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Ending the "Drug War";
Solving the Drug Problem
THE PUBLIC HEALTH APPROACH
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Chap. 1. Introduction

A. The Drug Problem in the United States

The United States has a drug problem. It is a major one. This book is about what it really is, which is why I like to refer to it as the *Real* Drug Problem. And it is also about the one major success story that has been had in dealing with it --- the National Smoking Cessation Campaign. It is also about the major failure that has been had in dealing with it --- what is commonly called the "Drug War." And finally, this book is about what hasn't been done yet: developing and implementing a major national program to deal with the true, real, drug problem.

The U.S. certainly has a drug problem. For example, consider pharmaceuticals (that is drugs used for the treatment and management of given diseases, injuries, and other pathological conditions). It is thought by many that one major class of pharmaceuticals --anti-biotics -are way overused, both in humans and animals. One result of that over-use is the creation of an increasing number of anti-biotic resistant micro-organisms. Just one example of the harm done by this situation is that the New York Football Giants' tight end, Daniel Fells lost the entire 2015 season because he developed a methicillin-resistant staphylococcus aureus infection (MRSA) from what started out as a mild toe injury, treated with a

cortisone injection [1].

At the time of writing it was not known whether he might lose his foot, or worse.

Then there are the vitamins and other food supplements. They, of course, are not strictly drugs. But they mainly come in pill or powder form. This they often look like pharmaceuticals and are often sold on the basis of: "take this pill or powder and you will feel better." Their lightly regulated sale is so wide-spread that, since dosages can go way beyond any known useful purpose, as one wag has put it, one principal result of their use has been to create the world's most expensive urine.

This book, however, is not about drug/pharmaceutical/supplement use in general. Rather it focuses on that group of drugs that, for the last quarter-century or so that I have been active in one branch of the drug policy reform movement (DPRM), I have called the "Recreational Mood-altering Drugs," the "RMADs" (see chapter two). When I made up the term, I did not intend it to come out sounding angry. That just happened, because indeed we are talking just about the recreational, mood-altering, drugs.

Of the RMADs there are, first and foremost in terms of health harms done, the currently "licit drugs," like nicotine in tobacco products and ethyl alcohol in alcoholic beverages. Then there are the

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currently "illicit drugs," like marijuana, heroin, and cocaine. Although the casual observer wouldn't know it, it is the former which are responsible for the overwhelming proportion of health harms to RMAD users. Yet, as is well-known, it is the latter group on which the "Drug War" has its sole focus, as does for the most part, unfortunately, the drug policy reform movement as well. A contradiction? Well, yes. It happens that neither the "Drug War" nor the drug problem will be resolved to the best level it can be until this contradiction is dealt with. It is a contradiction that we shall address on a recurrent basis throughout this book.

An RMAD is a drug taken on a recreational, not medicinal, basis, in order to modify one's state-of-mind and mood. They are virtually all addictive, to a greater or lesser extent depending upon the drug (and also the "set and setting" in which the particular drug is consumed[1]a). In the United States, the RMADs are widely used (or in the case of heroin and cocaine, two of the "illicits targeted by the "Drug War," for example, not so widely used)[2]. Alcoholic beverage and tobacco products sale and consumption, with certain restrictions related to minors, is now of course fully legal in most U.S. jurisdictions.

The RMAD nicotine, a mild central nervous system depressant, is of course found in tobacco products. There are certain restrictions on its sale, by age, and by place of use for all persons. Interestingly enough, it happens that the manufacture, distribution, and sale (but, as in the case of alcohol Prohibition *not their use*) of cigarettes were prohibited, in one form or another, in 15 U.S. states and the Dominion of Canada, between 1903 and 1927[3]. This was, of course, a period of time that partially paralleled Prohibition of the

manufacture, transportation and sale (*but not the possession or use*, unless, after the passage of the Jones Act in 1928, that possession use was directly connected in one way or another to a sale) of alcoholic beverages in the United States (see further, Chap. 3).

B. The Drug Problem in the United States is a Unity, Not a Duality

The United States --- as previously states, and it does bear repeating given its colossal magnitude dwarfing that of almost all other nations --- certainly has a major RMAD-use problem[4]. In terms of deaths, despite the very successful National Smoking Cessation Campaign that has been underway since the issuance of the first U.S. Surgeon General's Report on Smoking and Health in 1964 [5] cigarette smoking is still killing approximately of 480,000 U.S. persons per year[6], although over the future years those numbers will decline in conformance with the steady decline in the number of adults smoking. Alcoholism and alcohol use kill approximately 88,000 U.S. per year[7]. As to use, in 2013, there were an estimated 136.9 million current drinkers age 12 and older, and an estimated 66.0 users of tobacco age 12 and older.

Then there are the currently "illicits," the drug targets of the "Drug War." (The actual targets of the "Drug War" are certain users of the illicits, as we shall see later in the book.) It should be noted that while addiction to the illicits certainly produces pathology and deaths, the numbers pale in comparison with the numbers for tobacco products and alcoholic beverages[7], [7]a. There were an

estimated 19.8 million "past month" users of marijuana aged 12 and older, 1.5 million current cocaine users 12 and older, and 681,000 users of heroin (Ref. 2, "Highlights"). That is, the number of *deaths* due to cigarette smoking is about 70% of the number of *users* of heroin. But somehow, it is the use of the latter substance that ties numbers of people in knots, especially if they are "Drug Warriors" (and even more widely if those users happen to be white, and dying of overdoses). Then there are the relatively new problems created by the increasingly widespread use of (legal) prescription narcotics like Vicodin and OxyContin, which have pharmacological effects similar to heroin.

Conventionally, when dealing with RMADs, legislators, politicians, commentators, the criminal justice system that is the creation of legislation, the media, and also the bulk of the drug policy reform movement, divide the RMADs into two groups: the "licits" and the "illicits." For most of the above group of policy-watchers, policy-makers, and policy implementers, this totally artificial duality is maintained. This is despite the fact that the health and societal harms caused by the two principal RMADs-of-use far outweigh those caused by the currently "illicits." Further, the artificiality is maintained despite the fact that it is the (illegal) use of tobacco products and alcoholic beverages *by children and teenagers* that provides the gateways, the stepping-stones, to the use of the "illicits" later in life. As we shall see below, very few users of the "illicits" began their RMAD-use with them. Also, there are very few adult users of an RMAD on an addictive basis who did not begin using as children or teenagers, again with tobacco or alcohol.

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And so, in dealing specifically with the addictive drugs and their use, the perspective and recommendations offered in this book begin with the understanding that from the pharmacological, scientific, perspective, *the drug problem in the U.S. is a unity, not a duality*. Having the "OK" drugs in this corner and the "not-OK" in that one is a political, not a pharmacological, construct. In the *pharmacological* sense RMAD-use, that is use of all the RMADs, is uni-dimensional, not bi-dimensional. It is for entirely historical, political, and commercial reasons that we have certain RMADs in the "licit" corner and certain other RMADs in the "illicit" corner. Further, we live in a society that massively encourages the use of the pharmaceutical, the dietary-supplemental, and (certain of) the recreational mood-altering drugs, while criminalizing the use of others, again for no reasons based in either pharmacology or medicine or public health considerations.

In sum, if the RMAD-use problem, and the "Drug War" that is the product of the politics of the uses of some of them, are ever to be successfully dealt with, that use must be seen as the unity that it is. Further, it must be understood that "dealt with" means a *reduction in use harms, not the elimination of them*. For given human nature, going back to Biblical times, and one can be sure, beyond them, that is not possible. That is something that also has to be understood, whether one approaches the problem from the current perspective of the "Drug Warriors" or that of the Public Health Approach to the Drug Problem, which is the intervention proposed in this book (see chapter five).

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This essential perspective is either not understood or simply denied, by both the supporters and implementers of the "Drug War," termed in this book the "Drug Warriors," and much of the present DPRM, in the United States and to a certain extent abroad as well, insist on viewing the "drug problem" as a duality. And neither has shown any interest in even sitting down to discuss the Public Health Approach. (Personally, I have attempted over the years to engage in such a discussion with drug policy reformers in the United States and have gotten nowhere.) This despite the fact that right in front of our noses we already have a smashing success in using the Public Health Approach to a particular RMAD-use problem, which, as stated, happens to be the most destructive one that we face: that of cigarette smoking.

As we shall see below, the U.S. National Smoking Cessation Campaign in place, even in the face of the long-time opposition of the politically powerful tobacco industry, using a wide variety of public health methods, has indeed been a smashing success[8], [9]. And not one smoker has ever been arrested and then thrown in prison for possession or use of a cigarette. At the same time, the existence of the "Drug War" actually prevents the development of a comprehensive national program, built on the principles of public health, which could make major strides in dealing with the RMAD-use problem, across the board. To this success story we shall return more than once.

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B. The RMADs

The most commonly used RMAD (world-wide, in fact) is caffeine, a mild central nervous stimulant, found naturally in coffee and tea, as an added component in many soft drinks, and now becoming more prominent, in higher doses than found in the usual "cup of coffee," in "energy drinks" and supplements [10]. As mentioned, there are of course the "illicit" RMADs, the most common being marijuana, cocaine, heroin, and methamphetamine. Increasing in popularity are the prescription, addictive, opioid, pain-killers, such as Vicodin and OxyContin, used on a non-prescription basis. Non-prescription use of these RMADs is illegal, as is the provision of prescriptions for them for non-medical purposes, such as the maintenance of an acquired addiction. In 2014, there were an estimated 500,000 heroin addicts and 1.6 million addicts of the Rx opioids [11]. But the latter are not targets of the "Drug War," even though the deaths resulting from their mis-use was in 2012 estimated to be about 15,000 per year[12].

Turf wars between Mexico's drug cartels have set new standards for barbarism. (Wikicommons)

The uses of the Recreational Mood-altering Drugs and their outcomes present serious problems for our society. For example, even with the significant decline in the proportion of the adult population smoking cigarettes since the publication of the original Surgeon General's Report on Smoking and Health in 1964 [7a, 8, 9] from about 45% to about 18%, because of the age-backlog, as noted above cigarette smoking still causes about 488,000-plus deaths per year. *As it happens, about 49,000 of these deaths are due to exposure to "second-hand" smoke*[6]. That is, past tobacco product smoking is currently killing a number of people equal to about 10% of the *total number of heroin addicts who were not smokers themselves*. Yet it is heroin users who are one of the principal targets of the "Drug War!" As for alcoholic beverages, in addition to the 88,000 deaths

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per year in the U.S.[7], their consumption is significantly associated with violent crime [13] (while it should be noted that there is little association between the *use of* the illicits and violent crime[14], as well as with about one-third of traffic fatalities [15]. In comparison to the major RMADs of use, the use of the illicits results in about 10,000-20,000 deaths per year in the U.S.[16]. As of the time of the most recent estimates, up to half of those are caused by the illegality of the illicit drug trade[17]. (This number of course pales in comparison to the estimated number of drug trade/"Drug War" deaths in Mexico during the six years of the Presidency of Felipe Calderon [2006-2012], a toll that tragically continues to rise at a fast clip[18]. It has been estimated to be as high as 120,000 [19], [20]. Obvious as it sounds, in Mexico the outrageous death toll from a "war" resulting from the vain attempts of the governments of the United States and Mexico to prevent the importation of the illicits from the latter to the former simply would not exist if it were not for that "War." Unfortunately, Mexican lives come very cheap on both sides of the border.

The "Drug War" by its narrow focus cannot deal with either the deaths caused by tobacco product or alcoholic beverage use or those caused by the illegal (that is, in this case, non-Rx) use of prescription drugs. The former, with their huge death tolls, are simply

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not targets of the "Drug War." (The only law enforcement efforts aimed at tobacco products are such things as: preventing the importation of Cuban cigars [reputed by cigar smokers to be the best in the world --- done for strictly political reasons] and random attempts to prevent the sale of untaxed cigarettes. In one tragic case, that led to the death of a street-merchant of them, Eric Garner, while in police custody[21]. And, as noted, in the United States the *"War"* itself appears to be responsible for about as many deaths as is the *use* of the illicits. Furthermore, in the United States, because of the illegality of the illicits, and thus the lack of dosage-regulation for them, the health care delivery system does not reach many of their over-users before it is too late. Further, there is much preventable disease transmission due to the "Drug War," ranging from bacterial endocarditis to HIV/AIDS, through the use of dirty needles by injecting addicts. These transmissions could of course be prevented were the drugs not illicit and access to clean needles thus unimpeded.

It also bears repeating that the "Drug War" by its nature accepts the division of the RMADs into the two groups, while, as seen from the figures above, the legal/illegal classification of the two groups has absolutely nothing to do with their relative harms, <u>as drugs</u>. This is not to say that the currently illicits are not harmful, both in terms of deaths caused and the problems of addiction that their use can lead to. They surely are. However, taking into consideration the relative death rates of the licits and the illicits alone, there is no rational basis for this division.

Further, as noted above (but the point also bears repeating),

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there are close relationships between the use of alcohol and tobacco and the use of the illicits[22], which is in play especially among children and teen-agers. This is a problem that the "Drug War," aimed exclusively at the illicits, will not deal with. For example, in 2011, in a given month 22.1% of smokers aged 12 and older reported current use of an illicit drug as compared with 4.9% of persons who were non-smokers. Comparable figures for "heavy drinkers" aged 12 and older were 31.3% and 4.2%[23].

These patterns, for which there is a great deal of evidence (see below), are collectively known as the "Gateway Drug Effect." One should logically conclude that since few adults become regular users of RMADs of any kind, *as adults*, if one were really concerned with reducing the use of the currently illicits, using public health measures of proven effectiveness one would focus first on reducing the use of both tobacco and alcohol among children and teenagers. But logic in dealing with both drug use and the "Drug War" is a substance that is rarer than cocaine in a convent.

C. The "Drug War"

It is the wholesale and retail commerce in, the possession of, and the use of the "illicits" that are the targets of the "Drug War" (see Chapter three). I put the term "Drug War" in quotes because as we will see it is not really a war on certain drug substances (a logical impossibility: one cannot have a war on inanimate objects). Rather, for the most part it is a war on certain users and suppliers of certain addictive drugs. It is a "war" carried out primarily in certain select (and selected) neighborhoods, primarily non-white, bringing a high level of violence to them, which would not otherwise exist in them

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without the aggressive level of criminalization that lies at the center of the "Drug War".

As noted, the "Drug War" is in one sense a modern form of the historical anti-alcohol use legislation known as Prohibition (24, 24a, 24b, 24c, 24d, 24e). However, there are several critical differences between Prohibition for alcoholic beverages and the prohibition for cigarettes that appeared in 15 U.S. states during the first quarter of the last century and the "Drug War." While the former primarily criminalized commerce in the target substances (although from 1928 possession in association with the sale of a banned substance was criminalized as well), the latter targets commerce *and* simple possession and use of the target substances. It is the latter that, among other things, has led to such high incarceration rates for "drug offences," especially among the non-white population (25, 26, 27), especially in the United States. (For a comprehensive and authoritative treatment of the massive incarceration of African-American young men, see Michelle Alexander's excellent book The New Jim Crow, 28.)

As the Editor/Publisher of The Greanville Post (and publisher of this book, at the Punto Press) Patrice Greanville, has said about Prohibition (28a):

"The approach taken by the anti-alcohol reformers (supported by the employers' lobbies who saw in worker absenteeism a big profit waste), women who, often allied with clerics and other social crusaders, protested the devastating impact of liquor consumption on the family's core, and the ever-present priggish tendencies of American society, was brutish and culturally

myopic. In its execution Prohibition proved an overreach, in results, a complete failure. Fact is, America has long been and remains a self-indulgent society with strong tendency to the consumption of stimulants of all types, and its childish, hyper-individualistic consumerist, instant gratification values, coupled with the general disorder and malaise that permeate all mature capitalist societies, make things intractably worse.

"In the end, Prohibition gave us the gangster culture. Today's draconian and stupidly enforced drug laws—besides their ludicrous monetary cost— have created a similar monster, a global network of narco-traffickers playing for far bigger stakes, a drug culture out of control, and a level of violence that has cancelled all semblance of normal life in many inner-city communities and unraveled the social fabric of entire nations, the notable examples being Colombia and Mexico. The eternal Drug War has also been an unmitigated disaster on America's formal constitutional guarantees, acting in effect as an insidious assist in the gradual creation of a police state."

The "Drug War" was launched by Richard Nixon in 1969. It had predecessors going back to 1914, when the Harrison Act criminalized the use of opiates by "addicts" (29). But it was Nixon who made the "war" on the *users* of opiates *and* cocaine *and* marijuana into a national campaign. And it was intensified under Ronald Reagan and his "Just Say No" wife (would that it were that easy). Thus the societal and governmental entities that collectively pursue the "Drug War" have been with us in the United States for over 40 years. All this at a cost since its inception in the U.S. alone, estimated to be over $1 *trillion* dollars (30), perhaps as much as $1.5 trillion (31, 32). In effect, societal costs of this nature are by definition

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impossible to calculate with complete accuracy.

Since by a variety of means --- political, economic, diplomatic, military --- the U.S. has projected its policy around the world (see chap. 6), it has brought similar problems to many other countries, often with tragic consequences. For example, as noted earlier the estimate of the number of deaths in Mexico alone resulting from the "Drug War" as carried out there by the major drug cartels, government forces, and intra-group and inter-group fighting exceeds 100,000 (33).

Narco kingpin El Chapo arrested by Mexican Marines.

The reporting by Sean Penn on "El Chapo" just before his 2016 re-capture has shed further light on the horrors and the viciousness of the "Drug War," in Mexico (34). It must be recognized that if heroin cocaine and marijuana were not illegalized in the United States, at the very least several hundred thousand people who are

now dead would now be alive, El Chapo would have different employment in Mexico and most likely a quite different standard of living, and it is quite likely that he would have never merited an article in Rolling Stone.

Indeed, in *every* country in which it is carried out around the world the "Drug War" as a rigid myopic approach creates crime where it would not otherwise exist, creates violence where it would not otherwise exist, diverts the use of policing and in some cases military resources from other purposes to which they might be put, as noted in the United States has led to an enormous expansion of the criminal "justice" system (35), particularly the prisons, and diverts and distorts the use of medical and public health resources concerned with the prevention, treatment, and management of the outcomes of the use of the RMADs.

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Now, if all this had led to a significant decrease in the use of the targeted substances, some might say that it has been "worth it." But, the fact is that since the inception of the drug war, the per capita use of the several targeted substances has varied little over that time, up some one year, down some the next, and so on and so forth (36). For example, in the face of the "Drug War," marijuana use was higher in 2013 than it had been during the period 2002-2011. The 2013 numbers for cocaine, on the other hand, were similar to those for 2009-2012, but lower than for 2002-2007, while for heroin, for 2013 the number was similar to those for 2009-2012, while higher than for 2002-2008. But the variations were significant. Thus, for all the violence- and law-enforcement centered approach of the "Drug War," it has not achieved its objective. Thus, (a) the target RMADs are as available as ever, and (b) use doesn't change much over time. This state of affairs has to be rated as a monumental failure.

By criminalizing the use of, as well as the commerce in, the so-called "illicits," this "war" came to be one on people rather than on the substances they might use. This is why, once again, the term "Drug War" is put in quotation marks. To repeat, it is not and cannot be a war on drugs (that is RMADs), per se. It is rather a war on *certain* users of *certain* RMADs. In contrast, of course, is the successful anti-RMAD campaign, that employs no criminal laws against simple possession and use. Indeed the National Smoking Cessation Program has to be ranked as the single most successful non-infectious-disease public health program in the nation's history. And again, not one cigarette smoker has ever been locked up in the course of the program.

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Both Prohibition (dealt with in some more detail in chap. 3) and the "Drug War" were originally justified on the grounds that for some users, health-related, social, behavioral, and other harms occur (and they do). Then the assumption was made that the problem could be "fixed" in one way or another, *primarily by attempting to control substance supply, sale, and use,* rather than paying very much, if any, attention to the demand side of the equation. There are two classic fallacies in both in the Republican-sponsored Prohibition and the Republican-sponsored "Drug War." First, that the attempt to control RMAD-use by adults through the use of the criminal law is an appropriate function of government. Second, that attempts to control supply, rather than demand, can change personal behavior when it comes to RMAD-use. That was first made clear by the failure of Prohibition to achieve its goals, and has been made abundantly clear by the failure of the "Drug War" to achieve its goals. In contra-distinction, of course, stands the National Smoking Cessation Program which precisely focuses on demand, and regulation through the use of the civil law (as in taxation and areas-of-use).

The focus on the "supply side" of the "War," is just one of its several fatal flaws (both figuratively for society and tragically, literally for many individuals). The assumption is made that if somehow the supply of the subject substances can be diminished, then use will go down. Experience has shown over and over again, as for example with the recent (as of 2015) legalization of marijuana in Colorado, simple availability does not automatically lead to increased use of the named substance. Actually, in the first year of legalization in that state tax receipts amounted to just over 60% of what had been predicted (37). This is also a subject to which we shall return.

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Indeed, "supply-side" works no better in dealing with this social-and-health issue than it does for dealing with economic ones, such as Federal tax and fiscal policy (38). Just as the total and continuing failure of "supply-side" economics, since it was instituted under President Reagan, and now popularly referred to as "Reaganomics," never stops the "supply-siders" from continuing to promote their economic nostrums, it never stops the supply-side "Drug Warriors" from promoting theirs either (39). The drug warriors just assumed that, despite the failure of Prohibition, criminalization of one or more aspects of the production, sale, and, to repeat, in the case *only* of the named "illicits," *possession and use*, of the substance(s) would lead to a significant reduction in their use, with significant positive benefits for both individuals and society as a whole. To this false, and repeatedly dis-proved assumption, again quoting Nancy Reagan, we must "Just Say No."

To put this conclusion about the "Drug War" another way, let us quote from a website called "DEA.org" (40) (which, full disclosure, certainly does not represent the thinking of the Drug Enforcement Administration):

"We have been offered the Prohibitionist's central belief, that making something illegal must greatly reduce use, as a statement of Faith. We are simply expected to embrace it as a 'self-evident' truth. Does Prohibition reduce drug use? "Of course, it's obvious that it must!" But when examined in detail, it's anything but obvious. 'Soft on drugs' nations have not been overrun by drug abuse. Fanatically anti-drug governments like the US have some of the most out of control drug abuse problems on earth. We hemorrhage cash to pay for a solution that's been more expensive than the problem, our prisons are crammed, our rights and Constitution are trampled on,

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and for what? A statement of faith that has never delivered on its claims. I can find no evidence to support the conclusion that American-style Prohibition has had any beneficial impact on drug use or harm to our society from drug use; indeed, prohibition has caused grievous harm. Unquestioning blind faith may be fine for a cult, but it's a wretched basis for public policy."

Couldn't have said it better myself.

The price paid by Mexico in the sheer number of deaths and social disruption as a result of the drug problem, a problem largely created by insatiable "gringo demand", is impossible to calculate. As in almost every nation shaken by the drug business, the state has found an excuse to militarize and expand repression.

In both Mexico and Colombia the vicious and unrelenting intergang violence of narcotraficantes provides the excuse...and the government is happy to oblige, with creeping militarization used to suppress social justice movements.

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Ironically, the "Drug War" would seem to attempt to deal with the demand side too, by locking up a segment of users. This might, in the minds of the Drug Warriors, discourage use. The implicit message is: "use an illicit and we'll lock you up" (especially if you are poor and a person of color). Forgetting about both the idiocy and the expense of such an approach (e.g., attempting to control addiction by locking up addicts), there is, once again, staring us in the face, a much more effective, and much cheaper way of lowering demand: the National Smoking Cessation Campaign.

D. The Monetary Costs, and Results, of the "Drug War"

The "Drug War" has been an extraordinarily expensive

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undertaking, especially for one that over its 45 year history has achieved none of its stated objectives (see the first quote, just below). This can be summarized in a series of quotes from published sources.

1. **From the Associated Press (41)**

"After 40 years, the United States' war on drugs has cost $1 trillion and hundreds of thousands of lives, and for what? Drug use is rampant and violence even more brutal and widespread. Even U.S. drug czar Gil Kerlikowske concedes the strategy hasn't worked. 'In the grand scheme, it has not been successful,' Kerlikowske told The Associated Press. 'Forty years later, the concern about drugs and drug problems is, if anything, magnified, intensified.' This week President Obama promised to 'reduce drug use and the great damage it causes' with a new national policy that he said treats drug use more as a public health issue and focuses on prevention and treatment. [Sounds good, no? But then read on.] Nevertheless, his administration has increased spending on interdiction and law enforcement to record levels both in dollars and in percentage terms; this year, they account for $10 billion of his $15.5 billion drug-control budget."

2. **Following up on the AP article**, Tony Newman, Director of Media Relations for the Drug Policy Alliance, highlighted these gems of numbers (42):

"$20 billion to fight the drug gangs in their home countries. In Colombia, for example, the United States spent more than 6 billion, while coca cultivation increased and trafficking moved to Mexico - and the violence along with it. [A substantive portion of this money is reliably suspected to

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have been detoured to military and para-military operations against leftist insurgents, with the "Drug War" serving as a useful cover in Latin America and elsewhere for the "legal" allocation of significant funds to repressive client regimes.]

"$33 billion in marketing 'Just Say No'-style messages to America's youth and other prevention programs. High school students report the same rates of illegal drug use as they did in 1970, and the Centers for Disease Control and Prevention says drug overdoses have 'risen steadily' since the early 1970s to more than 20,000 last year.

"$49 billion for law enforcement along America's borders to cut off the flow of illegal drugs. This year, 25 million Americans will snort, swallow, inject and smoke illicit drugs, about 10 million more than in 1970, with the bulk of those drugs imported from Mexico.

"$121 billion to arrest more than 37 million nonviolent drug offenders, about 10 million of them for possession of marijuana. Studies show that jail time tends to increase drug abuse.

"$450 billion to lock those people up in federal prisons alone. Last year, half of all federal prisoners in the U.S. were serving sentences for drug offenses."

3. From Eduardo Porter at the New York Times (43)

"When policy makers in Washington worry about Mexico these days, they think in terms of a handful of numbers: Mexico's 19,500 hectares devoted to poppy cultivation for heroin; its 17,500 hectares growing cannabis; the 95 percent of American cocaine imports brought by Mexican cartels

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through Mexico and Central America. They are thinking about the wrong numbers. If there is one number that embodies the seemingly intractable challenge imposed by the illegal drug trade on the relationship between the United States and Mexico, it is $177.26. That is the retail price, according to Drug Enforcement Administration data, of one gram of pure cocaine from your typical local pusher. That is 74 percent cheaper [emphasis added] than it was 30 years ago. This number contains pretty much all you need to evaluate the Mexican and American governments' 'war' to eradicate illegal drugs from the streets of the United States. They would do well to heed its message. What it says is that the struggle on which they have spent billions of dollars and lost tens of thousands of lives over the last four decades has failed."

4. As Sean Penn put it in his essay on "El Chapo" (34):

"There is little dispute that the War on Drugs has failed: as many as 27,000 drug-related homicides in Mexico alone in a single year, and opiate addiction on the rise in the U.S. Working in the emergency and development field in Haiti, I have countless times been proposed theoretical solutions to that country's ailments by bureaucratic agencies unfamiliar with the culture and incongruities on the ground. Perhaps in the tunnel vision of our puritanical and prosecutorial culture that has designed the War on Drugs, we have similarly lost sight of practice, and given over our souls to theory. At an American taxpayer cost of $25 billion per year, this war's policies have significantly served to kill our children, drain our economies, overwhelm our cops and courts, pick our pockets, crowd our prisons

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and punch the clock. Another day's fight is lost. And lost with it, any possible vision of reform, or recognition of the proven benefits in so many other countries achieved through the regulated legalization of recreational drugs."

