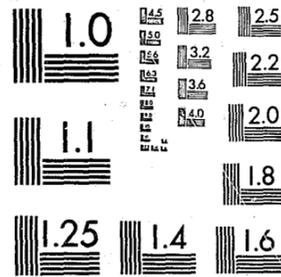


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Research Issues 30

Public Health Issues and Drug Abuse Research



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U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Public Health Service
Alcohol, Drug Abuse, and Mental Health Administration
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Research Issues 30

Public Health Issues and Drug Abuse Research

Edited by

Thomas J. Glynn, Ph.D.

Jack E. Nelson, M.B.A.

1982

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THE EDITORS: Thomas J. Glynn, Ph.D., Division of Research, NIDA project officer, was co-editor in developing the material for this publication with Jack E. Nelson, M.B.A., of METROTEC, Inc., Washington, D.C., who served as co-editor under NIDA Contract No. 271-80-3720.

Foreword

The critical issues involved in drug use and abuse have generated many volumes analyzing the "problem" and suggesting "solutions." Research has been conducted in many disciplines and from many different points of view. The need to bring together and make accessible the results of these research investigations is becoming increasingly important. The Research Issues Series is intended to aid investigators by collecting, summarizing, and disseminating this large and disparate body of literature. The focus of this series is on critical problems in the field. The topic of each volume is chosen because it represents a challenging issue of current interest to the research community. As additional issues are identified, relevant research will be published as part of the series.

Many of the volumes in the series are reference summaries of major empirical research and theoretical studies of the last 15 years. These summaries are compiled to provide the reader with the purpose, methodology, findings, and conclusions of the studies in given topic areas. Other volumes are original resource handbooks designed to assist drug researchers. These resource works vary considerably in their topics and contents, but each addresses virtually unexplored areas that have received little attention from the research world.

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Preface

The Research Issues Series (RIS) presently consists of 30 volumes of theoretical and research literature dealing with the social and behavioral implications of human involvement with drugs. The previous RIS volumes have presented either summaries of the empirical literature (e.g., Drugs and Crime, Drugs and Psychopathology) or practical guides for the drug research community (e.g., Drug Abuse Instrument Handbook, Guide to Drug Research Terminology). This volume takes a somewhat different approach and offers the researcher a broad sampling of public health issues of relevance to the drug field.

The literature summarized in the body of the text and cited in the supplementary bibliography is seldom data based. Rather, it provides an introduction to the wide array of public health issues relevant to the problems of drug abuse, as well as a reasonable foundation for the development of background material for those research projects that are data based. Selection of the literature for a topic such as this is made difficult by the very breadth of the public health field and the natural relevance so much of it has for the drug abuse field. Broadly, the role of public health activities is to protect and advance the physical and mental health of a given population. More specifically, among the areas considered to be within the sphere of interest of public health are health research, provision of health manpower, service delivery, control and eradication of disease, international health cooperation, enforcement of relevant laws, and development of health programs and policies.

Understandably, a field with such broad interests has an equally broad literature base. The drug-relevant literature concerning almost any area within the public health field would be substantial enough to constitute an entire RIS volume in itself. The purpose of this volume is not to provide a comprehensive review of the drug-relevant literature in any one public health area but, rather, to provide the drug researcher with a sampling of the drug-relevant literature across a number of public health areas. Thus, drug-relevant literature is summarized under the following topic areas:

- General/historical issues
- Legal issues
- Ethical and social issues
- Research issues
- Treatment issues
- Single-drug issues
- International issues

While a number of articles deal with a variety of issues, each was classified according to major purpose and focus. The abstracts are arranged alphabetically by author within each section.

An extensive supplementary bibliography of additional reading is included at the end of the volume. No attempt was made to provide a comprehensive listing of the relevant literature, either among the articles abstracted or in the supplementary bibliography. These listings should be considered only a sampling of the considerable literature in this area.

The literature abstracted and included in the supplementary bibliography was chosen in several ways. Major clearinghouses, data bases, library collections, and special bibliographies were searched and current issues of newsletters and journals were scanned. Members of a peer review panel also provided substantial bibliographies from which a major portion of the entries were selected.

Literature was selected for abstracting that was (a) published in English since 1970; (b) a readily available journal article, book chapter, or monograph but not an entire book; and (c) representative of the broad array of drug-relevant issues in the public health literature.

The talents and contributions of many individuals made this volume possible. Researchers who served on the peer review panel provided critical input in the selection of the literature. Richard Blum, Richard Bonnie, Robert DuPont, and Eric Josephson provided special assistance in recommending material to be reviewed by the panel; Dean Gerstein provided valuable conceptual analysis on structuring the volume.

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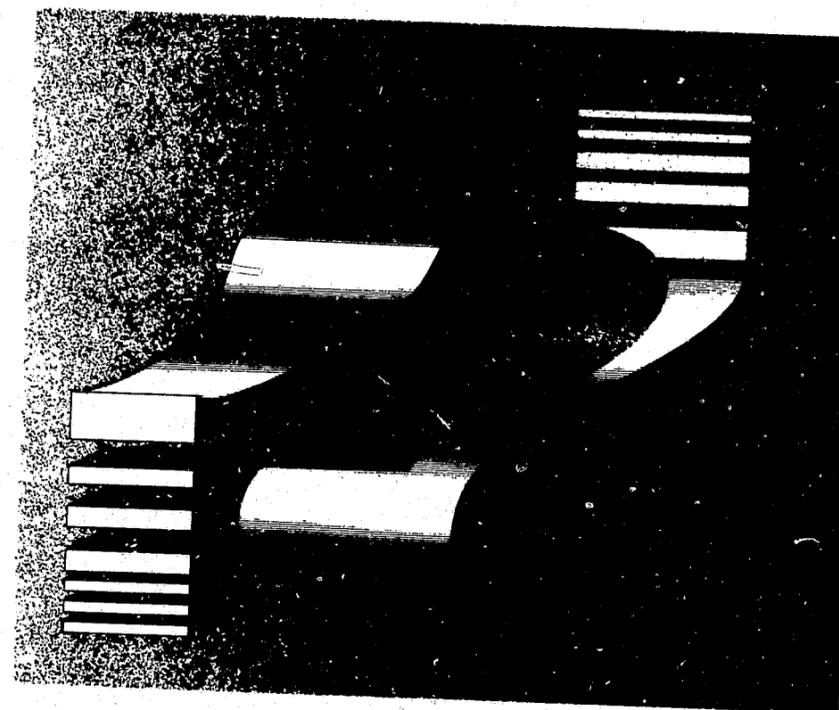
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19. The effect of Federal drug law on the incidence of drug abuse.

James C. Anthony. *Journal of Health Politics, Policy and Law*, 4(1):87-108, 1979.

PURPOSE

The main drug abuse control law in the United States is the Controlled Substances Act (CSA), which authorizes special Federal controls over the supply, distribution, and use of any drug with a potential for abuse, excluding alcohol and tobacco. Imposing these controls involves "scheduling" a drug. In 1975, a Domestic Council Task Force reported to the President that the CSA's control measures do reduce the abuse of dangerous drugs. The task force based its conclusion on a before and after analysis of the frequency of drug abuse episodes reported to the Nation's Drug Abuse Warning Network (DAWN). The study design failed to control, however, for a number of common causes of lack of experimental validity. In addition, plausible alternative explanations of the observed differences should have been considered. The present study challenges the task force's conclusion by subjecting the DAWN evidence to more rigorous scrutiny. It argues that adequate materials are not available to determine whether the CSA meets its health objectives.

METHODOLOGY

Data for the present study were provided by reports on drug abuse episodes by emergency rooms and medical examiners or coroner's offices in the DAWN study for the period September 1972 through February 1975. Two methods of analysis were used. The first was analogous to that used by the Drug Abuse Task Force. For each of the drugs assigned to schedule II (those medicines with a "high potential for abuse"), the number of drug abuse episodes before scheduling (controlling the drugs) was compared with the number of drug abuse episodes after scheduling. The DAWN data permitted a control comparison with changes in the number of episodes involving drugs that were not scheduled or otherwise controlled between September 1972 and February 1975.

The second analytical method used a multiple baseline design in which a single experimental unit was observed on two or more variables before and after an experimental intervention. The two drugs studied by this method were methaqualone (Quaalude) and pentobarbital (Nembutal). The experimental unit was the U.S. population, and the two variables chosen were the monthly incidence of nonfatal emergency room episodes involving each of the two drugs. The drug meprobamate (Miltown, Equanil) was chosen as the control drug. Following inspection of the raw data, regression techniques were used to analyze the study data.

