Solving the Drug Problem: A Public Health Approach to the Reduction of the Use and Abuse of Both Legal and Illegal Recreational Drugs

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SOLVING THE DRUG PROBLEM:  
A PUBLIC HEALTH APPROACH TO THE  
REDUCTION OF THE USE AND ABUSE OF  
BOTH LEGAL AND ILLEGAL  
RECREATIONAL DRUGS  

Steven Jonas*

I. INTRODUCTION

A drug has been defined as "any substance other than food which by its chemical nature affects the structure or function of the living organism". Building on the dictionary definition of recreation, a recreational drug can be defined as one ingested, inhaled, or injected for the original purpose of providing diversion, relaxation, enjoyment, or mood-alteration. Since recreational drug use may become habituating or addictive, a secondary purpose may develop, that is, to avoid the negative effects associated with withdrawal and abstinence.

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1. NATIONAL COMM’N ON MARIHUANA AND DRUG ABUSE, SECOND REPORT, DRUG USE IN AMERICA: PROBLEM IN PERSPECTIVE 9 (1973) [hereinafter NAT’L COMM’N 2d]. This is a scientific definition of the word “drug.” However, when used in the context of drug “abuse,” the meaning of “drug” becomes social rather than scientific.

   Drug abuse refers to the use, usually by self administration, of any drug in a manner that deviates from the approved medical or social patterns within a given culture. The term conveys the notion of social disapproval, and it is not necessarily descriptive of any particular pattern of drug use or its potential adverse consequences.

Jaffe, Drug Addiction and Drug Abuse, in GOODMAN AND GILMAN’S THE PHARMACOLOGICAL BASIS OF THERAPEUTICS 532, 532 (7th ed. 1985) (emphasis in original) [hereinafter GOODMAN AND GILMAN].

2. Webster’s Dictionary defines the adjective “recreation” as “equipped so as to provide diversions or amusements.” WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY OF THE ENGLISH LANGUAGE 1899 (3d ed. 1986).

   For instance, “[t]he character and the severity of the withdrawal symptoms that ap-
In common American parlance, the term “The Drug Problem” is used to refer to those negative social, economic, health, and crime outcomes of the use and abuse of the recreational drugs which are currently illegal, principally cocaine, heroin, and marihuana.\(^4\) In reality, the true drug problem facing the United States encompasses the harm done not only by illegal drugs but also by the two most commonly used legal recreational drugs, alcohol and tobacco.\(^5\)

It happens that the negative health effects of the two legal drugs are much more serious than those of the currently illegal ones.\(^6\) For example, cigarette smoking kills about 400,000 persons per year\(^7\), while alcohol is associated with 80,000 to 200,000 deaths per year when an opiod is discontinued depend upon many factors, including the particular drug, the total daily dose used, the interval between doses, the duration of use, and the health and personality of the addict.” GOODMAN AND GILMAN, supra note 1, at 544. Some symptoms of withdrawal of an opiod include:

- Dilated pupils, anorexia, gooseflesh, restlessness, irritability, and tremor. With morphine and heroin . . . symptoms reach their peak at 48 to 72 hours. . . [T]he patient exhibits increasing irritability, insomnia, marked anorexia, violent yawning, severe sneezing, lacrimation, and coryza. Weakness and depression are pronounced. Nausea and vomiting are common, as are intestinal spasm and diarrhea. Heart rate and blood pressure are elevated. Marked chilliness, alternating with flushing and excessive sweating, is characteristic. . . Abdominal cramps and pains in the bones and muscles of the back and extremities are also characteristic . . . Other signs . . . include ejaculation in men and orgasm in women.

- The failure to take food and fluids, combined with vomiting, sweating, and diarrhea, results in marked weight loss [and] dehydration . . . Occasionally there is cardiovascular collapse. At any point in the course of withdrawal, the administration of a suitable opiod will completely and dramatically suppress the symptoms of withdrawal.

Id.

4. See generally THE WHITE HOUSE CONFERENCE FOR A DRUG FREE AMERICA, FINAL REPORT 1-5 (June, 1988) [hereinafter WHITE HOUSE CONFERENCE] (discussing the social, economic, health and crime effects of illegal drugs in American society).

5. See Appendix I. This is an un-numbered table reprinted from the NATIONAL INST. OF DRUG ABUSE, CAPSULES, POPULATION ESTIMATES OF LIFETIME AND CURRENT DRUG USE (rev. ed. Aug. 1989) [hereinafter NIDA DRUG USE REPORT]. This table presents data which is collected and published periodically by NIDA on the use of virtually all of the recreational mood-altering drugs used in the United States. The table shows that the most commonly used drug is alcohol (about 106 million current users) with cigarette tobacco second (about 57 million current users). Trailing far behind in third place, with less than one-ninth as many users as there are of alcohol and about one-fifth as many users as there are of cigarette tobacco, is marihuana (about 11.6 million current users).

6. See infra notes 91-100 and accompanying text (discussing the effects of tobacco use on health); infra notes 101-15 and accompanying text (discussing the effects of alcohol use on health).

per year. Together, on the other hand, the currently illegal drugs were responsible for about six thousand deaths in 1987. Further, while crime is a major problem associated with the currently illegal drugs, a significant portion of that crime occurs only because possession and sale of those drugs are illegal. It is important to note that besides the crime related to illegal drug commerce itself, more violent and non-violent crime is associated with alcohol than with any other drug.

Recreational drug use has never been successfully controlled in the United States. The country faces five major difficulties in attempting to create an effective policy to deal with drug use and abuse. First, “The Drug Problem” is widely seen not as a unity, but rather as a duality. The “good,” or at least the “OK,” drugs are those which are currently legal, while the “bad” drugs, those which are considered the sole cause of “The Drug Problem,” are those which are currently illegal. However, there are no scientific, epidemiological or medical bases on which the legal distinctions among the various drugs are made—only historical and political ones. The approximately 390,000 Americans died from smoking. Id.

8. See Nadelmann, The Case for Legalization, 92 PUB. INTEREST 3, 24 (1988) (stating that “[a]lcohol has been identified as the direct cause of 80,000 to 100,000 deaths annually, and as a contributing factor in an additional 100,000 deaths.”).

9. CITY OF BALTIMORE, DRUG POLICY WORKSHOP 9 (K. Schmoke & M. Collier eds. Aug. 4, 1988) (address by Steven Jonas) [hereinafter Jonas Address]. These 6000 deaths are attributed to cocaine and heroin. Id. By comparison, in 1985 “the National Council on Alcoholism reported that . . . 3,562 people were known to have died . . . from use of all illegal drugs combined. Nadelmann, supra note 8, at 24.


11. See infra notes 19-20 and accompanying text (discussing the crime associated with illegal drugs); infra notes 111-13 and accompanying text (discussing the crimes associated with alcohol use).

12. See WHITE HOUSE CONFERENCE, supra note 4, at 1-5 (blaming illicit drugs for the health and crime problems associated with drugs while ignoring the problems due to licit drugs like alcohol and tobacco); see generally OFFICE OF THE NAT’L DRUG POL’Y, NATIONAL DRUG CONTROL STRATEGY (1989) [hereinafter the BENNETT PLAN] (stating that illegal drugs are the sole cause of the nation’s drug problem).

13. See E. Brecher & THE EDITORS OF CONSUMER REPORTS, LICIT AND ILLICIT DRUGS 525-26 (1972) [hereinafter E. Brecher] (discussing the misclassification of drugs). This book is a landmark of rationality in the study of the history of American drug policy and in its recommendations for major revisions in that policy, many of which still make sense today and few of which have been implemented. See also NATIONAL COMM’N ON MARIHUANA AND DRUG ABUSE, FIRST REPORT, MARIHUANA: A SIGNAL OF MISUNDERSTANDING 14 (1972) [hereinafter NAT’L COMM’N IST] (discussing how marijuana has been incorrectly classified as
National Commission on Marihuana and Drug Abuse stated it categorically: "Alcohol is a drug."\(^{14}\) The Surgeon General of the United States has found that the nicotine in cigarette tobacco is a highly addictive drug.\(^{15}\) Yet neither society nor the law treats alcohol or nicotine as "drugs" in the sense that they treat the currently illegal drugs.\(^{16}\)

Among other things, this dichotomous approach appears to create a severe perceptual confusion in the minds of both public and private policy-makers. This confusion makes it difficult to create a consistent, effective anti-drug-use message to the public. Also, it permits the well-financed promotion, distribution, sale, and use of certain drugs while attempting to eliminate completely the distribution, sale, and use of others.\(^{17}\) In one sense, the arbitrary illegalization of certain drugs, making them "not OK," creates a second class of drugs like tobacco and alcohol which, at least by implication, are "OK". It is these "OK" drugs which cause the vast majority of the health problems associated with the use of recreational drugs in the United States.\(^{18}\)

The second difficulty with current drug policy is that "The Drug Problem" is commonly considered to encompass the crime associated with commerce in the illegal drugs.\(^{19}\) Although not widely recognized or admitted outside of certain academic and drug-policy analyst circles, the crime associated with the commerce in illegal drugs and the theft of property by the addicted poor to buy illegal drugs is

\(^{14}\) Nat'l Comm'n 2d, supra note 1, at 8-28 (discussing the categorization of drugs); S. WISOTSKY, supra note 10, at 29 (stating that the legal response toward cocaine is incompatible with a public health rationale).

\(^{15}\) Nat'l Comm'n 2d, supra note 1, at 11 (emphasis in original).


\(^{17}\) See infra notes 197-99 and accompanying text (discussing how cigarette advertising has increased cigarette consumption); see also infra notes 204-06 (discussing the advertising and promotion of alcohol and tobacco).

\(^{18}\) See infra notes 94-100 and accompanying text (discussing the effects of tobacco use on health); see also infra notes 101-15 and accompanying text (discussing the effects of alcohol use on health).

\(^{19}\) See, e.g., Bennett Plan, supra note 12, at 1-14; White House Conference, supra note 4, at 1.
largely the result of the illegality associated with the sale and possession of those substances.20

Third, the focus of current policy is on the drugs per se, as if there were something inherently wrong with them.21 But, except possibly for cigarettes, it is not the drugs themselves that are the problem.22 Rather, it is how they are used. "[T]he problem is in the behavior induced by the drug experience or by drug dependence which impacts adversely on the public safety or, by inhibiting social functioning, on the public health and welfare".23

Fourth, programs designed to deal with the currently illegal drugs commonly have as their stated goal the creation of a "Drug Free" society.24 It is the view of government officials that "[w]e have a major obligation to create and maintain a drug-free society for the future health and well-being of the people of the United States."25

20. See E. BRECHER, supra note 13, at 521-27 (discussing the problems with current drug policy); Lauderdale & Inverarity, Regulation of Opiates, 14 J. DRUG ISSUES 567, 573-74 (1984) (stating that "attempts to control addiction probably will not reduce the number of addicts but may increase the amount of crime."); see also Barnett, supra note 10, at 80-86 (addressing the harmful effects of drug laws on drug users in terms of punishment, higher prices, forced association with criminals and inducement to invent new drugs).

21. See S. WISOTSKY, supra note 10, at 198. Drugs, as inanimate objects, "cannot harm anyone or make an addict of anyone." Id.

22. See Appendix I. The nicotine contained in cigarette tobacco is highly addictive. See NICOTINE ADDICTION, supra note 15, at i. Therefore, most people who try it are of necessity put at risk for the diseases cigarette smoking causes. Cigarette smoking is not a "matter of free choice" because of the highly addictive nature of nicotine. People who start smoking as teenagers become addicted and then have difficulty quitting when they are adults capable of appreciating the health consequences of smoking. Id. at v-vi; see also infra notes 90-100 and accompanying text (discussing the epidemiology of tobacco). Most other drugs addict only about 20% or less of the people who try them. See infra note 79 and accompanying text (comparing the addictiveness of tobacco with alcohol and crack). These drugs intoxicate to levels at which the users become dangerous to themselves and/or others. See infra notes 62-74 and accompanying text (discussing intoxicant versus the non-intoxicant recreational mood-altering drugs). Nevertheless, many people can use the intoxicant drugs safely, while virtually no one can use cigarette tobacco safely. See infra notes 119, 124, 128, 139 and accompanying text (discussing the relatively minimal health consequences of cocaine, heroin, and marihuana use). Therefore, it is the negative behavior that in many cases is the problem with most of the recreational drugs other than cigarette tobacco. Of course, for those who become addicted to drugs which directly increase the risk of various diseases, such as alcohol, the drug itself is the problem, as it is with cigarette tobacco.