5. **Finally, from Serena Dai,** there is one chart that says it all (44); that is that since the "Drug War" was commenced by President Nixon in 1970, the proportion of the population using one or more illicit drugs hasn't changed much. Factoring in all the costs, direct and indirect (the costs of imprisonment of "drug offenders"), by *2010* the total had reached about $1.5 *billion*. And counting.

E. The Drug Policy Reform Movement

Alongside the "Drug War," there has been a drug policy reform movement (DPRM) almost since the time the "War" was commenced by President Nixon (45). I have been active in the DPRM on and off since the late 1980s (see Appendix III, my drug policy reform book chapters, papers, and presentations list.) As noted, the drug policy reform movement has focused primarily on the negative results produced by the "Drug War's" inherent focus on criminalization/illegalization of the target substances.

In the United States the principal organization that has been waging the battle against the "Drug War" since the 1980s is the "Drug Policy Alliance" and its predecessors (46). (There are others, including, for example, the Criminal Justice Policy Foundation, the Marijuana Policy Project, the National Organization for the Reform of

Marijuana Laws [NORML], and Common Sense for Drug Policy.) The major English-language initiative outside of the United States, which indeed has an international presence, is the "The Global Initiative for Drug Policy Reform" funded in major part by the Beckley Foundation of the United Kingdom (47; see also 47a and chap. 6). The Drug Policy Alliance has from time-to-time focused on the "Drug War" in general while in more recent years it has had much more of a focus on marijuana (both medical and recreational) legalization, per se rather than on ending the "Drug War' overall (48, 48a).

The conventional DPRM has not linked the use of the "illicits" with the use of the licits. Thus, as noted, just like the "Drug War" the drug policy reform movement for the most part has seen recreational drug use as a duality rather than the unity it really is. Furthermore, because it doesn't recognize that the major RMAD-related problems in the public's health arise from the use of the licits rather than from the illicits, it does not make any attempt to offer any programs that can deal with the major negative outcomes of the use of all the addictive drugs, across their spectrum. This approach has placed major limits on its potential effectiveness. (Many years ago, when I tried to raise this matter with the long-time DPA Executive Director, Dr. Ethan Nadelmann, at a drug policy reform conference at which I was a speaker, his response was "that's an interesting academic question," and that was the end of it. Since that time Dr. Nadelmann has consistently refused to enter into any discussion with me, public or private, of the matter. There is no evidence in the DPA frequent publications on the "Drug War" that they have met with anyone else on the subject, either.) A further discussion of the DPA policy is to be found in chapter 4.

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F. The US Drug Culture

But why does the United States have the drug problem it has? Why did former Mexican President Calderon say that the real problem for his country (even as he let continue, and through his policies actually promoted, the shooting illicit-drug trade war that has taken the lives of so many of his countrymen) *is the demand for the illicits in the United States* (49). (Or as the famous 19th century Mexican revolutionary turned dictator, Porfirio Diaz, put it: "Poor Mexico. So far from God and so close to the United States.")

Certainly illicit drugs are used around the world (50; see also chap. 6). However, whether not it exists in other countries, the United States certainly has a national phenomenon that strongly creates demand for the RMADs, both licit and illicit, a phenomenon that can be best described as a "Drug Culture" (see Chapter two). It can be summarized by the saying, so prominent in so many walks of U.S. life: "Is there something wrong, or, do you just want to feel better? Here, just take this pill, drink this drink, or (as it used to be for cigarettes) smoke this smoke." For indeed, as President Calderon put it, demand and specifically *demand creation,* are, of course, the central factors that create the drug problem. In fact, the way the legal RMADs are promoted and sold in the United States has a major impact on the use of the "illicits."

Current national policy towards both the licits and the illicits, however, fails to recognize that there is a drug culture in the United States that directly and indirectly promotes the use of *all* RMADs.

Many years ago (1990), in terms that still apply, Todd Gitlin (a

onetime radical activist and now academic) put it this way (51):

> "[I]n many ways American culture is a drug culture. Through its normal routines it promotes not only the high-intensity consumption of commodities but also the idea that the self is realized through consumption. It is addicted to acquisition. It cultivates the pursuit of thrills; it elevates the pursuit of private pleasure to high standing; and, as part of this ensemble, it promotes the use of licit chemicals for stimulation, intoxication, and fast relief. The widespread use of licit drugs in America can be understood as part of this larger set of values and activities."

For example, alcoholic beverage advertising in particular associates alcohol consumption with fun, adventure, glamour, and sex (especially sex). In 2012, the tobacco industry, long banned from advertising on television, was still spending over $9 billion in advertising, about $1 million per hour, in promoting its product, with a variety of associations (6). Then there is the heavy emphasis in the promotion of both prescription and non-prescription medications, as well as dietary supplements like vitamins, that taking that pill or swallowing that liquid can fix what ails you and quickly too.

Non-prescription medications have been heavily promoted to the general public in the United States since in the mid-19th century when, for example, John D. Rockefeller's father roamed the villages of Ohio selling patent medicines of dubious value. Since policy on the subject was changed under President Clinton in the mid-1990s, it has been legal for the pharmaceutical companies to advertise the use of the *prescription therapeutic drugs* to the general public ("Direct to the Consumer Advertising" of DCTA). And they do so extensively. In fact, the U.S. and New Zealand are the only two nations in the world that currently allow the direct-to-consumer advertising of prescription

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drugs. On its face this is a highly questionable if not downright unethical practice, demonstrating Big Pharma's muscle with the countries' respective political classes. Big Pharma is currently mounting major lobbing campaigns to have DCTA allowed in Europe and Canada.

Since the bulk of such advertising is filled with warnings about who should *not* take the drugs, it is likely that at least part of the rationale for engaging in DCTA, besides profit generation, is related to the reduction of potential liability thought this issuance of public warnings. But the drugs are put out there as problem-solvers, nevertheless. And, at a substantive hidden cost to the consumer, the costs of the advertising go right into the prices of the drugs.

In sum, there is a powerful "do drugs" message in American culture, for recreation, for disease and illness treatment, management, and cure, and, in the case of vitamins for example, for supposed health maintenance.

Now, ostensibly the modern prohibition is aimed at the negative public health outcomes associated with the illicits. During the Administration of George H.W. Bush, I had a conversation with a member of the staff of the first "Drug Czar," William Bennett, in which he told me that the reason he was so dedicated to his job was that he wanted to "save all those folk 'in the ghettos' from the perils of cocaine." It is a striking irony that the man chosen by that President to deal with certain RMADs known to produce addiction in certain users was himself an example of the results of engaging in not one, but two addictive behaviors.

For Bennett himself was an overweight cigarette smoker. (OK. Overweight is the result only *partially* of an addiction to over-eating. See my own book on the subject [52].) Notably, this man

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with whom I spoke, who shall remain nameless here, seemed to have no parallel interest in saving his boss from the perils either of obesity or cigarette smoking. It happened that after his stint in the Office of National Drug Control Policy [ONDCP], this staff member went on to work in the office of Opposition Research for the G. H. W. Bush Presidential Campaign in 1992. So much for "saving the people from the drugs."

(Below): ***Breaking Bad****, one of the most successful and captivating series in US television history used the drug culture and the Mexican cartels as the main backdrop for its intricate and absorbing plotlines.*

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Despite the inevitable allure of the protagonists, the show did not glamorize drug consumption. Its equally superbly written prequel, Better Call Saul, *also created by Vince Gilligan, uses a Mexican cartel and US drug drug culture backdrop.*

Hollywood has also featured drugs and crime as a submotif in many movies. In the blockbuster thriller ***Pulp Fiction*** *(1994), director Quentin Tarantino shook his audience by showing an intracardiac injection of adrenaline (ICI) into Mia Wallace's (Uma Thurman) heart after she overdoses on heroin. Medically the procedure is extremely problematic and risky, even in trained hands, and it's rarely employed. It does make for memorable moviemaking, though, so it remains one of the most talked about scenes in a film that is already hailed as a cult classic. (See* Do intravenous sedatives act instantly as depicted by Hollywood? ***for further commentary on this topic. Credit: PuntoPress screengrabs.)***

SPECIAL NOTE: "Deaths by drug overdose have been on the rise in the United States, with a majority of states recording increases from 2009 to 2013, according to a study released on Wednesday. Across the country, 44,000 people died from drug overdoses in 2013, more than double the number in 1999, the study by the

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non-profit group, Trust for America's Health found. Nearly 52 percent of the deaths were related to prescription drugs.

"The number of overdose deaths increased in 26 states in the four years to 2013, the study found, and decreased in only six states.
West Virginia had the highest number of drug overdose deaths per capita in the time period studied, with 33.5 fatalities for every 100,000 people, according to the report, while North Dakota had the lowest, with 2.6 per 100,000.

"The U.S. Centers for Disease Control and Prevention has declared prescription drug abuse an epidemic in the United States, and all states except Missouri now have drug-monitoring programs."

See: Drug overdose deaths rise across the United States: Reuters report

G. The Stakeholders in the Continuation of the "Drug War"

So. Even though it doesn't come close to achieving its stated objectives, and even though there is one approach to RMAD use that has proved very effective, the "Drug War" goes on, and on, and on. Why does this happen? Briefly, the "Drug War" continues on because there is a large group of powerful stakeholders for whom its continuation carries considerable benefits. This group includes: Politics and Politicians; the manufacturers of the legal RMADs; the Prison-Industrial Complex (including certain law enforcement personnel and the communities in which the majority of prisons are located) (52a); the Gambling Industry; the Money-Laundering financial institutions; and, likely not the least, the Drug Cartels.

Each of these industries/interests has an interest in maintaining the "Drug War" just as it is. (The details are dealt with in detail in Chap. 4). There are politicians who from time-to-time like to run on it and even more often like to use the issue to challenge as "totally weak" any opponent who might have the temerity to raise the issue of say, its failure or its cost (as Bennett himself has done recently with President Obama; see chap. 4). The tobacco and alcohol industries like it for a variety of reasons, ranging from keeping the focus off the harmful effects of their products to preventing the rise of competitive products. The Prison-Industrial Complex --- an ever-growing form of private enterprise --- is dependent in part on the imprisonment of non-violent illict-drug users to maintain the extraordinarily high U.S. incarceration rate and the profits derived therefrom.

For the Gambling industry, both private and government-run

(the lotteries), the "Drug War" helps to divert attention from the public, state-supported, promotion of an addictive behavior that affects millions of people. If the "Drug War" were to come to an end, the highly profitable Drug Cartels would be put out of business. And then there are major international financial institutions that have made significant profits engaging in money-laundering for those same Cartels, including major international banks.

H. The Public Health Approach to the Drug Problem

Finally, perhaps most important for the health of the nation, the recognition of the unitary nature of RMAD use would enable for the first time a comprehensive public health program (53, 54, 55) to deal with all of the negative aspects of that use (see Chapter five). But this is all too logical. Of course logic finds itself to have a declining amount of space in U.S. politics. The major stakeholders in maintaining the current "Drug War" who would have to be dealt with are major players in the economic and political arenas of the nation. Doing so would not be so easy.

As for the non-prescription use of the prescription drugs (the latter of which, as noted, has become a much more serious problem than the use of heroin and cocaine combined [12]), a variety of approaches could be explored. (The FDA is at this time beginning to do this for hydrocodone [Vicodin] [56]). The presently forthcoming recommendations fortunately do not, however, include illegalizing possession and use of the drug.) The non-prescription use of illegally-produced methamphetamine (a prescription drug) presents a particularly serious problem. This all would have to be combined with a major public-health based anti- and safe-RMAD use program, combining tax policy, controls on advertising, packaging and

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marketing, places of use and modes of sale, and effective advertising/education programs for both adults and children.

One interesting public health approach, made in 2013 (57), was what in effect was a proposal to deal with the known negative health outcomes of cigarette smoking through the regulation (but not prohibition) of nicotine use. It was made by a member of the Oregon State Legislature, Dr. Mitch Greenlick (also an old friend of mine). He offered a bill that would have made nicotine as carried in cigarettes a (Federal) Schedule III drug, available only by prescription. The logic was there: present and former tobacco smoking is responsible for about one-sixth of all deaths in the United States. And this proposal does not represent Prohibition, but rather *regulation* of this major killer. The outcry (against) was predictable.

The "Public Health Approach to the Drug Problem" which, as the book's title clearly states, encompasses my proposals for both ending the "Drug War" and solving the drug problem, does see the use of the licits and the illicits as inextricably linked. This is especially so because for most persons, as noted, the use of addictive drugs in adulthood begins with the use of addictive drugs in childhood or the teen-age years and almost inevitably begins with the use of one or more licit substances, not with an illicit one, that is ethyl alcohol and nicotine. The drug policy reform movement, for the most part, does not deal with this reality. Nor do they deal with the even larger, less specific gateway to the use of addictive drugs in the United States, the drug culture.

There is a major series of problems that could be addressed by ending the "Drug War" and legalizing the illicits (in one way or another). First, all of the ever-rising toll of death from the "Drug War" itself, both in the U.S. and abroad, would be brought to an end.

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Second, a major new source of tax revenues would be created. Third, the prison population would be significantly reduced, resulting in significant reductions in Federal, state and local spending on incarceration. (That would, however, affect a major group of workers, the prison guards, and those in the supporting prison food and supply industries, as well as the predominately rural communities in which many prisons are found. Those are problems that would have to be addressed.) Doing so would significantly unclog the courts, especially at the Federal level where they are so over-burdened with drug cases that the waits for trials on much more important matters, especially in the civil realm, can become interminable.

As well, this new approach would facilitate a significant reduction in the demands on the law enforcement sector of government, which could either save money or enable the diversion of resources to other important areas, such as dealing with financial fraud in the banking, investment, and insurance industries (58), which do not always receive the attention they deserve. (Of course, it is acknowledged that politival and judicialattentioj to certain crimes --- especially "white collar" crimes found in privileged sectos like Wall St. --- do not suffer from a low level of enforcement due to a lack of funds. The neglect of thewse quarters' criminality is a matter of political choice.) The Afghani Taliban, currently supported in part by the cultivation of and commerce in opium poppies at significantly higher prices than the market would bring were heroin sold legally under proper controls (59), would lose a major source of their funding.

The result of the Public Health Approach (PHA) would be a much healthier nation, in many senses. Since much drug-realted crime is crime by definition only, adoption of the PHA would also see

a nation with a significant reduction in crime at a wide variety of levels. Of course it is important to note that in order to deal with the Real Drug Problem and to ahcive the goals outlined just above, reform policy would have to go way beyond the current narrow "legalize marijuana" focus of the current drug policy reform movement.

The PHA does not see the drug and drug-trade related crime problems as one and the same. Although they are of course interrelated, they have different solutions. The PHA necessarily invokes state power to solve problems of the public's health, as is done in managing a wide variety of health-related issues, from pure water supply to air pollution control. But unlike the way the law is sued in the "Drug War," in the PHA the law is used in ways known to be efficacious and cost-effective. On the issue of the morality of substance use/abuse, there is, of course, no societal consensus. For the PHA, therefore, dealing with the drug problem in any way as a moral one is considered inappropriate and counterproductive. The PHA is dealt with in detail in chapter 5.

The final conclusion of the book is that, if the "Drug War" is not ended and the Public Health Approach to the Drug Problem is not fully implemented in its place, the true drug problem, that is the Real Drug Problem, will not be effectively dealt with.

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Chap. 2: The Recreational Mood-Altering Drugs

A. The Recreational Mood-altering Drugs: What Are They*

Several different definitions of the term "drug" are used in this book. First is its primary definition:

> "Any substance other than food which by its chemical nature affects the structure or function of the living organism"[1].

But in this book, as we have seen, we are concerned with just one family of drugs, those that alter one's mood. They are the drugs that are used, in the first instance at least, for recreational, not pharmaceutical or psychopathological purposes (e.g., supporting an addiction).

Building on the dictionary definition of recreation, as noted above, the term *recreational mood-altering drug* (RMAD) can be defined as:

> "A drug that is ingested, inhaled, or injected for the original primary purpose of providing diversion, relaxation, heightened sensation, or other enjoyment/pleasure, by changing the user's state of mind."

Because recreational drug use may produce habituation or addiction,

the user may over time develop a purpose for using that is secondary to recreation: that is to avoid the negative effects that can be associated with withdrawal and/or abstinence from the drug. The purpose would then become a psychopathological one. Furthermore, the regular use of *any* of the common recreational mood-altering drugs can lead to a wide variety of negative health, psychological, and social outcomes, in at least some users.

As previously noted, the commonly used RMADs* are ethyl alcohol in alcoholic beverages, nicotine in tobacco products, prescription drugs such as OxyContin and Vicodin used on a non-prescription basis, and the illicits, primarily marijuana, heroin, cocaine, and fairly recently, methamphetamine. (Of course, as noted in chapter one, world-wide, caffeine is the most commonly used RMAD, but since in *relative terms* it rarely causes negative health outcomes, it is not a subject with which we shall treat in this book.) Curiously enough, it happens that caffeine was outlawed in an early version of the 1914 Harrison Act which eventually led to the outlawing of both opium and cocaine, but it was quickly dropped from that set[2]a.

As we have already seen, users of the illicits form a small minority of the RMAD-using population. For example, in 2011, there were an estimated 68 million tobacco-product users, 133 million current drinkers of alcohol, 18 million marijuana users, 1.4 million cocaine users, 600 thousand or so heroin users, (and just under a million users of the hallucinogens). There were also about 6 million users of prescription psycho-active drugs on a non-prescription basis (also an illegal activity but not a target of the "Drug War") as well as 400,000-

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plus users of methamphetamines (sometimes referred to as the "White heroin), which occupy a sort of in-between place in the law enforcement universe.

To fully understand the use of the RMADs in U.S. society, and to be able to develop a program that can actually deal positively with the drug problem, as noted, it is absolutely essential to go beyond the confusing and non-exclusive current duplicative ones of "licit" and "illicit," "legal" and "illegal." Two new approaches to the categorization of the RMADs are offered here. The common use of both would have much more impact on the health of the public than the present licit/illicit approach has.

B. Categorizing the RMADs, as they Actually Are, Under the Law

Presently, under the law, not as it is commonly taken to be, *but as it is actually implemented*, drug categorization differs rather markedly from the usual "legal–illegal," "licit-illicit," dichotomy found in English usage in the United States. Rather, as defined *both* by *the laws themselves* and by *how they are enforced*, *three* categories of the RMADs, rather than just two, can be identified. None are distinguished from the others by a simple "legal" or "illegal" label.

N.B. Please note that there is of course a set of hallucinatory RMADs such as LSD. Since they are neither widely used (although they are used more widely than either heroin or methamphetamines) nor a target of the "Drug War," they are

not included in the "RMAD" group for this chapter, and not discussed in the book. Nor, since this waterfront is much too broad to cover completely, will we be dealing with such substances as "Ecstasy."

U.S. Law Category I RMADs: **tobacco products and the alcoholic beverages**

The distribution of, sale to, and use of these drugs are legal for persons over a certain age, varying to some extent by state and even by location within a given state. Thus the distribution of, sale to, and use of these drugs are illegal for persons younger than age 18 to 21 years. In practice, however, the enforcement of the relevant laws is effectively decriminalized in most jurisdictions. In every state there are laws holding persons accountable for certain outcomes of behaviors caused or considered to be influenced by alcoholic beverages, the violation of many of which can carry with them criminal penalties. There are also laws, varying among jurisdictions limiting cigarette smoking in certain public places, the violation of which do not carry with them criminal penalties.

U.S. Law Category II RMADs: **the prescription psychoactive painkillers used on a non-prescription basis**

The distribution, sale, possession, and use of these drugs, on a nonprescription basis, are illegal for persons of all ages. On occasion, these drugs may be provided to users, technically on prescription, in large amounts by physicians who are knowingly

supporting addictions, not necessarily for treating pain.

For the most part, the enforcement of these laws too has for the users either been effectively decriminalized or simply not undertaken at all in most jurisdictions. However, with the increase in the use of prescription narcotics on a non-prescription or fraudulent-prescription basis, the apparent over-prescribing of certain of these agents by certain physicians, as well as their non-physician street-level distribution is beginning to attract the attention of law-enforcement agencies[3].

In fact, the rapidly expanding use of addictive prescription pain-killers like Vicodin (hydrocodone bitartrate and acetaminophen) and OxyContin (oxycodone) on a non-prescription basis is presenting serious health, medical, and law-enforcement problems[3]a. Ironically, as noted in chap. 1, in 2013 there were approximately three times as many regular users of the prescription psycho-actives on a nonprescription basis than there were regular users of cocaine and heroin put together.

***U.S. Law Category III RMADS:* <u>the "illicits"</u>**

This group consists principally of marijuana, heroin, and cocaine, as well as the other "illicit" drugs such as the hallucinogens and the methamphetamines. (Since "meth" is technically a prescription drug, it could just as well be included in Category II.) Like the category II drugs, their

distribution, sale, possession, and use are *de jure* illegal for persons of all ages. In most jurisdictions in the United States, the criminal laws concerning these drugs are enforced, *but they are enforced selectively*.

For example, about 75% of users of the illicits are "white"[4] while approximately 75% of the persons in jail or prison for illicit-drug-related offenses are not,. For the most part, general enforcement occurs only in geographic areas in which sellers and users are found in open or otherwise easily accessible spaces: poor, minority, neighborhoods. Meth is sometimes a focus of the "Drug War," but it is often used in rural areas, by whites, and thus is more likely to be the subject of a somewhat sympathetic TV series than the subject of law enforcement efforts.

It cannot be emphasized too much that the principal RMADs of use are of course those in U.S. Law Category I while the targets of the "Drug War" are certain users of those in U.S. Law Category III. It also cannot be emphasized too much that the total negative *health* effects on a population basis caused by the U.S. Law Category I RMADs far outweigh those caused by the U.S. Law Category III RMADs. Of course if it were not for the fact that the U.S. Law Category III RMADs are "illegal" and that there are many negative *social*, *political, and economic* outcomes related to that categorization, the total of ills done to society by use of the latter group would pale in comparison to those caused by the former.

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C. Categorizing the RMADs according to their of "Risk to Health"

Risk Category I RMADs: Tobacco Products

Tobacco products are the only group of RMADs which automatically by their use increase the risk of acquiring one or more illnesses by the users and also, for smoked tobacco products, automatically increase the risk of disease acquisition by persons inhaling what has come to be known as "second-hand smoke." The nicotine in tobacco products is highly addictive. Thus, for cigarettes in particular, just beginning to smoke, just "trying it out," automatically puts the user at risk of becoming addicted and thus, further, at risk of acquiring one or more of the broad range of pathological conditions with which cigarette smoking is known to be associated. As is well known, quitting is difficult. But it is hardly impossible: millions of persons have done it.

Interestingly enough, one of the strongest statements that I have come across recently about the dangers of cigarette smoking comes from Altria/Phillip Morris[6] a:

"There is no safe cigarette. Cigarettes are addictive and cause serious diseases in smokers. For those concerned about the health risks of smoking, the best thing to do is quit. Philip Morris USA agrees with the overwhelming medical and scientific consensus that cigarette smoking causes lung cancer, heart disease, emphysema and other serious diseases

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in smokers. Smokers are far more likely to develop such serious diseases than non-smokers. There have been, and continue to be, the messages of the U.S. Surgeon General and public health authorities worldwide. Smokers and potential smokers should be guided by these messages when deciding whether or not to smoke. You can obtain more information directly from these public health organizations about cigarette smoking and disease in smokers: International Agency for Research on Cancer, the World Health Organization, U.S. Centers for Disease Control and Prevention, the American Cancer Society, and the U.S. Surgeon General. We support a single, consistent public health message on the role of cigarette smoking in the development of disease in smokers, and on smoking and addiction."

It is fascinating that such a strong statement would come from one of the leaders of the decades-long campaign by the tobacco industry and its paid-for political allies to deny the relationship between cigarette smoking and ill-health when the industry knew as early as the 1950s that such was the case[6b].

In Tobacco Explained[6b] (1997) Bates and Rowell summarized their findings thusly:

"Thousands of internal tobacco industry documents released through litigation and whistleblowers reveal the most astonishing

systematic corporate deceit of all time [that is up to what the fossil fuel companies knew about the effects of their products on global warming[6]c, [6]d]. What follows is a survey of the documents, 1,200 relevant and revealing quotes grouped under common themes.

"Chapter 1 Smoking and health Publicly the industry denied and continues to deny that it is clear that smoking causes lung cancer - yet it has understood the carcinogenic nature of its product since the 1950s. It is now clear that the industry's stance on smoking and health is determined by lawyers and public relations concerns.

"Chapter 2 Nicotine and addiction Until recently the industry has denied its product is addictive. Most recently it has used a definition of addictiveness so broad that it encompasses shopping and the Internet. *Internally, it has known since the 1960s that the crucial selling point of its product is the chemical dependence of its customers. Without nicotine addiction there would be no tobacco industry* [emphasis added]. Nicotine addiction destroys the industry's PR and legal stance that smoking is a matter of choice.

"Chapter 3 Marketing to children The companies deny that they target the young. The documents reveal the obvious - that the market of young smokers is of central importance to the industry. Many documents reveal the companies' pre- occupation with teenagers and younger children - and the lengths they have gone to in order to influence smoking behaviour in this age group.

"Chapter 4 Advertising The industry maintains that advertising is used only to fight for brand share and that it does not increase total consumption - academic research shows otherwise. The documents show that advertising is crucial in nurturing the motivation to smoke by creating or projecting the positive values, such as

independence, machismo, glamour or intelligence, erroneously associated with the product.

"Chapter 5 Cigarette design The documents show that the companies initially hoped to make safer cigarettes, but then abandoned the enterprise when it recognised that this would expose their existing products as 'unsafe'. The industry has deliberately promoted 'low-tar' cigarettes knowing that they would offer false reassurance without health benefits. It has manipulated nicotine and introduced additives to change the delivery of nicotine. It recognises the cigarette as a drug delivery device.

"Chapter 6 Second-hand smoke The industry is challenged by second-hand smoke in two ways. First, measures to protect non-smokers will reduce the opportunities to smoke and contribute to its social unacceptability. Second, the 'freedom to smoke' arguments are confounded if non-smokers are harmed. The industry has refused to accept the now overwhelming consensus regarding the harm caused by second-hand smoke - instead it has denied and obfuscated, and sought to influence debate by buying up scientists on a spectacular scale.

"Chapter 7 'Emerging markets' Faced with reducing levels of smoking in the West and an insatiable need for money, the companies have moved aggressively into developing countries and Eastern Europe. The documents reveal an arrogance and fanaticism that has imperialist echoes. '

Reading this statement carefully about what the tobacco companies knew about how smokers become smokers and smoking and its effects, one does not need to be a public health physician like myself to strongly and categorically make the case that nicotine as carried in

tobacco products is by far and away the most harmful RMAD known to man.

