantially. Proponents of legalization do not address the issue of what the magnitude of the supply problem would be if **NO** effort had been made.

Furthermore, the experience of rapid price decline and greater availability of cocaine in the Bahamas is worthy of mention. As the price of cocaine dropped 40%, in the early 1980's, cocaine related admissions to the only psychiatric clinic in the Bahamas went from 0 to 300.

In the United States, supply reduction efforts are increasing and working well. Americans are drug-proofing their families and then their communities.

Cocaine and marijuana are largely of South and Central American origin

9



Source: *The Border War on Drugs*, March, 1987.

SUPPLY OF DRUGS

PROPOSERS SAY: Despite the confiscation of huge quantities of illicit drugs, we continue to be overwhelmed by illegal drugs in all parts of this nation. With the size of our borders and our open-door policies, it is impossible to make headway against smuggling, particularly when the profit margins continue to escalate.

OPPOSERS SAY: We are successfully tightening our borders. Each year, it becomes more difficult to smuggle all types of contraband into this country, and each year, it becomes more difficult to grow and transport marijuana. Besides initiating sanctions against the source countries, we must also work on replacement crop programs. A global effort is required.

Even if we were able to stop the flow of illegal drugs into the country, we would face the manufacturing of equivalent substitutes. Therefore, the focus on demand reduction efforts must be paramount.

Additionally, the United States is a signatory to the Convention on Psychotropic Substances of 1971. This country is obligated to establish and maintain controls on the substances covered by the treaty. If we violated this international treaty, we would be sending the wrong signal to other nations now enlisted in the war on drugs.

DEMAND FOR DRUGS

PROPONENTS SAY: Through the shifting of values, changes in the family unit, the media, entertainment, and insufficient facts, this nation has created a "quick-fix," "pill for every ill" attitude that cannot be stopped. The appetite is insatiable, so let's make drugs available.

OPPONENTS SAY: The argument that we have always been a drug taking society is simply not true. As recently as 1962, less than TWO PERCENT of the entire U. S. population had had ANY experience with any illicit drug (Highlights of the 1979 National Household Survey on Drug Abuse). Our current drug epidemic has taken place in just 26 years.

We, as a nation, have yet to stand up and commit to the eradication of this enormous problem. Although there has been a lack of commitment from every "kitchen table," we have made major strides in reducing the demand for drugs through educational and law enforcement efforts.

The following statistics were listed in the 1988 National High School Senior Survey:

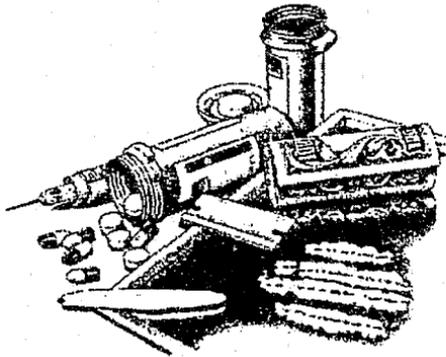
<u>HIGH SCHOOL SENIORS</u>		
Percent who used in last thirty days		
Marijuana	1986	23.4
	1987	21.0
	1988	18.0
Cocaine	1986	6.2
	1987	4.3
	1988	3.4

These figures demonstrate a reduction in use by this age group.

Research has also disclosed that we are seeing a change in attitude among high school seniors as to which drugs are being perceived as more dangerous. A similar phenomenon has occurred with respect to seniors' use of cocaine. It dropped one-third in one year, from 6 percent in 1986 to 4 percent in 1987. A similar rise also occurred in seniors' perception that using cocaine even once or twice could be harmful--from 34 percent in 1986 to 48 percent in 1987.

Legalization would undermine any educational effort regarding the harmful effects of drugs. It is imperative that both younger and older people receive and continue to receive an uncompromising message about one of the greatest threats to their future.

The point is that we have not given prevention and education the support needed to accomplish our goal of becoming a drug free society. A study of the reduction of tobacco smoking over the last decade, however, is suggestive of what can be achieved by a concerted, sustained effort.



LIVING WITH LEGALIZATION

PROPONENTS SAY: If our society has learned to live with tobacco and alcohol, our society could learn to live with the legalization of drugs.