RESULTS

Both methods of analysis produced results that challenge the task force's conclusion that scheduling reduces drug abuse. Although reductions were found in the number of drug abuse episodes involving the scheduled drugs studied, concurrent reductions were also found in the number of episodes involving other unscheduled drugs, indicating that forces other than scheduling were at work. Visual inspection and regression analysis of methaqualone and pentobarbital time series support the contention that the DAWN data do not show scheduling to be effective, unless the scheduling impact occurred 4 to 6 months before the new restrictions were imposed. In addition, the DAWN reporting facilities were not representative of the universe of reporting facilities. Moreover, the number of reporting facilities was relatively small, only drug abuse episodes were reported, the quality of information varied, and causes of variation have been largely unexplored.

CONCLUSIONS

DAWN is an inadequate data base and would require numerous changes to permit assessment of the effectiveness of the Controlled Substances Act. The more powerful analytical methods used in the present study fail to show that assigning a drug to schedule II, the most restrictive schedule for medicines, reduces drug abuse. A more cautious conclusion would be that the Government has not yet demonstrated that scheduling is effective. The Controlled Substances Act

should be supplemented or replaced with legislation that will appropriate enough funds to develop reliable measures of drug control effectiveness, sustain data collection for drug control evaluation, and support research on this subject. The Federal Government should also be given greater flexibility in choosing new restrictions on the supply, distribution, and use of drugs. For example, drug production quotas without prohibitions on prescription refills should be possible. The Federal Government should also give greater emphasis to individual States' controlled substances legislation that could respond to geographically limited outbreaks of drug abuse.

The task force should not have used a single indicator of scheduling's impact on drug abuse. In most cases, several indicators and multivariate methods would be better. High quality indicators should be used, appropriate methods of analysis should be carefully selected, and alternative explanations of the results should be considered.

Number of references: 6

20. Heroin addiction, criminal culpability, and the penal sanction: The liberal response to repressive social policy.

Ronald Bayer. Crime and Delinquency, 24(2):221-232, 1978.

PURPOSE

In 1973 Nelson Rockefeller presented to the New York State legislature a legislative package aimed at controlling the problem of drug abuse. His proposals aroused intense opposition on the part of liberal political figures. The debate at the time received considerable national attention. The present study analyzes the rationale behind the liberal opposition to the Rockefeller proposals and describes the limitations of contemporary liberalism's exculpatory ideologies and its support for therapeutic intervention as a form of social control.

SUMMARY

With the transformation of classical liberalism into modern social welfare liberalism in the 19th century, the concept of the individual capable of free choice was replaced with the notion of an individual whose behavior was largely the outgrowth of complex social forces. As liberalism found it increasingly difficult to grapple with the problems of guilt, support for the moral, exemplary, and utilitarian functions of punishment fell to the conservative thinkers. For liberals, isolation of individuals who posed a threat to the prevailing order was justified only if they were to be "rehabilitated"; faith in the ability of social institutions to achieve their purported aims was a necessary part of this commitment to rehabilitation. However, faced with the dubious effects and enormous costs of rehabilitative efforts, the liberal response to deviancy has begun to founder.

Liberal thought with regard to heroin addiction involved eschewing notions of blameworthiness and regarding the heroin user as a product of social deprivation and a victim of psychological disturbance and physiological illness. As a replacement for punishment of heroin addicts, treatment-oriented social intervention and control was advocated. The notion of addiction as a reflection of psychological disease was exculpatory, for it denied the possibility of freely willed action. Mental health professionals provided not only explanations of users' behavior without reference to guilt but also a technology of rehabilitation without punishment. Furthermore, liberals were attracted to the arguments favoring drug maintenance as an alternative to law enforcement control of addiction.

Between 1960 and 1973, many professionals seriously reconsidered the basic premises of criminal law as they related to problems of social intervention with regard to heroin users. The notion of the "sick" addict took root among professionals. Addiction thus became an instance of the general problem of diminished responsibility. Some commentators regarded addiction as a symptom of mental illness. Others argued that pharmacological duress caused by the physiological

disease of addiction could serve as an exculpatory factor in criminal prosecutions. Because of the physiological-chemical basis of this argument, all implications of moral failure and guilt could be avoided.

By 1973 the liberal program of treatment rather than prohibitionist policies as a social response to drug addiction had been actualized even though many addicts were uninterested in therapeutic intervention. Given the needs of social defenses and the rejection of the notion of culpability, some liberals argued for commitment of drug users in therapeutic settings, although they differed little from conditions of incarcerations in penal institutions. Another liberal block advocated the libertarian position that heroin addiction must be tolerated as a matter of individual choice; adults should be allowed to purchase narcotics under conditions of control similar to those for alcoholic beverages. Liberals who could not accept either of these options have tended simply to turn away from the issue.

CONCLUSIONS

The therapeutic social response to addiction favored by liberals has failed to achieve the desired effect. The growing incoherence of contemporary liberal social policy relating to deviant behavior in general and heroin addiction in particular is a consequence of the incompatibility of premises underlying the criminal sanction and the perception of addiction as a disease.

Number of references: 36

21. Reaching out: Origins of the interventionist strategy.

Richard J. Bonnie. In: R.J. Bonnie and M.R. Sonnenreich, eds. Legal Aspects of Drug Dependence. Cleveland, Ohio: CRC Press, 1975. Pp. 25-63.

PURPOSE

Emerging from the Nation's recent experience with drug abuse is the important message that drug controls are an impediment to dealing with contemporary drug problems. The Nation is held prisoner by policies that emerged in response to past problems but are difficult to cast aside because they are embedded in the law. This essay explores the origins of several current legal responses to drug dependence: criminalization of drug possession, civil commitment, and anti-maintenance laws. The central proposition is that the first statutes in these areas departed from the traditional role of legal intervention and were based on unprecedented faith in Government's capacity to cure social evils. An extensive set of tables outline laws criminalizing opium and drug possession, limiting physicians' distribution of drugs, and providing for commitment of addicts.

SUMMARY

Possession and the Criminal Law

Criminal law has been used to curtail drug consumption since the 16th century, at least in Anglo-Saxon tradition. However, early laws were only designed to control public intoxication. When laws in the late 19th century sought to prohibit possession of certain drugs by private individuals, the courts, using arguments based on due process, natural rights, and private liberty, refused to accept legislation that intruded on individual rights in the name of public interest. This situation changed when the courts upheld, if reluctantly, local antiofium statutes directed against the Chinese; these statutes also criminalized drug possession. The Harrison Act of 1914 and the Narcotics Export and Import Act of 1922 made possession of a drug evidence of violation of particular revenue or smuggling provisions. At the same time, the courts refused to rule on the constitutionality of criminalizing opium possession. Starting in 1915, legislative and judicial restraints on drug possession offenses were thoroughly eroded by the temperance movement,

even though private possession of alcohol itself for personal use was never prohibited. The preventive, eliminationist strategy that characterized the narcotics prohibitions was uniformly accepted. Punishment for use of prohibited substances drove users still further outside the social mainstream. Drug possession offenses were supplemented with other consumption offenses (e.g., paraphernalia prohibitions), and penalties were increased. The apparent virtues of the interventionist strategy were proclaimed as long as the drug users were primarily urban, black, and low class. Even today, the preventive value of the possession crime as a deterrent and a control mechanism is still assumed.

The Curative Model: Antimaintenance Laws

The curative model of legal intervention also dates from the late 19th and early 20th centuries. The reformers who sought to prevent development of drug habits also sought to reform or cure those already ensnared in the habit. No distinction was made between drug users and alcoholics. It was believed that habitual users could be cured only by withdrawing their drugs. Consequently, many State laws up until 1925 prohibited any form of drug maintenance by physicians but contained a discretionary clause allowing physicians to treat addicts' habits with narcotics. These laws were tightened as the Federal Government adamantly rejected any form of maintenance.

Sickness and Cure: Inebriate Commitment

Civil commitment of inebriates was a pattern of legal intervention that paralleled commitment of the insane to asylums to effect a cure of the condition. By the end of the 19th century, the medical profession had persuaded legal libertarians to accept commitment of inebriates even before they committed crimes. Inebriates' criminal responsibility was denied because of the insanity inherent in their inebriate state, and some persons even maintained that so-called hereditary inebriates should not be allowed to reproduce. At the same time, experts believed that patients could be cured but only in a closed sanitarium environment.

These arguments won over the legal experts, who came to accept addicts as a special population requiring special legislation. Despite apparent concern for individual liberties, the courts also came to embrace the principle of compulsory commitment. In law, the procedure was justified by simple dangerousness and rooted in broad paternalistic theories of State intervention. In general, the procedural requirements for inebriety were the same as those in use for lunatic commitments. No conformity was apparent in the term of commitment, and diversion was practiced. By the end of the 1920s the great scientific advances on which inebriate commitment were based had proven illusory. Responsibility for dealing with the user of prohibited substances was surrendered entirely to the criminal process, which remained the primary mechanism of intervention up until the 1960s. Although the illness-commitment concepts have remained the same, some changes have occurred, including advances in therapy, revival of opiate maintenance, restoration of confidentiality, and Government subsidies for a nationwide program.