Risk Category II RMADs: Alcoholic Beverages

Alcohol beverages differ in a major way from tobacco products in terms of potential health harms. Chronic alcohol use *can lead* to alcoholism, to "problem drinking," to an increase in risk for a wide variety of diseases, ranging from cirrhosis of the liver to alcohol-related dementia, to operating a vehicle (not just an automobile --- it could be anything from a snowmobile to a powerboat [since sailboats are such complex vessels to actually operate --- I speak from considerable personal experience --- it is highly unlikely that anyone could even try to get one going while under the influence]) while drunk, to participation in violent crime when one would not otherwise do so. (For example, approximately 50% of murders involve the use of alcohol by the perpetrator, the victim, or both.) However, unlike nicotine, ethyl alcohol is not almost automatically addictive. Thus a very significant proportion of drinkers of alcoholic beverages do so on an intermittent basis, are not subject to the health risks of chronic alcoholic beverage users, and do not drive drunk.

It should be noted that in terms of dollars alcohol abuse is extremely costly to U.S. society ([7]a,b,). When considering regulatory and educational approaches to the RMADs and their use (see chap. 5), we shall return once again to this critical difference between the risks of the use of the most widely-used RMADS.

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Risk Category III RMADs: The Illicits

There are certainly health risks involved with the use of the illicits, some more than others. However, the study of use-patterns and health risk is limited because of illegal status of the substances. For a comprehensive treatment of the pharmacology and epidemiology of the illicits (which we do not have space to get into here), see Section 4, of Lowinson's and Ruiz's Substance Abuse: A Comprehensive Textbook, 5th ed., Philadelphia, PS: Wolters Kluwer/Lippincott, Williams & Wilkins, 2011. The important point here is that since these substances are used by a much smaller proportion of the population than are tobacco products and alcoholic beverages, even if the health and inherent violence issues (alcohol) were at the same level --- and they are not --- their importance would pale in comparison with the health and inherent violence issues associated with tobacco and alcohol use. Nevertheless, while marijuana and cocaine can be used on an intermittent basis (and many users of both substances do use them that way), they both *can* be habituating and addictive. Heroin, of course, is a highly addictive substance.

D. Health and Illness Consequences

As already seen, the uses of the Recreational Mood-altering Drugs and their outcomes present serious problems for our society. To briefly review the data, for example even with the significant decline in the proportion of the adult population smoking cigarettes since the publication of the original Surgeon General's Report on

Smoking and Health in 1964[4], from about 45% to about 18%, because of the age-backlog, cigarette smoking is still causing 488,000-plus deaths per year, about 49,000 of them due to exposure to "second-hand" smoke . (Of course, as the proportion of adults smoking continues to diminish, these numbers will go down over time.) Alcoholic beverages cause about 88,000 deaths per year in the U.S. . Alcoholic beverage consumption is significantly associated with violent crime (while it should be noted that there is little association between the *use of* the illicits and violent crime), as well as with about one-third of traffic-accident fatalities .

As the National Partnership on Alcohol Abuse and Crime has stated :

"Nearly 10,000 people are killed each year on U.S. roadways in alcohol-related accidents; hundreds of thousands more are injured; alcohol-related crashes cost American taxpayers over $100 billion; nearly 1.4 million people are arrested for a DWI each year and 780,000 are convicted; of those convicted, one-third are sentenced to community correctional facilities; two-thirds of those sentenced to incarceration are repeat offenders; while drunk driving gets the most attention, the incidence of other alcohol-involved crimes including domestic violence, underage drinking, and assault has reached staggering proportions.; research surveys have found that: 5.3 million adults – 36% of those under correctional supervision at the time – were drinking at the time of their conviction offense; 40% of state prisoners convicted of violent crimes were under the influence of alcohol at the time of their offense – the more violent the crime, the greater the likelihood that

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alcohol was involved; 25% of state prisoners given a standard questionnaire to screen for alcoholism tested positive."

Yet for some reason (duh --- see Chap. 4, "Stakeholders"), the "Drug War" doesn't aim at this very serious problem of alcohol use and crime, to say nothing about the death and disease associated with alcohol consumption.

In comparison to the major RMADs of use, as previously noted, the use of the illicits results in about 10,000-20,000 deaths per year in the U.S. . As of the time of the most recent estimates (which are hardly recent), up to half of those are caused by the illegality of the illicit drug trade. (This number of course pales in comparison to the estimated number of drug trade/"Drug War" deaths in Mexico during the six years of the Presidency of Felipe Calderon [2006-2012], which has been estimated to be as high as 120,000 ,). Then there is the problem of the deaths caused by the non-prescription (thus illegal) use of prescription painkillers, in 2012 estimated to be about 15,000 per year . (Of course it should be noted that while the non-prescription use of prescription narcotics is illegal, no one is sent to prison for such a crime. At the same time, sellers of prescription narcotics on a non-prescription or false-prescription basis are on occasion caught and sent to proson[19]a.)

As for marijuana, the concept of "reefer-madness" has been at the base of the illegalization of marijuana since it was developed in the 1930s. My focus on the Public Health Approach to the Drug Problem does not depend on showing that marijuana is or is not a dangerous drug. However, there is a set of recent studies that seem to show that it is not that dangerous (except in that relatively small

proportion of users who become habituated to it and a life-style that can be associated with it) ([19]b). This is not to say that the currently illicits are not harmful, both in terms of deaths caused and the problems of addiction that their use can lead to. They surely are. However, taking into consideration the relative death rates of the licits and the illicits alone, to say nothing of the much wider use of the licits in society, which automatically puts many more people at risk for harms, there is no rational basis for this division.

Of course, the "Drug War" by its nature cannot deal with either the deaths caused by tobacco and alcoholic beverage use or those caused by the illegal (that is, in this case, the non-Rx) use of prescription drugs. Furthermore, in the United States, because of the illegality of the illicits alone, the health care delivery system does not reach many over-users of them before it is too late. Then there is much preventable disease transmission, ranging from bacterial endocarditis to HIV/AIDS, through the use of dirty needles by injecting addicts. These transmissions could of course be prevented were the drugs not illicit and access to clean needles thus unimpeded.

However, in this particular case, for political reasons the distribution and use of clean needles is often impeded. Drug Warriors, not understanding in the least the nature of the addictions, just love to say that the provision of clean needles to addicts only encourages their addiction. And further, that the provision of clean needles would act as a recruiting tool for additional addicts. The fact that a number of studies have disproven this hypothesis () has done

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little to broaden the provision of clean needles to injecting addicts.

Turning again to the Gateway Drug Effect (), there are, to repeat, close relationships between the use of alcohol and tobacco and the use of the illicits ([4] 2012, p. 49). This is in play especially among children and teen-agers. This is also a problem that the "Drug War," aimed exclusively at the illicits, cannot deal with. For example, in 2011, in a given month 22.1% of smokers aged 12 and older reported current use of an illicit drug as compared with 4.9% of persons who were non-smokers. Comparable figures for "heavy drinkers" aged 12 and older were 31.3% and 4.2% (3, SAMHSA, 2012, p. 36). Furthermore, the failure to recognize this fact severely limits the ability of most current drug policy reformers to combat it. We will return to a consideration of this issue in chapters five and seven.

Substance use/abuse of the drugs in *all three* of the "U.S. Law Categories," creates or can create far-reaching social, economic, and political problems. Indeed, as a consideration of the history of the "Drug War" and its predecessors (see chap. 3) clearly demonstrates, the current licit–illicit duality was artificially created and not related either to health considerations (,) or to science. (It is interesting to note that political figures in both the United States and other countries who deny science in dealing with drug problem are often of the same political party that denies science in dealing in dealing with the much more serious problem of global warming/climate change [[23]a].) Demand and demand creation are, of course, very important factors in the development of the drug problem. In fact, the way the Risk Category

I drugs are promoted and sold has a major impact on their use. This impact is mediated through the drug culture and the gateway drug effect (see chap. 3).

As noted, the category of RMAD for which use has declined significantly over time, tobacco, is not the target of any kind of "war," but only of public health methods known to be effective in reducing its use: anti-smoking programs of various kinds, limits on advertising, package labeling, enforcement of the laws against sales to under-age persons, regulation of places of use, and steadily increasing taxation. This occurrence holds important lessons for the development of an effective Public Health Approach to the Drug Problem, laid out later in this book.

It cannot be over-stressed that the National Smoking Cessation Campaign that, as noted above, has been in place to a greater or lesser extent since the publication of the original Surgeon General's Report on Smoking and Health in 1964 is the single most successful public health non-infectious disease control program in the United States, ever. And the remarkable reduction in the proportion of adults smoking has been achieved without locking up even one cigarette smoker. However, these facts seem not to have made their way through to either the "Drug Warriors" or most of the U.S. drug policy reformers.

It is interesting to note that in terms of illicit-drug-use related deaths, *worldwide*, for 2010, the United Nations agency concerned with the illicits estimated that there were between 90,000 and 253,000 deaths associated with their use (). The higher number is, of

course, just about 58% of the deaths per year due to tobacco use, *in the United States alone*. As for deaths associated with the illicit drug trade, as noted they would likely not have occurred had those drugs not been illicit.

E. The Drug Culture in the United States and its Relationship to the Use of the RMADs

As noted in chap. 1, the United States has a Drug Culture. There is a central message in U.S. society that if you have a problem, you can solve it by taking a pill, swallowing some liquid, or inhaling some smoke. For example, consider the U.S. Law Category I RMADs and the advertising for them.

In their advertising over time alcohol and tobacco have been associated with, for example: being the beer-drinker's friend ("Gotta be Your Bud," "Here We Go" [together, with Bud]); having a beer labelled with the logo of *your* National Football League team; thinness in women (Virginia Slims, "You've come a long way, baby" --- remember that one?); rugged individualism (the Marlboro Man --- it happens that at least four "Marlboro Men" sadly died of smoking-related diseases []); speed, sex, and "pure mountain water" (Coors Light, the "Silver Bullet," illustrated by a fast-moving train, brave mountain climbers delivering the product through the ice to anxiously waiting drinkers, Mr. Coors finding just the right water for his projected beer while exploring the Rockies in the 1880s); humor (a wide variety of Budweiser ad jokes over time --- remember the bull frogs and the ones about the "sell-by" dates); from dating, glamour, and the demonstration of a wide variety of entertainment skills in the dating scene to the glamour of James

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Bond (Heinekens beer); auto and boat racing (various alcohol and tobacco brands as sponsors); the "Most Interesting Man in the World" (Dos Equis beer); and team sports again (from ex-football coaches as spokesmen to having spectators lining up beer bottle labels at a game to influence the trajectory of a field goal attempt), and of course beer sales in sports arenas and stadiums and heavy beer advertising on televised sporting events.

The alcohol industry does provide the now-obligatory "when you drink, drink responsibly" message in the ads. Since drinking alcohol itself gradually diminishes one's sense of responsibility as more of it is consumed, this is an oxymoron. Indeed, given the pharmacology of the drug in alcoholic beverages, ethyl alcohol, such a statement can have little meaning or impact.

To compound the problem, the "do drugs" messages of the drug culture extend well beyond the world of the recreational mood-altering drugs. Over-the-counter medications are sold as instant problem solvers: if you have a headache, take this pill; if you can't get to sleep, take this other pill; if you overate, swallow this liquid or chew this tablet; if you are *planning* on overeating, swallow this liquid *in advance* (the message of course never is "to avoid feeling overstuffed from eating too much pizza, why not try eating less pizza next time?"). Yes indeed, there is an antacid that actually has been promoted as a medication to take *before* eating some food that you know will give you "heartburn", so that you can eat the food anyway and hopefully not suffer the heartburn.

Furthermore, while vitamins are not drugs, they come in pill

form and to many people look like drugs. And how are they promoted and sold? As an easy, painless means of self-improvement, in that pill form, even for children (see the flavored, chewable vitamins for children). Is it any wonder that some of those children a few years later experiment with other kinds of pills, or puffs, or liquids, that are promoted as easy, painless ways to a better you?

Then there is the heavy emphasis in the promotion of both prescription and non-prescription medications, as well as various dietary supplements, that taking that pill or swallowing that liquid can fix what ails you and quickly too. In the U.S., medicine is practiced with an inordinate emphasis on treatment using pharmaceutical drugs as contrasted with personal health promotion and disease prevention by lifestyle modification . From the late 1990s onward, even the use of the prescription drugs has been heavily promoted to the general public by their makers, as are a bewildering variety of totally unregulated herbal remedies and dietary supplements (presenting shades of the patent medicine era). All pills. All painless ways to self- improvement of one sort or another. After all, one might say to oneself, "If this stuff, which I can get at the store, isn't really doing it for me anymore, maybe that stuff, which I can buy on the corner if I'm careful, will". It happens that the drug policy reform movement fails to address this problem on the demand side along with the many other RMAD and RMAD-use problems it doesn't face.

Since policy on the subject was changed under President Clinton in the mid-1990s , it has been legal for the pharmaceutical companies to advertise the use of the prescription therapeutic drugs

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to the general public. And they do so extensively. The United States is the only country in the world --- besides New Zealand --- that allows such a practice. It is designed to encourage patients to ask their physician to prescribe for them the advertised drug for the advertised purpose. Now it happens that since the bulk of pharmaceutical advertising to the general public is filled with warnings about who should *not* take the drugs, it is likely that for the companies a major purpose of messages, in addition to pushing their drugs, is related to potential liability and required public warnings. But the drugs, presented with gauzy ads pointing out how much better the ad subject feels --- and yes, sex is used in the ads for both Viagra and Cialis --- potential side effects or not, are put out there.

And then in the list of promoted addictions there is gambling. In 2014, the U.S. *legal* gambling industry was estimated to be worth $240 billion. (At the same time, there is the mostly illegal but generally untouched $380 *billion* sports betting industry). But just consider that in the 2016 U.S. Presidential campaign one of the mega-funders for the Republican Party, Sheldon Adelson, is a gambling mogul, while (as of January, 2016) the leading candidate for the Republican Presidential nomination, Donald Trump, made some significant amount of his personal fortune --- estimated to be between $3 and $10 billion --- providing vast opportunities for persons to gamble at his widely promoted casinos. Given his major, long-term, involvement with this addictive behavior, one that has proven very profitable for him (although it drove him into partial bankruptcy on more than one occasion[29] a one wonders what his position on the drug problem and the drug war are. However, since Mr. Trump seems to

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speak primarily in slogans, not in programs, it is a good guess that we will find out only if he becomes President.

Yet, compulsive gambling is coming to be recognized as an *addictive behavior*,:

> "Gambling addiction can grab hold of people and morph them into someone who only cares about their next bet. According to the National Council on Problem Gambling [http://www.ncpgambling.org/] an estimated 2 million adults in the United States meet the criteria for 'pathological gambling,' and 4 to 6 million are considered 'problem gamblers.' It's an addiction found across economic classes, from lower-class Americans playing for their next paycheck to those wealthy enough to gamble away tens of thousands of dollars within a few hours ([31]a)."

What, pray tell, makes that addictive behavior, as heavily promoted as are tobacco (in certain locations) and alcohol use and ensnaring more and more victims as the number of casinos expands across the nation, any different from addiction to say, cocaine, heroin (except that there are many more gambling addicts than there are heroin addicts), and marijuana (and most marijuana users are not addicts)? Gambling has been described as "an exploding entertainment industry starring cash" .

"Exploding," "addictive," and "entertaining." But then there are the state governments that heavily promote gambling through lottery advertising: New York State's gambling-promotion slogan for

years has been: "Hey. You never know." This at the same time that the self-same state governments lock up illicit-drug addicts and habitual users, *for possession and use*. Indeed the states are actually encouraging *this* behavior that can become addictive, while spending huge sums in the totally vain attempt --- the "Drug War" --- to curb *that* behavior which can become addictive. And what about the morality of raising significant amounts of state revenue by encouraging people to gamble instead of taxing those who can afford to pay?

At the same time, the legal gambling industry (including the state governments) does virtually nothing --- except for the obligatory "if you have a gambling problem, call 1-800 XXX-XXXX" --- to even warn people against the dangers that can ensue once one gets started. But both the gambling industry, legal and illegal, and the states that benefit from it directly and indirectly, have a major stake in perpetuating the practice.

F. The US Drug Culture and the Failures of the "Drug War"

And so, it is not difficult to understand why the United States has the drug problem it has. Why did former Mexican President Calderon say that the real problem for his country (even as he let continue, and through his policies actually promoted, the shooting illicit-drug- trade war that has taken the lives of so many of his countrymen) is the demand for the illicits in the United States. Certainly, as noted, illicit drugs are used around the world [24]. However, whether or not it exists in other countries, the United States certainly has this national phenomenon --- the Drug Culture --- that

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strongly creates demand for the RMADs, both licit and illicit. Yet the "Drug War" doesn't touch this one. And that is because it never looks at the causes of RMAD use. It looks only at outcomes, and then picks out some particular outcomes of some particular RMADs that the drug warriors decided some time ago not to like. And not only not like, but make criminal. (The drug policy reform movement for the most part does not consider this contradiction either.)

As note in chap. 1, but well worth repeating here, many years ago (1990), in terms that still apply, Todd Gitlin summarized the situation well :

> "[I]n many ways American culture is a drug culture. Through its normal routines it promotes not only the high-intensity consumption of commodities but also the idea that the self is realized through consumption. It is addicted to acquisition. It cultivates the pursuit of thrills; it elevates the pursuit of private pleasure to high standing; and, as part of this ensemble, it promotes the use of licit chemicals for stimulation, intoxication, and fast relief. The widespread use of licit drugs in America can be understood as part of this larger set of values and activities."

In sum, there is a powerful "do drugs" message in American culture, for recreation, for treatment, for cure, and, in the case of vitamins and other non-pharmaceutical supplements, for health maintenance. In the society as a whole, the promotion and use of the "OK drugs certainly encourages/leads-to the use of the (currently) "not-OK" ones.

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Chap. 3: The "Drug War:" Some Elements of its History

A Personal Story: Sometime in the late 1990s I was called for jury duty for the first time. (Until the mid-1990s in New York State, physicians had long been exempted from jury duty. That policy was rightly changed by then-Chief Judge, the late Judith Kaye.) After reporting, I was called for possible membership on a jury. The defendant was charged with a "drug crime." The presiding judge took the unusual step of calling prospective jurors into his chambers, with representatives of the District Attorney's office and defense counsel, for a preliminary interview before prospective inclusion in the pool that would be submitted to the voir dire. (The voir dire is the questioning of prospective jurors in open court, with counsel for both sides able to accept or reject jury candidates, up to the limits prescribed by law.)

In the judge's chambers, when my turn came the judge asked me whether there was any reason why I could not be impartial in the case. I replied that I was active in the drug policy reform movement, had published a number of academic articles and book chapters on the "Drug War," and regarded it as a . . . At that point, the judge cut me off, and said "dismissed." As I was leaving the room, a young Assistant District Attorney who was standing there whispered in my ear "a what?" "A racist enterprise," I responded. The young man nodded slightly as I continued to walk out of the room.

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My view has not changed over the intervening years.

A. The Drug Problem and the Historical Focus of the "Drug War"

As we have seen, as the term is used in this book the *drug problem* in the United States encompasses two distinct socio/political phenomena. The first is *the sum of the negative effects of drug use in individuals and the negative effects on society caused by drug-induced behaviors occurring in some users*. The second is *the negative outcomes of the institution of the felony criminalization of the trade in and possession and use of certain of the RMADs*, otherwise known as the "Drug War." Yes indeed, the drug warriors have consistently refused to recognize the fact that during the close to 50 years that the "Drug War" has been underway, as we have already seen (see chap. 1, section C), the "War" itself has had many negative consequences, without achieving any measurable positive results.

This is primarily because of the fatal flaw (both figuratively for society and tragically literally for many individuals) of the "Drug War," the flaw that makes it impossible for it to achieve its stated goal. That is that, as noted, just like the flawed economic policies of the modern Republican Party, it focuses primarily on the "supply side" of the drug-use equation, not the demand side. It avoids the root causes of the problem, many of which have been discussed in chapter 2. Thus the "Drug War" assumes that if somehow the supply of the subject substances can be diminished, then use will go down. But of course given the enormous profits that are there to be made in supplying the illicit drugs and the ease of growing their substrates,

supply side control is something that is impossible to achieve.

This is the same fatal flaw that brought Prohibition to an end, fortunately for the nation in relatively short order: 13 years. Interestingly enough it was the same thesis, based in the Republican Party and its politics then, that personal, otherwise non-criminal, behaviors can be regulated by some forms of the criminal law, and ought to be, that drove Prohibition just as it drives the "Drug War." Not that certain Democrats, like Joseph Biden when he was in the Senate, have not been complicit in the enterprise, but it is based primarily in Republican philosophy and politics.

Furthermore, the existence of the "Drug War," because of its failed unitary focus on the artificially (and politically) selected "illicits," has made it impossible to develop a rational, national campaign to deal with the overall drug problem (see chapter 2). That would of course be one based on the proven approaches that have so significantly reduced the use of the major RMAD killer, tobacco products --- the national Smoking Cessation Program --- designed and broadened to combat the negative outcomes of the use of all the RMADs. (See chapter 5.)

In the period of time since the "Drug War" was declared, other than for tobacco use, both national drug politics and national drug policy have changed only marginally, at least in their major parameters. As we have seen, the "Drug War" rages on, killing an increasing number of people, especially on Mexico and Central America, repressing others, making certain neighborhoods, especially now south of the border, into war zones. However, as noted several times above, in addition to the harms it has created, it has no measurable impact upon drug use (,).

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That this is a "War" that is going nowhere, has been noted for quite some time (see also chap. 1). Indeed, there was a column in Time in 1990 [!] declaring that the "Drug War" was a "losing battle" ; a column in New York Magazine (1996 [!]) declaring that it was "The No-win War,", and then, more recently, once more in New York Magazine (2012 [!]) asking "what happens now that the war has failed?" At the same time, the two *major* drug scourges of the American people continue to be referred to not as "drug problems," but as "habits," "personal choices," and "rights." The products themselves are treated as legitimate elements of legitimate commerce.

It is notable that the use of and trade in tobacco products in recent years has finally been subjected to a significant level of government regulation, alcoholic beverages not so much.
It was not until 1995, under the leadership of Dr. David Kessler, that the Food and Drug Administration first proposed to treat tobacco products as what they are: drug (nicotine) delivery systems. But there was strong political opposition to this initiative from tobacco state legislators, and it was foiled at the time. However, in 2009, the FDA was finally given the power to regulate tobacco products. By 2012 the FDA had developed its regulatory system.

As far as the "Drug War" is concerned, not only is it not concerned with the major killer drugs. A major characteristic of the "Drug War," already dealt with, is that *historically* it has been conducted almost entirely in nonwhite neighborhoods, and it is nonwhites, overwhelmingly on a per capita basis, who are its prisoners (, ,). The latter is true even though the majority of illicit drug use is found among whites[12]. Looking at these data another way, per capita use

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levels are about the same among whites and nonwhites. Thus, if the "Drug War" were actually effective in reducing usage, it should be much lower amongst nonwhites than whites, just because the "war" is aimed at the former, not the latter.

A prime example of this important historical point --- the disparity in the way whites and non-whites are treated by the "Drug War" --- arose just last year. One Jarret Stoll, a long-time star for the Los Angeles Kings of the National Hockey League was summarily released by the team. Stoll had been arrested for cocaine *possession*, which happens to be a felony. Yes, simple possession, as we know, is defined by the "Drug War" as a crime. Stoll was caught red-handed. If he were an African-American young man from the streets, off to prison for a lengthy period of time he likely would have gone. But he is white and a professional hockey player of some skill.

And so, the charges were eventually reduced, and then reduced some more, so that he needed only to serve 32 hours of community service to satisfy the requirements of his "guilty" plea. Then the New York Rangers, needing a player with his particular skills, signed him. Also, because of his history, the Rangers were able to get him on the cheap, as it were: only $880,000.00 on a one-year contract (where most players with his skills and experience get considerably more, on a multi-year deal). He was subsequently put on waivers by the Rangers, not because of his criminal past, but because he just wasn't performing well. But neither his lack of production, nor his criminal record prevented the Minnesota Wild of the NHL from pricking him up.

On another important historical point concerning the "Drug War," as already noted but worth repeating, ironically it happens that the

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distribution, sale, possession, and in certain instances, use, of *all* the recreational mood-altering drugs --- other than caffeine --- are illegal, *at least for certain categories of people, and/or when consumed in certain places*. (Caffeine, it should be noted, is considered to be part of "food" and all foods are "legal.") That is, for example, in the law at least, public alcohol use is limited by age as is the purchase of tobacco products. Cigarette smoking is prohibited in many public indoor places, either by state law or by the decision of the owners/managers of the several facilities. But in the case of the violation of such statutes, when the law is applied, in contra-distinction to those applied to the illicits, criminal penalties are rarely if ever invoked. This fact colors all other anti–drug-use efforts, both government and private.

In this regard, let us once again consider Prohibition, the United States' previous experiment with using the criminal law in the attempt to regulate RMAD-use. It presents some very interesting comparisons with the "Drug War."

B. Prohibition

A review in The New York Times of a 2013 exhibition at the National Constitution Center in Philadelphia, PA on what is formally known in the United States as "Prohibition" began this way:

> "It has been a long time since anybody said: 'You know, the 18th Amendment was a pretty good idea. Too bad it was overturned by the 21st.' And perhaps only the most prescriptively devout among us is likely to advocate banning the sale of alcohol again in the United States.

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> "But that is what makes the history of Prohibition such a challenge to understand. We have to imagine what kind of passions created it, but we risk distorting them because they are so alien.
>
> "Yet that movement altered the Constitution in a radical fashion, extending its reach to matters once considered personal and restricting freedoms rather than expanding them. In effect from 1920 to 1933, Prohibition drastically altered the legal system of every state, and overturned ordinary citizens' behaviors and expectations. While claiming high virtue and utopian prospects, it inspired spectacular violations and grotesque criminal violence.
>
> "We tend to think of Prohibition now as some kind of crazed moral paroxysm, reflecting the worst in the American character. Or it inspires facile parallels with contemporary political movements while producing some fine folk tales about Eliot Ness, pious preachers, flappers, bootleggers, the Charleston, and the speakeasy."

It happens that there have been many movies and very successful television series made about Prohibition, like HBO's "Boardwalk Empire." Some romanticized it, some made it into just a cops-and-robbers thing, some have presented it in its historical perspective. In the fall of 2012 there was even an "historical" TV commercial for Budweiser beer which begins with the celebrated end of Prohibition that occurred in 1933.

It should be noted that through the major piece of legislation that implemented the Amendment, the Volstead Act, Prohibition

banned the "sale, production, importation, and transportation of alcoholic beverages", it was not until the passage of the Jones Act in 1929[18]a, *that their use,* at least in certain circumstances, was criminalized. The Jones Act made "failure to report a felony" itself one. Since selling an alcoholic beverage was of course a felony, simply being in a speakeasy became a felony itself. Just how closely this law was enforced is not known. But if anything else, it did contribute to the subsequent demise of Prohibition. As Professor Lisa McGirr in her excellent recent history of Prohibition points out[18]a, p. 234:

"Indeed the passage of the Jones Act brought public disavowals from former Prohibition proponents. William Randolph Hearst, who had once declared the amendment 'heaven sent," now blasted the Volstead Act for *hindering temperance* [emphasis added], contributing to rising crime, and overcrowding prisons. [Sound familiar?] The Jones Act, he proclaimed, is 'the most menacing piece of repressive legislation that has stained the statute books of the republic since the Alien and Sedition laws'."