OPPONENTS SAY: It is precisely because alcohol and tobacco are legal that they are the most widely used and culturally entrenched drugs. There is no reason to give legal sanctions to additional major public health and social problems. Many people shy away from experimenting with drugs because they are illegal. Legalization of drugs will only increase its use. Statistics reveal that between 1972 and 1978, eleven states in this country decriminalized marijuana. During this period, marijuana use rose 125 percent among young adults, 137 percent among high school seniors, 200 percent among older adults, and 240 percent among teenagers.

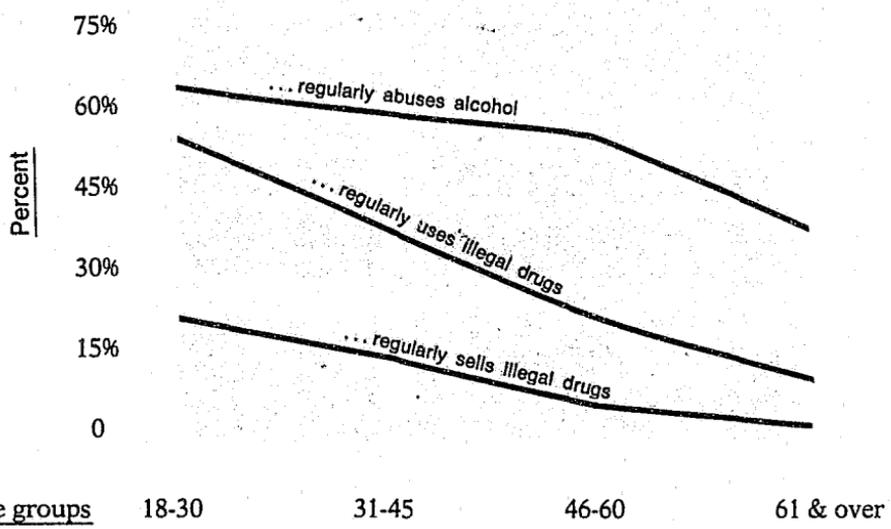
For example, Alaska is the only state in the nation that permits the personal possession of up to 4 ounces of marijuana. When asked which drug, alcohol or marijuana, they prefer, 80% of 11 to 14 year-olds, chose marijuana. Young people tend to see things in concrete terms. Drugs are either illegal or "okay." They think because marijuana is legal for their older siblings and parents, it is also "okay" for them.

Furthermore, a National Household survey and a University of Alaska survey asked young people in grades 7

through 12 if they had ever tried marijuana. The national survey reported that 26.7% responded positively, while the Alaska survey reported that 49.5% responded positively, a percentage that was almost double the national average. Legalization in Alaska did not take away that glamorous appeal of using marijuana.

It is paradoxical that illicit drugs are banned while the widespread sale of tobacco and alcohol is permitted. Compared to illicit drugs, these substances are responsible for the deaths of far more people. Alcohol is the leading cause of death among young people in the United States, deaths which occur in alcohol-related homicides, suicides and accidents (by no means all of which occur in cars). Alcohol kills a total of 100,000 people annually, while tobacco kills between 350,000 and 500,000 more people each year, according to various estimates. These numbers are almost too large to comprehend. Reference to tobacco and alcohol simply does not offer a justification for the legalization of drugs. Rather, we should be more supportive of the effort to diminish the use of tobacco and alcohol in our country.

Age is directly related to contact with people abusing drugs or alcohol
Percent of Ohioans who know someone who...



Source: GOCJS, November, 1988.

LEGALIZATION IN OTHER COUNTRIES

PROPOSERS SAY: Giving the addicts what they want, including clean needles, has been widely and favorably received in other countries.

OPPOSERS SAY: Years ago, England set up a system so that heroin users could register and legally obtain heroin at local pharmacies. The result was a significant increase in heroin use. The number of heroin users doubled, and the importation of illegal heroin increased threefold. Scotland Yard had to increase its narcotics squad by over 100%. The reason -- the heroin users got legal, low purity heroin from the pharmacies and then went out on the streets and bought more potent heroin illegally.

Heroin addiction has skyrocketed since Italy passed a national law permitting narcotics for personal use. Italy is burdened with the largest number of drug related deaths in Western Europe. Drug related deaths in Italy are 3 times higher than they were in 1986, just 4 years ago. Officials also estimate that more than half of Italy's 300,000 heroin addicts are infected with AIDS.