23. NAT'L COMM'N 2D, supra note 1, at 399 (emphasis added).


25. WHITE HOUSE CONFERENCE, supra note 4, at 13. The report further states that "[o]ur top social priority must be to prevent people from ever becoming involved in the use of illicit drugs, and our efforts must be continuous, long-term, and all inclusive." Id. (emphasis in original).
However, this goes against thousands of years of human experience which have encompassed the use of a variety of recreational drugs in virtually all societies. "Throughout history man has used available psychoactive substances . . . to receive pleasure or to achieve new experiences." Furthermore,

[t]he use of mind-altering drugs and drug-induced behavior is a common thread in the social fabric of humanity. For thousands of years people have taken drugs to alter mood, relax, feel better, feel different, escape and avoid pain. . . . Records show that narcotics have been used for at least 8,000 years.

One report concluded that, in relation to marihuana, "Drug Free" was not a reasonable, rational, or achievable goal. In reference to marihuana it stated:

Marihuana's relative potential for harm to the vast majority of individual users and its actual impact on society does not justify a social policy designed to seek out and firmly punish those who use it. This judgment is based on prevalent use patterns, on behavior exhibited by the vast majority of users and on our interpretations of existing medical and scientific data. This position also is consistent with the estimate by law enforcement personnel that the elimination of use is unattainable.

A later report disposed of the "Drug Free" position in relation to all drugs, including alcohol and tobacco, because:

Drug policy makers cannot truthfully assert that this society aims to eliminate non-medical drug use. No semantic fiction will alter the fundamental composition of alcohol and tobacco. Further, even if the objective is amended to exclude these drugs, human history discounts the notion that drug-using behavior can be so tightly confined . . . .

The report subsequently concluded that: "The major thrust of policy should be to minimize the incidence and consequences of intensified and compulsive use [of the psychoactive drugs]."

26. For example, even though marihuana has only been considered a problem drug in the past ten years, it has been used for centuries in several parts of the world and has been used for seventy-five years in this country. Nat'L Comm'n 1st, supra note 13, at 6.
27. Nat'L Comm'n 2d, supra note 1, at 28.
29. Nat'L Comm'n 1st, supra note 13, at 130 (emphasis added).
30. Nat'L Comm'n 2d, supra note 1, at 20.
31. Id. at 208 (emphasis omitted). Psychoactive drugs are "those which have the capacity to influence behavior by altering feeling, mood, perception, or other mental states." Id. at
It should be pointed out that there are two powerful industries which would fight any effort to create a truly drug-free society: the alcohol and tobacco industries. That in itself makes the stated goal completely unrealistic. For example, the tobacco industry already responds vigorously to proposals to ban cigarette advertising, while the alcohol industry responds with equal vigor to suggestions to provide health warning labels on alcoholic beverages, or to control advertising, or to modestly restrict the sale of beer in professional sports arenas.

Fifth, there has never been a clearly stated rationale for our national drug policy.

American drug policy is almost seven decades old, and not once during this period have the underlying assumptions been systematically evaluated and a broad, coherent foundation for policy making established. As a result, each new occurrence in drug development and each new use pattern have been viewed as unfamiliar, with the unfamiliarity breeding a sense of crisis, and the crisis precipitating ad hoc policy responses.

The so-called “Drug Czar,” Federal Drug Policy Director William Bennett has identified “the chief and seminal wrong . . . as drug
use." Bennett further stated that "[t]here are lots of other things that are wrong [today], such as money laundering and crime and violence in the inner city, but drug use itself is wrong." So much for differences in human behavior, differences in the effects of different drugs, and differences in perceptions of what really are the constituents and causes of the drug problem.

To usefully and effectively make policy and develop a program for resolving the true drug problem in our society, one must first properly perceive and understand the facts that inhibit that effort. Thus it is necessary to:

- Demonstrate that from the scientific, medical and epidemiological points of view, the true drug problem is a singular theme.
- Separate from one another the description and analysis of: the health effects of recreational drug use, the crime effects of recreational drug use, and the crime effects of the commerce in recreational drugs.
- Examine some of the major causes of the true drug problem and of the drug-related crime problems.
- Analyze the real and apparent goals of the several major approaches to drug use and abuse reduction and discuss what works and what doesn’t work in drug abuse reduction and control.

Once having done this, a public health program that has promise for significantly reducing the use and abuse of recreational drugs, based on the reality of drug use and abuse in the United States, can be presented.

II. Dimensions of the True Drug Problem

There are five major recreational drugs presently used and

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38. Weinraub, President Offers Strategy for U.S. on Drug Control, N.Y. Times, Sept. 6, 1989, at A1, col. 7, B7, col. 4. This statement was concurrent with the release of the BENNETT PLAN, supra note 12.
39. Weinraub, supra note 38, at B7, col. 5. He might have added "And by golly, we don't care how much money laundering and crime and violence we foster in the process, but we're determined to stop it by the only way we know how: legalization."
40. See supra notes 12-18; infra notes 62-143 and accompanying text.
41. See infra notes 90-143 and accompanying text.
42. See infra notes 167-75 and accompanying text.
43. See infra notes 176-99 and accompanying text.
44. See infra notes 231-48 and accompanying text.
45. See infra notes 263-74 and accompanying text.
abused in the United States: nicotine as contained in cigarette tobacco, alcohol, cocaine, heroin and marihuana.  

It is most interesting to note that together there are fifty percent more current users of stimulants (such as the amphetamines), tranquilizers (such as Valium), and analgesics (such as percodan and codeine) combined, than there are cocaine users (a total of three percent of the population over twelve years of age for the former three, as compared with two percent for the latter) but one would never know that from the public statements of Federal drug policy makers. Of course, there are over 36 times as many current users of alcohol as there are of cocaine and almost twenty times as many users of cigarettes.

A. The Changing Nature of the Perceived Drug Problem

The perceived nature of "The Drug Problem" changes over time. In 1885, The New York Times connected tobacco and the decline of the Spanish Empire, saying that "[t]he decadence of Spain began when the Spaniards adopted cigarettes and if this pernicious habit obtains among adult Americans, the ruin of the Republic is close at hand. . . ."

Predictions of national doom, and other alarms like these, are customary in the never-ending "drug war." But the identity of the enemy changes. Referring to heroin in 1968, Governor Nelson Rockefeller of New York put it this way: "Drug addiction represents a threat akin to war in its capacity to kill, enslave and imperil the nation's future . . .."

46. See Appendix I. This Article defines "major recreational drugs" as those having been used by at least ten percent of the population over twelve years of age, although chronic heroin use is not that widespread. There are so few regular users that they don't make it onto the National Institute of Drug Abuse charts. But heroin seems to remain very much in the public consciousness as a dangerous drug so I include it in the list. See id.

47. See Appendix I.

48. See BENNETT PLAN, supra note 12, at 1-14 (discussing only illegal drugs such as cocaine, crack, and heroin as the cause of America's drug problem).

49. See Appendix I.

50. NAT'L COMM'N 1ST, supra note 13, at 11. It is interesting to note that despite the explosion in cigarette smoking since that time, the nation has hardly gone down the tubes. In fact believers in associational causality might even link the ascendency of the United States to world leadership with that century-long expansion in cigarette smoking. Perhaps the decline in the American economy, see, e.g., B. FRIEDMAN, DAY OF RECKONING (1988), will be associated with the decline in cigarette smoking that began in the mid-1960's, see 1989 SURGEON GENERAL'S REPORT, supra note 7, at i (stating that "[t]he prevalence of smoking among adults decreased from 40 percent in 1965 to 29 percent in 1987.")

51. E. EPSTEIN, AGENCY OF FEAR 41 (1977). Heroin was sold over the counter before it
In 1988, focusing primarily on marihuana and cocaine, the White House issued a report which began with the following words:

The way in which we face the threat of drugs today may well determine the success or failure of our country in the future. As a people we have survived the Depression, civil and international war, and devastating disease; but now this country could dissolve, not because of an external threat, but because of our own failure to control illegal drug use.\(^5\)

In 1989, as the Reagan and now Bush "Drug War" was preparing to go on yet another offensive, there was a new enemy. In the introduction to the Bennett Plan, Drug Czar William Bennett noted that the incidence of drug related crime, drug trafficking, drug deaths, and drug emergencies in hospitals are all increasing. "One word explains much of it. That word is crack."\(^5\)

Finally our leaders tell us that when it comes to the drugs which are currently illegal we must be concerned not only about our nation's destiny but about it's soul. As President George Bush said in the sales pitch for his new drug plan, "the nation risks losing 'its very soul' to drug abuse."\(^5\)

### B. Changes in Drug Use Over Time

Regardless of whether legal measures are taken to deal with drug use and abuse, the fashion in the recreational use of illegal drugs does change over time. Cocaine use, which was widespread in

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52. White House Conference, supra note 4, at 1.

53. Bennett Plan, supra note 12, at 1-3 (emphasis in original).

Yet Bennett had made this statement after noting that use of all the major recreational drugs, including cocaine, had declined in the previous five years or so. Id. at 1. Furthermore, NIDA figures showing that the number of current users of crack, 484,000, see Appendix I, is only marginally greater than the number of deaths per year caused by cigarettes (390,000), see 1989 Surgeon General's Report, supra note 7, at v. An editorial in The New York Times commented that “[c]rack poses a much greater threat than other drugs. It is reaching out to destroy the quality of life, and life itself, at all levels of American society.” Crack, N.Y. Times, May 28, 1989, at E14, col. 1. The editorial further stated that “[c]rack may be to the 80's and 90's what the Great Depression was to the 30's or the Vietnam War was to the 60's and 70's.” Id. One must wonder if the Times editorial writer simply went back to the file for the 1885 editorial, changed the name of the demon drug, and updated the language. See supra text accompanying note 50.

the United States at the beginning of this century, was already declining when the Harrison Act illegalizing drugs was enacted. But during the 1980's Reagan "Drug War," little was heard of the latter three drugs. In 1989 however, amphetamines seemed poised to make a comeback in the form of "crank," an easily manufactured derivative, methamphetamine.

Surprisingly, and perhaps ironically, the true drug problem has changed little over the past 50 years: the two major drugs of abuse have remained the legal ones—cigarette tobacco and alcohol. Perhaps The New York Times had it right in 1885 after all.

III. THE DRUGS

A. Mood Altering Characteristics

1. Tobacco.— As with all recreational drugs, cigarette tobacco is mood altering. When smoked, it "produces arousal ... and relaxation. . . . [S]moking helps [smokers] concentrate and lifts their mood. . . . Smokers commonly report pleasure and reduced anger, tension, depression, and stress".

55. S. Wisotsky, supra note 10, at 9-10. In the late 1800's cocaine was found in various medicines and beverages for both its therapeutic and exhilarating properties. Id. By 1900, several states adopted laws restricting over-the-counter sales. However, these statutes did not curtail the consumption of cocaine. See id.


57. Cocaine use began to decline after the passage of the Pure Food and Drug Act, ch. 3915, 34 Stat. 768 (1906). This Act required disclosure of the contents of medicines. Because of the "growing suspicion and criticism," of cocaine, manufacturers were discouraged from using cocaine in the patent medicines. S. Wisotsky, supra note 10, at 10.

58. E. Brecher, supra note 13, at 302-05. When availability of "speed" was curtailed, drug users returned to cocaine for a similar high. Id. at 302.

59. See id. at 1-192 (discussing heroin use); id. at 245-55 (discussing barbiturate use); id. at 278-301 (discussing amphetamine use); id. at 335-93 (discussing LSD use). Brecher placed most of the emphasis in his book on these four drugs and made little mention of cocaine.

60. See Henican, Crank Set to Crack NY Drug Market?, N.Y. Newsday, Aug. 18, 1989, at 3, col. 1. Amphetamine and methamphetamine have enjoyed previous terms of popularity as recreational drugs, with the attendant abuse problems among some users, in the early 1950's and then again in the late 1960's. See Gawin & Ellinwood, Cocaine and Other Stimulants, 318 New Eng. J. Med. 1173, 1174 (1988).

61. See supra text accompanying note 50; see also Nat'l Comm'n 1st, supra note 13, at 11.

2. Alcohol.— The effects of alcohol are well known, but in clinical terms, it:

produces dose-related impairment of motor functions, coordination, reflex responses, tracking performance, judgment, and consciousness, as well as divided attention. . . . [T]here is an exaggeration of mood and related behavior that may be manifested by conviviality, depression, or aggression.63

3. Marihuana.— Initially the effects of marihuana are similar to alcohol:

mild euphoria, stimulation of the central nervous system and increased conviviality. The user experiences a pleasant heightening of the senses and relaxed passivity. In moderate doses the substance can cause short lapses of attention and slightly impaired memory and motor functioning. Heavy users have been known to become socially withdrawn and depersonalized and have experienced distortions of the senses.64

4. Cocaine.— This drug has been found to:

produce a neurochemical magnification of the pleasure experienced in most activities. . . . alertness and a sense of well-being. . . . lower anxiety and social inhibitions, and heighten energy, self-esteem, sexuality, and the emotions aroused by interpersonal experiences. . . .