Given Hearst's reaction to the Jones Act, it may well be that its passage hastened the repeal of Prohibition. In any case, too bad that there is not today a William Randolph Hearst on the side of true drug policy reform.

Thus at least until the passage of the Jones Act there were two significant differences between Prohibition and the "Drug War," even though many, if not most, observers attempt to lump them together. Prohibition primarily went after the importation, the wholesale distribution, and the retail sale of alcoholic beverages. But

again, until 1929, when a speakeasy was raided, at least only the proprietors and bartenders and wait staff were arrested. The (mainly white) retail customers were simply sent home. (It should also be noted, again, that when there was the prohibition for cigarettes in 15 U.S. states and the Dominion of Canada, between 1903 and 1927, it focused on the manufacture, transportation and sale (*but not the use*) of them.) One major characteristic that Prohibition and the "Drug War" share is that the former (see McGirr, chap. 3), like the latter, practiced selective enforcement (see the Stoll case above). Non-whites, immigrants and the poor were much more likely to be targeted by Prohibition than middle and certainly upper-class whites.

Unlike the "Drug War," Prohibition was successful against at least one of the RMAD carriers at which it was aimed: beer. That is because, in the days before "designer" and "craft" beers, beer was always big. One needed very large breweries to make it. From my childhood in Manhattan, New York City in the 1940s, I remember the Ruppert Brewery which stood on four square city blocks between 90th and 94th streets and 2nd and 3rd avenues. It was there until 1965 when it was torn down to make way for a series of large apartment blocks.

But beer is "big" not only the amount of space it takes to produce it in quantity. It also requires a fair amount of beer intake for one to start feeling the effects of the ethyl alcohol in it. With the breweries gone or chained shut by Prohibition, that was the end of beer (except for a certain amount of home-made brew, which I suppose could be considered the fore-runners of the current "craft" or "designer" beers). However, as for spirits, whether imported or home-brewed (which could sometimes lead to some very nasty

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outcomes) their per capita consumption varied little during Prohibition. This despite the vigorous efforts to combat the trade, that were by-and-large unsuccessful. (By the way, the tale that Joseph P. Kennedy was a bootlegger is apparently without foundation. It is true that immediately after the end of Prohibition he secured important trading rights for Irish and Scotch whiskies, but that was after its end, not during it).

Funnily enough, while Prohibition was repealed in 1933, nowhere in Mr. Rothstein's review of the Philadelphia exhibition above was the "Drug War," the supposed modern equivalent of Prohibition, mentioned. This despite the fact that, in considering the broad, social, political, and legal effects of Prohibition, many of the observations that Mr. Rothstein applied to Prohibition certainly could be applied to the "Drug War." Consider that the latter has (as well as the former did): "altered the Constitution in a radical fashion," and continues to alter it with every illicit drug detention case that reaches the Supreme Court. Indeed, the "Drug War" has: "extended its reach to matters once considered personal and [has] restrict[ed] freedoms rather than expanding them;" has "drastically altered the legal system of every state, and overturned ordinary citizens' behaviors and expectations. While claiming high virtue and utopian prospects, it [has] inspired spectacular violations and grotesque criminal violence."

Indeed too, Prof. McGirr certainly came to the conclusion that in many ways Prohibition, which she calls "The War on Alcohol," --- from its use of the criminal law in the attempt to regular personal behavior that became criminal only because the law said it was, to its massive expansion of a policing/prison system that would not

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otherwise exist, to its creation of massive and extremely profitable criminal enterprises that would not otherwise exist, to its focus on non-whites, immigrants and the poor --- set the stage for the "Drug War" to come (see chap. 7).

In terms of the Constitution and the "Drug War," it happens that the Supreme Court has long stood by the so-called "Drug Exception" in the matter of the application of Fourth Amendment's "probable cause" and "search and seizure" provisions. It was created in a famous case 1968 case, known "Terry." (It happens that the great liberal Justice, William O. Douglas, issued a very strong dissent in that case, summarized as: "To give the police greater power than a magistrate is to take a long step down the totalitarian path.") In fact, it can be seen that it was this particular Supreme Court decision that cleared the field of fire for the "Drug War," with its addition of possession and use to the commercial prohibitions of Prohibition. That Mr. Rothstein does not mention these parallels and non-parallels is a tribute to the political process and economic forces (see chap. 4, "The Stakeholders") that have placed the "Drug War" beyond the pale for consideration and re-consideration in terms of political, social, and economic policies that make sense and do not make sense in the United States.

The practice of using the law in attempt to deal with the negative outcomes of the use of one or more of the RMADs has a long history in the United States and its predecessor colonies. For example, in 1657 prohibition for alcoholic beverages was mandated by the General Court of Massachusetts. The attempt was made to outlaw "rumme, strong water, wine, brandy, etc." in order to deal with public drunkenness. (I have not been able to find out for how

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long this particular enactment of prohibition lasted, but it certainly can stand as a predecessor of Prohibition, and through it, the "Drug War.")

There were "temperance" movements of greater or lesser strengths in the United States, almost from the time of its founding. While the official Temperance Movement was one of the elements the contributed to the founding of the Republican Party in the 1850s, the eventual development of Prohibition had strong support over time in the "dry" wings of both the Republican and Democratic Parties[22].

In the years leading up to World War I, a strong element from the Republican side for Prohibition was the strong anti-immigrant element within the Party. (Some things never change, do they?) Like the Temperance Movement, this one can also be traced back to one of the founding elements of the Party in the 1850s. It was created not only by the Northern Whigs who were against the expansion of slavery into the Territories, and the Abolitionist movement. The outspokenly anti-immigrant "Know-Nothings" also were part of the coalition (and see its re-emergence in the Republican Party in the 2015 Republican Presidential-nomination campaign).

The Know-Nothings were focused on the Irish Catholics who immigrated to the United States, starting even before the Potato Famine, in the 1830s. By the 1920s, the anti-immigrant prejudices of a Republican Party dominated at the time by rural Protestants, had spread to the Italians, the Jews, and to some extent the Catholic Germans. This led to the exclusionist immigration law of 1924. It can also be seen to have led to the alcohol targets of Prohibition: beer for

the Germans, whiskey for the Irish, and wine for the Italians. It happens that during Prohibition the use of wine for religious ceremonies (such as the Jewish Passover) was permitted.

In historical terms, Prohibition did come to a fairly quick end, at least in comparison with the "Drug War." There were over-riding policy concerns at the time that did it in. There was rampant crime on the one hand and a major need for new tax revenues to deal with the Depression on the other. Major funding for the final Repeal campaign of the early 1930s came from a John D. Rockefeller, Jr.-led group of financiers who, by achieving the re-legalization and re-taxation of alcoholic beverages wanted to prevent any increases in income tax levels that an incoming Democratic Administration might enact. (Rockefeller was another late convert to the "wet" 'side.)

But what about the possible effects of Prohibition on health? Well, they were remarkable. In a classic paper Prof. Milton Terris, MD, an early mentor of mine, used the death rate for alcohol-consumption-related cirrhosis of the liver to measure the effectiveness of measures to limit the consumption of spirits and wine, in England and the United States. He showed that between 1912 and 1933 the cirrhosis of the liver morality rate in the U.S. fell by almost half. From 1912 to 1920 the decline was due primarily to state-level prohibitions and wartime limitations of alcohol availability, and of course from 1920 onwards to limitations in availability during Prohibition. Following the end of Prohibition cirrhosis of the liver mortality began to climb back to what it was pre-1912, which it reached about 30 years later. So, Prohibition was a great success, no?

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Well, yes, in terms of the drop on cirrhosis of the liver mortality rate it was. BUT, could that result have been achieved through other means? Well, yes it could have, and indeed it was. Indeed, history shows that if one's principal goal was the reduction of the cirrhosis of the liver mortality rate --- and the disease was a major killer at the time --- (which of course was NOT a principal goal of the Prohibitionists) there was as another much less costly (in all of that word's senses) way to do it.

In Great Britain, from the period of World War I the rate underwent a steady decline, to a much lower level in fact than ever achieved in the United States, even at the height of Prohibition. And in Great Britain, no equivalent of Prohibition was ever instituted. How could this have happened? To quote Prof. Terris:

> "The answer is to be found in the history of British social policy on alcoholic beverages in the period during and after World War I. Wartime measures included a sharp curtailment in the amount of alcohol available for consumption, drastic restriction of the hours of sale, and marked increases in taxes on alcoholic beverages. With the end of the war, the limitations on the available quantity of alcohol were removed, but the hours of sale were extended to only half the prewar time of opening, while taxation on alcoholic beverages was increased even further."

Indeed, the Brits simply expanded on the approach to tobacco use which was adopted by King James the Sixth of Scotland, First of England, at the beginning of the 17th century. He had originally wanted to ban it, but went for taxation instead (see just

below). Such restrictions on alcohol were still in place in the 1960s, when Prof. Terris did his study. The British cirrhosis of the liver mortality rate remained low, and Prohibition remained firmly off the socio-political chart. (Along with many other right-wing policies instituted under the Tory Prime Minister Margaret Thatcher in the 1980s, many of the place, time, and cost restrictions on alcohol consumption were removed. Interestingly enough, the British cirrhosis of the liver mortality rate started rising steeply in the 1990s.

Prof. Terris added one wry note, that the British approach:

> "also explains the peculiar fact that mortality from cirrhosis of the liver is greatest in the lowest social class in the United States and in the highest social class in England and Wales. 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 of cirrhosis of the liver."

So the U.S. did Prohibition and the Brits did taxation and etc. As measured by cirrhosis of the liver mortality rates, both achieved reductions during the periods the respective polices were in force, although the reductions in Great Britain were better than in the United States (see Prof. Terris' paper for the details). But in the former, they stayed down as long as the tax-etc. policies remained in place[27]. Only when they were lifted by the Tory Thatcher, did the rates go up again, as, with no public health-protection policies in place, they did immediately following the end of Prohibition. Throughout this book we shall return to the lessons that Pubic Health has to teach us in the most productive ways for dealing with the social and personal negative outcomes of RMAD-use.

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C. The Changing Nature of the Perceived Drug Problem over Time

The perceived nature of "The Drug Problem" changes over time. As well, regardless of whether legal measures are taken to deal with drug use and abuse, the fashion in the recreational use of also illegal drugs does change over time. In the 17th century, when King James I of England seriously considered making tobacco illegal after he was first exposed to it, he 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 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...."

Remarkable, is it not, that King James recognized in the 17th century that tobacco smoking was "dangerous to the lungs." In our own time, as we saw in the previous chapter, despite knowing that statement to be true, the tobacco industry was able to caste it as "not scientific" right up until the discovery of internal documents proved that they knew it was all along. It is also interesting to note that King James did not illegalize the drug. Rather, he promptly raised the tobacco tax by four thousand percent. 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.

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At the time, in other countries, other monarchs took a less pecuniary, more authoritarian view of tobacco smoking. They developed policies even more violent than those presently found in the United States towards the use of those drugs which are currently illegal than that originally proposed by their contemporary, the English King. The Emperor of Japan incarcerated both buyers and sellers of tobacco; 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 the use of tobacco, folks!

History shows that none of these measures had any effect on reducing tobacco use. Although these frequent and inhumane punishments are not known to have deterred tobacco smoking, of course, as we have seen, even, as noted, in the face of decades of denial of the science on the relationship between cigarette smoking and ill-health by the tobacco companies (sound familiar?), in our own time knowledge of the real dangers of cigarette smoking and the development of a *public health-based* program has reduced use very significantly. Somehow the "Drug Warriors" never seem to learn this lesson (e.g., see the "Bill Bennett" section, below).

Tobacco was still being regarded as a scourge in the 19th century. In 1885, *The New York Times* connected tobacco with 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 . . . ." (Somehow, that just didn't happen, but they made tobacco sound just like the drug warriors make the currently illicits sound, currently.) In 1916, cocaine (which had originally been an ingredient of Coca-Cola and as a mild stimulant has been used forever by Native Andeans living at high altitudes), the use of which was relatively widespread, became a "drug enemy" of choice, and was illegalized by the Harrison Narcotics Act, Ch. 1, 38 Stat. 785 [1914]. Heroin, developed in the 1890s by German pharmacologists as the hoped-for non-addicting (ha!), "heroic" substitute for morphine[28]28, had been sold over the counter before it too was illegalized by the Harrison Act.

The explosion in cigarette smoking began in the late 19th century, with the inventions of the automatic cigarette-making machine and the safety match. It has already been noted that at that time, for relatively short periods of time, a number of states instituted Prohibition for cigarette smoking. Yet it did continue unabated until the reversal started with the issuance of the original Surgeon General's Report on Smoking and Health in 1964. Since that time, the nation has hardly gone down the tubes.

Next, shortly after the end of Prohibition, came the beginnings of the modern war on marijuana, which as Prof. McGirr tells us, directly linked the "War on Alcohol" to the "War on Drugs." Using the newly passed Marihuana [old spelling] Tax Act , it was started in 1937 under the direction of the then head of the Federal Bureau of Narcotics, Harry Anslinger, a veteran of Prohibition. The Act was used in part to criminalize the possession and use of marijuana. In its early days Anslinger's "war" received a good deal of

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publicity in re the "horrible effects" of the drug from a movie called "Reefer Madness". (It happened to have been characterized by some film critics as the "worst film ever made," but that didn't stop the anti-marijuana crusaders [and their crusade had a strong racist tinge to it] from using it widely.) The Marihuana Tax Act was eventually overturned as unconstitutional by the Supreme Court, in 1969. It was replaced in function by the much broader Comprehensive Drug Abuse Prevention and Control Act of 1970. It is this Act upon which the whole "Drug War" is based.

It was about that time that the predictions of national doom, and other alarms like these, turned to the objects of the "Drug War." The identity of the enemy had again changed. 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 . . . ." (Was he simply bringing forward the Time's warning about tobacco from 1885, one wonders?) Already at that time, the otherwise "liberal Republican" Rockefeller, dealing with a party that had booed him off the stage at the 1964 Republican National Convention, was trying to bolster his "tough-on-crime" credentials so as to once more become a contender for the Republican Presidential nomination. Even though he became President Gerald Ford's Vice-President after the resignation of Richard Nixon as a result of the Watergate scandal, the tactic didn't work.

It was positions like these of Rockefeller that led to the notorious "Rockefeller Drug Laws". Under that set, imitated by a number of other states, the penalty for selling two ounces (57 g) or more of

heroin, morphine, raw or prepared opium, cocaine, or cannabis, or possessing four ounces (113 g) or more of the same substances, was a minimum of 15 years to life in prison, and a maximum of 25 years to life in prison [!]. One aspect of this approach is that it could be construed as an attempt to deal with demand: if one is caught possessing or using a prohibited substance, a long prison term was a prospect. First, this assumes that an addicted person is really going to stop to think about that possible outcome, and second, the alternate approaches that were already underway at the beginning of the National Smoking Cessation Campaign were not even considered.

We are still dealing with the highly negative outcomes of such laws. Again it must be noted that: a) they have had no noticeable impact on the use of the illicit drugs; b) they penalize possession and use, which until its very late stages were not a target of Prohibition and then only indirectly; c) the definition of "drug addiction" as used by Rockefeller and numerous other drug warriors down to the present day has never spread to alcoholic beverages or tobacco products; d) as noted, alternate approaches were not considered. But they could have been. Indeed they may well have been were it not for the Republican Party's determination to politically use "getting tough on crime," especially in re the possession and use of certain RMADs, that they had just happened to have arbitrarily defined as criminal.

Indeed in the early 1970s, another national perspective on the most commonly used illicit, a rather different one, came from a body called "The National Commission on Marihuana [old spelling] and

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Drug Abuse". It was created by the Comprehensive Drug Abuse Prevention and Control Act of 1970, referenced above. The Commission happened to have been chaired by a former Governor of Pennsylvania, Raymond P. Shafer, a Republican (although a member of a now-extinct sub-species of Republican, known as a "moderate.") As noted above, Rockefeller was also widely known as "moderate" Republican, even while he surely came down on the other side on the drug issue.

It is worth including an extensive quote from the Wikipedia report on the Commission, which, based on my own reading of their reports some time ago summarizes it well:

> "The National Commission on Marijuana and Drug Abuse was created by the Controlled Substances Act to study marijuana abuse in the United States. While the Controlled Substances Act was being drafted in a House committee in 1970, Assistant Secretary of Health Roger O. Egeberg had recommended that marijuana temporarily be placed in Schedule I, the most restrictive category of drugs, pending the Commission's report. On March 22, 1972, the Commission's chairman, Raymond P. Shafer, presented a report to Congress and the public entitled 'Marihuana, A Signal of Misunderstanding,' which favored ending marijuana prohibition and adopting other methods to discourage use.
>
> "The Commission's report acknowledged that, decades earlier, 'the absence of adequate understanding of the effects of the drug' combined with 'lurid accounts of [largely

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unsubstantiated] "marijuana atrocities" [like "Reefer Madness"]' greatly affected public opinion and labeled the stereotypical user as 'physically aggressive, lacking in self-control, irresponsible, mentally ill and, perhaps most alarming, criminally inclined and dangerous.' However, the Commission found that the drug typically *inhibited* aggression [emphasis added] 'by pacifying the user… and generally produc[ed] states of drowsiness, lethargy, timidity and passivity.'

"After the Commission's widespread study and analysis, it concluded that 'Looking only at the effects on the individual, there is little proven danger of physical or psychological harm from the experimental or intermittent use of the natural preparations of cannabis.'

"Specifically, the Commission recommended 'a social control policy seeking to discourage marijuana use, while concentrating primarily on the prevention of heavy and very heavy use.' The report noted that society can provide incentives for certain behavior without prosecuting the unwilling, citing the example that 'the family unit and the institution of marriage are preferred means of group-living and child-rearing in our society. As a society, we are not neutral. We officially encourage matrimony by giving married couples favorable tax treatment; but we do not compel people to get married.'

"*The Commission recommended decriminalization of simple possession* [emphasis added], finding:

[T]he criminal law is too harsh a tool to apply to personal

possession even in the effort to discourage use. It implies an overwhelming indictment of the behavior which we believe is not appropriate. The actual and potential harm of use of the drug is not great enough to justify intrusion by the criminal law into private behavior, a step which our society takes only 'with the greatest reluctance."

"The Commission found that the constitutionality of marijuana prohibition was suspect, and that the executive and legislative branches had a responsibility to obey the Constitution, even in the absence of a court ruling to do so:

While the judiciary is the governmental institution most directly concerned with the protection of individual liberties, all policy-makers have a responsibility to consider our constitutional heritage when framing public policy. Regardless of whether or not the courts would overturn a prohibition of possession of marijuana for personal use in the home, we are necessarily influenced by the high place traditionally occupied by the value of privacy in our constitutional scheme.

"The Commission also found that 'the use of drugs for pleasure or other non-medical purposes is not inherently irresponsible; alcohol is widely used as an acceptable part of social activities'.

"The Commission recommended the implementation of a discouragement policy against marijuana use, 'while concentrating primarily on the prevention of heavy and very heavy, marijuana would no longer be criminalized, while public possession of small amounts 'would be contraband

> subject to summary seizure and forfeiture.' Public possession and distribution of larger amounts would be punishable by a fine, and disorderly conduct or driving under the influence would be punishable by jail time and a fine, similar to modern policies regarding alcohol use (and misuse). Under such a system, the report notes that, in the great deal of personal possession cases, the criminal justice system would be removed from the process, and 'The individual [would receive] no record of any kind; he [would] simply lose the value of the marijuana.'"

Douglas McVay summarized the Commission's conclusions thusly:

> "The commission concluded that marijuana should be decriminalized. This was not interpreted as a license to abuse substances. In fact, the Shafer Commission's overriding concern was reducing substance abuse. According to the report, 'On the basis of our findings, discussed in previous Chapters, we have concluded that society should seek to discourage use, while concentrating its attention on the prevention and treatment of heavy and very heavy use. The Commission feels that the criminalization of possession of marihuana for personal use is socially self-defeating as a means of achieving this objective.' "

How rational, how reasonable, how much based on scientific evidence rather than prejudice and totally politically-motivated policy-making. How similar in many ways (although not all, especially in how the criminal justice system would and would not be used) to the essence of the "Public Health Approach to the Drug Problem"

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presented in Chapter Five. But we have seen over and over again in the United States how often science does not guide public policy. One can note again, the current national Republican campaign against doing anything about global warming and the resulting climate change is an excellent example of this (, ,). And so it happened with the Shafer Report (see ref. 39 for an excellent history of the National Commission's Report and what has happened to its thinking in the years since).

Steven Wisotsky [40] has highlighted the very important politico-historical fact that during the life of the National Commission, President Nixon's then Attorney General John Mitchell systematically short-circuited its attempt to "systematically evaluate" the "underlying assumptions" of U.S. drug policy. Mitchell repudiated the work of the Commission even before it was published. Wisotsky summarized Mitchell's policy: "Drugs are bad, enforcement is good, and let's not waste time questioning the matter." After all, politics had to come first.

Nixon had already announced the commencement of the "Drug War"[41]. Most obviously, it was hardly based in science and epidemiology. Rather it was part of his newly-developed "Southern Strategy" to gain for the Republican Party the Southern white racist vote that was looking for a home after the Democratic Party became, in the 1960s, the party of civil and voting rights and he end of Jim Crow for African-Americans. For then, as now, it is thought by the political class that Southern white folks like nothing better than being "Hard on crime," especially when it is aimed at the "inner cities" (and you know who lives there).

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The National Commission's Report was summarily shelved, and the "Drug War" was launched. In 1982, ten years after Attorney General Mitchell's pronouncement, President Ronald Reagan summarized then current Federal drug policy: "[Illegal] drugs are bad and we're going after them"[42]. Ten years of failure of the policy, in terms of controlling drug use, had taught the President nothing on that front. But his Administration knew that politically they still had a winner.

D. Reagan, G.H.W. Bush, and the "Drug War"

Let us fast-forward to 1988, when, focusing primarily on marihuana and cocaine, the Reagan White House issued a major Report[43]. It again echoed that Times editorial on tobacco from 1885 --- funnily enough Reagan himself was a major spokesman for Chesterfield cigarettes in the 1940s and 50s --- and his arch-rival Rockefeller's statement from 1968 on heroin. It began with the following words[43]:

> "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."

Hyperbole? Nah. Lessons learned from Prohibition? Nah! A complete misunderstanding of the causes of RMAD-use, legal or not, and their inter-relationships? Nah. An idiotic focus on

addictive/habit-forming drugs used by small numbers of people compared with the numbers who used tobacco products and alcoholic beverages? Yes. A claim that such use could destroy the nation? Indeed. Strong political need to "stay tough on crime" and go after you-know-who? You got it!

It is also interesting to note that at that time[44]:

> "together there [were] 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 were 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 were over 36 times as many current users of alcohol as there are of cocaine and almost twenty times as many users of cigarettes."

But it was the Reagan White House approach that led directly to George H.W. Bush's "National Drug Control Strategy" of 1989[45] known colloquially as the "Bennett Plan" (see also below). Ramping up the Reagan rhetoric even further, George H.W. Bush actually said in the sales pitch for his new drug plan, that "the nation risks losing *'its very soul'* to drug abuse," and that "Most Americans remain firmly convinced that drugs represent the gravest present threat to our national well-being." Betcha didn't know that. Neither did I.

At that time, it oh-so-conveniently happened that a new

"demon drug" had been found. Bill Bennett, the nation's first "Drug Czar"[46], newly appointed by President G.H.W. Bush, claimed that "crack" (a smokeable form of cocaine) was taking over the nation's cities and there had to be a gigantic national mobilization, with a heavy emphasis on law enforcement, in order to stem the tide. The Drug Czar noted that the incidence of drug related crime, drug trafficking, drug deaths, and drug emergencies in hospitals were all increasing. "One word explains much of it. That word is *crack*." 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. Well, it just goes to show that Republicans were no more wedded to data-based policy then than are now. (And yes, as we will see just below, Bennett, still a Republican, is still on his "Drug War" kick, even with another 25 years of the "Drug War's" failure to achieve any of its stated goals.)

Although the Director did toss a few crumbs in the direction of education about the terrors of cocaine (used, of course, by a tiny percentage of persons who used tobacco products and/or alcoholic beverages), the emphasis was heavily on increased law enforcement, to save "these [mainly non-white] people from themselves." That in essence was the "Bennett Plan." As we will see, at the end of the section on Bill Bennett below, it just happens that the crack epidemic, to the extent that it was a real epidemic, came to an end through an entirely different kind of effort.

It is interesting to note that the then number of current *users* of crack, 484,000, was only marginally greater than the then number of *deaths per year* caused by cigarettes, 390,000 [44], Nevertheless, an

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editorial in *The New York Times,* echoing the "Drug Czar," 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"[47]. The editorial further stated that "crack 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." Looking backwards, that couldn't have been a bit of an overstatement, could it? One must wonder if the *Times* editorial writer simply went back to the file for the 1885 editorial quoted above, changed the name of the demon drug (which back then was tobacco [!]), and updated the language.

E. A Brief Current View of the "Drug War," from the Federal Level

Moving up to our own time, finally, and thankfully, the "National Drug Control Strategy, 2014" [48] presented a different picture. While unfortunately still technically committed to the "Drug War" (without mentioning it too much --- some political problems are just too hard to deal with), it takes a much broader view of the drug problem. As President Obama says in his "Introduction:"

> "I am pleased to transmit the 2014 *National Drug Control Strategy*, a 21st century approach to drug policy that is built on decades of research demonstrating that addiction is a disease of the brain—one that can be prevented, treated, and from which people can recover. The pages that follow lay out an evidence-based plan for real drug policy reform, spanning the spectrum of effective prevention, early intervention,

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treatment, recovery support, criminal justice, law enforcement, and international cooperation.

"Illicit drug use and its consequences challenge our shared dream of building for our children a country that is healthier, safer, and more prosperous. Illicit drug use is associated with addiction, disease, and lower academic performance among our young people. It contributes to crime, injury, and serious dangers on the Nation's roadways. And drug use and its consequences jeopardize the progress we have made in strengthening our economy—contributing to unemployment, impeding re-employment, and costing our economy billions of dollars in lost productivity.

"These facts, combined with the latest research about addiction as a disease of the brain, helped shape the approach laid out in my Administration's first *National Drug Control Strategy*—and they continue to guide our efforts to reform drug policy in a way that is more efficient, effective, and equitable. Through the Affordable Care Act, millions of Americans will be able to obtain health insurance, including coverage for substance use disorder treatment services.

"We have worked to reform our criminal justice system, addressing unfair sentencing disparities, providing alternatives to incarceration for nonviolent substance-involved offenders, and improving prevention and re-entry programs to protect public safety and improve outcomes for people returning to communities from prisons and jails. And we have

> built stronger partnerships with our international allies, working with them in a global effort against drug trafficking and transnational organized crime, while also assisting them in their efforts to address substance use disorders and related public health problems.
>
> "This progress gives us good reason to move forward with confidence. However, we cannot effectively build on this progress without collaboration across all sectors of our society. I look forward to joining with community coalitions, faith-based groups, tribal communities, health care providers, law enforcement agencies, state and local governments, and our international partners to continue this important work in 2014. And I thank the Congress for its continued support of our efforts to build a healthier, safer, and more prosperous country."