Other countries have experienced similar results yet proponents insist that legalization will not increase use. Obviously, Italy's experience is proving that legalization increases use, increases addiction, increases AIDS, and increases deaths.

Also, contrary to the proponents' argument, giving addicts clean needles is not a good solution to our drug problem. Such government-sanctioned programs could easily be construed as the first step towards government sanction of the use of illegal drugs.



Clean-needle programs are a cop-out. They are diversionary tactics that mislead the uninformed and make them believe that cheap, quick, mechanical fixes can somehow work, thereby avoiding costly alternative decisions. At best, they are stop-gap measures that will surely fail to get addicts into treatment, fail to stop the epidemic and fail to protect babies that are being born addicted.

Finally, needle-exchange programs send the wrong message to society. They say that drug addiction is okay, as long as it's clean drug addiction. A visit to any big city hospital will reveal otherwise.

LEGALIZATION AND INDIVIDUAL RIGHTS

PROPONENTS SAY: Americans have frequently felt that as long as an individual's behavior does not adversely affect others, then he ought to be free to do as he chooses. This position proposes to safeguard free speech, freedom of association, freedom of religion, the freedom to live a reasonable lifestyle, and the right of privacy.

Some proponents share the belief that government has no right to prevent individuals from pursuing pleasure--even self-destructive pleasure--so long as no one else is harmed.

Proponents offer the rationale that drugs are not harmful; that many individuals who use them are perfectly competent; and that actions of the community to protect itself are more of a threat to the public good than the actions of drug abusers.

OPPONENTS SAY: It is difficult to accept the argument that individuals must not be held accountable for their lifestyles. In order for the "individual rights" argument to succeed, proponents of legalization must successfully argue that the abuse of illicit drugs does not pose a significant threat. The real issues are 1) whether society and government have an obligation to protect the public from the harmful actions of drug abusers; 2) whether society should protect an individual from himself or herself; and 3) what measure or measures are acceptable in terms of

diminished individual rights to promote the common welfare?

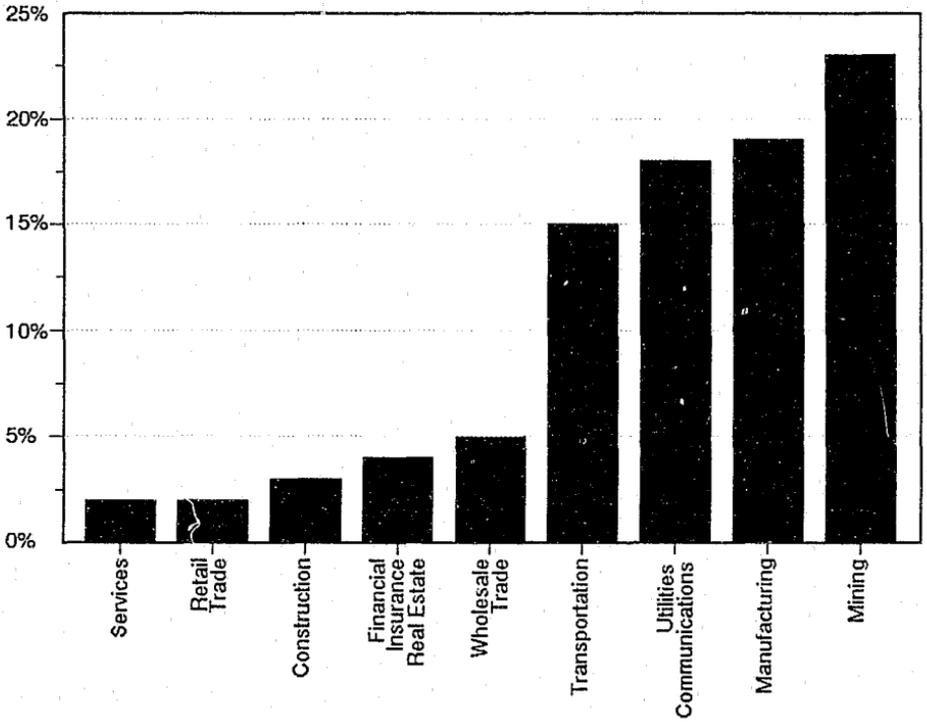
Certain aspects of drug abuse such as violence to others, for example, pose a significant threat to our society. In such cases, society has an obligation to take measures to protect itself from danger. Proponents suggest that drug use is a victimless crime. Nothing could be farther from the truth. Ask the families of those killed in the Conrail-Amtrak crash in Maryland.