CONCLUSIONS

In the last decades of the 19th and the first decades of the 20th centuries, the coercive powers of the law were brought to bear on the implementation of consensus policies. All institutional limitations on the uses of law to control personal behavior were brushed aside in the interest of ridding society of drug and alcohol habits. Inebriate commitment laws, narcotic possession laws, and antimaintenance laws were the new devices. The emergent narcotics policy was not only preventive but also "curative." Legal intervention itself became the byword of therapy.

Overall, the legal framework has changed since the formative years of narcotics policy. For each of the devices discussed the law is being pulled back, reflecting a fundamental shift in institutional values as well as recognition of the limits of the law as a source of social control. In contemporary legal approaches the patient-doctor relationship has been protected, the benign paternalism of the inebriate commitment era has been discredited, and individual constitutional rights are given due consideration. In the special context of drug dependence, courts and legislatures have yet to resolve the numerous issues in areas where crime and therapeutic intervention intersect. The diversion apparatus that formally employs the legal system to exert leverage, with emphasis on community-based therapy, is clearly the emergent modern compromise.

Number of references: 35

22. The impact of legal sanctions on illicit drug selling.

Barry Fish and Keith Bruhnsen. Drug Forum, 7(3&4):239-258, 1978-79.

PURPOSE

Criminal laws and the penal system have come under much criticism in recent years, in part as a result of the dramatic growth of the drug problem despite severe sanctions for the use and sale of illegal drugs. Criminal sanctions have failed to meet their assumed objectives; they have neither suppressed drug experimentation by the young nor discouraged repeat offenses following apprehension for narcotic drugs. However, the impact of existing laws on users and sellers of nonnarcotic drugs such as marijuana and LSD is unknown. This study surveyed drug dealers to obtain information regarding the impact of legal sanctions on their illicit activities.

METHODOLOGY

A total of 85 drug dealers were contacted. Data were collected from the summer of 1972 through the summer of 1973. The 80 males and 5 females completed a 75-item questionnaire concerning their daily activities, drug suppliers and contacts, drug use, sales, income, arrest and conviction records, and attitudes toward drug dealing and use. To check on the information's validity, some of the important variables were assessed twice in different ways. All participants were informed of the grant of confidentiality and told that their responses would be kept anonymous. The only criterion for inclusion in the sample was the selling of an illegal drug to a student at the Midwestern university where the study was conducted.

RESULTS

Almost two-thirds of the sample earned more than \$1,000 per year from their drug dealing, and almost one-third earned more than \$5,000 per year. The drug most commonly sold was marijuana, followed by hashish. A total of 36 of the dealers had been arrested at least once for the possession and/or the sale of illicit drugs. Of those arrested, three had stopped dealing and nine expressed the desire to stop. Of the 49 who had never been arrested, 4 had quit and another 16 expressed the desire to quit dealing. Surprisingly, some dealers maintained that getting arrested was a main reason for continuing to sell drugs, in that they needed to raise money quickly for legal expenses. The amount of money made was not meaningfully related to the chances of being arrested. Further, only 38 percent of those arrested had been convicted, but only 14 percent of those convicted quit dealing.

In addition, only 21 percent of those convicted reported wanting to quit drug dealing compared to 30 percent of those arrested but not convicted, while 33 percent of those never arrested wanted to quit. Of those arrested, 15 of 36 admitted some fear in relation to drug dealing activities, while only 6 of the 49 not arrested reported experiencing some fear. Of those who had quit or wanted to quit, only 8 percent indicated that the reason was risk or illegality. The reason most often cited for quitting was the strain placed on interpersonal relations as a result of drug dealing.

CONCLUSIONS

Findings can be legitimately generalized only to college drug dealing populations. Data suggested that reasons for dealing were sufficiently compelling to overcome any existing fears concerning arrest. Although the data strongly suggest that the existing control system is inadequate, a superior alternative is not readily apparent. Research is needed to determine the variables related to a reduced desire to use and sell illegal drugs. The advisability of reducing or eliminating criminal penalties for use of some drugs could be examined by studies in Oregon and Ann Arbor, Michigan, where criminal penalties have already been minimized.

Number of references: 5

23. Utah's liberal drug laws: Structural foundations and triggering events.

John F. Galliher and Linda Basilick. Social Problems, 26(3):284-297, 1979.

PURPOSE

In the late 1960s, Utah became one of the first States to reduce the penalty for first-offense possession of marijuana and other drugs from a felony to a misdemeanor. Such innovative legislation in Utah was not expected, given the Mormon domination of the State legislature and Mormons' strict prohibition of drug use. This study tries to explain why Utah's morally conservative legislature moved so rapidly to reduce marijuana possession penalties, as well as penalties concerning other drugs. Two major theoretical perspectives on the social origins of law are considered. One perspective emphasizes moral consensus as the foundation of law. The other is the conflict perspective, which emphasizes the domination of one class by another using law as the vehicle for coercion.

METHODOLOGY

Existing documents were examined, including State and church records and newspapers. The two daily newspapers in Salt Lake City were reviewed: the Deseret News, owned by the Church of the Latter Day Saints (LDS), and the Salt Lake City Tribune, owned and managed by Roman Catholic laypersons. The newspapers were reviewed 1 year prior to each legal change in 1967, 1969, and 1971, and immediately after each change to determine the origin of each law and the response to it. In addition, drug arrests in Salt Lake City were recorded, and elected officials were interviewed, including the bills' sponsors, legislative committee members, the Governor, and the attorney general. Others interviewed included law enforcement officials and LDS church officers.

RESULTS

In early 1967 the LDS church was not yet aware of any major drug problem influencing the church; interviews indicated that this was also true of the legislature. Thus, relatively lenient drug legislation regarding possession of LSD, barbiturates, and amphetamines was passed without opposition. Drug arrests increased sharply from 1967 to 1969, and growing concern about drugs was expressed in the State legislature, local newspapers, and LDS church publications. Three themes were found in interviews concerning the 1969 laws: (1) LDS claims of tolerance of other groups' behavior; (2) concern for the young, especially LDS young people; and (3) the unwillingness of the courts to enforce punitive drug possession laws. For example, the newspapers noted the high social class and youth of many users, as well as the dramatic increase in overall drug use, and opposed the original blanket minimum penalties for first-offense drug possession.

After passage of the 1969 misdemeanor provision for marijuana and other drugs, a citizens' advisory committee was appointed by the Governor. The committee concluded that drugs were found in all junior and senior high schools and that the problem affected youths of all economic levels. Numerous people noted that severe penalties or mandatory minimum sentences resulted in lack of enforcement or convictions. A committee appointed by the Utah Bar proposed the 1971 legislation dropping the mandatory minimum penalties for all drug offenses. Unlike the results of interviews regarding the earlier drug legislation, the interviews concerning the 1971 drug law showed an almost complete consensus about reasons for the law. The common view was that the 1969 law had to be abandoned because it was not enforceable due to the overly high penalties that could not and should not be levied against youthful offenders. The 1969 law worked well because the police made fewer arrests by ignoring possession cases. Police data indicated that marijuana arrests showed the greatest increase in 1972, while nonmarijuana arrests showed a considerable increase in 1971, the year the 1969 laws were repealed.

CONCLUSIONS

All available evidence indicates that Utah had no drug crisis in 1967, thus allowing the passage of the initial drug legislation. However, the findings do not support the argument that Mormons avoid imposing their values on others, in that the 1969 bill was essentially a restrictive bill and

the church was also involved in efforts regarding legislation on liquor-by-the-drink. The church's inactivity regarding the 1971 law can be linked to the absence of any threatening group linked to drug use in Utah. The 1971 legislation was triggered by powerful special interest groups, the Utah Bar Association and the Citizen Advisory Committee on Drugs, but seems to have been supported by many citizens as a way of protecting their children. Results support the conflict perspective on the origins of law. A corollary of this perspective is that consensus on lenient drug penalties is most easily achieved if the drug in question is not associated with a threatening minority.

Number of references: 47

24. Drugs and Crime. A Survey and Analysis of the Literature.

Robert P. Gandossy, Jay R. Williams, Jo Cohen, and Henrick J. Harwood. U.S. Department of Justice. Washington, D.C.: Supt. of Docs., U.S. Govt. Print. Off., 1980. 173 pp.