Not only is the "Drug War" (or another, more polite term for it) not mentioned. It is not stressed in the full "Strategy." Just consider the elements of the Table of Contents and the order in which they appear:

Chapter 1. Strengthen Efforts to Prevent Drug Use in Our Communities

Chapter 2. Seek Early Intervention Opportunities in Health Care

Chapter 3. Integrate Treatment for Substance Use

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Disorders into Health Care and Expand Support for Recovery

Chapter 4: Break the Cycle of Drug Use, Crime, Delinquency, and Incarceration

Chapter 5. Disrupt Domestic Drug Trafficking and Production

Chapter 6: Strengthen International Partnerships and Reduce the Availability of Foreign-Produced Drugs in the United States

Chapter 7. Improve Information Systems for Analysis, Assessment, and Local Management

Policy Focus: Reducing Drugged Driving

Policy Focus: Preventing and Addressing Prescription Drug Abuse

That last item is especially important as the non-medical use, and abuse, of prescription narcotics is far outstripping that of heroin.

Of course, at the state and local levels the "Drug War" rages on, as is well known. And so it is useful to turn to a consideration of what was historically the most vigorous presentation and prosecution of the "Drug War," which can be called "The Bill Bennet Show." It is still running, after all these years (see below). That it is, featuring Bill and a cast of thousands --- see chap. 4, "The Stakeholders in Maintaining the 'Drug War' " --- is a major reason that even a President who really understands what is going on cannot, politically, move to end it.

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F. The Bill Bennett Plan and the Bill Bennett Show

Bill Bennett: Committed Drug Warrior and hero of the conservative crowd.

But let's move forward, or backwards as the case may be, to a further consideration of Bill Bennett, perhaps the ultimate drug warrior at the Federal level. As noted, he was the first ever Director of National Drug Policy, under President George H.W. Bush. And he was determined to show that he was THE DIRECTOR, who would not take "no" for an answer (not even if the answer, already well-known at the time was, "really Bill, your 'Drug War' cannot work [in dealing with the drug problem, that is; it has lots of other uses]; never has never will)." But Bennett was there to put on a show of "toughness" for the Bush Administration. And what a show it was. To get its full flavor, take a bit of time to read Bennett's "Introduction" to the 1989 "Drug Control Strategy"[45].

Bennett further contorted the "Drug War" into a highly

twisted, punitive posture, even under a Democratic Administration. Just recall that after Bennett's reign, it was under President Bill Clinton that the current policy that has led to so many more and longer imprisonments for non-violent drug "crimes" was signed into law. Bennett really set it up so that anyone who would dare to question the validity and value of the "Drug War," despite the fact that it had little impact on the use of the illicits at which it was supposedly aimed, was just a wimp, a "bleeding heart liberal," or worse (a Commie?). We deal here with Bennett at length because he is the archetype of the right-wing reactionary, "don't confuse me with facts" proponent of the "Drug War." They are still around in numbers (as is Bennett), and their arguments seem to never change.

Calling himself the "Drug Czar," Bennett identified "the chief and seminal wrong... as drug use"[49]. 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 [emphasis added]." 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. *So much for making it wrong, and criminal, simply by defining it as such, when other, much-more-harmful-on-a-population-basis, drug use was legal.* And Mr. Bennett did offer what he called the "Bennett Plan," (otherwise more formally known as the "White House Drug Control Strategy, 1989"[45].

Now regardless of what it did and did not mean in the Bennett Plan, it is instructive, if not frightening, that sometimes the first U.S. "Drug Czar" sounded as if he had something in common

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with a real (Russian) Czar in his approach to "drug offenders." This similarity existed even though the Russian Czar was concerned with nicotine in tobacco (see above; Bennett's own drug of choice), while the U.S. one focused on cocaine.

Consider this exchange which took place televised live on "The Larry King Show" of June 15, 1989[50]:

"CALLER: My question is to Mr. Bennett. Why build prisons? Get 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 real problem is that we are not doing enough that is *morally proportional* [emphasis added --- yes, he really said that] to the nature of the offense. [Recall that the "offense" Bennett was talking about was the use of a particular set of RMADs that just happened to be on a restricted list at the time.] 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 say, "Mr. Bennett, when it comes to enforcing a particular approach to morality --- yours --- with force, meet ISIS." One can only wonder what Mr. Bennett would have done to the principal owners and top managers of the cigarette companies were

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it to have ever sunk into his consciousness that they were the biggest drug killers of them all[7]. Who knows?

Why all this focus on an historical character who is known now simply as another right-wing talk radio host? Well, as of 2015, this gentleman, who appears in an on-line photo to still be overweight and who may or may not still be addicted to the nicotine in cigarettes (he was apparently a virtual chain smoker when he was the "Drug Czar" --- I did personally observe him once in his office, on the way, with a guard, to the men's room, and he was smoking while walking) had this to say at a national conference on the "Drug War" and the role of President Obama in it [51]:

> "America is [still --- Bennett never notes that he had just as little success with the criminalization approach to the Drug Problem than anyone else in a position of authority, before or since] struggling with its illegal drug culture partly because of a lack of leadership at the top, the nation's first drug czar said Tuesday. William J. Bennett, speaking at the Community Anti-Drug Coalitions of America (CADCA) national conference, said anti-drug activists do a great job in their schools and communities, but stressed that anti-drug messages have to start at the top, wondering aloud 'where the hell is the president' on this issue.
>
> " 'This president, to my knowledge, has not given a single speech on drugs,' said Mr. Bennett, who served under President George H.W. Bush in the late 1980s and early 1990s, when crack cocaine was a national crisis. [It was

> indeed, and it was ended in the African-American community by actions that, once having seen the very real health dangers from crack cocaine us, both users and non-users took themselves. See below.] In fact, 'as far as I can find,' he said, President Obama has talked about drugs twice: Once to say that marijuana is 'probably not as bad as or any worse than the cigarettes and other stuff I smoked when I was in high school'— which was 'not helpful,' Mr. Bennett said. . . . .
>
> "Mr. Bennett said the president, as a former community organizer, would be expected to know the devastation from that drug and wouldn't be making 'flip comments' about it. But the saddest part, Mr. Bennett said, is that Mr. Obama was swept into office with the support and adoration of millions of young Americans of all races. . . . Mr. Bennett, a former secretary of education who has a nationally syndicated radio talk show, included some of these points in a new book with co-author Robert A. White, *Going to Pot: Why the Rush to Legalize Marijuana is Harming America*. A request for comment at the White House Office of National Drug Control Policy (ONDCP) was not immediately returned."

The comprehensive, evidence-based approach of President Obama, although while it still, for political reasons, does not abandon the "Drug War," is light years ahead of the totally failed "Bennett Plan" (that is, failed in meeting any of its objectives in terms of reducing further the levels of use of any of the "illicits"). Nevertheless, here was Bill Bennett, in 2015, still going after anyone, particularly a Democratic President (who just happens to be an

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African-American [literally]), who would recognize that the "Drug War" has bought much misery and no results in diminishing the use of the "illicit" drugs.

Just a quick note here on the U.S. crack-cocaine epidemic with which Bill Bennett was so concerned when he was in office (actually it was well into decline when he took office, but that didn't stop him from talking about it). Many years ago I met a retired DEA Agent named Robert Stutman. (He was the Special Agent in Charge of the New York Office of the Drug Enforcement Administration [DEA] from 1985 until 1990. He was a very interesting man[52].) Not quite ready to give up on the "Drug War," still he saw many of its flaws. In fact when he left the DEA in 1990 he "found[ed] Employee Information Services, Inc., the nation's largest management consulting firm specializing in the design and implementation of substance abuse prevention programs for all industries."

In that very extensive interview with Frontline cited just above, he had this to say about the end of the crack epidemic in New York City, in the late 1980s:

> "In my opinion, law enforcement, although it had something to do with . . . the lessening of crack --- not the demise --- it had far less to do with it than the fact that the people who crack affected have simply said, 'Enough.' I think that it is the indigenous population that was integrated into the crack users who have said, 'We've had enough of this crap. We've had enough of kids getting shot, beaten. We have enough spousal abuse.' I think the biggest war against crack was won by the people that were affected by crack, not by law

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enforcement."

And that's from a law enforcement official who was on the front lines, on Frontline. But to repeat, the Bill Bennetts of the world, who are still very influential politically in maintaining the "Drug War," have learned nothing and continue to refuse to do so.

Just an historical footnote to the use and non-use of the criminalization approach. No regime in history has used criminal and indeed extra-criminal sanctions to enforce desired behaviors and outcomes upon populations, its own and those of other nations, to a greater degree than that of Nazi Germany. However, it happened that during the 1930s German scientists were the first to link cigarette smoking and lung cancer. Hitler happened to have been a person concerned with his personal health from when he was a young man (at the same time he was authorizing the murders of millions of otherwise healthy people). After his discharge from the Prussian Army at the end of World War I he stopped smoking cigarettes and sometime later he became a vegetarian.

As part of his plan to strengthen the "Aryan race" in Nazi Germany, when Hitler was informed of the results of that research he ordered the institution of a nation-wide anti-smoking program[53], [54], [55], with certain exceptions: members of the armed forces. At the same time, there was a special emphasis on reaching women of child-bearing age, because there was also the discovery of the negative impact of cigarette smoking on pregnancy, and the Nazis were very interested in growing the "Aryan" population as quickly as they could (except, of course, for the war, in which 10,000,000 Germans, military

and civilian alike, lost their lives). But for all this, and for all of the Nazi use of both legal and extra-legal means for the enforcement of their ideology and their policies, they never did resort to criminalization in their campaign against cigarette smoking.

G. What can be learned from the History of the "Drug War"

First, that history has some very important lessons to teach us about the use and mis-use of the RMADs. Obviously, RMAD-use goes way back in human history, as attested to by the attention it receives in the Bible. In fact, it receives so much attention, in different parts of both Testaments, that there is quite a bit of controversy among those who would use the Bible as a guide to current behavior as to what it actually says ([56], [57], [58]). Of course the ideology of the 19th-century Temperance Movement, party to the formation of the Republican Party in the 1850s, which eventually led in part to the Republican creation of Prohibition, was partially based on Biblical interpretation. Knowing that alcohol-use policy at least was much in debate in Biblical times, teaches us that we are not dealing with anything new here.

Second, history teaches us that the criminalization of the use of an RMAD doesn't work. In fact, King James I of England and his advisors, who wanted to eliminate or at least limit the use of tobacco (newly imported to England from the colony of Virginia), thought about the criminalization approach. Apparently basing their conclusion at that time on nothing but pure reason (and knowledge

of human behavior, one would think), his advisors persuaded him that much the better approach was the use of taxation. And so he did it that way.

Third, history teaches us that RMAD use and abuse can be curtailed through the use of various public health approaches. The one advocated in this book is presented in chapter five.

Fourth, history teaches us that people like Mr. Bennett --- "don't confuse me with facts" Drug Warriors that they are --- cannot learn from history. And very often they don't want to be given the opportunity to do so. Many years ago I was invited to one of the prestigious pro-"Drug-War"-but-genteel-about-it institutions in New York City to make a presentation on the "Public Health Approach to the Drug Problem." (It was not, by the way, the Drug Policy Alliance. I have never received an invitation from them.) I was told that the top leadership of the organization would be there and that they were all looking forward to hearing from me.

I was thus indeed surprised when, just before I was to begin my talk, the Director, a former top official in a Federal Democratic Administration, who knew something about what I was going to talk about, came up to me and apologized that "so unfortunately" he had just been called away to another meeting that he just "had to" attend. I was not surprised when he returned just after I had finished my presentation to the deputy director and some staff members. We agreed that I should come into town again for a further discussion. I never did hear from them again.

In sum, there is ample evidence already cited that the "Drug

War' has accomplished none of its stated goals in terms of the reduction of the illicit RMADs against which it is aimed. At the same time it has created some serious health problems of its own, such as the spread of HIV/AIDS through the forced use by intra-venous drug users of dirty needles. Beyond that, on a much larger scale, over time the "Drug War" has been responsible for hundreds of thousands of deaths around the world because of the often incredible violence associated with the illicit drug trade. But the Drug Warriors are incapable of learning anything from either the historical lesson that criminalization doesn't work or the one that tells us that public health-based measures do.

Finally, history teaches us that we have to keep on truckin'. Sometimes, at least, truth does win out.

A Postscript to this Chapter

Well after I completed this chapter I came across a fascinating and very important column on the "Drug War" by the left-political analyst/commentator/historian Thom Hartmann. I quote from it extensively at the beginning of chapter 8, which discusses a variety of different and important subjects that for one reason or another (mainly timing --- they came out or I came across them after I had completed the main text of this book). However, there is one exquisite quote from John Haldeman, who was Richard Nixon's domestic policy advisor, about what the "Drug War" was really about (and for many Drug Warriors, although they would hardly admit it, still is)[5]9:

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"'The Nixon Campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar Left, and black people. You understand what I'm saying? We knew we couldn't make it illegal to be either against the war or black. But by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did."

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Chap. 4: Why the "Drug War" Goes On (and On and On and On): The Stakeholders

A. The Negative Outcomes of the "Drug War:" A Review

As we have seen, the "Drug War" goes on and on (and on and on), even as it has been totally ineffective in achieving any of its stated goals. These numbers are not in dispute, but the Drug warriors persist, and their numbers still including the archetypical William "beheading is OK" Bennett (see chap. 3). In 2015 he was promoting his new anti-marijuana legalization book. This time around, I don't think that he included beheading as one of his remedies, but hey, you never know. What he and all of the other unreconstructed Drug Warriors do, and have always done, is simply to ignore the data. Furthermore, as we have seen, the Drug War not only has never achieved any of its objectives but it has produced many harms to individuals and communities around the world.

As we have seen too, these harms are wide and wide-spread. Just to review some of them briefly, there is the horrific number of "Drug-War-"related deaths in Mexico, as well as the many (uncounted) deaths on the streets of our cities due to the illegal drug trade. There are the over-dose deaths caused by unregulated doses of the injectable "illicits" (e.g., Philip Seymour Hoffman and Heath Ledger, just to name two prominent U.S. actors who sadly passed away from this cause) which could be controlled and regulated were the drugs legalized in one way or another. There are the infectious disease deaths due to the use of dirty needles by injecting addicts

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who are prevented from getting access to clean needles by the totally off-the-wall "clean needle prohibitors."

The drug warriors think that somehow the availability of clean needles would increase the number of using addicts. (I guess that they have never tried self-injecting anything.) More importantly, research has shown a) that infectious disease transmission among addicts can be significantly reduced by the use of clean needles [duh!], and b) the availability of clean needles does *not* increase the number of addicts in the regions in which needles are supplied.) And then there are the internecine illicit drug-trade related deaths on the streets of our own country.

A further negative side-effect of the "Drug War" has been the ever-increasing concentration of the main ingredient in marijuana that is responsible for the psychoactive, mood altering effects, delta-9-tetrahydrocannabinol (THC), found in the product as it has been sold. Over the years of the "Drug War," dealers have gradually increased the THC concentrations in their product so that they could sell physically smaller amounts of it, to achieve the same effects found in larger doses of lower-concentration product. This was good for commerce (smuggling and retail), but did increase the potential for negative health effects in any particular user. (The equivalent in alcoholic beverages is of course, product that carries a higher "proof" rating.) And so on, and so forth. Somehow the drug warriors are generally in so much denial about these facts that one wonders if they are not on one RMAD or another themselves.

So why does this happen? The "Drug War" goes on and on but

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cigarette prohibition that was tried in 15 states early in the 20th century lasted for no more than 20 years (depending upon the state) and then disappeared with little apparent conflict. Why when the "Drug War" goes on and on did Prohibition last only 13 years? The answer is a simple one. It is so simple that it is not widely recognized. The "Drug War" goes on and on, and on, in the face of both its ineffectiveness and its harmfulness, because in the United States especially there are a number of very powerful political and economic stakeholders which have major economic and political interests in maintaining it; that is the continuation of the "Drug War" carries considerable benefits for them.

This group includes: the Prison-Industrial Complex; Politics and Politicians; the manufacturers of the major legal RMADs: the tobacco and alcohol industries; the pharmaceutical industry; the gambling industry; the money-laundering financial institutions; and last, but certainly not least, the Drug Cartels. Each of these industries/interests has a major stake in maintaining the "Drug War" just as it is.

There are politicians who from time-to-time like to run on it. Even more they like to use the issue to challenge as "totally weak" any opponent who might have the temerity to raise the issue of say, its failure or its cost, or propose alternatives that, while not even "legalizing," put more emphasis on prevention and treatment of the addictions. William Bennett, cited above, is a prime example of a politician who is still hard at it on this front. (Of course, as it happens the political argument is starting to lose its clout, see the personal-

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use marijuana legalization legislation in Colorado, Washington, and Oregon. But it is still in use. See the 2015 attack on those events by Republican Presidential candidate Gov. Chris Christie of New Jersey.

The tobacco and alcohol industries like the "Drug War" for a variety of reasons, ranging from keeping the focus off the harmful effects of their products to preventing the rise of competitive products. The Prison-Industrial Complex is in part dependent on the imprisonment of non-violent illicit-drug users to maintain the extraordinarily high U.S. incarceration rate which creates such profits for it. For the Gambling industry, both private and government-run (the lotteries), the existence of the "Drug War" helps to divert attention from the fact that both sectors engage in the public promotion of an addictive behavior that affects millions of people. Then there are major international financial institutions that have made significant profits engaging in money-laundering for the Drug Cartels. Finally, if the "Drug War" were to come to an end, the highly profitable Drug Cartels would be put out of business. Indeed, by some very circuitous routes (and as expert smugglers, they know all about circuitous routes), along with the Prison-Industrial Complex, the latter could be the most influential in maintaining the "Drug War."

Before considering any of these interests in any more detail, let us consider what underlies and gives heft to the Prison-Industrial complex. That is of course the current national policy of mass-incarceration.

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B. Mass Incarceration, the Prison-Industrial Complex, and Racism

First, let me say that the three most important sources of information on what has come to be called mass incarceration in the United States are Michelle Alexander's 2012 book The New Jim Crow: Mass Incarceration in the Age of Colorblindness, the study by the National Academy of Sciences published in 2014, and the long-time work and study of my friends at The Sentencing Project, Marc Mauer and his colleagues. Many articles on the various aspects of mass incarceration, racial biased sentencing and incarceration, and the relationship of the "Drug War" to them can be found on their website. (See also, e.g., references 4-7.)

As Princeton University Professor Cornel West puts it, in his Foreword to The New Jim Crow:

> "While the Age of Obama is a time of historic breakthroughs at the level of racial symbols and political surfaces, Michelle Alexander's magisterial work takes us beyond these breakthroughs to the systemic [and, one might add, systematic] breakdown of black and poor communities devastated by mass unemployment, social neglect, economic abandonment, and intense police surveillance. Her subtle analysis shifts our attention from the racial symbol of America's achievement to the actual substance of America's shame: the massive use of state power to incarcerate hundreds of thousands of precious poor, black, male (and increasingly female) young people in the name of a bogus

> "War on Drugs" [and those are Prof. West's caps, I might add]."

Indeed, there is a strong racial bias in the imprisonment for "Drug War"-related crime:

> "About 14 million Whites and 2.6 million African Americans report using an illicit drug; 5 times as many Whites are using drugs as African Americans, yet African Americans are sent to prison for drug offenses at 10 times the rate of Whites; African Americans represent 12% of the total population of drug users, but 38% of those arrested for drug offenses, and 59% of those in state prison for a drug offense; African Americans serve virtually as much time in prison for a non-violent drug offense (58.7 months) as whites do for a violent offense of any kind (61.7 months)."

Or as William Quigley, who teaches law at Loyola University New Orleans, put it, in his column "40 Reasons Our Jails and Prisons Are Full of Black, Brown, and Poor People":

> "What does it say about our society that it uses its jails and prisons as the primary detention facilities for poor and black and brown people who have been racially targeted and incarcerates them with the mentally ill and chemically dependent? The current criminal system has dozens of moving parts, from the legislators who create the laws, to the police who enforce them, to the courts that apply them, to the jails and prisons that house the people caught up in the

> system, to the public and business community who decide whom to hire, to all of us who either do something or turn our heads away. These are our brothers and sisters and cousins and friends of our co-workers. There are lots of proposed solutions. To learn more about the problems and the solutions, go to places like The Sentencing Project, the Vera Institute, or the Center for American Progress. Because it's the right thing to do, and because about 95 percent of the people we send to prison are coming back into our communities."

So "racism," without attributing it to any particular person or persons, is a stakeholder in maintaining the "Drug War." Don't think so? Well, how about this historical fact? 15 (all but one white) Presidential candidates and former Presidents have stated that they have smoked marijuana. Do you think that any one of them was ever arrested for possession and/or use of marijuana (both crimes under current Federal law), much less was sent to prison for same? The same could be said for millions of mainly white, mainly middle- and upper-class folks who smoke in the comfort of their homes.

As noted just above, the United States has the largest number of incarcerated persons in the world[9],[10],[11]. It happens that an increasing proportion of US prisons are run by private companies. (This is another side of private domestic capital desperately looking for profit-centers as so much U.S. manufacturing has been exported abroad, starting with the passage of Bill Clinton's North American "Free-Trade" [otherwise known as the 'free export of capital']

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Agreement in 1993.) The private side helps to create the downward spiral of mass incarceration that is getting to be so vast that in 2015, even certain Republican candidates for the Presidency, were raising concerns about it. Of course it is important to point out, as Slate did in criticizing Carly Fiorina on this point, even emptying the prisons of "drug offenders" would reduce the Federal and state prison population by only about 20%. Nevertheless, that's about 300,000 persons, mostly in state prisons.

Especially in Southern states like Alabama, which have very high incarceration rates, especially of African-Americans (duh!), there is an increasing concern about cost. Nevertheless, major elements of the prison-industrial complex, both public and private, have a stake in maintaining the "drug war," for it does supply a significant number of its inmates. Also it gives "cover" for the high incarceration rates for long periods of time that resulted from the draconian imprisonment-sentencing laws that were passed during the Clinton Administration [9](pp. 56-57). A strong political motivator for supporting those laws which covered a wide variety of offenses was the perceived need to be "tough on the War on Drugs."

As for the national incarceration rate and the private prison sector, Sen. Bernie Sanders of Vermont put it this way:

> "The United States is experiencing a major human tragedy. We have more people in jail than any other country on earth, including Communist China, an authoritarian country four times our size. The U.S. has less than five percent of the world's population, yet we incarcerate about a quarter of its

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prisoners -- some 2.2 million people.

"There are many ways that we must go forward to address this tragedy. One of them is to end the existence of the private for-profit prison industry which now makes millions from the incarceration of Americans. These private prisons interfere with the administration of justice. And they're driving inmate populations skyward by corrupting the political process.

"No one, in my view, should be allowed to profit from putting more people behind bars -- whether they're inmates in jail or immigrants held in detention centers. In fact, I believe that private prisons shouldn't be allowed to exist at all, which is why I've introduced legislation to eliminate them.

"Here's why: *For-profit prisons harm minorities . . . ; For-profit prisons abuse prisoners . . . ; For-profit prisons victimize immigrants . . . ; For-profit prisons profit from abuse and mistreatment . . .; Prison industry money is corrupting the political process . . .; For-profit prisons are influencing prison policy . . .; and immigration policy . . .; For-profit companies exploit prison families . . .; Young people are being mistreated and exploited . . .*

"We must put an end to this shameful industry."

The private prison sector is of course in mass incarceration for the money. The private prison system has also become a major

political lobbying force, rivaling Big Oil, Big Pharma, and the Gun Industry. It actually uses the "Drug War" to maintain/increase its prisoner population. As Hinkes-Jones says[16]:

> "Particularly with respect to drug and immigration law, private prison companies lobby on behalf of bills and donate to campaigns that support stricter sentencing guidelines and building more prisons. These companies also fund efforts with pro-corporate, quasi-lobbying groups like the American Legislative Exchange Council (ALEC) to draft legislation that would result in locking up more people for minor offenses and misdemeanors."

(ALEC, the American Legislative Exchange Council, is a major organization that works strictly on behalf of Republicans and Republican policies. It is responsible for carefully planning for the 2010 state legislative elections to gain Republican majorities in as many states as possible, so as to control the Constitutionally-mandated re-districting process in those states. This successful strategy has led to massive gerrymandering of legislative-district lines, suppressing the electoral impact of Democratic voters, particular in minority areas. Combined with other measures of voter suppression such as unfunded voter photo-ID requirements, these measures have significantly favored Republicans. One does have to wonder how the interests in dealing with the mass incarceration problem on the part of certain Republican candidates and legislators, if only to deal with cost issues, will be responded to by ALEC, on behalf of its private prison-industry contributors.)

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One of the two major private prison chains, the Corrections Corporation of America, has actually said, in its 2014 Annual Report[24]:

> "The demand for our facilities and services could be adversely affected by the relaxation of enforcement efforts, leniency in conviction or parole standards and sentencing practices or through the decriminalization of certain activities that are currently proscribed by our criminal laws. For instance, any changes with respect to drugs and controlled substances or illegal immigration could affect the number of persons arrested, convicted, and sentenced, thereby potentially reducing demand for correctional facilities to house them. … Legislation has been proposed in numerous jurisdictions that could lower minimum sentences for some non-violent crimes and make more inmates eligible for early release based on good behavior."

At least they are honest. And it is fascinating that in a filing with the Securities and Exchange Commission of their *2005* Annual Report, the CCA used almost exactly the same language in describing where their business --- and their profits --- come from[9](p. 231). Make of that what you will.

Of course, the public prison system is also affected by mass incarceration. There are conflicting interests at work there. The states are under increasing financial pressure for a variety of reasons, and numbers of them would like to reduce the number of prisons and

their prison populations. But both the prison workers and the often rural communities near which many prisons are located would be negatively affected by drug legalization or even the interim measure of decriminalization of possession and use. Local communities can lobby their own representatives at the state and Federal levels, and may well do so, quietly for now. But among the groups of potentially affected prison employees, prison guards have not been silent. In 2010, when a marijuana-legalization initiative was on the ballot in California, the prison guards union contributed $10,000.00 to the (successful) campaign to defeat it.

But finally, it has been the highly punitive "drug-offense" laws that imposed such egregiously long prison-terms, even for non-violent offenders that were first introduced as part of the "Rockefeller Drug Laws" of the 1970s[9], p. 42. Since in many cases the sentences were longer than those of common criminals, the "drug-offense" prisoners supplied a number of prison days way out of proportion to their actual numbers, thus over the years contributing to the ever-increasing crowding of the U.S. prisons, again out of proportion to their actual numbers.

New York's Gov. Nelson Rockefeller had seen that the laws that bear his name were enacted for two reasons. On the political side, the marked liberal Republican who had been mauled at the GOPS's "Goldwater Convention" of 1964 was trying to establish his right-wing, "tough-on-crime" credentials in preparation for another run at the White House. (It never worked.) Second was the odd concepts that providing for long prison terms at the end of a legal

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process of which most poor folk would be only vaguely aware would somehow lower demand, and that addictive behavior could somehow be controlled by the threat of long prison sentences. That didn't work either.