Our society has a long history of taking measures to protect people from their own unwise actions. We have established mandatory safety and health regulations, i.e., seat belt laws, and child labor laws, among others.

Finally, America's traditions of government and social policy are based on the recognition that individuals are responsible for the consequences of their actions. Drug abusers have freely chosen to ignore the law to engage in activities that are a threat not only to themselves, but also to the community. The responsibility of government is to do what it can do to ensure that its citizens are able to enjoy and exercise their freedoms.

Legalization of drugs also could easily be interpreted by minority communities and lower economic classes as a signal that their welfare is of little concern to the rest of society, so long as drug-related crime that extends into more affluent communities is reduced. Furthermore, young

In the private sector, the use of employee drug testing varies by industry



Source: Survey of Employer Anti-Drug Programs, U.S. Department of Labor, January, 1989.

persons could interpret legalization as another example of the ambivalence of society toward them. Legalization of drugs is not intended for the greater good of society.

CHOICE OF OWN LIFESTYLE

PROPONENTS SAY: Proponents argue that American citizens should be able to live the lifestyles of their own choice, which includes the unfettered use of drugs. It is their bodies, their minds and their lives they are affecting.

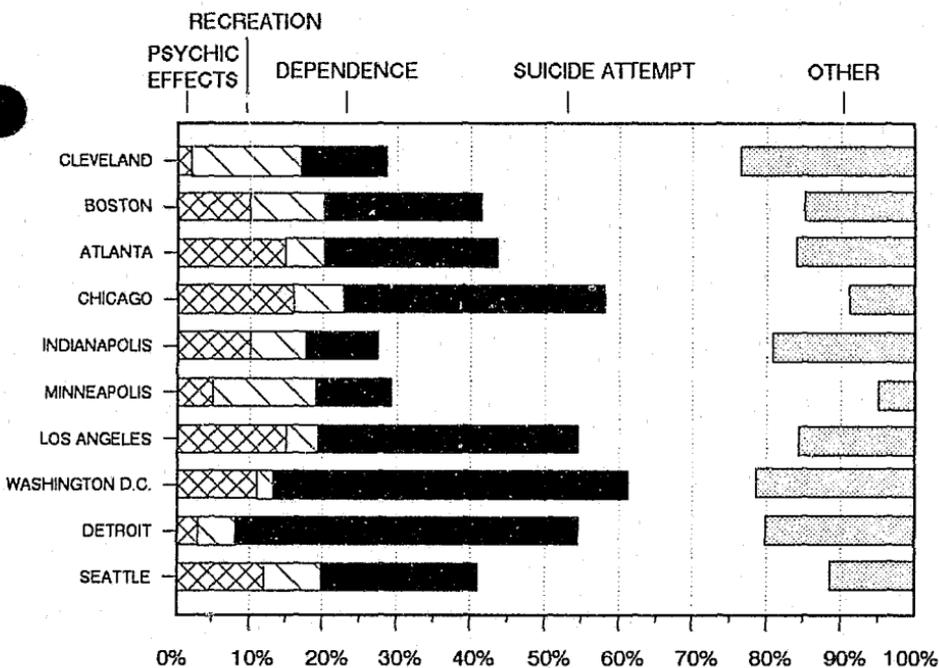
OPPONENTS SAY: Drug use not only affects the user; it also affects every person required to associate or come in contact with the drug user. This includes a whole spectrum of people, such as the emergency room medical staff, family members, neighbors, educators, employers, the driving public, and anyone else who happens to encounter the drug user accidentally.

Drug abuse is a social disorder. For the drug user, it inhibits or prevents learning, destroys motivation, and is health debilitating. It also lowers self-esteem, erodes character, and prompts anti-social behavior. For the educator, the drug user creates discipline problems and is uneducable. For the employer, the drug abuser has a high absence rate, is nonproductive, is a safety-hazard around machinery, and affects the production of other workers.

Institutions, such as courts and hospitals, are overwhelmed with the numbers of people requiring punishment or treatment as a result of drug abuse. Thus, the argument that the legalization of drugs affects the drug user alone is fictitious. The cost to society in terms of lost human life, lost production, lost citizen participation, and lost family is too great a price to pay for one person's selfish drug abuse. A society high on drugs is an unhealthy and unproductive society.



