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Overview: Drug Policy for the 1990s

Addiction in America

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Washington has embarked on another drug-of-the-month war, the third since 1986. Like its predecessors, our nation's latest war is destined to be another fool's errand because of its narrow focus on illegal drugs and its failure to confront society's pervasive problem of addiction. Even the bellicose political rhetoric is misleading, for drugs come to America not by invasion, but by invitation.

Washington's latest targets—crack cocaine, Latin drug lords, and black ghetto pushers—are such obvious bad guys that the Republican President, his drug czar and Democratic legislators push and shove to fire the next shot. So the amounts to be spent go up—by \$3 billion this year,¹ a proposed \$1.1 billion next year²—but for the same old programs. Police, prosecutors, and prisons get the lion's share of federal anti-drug funds.³

America's problem is addiction, not simply illegal drugs. Reversing its penetration of society will require more than military advisors in Columbia, street cops, death penalties and mandatory sentences.

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1. *Anti-Drug Funding Package Awaits President's Signature*, ALCOHOLISM AND DRUG ABUSE WEEK, Nov. 22, 1989, at 1 [hereinafter *Anti-Drug Funding Package*].

2. *President Unveils Drug Strategy II*, ALCOHOLISM AND DRUG ABUSE WEEK, Jan. 31, 1990, at 1.

3. Law enforcement will receive almost seventy percent of federal anti-drug funds in fiscal year 1990, a small change from years past. *Anti-Drug Funding Package*, *supra* note 1, at 1.

It will require us to take a hard look at ourselves and our institutions, and demand a massive commitment to research.

Addiction to alcohol and drugs, legal and illegal, crowds every nook and cranny of our nation. Its economic costs—in health care, crime, lost productivity, forfeited education, and property destruction—will reach \$300 billion this year and, unchecked, could reach a trillion dollars by the mid-1990s.⁴

Addiction in America gives new meaning to the word awesome: 57 million Americans are hooked on cigarettes; 18 million are addicted to alcohol or abuse it;⁵ 21 million have tried cocaine;⁶ more than one million are hooked on crack;⁷ seven million smoke marijuana at least once a week;⁸ as many as one million are hooked on heroin; 10 million abuse tranquilizers and other psychotherapeutic drugs;⁹ one million regularly use hallucinogens like LSD and PCP; and ice—smokeable speed, a likely candidate to succeed crack as 1990's drug of the month—has already hooked thousands.¹⁰

Addiction is Public Health Enemy No. 1. Half the nation's hospital patients and most homeless people¹¹ suffer from alcohol and drug abuse.

Alcohol-related birth defects are America's largest single cause of mental retardation.¹² One of every ten babies born last year—almost 400,000—was exposed to illegal drugs in their mother's womb.¹³ These babies face higher risks of stroke at birth, physical deformity, and mental deficiency.

4. Estimate by the author based on conservative assumptions. The Research Triangle Institute estimated the 1983 cost of alcohol and drug abuse at about \$177 billion, U.S. DEP'T OF HEALTH AND HUMAN SERVICES, ECONOMIC COSTS TO SOCIETY OF ALCOHOL AND DRUG ABUSE AND MENTAL ILLNESS: 1980 (June 1984) (Table G-5), and two scholars estimated \$42 billion in smoking costs for 1980, D. Rice and T. Hodgson, Economic Costs of Smoking 10 (Dec. 29, 1983) (on file with YALE L. & POL'Y REV.). Assuming a 10% annual inflation factor for health care costs and a 5% annual factor for all other costs, the cost of alcohol, drug and cigarette abuse totalled \$290 billion in 1989.

5. *Report Says 17.7 Million U.S. Adults Have Problems With Alcohol*, ALCOHOLISM AND DRUG ABUSE WEEK, Jan. 24, 1990, at 3.

6. Nat'l Inst. on Drug Abuse, Use and Consequences of Cocaine (Aug. 1989) (press release on file with YALE L. & POL'Y REV.).

7. Nat'l Inst. on Drug Abuse, Highlights of the 1988 Household Survey on Drug Abuse 2 (Aug. 1989) (press release on file with YALE L. & POL'Y REV.) [hereinafter Household Survey].

8. *Id.* at 3.

9. See Household Survey, *supra* note 7, at 4.

10. N.Y. Times, Sept. 16, 1989, at A1, col. 1.

11. *Twins of the Street: Homelessness and Addiction*, N.Y. Times, May 22, 1989, at A1, col. 1.