A form of the "Rockefeller Drug Laws were introduced, at the Federal level, under Bill Clinton in the 1990s as part of his re-energizing of the "War on Drugs" (which received strong political support from such other Democrats as Sen. Joe Biden). This action of course significantly helped accelerate the incarceration rate for young men of color. Despite pretensions to being a champion of African-Americans and in some African-American quarters having been given the title of the "First Black President," the Bill Clinton legacy is actually one that penalized them in substantive ways, as in his trade policies and as in the related acceleration of the decline of the U.S. trade union movement as a result of them Clinton may be subjectively an anti-racist, but his policies, rooted in class distinctions, like most US politicians favoring the wealthy at the expense of the poor, penalized the underclass, where Blacks constitute a prominent sector.

As the co-editors of the National Academy Report[10] have said:

> "Mass incarceration grew out of harsh sentencing for drug offenses, mandatory minimum sentences that required imprisonment for less serious crimes, and very long sentences, especially for violence. This may be the 'popular' narrative, but it is also the consensus of the National

Academy of Sciences report on incarceration that systematically reviewed all the scholarly research.

"To minimize . . . . the effects of the war on drugs [on mass incarceration] flies in the face of the evidence. Over the last four decades, incarceration rates for drug offenses increased tenfold, compared with a fourfold increase for all other crimes. . .

"Similarly, it is deeply misleading to [not] acknowledge that stricter penal laws provided . . . . new leverage to [prosecutors to] negotiate more punitive outcomes.

"To reduce the country's needlessly high incarceration rates, we must recognize the crucial role of our policy choices to launch a war on drugs, to enact mandatory minimums and to embrace very long prison sentences that are largely unknown outside the United States."

C. Politicians and the "Drug War"

Of course, politicians of all stripes have been riding the "Drug War" train since Richard Nixon sent it hurtling down the track in 1970. At a drug policy conference that I attended in Washington in the early 1990s, then-Senator Joe Biden, then chair of the Senate Judiciary Committee, was the featured speaker. (Among other things he did in that capacity was presiding over the tragi-comical hearings [some of which I heard live] that confirmed one of the least-qualified nominees ever to hold a seat on the Supreme Court, "Silent Cal" [oh sorry, that was President Calvin Coolidge's moniker, but the similarity is striking] Clarence Thomas). Sen. Biden was determined to be

outdone by no one in his support for the "Drug War," and for the sentencing-disparity for possession-use of powdered cocaine (at the time preferred by white users) vs. that for crack cocaine (at that time preferred by African-American users).

(The much heavier sentences for the latter were put forward as a deterrent to use. This was considered seriously, as if any addicted or even habituated person, just as they were about to take a blow or a smoke, as we have said previously, is going to stop to consider what might happen to them if they were caught. It happens that crack has much more serious, much more immediate, deleterious effects that does snorted cocaine. As pointed out in the previous chapter, the black community caught on very quickly and *self-policed* the subsequent sharp decline in the use of crack.)

It happens that at that same conference I had the opportunity to have a private chat with then-Senator Jay Rockefeller of West Virginia. I put forward my idea on the Public Health Approach to the Drug Problem (see chap. 5) to him. He listened carefully and allowed that it was a really good idea. But, he told me, it would not stand a chance in you-know-what politically and that he himself would certainly not try to take it any further. The implication was that if you did such a thing you would very quickly end up very dead politically.

As we have seen, for much of the life of the "Drug War" and its precursors, there has been the political class for whom the "Drug War" and its continuation is a very useful tool, both for its own sake and as a weapon to use against any opposition politician who might have the temerity to suggest changing the laws. However, the power

of the weapon against a political opponent is diminishing to a certain extent. As is well-known, in 2012 Colorado (and Washington State) legalized the possession and use of small amounts of marijuana.

At the same time, the Obama Administration said that it would not use Federal law to try to interfere with the new statutes in the two states. But legalization, even of possession only, is a magnet for politicos looking for an issue. In the spring of 2015, both Oklahoma and Nebraska (which both have Republican governments) took Colorado directly to the Supreme Court, claiming that legalization there did "irreparable" harm to their states. They were asking the Court to declare the Colorado law unconstitutional. (At the time of writing of this book, fall, 2015, the Supreme Court had not yet decided whether or not to take up the case.)

Then, as if on cue, in the Republican Presidential debate on CNN on September 16, 2015, as noted above, New Jersey Gov. Chris Christie took President Obama personally to task for deciding to do nothing about the Colorado law's conflict with Federal law. (Presumably the President's decision was taken in close consultation with the Justice Department. But according to Christie, it was all the "weak-on-the-'War-on-Drugs'-Obama," of course.) The Gov. stated clearly that on his first day in office as President (well, maybe his second), he would enforce on the states the Federal statutes concerning marijuana sale, possession, and use. (Ah yes. There's Republican doctrine on "states' rights" --- but only when it fits with their politics --- rearing its head again.)

Yes, the "Drug War" still has that old-time political attraction,

just like old-time religion does in states like Iowa, especially if you are a Republican. Indeed, "'Drug-War' baiting" stands second only to the old reliable "red-baiting" in modern Republican political parlance. In the "politicians and the 'Drug War' " context, it can also be noted that then state Senator Marco Rubio of Florida was one of the largest beneficiaries of the private prison system's largesse[23]. Where do you think he might stand on maintaining the "Drug War," especially given the most honest and open statement by the Corrections Corporation of America quoted above?

As for the facts about the "Drug War's" complete failure to accomplish any of its goals in terms of drug use, well, if you are a politician riding this wagon, just fuhgeddaboudit. Facts!?!? Really!! We can mention once again, that the Republican Party has never left behind the remnants of the Temperance Movement, which was one of its founding elements in the 1850s. It was that element that eventually led the Party to sponsor the Prohibition Amendment and who knows? Maybe it was in the back of someone's mind when Pres. Nixon came up with the idea of the "Drug War."

To close this section, it should be noted once again that the political use-of/response-to the "Drug War" and being "hard on drugs" is a bi-partisan malady. Let us be reminded that in the mid-1990s it was President Clinton who supported the draconian sentencing legislation that has led to the U.S. mass incarceration. The drive to do this and not seem "soft on drugs" was certainly an important element in creating this policy. (It is fascinating to note that in 2015, his wife, running for President, was trying to distance

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herself from it.) But the bottom line is that was this initiative, signed by a Democratic President, that made the "Drug War" even worse in terms of its outcomes than its original, created by a Republican one[9](pp. 56-57).

D. The Tobacco and Alcohol Industries and the "Drug War"

Two of the most interested parties in the maintenance of the "Drug War" are the tobacco products and alcoholic beverage industries. First of all, the very existence of the "Drug War" and its targets in [most of] the public's minds makes the RMADs that are in tobacco products and alcoholic beverages "not drugs." Certainly, no Drug Warrior ever, ever, ever mentions that they are. (It happens that virtually none of the conventional, "lets legalize marijuana" drug policy reformers do either.) But of course their principal components are RMADs, just like marijuana, heroin and cocaine (see chap. 2). Nicotine is a highly addictive drug. As is well known, the regular use of it and the many toxic chemicals found in tobacco products make the latter's use one of the leading causes of ill-health and disease in society. Alcohol is, of course, addictive too, although not so much as is nicotine. But the tragic outcomes for both intermittent and habitual over-users and others in their paths are well-known.

As we have said before and will say again, it happens that the now 50-plus year campaign (not "War") against cigarette smoking and other uses of tobacco has been one of the most successful non-infectious disease public health programs in our nation's history (or any nation's) for that matter. It actually provides one of the models for the overall Public Health Approach to the Drug Problem (see

chap. 5). (One can also cite the success of the tax-and-limited-access-based anti-alcohol consumption campaign that held sway in Great Britain from the immediate post-World War One period until it was destroyed by Margaret Thatcher in the 1980s [see the previous chapter].) Indeed one wonders why the success of this U.S. anti-smoking campaign has not been trumpeted around our nation and around the world as well, for years. Well, one reason has to be that doing so would give the lie to the central element of the program of the "Drug War:" that criminalization of possession and use of certain RMADs and the long-term imprisonment of persons caught in the "Drug War" drag-net is not only necessary but is absolutely the only way to control the use of the targeted substances.

Indeed too the U.S. tobacco industry has shrunk considerably because of this campaign. That is one reason why, for example, the U.S. tobacco industry has for the past several decades focused so much on exporting its product. After all, it ranks only 15th in the world in the value of tobacco products exported. In the past, it has been known to ask for government help in overcoming the resistance of certain countries to accepting to-be-imported cigarettes. In 2015, it was getting assistance from the U.S. Chamber of Commerce in fighting the efforts of other countries to increase public education programs and protective regulations against cigarette smoking. For example, it currently fights hard against regulations for allowed messages and advertising on cigarette packages.

It does not want to get to where, for example, Germany is. On its cigarette packs is the mandated message, "Rauchen kann

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toedlich sein" (in conversational English translation, "Smoking can kill you" [literally "smoking can make you dead"]). There is also a mandated public health message on each German pack that if you want to live a longer life, give up smoking, and there's an 0800 number to call, plus a website that you can contact. The U.S. tobacco industry certainly does not want to see either message on its packages. Interestingly enough, the major pharmacy/modern general store chain, CVS, which had recently decided to stop selling cigarettes and develop its own in-house anti-smoking program, decided to quit the Chamber over this issue[37]. The permitted modes of tobacco *advertising* have been limited in the United States since the early 1970s, when it was banned on television. (As far as advertising for marijuana in the states in which personal use has been legalized, it is likely to be limited. The tobacco industry is likely concerned that if such total bans pass legal muster, attempts might be made to extend them to tobacco products.)

Alcoholic beverages are in a different category. First of all, while smoking puts every smoker at a significantly increased risk of getting a wide variety of diseases, drinking alcoholic beverages doesn't do that. Of course, anyone who takes a drink stands the chance of becoming a problem drinker (not dependent, but can easily get into trouble of one kind or another when drinking) or an alcoholic (addicted to ethyl alcohol), most people who use alcohol beverages (including this author) don't fall into either category. This is one major reason why the alcoholic beverage industry has never come close to being subject to the limitations that the tobacco industry has.

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Not only are there few limitations on alcoholic beverage advertising, but in the past few years the industry has been able to go the other way --- advertising for spirits, long banned from television, has made a very prominent comeback. And the alcohol industry needs advertising to sell its products. Currently, the industry is spending about $2 billion per year on advertising. If they didn't think they needed to, do you think that they would be spending so much money on it? Of course the required message at the end of any alcoholic beverage ad, about "knowing when to say when to say when," is ludicrous. One of the direct effects of the over-consumption of alcohol is that one loses the ability to make rational judgments about just about anything.

Concerning pro-drug use advertising by the licits and its importance, recall that because beer is "big" its consumption virtually disappeared during Prohibition. (It is interesting to note that there are no "big" [in physical size] drugs among the currently illicit ones. That's one reason why stopping it has proved to be virtually impossible.) But, after Prohibition's end, it took the beer industry about 30 years of heavy advertising to get consumption back to where it had been before Prohibition,. Again, legalization of the illicits, with possible restrictions or prohibitions on advertising, which could conceivably lead to restrictions on alcoholic beverage advertising, could give the alcoholic beverage industry a hangover. To say nothing of the industries that are so heavily dependent on the television advertising revenues from the alcoholic beverage industry, like college and professional sports.

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In terms of having a stake in maintaining the "Drug War," legalized marijuana in particular could become a very strong competitor for alcoholic beverages. In most users it gives a very pleasant sensation of calmness and relaxation. Although there are certainly episodes of "drugged driving" with negative outcomes, their incidence is tiny compared to that of drunk driving. Habitual use of marijuana can, relatively rarely, produce some nasty pathology, but the dangers of marijuana use seem to have been overdrawn, especially compared with those of tobacco products and alcoholic beverages.

Of course, in considering the "Drug War," it matters not what the negative effects of marijuana or any other of the currently "illicits" are. Any argument for continuing the "Drug War" on those grounds should be met, not by "marijuana isn't so bad," but rather with "oh really? Well that's a perfect argument for reinstituting Prohibition and adding imprisonment for possession and use of alcoholic beverages to the list of its stated felony offences. And let's throw in locking up cigarette smokers." Indeed, the percentage of marijuana users who get into trouble with alcohol is much smaller than the percentage who get into trouble from it. The highs, I am told are different.

(I cannot speak from experience for either drug. Although I do drink an alcoholic beverage on occasion, with meals, I have never in my life been drunk. Ethyl alcohol is of course in the end, a central nervous system depressant. Most people go through an excitement stage first and then go on to the depressant stage. Although I have experienced a mild, most pleasant "buzz" from alcohol consumption

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on numerous occasions, I am so near the front end of the bell curve for response to alcohol that I would go to sleep before I could get enough of the drug on board to get drunk. As for marijuana, well before Bill Clinton had the experience, way back in the 1970s I took one puff, but did not inhale.)

In any case, broadly legalized marijuana *could* become a competitor to alcohol, one reason why that industry has an interest in keeping the "Drug War" going. (Whether they, or the tobacco industry for that matter, does anything to further that interest, I have no idea.) On the other hand, none of the illicit drugs are use-competitors for tobacco products. In fact it has been rumored for years that one or more of the major tobacco companies have trade-marked product names to use should marijuana be fully legalized and sold in commercial outlets. Nevertheless, both the tobacco product and alcoholic beverage industries have concerns about with the possibility of legalization, with the possible further regulation on promotion and sales spilling over (if one might use that term) to their products.

E. <u>The Pharmaceutical Industry</u>

The pharmaceutical industry has several reasons for wanting the "Drug War" to continue. First, it takes the attention off a number of the medications that it produces on a regular basis that have the same kinds of negative effects, or worse, than any of the illicits do. Back when Nixon was getting the "Drug War" underway there was an interest in certain quarters in getting the barbiturates and the amphetamines included on the list of targeted substances. There was

no scientific reason for not doing so. It happens that a medical school classmate of mine (who shall here remain nameless), at the time working for the Federal government with direct access to those in the Nixon Administration who were getting the "Drug War" underway, in cooperation with the pharmaceutical industry made sure that those substances were not included.

Second, the "Drug War" takes some attention away from the fact that current, legal, narcotic drugs such as Vicodin and OxyContin are producing as much medical harm than does the chemically similar drug heroin. Third, and perhaps most important, is the pharmaceutical industry's central role in maintaining and indeed expanding the "Drug Culture" in the United States (see chap. 2). If the illicits were to be decriminalized/legalized and Public Health Approach to the Drug Problem were to be developed and implemented (see chapter five), the Drug Culture and doing something about it would be in the sights of that program. That's another no-no for the Pharmaceutical industry.

F. The Gambling Industry

The gambling industry might have some concerns were the "Drug War" to be brought to an end. As noted, gambling addiction is a national problem that gains little attention. It is estimated that some millions of people are affected by it. A little-studied problem from the epidemiological perspective, were the illicit drugs to become licit in one way or another and attention to the addiction to them could become part of the regular medical system, more attention might come to be focused on gambling addiction. That

might create some real problems for the gambling industry.

Gambling is widely promoted. For example, just listen to the ads for various casinos in various states. One 2015 candidate for the Republican nomination for President made a significant chunk of his personal fortune (estimated to be between $3 and $10 billion) from building or financing casinos and inducing people to go to them. As of this writing, he had not announced his position on the "Drug War." If one does not have ready access to a near-by casino in the states that sanction them, especially through the use of arcane treaties with Native American tribes, or Las Vegas, NV (the gambling capitol of the country) one can easily engage in gambling over the web. Increasingly popular on-line gaming such as "Fantasy Football", with such "leagues" as "Fanduel" and "Draftkings," is now under attack by several states Attorneys General as an illegal form of on-line gambling. The companies of course claim that their competitions are not gambling. But others think otherwise. The widely respected sports commentator, Mike Francesca, of radio station WFAN in New York City, has stated that there is clearly an element of gambling in entering them. Cases such as these obviously take a number of years to wend their way through the courts.

It is seldom if ever noted that 37 states and the District of Columbia now raise significant chunks of revenue from lotteries. So while the states (and the Federal government) are punishing certain persons for engaging in one kind of addiction (or even just causal, non-addicted, use) of certain of the RMADs, the states are strongly encouraging an activity --- "Hey, You Never Know" is the slogan in my state, New York --- that can lead to compulsive/addictive behavior

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that can be extraordinarily damaging to the gambler, to members of his/her family, and friends and business associates.

As the National Gambling Impact Study Commission (see this source for a comprehensive study of gambling) says about state lotteries[48]:

> "[W]hatever the impact on revenue and illegal gambling may be, the benefits of the lottery are more than offset by its expanding the number of people who are drawn into gambling. Worse, lotteries are alleged to promote addictive gambling behavior, are characterized as a major regressive tax on lower-income groups, and are said to lead to other abuses. Even more troubling, however, is the general criticism that the state faces an inherent conflict in its desire to increase revenues and its duty to protect the public welfare."

At end of most gambling promotionals there is a "if you or a family member or friend has a 'gambling problem,' please call . . ." message. These are likely to be just about as effective as the "know when to say when" messages at the end of alcoholic beverage commercials.

G. The Money-Laundering Banks

Then there are the money-laundering banks around the world. In December, 2012, the United States Justice Department reached an agreement with one of the largest international banks, HSBC, to settle on charges of money-laundering for one or more drug cartels.

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HSBC paid a substantial fine (close to $2 billion), but there were to be no criminal prosecutions. The Drug Cartels will, of course, continue to need to have their money laundered. It is a business that can be very profitable for the "laundry shops," as a US Senate investigation of HSBC showed [4]9. There is no reason to believe that one or more international banks or other financial institutions have not continued in the business. They are very likely just being very much more careful about how they go about it. Should the illicit drug trade become a legal drug trade, that source of profit for those banks engaging in money laundering would just disappear.

H. The Drug Cartels

Which brings us to the powerful Drug Cartels, politically well-connected in certain countries. As is well-known, the drug cartels cartel is enormously successful and profitable which, were it not for the "Drug War," it would not be. Jared Greenhouse has explained one of the many negative unintended consequences of the "Drug War:"

"As the United States government and vigilante groups continue to fight Mexican drug cartels with little direction, experts say there are unintentional consequences from the current war on drugs. Sanho Tree, the director of the Drug Policy Project at the Institute for Policy Studies, explained to HuffPost Live's Marc Lamont Hill on Tuesday that the U.S. government's drug war has been 'an exercise in futility.' The prohibition of these drugs, Tree said, has only increased their value. Things like cocaine, heroin, marijuana -- these are minimally-

processed agricultural commodities,' Tree said. 'They're very easy to produce, these drugs. They're very cheap to produce. There's no reason they should be worth this kind of money that people are willing to kill, and torture and massacre over.' Tree also explained that vigilante militia groups , comprised of volunteers, that are intent on sealing the U.S.-Mexican border by any means necessary are actually helping cartels with 'price support.' Meaning that when these groups increase the risk involved for the drug trafficker, be it from American agencies or independent militias, they inadvertently raise the cost of transporting drugs. The Catch-22 of the drug war [is that] the more you escalate it, the more valuable these drugs tend to become,' Tree said."

The recently re-re-captured Mexican "Drug Baron," Joaquin "El Chapo" [Shorty] Guzman, the subject of a lengthy article in Rolling Stone by the actor Sean Penn, , was thought to be worth about $1 billion. He boasted of having a drug-smuggling vehicular fleet that included submarines (! World-war II surplus, nuclear powered, or more like the ones that were operated by both sides in the First U.S. Civil War. One does not yet know.) Guzman, born poor, likely would still be, or perhaps with his intelligence he might have become a successful legal businessman of some sort, had it not been for the "Drug War." Much more importantly, had it not been for the "Drug War" up to several hundred thousand people throughout Latin America, now dead, would be alive.

The cartels (and not just the ones in Mexico) obviously have an interest in maintaining their very profitable enterprise that would go *poof* should the "Drug War" come to an end. Indeed, they may

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be the most powerful stakeholder in maintaining the "Drug War." While there is no indication that I could find that they play any role in maintaining it (and any investigative journalist who started poking around in that mare's nest would certainly be putting his/her life at risk), there is also no reason to think that they don't.

As noted, the plant bases for the three major "illicits" are easy and cheap to grow. Marijuana is not called "weed" for nothing, for the plant from which it is harvested, cannabis, is indeed a weed, although obviously it can be cultivated as well. But virtually anyone can grow their own, and the (relatively) mass producers in Colorado and Washington are showing just how easy it is to grow the stuff when they don't have to worry about getting arrested for doing so. Of course, illegal growers having been doing it in bulk in the United States for a long time, but have always run the risk of getting caught, which numbers of them did and do on a regular basis.

Cocaine, a stimulant, comes from the coca plant, commonly grown in the Andes Mountains of South America. There for millennia it has been used by the indigenous peoples as a mild stimulant, in part to increase alertness in helping them to deal with the effects of high altitude. It can be cultivated, but it grows in the wild as well. Again, it is cheap to cultivate and harvest. The opium plant needs to be cultivated but the farmers of Afghanistan, and farmers in many other countries before them, have shown that that is fairly easy and not too expensive to do.

In summary, were the currently illicits and the trade in them to

be legalized, the cartels would be immediately put out of business (as were the bootleggers at the end of Prohibition). So, whether they are active or not in doing so, the cartels are one of the several stakeholders in the maintenance of the "War on Drugs."

I. In Conclusion

It is hard to know, indeed impossible to know, if any of the speculations that I have put forward in this chapter hold water. But there is a certain logic to it, in each and every case. Someday, maybe one or more very brave investigative reporter(s) will look into this witches' cauldron.

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Chap. 5: The Public Health Approach to the Drug Problem

A. Introduction

In 2010, the Associated Press published an article headlined "US War on Drugs Has Met None of Its Goals: AP Impact". Tony Newman, then director of media relations at the Drug Policy Alliance, commented on the report:

> "It is time for an exit strategy from this failed War on Drugs. Let's make sure that it doesn't take another 40 years, millions more lives ruined, and billions of wasted tax dollars before we accept the obvious solution -- ending prohibition. It's up to us - as people who care about science, compassion, health, and human rights -- to make sure that the time comes as soon as possible."

Well, that was in 2010. Throughout the text we have quoted similar statements. With a few notable exceptions here and there, for both explicable (self-interest) and in-explicable (other than simply having completely closed minds) neither the data presented in such statements nor the conclusions reached by their makers ever seem to make it into the thought-processes of the Drug Warriors. These sorts of statements are not recent appearances on the drug policy scene. In fact many people (see the Bibliography, Appendix II), including myself (see Appendix III, my drug policy publication list), have been making similar statements for years. The list of books and articles on the subject is very long (see also chapter three). And here we are 6 years after the evaluation offered above and nothing much, other than a slight easing of the "Drug War" reins by the Obama White House and Department of Justice, has happened. However, we do have the hope that at the 2016 UN General Assembly Special Session (UNGASS) on

Drugs (see chapter six) some real progress may be made.

Nevertheless, it may not be possible to end the "Drug War" in the foreseeable future. In fact, some time back I wrote a book chapter entitled "Why the 'Drug War' Will Never End". The responsibility for that state of affairs, I said at the time, lay primarily with the Stakeholders (see chap. 4). But also, I felt, part of it lay with the drug policy reform movement (DPRM) itself. It was their primary policy and program foci that originally led me to develop the Public Health Approach to the Drug Problem back in the early 1990s (see the Note at the end of this chapter) as an alternative to the DPRM's primary focus on "legalization," primarily of marijuana.

First of all, as noted several times, the drug policy reform movement accepts the binary description of the "drug problem" that lies at the foundation of the "Drug War:" the "good" (or at least "OK") drugs are over here and the "bad" (or "not-OK") drugs are over there. Second of all, while it may recognize that there really is a drug-use problem in the United States that needs to be dealt with in order to improve the health of our population overall, it does not give much emphasis to it. In terms of the public's health, it talks only about "harm reduction" for the currently illicit drugs. Third, for the most part therefore it does not see the overall drug-use problem, which of course begins with the consumption of tobacco products and alcoholic beverages by children and teenagers and the negative outcomes thereof, as anything that it needs to or should focus on.

Fourth, because of its major concern with marijuana legalization, it does not want to concern itself with the "gateway drug" issue. As we have seen (chap. 2), while for certain users marijuana is indeed a "gateway" to the use of the "harder" drugs, such as cocaine and heroin (and perhaps OxyContin and Vicodin), the much more important gateway drugs, leading to the use of marijuana itself, are found in tobacco products and alcohol beverages, as used by children. But the DPRM ignores them. Fifth, since the drug policy reform movement refuses to deal with tobacco and alcohol use, it cannot avail itself of a very simple argument in debates with the drug

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warriors who say "but marijuana [and etc.] are 'bad,' and the only way to deal with them is through criminalization." And then the reformers go on the defensive: "well, not SO bad." But if one takes the unitary rather than the binary view of the drug problem, one can easily retort, "Well, if that's true, we should immediately re-institute illegalization for the very harmful tobacco products and alcoholic beverages. Further, in contrast with the original Prohibition principle, we should criminalize possession and use in addition to criminalizing the trade."

However, 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:

a) Demonstrate that from the scientific, medical, and epidemiological points of view, the true drug problem is a singular edifice, not one that has two wings.

b) Separate from one another the description and analysis of: the *health* effects of RMAD use, the *crime* effects of RMAD use, and the crime effects of the *commerce in the RMADs*.

c) Examine the major causes of the true RMAD-use problems and of the RMAD-use related crime problems.

d) Analyze the real and apparent goals of the several major approaches to RMAD- use and abuse reduction and discuss what works and what doesn't work in those arenas.

And so, as a public health physician, many years ago this kind of reasoning led me to develop what I called the Public Health Approach to the Drug Problem. First, it recognizes that there is a national RMAD-use problem and that it is a unity, not a duality. Second, the PHA recognizes that the use of any RMAD --- even caffeine in high enough doses --- can be

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harmful to at least some of the users. In the case especially of tobacco products and alcoholic beverages use can be significantly harmful to others beside the user, e.g. the negative health effects of second-hand smoke and the involvement of alcoholic beverages in domestic violence, gun murders, and traffic accidents.

Third, it recognizes that RMAD-use will never be eliminated from human society, nor should it be. Nancy Reagan's "Just Say No" goal is not only unachievable in practice. In terms of the lengthy historical relationship between humans and the RMADs it is also idiotic. Fourth, it recognizes that many of the RMADs (other than tobacco products and perhaps one or two others) can be used safely and that any program designed to deal with the drug problem should be based on the principle of "safe use, when and where possible."

As the Federal National Commission on Marihuana and Drug Abuse put it in *1973* [emphasis added]:

> "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."

As previously noted, John Mitchell, President Nixon's Attorney General at the time, quickly pushed this Report under the rug and would not permit it to be published at the time. It would have been very inconvenient to have its conclusions broadly recognized and accepted just at the time Nixon's "Drug War," was fully getting underway. After all, it was based first and foremost on the notions that the use of certain RMADs a) was uncategorically evil, b) could be completely eliminated, and c) that elimination could be accomplished by the use of the criminal law.