. . . [H]igher doses intensify the pharmacologic euphoria [and] the user focuses increasingly on intense euphoric internal sensations—withdrawal, over time, from what began as a social experience.65

5. Heroin.— The primary mood-altering effect of heroin is the inducement of euphoria.66 It can also act as a tranquilizer, a mood elevator, a pain killer, and as the provider of a “mainline rush” following intravenous injection.67 Addicts have reported feeling both re-

63. Rankin & Ashley, Alcohol-Related Health Problems and Their Prevention, in MAXCY-ROSENAU PUBLIC HEALTH AND PREVENTIVE MEDICINE 1039, 1041 (J. Last 12th ed. 1986) [hereinafter PUBLIC HEALTH AND PREVENTIVE MEDICINE]
64. Nat'l Comm'n 2d, supra note 1, at 158.
65. Gawin & Ellinwood, supra note 60, at 1174 (footnotes omitted). These effects also apply to amphetamines which are stimulants like cocaine. See generally id. (discussing cocaine and other stimulants). These effects last longer with amphetamines than with cocaine. Nat'l Comm. 2d, supra note 1, at 163.
66. Nat'l Comm'n. 2d, supra note 1, at 161.
laxed and relieved of worry after injecting heroin.68

It is, of course, difficult to completely study the effects of the illegal drugs, simply because of their illegality.69

While cigarette tobacco is clearly mood-altering, it does not appear to be intoxicating, at least as the term is defined in Webster's Ninth New Collegiate Dictionary: "To excite or stupefy by alcohol or a drug esp[ecially] to the point where physical and mental control is markedly diminished."70 Thus it seems useful to distinguish between cigarette tobacco, a non-intoxicating, although mood-altering, recreational drug, and the intoxicating recreational drugs.

It is fascinating that in terms of death and disability, the most harm is done to the public's health not by the intoxicating recreational drugs, but rather by the one that is not intoxicating.71 Yet the primary focus of federal governmental anti-drug use policy over the past 20 years or so has remained on the currently illegal intoxicants.72 This is so even though each and every one of the common illegal intoxicants when used responsibly can provide a great deal of pleasure to some users under certain circumstances.73 Furthermore, the risk of harm to the users of the currently illegal drugs is similar to or less than that of alcohol, (which can also provide a great deal of pleasure), when used responsibly.74

B. Addictive Potential

As for addiction, most people who smoke cigarettes are addicted

68. Id. at 12.

69. The illegality of certain drugs makes the study of their short-term actions and long-term effects difficult for several reasons. Users, whether occasional or regular, will be reluctant to identify themselves to researchers unless guaranteed anonymity and immunity from arrest. Since making that guarantee can be difficult, it is virtually impossible to obtain any kind of true random sample of all users. At best, one can only obtain a random sample of those persons who are willing to take the risk of joining the study. Since any study must be done under conditions which provide immunity from arrest to drug-using participants, it may not be possible for researchers to replicate the setting, mood, and times of day and week under which the drug being studied is commonly used.

70. WEBSTER'S NINTH NEW COLLEGIATE DICTIONARY 634 (1983).

71. More than one out of every six deaths in the United States is caused by smoking. NICOTINE ADDICTION, supra note 15, at i.iii. "Smoking remains the single most important preventable cause of death in our society." Id. at i.

72. See supra notes 51-53 and accompanying text (discussing the government focus on heroin, marihuana and cocaine); see also G. BENNETT, CRIMEWARS 212-30 (1987) (discussing the methods that have been used to restrict illegal drugs).

73. See supra notes 64-68 and accompanying text (describing the mood altering characteristics of marihuana, cocaine and heroin).

74. S. WISOTSKY, supra note 10, at 185-86 (stating that alcohol is more dangerous medically than the illegal drugs).
to them. There are few, if any, "weekend users" of cigarette tobacco. This should not come as a surprise, since nicotine has been found to be a highly addictive drug producing both a "physiological and psychological dependence." According to the Surgeon General's Report on nicotine addiction, "the pharmacologic and behavioral process that determine tobacco addiction are similar to those that determine addiction to drugs such as heroin and cocaine." Despite that fact, cigarette tobacco is much more addicting than either alcohol or crack-cocaine.

While heroin is ordinarily thought of as a highly addictive drug, some authorities state "that a great many heroin users have developed stable, non-addictive patterns of occasional use ('chipping') over long periods of time." As far as alcohol, cocaine, and marihuana addiction are concerned, the vast majority of users are not addicted. Although psychological dependence on marihuana has been observed, addiction in the sense of physical dependence and craving has not been reported.

True addictivity figures are sometimes distorted or misrepresented, for reasons that can be known only to those who have fur-

75. Id. at 186. "The cessation of smoking deprives the chronic smoker's brain of his habitual intake of nicotine and results in tobacco withdrawal syndrome: anxiety, restlessness, craving. For this reason, 'intermittent or occasional use is a rarity—about 2 percent of smokers.'" Id. (quoting Russel, Cigarette Smoking: Natural History of a Dependence Disorder, 44 Brit. J. Med. Psychology 1, 3 (1971)).

76. NICOTINE ADDICTION, supra note 15, at i. 77. Fielding, Smoking: Health Effects and Control, in PUBLIC HEALTH AND PREVENTIVE MEDICINE, supra note 63, at 999.

78. NICOTINE ADDICTION, supra note 15, at 334.

79. Dr. Jack Henningfield of the Addiction Research Center of Baltimore has found that nine out of ten persons who try cigarettes go on to become addicted compared with one in six for crack-cocaine and one in ten for alcohol. See Kolata, Experts Finding New Hope on Treating Crack Addicts, N.Y. Times, Aug. 24, 1989, at A1, col. 5, B7, col. 1. The NIDA figures on addictivity are one in five for crack, one in seven for all forms of cocaine. Cf. Appendix I (noting those who have tried the drug and current users).

80. S. WISOTSKY, supra note 13, at 193 (citing N. ZINBERG, DRUG, SET AND SETTING (1984)).

81. See Appendix I (noting those who have tried the drug and current users).

82. "Psychological dependence is the repeated use of psychoactive drugs leading to a conditioned pattern of drug-seeking behavior." NAT'L COMM'N 1ST, supra note 13, at 54 (emphasis in original).

83. "Physical dependence is the state of latent hyper-excitability which develops in the central nervous system of higher mammals following frequent and prolonged administration of the . . . [drug]." NAT'L COMM'N 1ST, supra note 13, at 54 (emphasis in original).

84. See id. at 54-66 (discussing the effects of marihuana use based on the duration and frequency of use). The amount of psychological dependence increases with the amount of marihuana consumed. Id. at 55.

http://scholarlycommons.law.hofstra.edu/hlr/vol18/iss3/8
nished the distorting information. For example, despite the relatively low addictive potential of cocaine, in the form of crack or otherwise, Drug Czar Bennett hammers away on his theme that much of the drug problem can be explained in one word. "That word is crack." A commonly held view in the media is that crack is a particularly addicting drug. According to the NIDA data, however, crack is not "highly addictive." But in a drug war of this magnitude, why should anyone, from the Drug Czar to a newspaper reporter allow themselves to get confused by the facts? As the late Senator Hiram Johnson of California once said: "The first casualty when war comes is truth."  

C. Epidemiology

1. Tobacco.— About 57 million persons in the United States smoke cigarettes. Most of them are addicted to nicotine. Cigarette smoking causes about 400,000 deaths per year. It is a major cause of coronary artery disease, peripheral vascular disease, cerebrovascular disease, lung, laryngeal, oral, esophageal, bladder, pancreatic, and kidney cancers, and of chronic obstructive pulmonary disease. If it were not for cigarette smoking, there would be little lung cancer or chronic obstructive pulmonary disease in this country. Additionally, cigarette smoke also effects the health of non-smokers. Non-smokers, particularly children, who live or work in

85. See supra note 79 (discussing the addictiveness of cocaine and crack).
86. BENNETT PLAN, supra note 12, at 3 (emphasis in original).
87. For example, a lead article in The New York Times written after the release of the BENNETT PLAN stated that: "The selling and use of the highly addictive crack has reached epidemic proportions in many American cities and has begun to be a serious problem in rural areas as well." Wines, Influx of Cocaine in U.S. Has Slowed Drug Officials Say, N.Y. Times, Sept. 9, 1989, at A1, col. 6 (emphasis added).
88. See Appendix I (noting those who have tried cocaine and current users).
90. See Appendix I.
91. NICOTINE ADDICTION, supra note 15, at i; see also supra note 75 and accompanying text.
92. 1989 SURGEON GENERAL'S REPORT, supra note 7, at v (stating that "approximately 390,000 Americans died in 1985 as the result of smoking, even after two decades of declining smoking rates."). Of the deaths caused by cigarette smoking annually, approximately 80,000 are the result of lung cancer, 22,000 are caused by other cancers, 225,000 deaths are from cardiovascular disease, and 19,000 deaths result from chronic pulmonary disease. S. WISOTSKY, supra note 10, at 186 (citing U.S. DEP'T OF HEALTH, EDUC. AND WELFARE, SMOKING AND HEALTH, REPORT OF THE SURGEON GENERAL 10-11 (1979)).
93. See Fielding, supra note 77, at 999-1013 (setting forth in detail the effects of smoking).
94. See id. at 1006, 1011.
confined spaces with smokers, involuntarily inhale smoke and "show a higher rate of pathology than non-smokers" living or working in quarters without smokers. This effect of cigarette smoking has been referred to as "passive smoker's syndrome."

The prevalence of smoking among adults declined from forty percent in 1965 to twenty-nine percent in 1987. Nearly half of all living adults who ever smoked have quit. The prevalence of smoking is higher among blue-collar workers and less-educated persons than it is in the general population. Smoking begins primarily during childhood and adolescence.

2. Alcohol.— There are about one hundred million users of alcohol, which is approximately fifty seven percent of the U.S. population 18 years of age and older. About thirty three percent of them are classified as moderate to heavy users. Actually, only one tenth of the population consumes one half of all the ethyl alcohol sold in the country. It is estimated that eighteen million Americans either abuse alcohol or are alcoholics. In the United States alcohol consumption is a major cause of mortality. "Alcohol has

95. S. Wisotsky, supra note 10, at 186.
96. Id.; see also Fielding, supra note 77, at 1015-17 (discussing the health risks associated with second-hand smoke).
97. 1989 Surgeon General's Report, supra note 7, at i. The largest decline in smoking has among men, from 50 percent in 1965 to 32 percent in 1987. Id. at iv.
98. Id. at i. This decision to quit smoking avoided or postponed approximately 750,000 smoking related deaths. See id.
99. See id. "In 1985, 40 percent of blue-collar workers smoked compared with 28 percent of white collar workers." Id. at vii.
100. Id. at i. Approximately 20 percent of high school seniors smoke daily. This percentage has remained constant from 1981-87. Id. at vi; see also id. at v-vi (discussing how easily young people become addicted to nicotine).
101. See Appendix I.
102. Id.
103. Bradley, A Capsule Review of the State Art: The Sixth Special Report to the U.S. Congress on Alcohol and Health, Alcohol Health & Res. World, Summer 1987, at 4. One third of the population are light drinkers and the remaining third are abstainers. There are more abstainers among woman and older people. Id.
104. Id.
105. Nadelmann, supra note 8, at 24.
106. See Bradley, supra note 103, at 8 (discussing the medical consequences alcohol has on the body's internal organs). Alcohol is also responsible for fetal alcohol syndrome (FAS) in 1 to 3 cases per 1,000 live births. Id. See generally Harwood, Napolitano, Kristiansen & Collins, Economic Costs to Society of Alcohol & Drug Abuse & Mental Illness: 1980, at Table III-7 (1984); Rankin & Ashley, supra note 63, at 1041, table 27-1; Terris, Epidemiology of Cirrhosis of the Liver: National Mortality Data, 57 Am. J. Pub. Health 2076 (1967) (discussing the deleterious ramifications upon the liver caused by consumption of alcohol).
been identified as the direct cause of 80,000 to 100,000 deaths annually, and as a contributing factor in an additional 100,000 deaths.\textsuperscript{107}

Acute and chronic alcohol use and abuse have been linked with about 75 different human diseases and conditions, grouped under the following headings: psychological and behavioral, acute alcohol withdrawal syndrome and alcoholic psychoses, neurological, gastrointestinal, cardiovascular, respiratory, endocrine/metabolic, reproductive, musculoskeletal, hematological, traumatic injuries, ethanol-drug interactions, nutritional deficiencies, and pregnancy outcome and developmental disorders.\textsuperscript{108} As of May 1989, alcoholic cirrhosis of the liver was the eighth leading cause of death in the United States.\textsuperscript{109}