Of the persons mentioning that they used a drug(s) prior to admittance to an emergency room, over two-thirds sought medical treatment due to a failed suicide attempt or a dependency problem



OBTAINING LEGAL DRUGS

PROPONENTS SAY: Through the enactment of laws and regulations, drugs would only be available to adults and registered addicts with appropriate ID's who would be given rationed amounts coupled with a massive, nationwide educational effort to reduce demand.

OPPONENTS SAY: Suggesting that only adults could obtain drugs would be overlooking the major problems teenage drinking has created. If we can't prevent an alcohol industry from selling to young people--over the counter and over the air waves--how can we expect to prevent an opiate industry from doing the same? Even though we could issue ID cards, how could we stop adults from purchasing drugs and providing them to minors? Likewise, if drugs could be sold only to adults, wouldn't the illegal traffickers target children?

As long as there are potential users who cannot obtain drugs through legal channels, there will be pushers who are only too willing to sell to anyone who has cash to pay, including children. We simply cannot allow our children to become a generation of under-achievers, with their minds befuddled and their ambition stifled by drug use.

If only registered addicts were eligible to buy legally, wouldn't there be a black market for middle-class "recreational" users for whom privacy is precious? There would also be a black market for those types of drugs not

legalized, unless, of course, proponents insist upon legalizing all drugs, including the deadly PCP, LSD, and crack.



Since marijuana remains in a person's system for weeks, what would we do about pilots, police officers, railroad engineers, truckers and nuclear power-plant employees who want to use it during off-duty hours? Will they be able to function without impairment after a night of drug abuse?

The military has been very successful in dramatically reducing drug use. Would legalization apply to members of the military, thus posing a potential risk to national security?

REGULATION OF DRUGS

PROPONENTS SAY: If legalized, drugs would cease being pushed in our schools and places of work and they would find a place in our social and communal activities--much like alcohol and tobacco.

OPPONENTS SAY: We currently have a government regulated and controlled system of dispensing drugs--prescription drugs. Yet, the diversion of legal drugs is a problem of serious proportions. Slightly less than half of all drug-related emergency room episodes are attributed to legal drugs. Our experience with levels of abuse of currently legal drugs such as Valium, Percodan, Quaaludes, and Dilaudid gives sufficient evidence that control of legal drugs is difficult, expensive, and not always successful. In each case, the drug has been widely abused, despite the prescription process. All have found their way to the black market, been illegally diverted, or been manipulated.

During the 1970's, we provided free methadone through clinics. An enormous black market evolved. The system did not work because methadone did not satisfy the need to get high; so many people on methadone continued to abuse other drugs, including heroin. Today, methadone is used mainly to treat heroin addiction.

What is the proper "regulation and dispensing" of drugs whose potential for addiction is in the 75% range as compared to 10% for alcohol? There are many such

related and potential questions which proponents of this argument have not addressed:

Which drugs would be legalized? Certainly drugs such as PCP and LSD would not be legalized given their propensity to cause violent and bizarre behavior.

For what age groups would drugs be legalized?

Who would set the price, purity levels, or the frequency of use?

Would the sale of drug paraphernalia be permitted?



ELIMINATION OF VIOLENT BEHAVIOR

PROPONENTS SAY: At least half of the violent crime in major U.S. cities is a result of drug prohibition. Proponents suggest that legalization would save Americans tens of billions of dollars and that it would greatly increase the sense of safety in our most dangerous neighborhoods. Proponents suggest that legalization would eliminate the astronomical profits associated with the drug trade and that the cartels would immediately collapse.

OPPONENTS SAY: To assume that the criminal element would disappear from such highly addictive and profitable substances is to live in a fantasy land. Drug users commit a disproportionate number of crimes. They do not commit crime SIMPLY to feed their habits. Drugs change their behavior, enabling and encouraging them to act violently and irrationally. There is overwhelming evidence that drugs contribute to anti-social behavior.