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For an understanding of the severe limitations in the use of the criminal law to deal with RMAD-use, we can go back to 1936. At that time, following Repeal, the original "Reefer Madness" campaign was being initiated by William Randolph Hearst (who had gone from Prohibitionist to anti-Prohibitionist and then back to Prohibitionist, for other RMADs), the DuPont Company (which wanted to prevent the continued importation and domestic production of cheap hemp fabric products that could compete with their expensive new artificial one, nylon, that had some similar uses, as in rope), and the first Commissioner of the Federal Bureau of Narcotics, Harry Anslinger (as noted in chapter 3, a veteran and ardent champion of Prohibition). At that time, one August Vollmer, a former police chief and a past president of the International Association of Chiefs of Police had this to say on the matter of the RMADs and the criminal law:

> "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."

Certainly Chief Vollmer would have had no idea what would be coming when President Nixon began the "Drug War" and Presidents Reagan and G.H.W. Bush expanded it. Of course, his statement is as on point now as it was when he proffered it in the year I was born.

B. The U.S. Smoking Cessation Campaign and the Public Health Approach to the Drug Problem

The Public Health Approach to the Drug Problem begins with the recognition that we have right in front of us one of the most successful public health programs for dealing with other-than-infectious disease in U.S. history: the National Smoking Cessation Program. It has been underway at

the national, state, and local governmental levels, as well as through voluntary societies such as the American Heart and American Lung Associations, since the original publication of the Surgeon General's Report on Smoking and Health in 1964. Under it, the proportion of adults smoking cigarettes has been reduced from about 45% then to about 18% in 2014.

While in most drug users, use itself is not a disease, in every drug user use *increases the risk*, to a greater or lesser extent, of contracting one or more diseases or conditions damaging to one's health and of negatively impacting the health of others. However, tobacco is the one drug that, when used as intended, is harmful to *most* users (by significantly increasing organic disease risk), as well as to those in the user's vicinity,. Indeed, the recent estimate of *42,000 deaths due to second-hand smoke* far outweighs the number of deaths caused by the *use* of all of the illicits. The harm from cigarettes to the user and others is caused both by the contents of the smoke and the organic effects of nicotine, and occasionally by cigarette-caused fires. In contrast with ethyl alcohol, the harmful effects are not caused by the effect of the drug nicotine on the *behavior* of the user.

For the first 35 years or so of its existence the National Smoking Cessation Campaign was conducted in the face of the active opposition of the tobacco industry. It used the same techniques, and indeed certain of the same public relations companies, that the oil and coal industries are presently using in their campaign to cast doubt on the science of anthropogenic global warming and climate change. Through the efforts of many, in the industry, in related industries with an internet in maintaining the fiction, like advertising, and in politics, the Campaign persisted.

However, by the late 1990s the tobacco industry was eventually forced to admit, through the law-suit-generated discovery of internal memoranda, that it had known of the relationship between cigarette smoking and disease as far back as the 1950s (!). (As previously mentioned, German scientists were aware of the relationship between smoking and ill-health in the 1930s. One of the few beneficial programs that that the German Nazi Government undertook was to institute a national anti-smoking campaign,

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covering everyone except the members of the armed services.) Interestingly enough, it has recently come to light that Exxon (if not other major oil companies as well) knew about the global warming/climate change effects of the continued use of fossil fuels as far back as 1977.

The central elements of the U.S. National Smoking Cessation Campaign have been: the use taxation to increase prices, limitation of areas for smoking, anti-smoking advertising, therapeutic interventions to help people quit, limitations on sale to minors, and other childhood and adult smoking prevention programs. The Public Health Approach to the Drug Problem includes these elements as well as others.

The overarching goal of the PHA is to create a rational RMAD policy. It would aim to promote only the *safe* use of all the recreational mood-altering drugs in order to provide for their otherwise pleasurable use, consistent with millennia-old human experience, while minimizing their harmful effects on individuals, the family, and society as a whole. The criminal law would continue to be used, *primarily for the penalization of criminal behaviors that result from the use of an RMAD*, for example drunk or drugged driving, and the use of a firearm while intoxicated. It would also be used to enforce laws against the sale to minors, against the illegal commerce in otherwise legal RMADs (for example the non-prescription sale of those RMADs that can be made available only by prescription), and for the collection of RMAD-sales taxes, as needed.

The PHA would continue to work towards the reduction of the use of the RMADs that cannot be used safely by anyone: tobacco products and others as they may be identified by research carried out in the context of non-criminalization. It has been stated by many authorities for many years (see the examples above and once again, in the Bibliography), going back to the beginning of the "Drug War" and earlier, "an [illegal] Drug-Free America" is a goal that is neither reachable nor rational. The primary reasons for this are the high background level of RMAD use in human societies, and especially in the U.S. the existence of the Drug Culture, and its sub-set, the acceptance

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and heavy promotion of the use of the two major currently legal mood-altering recreational drugs. BUT, it is hoped that the development and promotion of the Public Health Approach to the Drug Problem will be able to help to open one or more *political* doors that will make it possible for our nation to rise up out of the "Drug War" quagmire in which we have been trapped for so many decades, so that we may rationally deal with the whole of the RMAD-use-related problems.

C. Introduction to the Public Health Approach

From the perspective of the Public Health Approach, the "drug problem" is viewed as one of health and health harms, not of morality or crime. Once again, it is important to understand that the only certain negative of recreational RMAD use, even of cigarettes, is *an increase in the risk*, not the certainty, of harmful behavioral outcomes. In all of these instances the harm varies in degree and kind from person to person and even within the same person from time to time. Some years ago, Dr. Norman Zinberg described the relevant variables as those of "Drug, Set, and Setting" . In some cases, the harm is the result of the action of the drug on the body; in some cases, it is the result of the action of the drug on the mind, leading to negative behaviors.

As is well known, drug use harms range from lung cancer to cirrhosis of the liver to chronic RMAD dependency, to loss of job and destruction of family life, to sudden death in a motor vehicle accident, to sudden death by gun-fire in which episode alcohol is present in the blood-stream of the shooter or the victim or both. And those harms arise from drugs in all three RMAD categories described in chapter 2, without regard to their currently legal status. An increasing number of observers, including some on the political Right, are calling for an end to or at least a modification of the "Drug War" [presenting the opinion of George Will (!)],). They find themselves in a tradition that goes back many years , , . (As noted, "the 'Drug War' is a failure" analyses can be found in the mainstream press going back at least to. The 90s.)

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The PHA does not see the drug and drug-trade related crime problems as one and the same. Although they are of course interrelated, they have different solutions. The PHA necessarily invokes state power to solve problems of the public's health, as is done in managing a wide variety of health-related issues, from pure water supply to air pollution control to mandatory childhood vaccination for school attendance. But unlike as in the "Drug War," in the PHA, in these instances the law --- and most commonly the civil law rather than the criminal law --- is used in ways known to be efficacious and cost-effective. On the issue of the morality of substance use/abuse, there is, of course, no societal consensus. For the PHA, therefore, dealing with the RMAD problem as in any way a moral one, is considered inappropriate and counterproductive.

In recommending the development of a "Public Health Response to the War on Drugs," in 1989, the American Public Health Association published the following statement.

> "Alcohol, tobacco, and other drug problems represent one of the most pressing public health issues in the United States today. Despite numerous assaults on these problems, including the current 'War on Drugs,' they remain intractable -— continuing at epidemic levels and unresponsive to a variety of strategies and public policy initiatives. This intractability is in part a result of a fundamental misunderstanding of and a blindness to the nature of alcohol, tobacco, and other drug problems and the degree to which they are integrated into our society. The purpose of this position paper is to provide a blueprint for a comprehensive policy for addressing the nation's alcohol, tobacco, and other psychoactive drug problems...."

Here is one more situation-descriptor from years past that could just as well be applied in 2015.

And so we move on to a consideration of the Public Health Approach in some detail. All of these measures stress helping people to change their behavior in a positive way rather than focusing on "dealing with

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'bad' behavior" --- except in the cases of crimes committed by persons under the influence of one RMAD or another. Certainly not every element in the list below need be included for a PHA to be effective. As well, there may be other elements inadvertently left off the list that should be added. But hopefully this list will be considered a good start.

D. The Principal Elements of the Public Health Approach

1. The *Primary Goal* of the PHA as herein described is to:

"Reduce the use and abuse of all the recreational mood-altering drugs, to provide, when, as, and if possible, for their safe, pleasurable use, consistent with millennia-old human experience, while minimizing to the greatest degree possible the harmful effects of their use on individuals, the family, and society as a whole."

2. The Primary Elements of the Policy

As noted, to achieve this goal, the PHA uses epidemiologic, pharmacologic, toxicological, and medical science to define the drug-abuse problem and to create the program components. It does not use predilections, politics, or prejudice. It identifies the real causes of the overall RMAD problem and then develops interventions directed at those causes, not imaginary ones. Some of the interventions are of a classically public health nature; some use more recently developed approaches.

The PHA is a *comprehensive* national policy and program for dealing with the use and abuse of *all* the commonly used recreational mood-altering drugs, regardless of category. However, it is constructed largely of ideas, programs, and recommendations that have been in the marketplace of ideas for some time now [7], ,,,,. In 2010, the US Department of Health and Human Services announced a major new program for "Ending the Tobacco Epidemic" . It happened to contain major elements of the Public Health Approach to dealing with all of the RMADs. What is new in the Public Health Approach is how it puts the pieces all together.

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At the same time, this approach to an Approach goes way back. As long ago as 1913, before the 1916 adoption of the Harrison Act, which began the downward slope of policy making that eventually led to the "Drug War," Dr. Charles Terry, the then-President of the American Public Health Association "urged the Association to take up the matter [of drug addiction] as a public health matter of importance" . Dr. Terry also noted that "Narcotic drug addiction-disease will never be solved by forcible measures only.... [P]olice measures to be successful must go hand in hand with intelligent medical services."

In 1989, Robert Stutman, then the Special Agent in Charge of the New York Office of the Drug Enforcement Administration (who retired in 1990), put it this way: "Cops are not the answer to the RMAD problem. They're a short- term answer to clean up the streets. But the long-term answer is *prevention* [emphasis added]." More recently, retired Maryland State Police Major and Baltimore Police Department (BPD) Lt. Col. Neill Franklin, a 30 year veteran of fighting the "Drug War" on the streets, now Executive Director of Law Enforcement Against Prohibition (LEAP), put it this way:

> "[I]t was during my tenure with the BPD when I finally began to see the War on Drugs for what it really is, an abject failure. Not only was it a failed policy, but it was counterproductive to what I had signed on for, improved public safety. . . . The War on Drugs was making our communities far more dangerous than need be. When we finally end our failed War on Drugs and drug prohibition, and instead move into a place of legalization, regulation and control, we immediately put 90% of all violent drug gangs and the cartels out of business. This change by itself would enable us to focus our police officers like a laser on murder, rape, robbery, burglary, domestic violence, crimes against our children and identity theft, just to name a few. These are crimes that truly impact people, families and neighborhoods. Police will then have an opportunity to become peace officers once again and champions of the community.
>
> "Law enforcement would have a very small drug policy enforcement

role absent prohibition laws, similar to that of alcohol and tobacco enforcement. Personally, I believe that law enforcement can remove itself from some of what it does in alcohol and tobacco enforcement. We should not be pursuing and arresting people for selling loose cigarettes on the street. This should be an administrative function where tobacco control enforcers can write civil citations just like parking control units. Even tobacco smuggling can be averted, or at least greatly reduced if we did not place such high taxes upon products. [Preferable from my (SJ) point of view, that since taxation is such a productive way to promote smoking rate reduction, would be levying all such taxes at the place of production.]

"At the end of the day, law enforcement would be practically out of the drug business, taking a backseat to healthcare practitioners. Law enforcement would no longer be a part of morality policing, arresting people for engaging in consensual adult activity. We would go after and arrest people for their illegal behavior in harming people who do not wish to be harmed."

2. The RMAD Problem Is a Unity

As shown throughout this book, the RMAD problem presents as a seamless web. The evidence of the interrelatedness of its various components is clear. If one's true goal is the reduction in overall RMAD use, it is fruitless, as both way-past and present experience show, to attempt to deal with only one part of the problem, or to deal with one part one way and another part another way. Biologic, medical, and epidemiologic science all tell us that a recreational mood-altering drug is a drug, regardless of its current status in the criminal law.

3. Responsible Use/Safe Use

As part of this effort, the highly controversial "safe use" and "responsible use" issues would be dealt with. To define safe use and responsible use for each of the major recreational mood-altering drugs is no

mean feat. (Of course, there is no safe level of use for tobacco products). But if any program to reduce use and abuse is to be created and successfully implemented, one must be developed. There are several starting points on which agreement could be reached fairly easily.

Children

For children there is no such thing as responsible use of any RMAD. This is based on the fact that presently most regular and addictive RMAD use begins before the age of 21 years. The fact that ethyl alcohol in alcoholic beverages and nicotine in tobacco products are central to the gateway drug effect makes tobacco product and alcoholic beverage use prevention in children central to the PHA.

Adults

There is responsible use of certain RMADs for adults. For example, most consumers of alcohol in the United States are light to moderate users. There is some evidence that this is also true for the major illicit drugs (chap. 2). Certainly, any effective program to reduce the use and abuse of all recreational mood-altering drugs must deal with the reality of safe alcohol use by many American adults. At the same time, the majority of Americans appear to have recognized that there is no such thing as responsible/safe use of cigarettes, at least in public. These accepted understandings must be built into the definition of responsible use if a broad-based policy is going to be politically viable and effective.

4. Development of a Rational Classification System for the RMADs (see also chap. 2)

A rational system for classifying all of the recreational mood-altering drugs (including nicotine and ethyl alcohol) by their potential dangers and benefits would be developed. This system would be based on these criteria: addictive potential; increased risk of morbidity and mortality caused by both

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casual and intensive long-term use; relative risk of morbidity or mortality in the acute intoxication stage; other special risks such as the potential for HIV/AIDS transmission; potential for social harmfulness of drug use and drug-induced behavior; short-term personal hazards; long-term personal hazards; personal benefits (if any). Pharmacologic, toxicological, pathologic, medical, epidemiologic, and sociologic data would be used to develop the system. One example is the "three category" RMAD system found in Chapter 2.

Characterizing "the drug problem" as the problem of one particular group in society presents a major stumbling block to developing and implementing a coherent national drug policy and is thus counter-productive. For example, cocaine use is as widespread a problem among all-white, exclusionary, college fraternities as it is a problem in America's inner cities. As heroin use (and related over-dose deaths) becomes more common among white middle- and upper-class persons, it is now recognized as a problem that goes well beyond the inner city.

Contradictory attitudes towards psychoactive, behavior modifying drugs doesn't not help in solving the problem. It would be ideal if the stance *could* be: "Society should not *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" [4] (p. 29). However, given the place particularly of alcoholic beverages both in the economy and the society, it is hard to see how this principle could be implemented. But one might try to move towards it.

5. Focus on the Demand Side of RMAD Use

As been described, the "Drug War" largely focuses on the supply side of the RMAD-use equation: trying to curtail/eliminate (hah!) the illicit drug trade at the growing, processing, transport, wholesale, and retail levels. As

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previously noted, this has worked about as well as Republican/Reaganite "supply side" economics has (which is to say, not very well at all). The primary attention paid to the demand side has been the use of criminalization to reduce use. As we have seen, that has been a dismal failure. In contrast, the program proposed here places its emphasis on the demand side, but in a positive way, through the use of the same techniques/interventions that have proved so successful in the national Smoking Cessation Campaign, from advertising to taxation.

6. Single National Policy

Perhaps the most important element of the PHA is that there will be a single national policy for controlling the use and abuse of all the recreational mood-altering drugs. Among other things, this approach will end the current "OK"/"not OK" drug/person dichotomies.

The program proposed here 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 are to 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*".

7. The Understanding that Drug Abuse Is a Problem with a Natural History

Suffering from a drug-abuse problem is not like having a common cold. It is not something a person catches one day that shows up in its clinical form the next. Furthermore, unlike the common cold, drug abuse in adults manifests

itself over time differently in different persons and varies widely in breadth and depth from person to person and drug to drug. For example, most users of cigarettes are habituated to them, but a few are not. All cigarette smokers are at much higher risk for a number of serious diseases than are nonsmokers for the same diseases. But most cigarette smokers contract only one or two of those diseases, if they contract any at all.

Most users of alcohol do not become alcoholics, but a significant number do. Most cocaine users do not become abusers. Some do. The PHA recognizes and provides for the reality that drug abuse in adults has no consistent natural history. However, the PHA also recognizes that in children there is a common natural history: for most drug abusers, as noted, the problem starts in childhood or the early teenage years, with the use of tobacco or alcohol or both (chap. 1),,,,). Thus, the PHA pays a great deal of attention to preventing the use of those two drugs by young people, as recommended some time ago by Dr. Henningfield.

8. Recognizing the Spectrum of Harmfulness and the Concept of Safe Use

All of the commonly used recreational mood-altering drugs other than tobacco increase the risk of health harms for only some of those who use them and for only some of those in the vicinity of use. The primary risk incurred by the use of RMADs other than tobacco is that one might eventually use them to that level at which the risk of health harm appears. Thus, for RMADs other than tobacco, there is a "spectrum of harmfulness" from none to severe.

As noted, some of these harms are a result of the actions of the RMADs on the body. Others are the result of RMAD-induced behaviors in the user. Of course, as noted, any use of any RMAD makes the user susceptible to the possibility of incurring health-harmful risk. But apparently for each commonly used RMAD other than nicotine in tobacco products, safe use is possible. For no recreational mood-altering drug has this spectrum been fully defined or clearly understood.

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9. Incorporating Law Enforcement, Used Intelligently

Focused law enforcement to deal with negative and antisocial behaviors associated with RMAD use and abuse, and the violation of statutes governing the promotion, distribution, sale, and use of the recreational drugs, such as sale to minors, black market sales, tax-evasion, and criminal actions while intoxicated (e.g., driving while intoxicated, alcohol-related intra-family violence, and violent crime, such as murder). History has taught us that criminal law enforcement works poorly to reinforce moral sanctions against personal behaviors such as the use of recreational mood-altering drugs[6], . However, selectively applied criminal and civil law enforcement is an important tool in implementing many programs for improving the public's health.

The PHA respects the belief that the raising of moral considerations and the invocation of moral sanctions may be useful for some people in diminishing RMAD use. At the same time, the PHA recognizes that in dealing with this kind of highly personal behavior, our historical experience demonstrates the futility and waste of attempting to invoke or reinforce the moral sanction through the use of the criminal law. Doing the latter often produces a "cure" that is worse than the disease at which it is aimed.

Law enforcement can be effective, for example, when the health problem has been caused by a disease organism that infects individuals regardless of personal choice, or by an economic behavior that damages the environment (e.g., isolation in tuberculosis control, mandatory vaccination, required automotive emissions control, regulated toxic waste disposal). But to be broadly helpful, law enforcement must be applied only in those situations in which it is effective. Also, its use must be consistent with the beliefs of a large majority of the population.

As noted previously, in chap. 3, in Great Britain, following World War I, a major effort to curb the negative effects of alcohol consumption was made. It was undertaken in parallel in fact with Prohibition in the United States. But the approach was rather different. Indeed it was quite successful, by the measure of

cirrhosis of the liver mortality for which a significant reduction was achieved. How did the Brits do it? Simply, as noted, by modestly limiting availability and by controlling price to favor beer and wine over spirits .This was done, as previously discussed, by curtailing the opening hours of the pubs (bars) and the liquor stores, by generally restricting liquor sales to those establishments, and by taxing hard liquor heavily as compared with beer and wine.

10. For the PHA, Legalization Goes Hand-in-Hand with Solving the Drug Problem

Distinguishing the public health approach from the policies/proposals of the current drug policy reform movement is that for the latter, the target is the "Drug War." Currently the movement is focused on legalization per se, at least for marijuana, with some attention paid to what is termed "harm reduction." For the PHA, the primary target is the negative outcomes of drug use and abuse, *in all of its forms,* as well for the negative outcomes of the "Drug War."

Thus the PHA is for what is called "legalization," alright, but only in the context of instituting the comprehensive Public Health Approach to the Drug Problem. Further, it recognizes the great health harms the "Drug War" itself brings to the nonwhite communities in which it is primarily waged (to say nothing of the recent horrible death toll in Mexico), harms much more injurious to the public's health than the use of any of the drug forms other than alcohol and tobacco. Thus it sees as a direct and very important benefit of its own implementation the opportunity to end the "Drug War" which is waged primarily in non-white communities .

11. The Regulated Sale Model

The regulated sale model proposed by Dr. David Kessler for tobacco products could be developed for all drugs. But given the power of the tobacco and alcohol industries and their related retailing and advertising interests and so forth, it is highly likely that this model, referred to above as the "package store" model , could be developed only for the currently illicits, or there could be "drug sections"

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in general retail stores, with access permitted only for adults. The regulated sale model would be supported by the other elements of the PHA, below. As shown above, there is a significant difference between "simple availability" versus "availability with promotion." There would be controls on the places and hours of availability and sale of all the recreational mood-altering drugs. Sale of them to minors would obviously be illegal. A common national policy on minimum age for RMAD sales, hours of availability and sales through locations other than the "Drug Stores" would also be developed and recommended to the states.

12. Rational Price/Tax Structure

A rational price structure and tax policy for all RMADs would be implemented. It would be aimed both at raising funds to pay for the program and at reducing consumption. It could be modeled on the British approach to alcohol beverage taxation and availability control mentioned above. To assist in the overall public health campaign against drug abuse, the taxes should not be referred to as "sin" taxes, but rather as "risk-reduction" taxes or some similar appellation.

Furthermore, RMAD tax revenues would not go to the general fund. They would not be used as a substitute for income, property, capital gains, or other progressive taxes. Unlike what has happened with the state shares of the national tobacco settlement, these revenues would be used only to fund the PHA. Such taxes would, of course, be gradually self-liquidating as RMAD use declined with the effectiveness of the programs the taxes supported.

This system would be designed to avoid the creation of an underpriced black market (which, although serious, is not as potentially dangerous as the overpriced one that exists now). Based on the experience with taxation of alcohol and tobacco in this country and others, it appears that taxes on legal RMADs could be raised significantly without incurring the risk of

developing any significant underpriced black market. 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 RMAD sales tax if they so chose. Taxes would not be applied solely to consumption, but also to promotion/advertising activities by the producers.

13. National Policy Education Campaign

The top national political and health leadership will be called upon to educate the public on the new policy and stimulate their participation in and cooperation with it. The educational campaign will recognize the drug culture and the gateway drug effect as significant causes of the total drug-abuse problem and thus will focus major emphasis on dealing with them. The campaign would explain that recreational drug use is indeed a unity; that it can become a medical/health problem, but use alone is neither a crime nor a sin; that many recreational drugs other than cigarettes can be used safely if used responsibly; and that (this cannot be emphasized enough) the leading recreational drug-related health problems are produced by tobacco products and alcoholic beverages. To be effective, this campaign must be very carefully thought out, because the American people have been trained by present national policy (which readily allows the promotion of RMAD-use, that is of the "OK" RMADs of course) to not think of alcohol and tobacco as "drugs."

Many of the PHA's messages will be new to many of the American people. While smokers may not object too strongly to being told that they are drug addicts (it is estimated that 70% of smokers want to quit at any one time, and many of them know that they are addicted to nicotine), many alcohol users, most of whom are not addicts and will not become alcoholics, will object very strongly to the association. Thus it is vital that the public health messages be delivered by the top national political and health leadership. It would be very helpful if their counterparts at the state and local levels participated also. However, given the power of the stakeholders in maintaining the "Drug

War" just as it is, this will be no easy task, especially on the political front.

14. Assault on the Drug Culture

A clear assault would be made on the Drug Culture. This is a critical part of the program. The public must be educated to understand the interrelatedness of the use and abuse of all the recreational mood-altering drugs. They must also be educated to understand that the atmosphere created by the promotion of legal RMADs, over-the-counter medications, vitamins, and yes, prescription pharmaceuticals, and the way medicine itself is practiced, contributes to the drug-abuse problem. The politico/economic difficulties of implementing this policy must not be underestimated. Advertising policy is central to this effort.

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, creation of various alternatives for an advertising code, which might be voluntary in the first instance, would be considered, as would the institution of a permanent, national anti-legal RMAD-use advertising campaign comparable in size to pro-RMAD use advertising, funded by a tax on the latter.

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 encourage the tobacco and alcohol industries, which supply the bulk of the recreational drugs used in the United States, to fully recognize their responsibilities. Companies like Altria are certainly

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moving in the right direction. But the two industries need to be encouraged/motivated to recognize the social harms that they produce directly, and to recognize the RMAD problem as a whole, for which they also bear significant responsibility. 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."

The following might prove to be one of the most difficult elements of the Drug Culture to deal with. That is that consideration would also 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.

15. Advertising Policy

Pro-drug-use advertising has been analyzed in depth for tobacco in a classic study by Dr. Kenneth Warner. Its findings are still applicable. First, in the PHA there would be no future expansion of RMAD advertising beyond that which is presently permitted: no reintroduction of radio and television cigarette advertising, (it being highly unfortunate that the advertising of spirits on radio and television has recently been re-introduced), and no advertising of any kind for any presently illicit RMADs for which the legal status would be changed.

Second, it is possible that a complete ban on pro-drug-use advertising could be undertaken, as recommended (for example) by the Committee on Public Health of The New York Academy of Medicine. Significant constitutional questions would be raised by such legislation. However,

some time ago, a strong case was made by Kenneth Polin in the Hofstra Law Review that a total ban at least on cigarette advertising would be constitutional. The same arguments might apply to the other RMADs as well.

In summary, Polin's position is that:

> "Tobacco advertising is not commercial speech protected by the First Amendment because it is inherently misleading, if not fraudulent, and/or relates to criminal activity (i.e., the sale of tobacco to minors). Assuming, arguendo, that tobacco is protected commercial speech, ... in recognition of the fact that tobacco is lawful only because of its exceptional [political and economic] background, the substantial governmental interest at stake justifies extraordinary control of intended effect—promoting the use of a uniquely [and inherently] harmful product."

As noted in chapter 2, Philip Morris U.S.A. (now Altria) itself has this to say on the dangers of tobacco use:

> "There is no safe cigarette. Cigarettes are addictive and cause serious diseases in smokers. For those concerned about the health risks of smoking, the best thing to do is quit. Philip Morris USA agrees with the overwhelming medical and scientific consensus that cigarette smoking causes lung cancer, heart disease, emphysema and other serious diseases in smokers. Smokers are far more likely to develop such serious diseases than non-smokers."

If it were to be concluded that a complete advertising ban were neither desirable nor constitutional, as mentioned above, permitted pro-drug-use advertising could be taxed. A dollar tax for each advertising dollar spent would both reduce the amount of advertising and raise a significant amount of money for the PHA. A tax on pro-drug-use advertising levied on the manufacturers, the advertising agencies, and the sellers of advertising time and space would be more equitable than increases in the taxes on sales, especially in the case of

cigarettes. If it is equitable to tax an addiction is it not also equitable to tax activities that promote becoming addicted?

16. Public/Schools Health Education Campaign

There would be a comprehensive public/schools health education campaign against RMAD use per se, beyond the national leadership education program outlined in the section above. It would build on the techniques, approaches, and great successes of the National Smoking Cessation Campaign. Also, much still remains to be learned about what will constitute an effective campaign.