Alcohol intoxication is associated with almost half of automobile injury deaths, one-third of drowning, homicide, boating, aviation deaths, and one-fourth of suicide deaths,\textsuperscript{110} and one-tenth of work related injuries.\textsuperscript{111} Nearly half of all prisoners convicted of a crime were “under the influence” of alcohol when committing the crime and of those, half were intoxicated at the time.\textsuperscript{112} Additionally, more than half of all persons convicted of violent crime were consuming alcohol at the time of commission of the crime.\textsuperscript{113}

It is interesting to contrast the alcohol statistics with those for cocaine. “A 1986 survey of [New York] state prisoners found that \textit{I in 10} was under the influence of cocaine at the time of the crime, more than twice the number in 1979.”\textsuperscript{114} Thus for cocaine the percentage is only one in ten, whereas alcohol is one in two.\textsuperscript{115}

\begin{thebibliography}{11}
\bibitem{107} Nadelmann, \textit{supra} note 8, at 24. The health costs of this alcohol abuse on society is estimated at 100 billion dollars a year. \textit{Id.}
\bibitem{108} Rankin & Ashley, \textit{supra} note 63, at 1041, table 27-1.
\bibitem{109} \textit{Births, Marriages, Divorces, and Deaths for May 1989}, \textit{Monthly Vital Statistics Report}, Aug. 31, 1989, at 12, Table 6. This figure has varied over the last 25 years. \textit{Compare} Terris, \textit{supra} note 106, at 2076 (stating that alcohol cirrhosis of the liver was the eleventh leading cause of death as of 1964) \textit{with} Bradley, \textit{supra} note 103, at 4 (stating that cirrhosis of the liver was the ninth leading cause of death in 1983).
\bibitem{110} Bradley, \textit{supra} note 103, at 4.
\bibitem{111} Nadelmann, \textit{supra} note 8, at 24 (stating estimates for 1986).
\bibitem{112} Bradley, \textit{supra} note 103, at 4.
\bibitem{113} \textit{Id.}
\bibitem{114} \textit{Crack}, \textit{supra} note 53, at E14, col. 1 (emphasis added).
\bibitem{115} Bradley, \textit{supra} note 103, at 4. However, in 1988 “[m]ore than half the males arrested in nine major cities . . . tested positive for cocaine.” \textit{Crack}, \textit{supra} note 53, at E14, col. 1. In Washington D.C., fifty-nine percent of the people arrested were on cocaine. \textit{Id.} In Manhattan, more than eighty percent of the people arrested were on cocaine. \textit{Id.} Although “[n]early half of all convicted jail inmates were under the influence of alcohol at the time of committing the criminal offense . . . ”, Bradley, \textit{supra} note 103, at 4, we hear nothing about
\end{thebibliography}
3. Cocaine.— About twenty-one million people have tried cocaine.\textsuperscript{116} There are about 3,000,000 current users, including about 500,000 current users of crack.\textsuperscript{117} Although precise figures are very hard to come by,\textsuperscript{118} in part because of the illegal status of the drugs, it was estimated in 1987 that cocaine and heroin together caused about six thousand deaths.\textsuperscript{119} As the sale and use of these illegal drugs continues to rise, the level of violence is also increasing.\textsuperscript{120} Therefore, for 1990 the total mortality will probably be higher. This still pales in comparison with the mortality due to alcohol and tobacco use.\textsuperscript{121} Users of cocaine are more prone to commit property crimes than crimes against a person.\textsuperscript{122}

Cocaine is associated with a series of psychiatric problems which can become severe in certain cases.\textsuperscript{123} However, there is no present evidence that long-term cocaine use is a risk factor for any major physical diseases.\textsuperscript{124} But as noted above, it is difficult to scientifically study the long-term effects of a drug which is illegal.\textsuperscript{125}

4. Heroin.— There are fewer than 1,000,000 regular users of heroin in the United States.\textsuperscript{126} While exact figures are not available, the number frequently cited for heroin addicts is 500,000.\textsuperscript{127} Although there have been crimes against persons perpetrated by cocaine users, documentation of the drug’s specific effect is often absent.”\textsuperscript{119} It is estimated that 350,00 deaths are caused by tobacco and 100,000 deaths are caused by alcohol each year. Jonas Address, supra note 9, at 9.

NAT’L COMM’N 2D, supra note 1, at 163.

It is estimated that 350,00 deaths are caused by tobacco and 100,000 deaths are caused by alcohol each year. Jonas Address, supra note 9, at 9.

\textsuperscript{120} See supra notes 114-15 and accompanying text (discussing the influence of cocaine on the commission of crimes).

\textsuperscript{121} See supra note 69 and accompanying text.

\textsuperscript{122} See supra note 69 and accompanying text.

\textsuperscript{123} It is estimated that 350,00 deaths are caused by tobacco and 100,000 deaths are caused by alcohol each year. Jonas Address, supra note 9, at 9.

\textsuperscript{124} National Research Council, Tobacco and Health (1964) (discussing the effects of tobacco use on health).

\textsuperscript{125} Id. at 1175.

\textsuperscript{126} Again, this situation must be compared to what is known about tobacco and alcohol as risk factors. See supra notes 94-100 and accompanying text (discussing the effects of tobacco use on health); see also supra notes 101-15 and accompanying text (discussing the effects of alcohol use on health).

\textsuperscript{127} Nicotine Addiction, supra note 15, at iii (stating that smoking is responsible for more than 300,000 deaths per year in the United States); see
though heroin is highly addictive, it causes "relatively little physical harm to the human body."\(^\text{128}\) "Almost all of the deleterious effects ordinarily attributed to opiates . . . appear to be the effects of the narcotics laws."\(^\text{129}\) The risk of "arrest and imprisonment, infectious disease,\(^\text{130}\) and impoverishment" are the most serious effects of using narcotics in the United States.\(^\text{131}\) This is due to the high prices for drugs on the black market.\(^\text{132}\) In 1970, Dr. Jerome Jaffe noted that:

> The [heroin] addict who is able to obtain an adequate supply of drugs through legitimate channels and has adequate funds usually dresses properly, maintains his nutrition, and is able to discharge his social and occupational obligations with reasonable efficiency. He usually remains in good health, suffers little inconvenience, and is, in general, difficult to distinguish from other persons.\(^\text{133}\)

There are some reported heroin overdose deaths.\(^\text{134}\) Recently a serious new problem has arisen with the spread of Acquired Immune Deficiency Syndrome by the shared use of contaminated needles.

Today, about 25% of all acquired immunodeficiency syndrome (AIDS) cases in the United States and Europe, as well as the large majority of human immunodeficiency virus (HIV)-infected heterosexuals, children, and infants, are believed to have contracted the dreaded disease directly or indirectly from illegal intravenous (IV) drug use.\(^\text{135}\)

Thus this occurrence too is at least in part the result of the illegality

\(^\text{128}\) Nadelmann, supra note 8, at 24 (stating that alcohol causes or contributes to 80,000-200,000 deaths per year and tobacco consumption causes approximately 320,000 deaths per year).

\(^\text{129}\) Nadelmann, Drug Prohibition in the United States: Costs Consequences and Alternatives, 245 Sci. 939, 944 (1989). The worst side effect of occasional or regular heroin consumption under sanitary conditions is constipation. \textit{Id.}

\(^\text{130}\) E. Brecher, supra note 13, at 22.

\(^\text{131}\) When heroin is costly, users are forced to inject it, rather than eat, sniff, or smoke it because smaller amounts of heroin are needed for the same high when injecting than with the other forms of use. Injections carried out with unsterile needles contribute to the risk of infectious disease among heroin users. \textit{Id.; see also infra} note 135 and accompanying text (discussing the prevalence of AIDS among intravenous drug users due to the sharing of needles).

\(^\text{132}\) E. Brecher, supra note 13, at 22.

\(^\text{133}\) \textit{Id.}

\(^\text{134}\) \textit{Id.} at 38 (quoting Dr. Jerome Jaffe in Goodman & Gilman 286 (4th ed. 1970)). Dr. Jerome Jaffe is a former Director of President Nixon's Special Action Office for Drug Abuse Prevention. \textit{See id.}

\(^\text{135}\) See E. Brecher, supra note 13, at 101-14 (discussing death from heroin overdose).

\(^\text{128}\) Nadelmann, supra note 128, at 942.
of the drug.\textsuperscript{136}

5. Marihuana.—There are an estimated 12,000,000 current users of marihuana.\textsuperscript{137} Of young adults 18 to 25 years of age who smoke marihuana, about four percent of them are “heavy users” of the drug, meaning that they use it several times per day.\textsuperscript{138}

There is little evidence that the occasional smoking of marihuana inflicts much harm on the consumer of the drug.\textsuperscript{139} However, recent research has “justif[ied] concern about the long-term pulmonary consequences of the habitual smoking of only a few marihuana cigarettes per day”.\textsuperscript{140} Furthermore, “marijuana smoke contains more cancer-causing agents than is found in tobacco smoke.”\textsuperscript{141} Presumably there is some related traffic accident mortality, but there are no readily available figures on that problem.\textsuperscript{142} Not one marihuana overdose death, however, has ever been reported.\textsuperscript{143}

IV. GATEWAY DRUGS

A great deal has been made of the concept of “Gateway

\begin{itemize}
\item[136.] See Ostrowski, The Moral and Practical Case for Drug Legalization, 18 Hofstra L. Rev. 607, 638 (1990) (discussing how the illegality of selling clean needles has led to an increase in AIDS).
\item[137.] See Appendix I. Approximately 65,000,000 people have used marihuana at least once. \textit{Id.}
\item[138.] Nadelmann, \textit{supra} note 128, at 944. The National Institute on Drug Abuse (NIDA) defines a “heavy” marihuana smoker as one who consumes at least two marihuana cigarettes daily. \textit{Id.} However, the average marihuana smoker smokes only one or two marihuana cigarettes a week. \textit{Id.}
\item[139.] \textit{Id.} at 943-44.
\begin{quote}
[T]he habitual smoking of 3 or 4 marijuana cigarettes a day is associated with the same frequency of the symptoms of acute and chronic bronchitis and the same type and extent of epithelial damage in the central airways as the regular smoking of more than 20 tobacco cigarettes a day.
\end{quote}
\textit{Id.} at 347.
\item[141.] Nadelmann, \textit{supra} note 128, at 944 (quoting Nat’l Inst. on Drug Abuse, Marijuana (1983)).
\item[142.] One study showed that individuals who drove after consuming marijuana showed little or no radical impairment of motor skills. On the contrary, several of the driver’s performances were improved on challenging slalom courses. S. Wisotsky, \textit{supra} note 10, at 187-88 (citing Knepper, \textit{Puff, the Dangerous Drug}, Car & Driver, June 1980, at 43; Thompson, \textit{High Driving}, Car & Driver, Mar. 1978). \textit{But Cf.} Ravin v. State, 537 P.2d 494, 510 (Ala. 1975) (stating that “[r]ecent research has produced increasing evidence of significant impairment of the driving ability of persons under the influence of cannabis. Distortion of time perception, impairment of psychomotor function, and increased selectivity in attentiveness to surroundings apparently can combine to lower driver ability.” (citations omitted)).
\item[143.] Nadelmann, \textit{supra} note 128, at 943. In comparison, there are approximately 10,000 alcohol overdose deaths annually. \textit{Id.}
\end{itemize}
Drugs,”144 among the currently illegal drugs. This refers to the use of “softer” drugs, such as marihuana, leading to the use of “hard” drugs, such as cocaine and heroin.145 This theory is often given as a reason for maintaining the illegality of marihuana. The fact seems to be that the beginning use of all drugs, especially those which have a progressively milder effect as they are used over time or require ever increasing doses to provide the same effect,146 are “gateways” to the use of stronger drugs.147 For example, there is some evidence that cigarette tobacco and alcohol are themselves gateway drugs to the currently illegal drugs.148 Furthermore it is only logical to assume that persons who derive one kind of pleasant mood-alteration from a given drug, may it in the first instance be alcohol or tobacco, will be interested in trying other drugs to experience their different pleasurable effects.149

Multiple drug use and following pathways from one to another certainly is a problem. Approximately one-fifth of all cocaine abusers are also alcohol abusers.160 Ninety-five percent of the over 2000 cocaine addicts treated in one practice were children of parents who themselves were alcoholics or addicted to other drugs.161 In a study of the relationship between cigarette smoking and other unhealthy personal behaviors, it was found that a higher proportion of smokers than nonsmokers are classified as “heavy drinkers”.162