12. Dorfman, *Alcohol's Youngest Victims*, TIME, Aug. 28, 1989, at 60.

13. Pinkney, *Drugs in Pregnancy: A Growing Crisis With No Easy Solution*, AM. MED. NEWS, Oct. 6, 1989, at 47.

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Addiction is the Pied Piper of crime in America. Drugs and alcohol are implicated in three-fourths of the nation's murders and more than half the rapes, child molestations and assaults, to say nothing of millions of related robberies and vandalism and the senseless vandalism of teenagers and college students juiced up with beer and pills.¹⁴

Addiction has overrun our criminal justice and penal systems, particularly in large cities. A 1988 Justice Department study found that most men arrested in 14 major cities tested positive for drugs.¹⁵ Eighty percent of the 500,000 inmates in state prisons have used illicit drugs.¹⁶ More than one third were under the influence of drugs¹⁷ and half had been drinking at the time of their offense.¹⁸

Since 1975, the number of people in American prisons has doubled. Unless we successfully treat the substance abuse problems of our prison population, their numbers will double again in the 1990s as those released return after committing more drug- and alcohol-related crimes.

Our concept of prisons is as dated as James Cagney's 1931 film *Public Enemy*. Today's city jails are not filled with gangsters like those portrayed by Cagney, George Raft and Edward G. Robinson. Jails and prisons are bursting at the bars with alcohol and drug addicts and abusers. Most of them should be recast as facilities to treat alcohol and drug abuse and offer basic literacy education and job skills, as well as to provide punishment.

As the nature of prisons should change, so should the skills we seek in wardens, prison guards, and probation officers. There's little point in pouring concrete and forging steel bars unless we staff our prisons with professionals who can work on the drug and alcohol problems of the inmates.

The political fashion for tougher penalties, mandatory sentences and withdrawal of federal benefits for those convicted of drug offenses is particularly appealing in a budget crunch because such measures look like the free-lunch way to fight drug abuse. History teaches a decidedly different lesson. In 1973 Governor Nelson Rockefeller convinced the New York legislature to pass "the

14. These figures are a composite of several studies attempting to measure the relationship between crime and drug or alcohol abuse. Memorandum from Dr. Paul E. Kalb to Joseph Califano, Jr. (August 16, 1989) (on file with YALE L. & POL. REV.).

15. *Id.*

16. *Id.*

17. *Id.* at 2.

18. NAT'L INST. ON ALCOHOL ABUSE AND ALCOHOLISM, ALCOHOL AND HEALTH 13 (1987).

toughest drug law in America.” The statute bristled with stiff mandatory sentences, imposed life imprisonment on sellers of small amounts of heroin—the drug-of-the-month of the 1970s—and greatly restricted plea bargaining.¹⁹

In the years immediately following passage, fewer drug offenders went to jail; felony drug arrests were lower and those arrested were less likely to be indicted or convicted. There was no sustained reduction in heroin use. Serious property crimes associated with heroin jumped just as dramatically in New York as they did in neighboring states without tough drug laws.²⁰

What happened? The Rockefeller laws didn’t work because they did not increase the likelihood that drug pushers would go to jail or that, once there, prisoners would receive needed treatment. New York failed to provide funds for more cops, prosecutors, judges, jails, better trained probation and parole officers, and treatment facilities, in order to increase the odds that drug offenders would be caught, convicted, imprisoned, and rehabilitated. Faced with longer jail terms, mandatory sentences and draconian restrictions on plea bargaining, more indicted pushers demanded jury trials, prosecutors were more reluctant to indict, and judges insisted on meticulous compliance with procedural rights. And those who did go to jail were no more likely to get help for their drug habits than before.²¹

What we need in America is a cultural revolution to inspire and empower this generation and future generations to reject drugs, a revolution that will make it as unfashionable to smoke pot, snort coke, try crack, or get drunk as it is to smoke cigarettes.

Each of us has a role in fomenting this cultural revolution—bureaucrats, politicians, teachers, doctors, labor leaders, and businessmen, particularly businessmen who buy time to advertise on television. Education programs, like those fueled by the government and the private sector’s Partnership for a Drug-Free America led by James Burke, are essential to shifting attitudes. But none have a greater opportunity than those who work in the visual media, especially films and televisions.

That’s where America goes for information and entertainment. Virtually every American household has a television set. In 1988,

19. J. CALIFANO, JR., *THE 1982 REPORT ON DRUG ABUSE AND ALCOHOLISM* 83 (1982).

20. *Id.*

21. *Id.* at 84.

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viewers watched some twenty-nine hours of TV each week, and Americans bought a record one billion tickets to the movies.

Many accusations have been hurled about the potential for harm from portrayals of sex, violence, and drug use on television and in films, but not enough has been said about the potential of television and films for good. That potential is clearly there:

- During World War Two, movies dramatized the nobility of hardship and human sacrifice and inspired our war effort.
- It was the naked eye of the television camera that broke the vicious insanity of McCarthyism.
- Televised images of blacks being beaten by police, stung by cattle prods and mowed down by high-powered water hoses seared the American conscience and fueled the 1960s civil rights revolution.
- When television brought the Vietnam war into our living rooms, old men finally questioned their moral authority to send young men to that war and young men questioned their moral duty to go there.

The impact of an individual film on attitudes of Americans can be stunning: “Gentleman’s Agreement” and “The Lost Weekend” on our attitudes toward, respectively, anti-Semitism and alcoholics; “Rain Man” and “Children of a Lesser God” on the way we view autistic children and the deaf.