PURPOSE

The present study surveys the existing literature on the relationship between drug use and crime, especially that between heroin use and crime. The survey was undertaken as the first step by the Law Enforcement Assistance Administration's National Institute of Law Enforcement and Criminal Justice to develop a drug/crime research agenda. Five topical areas are the focus of the review: methodological problems of previous researchers, patterns of drug use and criminal behavior, drug use and crime patterns over the course of criminal careers, economic issues, and the impact of treatment intervention strategies.

SUMMARY

Methodological Issues

Numerous data sources and research methods have been used by various researchers. A basic problem has been to adequately define the independent and dependent variables relevant to the drug use/crime relationship. A second major problem has been establishment of accurate measures for the type and extent of drug use. The most commonly used methods are self-reported techniques, including personal interviews or surveys; official records, such as the Uniform Crime Reports, drug reporting systems, or drug registers; and qualitative measures employing ethnographic and participant observer techniques. Each data source and method is valid under a particular set of conditions but has its own particular set of problems. For example, general population surveys have been useful for estimating drug abuse trends, but their usefulness has been limited because the drug abuse/criminal portion of the general population sample is small. Qualitative research has contributed to the state of knowledge but is frequently difficult to generalize to populations other than the ones studied. A third significant problem is that of sample representativeness. Although most research has used populations drawn from detected addicts in treatment programs or prisons, it is questionable whether such samples are representative. Use of control groups and longitudinal research on populations not preselected for drug use or criminal behavior would provide significant advances in achieving an overall picture of drug/crime relationships.

Patterns of Drug Use and Criminal Behavior

To understand the etiology and process of addiction, researchers have attempted to describe the demographic characteristics and cultural milieu of addicts. Addicts tend to reside in high-poverty, high-delinquency, minority-dominated urban centers of the Northeast. They also come from disturbed families and exhibit low levels of educational achievement. Little homogeneity exists in the use patterns of addicts: They vary from normally functioning weekend "chippers" to street addicts willing to commit crimes to support their habits. Many addicts prove to be

polydrug users, and these polydrug users are given to committing more serious and more frequent crimes at an earlier age than other drug users.

Literature on the criminal behavior patterns of addicts strongly suggests that addicts engage in substantial amounts of income-generating crime. Although addicts commit fewer violent crimes than nonaddicted offenders, they will resort to violence if an opportunity for financial gain is present. While the research on relationships of drugs other than heroin to crime is limited, some evidence reveals a relationship between use of alcohol, barbiturates, or amphetamines and violent crimes.

Demographic characteristics of female addicts resemble those of male addicts, but drug use for women begins later, and crimes committed by women are typically prostitution, drug sales, and shoplifting rather than burglary and robbery, the most typical crimes for male addicts.

Life Cycles

Central to the discussion of how drug and criminal behavior patterns of addicts change over the course of their lives is the question of causality, concerning whether drug use causes crime or crime causes drug use. While causality is difficult to prove empirically and experts disagree over whether drug use precedes criminality or vice versa, a majority of the studies find that contemporary addicts have criminal records prior to drug use. The onset of drug use appears to be a process in which the individual first gains access to drug-using groups, forms a favorable impression of drug use and drug users, and learns how to use the drug to obtain the desired effect. The age of first drug use is likely to occur much earlier for contemporary addicts than previously. The addiction period is marked by increases in criminality and numerous periods of abstinence, remission, and relapse. Frequent arrest, incarceration, the influence of significant others, and maturation are factors that probably influence abstinence and eventual maturing out. However, more research is needed to verify, modify, and expand these findings.

Economic Issues

Commission of income-generating crimes has long been considered necessary to maintenance of a heroin habit. This popular belief has been explored empirically by studies on the relationships between the demand for heroin and the addict labor supply. In general, the price of heroin is likely to affect the consumption patterns of infrequent users, who decrease their consumption in response to increases in price. In contrast, compulsive users are likely to maintain the level of their habits, thereby increasing their expenditures on drugs when prices rise. The resources to meet these increased expenditures come from family, friends, more frequent thefts, or higher drug prices in sales to other users. As an alternative, addicts may increase their consumption of other drugs. This pattern is substantiated by research of the Public Research Institute that finds that income-generating crimes and admission to drug treatment programs increase as heroin costs rise. Addicts thus appear to commit more crimes or seek refuge in treatment programs in response to higher drug prices.

The major public policies dealing with drug addiction seek to reduce either drug supplies or drug demand. Supply reduction is designed to reduce heroin availability through law enforcement efforts, thus increasing its effective price, driving away consumers, and reducing demand. Demand reduction lowers the demand for heroin by encouraging treatment. While both strategies are questionable, supply reduction does appear to discourage new users and to increase demand for treatment.

Drug Treatment

Demand reduction strategies are primarily embodied by drug treatment programs. The five basic treatment types are methadone maintenance, therapeutic communities, outpatient drug-free programs, detoxification programs, and correctional programs. Although early project evaluation studies suggest that each of the treatment modes may have some positive effects, other studies report no effects, or in the case of methadone, even negative side effects. However, a number of the program evaluations suffer from serious methodological shortcomings. The three most prevalent evaluation deficiencies are inadequate sampling procedures, ineffective research designs, and measurement problems. Until these and other methodological difficulties are overcome, comparisons within and between modality environments will remain difficult.

CONCLUSIONS

Past research has focused primarily on the criminal activity of known addicts, on the drug use of known criminals, and on assessment of the impact of drug intervention strategies on criminal behavior. What has not been adequately explored is whether and to what extent one behavior initiates the other (i.e., drug use and criminal behavior), or whether both behaviors are attributable to other factors. While research to date has contributed to the state of knowledge, differences in research design as well as other methodological problems have hindered an understanding of the linkages between drug use and crime as well as evaluation of treatment program effectiveness.

Number of references: 634

25. Crime and addiction: An empirical analysis of the literature, 1920-1973.

Stephanie W. Greenberg and Freda Adler. Contemporary Drug Problems, 3(2):221-270, 1974.

PURPOSE

One of the constant themes running through both journalistic and academic studies of drug dependency is its connection to crime. After the passage of the Harrison Act in 1914 criminalizing unauthorized sale, possession, or purchase of narcotic drugs, the image of the dope fiend driven to commit all types of crime to purchase drugs developed into a fixed part of American culture. During the 1960s and 1970s much of the increase in urban crime was attributed to drugs. Thus, social policy in the drug area has been directed toward decreasing urban crime. However, some of the policy decisions have been based either on erroneous assumptions or on poorly conceived research. The present study seeks to provide an overview of literature on specific aspects of the relationship between drug abuse and crime, particularly the temporal sequence of addiction and involvement, the extent and type of crime involvement during addiction, and the impact of drug treatment on criminal behavior. The main focus is on opiate addiction, as most of the literature has been written in this area.

SUMMARY

The Temporal Sequence Between Crime and Addiction

Literature before 1952 indicates that addicts are predominantly noncriminal before the onset of addiction, while studies after 1952 suggest that the reverse is true. This discrepancy is at least partially attributable to differences in early and later sample types. Early samples consisted largely of white, rural, medically addicted males in their mid-twenties, while the typical sample addict of the mid-sixties was black, urban, young, nonmedically addicted, and already involved in delinquency. Many viable hypotheses for this shift have been offered, but the cause remains controversial. In any case, at present, the typical addict is considered to be a person who is already immersed in a criminal subculture and is introduced to narcotics as a result of socialization in that subculture. Participation in the criminal subculture appears to make it easier to obtain illicit narcotics.

One of the principal problems of research methodology is that addicts fall into a number of different types. Study findings may therefore diverge because of the differences in samples. The empirical problem is to delineate a typology of addicts according to several critical variables and then to evaluate the relative frequency of each type on the basis of data. To gain any insight into the nature of causality, general populations consisting of addicts and nonaddicts must be studied prospectively rather than retrospectively.

Criminal Behavior of Addicts

Virtually every study that contains information on criminal behavior during addiction reports an extensive amount of such activity. This, in combination with the social characteristics of known heroin addicts, leads researchers and Government officials to assume that crime is a corollary to addiction. However, study samples that typically derive from arrest records or treatment programs are not representative. Furthermore, many studies do not differentiate between drug and nondrug violations. However, one study has found that 40 percent of the urban addicts engage in full-time illicit activities, while another 40 percent are intermittently involved. Thus, whatever the temporal or causal relationship might be, a strong relationship exists between criminality and drug abuse.

A number of studies support the conclusion that the onset of addiction results in an absolute increase in the number of crimes committed. However, most studies make no attempt to control several crucial variables, such as age, that also influence the likelihood of crime involvement, and preaddiction crime rates. Ideally, a comparison should be made of crime among addicts without a criminal background, addicts with a criminal background, and nonaddict offenders. Given the present state of research, addiction cannot be considered the crucial variable that accounts for increases in criminality, if this increase does exist.