144. See infra notes 145-52 (discussing the problem of “gateway drugs”).
146. This phenomenon is called tolerance. When a person develops tolerance to a drug, the effects of the drug disappear if the same dose is taken day after day. See E. Brecher, supra note 13, at 65.
147. E. Brecher, supra note 13, at 263.
148. See Casement, Alcohol and Cocaine, 11 ALCOHOL HEALTH & RES. WORLD 18 (1987). Part of this phenomenon, according to Dr. Kathleen O’Connell occurs when children of alcoholics, fearing that they too may become alcoholics, turn towards other drugs, such as cocaine. Id. (quoting K. O’Connell, Children of Alcoholics Who Develop Cocaine Addiction (paper presented at Nat’l Council on Alcoholism conference, Cleveland, 1986); see also E. Brecher, supra note 13, at 263 (discussing cases in which alcohol drinking leads to narcotics addictions); A. Trebach, supra note 145, at 82 (discussing research showing that both alcohol and tobacco have been found to be gateways to all drugs and noting that “the first mind-altering chemical most young people use is alcohol.”).
149. The use of a soft drug alerts “the individual to the fact that substances exist which may be able to alter feelings of inner tension.” E. Brecher, supra note 13, at 263.
150. Casement, supra note 148, at 18.
151. See id.; see also supra note 148.
152. See Schoenborn & Benson, Relationships Between Smoking and Other Unhealthy
V. DIMENSIONS OF THE DRUG-ASSOCIATED CRIME PROBLEM

A. The Legal Status of the Major Recreational Drugs

The legal status of the recreational drugs on which this Article has focused is determined neither by the relative impact on users of the drugs immediate effects nor their relative levels of potential health harm to users and to society as a whole.153 Rather, the legality of these drugs has been determined by historical accident, and has varied over time.154 The sale and use of cigarettes and alcohol are currently legal. However, alcohol was illegal during Prohibition,155 and tobacco smoking was banned in fourteen states between 1895 and 1921.156 Cocaine, heroin, and marihuana were formerly legal.157

The case of the legal status of tobacco is instructive in understanding the arbitrariness of national legislation concerning the legal status of recreational drugs. In the 17th century, King James I of England seriously considered making tobacco illegal after he was first exposed to it.158 In 1604, the King described the smoking of tobacco as:

[A] branch of the sin of drunkenness, which is the root of all sins . . . a custom loathsome to the eye, hateful to the nose, harmful to the brain, dangerous to the lungs and in the black stinking fume thereof, nearest resembling the horrible Stygian smoke of the pit

153. See supra notes 4-16 and accompanying text.
154. See E. BRECHER, supra note 13, at 525-27 (discussing the misclassification of drugs); see also Nat'l Comm'n 1st, supra note 13, at 10-15 (discussing the history of alcohol, tobacco and marijuana); E. BRECHER, supra note 13, at 45-55 (discussing the Harrison Act of 1914); id. at 209-13 (discussing the history of tobacco); id. at 229-40 (discussing the first reports of the danger of cigarettes); id. at 260-69 (questioning whether alcohol should be prohibited); D. MUSTO, supra note 51, at 1-68 (discussing the history of restrictions on narcotics).
155. U.S. CONST. amend. XVIII, § 1 (1919, repealed 1933). Pursuant to this amendment, "the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes [was thereby] prohibited." Id. This amendment was repealed in 1933 by U.S. CONST. amend XXI, § 1.
156. Nat'l Comm'n 1st, supra note 13, at 11. By 1927, all fourteen states repealed the prohibition on tobacco. Id. at 12.
157. See id. at 12. "In 1900, only a handful of states regulated traffic in 'narcotic' drugs—opium, morphine, heroin and cocaine—even though, proportionately, more persons probably were addicted to those drugs at that time than at any time since." Id.
158. Bewley, Smoking: The 16th and 17th Century Response, 8 INT'L J. ADDICTIONS 191, 193-94 (1973). The King placed a tax on tobacco which was considerably higher than the customary tax. Moreover, failure to pay the tax resulted in added fines and corporal punishment. Id.
that is bottomless. . . . But herein is not only a great vanity, but a great contempt of God’s good gifts, that the sweetness of man’s breath being a good gift of God, should be willfully corrupted by this stinking smoke. . . .”

But, as history shows, King James I did not illegalize the drug, rather, he promptly raised the tobacco tax by four thousand percent. At the time, in other countries, other monarchs took a less pecuniary, more authoritarian view of tobacco smoking. They developed policies more akin to those presently found in the United States towards those drugs which are currently illegal than to that of their contemporary, the English King. The Emperor of Japan incarcerated both buyers and sellers; the ruler of Persia had users tortured and sometimes beheaded; the Mogul Emperor of India had their lips slit; the Russian Czar had first offenders of the law prohibiting use of tobacco beaten and persistent offenders executed; he subsequently added torture and deportation to Siberia to his list of punishments for tobacco users. History shows that none of these measures had any effect on reducing tobacco use.

It is instructive, if not frightening, that sometimes the current American Drug Czar sounds as if he has something in common with his namesake in their approach to “drug offenders.” This similarity exists even though the Russian czar was concerned with tobacco while the American czar focuses on cocaine. Consider this exchange which took place televised live on “The Larry King Show” of June 15, 1989:

CALLER: My question is to Mr. Bennett. Why build prisons? Get

159. *Counterblast to Tobacco*, 61 AM. J. PUB. HEALTH 581 (1971). He, or his speech-writer, had a taste for the dramatic and a flair for the language that outdoes even that of their most florid modern successors, some of whom have been quoted earlier in this Article. See *supra* notes 51-54 and accompanying text (discussing various modern political figures’ views on the effects of various drugs).

160. Bewley, *supra* note 158, at 195. Four years later, presumably influenced either by the tobacco lobby or a developing illegal trade, he cut that increase by about seven-eighths. But the tax still stood at six times what it had been in 1604. See id.

161. See id. at 195-96.

162. See id.

163. Id. at 196. Although, these severe and sometimes inhumane punishments did not deter tobacco smoking, knowledge of the real dangers of cigarette smoking has reduced use by some. Id.; see *supra* notes 97-98 and accompanying text (noting the recent decline in cigarette use).

164. See *supra* text accompanying note 162 (discussing how the Russian Czar punished violators of tobacco prohibition laws).
tough like Arabia. Behead the damn drug dealers. We're just too darned soft.

WILLIAM BENNETT: It's actually—there's an interesting point. One of the things that I think is a problem is that we are not doing enough that is morally proportional to the nature of the offense. I mean, what the caller suggests is morally plausible. Legally, it's difficult. But say—

LARRY KING: Behead?

BENNETT: Yeah. Morally I don't have any problem with that.  

One can only wonder what Mr. Bennett will do to the principal owners and top managers of the cigarette companies once it sinks into his consciousness that they are the biggest drug killers of them all.  

B. The True Crime Problem

There are two categories of drug-related crime. First, there is the crime created solely by the act of illegalizing one or more recreational drugs. Second, there is criminal behavior and crime that are produced by the effect of the drug(s) on the user. In current national policy, references to "the drug-crime problem" are (a) confounded with the drug use problem and (b) confined to the crime associated with the currently illegal drugs. But in reality it happens that presently one or more types of crime are associated with each of the recreational drugs, regardless of whether their distribution, sale, and use is legal or illegal. There are four types of crime directly created by illegalization: (1) drug importation, distribution, sale, and possession; (2) corruption of the criminal justice system; (3) corruption of legal commerce, as in money-laundering; and (4) the violent crime of the commerce itself, as when crack dealers shoot each other for control of turf. In addition, when illegality leads to high drug prices, addicts perpetrate crime so as to raise money to support their habit.

166. See supra notes 90-100 (discussing the deleterious effects of tobacco use).
167. See, e.g., supra notes 129-136 and accompanying text (stating that the illegality of heroin is responsible for most of its deleterious effects).
168. See Nat’l Comm’n 2d, supra note 1, at 156-64 (discussing several drugs and their criminogenic effects).
169. See, e.g., BENNETT PLAN, supra note 12, at 17-32 (discussing the effects of illicit drugs on the criminal justice system).
170. See Appendix II and sources cited therein.
171. Nadelmann, supra note 128, at 941. In order to raise money to purchase illegal drugs, many drug users commit robberies and burglaries as well as become involved in prostitution, drug dealing, and numbers running. Id. It is interesting to note that of the 75,000
The currently illegal status of drugs leads to high levels of drug-commerce related crime and violent crime inherent in that commerce. There are also high levels of corruption of the criminal justice system, non-drug-commerce related violent crime, corruption of legal non-drug commerce, and crime committed to raise money to buy the drugs. For alcohol, there exist high levels of motor vehicle statute violations and non-drug-commerce related violent crime. For cigarettes, there is a small but significant bootlegging traffic to avoid payment of state taxes in high tax states.

C. Causes of the True Drug Problem

1. The Supply/Demand Equation.— In one sense the controversy over the best way to control the use of drugs, whether or not they are currently illegal, can be seen as a conflict between “supply-siders” and “demand-siders.” And indeed, both approaches are to be found in present U.S. drug policy. In dealing with the currently illegal drugs, the emphasis is on the supply-side approach: stop the growth of the plants from which the drugs are derived; stop the manufacture of the drugs from the plants; stop the importation of the drugs; stop the domestic wholesale traffic in the drugs; stop the retail sale of the drugs. Theoretically if these goals are reached, the use

arrests for violations of the drug laws over the past few years, more than three-quarters were not for manufacturing or dealing drugs but solely for their possession. See id. at 941-42. “Illegal markets tend to breed violence, both because they attract criminally minded and violent individuals and because participants in the market have no resort to legal institutions to resolve their disputes.” Id. at 942.

See generally id. at 940-43 (discussing the cost and consequences of drug prohibition policy).

See supra notes 110-13 and accompanying text (discussing the relationship between alcohol and crime); see also NAT'L COMM'N 2d, supra note 1 at 157-58. It has been reported that in the commission of homicide and other assaultive crimes, at least half of the offenders have consumed alcohol prior to committing the crime. Id. Moreover, alcohol was a factor in 67% of the sexual crimes against children, and 39% of the sexual crimes against women. Id.

Nadelmann, supra note 128, at 941. The revenues from cigarette bootlegging are estimated at between $200 and $400 million per year. This is significantly less than the revenue from illicit drug sale which is estimated at between $10 and $50 billion per year. Id.

See infra notes 177-80 and accompanying text.

BENNETT PLAN, supra note 12, at 12-14. This report stresses that weapons against drug use must be applied to both the demand and supply side of the equation. Id. at 12. “[P]roperly conceived law enforcement cannot be meaningfully assigned to any uniquely demand- or supply-side role.” Id. at 13.

See id. at 12. “Supply reduction . . . is understood to be exclusively 'punitive,' and seeks to bring stern sanctions to bear against those who grow, refine, smuggle, or distribute illegal drugs.” Id.
of the currently illegal drugs will be curtailed and ultimately halted.

The demand side approach, on the other hand, is used primarily for alcohol and tobacco. The goal is to reduce drug use by decreasing demand. In this country the demand approach focuses principally on education.\textsuperscript{179} The major themes are “The stuff is dangerous” for cigarettes and “Use the stuff responsibly” for alcohol.\textsuperscript{180}

In neither the past nor the present have supply-side approaches succeeded in significantly reducing the supply of alcohol, tobacco, heroin, or cocaine for any significant period of time.\textsuperscript{181} As Drug Czar Bennett himself said in 1989, following an eight-year Reagan “war on drugs”\textsuperscript{182} which emphasized supply-side approaches:

Fear of drugs and attendant crime are at an all time high. Rates of drug-related homicide continue to rise—sometimes alarmingly—in cities across the country. . . . The threat drugs pose to American public health has never been greater. . . . Drug trafficking, distribution, and sales in America have become a vast, economically debilitating black market. . . . Finally, undeniably, the fact remains that here in the United States, in every State—in our cities, in our suburbs, in our rural communities—drugs are potent, drugs are cheap, and drugs are available to almost anyone who wants

\textsuperscript{179} Id. “Demand reduction . . . is understood to be exclusively ‘therapeutic,’ and seeks to help those in trouble—or those likely to get in trouble in the future.” Id.

\textsuperscript{180} For the currently illegal drugs, there have been proposals made to attempt to curb demand by making drug use a crime and begin arresting and sentencing users to work camps. See Lauder and Goldin Alter Ad Images, N.Y. Times, Aug. 9, 1989, at B4, col. 4. However, while such a policy makes for good campaign rhetoric, it has never been implemented anywhere and would be extremely expensive and complicated to implement. Such a policy would also be of questionable constitutionality. The act of incarcerating people for the use of narcotics has been frowned upon by the legal system. See, e.g., Comment, Retribution or Rehabilitation? The Addict Exception and Mandatory Sentencing After Grant v. United States and the District of Columbia Controlled Substances Amendment Act of 1986, 37 CATH. U.L. REV. 733 (1988) (authored by Benjamin I. Lambiotte) (discussing the leniency granted to narcotic addicts and the special sentencing guidelines used in these cases); see also Grant v. United States, 509 A.2d 1147 (D.C. Cir. 1986).