There is now another opportunity to achieve a signal cultural change.

We may well be at another turning point in addiction. Since the late 1970s, use of illicit drugs among high school seniors has declined, albeit ever so slightly and slowly.²² In 1986, cocaine use among high school seniors dropped for the first time and dropped again in 1987, 1988 and 1989.²³ At the same time, surveys reported a parallel shift in cultural attitudes: the proportion of American high school seniors who said trying cocaine posed a great risk jumped from 34 percent in 1985 to 55 percent in 1989.²⁴ True, these reports do not include the dropout population. And there are disturbing signs, such as a sharp increase in 1989 in the use of PCP,

22. L. JOHNSTON, P. O’MALLEY & J. BACHMAN, DRUG USE, DRINKING, AND SMOKING: NATIONAL SURVEY RESULTS FROM HIGH SCHOOL, COLLEGE, AND YOUNG ADULTS POPULATIONS 1975-1988 82 (Nat’l Inst. on Drug Abuse 1989).

23. Dep’t of Health and Human Services, HHS News 1 (Feb. 13, 1990) (press release on file with YALE L. & POL’Y REV.).

24. *Id.* at 7.

a powerful hallucinogen.²⁵ But the overall trends in mainstream society nevertheless offer some hope.

Sustaining and nourishing such a cultural shift requires long-term investments in basic research. Nowhere does our quixotic quest for instant victory over drugs hurt more than in our refusal to commit sufficient resources to research.

For the nation's \$300 billion problem, the Government is investing only \$500 million in all research on addiction.²⁶ This includes hunting for heroin substitutes less debilitating than methadone and new drugs to reduce the craving for cocaine and crack; finding ways to quit smoking and avoid abusing prescription drugs; understanding alcoholism, multiple addiction and the genetics and psychology of addiction; and developing effective prevention and treatment programs.

The odds against beating addiction underscore the importance of such research. Of the millions of addicts and substance abusers, no more than 10 percent will receive treatment. Of those who enter treatment, typically fewer than 25% complete the program. Even among those few who do finish, less than half are drug- or alcohol-free one to five years later.²⁷ These treatments should be continued but recognized for the long shot therapies they are.

Addiction is a perplexing major league killer andcrippler, right up there with the diseases it breeds: cancer, heart and circulatory illnesses, and AIDs. Each of these has a budget at the National Institutes of Health that exceeds \$1 billion. Research into addiction deserves at least that much.

The Congress should establish a National Institute of Addiction in the National Institutes of Health. Such an institute would combine the research of the National Institutes of Drug Abuse and of Alcohol Abuse and Alcoholism, and conduct research on all substance abuse and multiple addiction. Addiction has credentials as a disease as defiantly resistant to cure as cancer. It has been difficult to get our best minds persistently concentrated on preventing and treating addiction, because the problem is so infernally complex and the level and commitment of funds have been erratic. Creating one institute for all addiction would help generate a steady stream of

25. *Id.* at 3.

26. *Senate Funding Boost Benefits Wide Range of Programs*, ALCOHOLISM & DRUG ABUSE WEEK, Oct. 4, 1989, at 3.

27. These figures are drawn from numerous studies assessing the effectiveness of treatment. Memorandum from Dr. Paul E. Kalb to Joseph Califano, Jr. (August 18, 1989) (on file with YALE L. & POL'Y REV.).

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money for research, make clear our national commitment and attract more of our best scientists to devote their lives to the effort, as the National Cancer Institute has done for that disease.

Since 1980, the federal government has spent \$2.2 *trillion* on defense.²⁸ Over that same period, it has spent almost \$22 billion for its various wars on drugs.²⁹ In all five years of World War II, we suffered fewer than 300,000 battlefield deaths.³⁰ Each year, the death toll of alcoholism, drug abuse and nicotine addiction is almost twice that number.

The cruelest manifestation of our refusal to confront addiction is our failure to give hope to the most vulnerable of our citizens, particularly blacks and Hispanics. For too long, we have condemned them to a subterranean prison without bars, from which the only escape appears to be working in the drug trade.

Fear of punishment is not sufficient to deter people confronted with these odds. Illicit drug use is more than twice as high among the unemployed as it is in the general population.³¹ Society must offer them a social and educational system that provides a realistic chance to develop their talents and share in our economic prosperity.

Mounting a serious attack on addiction will be costly and frustrating. We will make plenty of mistakes. But fear of failure should not lead us to the despair of legalization. What we should fear above all is the judgement of God and history if we, the most affluent people on earth, free to act as we choose, choose not even to try. Particularly as easing world tensions allow us to curtail defense spending, failure to commit our energies and resources to a comprehensive and persistent effort to confront addiction in America is unconscionable.

28. *Id.*

29. *Id.*

30. WORLD ALMANAC AND BOOK OF FACTS 1989 756 (1988).

31. HOUSEHOLD SURVEY, *supra* note 7, at 1.