Robbery, especially burglary, is the crime most frequently committed by heroin abusers. Drug users, with the exception of amphetamine users, are less likely than nondrug users to be arrested for crimes against persons. Amphetamine users are more likely than any other group, including nonusers, to be arrested for criminal homicide and forcible rape. In general, addicts, particularly heroin addicts, will commit crimes involving a risk of violence only when they need money.

Effects of Treatment on Criminal Behavior

A number of studies conclude that methadone maintenance dramatically reduces crime resulting from addiction. However, the generally poor quality of evaluation studies makes conclusions about the efficacy of particular modalities, and treatment in general, in reducing drug-associated crime almost impossible to reach. Methodological problems most often encountered are poor sampling, questionable methods for the measurement of criminal activity, lack of control for time in treatment, poor or unclear definitions of success, and lack of control for crime prior to treatment.

In the case of methadone treatment in particular, criticism has been leveled at the validity of followup studies. Many of the studies ignore changes in law enforcement policies during the late 1960s (e.g., increased incarceration of addicts and additions of police personnel), simply inferring causation from statistical correlations. Furthermore, addicts accepted into methadone programs tend to be screened, so that they represent a more highly motivated, less criminally oriented population. Thus, success may have little to do with the treatment but may instead be a function of the characteristics of the addicts accepted into treatment. Furthermore, measuring success by comparing arrests and convictions, as in many of the followup studies, is misleading; only a great number of controlled studies will make possible valid inferences about the impact of treatment.

CONCLUSIONS

Literature to date suggests that the majority of current heroin addicts have substantial criminal histories. Thus, the argument that addiction causes previously law-abiding persons to commit crimes is untenable. Furthermore, while engaging in criminal acts does not lead to addiction in all cases, it does increase the probability of addiction. Among addicts who are criminals prior to addiction, addiction does not appear to be the causal factor for increasing criminality. Furthermore, most studies do not control other important variables, making it impossible to evaluate the effects of addiction on criminal behavior. Contrary to the findings of earlier studies, recent evidence indicates that addicts commit crimes primarily for financial return, regardless of whether they are violent or not. Finally, the quality of evaluation studies is generally so poor that conclusive statements concerning the impact of treatment on criminal behavior cannot be made.

Knowledge of the relationship between crime and addiction remains limited; extensive prospective research on normal populations is required to determine causality.

Number of references: 125

26. In pursuit of happiness: An evaluation of the constitutional right to private use of marijuana.

Jeremy Haar. Contemporary Drug Problems, 5(2):161-185, 1976.

PURPOSE

The individual's right to privacy balanced against possible detriment to the public welfare has been continually reappraised by the U.S. Supreme Court via judicial review. The proposition of the present study is that private use of marijuana within the home must be unimpaired as long as others are not brought into contact with it against their will. Because it is within the right to privacy, private marijuana use should be a protected constitutional right since the State cannot establish a compelling interest to warrant its prohibition. Further, it is more probable that laws making possession of marijuana even in one's own home a punishable offense will be reformed by the judiciary rather than through legislation.

SUMMARY

Establishing a Fundamental Right

The right to privacy was first explicitly recognized in Griswold v. Connecticut. Connecticut's statute prohibiting married couples from using contraceptives was found to infringe upon a right of marital privacy protected by the penumbras of the first, third, fourth, and ninth amendments. Through its decision the Supreme Court also allowed for further expansions of the right. It can, in fact, be argued that the prohibition of private use of marijuana is unconstitutional under the standard of Griswold because its enforcement is virtually impossible without excessive governmental prying into a constitutionally protected zone of privacy.

Stanley v. Georgia was the Supreme Court's first major extension of the right to privacy. Two constitutionally protected rights emerge from Stanley: the right to receive information and ideas and, more importantly, the right to possession of obscene material within the privacy of one's home without governmental intrusion. Consequently, should individuals use marijuana in their own homes to satisfy their emotional needs, their actions would fall within the boundaries of the right of privacy established by Stanley.

In Roe v. Wade, the Supreme Court held that the individual's right to privacy is broad enough to encompass a woman's decision concerning whether or not to terminate her pregnancy. The Court held that the Texas antiabortion statute improperly invaded a woman's right to choose to end her pregnancy and that this right is fundamental to the concept of personal liberty embodied in the 14th amendment's due process clause. When the fetus becomes viable the State's interest is compelling, and it may prohibit abortions except when they are necessary to protect maternal health. The State must show not merely a rational basis but a compelling interest for prohibition prior to viability of the fetus. Should the Supreme Court decriminalize marijuana possession and use within the home, it would be consistent in its position of protecting individuals through explicit and implicit guarantees in the Constitution.

A Compelling State of Interest

Although the right of privacy may be constitutionally protected, the Supreme Court in Roe v. Wade demonstrated its inclination to return to the doctrine of substantive due process. Two tests could be applied when seeking to establish the expanded right of privacy; both stem from the due process clause and either is sufficient to sustain it. First, to legitimize the total

prohibition of marijuana use with the public interest, the State must demonstrate a public interest in the total prohibition of marijuana or show that total prohibition is the least restrictive alternative consistent with the public interest. The second test stems from Griswold, Stanley, and Roe: The right to privacy is a fundamental right, and the State must exhibit some compelling interest to constrict it.

While the Supreme Court has not thus far ruled directly on the issue of private use of marijuana, State courts have had to grapple with the issue. Not without hesitation and not without dissent, their decisions recognize that marijuana use could be protected by the constitutional right to liberty and pursuit of happiness. In State v. Kantner, a Hawaiian Supreme Court decision, penalties for marijuana possession were upheld, but a right to privacy was enunciated in two of the four separate opinions. Furthermore, while rejecting the contention that it is a fundamental right to possess or ingest marijuana, the Alaskan Supreme Court concluded that the distinctive private nature of a home required special protection and could encompass the possession and ingestion of marijuana in a noncommercial context. Exercise of police power was not warranted by such marijuana use because the effects did not involve any aspect of the State's interest, and the danger to health and safety of the user was insufficient to warrant government intervention.

Prohibition of marijuana is described as a misdirected protection of morality and a condemnation of a growing interest in sensual gratification. Much of the objection to marijuana is said to be based not upon the effects of the drug but upon an entire lifestyle associated with it. The State may effectively regulate marijuana use without completely prohibiting private use; the compelling nature of the State's interest in regulating private marijuana use cannot be vindicated.

Recommendations

Several proposals suggest decriminalization of marijuana or legalization of personal use. The national commission studying marijuana favors discouraging marijuana use by only partial prohibition of the drug (i.e., elimination of penalties for private possession and private nonprofit distribution of marijuana). A more viable and pragmatic alternative is to decriminalize marijuana use within the home.

CONCLUSIONS

The right to privacy has become firmly established within the American legal system. By extending the boundaries of that right, the U.S. Supreme Court should rule that individuals have the right to use marijuana in the privacy of their own homes. Thus, the potential for abusive exercise of governmental authority arising out of the enforcement of laws prohibiting private marijuana use would end.

Number of references: 14

27. Limiting supplies of drugs to illicit markets.

Mark H. Moore. Journal of Drug Issues, 9(2):291-308, 1979.

PURPOSE

The policy to reduce the illicit drug supply is an easy target for critics. It is vulnerable to ideological attack that questions the right of government to intervene in individuals' private choices, and practical attack that questions the capability of the government to reduce drug availability without excessive costs and infringement on civil liberties. What is missing from the debate on both sides is an accurate sense of both the potential and the limitations of a supply reduction policy. The present study views the objectives, requirements, and major problems of the current supply reduction strategy.

SUMMARY

Supply Reduction Objectives

The supply reduction strategy entails making drugs inconvenient, expensive, and risky to obtain. This simple objective is complicated by the fact that legitimate drugs must remain cheap and accessible to users in need of them. Furthermore, not all drugs are equally dangerous. To accommodate these complications, objectives of a supply reduction strategy can be described in terms of a desired matrix of effective prices for different drugs (i.e., indexes of all things that make drugs difficult, expensive, or dangerous to consume). This approach acknowledges that some drugs will always reach illicit markets, permits use of a variety of control instruments beyond making cases and enforcing laws, and encourages selective enforcement.

Use of Resources for Supply Reduction

Calculation of how resources should be deployed for supply reduction depends on determination of which drugs represent the greatest social costs and identification of vulnerable points in the drug supply system. In predicting the social costs of a particular drug, three factors should be considered: its dependence-producing capabilities; its impact on a user's social functioning at high levels of use; and the current absolute number of users in chronic, intensive use patterns. According to these criteria, the drugs that should attract supply reduction efforts are heroin, amphetamines, and barbiturates.