\textsuperscript{181} See G. BENNETT, supra note 72, at 221-23; see also E. BRECHER, supra note 13, at 48-55, 265-66, 299-301, 434-50, 521-27; A. TREBACH, supra note 145, at 147-78; S. WISOTSKY, supra note 10, at 173-96; Berke, New Form of Interstate Commerce: How Drugs Spread Through U.S., N.Y. Times, Aug. 28, 1989, at 1, col. 4 (discussing the methods and routes used to distribute drugs in the U.S.); Berke, Drug Rings Turn Border Into a Vast Route to U.S., N.Y. Times, Aug. 27, 1989, at 1, col. 1 (discussing how the government's strategy in blocking the influx of narcotics into south Florida has driven much of the importation elsewhere, namely, Arizona, California, New Mexico and Texas); Weiner, Airborne Drug War Is at a Stalemate, N.Y. Times, July 30, 1989, at A1, col. 6 (discussing how private planes are air-dropping illegal drugs in order to avoid interception by United States officials).

\textsuperscript{182} S. WISOTSKY, supra note 10, at 49-90 (discussing the various methods attempted by the Reagan administration to stop drug production).
The United States has had one major success in combatting drug use: the reduction in the proportion of adults smoking cigarettes from forty percent in 1965 to twenty-nine percent in 1987, a twenty-eight percent reduction. The reduction in the proportion of men smoking was thirty-six percent in the same period. This has been accomplished through the use of a demand-side approach such as: school and community anti-smoking education programs, the provision of commercial and voluntary agency smoking cessation programs, and the gradual restriction of smoking in public areas. It is ironic that while the policy of the Surgeon General of the United States has consistently been the reduction of smoking through demand-side approaches, the Federal Commodity Credit Corporation has actually aided in increasing supply by providing subsidized loans to tobacco farmers.

The demand reduction approach has been successful in other countries, for example, by restricting effective availability of a drug without illegalizing it. In Great Britain, there has been a significant reduction in deaths caused by alcoholic cirrhosis of the liver since World War I. The reason for this is "found in the history of British social policy on alcoholic beverages in the period during and after World War I. Wartime measures included . . . sharp curtailment in the amount of alcohol available for consumption, drastic restriction of the hours of sale, and marked increases in taxes on alcoholic be-

183. BENNETT PLAN, supra note 12, at 1-2.
184. 1989 SURGEON GENERAL'S REPORT, supra note 7, at i; see also NICOTINE ADDICTION, supra note 15, at Appendix A (discussing the trends in tobacco use in the United States).
185. See 1989 SURGEON GENERAL'S REPORT, supra note 7, at iv. Smoking among men dropped from 50 percent to 32 percent. Id.; see also NICOTINE ADDICTION, supra note 15, at Appendix A (discussing the trends in tobacco use in the United States).
186. See McFadden, Smoking Restrictions Increased Dramatically in Recent Years, N.Y. Times, Sept. 15, 1989, at A20, col 1 (stating that “[a]t least 44 states . . . have passed comprehensive laws limiting smoking in such places as restaurants, offices, schools, public transportation, retail stores, hospitals, theaters and other cultural and recreational centers.”); see also 1989 SURGEON GENERAL'S REPORT, supra note 7, at 381-445 (discussing various programs instituted to help reduce the number of people who smoke).
187. 1989 SURGEON GENERAL'S REPORT, supra note 7, at 474 (stating that the majority of the government's anti-smoking policy has consisted of information and education).
189. Terris, supra 106, at 2077. The lowest period was between 1942 and 1950. Since then there has been a slight increase in these deaths. Id.
After the war, many restrictions were lifted, but the hours were not extended to pre-war hours and the taxes were increased even further. Consumption continued to fall.\textsuperscript{191}

2. Demand: Natural/background.— To construct a rational drug use and abuse control policy it is important to recognize first that there is a natural or "background" level of use of mood-altering recreational drugs that has historically been found in human society, whether the contemporary government illegalizes certain drugs or not.\textsuperscript{192} To summarize the position succinctly: "Drug use, in one form or another, has been a common feature of most cultures throughout history. . . . [N]o society has successfully eliminated drug use altogether, although all have attempted to set limits. . . ."\textsuperscript{193}

3. Demand: Induced.— While there is a natural, moderately fluctuating level of demand for all the mood-altering drugs, demand for one drug in particular has increased sharply over the last century, only recently showing a downturn. That drug is, of course, cigarette tobacco, the only commonly used non-intoxicating mood-altering recreational drug.\textsuperscript{194} Annual adult per capita cigarette consumption increased from less than 100 in 1900 to a peak of about 4300 in 1962.\textsuperscript{195} Although this figure has fallen in the mid-1980s to under 3500, it is, nevertheless, a substantial number.\textsuperscript{196}

It is argued that cigarette advertising and promotion have contributed significantly to this maximum 4300\% increase in per capita use.\textsuperscript{197} This thesis has been vigorously denied by the tobacco companies.\textsuperscript{198} However, no other recreational drug in use in the United States has ever seen such a remarkable increase in use. If advertising and promotion had nothing to do with it, what caused it? Why did this increase occur in the use of the one common recreational mood-

\begin{itemize}
    \item \textsuperscript{190} \textit{Id.} at 2086.
    \item \textsuperscript{191} \textit{Id.} "Spirits have been taxed out of the reach of the lower social classes in the United Kingdom, where only the well-to-do can really afford the luxury of dying from cirrhosis of the liver." \textit{Id.}
    \item \textsuperscript{192} \textit{See supra} notes 26-30 and accompanying text (discussing how psychoactive substances have been used throughout history and how it is virtually impossible to create a drug free society).
    \item \textsuperscript{193} \textit{NAT'L COMM'N 2D, supra} note 1, at 37.
    \item \textsuperscript{194} \textit{See supra} text accompanying note 70.
    \item \textsuperscript{195} K. WARNER, \textit{supra} note 33, at 22, figure 2.
    \item \textsuperscript{196} \textit{Id.} Note that the denominator is all adults, not just those adults who smoke.
    \item \textsuperscript{197} \textit{See generally} K. WARNER, \textit{supra} note 33, at 59-84 (discussing the relationship between advertising and cigarette consumption).
    \item \textsuperscript{198} \textit{Id.} Tobacco companies argue that advertising is part of the competition for brand share of the already confirmed smokers. \textit{Id.} at 59. Moreover, they argue that the advertising conveys useful information about a brand's tar and nicotine ratings. \textit{Id.}
\end{itemize}
altering drug that is not intoxicating? Perhaps it is just that nicotine is so highly addicting, and for some unknown reason, over the years, millions of young Americans decided to try it, and became hooked. There is certainly no way to scientifically prove the case one way or the other. But at present there is simply no other viable explanation. This leads us to an analysis of the American Drug Culture as a major factor in the induced demand for all recreational drugs, currently legal or currently illegal.

VI. THE DRUG CULTURE

This Article hypothesizes that we have a Drug Culture in the United States. This Drug Culture is created by four of the major industries in our society: alcohol and tobacco, non-prescription (over-the-counter) medicinal drugs, vitamins, and the health care delivery system. There is no claim that this is intentional. Far from it. It is simply the result of the action of the free-market in the economy and self-regulation in the medical education and medical practice systems.

The Drug Culture is a major, perhaps the predominant, factor in causing the widespread use of all mood-altering recreational drugs. This is a very difficult hypothesis to prove, but there is a good deal of empirical evidence to support it's existence. For example with only five percent of the world's population, the United States consumes about half of the world's cocaine production.

The data makes it clear that the use of alcohol and tobacco is entrenched in our society. Indeed, the total number of person-users of alcohol and tobacco outnumbers that for all of the currently illegals by a factor of 8.3. In 1986, the tobacco industry shipped over $19 billion worth of its product.

Alcohol and tobacco use is heavily advertised and promoted.

199. NICOTINE ADDICTION, supra note 15, at 21-123, 377-441 (discussing the scientific attributes of nicotine).
201. See supra note 90 and accompanying text (discussing tobacco statistics); see also supra notes 101-04 and accompanying text (discussing alcohol statistics).
202. See Appendix I.
203. STATISTICAL ABSTRACT, supra note 188, at 720, table 1265.
204. In 1987, expenditures for magazine advertising of "smoking materials" at $334 million ranked sixth among 16 advertising product groups behind automotive, consumer services, toiletries and toilet goods, mail orders, and food and food products. See STATISTICAL ABSTRACT, supra note 188, at 551, table 921. Beer, wine, and liquor ranked tenth at $208 million. See id. As for network television, beer and wine (liquor is not advertised on television
Advertising by the industries associates their products with success, sex, power, speed, humor, athletes, sport, fun, thinness, and glamor. Perhaps the paramount example of this approach was the lead Bud Light TV ad used during the 1988 summer Olympics. Referring to the Bud Light mascot dog, Spuds McKenzie, the ad said: “Spuds and Bud Light. Now that’s the American Dream.”

Alcohol is supplied at almost all social functions at all levels of society, even though it is known to have many harmful short and long-term outcomes. The social use of alcohol is in fact highly encouraged in our society. When it comes to developing a rational drug policy, the contradictions created by that fact are sometimes stark. On October 7, 1989, former Secretary of State and former Secretary of the Treasury George Schultz gave a speech on drug policy at a gathering of Stanford Business School Alumni. Schultz was intimately associated with the development and implementation of U.S. drug policy. In this speech, after briefly reviewing the failures of the law enforcement approach over many years, he said that “we need at least to consider and examine forms of controlled legalization of drugs”. He added: “I find it very difficult to say that. Sometimes at a reception or cocktail party I advance these views and people head for somebody else. They don’t even want to talk to you.”

As we chuckle at the beer ads, as we sip on our martinis before dinner and drink our wines with dinner, and as we respond to the

or radio), ranked fifth ($514 million), behind food and food products, automotive, toiletries and toilet goods, and proprietary medicines. See id. at 552, table 922. Among 24 product groups employing local spot television advertising, beer and wine ranked sixth at $237 million. See id. at 552, table 923. There are certain restrictions. Cigarette advertising on television and radio has been prohibited since January 2, 1971 by the Public Health Cigarette Act of 1969, 15 U.S.C. § 1335 (1982). See K. WARNER, supra note 33, at 43-44. Furthermore, under the Federal Alcohol Administration Act, 27 U.S.C.A. § 201 (West Supp. 1989), the federal government has similar regulatory power over alcohol advertising.

205. 1988 Summer Olympics, (NBC television broadcast, Sept. 18, 1988, at approx. 2 pm EDT). Bud Light is a product of Budweiser, a division of the Anheuser-Busch Corporation.

206. See id.

207. See supra note 106-13 and accompanying text (stating statistics on the harmful effects alcohol).


209. Id. In both of his previous positions in the Customs Office, Mr. Schultz was intimately associated with the development and implementation of the law enforcement-based U.S. drug policy. Id.

210. Id. at col. 5.

211. Id. (emphasis added). And at what reception is alcohol not served and ashtrays, if not cigarettes, not provided?
subliminal sex-power-glamor-thinness messages of the cigarette ads,\textsuperscript{212} we must recognize what influence these perfectly legal products have on life and death in the United States.\textsuperscript{213} And while it is difficult to prove, it is only logical to assume that the promotion, sale, and use of the legal mood-altering drugs has some significant effect on the promotion, sale and use of the currently illegal ones.

In our society, over-the-counter medications are prominently sold as instant problem-solvers. The message is simple: "If you’ve got a problem, solve it by taking a drug." The industry is, of course, talking about medical problems and the drugs they are selling are, for the most part, not mood-altering. However, the basic approach to the utility of drugs exists.\textsuperscript{214}

Vitamins are not technically pharmaceutical drugs. But to the user, vitamins, coming in pill or tablet form, look just like them. Furthermore, they are sold as an effortless way to make the user a better person, (just like heroin, cocaine, and marihuana are). However, most vitamin takers have no physiological need for most of the vitamins that they consume.\textsuperscript{216} Water-soluble vitamins taken in excess are excreted through the kidneys. Thus it can be said that the principal outcome of wide-spread vitamin use in this country is to produce the world’s most expensive urine.

Finally, much of modern U.S. medical practice is drug-based. Very little emphasis is placed on health promotion or disease prevention, self-help, support for the healing powers of nature, or other drugless therapies and interventions. If you get sick, so the message goes, you will be taken care of. But very often that care will come in the form of a pill or an injection, a prescribed drug, a drug about which the patient knows nothing, but which, they are told, will solve his problem with no more effort on his part than taking it as instructed.

\textsuperscript{212} See generally K. WARNER, supra note 33, at 59-84 (discussing cigarette advertising and the effects on consumption).

\textsuperscript{213} See supra note 91-96 and accompanying text (discussing the detrimental effects of tobacco; see also supra notes 106-13 and accompanying text (discussing the detrimental effects of alcohol).

\textsuperscript{214} There are pills, salves- and tablets that can be used to combat almost any minor medical problem. These easy cures cause people to forego medical diagnosis of their symptoms and instead encourage them to solve the problem and/or prevent the problem from recurring with drugs.