In Philadelphia, over 50% of child-abuse fatalities involve parents who heavily use cocaine. A study in New York City showed that of the children who were killed in 1987 as a result of neglect and abuse, 73% of the deaths were committed by drug users. Reports of child neglect and abuse by parents using drugs have tripled over the past few years. Likewise, the number of babies born addicted to drugs, primarily cocaine, has more than tripled. These babies must undergo days and sometimes even weeks of agonizing withdrawal. Many of them don't survive, or if

they do, they are left with long-lasting or permanent disabilities. If drugs are legalized, these numbers will rise dramatically, and we will be unable to protect the unborn babies.

Legalization advocates believe that violence will diminish or end because of an end to turf wars. This ignores crack abusers who will go to any extreme to get their next hit. Additionally, the effects of PCP are unpredictable, leading to violent crimes and acts. The human tragedy has immeasurable cost and pain attached, as well.

ELIMINATION OF DRUG LORDS' PROFITS

PROPONENTS SAY: Proponents assert that legalization would put an end to such illegal profits.

OPPONENTS SAY: The major profits in the drug trade are not made abroad. The price of cocaine triples from the farm to the airstrip. The major profits are made within the United States where the mark-up from entry point to the street corner increases twelve times. Additionally, foreign growing fields and processing laboratories are easily replaceable at low cost. Legalization of drugs will increase both supply and demand. When this happens, profits go UP, not down. Legalization will not eliminate profits.

Based on historical experience with organized crime, it stands to reason that if drugs were legal and trafficking no longer profitable for criminals, dealers and major distributors would simply move laterally to another illegal career. They will make a profit somewhere. Profits simply will transfer from trafficking outlaws to legitimate businesses, i.e., multinational corporations and governmental sanctioned vendors who themselves will be subject to black market influence, even in the era of legalization.

TAXATION OF LEGAL DRUG SALES

PROPONENTS SAY: The Government could tax legal drug sales and use the money to pay for anti-drug education programs and treatment centers.

OPPONENTS SAY: In theory, the government could reap billions in taxes on legal drug transactions. However, if the taxes were too high, drug dealers would re-enter the market, a situation not unlike the problem of bootleg cigarettes. To undercut the black market, the government, or business, would have to lower prices substantially, and cheaper drugs, that are more accessible, would mean wider use.

The total taxes collected now from alcohol sales come to only \$13.1 billion per year. This is a pittance compared to the damage done to society as a result of alcohol abuse, which is estimated to exceed \$100 billion annually. The same would be true for drugs. Furthermore, none of the tax revenues from the sale of alcohol or tobacco have been used for education and treatment.

REDUCTION OF LAW ENFORCEMENT NEEDS

PROPONENTS SAY: Legalization would save local, state, and federal governments more than \$8 billion dollars a year from costs associated with police, courts, and prisons. Legalization would take the drug dealing business off the streets and transfer drug businesses into legal, government regulated, tax paying stores.

OPPONENTS SAY: Even though legalization would lower direct costs for drug law enforcement, it is unlikely that organized crime would disappear. It would probably concentrate on other fields such as prostitution, pornography, extortion, or murders-for-hire, much as it did in the period between the end of Prohibition and the beginning of the current drug era. Organized crime is in the business of giving people the things that society decides in its own interest to prohibit.

Drugs could very well be cheaper but they would still cost money. Where would that money come from? How would addicts or drug abusers secure the funds? They would still have to commit crimes. There also would always be a potential black market for other drugs, or would we also legalize Ice, LSD, and perhaps angel dust?

In Alaska, the number of young people having tried marijuana stands at almost double the national average. The black market continues to thrive. In one month alone, \$149,000 worth of marijuana was interdicted in the mail.

CONCLUSION

The simple truth is that we do not have enough information to justify a change in policy and practice regarding drug abuse. A clear need exists to expand and intensify the inquiry into both the medical aspects of drug abuse and the efficacy of current policy.

Historically, Americans have overcome huge obstacles at whatever the cost. Giving up has never been an American trait. We should not start now. Oliver Wendell Holmes, Jr., stated, "The life of the law has not been logic; it has been experience." So it is with drug abuse.

Experience suggests that sending conflicting messages to our current and future generations will indicate that we do not care. If we legalize drugs, we will be saying that it is okay to use drugs.

To legalize drugs for the reason that the battle is still before us and is a tougher one than we have ever fought, is no reason at all. Legalization of drugs is not the answer, and we must stand firm on our decision to keep all drugs illegal and wage this fight until America wins.

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