In the past, calculations of how to deploy resources against drug distribution systems have been dominated by the concept of "source of supply," which has a variety of meanings in different programmatic contexts. Controlling diversion of drugs from legitimate supply systems is generally an important part of a supply reduction strategy. This should be the first area for control because requirements for control resources in this area are easiest to calculate, because the success level for diversion is often decisive for the overall success of control efforts, and because the volume and type of diversion influence the structure of the illicit system of supply.

The next step is to calculate how to constrict the capacity of wholly illicit systems. In this calculation, production and distribution factors influencing throughput capacity, the existence of centralized nodes through which market supplies flow, and geographical locations of major targets must be considered. Two hypotheses can serve as a guide to the design of constriction strategies. According to the first, the ease or difficulty with which transactions can be completed can have a significant impact on the volume of material flowing through the system. The second hypothesis about illicit systems is that they will tend to become relatively concentrated except in situations in which the illicit systems can be supplied from small, widely decentralized sources of finished inventories. This is the case because dealers tend to build up a territory and to gain a competitive advantage over other producers and distributors, at the same time using violence to eliminate competition.

Implications for enforcement strategies are that centralized trafficking organizations must be targets for enforcement action and that indirect enforcement efforts with undercover agents can make transactions complicated and curtail available supplies. Furthermore, the threat of arrest can reduce the transactions of thousands of low-level dealers, thus affecting the capacity of the illicit system. The potential scope of enforcement action depends partly on the success of strategies to control diversion of licit drugs.

Control Systems for Various Drugs

Heroin control is difficult because raw materials come from foreign sources and only a relatively small amount of raw materials can produce a large supply of heroin. Furthermore, processing techniques are well-known and simple. The most vulnerable components of the heroin system are likely to be a small number of large, centralized trafficking organizations and the transactions of smaller, less organized groups that distribute heroin. Attacks on these components of the system involve making cases against low-level dealers with a combination of patrol and inexpensive investigative strategies. Relatively centralized organizations can be controlled through conspiracy investigations or extended undercover organizations. In the long run, the effective control of heroin depends on maintaining a high level of enforcement effort against all levels of the distribution system.

The characteristics of the amphetamine supplying system are less well known. Approximately 40 percent of the amphetamine supply is apparently diverted from legitimate sources, while 60 percent comes from illicit domestic production and foreign sources. Control of the 60 percent that is illicitly produced or imported involves the same approach as for heroin. Diversion appears to be strongest at the retail level and operates in a dispersed system with many units. As the authority for controlling retail diversion lies with State and local governments, drug control efforts must rely on their commitment. The best chances for effective control are likely to include enforcement against supplies from Mexico, stricter national production quotas, and larger State and local efforts against diversion.

Little is known about the sources of illicit barbiturates. Illicit supplies appear to be diverted almost entirely from domestic legitimate production, but few clues have been found about the major points of diversion. For the time being, the best strategy against barbiturates in illicit markets is a generally strengthened regulatory program with tighter quotas, more effective policing of producers and wholesale distribution by Federal agencies, and additional controls by State and local authorities over retail distribution.

CONCLUSIONS

Successful supply reduction strategy depends on a variety of specialized capabilities of policy, regulatory officials, diplomats, and coordination officers. A significant organizational force must be implemented to develop and coordinate these diverse capabilities; the Drug Enforcement Administration has this potential but is not yet adequately equipped to fill this role. Furthermore, the major requirement for successful action against heroin supplies is capacity to immobilize major trafficking organizations. Success depends on the total number of defendants/informants, skill in screening leads, and techniques used in developing cases. To enhance success of cases against heroin traffickers, the Drug Enforcement Administration and other agencies must establish cooperative interagency relationships, invest adequately in intelligence systems, coordinate the work of intelligence analysts and agents, and train and motivate effective personnel. Finally, improved control of amphetamines and barbiturates depends critically on a strengthened regulatory program with substantial political power.

Number of references: 9

28. The law and social attitudes: Effects of proposed changes in drug legislation on attitudes toward drug use.

Andrew R. Nesdale. *Canadian Journal of Criminology*, 22(2):176-187, 1980.

PURPOSE

In the past decade, an increasing number of writers from a variety of disciplines and orientations have commented on the personal and social ramifications of nonmedical drug use. One issue of particular social interest concerns the appropriateness of enacting or repealing drug legislation as a means of influencing attitudes and behavior toward drug use. Civil libertarians argue that legal intervention in this area constitutes an infringement on individual rights. However, few studies have examined whether changes in law actually affect attitudes, and none have been specifically concerned with attitudes toward drug use. The present study investigates the effects of proposed changes in legislation regarding a particular drug on drug users' and nonusers' attitudes toward use of that drug.

METHODOLOGY

The sample consisted of 75 male and 62 female undergraduates at the University of Alberta in Canada. A total of 45 males and 43 females had never used drugs; 22 males and 17 females used soft drugs; and 8 males and 2 females used hard drugs.

Subjects were told that the aim of the experiment was to obtain their reactions to a nonmedical drug, chlordiacybin. Each subject was then given a booklet with information on the drug's effects, proposed legislation regarding the drug, and its certainty of enactment. Each booklet contained one of the four experimental conditions (legal-certain, legal-uncertain, illegal-certain, illegal-uncertain). After reading the booklets, subjects were asked to fill out a questionnaire. The drug and the information provided were fictitious. The drug described was not unlike marijuana in degree of effects, and the legislation presented was aimed at legalizing the drug. The questionnaire consisted of eight questions on whether use of the drug was right or wrong, how available the drug should be, how severe long-term effects of drug use might be, and what penalties should be imposed for drug use.

RESULTS

Nondrug Users

Analysis indicated that these subjects' responses were influenced by their knowledge of the legislation only on the questions of how right or wrong was infrequent and frequent use of the drug. If enactment of the legislation was uncertain, males considered it more right to use the drug infrequently when its use was to be legalized rather than criminalized; if legislation was certain to be enacted, males considered it more right to use the drug infrequently when the legislation would criminalize rather than decriminalize its use. In contrast, females indicated that it was more right to use the drug when the legislation would legalize rather than criminalize its use, but if legislation was uncertain to be enacted, no difference due to legality or illegality was evident. When legislation was certain to be enacted, males considered frequent use of the drug more right than did females, whereas no difference between males and females was found on this measure when it was uncertain whether the legislation would be enacted.

Males considered infrequent use to be right whereas females indicated that it was wrong. In addition, males found frequent use of the drug more right than did females, and males felt that the drug should be more available than did females. Female nondrug users were harsher in the penalties they would apply for both frequent and infrequent drug use than were non-drug-using males, although both males and females recommended severer punishment for frequent than for infrequent use.

Drug Users

Analysis of variance of drug users' responses on each of the measures indicated that neither the proposed legislation nor the sex of the subject had any differential impact on subjects' attitudes toward use of the drug. Furthermore, recommendations of both male and female drug users regarding severity of penalties for infrequent and frequent drug use overlap significantly. Thus, 87.5 percent of both males and females considered that no penalty or fine should be administered to infrequent drug users.

Comparison of Nonusers' and Users' Responses

T-tests of significance found that responses of female drug users differed significantly on all measures from those of female nondrug users. Female users felt that infrequent and frequent use of the drug was more right, that the drug should be more available, that its effects would be less severe, and that the penalty should be less severe for infrequent and frequent use than did the non-drug-using females. Although the differences between responses of drug-using and non-drug-using males paralleled those obtained for females on the six measures, only two effects were significant. Drug-using males considered that the drug should be more available and that the penalty for frequent use should be less severe than did non-drug-using males. Recommended penalties for infrequent use also tended to be less severe among users than among non-users.

CONCLUSIONS

The pattern of findings suggests that drug legislation is unlikely to elicit any positive response from drug users. Information on proposed legislation influences only nonusers' moral attitudes toward the rightness or wrongness of use, not subjects' judgments on questions with real practical implications. Males judge infrequent drug use as more right when legislation is certain to

make it illegal rather than legal, whereas females indicate just the opposite viewpoint. The view of males on infrequent use is indicative of a protest against legislative infringement. Thus, if males' attitudes toward drug use are to be modified, alternative techniques to drug legislation must be employed. Men may be more responsive to information about drug effects than to knowledge of the law. Enacted legislation may exert a stronger and more lasting influence on moral judgments and attitudes regarding drug availability and punishment than suggested by the present limited results.

Number of references: 22

29. The legislative response to marihuana: When the shoe pinches enough.

Michael P. Rosenthal. Journal of Drug Issues, 7(1):61-77, 1977.