\textsuperscript{215} See COMMITTEE ON DIET AND HEALTH, FOOD AND NUTRITION BOARD & COMM'N ON LIFE SCI., NAT'L RES. COUNCIL, DIET AND HEALTH: IMPLICATIONS FOR REDUCING CHRONIC DISEASE RISK 9 (1989) (discussing the effects of several vitamins on various diseases).
Most drug use/habituation/addiction begins between the ages of ten and twenty-five. For example, more than eighty percent of smokers born since 1935 started smoking before they were twenty-one. As clearly demonstrated by tobacco and alcohol company advertising, the Drug Culture aims heavily at this age group; this advertising strategy is used for good reasons: with about 400,000 deaths caused by smoking per year the tobacco companies must recruit over 1000 new nicotine addicts a day just to replace those smokers who die every year, to say nothing of those who quit. And those 1000 are easiest to find, and addict, among our youth. As for recruitment to drinking beer, a study of high school boys by the Center for Science in the Public Interest found that when asked to list their favorite commercials, they ranked the beer ads first.

Our youth is exposed to the heavy promotion of drug use for pleasure or problem-solving at many levels of their lives. To significantly reduce the use and abuse of the recreational drugs a number of steps must be taken. However, it is highly unlikely that any of them will be taken and taken successfully if the Drug Culture is not first constrained or eliminated. To be sure, there are “Just Say No” messages concerning the currently illegal drugs, occasional “use it in moderation” messages for alcohol, and the tobacco and alcohol warning labels. However, there is no reason to expect young peo-

218. Id. at 12 (noting that in 1985, 390,000 deaths were attributable to cigarette smoking).
219. The number of adults who smoke have decreased significantly, from 40 percent in 1965 to 29 percent in 1987. Id. at 1.
220. Approximately 20 percent of all high school seniors smoke daily. Id. at vi. Everyday, more than 3000 American teenagers take up the smoking habit. Id. Because of the addicting properties of nicotine, it is difficult for smokers who started when they were young to quit when they become adults. See id. at v-vi.
221. Fascinating Facts, University of California, Berkeley Wellness Letter, Oct. 1989, at 1. The beer industry, however, claims that these ads are not directed toward young people. Id.; see also Schoenborn & Cohen, Trends in Smoking, Alcohol Consumption, and Other Health Practices Among U.S. Adults, 1977 and 1983, Advancedata, June 30, 1986, at 6 (stating that young people are more likely to drink, and drink more heavily than older people).
222. See infra notes 244-53 and accompanying text.
ple to pay attention to those messages when they are constantly bom-
barded with "Please Say Yes/Do Do Drugs" messages for alcohol
and tobacco use, and when the health services system in which they
grow up uses drugs as the first resort for dealing with illness or self-
improvement.

VII. GOALS FOR A DRUG POLICY

As discussed earlier, current national policy aims to achieve
"An [illegal] Drug-Free America." 225 Such a goal is neither reach-
able nor rational, given the background level of mood-altering recre-
atational drug use in human societies and the acceptance and promo-
tion of the currently legal mood-altering recreational drugs. 226 To
repeat the statement of the National Commission on Marihuana and
Drug Abuse:

Drug policy makers cannot truthfully assert that this society aims
to eliminate non-medical drug use. No semantic fiction will alter
the fundamental composition of alcohol and tobacco. Further, even
if the objective is amended to exclude these drugs, human history
discounts the notion that drug-using behavior can be so tightly con-

What then should the primary goal of our national drug policy
be? Very simply, it should be to reduce and control the use of all
the recreational mood-altering drugs in order to provide for their
safe, pleasurable use, consistent with centuries-old human experi-
ence, while minimizing their harmful effects on individuals, the
family, and society as a whole.

To reach this goal the psychoactive drugs must be seen as a
unity, not a duality. 228 "[F]ormulation of a coherent social policy
requires a consideration of the entire range of psychoactive drug con-
sumption, and a determination as to whether and under what circum-
stances drug-using behavior becomes a matter of social

A program designed to achieve this goal will focus on: (i) the

225. See supra notes 24-25 and accompanying text.
226. See supra notes 26-31 and accompanying text.
227. Nat'l Comm'n 2d, supra note 1, at 20.
228. See supra note 12 and accompanying text (discussing duality of approach to
drugs).
229. Nat'l Comm'n 2d, supra note 1, at 9.
reduction rather than the elimination of drug use; (ii) the prevention of drug-induced behaviors resulting from the effects of the drugs themselves that have a negative impact on others; and (iii) the punishment for drug-induced behavior, whether it is induced by the currently illegal or legal drugs, which has a negative impact upon others, as recommended by the National Commission on Marihuana and Drug Abuse. Measures taken to achieve this goal should not themselves be the cause of other serious social problems, such as illegal drug-commerce and related crime.

A. Present Solutions to the Drug Problem: Illegalization Doesn't Work

In this Article, a great deal of evidence has been cited to show that illegalization of certain drugs, which is the primary focus of current national drug policy, not only has never achieved its stated goal of a "drug-free" society, it seems to have little impact on drug use at all. We have seen that there are secular trends in the use of the currently illegal drugs. Since 1972 for example, the recreational use of barbiturates and LSD has apparently decreased; cocaine use apparently dropped, then it rose, and is declining again; amphetamine use went down and is now apparently going up again. However, law enforcement apparently has not had much influence on these changes.

As we have seen, law enforcement focuses almost exclusively on supply. As Drug Czar Bennett noted in the Bennett Plan, cocaine was never more plentiful nor cheaper. Therefore, whatever the reasons for the decline in the number of users of cocaine, it does not appear that law enforcement, (on which we spend the bulk of our anti-drug resources), is the prime factor. The degree of enforcement of the marihuana statutes has little effect upon its use. "[A] total

230. Id. at 399
231. See supra notes 50-54 and accompanying text (discussing the changing nature of the perceived drug problem).
232. See G. BENNETT, supra note 72, at 217. Marijuana, heroin, alcohol, and cigarettes are losing popularity along with the hallucinogens. Id.
233. See id; see also E. BRECHER, supra note 13, at 302-05 (discussing the revival of cocaine use in the 1970's).
234. G. BENNETT, supra note 72, at 217. "Youths between the ages of twelve and seventeen, while starting to abandon other drugs, continue to increase their dabbling in pills." Id.
235. See supra note 178 and accompanying text (discussing the remedies of the supply-side approach).
236. BENNET PLAN, supra note 12, at 1-2.
237. NAT'L COMM'N 1ST, supra note 13, at 137; see also Appendix 1 (noting that 17%
prohibition scheme carries with it significant institutional costs. Yet it contributes very little to the achievement of our social policy. In some ways it actually inhibits the success of that policy."

"Experience in Oregon, California, and Maine following decriminalization of marihuana in the 1970's showed no significant percentage of new users or an increase in frequency of use."

William Chambliss noted that:

Carefully ignored in all the law enforcement propaganda is the experience of the dozen or so states that have virtually legalized marijuana (among them, Alabama, New York, Maine, California, Nebraska, Mississippi, and Rhode Island). Evidence is spotty, but what there is suggests that the use of marijuana actually declines after legalization.

Finally, the following was written in 1936 by August Vollmer, a former police chief and past president of the International Association of Chiefs of Police: "Stringent laws, spectacular police drives, vigorous prosecution, and imprisonment of addicts and peddlers have proved not only useless and enormously expensive as means of correcting this evil, but they are also unjustifiably and unbelievably cruel in their application to the unfortunate drug victims."

Nevertheless, over the years the continued failure of illegalization to reduce the drug problem has produced only more emphasis on law enforcement at the Federal government level. The most recent example is President Bush's National Drug Control Strategy. As Vice-President, Mr. Bush had a major responsibility for President Reagan's "War on Drugs," which placed heavy emphasis on law-enforcement. The very fact that President Bush feels compelled to develop a "new" strategy is significant evidence that the previous effort was a failure. Yet the "new" plan puts seventy percent of its

of 12-17 year olds have ever used marijuana and hashish).

238. NAT'L COMM'N IST, supra note 13, at 143. A prudent control policy of marijuana should include "preventing irresponsible use of the drug, attending to the consequences of such use, and deemphasizing use in general." Id.

239. S. WISOTSKY, supra note 10, at 215.


241. E. BRECHER, supra note 13, at 52

242. BENNETT PLAN, supra note 12.

243. See id at 17-32. In many respects, President Bush's strategy asks the government to take the same action it has taken for years; building prisons and increasing efforts against the international drug organizations. See Weinraub, supra note 38, at A1, col. 6.
financial eggs in the law enforcement basket.\textsuperscript{244} One must wonder when our national political leadership will learn.

However, the arguments against illegalization should not be taken as arguments for legalization. That is the subject of a different Article. The point to be made here is that illegalization is ineffective in reducing drug-use. Further, it may make the true recreational mood-altering drug problem worse by creating a class of “OK” drugs,\textsuperscript{246} which then deflects attention from those drugs, tobacco and alcohol, which cause the vast majority of the recreational drug-related health problems.\textsuperscript{248} While illegalization is largely responsible for the drug-commerce related crime problem,\textsuperscript{247} which would largely be eliminated by legalization, the principal reason for proposing to develop a new approach to dealing with the drug problem is simply that illegalization does not and cannot work.\textsuperscript{248}

\section*{B. Principles for Program Design}

The stated goal of the program is, once again, to:

\textit{Reduce and control the use of all the recreational mood-altering drugs to provide for their safe, pleasurable use, consistent with centuries-old human experience, while minimizing their harmful effects on individuals, the family, and society as a whole.}

To achieve this goal, it first must be recognized that the historical focus on the supply side has been a failure.\textsuperscript{248} In contrast, the program proposed here places its emphasis on the demand side. It proposes to reduce the demand for all of the recreational mood-altering drugs by providing information, by educating users and potential

\begin{itemize}
\item \textsuperscript{244} \textit{Id.} This is not even a true change in strategy. Since the Nixon administration, approximately 70 percent of federal anti-drug money has been allotted to enforcement. \textit{Id.}
\item \textsuperscript{245} Those drugs that are currently legal are “OK” drugs. \textit{See supra} note 12 and accompanying text.
\item \textsuperscript{246} \textit{See supra} notes 90-100 and accompanying text (discussing the effects of tobacco use on health); \textit{see also supra} notes 101-15 and accompanying text (discussing the effects of alcohol use on health).
\item \textsuperscript{247} \textit{See supra} notes 10, 20 and accompanying text.
\item \textsuperscript{248} \textit{See E. Brecher, supra} note 13, at 64 (discussing how the addicting nature of drugs prevents criminal laws from acting as a deterrent to drug use).
\item \textsuperscript{249} \textit{See S. Wisotsky, supra} note 10, at 49-60 (discussing international law enforcement); \textit{see also supra} notes 181-83 and accompanying text (discussing the failure of government to control the supply of drugs). The measures designed to decrease rather than eliminate drug availability have sometimes been successful. For example, laws restricting the sale of drugs to minors have helped to reduce the instance of drug sales to that age group. \textit{See Appendix I} (noting that approximately 50 percent of 12-17 year olds have used alcohol but that 90 percent of 18-25 year olds have used alcohol).  
\end{itemize}
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users, by rationally restricting availability without eliminating it, by creating a rational price structure and a credible tax policy and related measures. Further, this program is based on the principle that any significant reduction of drug use in our society, especially of the mood-altering drugs, will require an end to the Drug Culture, and its replacement by a Health Culture.

To summarize its principles then, the program promoted by this Article is designed to achieve clearly stated goals, is related to known causes and mechanisms, and is based upon the experience of successful solutions used elsewhere. Furthermore, it is constructed not to cause other serious problems/side effects, if desired outcomes can be achieved without those side-effects. The program is founded on the concept that the misuse of recreational drugs is a health problem and that only criminal behaviors resulting from the misuse of the recreational drugs should be handled by the criminal justice system. Lastly, the program is predicated on sound public health principles, “to promote and preserve health [and is] concerned with correcting, as far as possible, the departures from health that impair the well-being and working of the community.”

The problems with the current national drug policy are that it emphasizes “measures designed to keep drugs away from people”; publicizes “the horrors of the ‘drug menace’”; increases “the damage done by drugs”; uses misleading classifications of drugs; views the drug problem as a national one pursues the

250. See supra notes 179-80, 184-91 and accompanying text (discussing the demand side approach and examples of where it has been successful).
251. See supra notes 200-226 and accompanying text (discussing the drug culture in the United States).
252. In other words, the cure should not be worse than the disease.
253. Last, Scope and Methods of Prevention, in PUBLIC HEALTH AND PREVENTIVE MEDICINE, supra note 63, at 3 (emphasis added).
254. See E. BRECHER, supra note 13, at 522-23.
255. Id. at 523-24.
256. See id. at 524-25. “A substantial part of that damage stems not from the chemistry of the drugs but from the ignorant and imprudent ways in which they are used, the settings in which they are used, the laws punishing their use, society’s attitudes toward users, and so on.” Id. at 525. These factors lead to contaminated drugs, the crime problem, unsterile needles, now even more serious than it was in 1972 because of AIDS, social alienation, and criminalization of many people who would otherwise not become criminals, which is again, even worse now than then. See id. at 524.
257. See id. at 525.
258. Id. at 526-27. Brecher reported that workers in the drug scene consider the “drug problem” to be a collection of local problems and criticize the theory that the drug problem is a national one. Id. at 526. He argues that proposed solutions to the problem will be more effective in some areas than others and should, therefore, be tailored to the community in
"goal of stamping out illicit drug use"; and glorifies the substances by making them illicit.

Characterizing "the drug problem" as the problem of one group in society presents a stumbling block to a coherent drug policy and is ineffective. Cocaine is as widespread a problem among all-white, exclusionary college fraternities as it is a problem in America's inner cities.

Contradictory attitudes towards psychoactive behavior modifying drugs doesn not help in solving the problem. Rather, the stance should be: "Society should not approve or encourage the recreational use of any drug, in public or private. Any semblance of encouragement enhances the possibility of abuse and removes, from a psychological standpoint, an effective support of individual restraint."

VIII. A PROPOSED NATIONAL PUBLIC HEALTH PROGRAM FOR THE REDUCTION AND CONTROL OF RECREATIONAL DRUG USE

The Drug Use Reduction Program herein proposed has the following components:

1. A system for classifying the recreational drugs according to the danger to health and well-being.

2. The institution of a primary common retail source system for the distribution and sale of the legal drugs, whichever they might be.

which they will be applied. Id. at 526-27.

259. See id. at 527. (criticizing the theory that drug use should be "stamped out" immediately and suggesting that efforts should be taken to reduce drug use over a period of years).


261. See White House Conference, supra note 4, at 107, recommendation #3 (stating that "[s]ports organizations, amateur and professional, should ensure that their activities and their members do not promote, endorse, or condone the illegal consumption of alcohol or the abuse of alcohol.").

262. Nat'L Comm'n 1st, supra note 13, at 129. (emphasis in original).

263. Some of the parameters that could be used for the classification system are: addictive potential; increased risk of morbidity and mortality caused by both casual and intensive long-term use; relative risk of morbidity or mortality in the acute intoxication stage; other special risks such as AIDS transmission; potential for social harmfulness of drug use and drug-induced behavior.

264. This "Drug Store" would have much in common with the "Package Stores" now used to sell alcoholic beverages in certain states. A common national policy on minimum age for drug sales, hours of availability and sales through locations other than the "Drug Stores" would also be developed and recommended to the states.
3. A national pricing structure for the legal drugs, whichever they might be.\textsuperscript{265}

4. Measures to diminish the Drug Culture and its impact.\textsuperscript{266}

The program to diminish the impact of the Drug Culture would also include a comprehensive drug advertising policy. A ban on all recreational drug advertising would be considered, but other alternatives would also be examined. As has been suggested for cigarettes,\textsuperscript{267} alternatives for the creation of an advertising code, which might be voluntary in the first instance would be considered as would the institution of a permanent, national anti-legal drug use advertising campaign comparable in size to pro-drug use advertising and funded by a tax on that advertising.

As part of this effort, a program to replace the Drug Culture with a Health Culture would be developed. This would include, for example, the promotion of alternate personal behaviors to drug use which might meet some of the personal needs which drug use currently meets. This program could address areas such as taking control of one's life, assertiveness training, self-responsibility, regular exercise, and positive nutrition.

Finally, as part of this effort, a national campaign would be mounted by the federal leadership to force the tobacco and alcohol industries, which supply the bulk of the recreational drugs used in the United States, to recognize their responsibilities. Presently they appear to be inured to the social harm that they produce directly, and do not even consider the drug problem as a whole, for which they also bear significant responsibility. The tobacco industry still refuses to admit that there is any causal relationship between ciga-

\textsuperscript{265} This price structure would be carefully designed to discourage the use of the legal drugs without creating a significant black market in them. Developing a rational tax policy would be part of this effort. If the primary tax were to be a national production levy collected directly from the manufacturers, both bootlegging from high tax to low tax states and tax evasion through private sales would be discouraged. States could, of course, levy an additional drug sales tax if they so chose. Drug production and sales taxes would be used to reduce drug use as well as to fund, at least in part, the comprehensive drug control program. Taxes would not be applied solely to consumption, but also to promotion activities by the producers.

\textsuperscript{266} Most important would be a national campaign by the federal political and health leadership, to explain to the public that recreational drug use is indeed a unity; that it is a medical/health problem, not a crime or sin; that many recreational drugs other than cigarettes can be used safely if used responsibly; and that the leading recreational drug-related health problems are produced by tobacco and alcohol.

\textsuperscript{267} See K. WARNER, supra note 33, at 92-93. Warner suggests developing "a code defining permissible imagery in tobacco ads and then to develop an effective mechanism to assure that the Federal Trade Commission monitored advertising and strictly enforced compliance with the code." Id. at 92.
rette smoking and disease. Without blinking, the alcohol industry faces the facts that its product kills nearly twenty-four thousand people on the roads every year, and that half of its product is consumed by 10 percent of those who drink it. This part of the program might be known in the colloquial as "guilt-tripping."

5. A national, comprehensive, public, personal, and school health education program to discourage the use of drugs and encourage the participation in alternative behaviors.

6. Comprehensive treatment, rehabilitation, and job-training and placement programs for those addicted to drugs.

7. Changes in the health care delivery and medical education systems to place health promotion and disease prevention first and reduce dependence on prescription drugs for disease treatment and symptom management, as part of the campaign to diminish the Drug Culture.

8. A comprehensive job-training and employment program for those who use and/or deal in the currently illegal drugs at least in part because they have no other meaningful employment opportunities.

9. The provision of subsidies, relocation assistance, and job retraining programs for the tens of thousands of workers and farmers in this and other countries who would become un- or underemployed with any significant decline in recreational drug use.


269. Nat'l Council on Alcoholism Inc., Facts on Alcoholism and Alcohol-Related Problems 2 (1987). In 1986, there were 23,987 alcohol-related highway deaths. Id. Approximately 9,000 of these fatalities were individuals 15-24 years of age. Id.

270. See id. at 1. This means that a significant portion of its profits are derived from alcoholism.

271. This is the primary approach that has been successful in reducing the proportion of adults who smoke cigarettes. See 1989 Surgeon General's Report, supra note 7, at iv (discussing successful school and community programs designed to deter smoking). All that this actually requires is appropriate funding and expansion of existing programs.

272. For effective treatment, the latter appears to be especially important. Dr. Charles Schuster, Director of the National Institute for Drug Abuse, has stated that: "The best predictor of success [in treating addicts] is whether the addict has a job." See Kolata, Experts Finding New Hope on Treating Crack Addicts, N.Y. Times, Aug. 24, 1989, at A1, col. 5, B7, col. 5. To be successful, this program must vastly expand existing efforts. Treatment and rehabilitation for persons addicted to the intoxicating drugs, including alcohol, should be available on demand, free. Smoking cessation programs should also be available on demand at no cost. These programs can be funded from the new drug taxes.

273. This might prove to be one of the most difficult elements of the Drug Culture to deal with. Consideration would be given to how the promotion and use of over-the-counter medications, vitamins, and prescription drugs might be changed to ameliorate the recreational drug use and abuse problem.
10. Focused law enforcement to deal with negative and anti-social behaviors associated with drug abuse, and the violation of statutes governing promotion, distribution, sale, and use of the recreational drugs, such as sale to minors, black market sales, tax-evasion, and criminal actions while intoxicated.

11. Research to further elucidate the role of the Drug Culture in the promotion and use of the recreational drugs.

12. A comprehensive research program to attempt to predict what would happen if one or more of the currently illegals were legalized after the elements of the program described above have been initiated.  

This public health program is designed to significantly reduce drug use in our society. Illegalization has produced a record of seventy years of failure. It is time that we tried a new program, based in significant measure on approaches that have been used with success in this and other countries, and on new approaches that have the strong weight of logic behind them.

274. The goal of legalization would be to reduce the burden of drug-commerce related crime on American society.
APPENDIX I

POPULATION ESTIMATES OF LIFETIME AND CURRENT DRUG USE, 1988

The following are estimates of the number of people 12 years of age and older who report they have used drugs nonmedically. Drugs used under a physician's care are not included. The estimates were developed from the 1988 National Household Survey on Drug Abuse.

<table>
<thead>
<tr>
<th></th>
<th>12-17 yrs.</th>
<th>18-25 yrs.</th>
<th>26 + years**</th>
<th>TOTAL***</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(pop. 20,250,000)</td>
<td>(pop. 29,688,000)</td>
<td>(pop. 148,409,000)</td>
<td>(pop. 198,347,000)</td>
</tr>
<tr>
<td>% Ever Used</td>
<td>% Current User</td>
<td>% Ever Used</td>
<td>% Current User</td>
<td>% Ever Used</td>
</tr>
<tr>
<td>Marijuana &amp; Hashish</td>
<td>17</td>
<td>3,516,000</td>
<td>6</td>
<td>1,296,000</td>
</tr>
<tr>
<td>Hallucinogens</td>
<td>3</td>
<td>704,000</td>
<td>1</td>
<td>168,000</td>
</tr>
<tr>
<td>Inhalants</td>
<td>9</td>
<td>1,774,000</td>
<td>2</td>
<td>410,000</td>
</tr>
<tr>
<td>Cocaine</td>
<td>3</td>
<td>683,000</td>
<td>1</td>
<td>225,000</td>
</tr>
<tr>
<td>Crack</td>
<td>1</td>
<td>188,000</td>
<td>*</td>
<td>*</td>
</tr>
<tr>
<td>Heroin</td>
<td>1</td>
<td>118,000</td>
<td>*</td>
<td>*</td>
</tr>
<tr>
<td>Stimulants</td>
<td>4</td>
<td>852,000</td>
<td>1</td>
<td>245,000</td>
</tr>
<tr>
<td>Sedatives</td>
<td>2</td>
<td>475,000</td>
<td>1</td>
<td>123,000</td>
</tr>
<tr>
<td>Tranquilizers</td>
<td>2</td>
<td>413,000</td>
<td>*</td>
<td>*</td>
</tr>
<tr>
<td>Analgesics</td>
<td>4</td>
<td>840,000</td>
<td>1</td>
<td>182,000</td>
</tr>
<tr>
<td>Alcohol</td>
<td>50</td>
<td>10,161,000</td>
<td>25</td>
<td>5,097,000</td>
</tr>
<tr>
<td>Cigarettes</td>
<td>42</td>
<td>8,564,000</td>
<td>12</td>
<td>2,389,000</td>
</tr>
<tr>
<td>Smokeless Tobacco</td>
<td>15</td>
<td>3,021,000</td>
<td>4</td>
<td>722,000</td>
</tr>
</tbody>
</table>

* Amounts of less than .5% are not listed

Terms:
Ever Used: used at least once in a person's lifetime.
Current User: used at least once in the 30 days prior to the survey.

C-84-3
National Institute of Drug abuse Capsules. NIDA Press Office, 5600 Fishers Lane, Rockville, MD 20857

Revised August 1989
Appendix II

The Five Major Recreational Drugs*

Crime, Ranking by Severity**

<table>
<thead>
<tr>
<th>Type of Crime</th>
<th>Cocaine</th>
<th>Heroin</th>
<th>Marijuana</th>
<th>Tobacco</th>
<th>Alcohol</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Drug commerce</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Importation, sale, and possession</td>
<td>High</td>
<td>High</td>
<td>Medium</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>b. Corruption of the criminal justice system</td>
<td>High</td>
<td>High</td>
<td>?</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>c. Corruption of legal commerce</td>
<td>High</td>
<td>High</td>
<td>?</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>d. Violent crime, commerce-related</td>
<td>High</td>
<td>Medium</td>
<td>Low</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>2. Money-raising crime</td>
<td>Medium</td>
<td>High</td>
<td>?</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>3. Violation of motor vehicle statutes</td>
<td>?</td>
<td>?</td>
<td>Low</td>
<td>Nil</td>
<td>High</td>
</tr>
<tr>
<td>5. Product tax evasion</td>
<td>Nil</td>
<td>Nil</td>
<td>Medium</td>
<td>Low</td>
<td>Nil</td>
</tr>
</tbody>
</table>

*See E. Brecher, supra note 13, at 38; id. at 411; id. at 416; S. Wisotsky, supra note 10, at 9-30; id. at 31-36; id. at 117-139; id. at 141-54; Nat'l Comm'n 2d, supra note 1, at 154-65.

**Using a four-level scale: "High, Medium, Low (but measurable), Nil." "?” means "unknown".