PURPOSE

The emergence of marijuana in the United States from an obscure drug used mainly by members of minority groups and fringe elements to the third most widely used recreational drug in the United States (after tobacco and alcohol) was one of the major drug developments in the decade 1967 to 1977. Similarly, the legislative response in reducing penalties for possession of marijuana for personal use was one of the most important legal developments of this period. The present study examines the process of change in marijuana penalties during this decade.

SUMMARY

Prior to 1967 marijuana was classified by law with narcotics such as heroin. Federal marijuana offenses were felonies carrying high penalties; even proof of possession was sufficient evidence to support conviction on offenses carrying 5- to 20-year penalties, and marijuana offenders could not be placed on probation or given suspended sentences. State penalties were also quite severe, and simple marijuana possession was a felony in almost all the States.

Change began in 1968 when Alaska, California, and Vermont reduced possession penalties, and many more States followed suit. By 1970 jail or prison for first offense possession of marijuana for personal use had become the exception rather than the rule. The Federal Controlled Substances Act of 1970 attempted to rationalize Federal control over mind- and mood-altering drugs by repealing virtually all earlier Federal drug control legislation. The new act drastically reduced penalties not only for possession but also for most trafficking and distribution offenses and eliminated minimum penalties. First offense simple possession of all controlled drugs was made a misdemeanor. In addition to probation and parole, the act made provision for conditional discharge and included a procedure for expungement of records of young offenders. Most States used the Federal law as their model in further reducing penalties, particularly for simple possession.

The same legislation that contained the Federal Controlled Substances Act created the National Commission on Marihuana and Drug Abuse that was charged with studying marijuana and marijuana laws. A 1972 report of the Commission recommended that State and Federal laws be changed to decriminalize possession of marijuana for personal use and casual distribution of small amounts of marijuana for little or no remuneration. Marijuana possession in public would remain subject to summary seizure and forfeiture.

To date, only Arizona and Nevada may still treat possession of marijuana as a felony. While neither Congress nor any State has removed all sanctions for possession of small quantities of marijuana, a number of States have eliminated the risk of imprisonment and have minimized collateral consequences. By 1977 Minnesota and South Dakota had declared possession a petty misdemeanor punishable only by a small fine. Even in States in which possession of small quantities is still subject to imprisonment, actual jail terms are uncommon. Local police frequently charge

possessors of small quantities with lesser offenses carrying no jail term. Significantly, a number of States have begun to treat the sale of marijuana as a misdemeanor rather than a felony.

The movement toward amelioration of marijuana penalties continues, if at a somewhat slower pace. Imprisonment or jail for possession and for giving others small quantities of marijuana will eventually disappear in the United States, and more States will treat marijuana sales as a misdemeanor. However, it remains uncertain whether marijuana will ever be legally available for recreational use by adults, as tobacco and alcohol are today, since this would amount to a major shift in policy.

CONCLUSIONS

The most amazing feature of the marijuana laws discussed is the rapidity with which they changed. The rapid change may be, in part, the result of intense media exposure and of an era of general rapid change and confusion. Most importantly, however, the marijuana laws exposed the children of white middle class America and their parents to all the costs and unpleasantness of criminal laws in general. Furthermore, once subjected to critical scrutiny, the case that law enforcement had made against marijuana fell apart. Finally, reduction of marijuana possession penalties was perhaps the simplest way to enhance the establishment's credibility in the face of youthful disenchantment with the Vietnam war.

Number of references: 18

30. Effects of legal restraint on the use of drugs: A review of empirical studies.

Reginald G. Smart. Bulletin on Narcotics, 28(1):55-65, 1976.

PURPOSE

This review critically examines empirical studies of government efforts to change laws regarding the production and distribution of drugs, the penalties for users and traffickers, and the price of drugs. The goal is to determine how such changes affect actual drug use or the numbers of users. Areas of success and failure regarding such legal restraints as well as areas lacking empirical evidence are identified. The analysis also aims to determine common features of successful and unsuccessful attempts. Studies related to narcotics, marijuana, and prescription drugs are included.

SUMMARY

Narcotics

Only four sets of legal restraints on narcotics appear to have produced substantial data indicating some effectiveness. They involved the controls on ether drinking in Ulster, Northern Ireland, during the mid-1800s; heroin seizures made in the early part of 1972 in the United States; the control of opium use in India during the 1950s; and the introduction of heroin clinics into Britain in 1969.

Ether drinking was successfully combated when it was scheduled as a poison under the Poisons Act of 1870, and the number of opiate addicts dropped significantly when the Indian Government banned the cultivation of the opium poppy for other than medical reasons. The heroin seizures in the United States resulted in a decline in drug-related deaths, an increase in addicts seeking treatment followed by a decrease, and the seeking of heroin substitutes by addicts. Finally, the development of drug treatment centers in Great Britain may have decreased the total heroin problem, although data are difficult to interpret.

Cannabis

Only a few studies are available concerning legal restraints and cannabis, and none have adequate controls. One of these studies involves the voluntary elimination of India's traffic in charas, one of the three forms of cannabis used there. This tactic appeared to increase the use of the other two forms of cannabis. One study of the effects of Operation Intercept, an American program to increase marijuana seizures and burn marijuana crops, indicated that use of marijuana dropped and its price increased during the program's operation. A study indicating that Oregon's decriminalization of marijuana use did not increase the number of people using marijuana failed to collect data for the periods before and after the law was passed and therefore could not justify its conclusion. Finally, reductions in penalties and "softening" the criminal justice treatment of marijuana offenders in Canada were followed by greatly increased numbers of convictions as well as by increased cannabis use.

Prescription Drugs

Several successful efforts have been made to apply legal restraints to epidemics of prescription drug use. All of those efforts studied involve amphetamines and the control of sudden epidemics of use, rather than endemic use. Epidemics have been controlled partly by legal restraints and partly by other methods in Japan, England, the United States, and Sweden. Japan used a combination of legal, educational, and rehabilitative measures; the relative effectiveness of each measure has not been assessed. The successful efforts in Britain to control a methedrine epidemic in 1968 indicate the effectiveness of a "semi-legal" restraint approach. Conversely, efforts by police, treatment agencies, and local medical societies to control amphetamine use in the District of Columbia in 1972 indicate the success of the control approach.

Other Legal Restraints

Virtually nothing is known about the effectiveness of such possible efforts at restraint as crop substitution programs, acreage controls, and licensing arrangements for manufacturers. Almost nothing is known about the effects of increasing legal penalties for narcotics or cannabis possession or trafficking, using police drug raids, increasing surveillance, and increasing the size of drug squads. Effects of international treaties are also unknown.

CONCLUSIONS

Little can be concluded with any certainty from the available empirical studies. Nevertheless, attempts to reduce the heroin supply by seizure and crop reduction have reduced illicit heroin availability, heroin addiction, and deaths from heroin, although such reductions are sometimes small. However, no legal restraints have reduced the heroin problem to a negligible level. Moreover, the effectiveness of the British heroin clinic system is unknown. In addition, reductions in the availability of cannabis can probably reduce cannabis consumption at least temporarily, but other drugs will probably be substituted. Legal restraints may be most effective when combined with educational and rehabilitative efforts or when the drugs involved are legal. Legal restraint works best when pressure is applied to ethically motivated and well-regulated agencies, such as the pharmaceutical industry and physicians.

Number of references: 20

31. The case against criminal penalties for illicit drug use.

Thomas J. Stachnik. American Psychologist, 27(7):637-642, 1972.

PURPOSE

This paper examines the effectiveness of the present system of criminal penalties for illicit drug use. Four basic questions are addressed: (1) What are the goals of the current criminal

penalties? (2) Are these goals being met? (3) Are these penalties producing unacceptable side effects? (4) Does an alternative to punishment exist, and what are its probable consequences?

SUMMARY

Goals of Criminal Penalties

Three goals of criminal penalties can be easily identified. Most important, fear of penalties is expected to suppress experimentation by young people. In addition, a criminal penalty should reduce the probability of recidivism among those who are punished. Moreover, a penalty system provides an entry mechanism into mandatory treatment programs.

Are the Goals Being Met?

Although penalties undoubtedly suppress some experimentation, they may also encourage experimentation among the young people who engage in acts only because they are illegal. A California study found that half of a public school system's students had experimented with drugs and that only 7 percent of the nonusers had indicated that fear of criminal penalties served as a deterrent. In addition, criminal penalties have completely failed to reduce the probability of repeated use; almost all punished ex-addicts again become involved with drugs. This finding casts doubt on the value of punishment for other forms of behavior as well. Finally, the penalty system as a means of entry into treatment is almost useless, as proved by data showing that mandatory treatment programs have had almost no success.

Undesirable Side Effects of Criminal Penalties

Two important side effects of the current system are the personal grief of drug users' families and the reluctance of users to turn to traditional helping services for fear of becoming involved with the law. A felony conviction for drug use also makes it difficult for drug users to obtain employment, which is a crucial aspect of rehabilitation. In addition, widespread disregard for laws such as those on marijuana produces a general contempt for law, and criminal penalties have an antitherapeutic effect on the way other agencies, such as schools, deal with the problem of drug abuse in that teachers are often advised to notify law enforcement officials rather than make an educational effort to prevent use. Furthermore, the high prices resulting from the illegality of drugs promote crime by users to support their habits, while apprehension of pushers may serve only to raise prices further.

The criminal penalty system also pressures some users into recruiting new addicts to support their habits and promotes such undesirable police practices as unconstitutional searches and seizures and electronic surveillance. Other problems are the effects of imprisonment on first offenders, the cost of enforcement, the disproportionate impact of enforcement on the urban poor and minority groups, the limiting of research on drug dependence, and the thwarting of physicians' roles as alleviators of suffering through the prohibition on drug maintenance. Further problems are the potential harm resulting from children who report their parents' drug violations, the potential extension of the law to other chemical substances such as cholesterol, and overdose deaths of addict-pushers deliberately caused by organized crime members when an enforcement effort threatens their organization.

An Alternative Strategy and Probable Consequences

Although all alternatives to the present system have defects, an alternative that is less offensive can be chosen. Removal of criminal penalties would not result in the Government's forfeiture of all responsibilities for drug abuse. Instead, vigorous efforts to develop sound educational and treatment programs would be required. Removal of criminal penalties would acknowledge that drug use is a personal health decision similar to nutritional decisions. To deal with people who make destructive drug decisions, adequate treatment and rehabilitation services would be needed. For heroin addicts, methadone programs, therapeutic communities, and provision of heroin at methadone clinics should all be offered. Provision of both methadone and heroin would reduce urban crime, would reduce disease and overdoses caused by dirty injection equipment and improper drug doses, and would establish contact between a heroin subculture and a benign "establishment." Since addicts will obtain heroin if they want it, the relevant decision concerns only the conditions under which they can obtain it. However, authorized dispensing of heroin does not mean that users will remain addicted since daily contact with ex-addict staff and gradual

efforts to move addicts into methadone maintenance will be possible in the methadone-heroin clinics. Finally, removal of criminal penalties and authorized availability of heroin does not imply that heroin will be legal; State and Federal regulations would continue to be applied.

CONCLUSIONS

The current approach to illicit drug use is archaic and counterproductive for both the user and society. Thus, major changes are necessary. In considering changes, it must be kept in mind that young drug abusers are also America's children.

Number of references: 0

32. Understanding the drugs and crime connection: A systematic examination of drugs and crime relationships.

James C. Weissman. *Journal of Psychedelic Drugs*, 10(3):171-192, 1978.

PURPOSE

In 1976 a National Institute on Drug Abuse (NIDA) panel on drug use and crime released a report, "Drug Use and Crime," exhaustively assessing current drug and crime literature. Contrary to expectations, the report precipitated a major controversy. In the report, NIDA's panel members questioned the time-honored principle of American drug control policy and the popular belief, encouraged by political figures, that a direct connection exists between narcotics use and the commission of property-acquisitive crime.

The present study seeks to provide an overview of the drugs and crime connection, paying particular attention to the impressive analysis in the NIDA report. The assessment focuses on methodological issues, the relationship between consumption of psychoactive drugs and commission of criminal acts, the effect of drug availability on consumption and related crime patterns, the usefulness of treatment activities in reducing drug-related crime, and the effectiveness of drug laws in achieving their penal goals.

SUMMARY

Methodological Issues

Drugs and crime research has not adhered to principles of uniformity; concepts have been defined without homogeneity and measurement techniques vary widely. Also, the ordering of research priorities has been characterized by only a moderate degree of agreement. Although opiates are considered the most criminogenic substance and marijuana the least, the status of other drugs is uncertain. The focus of research and public attention is on income-generating drug-related crime, which is restricted, for the most part, to chronic abuse patterns.

Accurate and reliable indicators are required to assess the incidence of crime and drug use. Official reports used for this purpose often suffer from a lack of standardization in reporting practices. Self-report data suffer from problems of subject veracity and memory retention, as does information obtained from direct inquiries about criminals' illegal activities. Studies evaluating the usefulness of competing measurement methods have produced inconclusive results, but evidence indicates that shortcomings of the individual methods can be overcome by using the various techniques simultaneously. Similarly, individual drug-use indicators (e.g., urinalysis, self-reports) appear to be inadequate as separate tools and can be used effectively only in combination. Finally, recent studies investigating social and economic costs of drug-related crime consider only a limited number of cost variables. Caution must be used in this approach, as cost studies can be employed to justify adherence to existing policies rather than to assess the merits of alternative policies.

Drug Use and Criminal Behavior

In studies of crimes associated with drug users, much attention has been devoted to marijuana users. Despite the presence of considerable evidence of delinquency in some marijuana users, explanations other than drug use (e.g., personality factors) appear more plausible. Longitudinal studies of marijuana use and criminality and other studies regarding the extent of criminality among users of other nonnarcotic substances either fail to find or are uncertain about the connection between drug use and crime; the weight of the evidence suggests no correlation between nonopiate use and criminal behavior. In contrast, few researchers doubt that a substantial degree of criminality is associated with chronic opiate use. Income-generating activities are a standard activity among opiate addicts, although practiced in varying degree and frequency. Studies show that the percentage of robbery arrestees identified as heroin users ranges from 11 to 56 percent. But adequate systematic data describing the drug-use patterns of identified offenders are not available and the representativeness of available information is unknown.

Research data indicate that for the vast majority of opiate addicts, delinquency precedes the onset of drug use. However, it is unclear whether dramatic increases in income-generating crime subsequent to the onset of addiction are attributable to the course of the criminal career or to drug use. Findings also show that addict criminality is heavily biased in the direction of drug-defined crimes and income-generating offenses, particularly nonviolent property offenses. Although a correlative association between crime and drug use has been demonstrated beyond a reasonable doubt, the question of cause and effect has not yet been resolved.

Demand Reduction

Whatever the absolute incidence of drug-related crime, substantial societal support for reducing the phenomenon clearly exists. The principal component of demand reduction is drug abuse treatment, following either a medical or a correctional model. Evaluations of the effectiveness of health care treatment for drug addicts indicate that involvement with the criminal justice system is suppressed rather than eliminated while the client is in treatment and that criminal activity increases again after cessation of treatment. Assessments of correctional treatment modes offer mixed results: institution and halfway house programs are ineffective, while parole supervision and diversion programs have been credited in some circumstances with reducing drug-related criminality. Reliability of both health care and correctional treatment data is uncertain, and methodological complications inherent in evaluating such programs reinforce this ambiguity.

Supply Reduction

The Federal drug abuse prevention strategy assigns an equal emphasis to reduction of drug supplies as to demand reduction to abate drug-related crime. Under conditions of reduced supply, opiate users are expected to modify their drug consumption and criminal behaviors and to search for rational alternatives, such as abstinence or treatment. Property crime rates should then decrease. A number of studies have correlated rising heroin prices accompanied by expanding treatment programs with a decrease in property crimes. However, research methods and assumptions applied in the studies do not ensure that the correlations between heroin prices and property crime rates or between heroin prices, treatment enrollment figures, and property crime rates are not the result of the influence of other social, economic, and criminologic factors.

Penal Effects

Attempts to measure the effectiveness of the drug laws in achieving their intended penal effects are characterized by ambiguous data and conflicting opinions. Advocates of the status quo affirm the utility of existing penal sanctions, while reformers disparage the value of such efforts. A fair conclusion, based on contradictory evidence, finds that prohibitionist policy has failed to deter drug use despite the high social costs of current policies. With such significant expense and dubious benefits, continuation of the policy is inadvisable.

CONCLUSIONS

Although drug and crime literature is abundant, knowledge of the exact dimensions of the drug-crime connection is limited and conclusions are tentative. However, the available evidence is quite convincing that drug users, at least opiate addicts, commit a significant amount of nondrug

crime, primarily of an income-generating nature. Under the prevailing criminalization of the drug-use system, society forces addicts to practice income-producing criminal behaviors. Addicts and other drug users exhibit generalized deviant behavior independent of drug use. Treatment tends to decrease the pressure to commit crimes but in an oblique manner. The drug laws are relatively impotent in deterring community drug use.

U.S. drug abuse prevention policies are based on a simplistic set of beliefs regarding the drug-crime connection. For more enlightened policy decisionmaking, drugs and crime research must be refined, and research findings must be disseminated in a manner that ensures understanding by the public and use by decisionmakers.

Number of references: 105

END