17. Treatment

Comprehensive treatment, rehabilitation, and job-training programs for those who are addicted to or who are abusers of any of the recreational mood-altering drugs would be made available. The matters of the appropriateness of "on-demand" treatment, the role of the law enforcement system in placing RMAD-abusers who committed RMAD-use related crimes, like drunk driving, in treatment, and who would pay for what, would have to be worked out. Individual treatment can be very helpful. So can group programs, like Alcoholics Anonymous. It is very important to note that one size does not fit all. There are certainly critics of AA, but there have been many, successes in the many decades in which it has been in existence. AA cannot be studied precisely because of the centrality of anonymity to it. It must be remembered, however, that RMAD-use treatment programs, while vital for those persons already in need of them, will not solve the RMAD problem. Only prevention can do that.

18. Assistance for Displaced Drug Workers and Farmers

Subsidies, relocation assistance, and retraining opportunities for the tens of thousands of workers and small farmers who would be put out of work in the United States by a significant decline in the legal recreational drug trade and/or the ending of various crop subsidy programs would be provided. A

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comprehensive job-training and employment program would also have to be developed for those who use and/or deal in the currently illicit RMADs at least in part because they have no other meaningful employment opportunities.

19. National Domestic Spending

The very important programs of national domestic spending to deal with the identified political, economic, and social causes of the illegal RMAD trade in those inner-city neighborhoods that are scarred by both legal and illegal RMAD use and the War on Drugs would be implemented. (At the same time it will be recognized and made clear that the "drug problem" is hardly the exclusive domain of the African-American and other minority communities.) Much of this money could come from the vast sums that are currently being spent by governments fighting the "Drug War."

D. The Public Health Approach: In Summary

Solving the drug problem requires (a) recognition that it is a continuum occupied by all three RMAD categories (see chapter 2: the tobacco products and the alcoholic beverages, the prescipti0on psychoactive pain killers used on a non-prescription basis, and the currently illicits); (b) setting rational, achievable goals for its control, goals that are consistent with human experience with the RMADs, achievable by the methods to be used in the program, and separate from the goal of crime reduction; (c) clearly understanding that its causes in this country go far beyond the simple availability of drugs upon which current policy focuses so much of its attention (while recognizing that applying certain restrictions of time and place to availability *can* lead to a *reduction* of use); (d) recognizing that the "Drug War" has not only consistently failed to meet its own stated objectives while causing many harms, but by its very nature cannot in any way be successful in dealing with the total RMAD problem because of its totally distorted focus away from the most commonly used RMADs; (e) recognizing that the National Smoking Cessation Program has achieved tremendous results without ever locking up one

cigarette smoker, and (f) therefore turning major attention from the supply side to the demand side, to the demand side: the drug culture, the gateway drug effect, the centrality of tobacco product and alcoholic beverage use to the drug problem, and the specific present causes of the inner-city illicit drug trade: unemployment, poor housing, poor education, and hopelessness.

This public health program is designed to significantly reduce RMAD use in our society. Illegalization/criminalization 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 (see chapter 6), and on new approaches that have the strong weight of logic behind them. The first major goal of the legalization part of the Comprehensive Public Health Approach would be to reduce the burden of drug-commerce related crime on American society. The second would be to actually reduce the overall use of all the RMADs, which the "Drug War" has been totally unable to do, by replicating the successes already achieved for cigarette smoking

This program would markedly reduce the use and abuse of all RMADs; reduce the tremendous pressure on and corruption of the criminal justice and law enforcement systems created by the present approach, freeing them to focus on other criminal behaviors; and would largely pay for itself through, on the one hand, taxes on recreational drug sales, use, advertising, and profits, and on the other the reclamation of funds currently spent on the "Drug War." Its major political downside is that it requires a major assault on the tobacco and alcohol industries in particular and all of the Stakeholders in maintenance of the "Drug War" in general, and the abandonment of the "Drug War" as an instrument of social oppression and political control. But it can be done. Based on the record achieved by public health so far in dealing with cigarette smoking, it would meet with success.

Author's Note: This chapter is based in part on text from two publications

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of mine. One is Chap. 79, "Public Health Approaches," in Lowinson, J., et al, Eds., Substance Abuse, 4th ed., Philadelphia, PA: Wolters Kluwer/Lippincott, Williams and Wilkins, 2004. The other is "Solving the Drug Problem: A Public Health Approach to the Reduction of the Use and Abuse of both Legal and Illegal Recreational Drugs." Hofstra Law Review, Vol. 18, No. 3, Spring, 1990, p. 751. Both are used with the permission of their respective publishers.

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End of chapter 5

Chap. 6: A View from Abroad: International Experiences, Drug Policy Reform in the United Kingdom, and the 2016 UN-GASS on Drugs

Ms Amanda Feilding

Looking abroad, if the drug problem were caused simply by the presence of a drug or drugs, the Andean countries, for example, would be awash in cocaine addicts, which they are not. As of 2012, a number of Latin American countries were considering decriminalization or even some form of legalization, especially for

marijuana. Uruguay partially legalized marijuana, in a system that is still being developed. The country does not seem to either have become a haven for marijuana smokers nor seen much difference in the rates of use of the RMAD. Experiments along these lines are also underway in Colombia and Bolivia. In Europe, Portugal decriminalized (although did not fully legalize) the use of all of the illicits in 2001. Addiction levels in that country have actually gone *down*.

There has been a drug policy reform movement centered in the United Kingdom for many years. A major factor in its development has been Ms. Amanda Feilding, Lady Neidpath, who has been the Director of The Beckley Foundation, also for many years,. Some years ago, introduced to Lady Neidpath by my good friend and colleague Michael Carmichael, Director of The Planetary Movement and Editor/Publisher of its webmagazine. The Beckley Foundation has taken many initiatives over the years. Among its most important was the issuance of its "Public Letter" on June 1, 2013, entitled "The Global War on Drugs Has Failed: It's Time for a New Approach". Its principal call was for a re-examination of the 1961 United Nations "Single Convention on Narcotic Drugs." This will indeed be taking place at the 2016 UN General Assembly Special Session (UNGASS) on Drugs (see below). The signers of the letter included a very distinguished list of scientists including 13 Nobel Prize winners, a number of national Presidents and former Presidents (including Jimmy Carter of the United States), and the former U.S. Secretary of State George Schultz, who ironically enough served under the man most responsible for re-invigorating the "War on Drugs" in the 1980s, Ronald Reagan.

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As the "Public Letter" says [10]:

> "The drug-free world so confidently predicted by supporters of the war on drugs is further than ever from attainment. The policies of prohibition create more harms than they prevent. We must seriously consider shifting resources away from criminalizing tens of millions of otherwise law abiding citizens, and move towards an approach based on *health, harm-reduction, cost-effectiveness and respect for human rights* [emphasis added]. Evidence consistently shows that these health-based approaches deliver better results than criminalization."

Another major British drug policy reform organization is Transform. Their "Vision" is to achieve "an end to the war on drugs and the establishment of effective and humane systems of drug regulation." As Madame Ruth Dreifuss, former president of Switzerland and member of the Global Commission on Drug Policy has said: "Transform has been at the cutting edge of drug policy analysis for almost twenty years and is an NGO that is increasingly recognised as one of the motivating forces for global reform". On a trip to the UK several years ago, I had the pleasure of meeting and spending time with Danny Kushlick, Transform's Head of External Affairs and Steven Rolles, Senior Policy Analyst. Literally at the time of this writing, the British House of Commons was discussing a proposal to legalise marijuana in the United Kingdom.

The national debate in the United Kingdom was partly

stimulated by, along with the organizations like The Beckley Foundation and Transform, an independent, non-governmental, but prestigious body called the "UK Drug Policy Commission". The Commission summarized the focus of its work as follows:

> "[The] UKDPC proposes a radical rethink of how we structure our response to drug problems. It analyses the evidence for how policies and interventions could be improved, with recommendations for policymakers and practitioners to address the new and established challenges associated with drug use."

The debate was brought to the floor of the House of Commons by public petition (a uniquely British tradition of law), which Transform played a major role in organising. There was no chance that the right-wing Conservative (Tory) government would do anything of the kind, that is engage in a "radical rethink." They have learned no more from history than have their Republican compatriots in the United States. And they have just as much need for using the issue of the "Drug War" politically as do the Republicans. A Tory government spokesperson, echoing such talk that has been heard for so many years in the United States, in response to the UKDPC report said:

> "Substantial scientific evidence shows cannabis is a harmful drug that can damage human health. There are no plans to legalise cannabis as it would not address the harm to individuals and communities. Cannabis can unquestionably cause harm to individuals and society.

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"Legalisation of cannabis would not eliminate the crime committed by the illicit trade, nor would it address the harms associated with drug dependence and the misery that this can cause to families."

Margaret Thatcher attending the funeral of her partner in international reaction, Ronald Reagan. (Wikipedia)

Just as in the U.S., such arguments are truly great ones for reinstating Prohibition for the much more harmful alcoholic beverages and tobacco products. But just as in the U.S. no proposals to do the same were heard forthcoming from the Tory side of the House. They only echoed the old, scientifically weak, but politically still powerful arguments (see "Bill Bennett," in chapter four) heard on the U.S. side of The Pond. And no mention was made of the fact that

the former British Prime Minister Margaret Thatcher was responsible for the repeal of the laws and regulations covering the availability of alcoholic beverages that had done so much to lower the U.K. cirrhosis of the liver mortality rate, from the 1920s. Indeed, by the end of the 1990s that rate had risen significantly (see chap. 3). Just as in the U.S. the drug warriors are well-known for their complete ignorance of history (or is it, rather, the intentional ignoring of history) and penchant for ignoring science.

So, there is great deal of international experience with and many studies for major RMAD policy reform (at least for the illicits). I thought that it would be useful to see a comment of these various efforts from a long-time, street-level, U.S. drug law police enforcer. Asked to comment on the experience in other countries, Retired Maryland State Police Major Neill Franklin, now Executive Director of Law Enforcement Against Prohibition (LEAP), quoted in chap. 5, when asked the question: "Are there any places around the world—other countries—that you think get the ideology right, that come pretty close to an ideal balance between law enforcement, social interventions and treatment?" responded:

> "Yes, there are countries that come close, but there are no countries that have ended the prohibition of all drugs. The prohibitive United Nations' drug treaties, initiated from the 1961 Single Convention on Narcotic Drugs, and pressure from the United States, make it extremely difficult for countries to support policy other than punitive prohibition. The only country to legalize marijuana is Uruguay, with the United States having four of its states to do the same.

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> "There is one country with the right ideology and that is Portugal. Thirteen years ago Portugal decriminalized the possession of all drugs up to a 10-day supply. They decided to place the attention upon the people instead of the drug. By doing so, health becomes the priority, not criminal drug enforcement. When a person is found in possession of drugs they are given on-demand treatment if they want it. People are more inclined to seek treatment if the stigma and fear of arrest has been removed.
>
> "So what are the results of this health-centered approach? They have experienced a 71% reduction in new cases of HIV for intravenous drug users. They have experienced a 52% reduction in overdose deaths and they have experienced a 22 to 25% decline in overall drug use among middle- and high-school children. I love saving lives and seeing smart choices made by educated children, but what is also of great interest to me is that the Portuguese police love this approach. They are now able to focus upon serious crimes and are not at odds with the general public. Closing prisons due to low enrollment is nothing to sneeze at either."

And so, the tide is indeed beginning to turn, possibly even strongly. On the United Nation's World Drug Day 2015 (June 26), UN Secretary-General Ban Ki-moon said that: "We must consider alternatives to criminalization [of people who use drugs]." He underscored the need for a balanced approach in drug control policies, stating further that:

> "Our shared response to this challenge is founded on the international drug control conventions. In full compliance with

> human rights standards and norms, the United Nations *advocates a careful re-balancing of the international policy on controlled drugs. We must consider alternatives to criminalization and incarceration of people who use drugs and focus criminal justice efforts on those involved in supply. We should increase the focus on public health, prevention, treatment and care, as well as on economic, social and cultural strategies.* [Emphasis added; see just below.]"

And may I say, "thank you Secretary-General Ban, for your proposed first steps towards significant drug policy reform [see my 'Interim Solution' proposed in the next section, just below] and then for your apparent endorsement of the Public Health Approach [in the last sentence of your statement, above]. I am delighted to find that we are in such close agreement."

However, it should be noted that Secy.-General Ban is likely to receive some push-back from the International Narcotics Control Board of the United Nations. It still operates under the "Single Convention on Narcotic Drugs of 1961[!]" which took a rather "Drug War-like" stance on the particular set of RMADs labelled "narcotic" even before its declaration by President Nixon. In 2015, the Board was looking askance at the legalization of marijuana (hardly a "narcotic" under the usual pharmacological definition of same) in Colorado, Washington (and now, one would presume, Oregon and Alaska), as well as Uruguay.

Nevertheless, in terms of what may be forthcoming changes in United Nations policy, at the time of writing of this book one could

look forward to the United Nations General Assembly Special Session on Drugs, "UNGASS on Drugs", scheduled for April 19-21, 2016. As the Open Society Foundations have said (52d):

> "Over the last few decades, the international war on drugs has led to public health crises, mass incarceration, corruption, and black market–fueled violence. Governments have begun calling for a new approach, and reforms in some countries have spurred unprecedented momentum for change. Pressed by drug war–fatigued Latin American leaders, the UN General Assembly plans to hold a review of the drug control system April 19–21, 2016, in New York City.
>
> "What is UNGASS? The United Nations General Assembly Special Session, or UNGASS, is a meeting of UN member states to assess and debate global issues such as health, gender, or in this case, the world's drug control priorities. The last time a special session on drugs was held, in 1998, its focus was the total elimination of drugs from the world. Today, political leaders and citizens are pushing to rethink that ineffective and dangerous approach.
>
> "Why does this summit matter? International debates on drugs are rarely more than reaffirmations of the established system. But 2016 is different.
>
> "Never before have so many governments voiced displeasure with the international drug control regime. Never before, to this degree, have citizens put drug law reform on the agenda and passed regulatory proposals via referenda or by popular campaigns. Never before have the health benefits of harm

> reduction approaches—which prevent overdose and transmission of diseases like HIV—been clearer. For the first time, there is significant dissent at the local, national, and international levels.
>
> "UNGASS 2016 is an unparalleled opportunity to put an end to the horrors of the drug war and instead prioritize health, human rights, and safety."

A report of another prestigious international group of drug policy reformers, which includes former UN Secy.-General Kofi Annan, Richard Branson of Virgin Group, and eight ex-national Presidents, all working to reform international (presently illicit) drug policy, was summarized as follows:

> " 'Overwhelming evidence points to not just the failure of the drug control regime to attain its stated goals but also the horrific unintended consequences of punitive and prohibitionist laws and policies,' states the study, published by the Global Commission on Drug Policy (GCDP) this week.
>
> " 'A new and improved global drug control regime is needed that better protects the health and safety of individuals and communities around the world,' the report says. 'Harsh measures grounded in repressive ideologies must be replaced by more humane and effective policies shaped by scientific evidence, public health principles and human rights standards.' "

Then finally, let me quote at length from "Taking Control: Pathways to Drug Policies that Work," from the aforementioned

Global Commission on Drug Policy, referring specifically to the prospects for the UNGASS, 2016:

> "The upcoming United Nations General Assembly Special Session on Drugs (UNGASS) in 2016 is an unprecedented opportunity to review and re-direct national drug control policies and the future of the global drug control regime. As diplomats sit down to rethink international and domestic drug policy, they would do well to recall the mandate of the United Nations, not least to ensure security, human rights and development. Health is the thread that runs through all three of these aspirations, and the UN global drug control regime has the 'health and welfare of mankind' as its ultimate goal. But overwhelming evidence points to not just the failure of the regime to attain its stated goals but also the horrific unintended consequences of punitive and prohibitionist laws and policies.
>
> "A new and improved global drug control regime is needed that better protects the health and safety of individuals and communities around the world. Harsh measures grounded in repressive ideologies must be replaced by more humane and effective policies shaped by scientific evidence, public health principles and human rights standards. This is the only way to simultaneously reduce drug-related death, disease and suffering and the violence, crime, corruption and illicit markets associated with ineffective prohibitionist policies. The fiscal implications of the policies we advocate, it must be stressed, pale in comparison to the direct costs and indirect

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consequences generated by the current regime.

"The Global Commission proposes five pathways to improve the global drug policy regime. After putting people´s health and safety at the center of the picture, governments are urged to ensure access to essential medicines and pain control. The Commissioners call for an end to the criminalization and incarceration of users together with targeted prevention, harm reduction and treatment strategies for dependent users.

"In order to reduce drug related harms and undermine the power and profits of organized crime, the Commission recommends that governments regulate drug markets and adapt their enforcement strategies to target the most violent and disruptive criminal groups rather than punish low level players. The Global Commission's proposals are complimentary and comprehensive. They call on governments to rethink the problem, do what can and should be done immediately, and not to shy away from the transformative potential of regulation.

"The obstacles to drug policy reform are both daunting and diverse. Powerful and established drug control bureaucracies, both national and international, staunchly defend status quo policies. They seldom question whether their involvement and tactics in enforcing drug policy are doing more harm than good. Meanwhile, there is often a tendency to sensationalize each new 'drug scare' in the media. And politicians regularly

subscribe to the appealing rhetoric of 'zero tolerance' and creating 'drug free' societies rather than pursuing an informed approach based on evidence of what works. Popular associations of illicit drugs with ethnic and racial minorities stir fear and inspire harsh legislation. And enlightened reform advocates are routinely attacked as 'soft on crime' or even 'pro-drug.'

"The good news is that change is in the air. The Global Commission is gratified that a growing number of the recommendations offered in this report are already under consideration, underway or firmly in place around the world. But we are at the beginning of the journey and governments can benefit from the accumulating experience where reforms are being pursued. Fortunately, the dated rhetoric and unrealistic goals set during the 1998 UNGASS on drugs are unlikely to be repeated in 2016. Indeed, there is growing support for more flexible interpretations and reform of the international drug control conventions aligned with human rights and harm reduction principles. All of these developments bode well for the reforms we propose below."

Among the members of the Global Commission are The Beckley Foundation (UK), Transform (UK), the Drug Policy Alliance (US), the Open Society Foundations, the Instituto Fernando Henrique Cardoso, the International Drug Policy Consortium, the Transnational Institute, and Unite/Virgin Group (UK). And so, many prestigious international organizations, as well as the UN Secretary-General himself (and presumably senior members of his staff), are looking

forward to the UNGASS 2016, and what it may be able to accomplish, specifically in changing present UN policy.

Dating from 1961, of course the present UN policy is based on the principles of criminalization that form the foundation of the United States "Drug War." It will be very interesting to see how much push-back against any meaningful reform efforts will be coming from the United States and the allies on which it could count on in this particular effort, such as the United Kingdom. It will also be interesting to see if the most commonly used RMADs, those found in tobacco products and alcoholic beverages and their effects and costs, are mentioned in what will be the very strong attack on current UN/US/UK policy that will very likely be launched at the UNGASS 2016.

My guess is that the push-back from the defenders of the status quo will be very strong (although, as is always the case in dealing with the "Drug War," the nay-sayers will be starting from a basis of fiction, not fact --- see the statement from the UK Conservative Government spokesperson quoted above, and for even stronger statements see the positions still put forward by classic U.S. Drug Warriors like Bill Bennett [see chap. 3]).

First, for the U.S. government President Obama and the Democratic Party have major political considerations with which to deal in the context of the 2016 U.S. Presidential elections. Whatever position they take other than full-fledged support for continuation of the "Drug War" both in the U.S. and internationally will be characterized by the Republicans as "weak on crime," as drug policy reform efforts always have been (even though the "crime" here, as frequently noted, is an element of human behavior that has been

arbitrarily defined as a "crime" in the U.S. since the time of Prohibition). Then, President Obama and the Democratic Party have to deal with the Stakeholders in maintaining the "Drug War" (see chapter 4). Of course, many other governments have to deal with them too. As I have said on numbers of occasions in this book, logic, science, and reason are on the side of significant drug policy reform, around the world. But given the political-economic realities around the world, they don't always win. Hopefully, the concepts based in the Public Health Approach to the Drug Problem will be of use in the continuing battles on the "Drug War" front.

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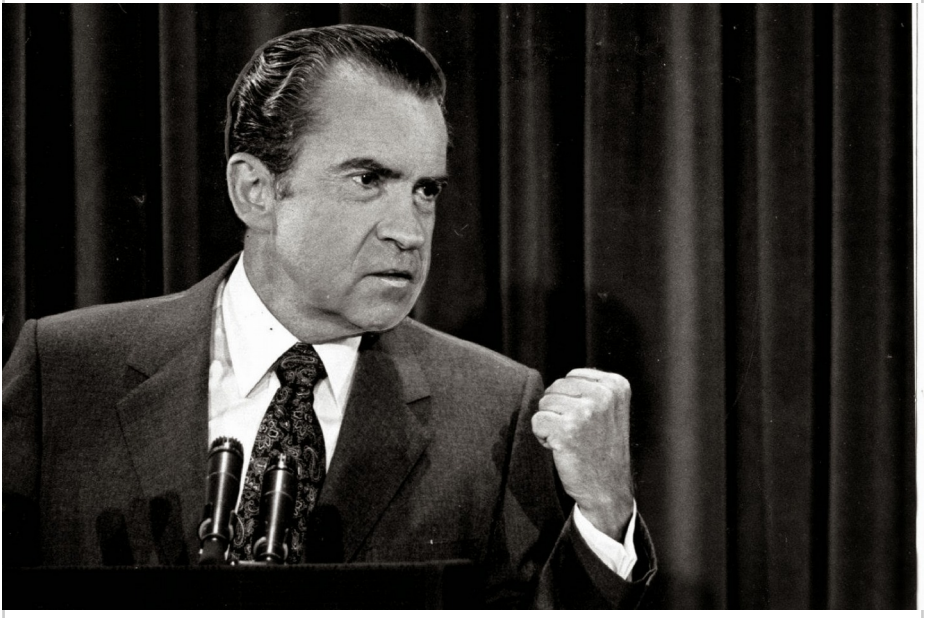
Chap. 7: Ending the "Drug War;" Dealing with the U.S. Drug Policy Reform Movement; Solving the Drug Problem

A. A Review



The modern version of the "Drug War" has been in place in the United States of America since it was declared by President Richard Nixon in 1970. (Above) As we have seen throughout this book, and as many, many other observers have pointed out for many years, it has achieved none of its stated aims. At the same time, as

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we have also seen, it has cost upwards of $1.5 trillion. At the same time too, it has caused untold misery and harm to hundreds of thousands, if not some millions of people over time, on a variety of levels, especially among the U.S. minority population and neighborhoods on which the "Drug War" is so closely focused.

As we have seen, the "Drug War" has had a number of historical predecessors in the United States, notably Prohibition. But, as has been pointed out, the former differs from the latter in one major way: the "Drug War" criminalizes the possession and use of the listed drugs, which for the most part Prohibition did not, not just of the commerce in them. What Prohibition, its predecessors for cigarettes, and the "Drug War," have in common is that they were/are all policy failures.

However, from the public health perspective, there has been an even bigger failure. The 19th century Temperance Movement, which was one of the founding elements of the Republican Party in the 1850s and which inclusion eventually led to the enactment of Prohibition, was right in one sense: the United States *does have* a major recreational drug use problem. The criminal law-based Prohibition and the "Drug War" both failed in an attempt to deal with two major aspects of it. But, and this is so ironic, the country has indeed had one major success in dealing with the use of a major RMAD, and it happens to be the one most harmful-to-health. As has been noted any number of times in this book, this has been done using the Public Health Approach to the Drug Problem, without the

use of any criminal laws directed at either individual users or the manufacturers.

That is of course the National Smoking Cessation Campaign originally launched at the time of the publication of the first Surgeon General's Report on Smoking and Health . But because the focus on the true national drug problem, except for cigarette smoking, has been totally obscured by the "Drug War's" focus on what indeed are minor RMADs, the nation has been unable to even consider a rational and rationally-planned program to deal with the overall RMAD problem.

This book, based on work that I and others have done over the last 25 years, aims to correct that mistake. Yes indeed, the totally failed "Drug War" must be bought to an end. But the thesis here is that that cannot be done successfully if a program to deal with the *national drug problem* is not developed and implemented as part of bringing about that desired result. The use of any of the RMADs can be harmful to the health and well-being for certain individuals and others they come in contact with. Some RMADs carry higher risks to health than others. But the guidelines for developing an overall program are there. As a life-long public health physician, of course I looked to developing such a program from the public health point of view, which is what I have presented in chapter 5.

B. The Defects in Current Policy Towards the RMADs: in Summary

Indeed it has to be recognized that we certainly have had significant success in dealing with the harms caused by tobacco use,

principally of cigarettes. As noted, since the publication of the first Surgeon General's Report on Smoking and Health in 1964, the adult per capita use-rate has been cut by well over half. While the cigarette-smoking death rate still remains tragically high because the adult use-rate was so high for so many decades during which cigarettes were cheap and heavily advertised and promoted, it will eventually drop significantly.

On the other hand, since alcohol use has varied little over time, there is little prospect of a future reduction in alcohol-use related deaths and other harms, if nothing useful is done (and "useful" does not include a return to Prohibition[!]). As far as the currently illicits are concerned, as noted frequently throughout (and it is a point that in the 45th year of the "War" needs as much re-emphasizing as possible) overall the "Drug War" has had no impact on their use. Now, the simple expansion of decriminalization/legalization as a solution to the "Drug War" problem, as is now going on with the gradual, state-by-state legalization of personal marijuana use, would solve much of the drug-traffic related as well as the overwhelming possession-and-use crime problems.

On the other hand, simple legalization of one or more of the currently ilicits will do nothing to solve the drug problem, caused either by their use or the use of the currently licits other than tobacco products. So "legalization" is hardly the whole answer to the drug problem. Indeed, while the Public Health Approach to deal with cigarette smoking is gradually being broadened, there is nothing comparable on the alcoholic beverage-use side of the equation. Given that this is true, from the public health perspective, at least nine defects in current national policy for dealing with the overall drug

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problem can be identified.

First are the failures of the "Drug War" itself, of which we have said much. Worth re-emphasizing here is the fact that having the "Drug War" in place tricks its perpetrators and certain sectors of the general public as well into thinking that something real is being done about the drug problem, when nothing could be further from the truth.

Second are the health care costs borne by the United States which would not be incurred if there were no "Drug War." For example, many cases of AIDS would not exist were injection drug users abler to freely obtain clean needles. There would likely be a significant reduction in the costs of alcohol-use-related disease, injury, and crime were there a truly comprehensive Public Health Approach to the drug problem. Persons suffering from the negative results of the use of both the illicit and licit narcotics could be brought into treatment/management sooner.

Third is the entirely arbitrary bimodality, based on the artificial, medically fallacious legal–illegal dichotomy discussed above (see chapter 2). Until recently, the problems caused by the use of the RMAD category II drugs has been attended to hardly at all [5], [6]. Under the Obama administration, the problem was beginning to be addressed . Nevertheless, because of the artificial "licit"/"illicit" dichotomy, national policy is lacking in comprehensiveness. Consider, for example, that in 2011 there were only about 2.7 times as many regular cocaine *users* in the United States than there were alcohol and tobacco *deaths*. Since I started working in this field, for me this has always

been one of the most striking pieces of data.

Fourth, in current policy, there is a conflict over the role of education in dealing with the drug problem. For the legal category I drugs (again see chapter 2), the major emphasis of national policy is on education. *De facto*, the law plays a secondary role, for example, banning cigarette smoking in many public places, making some effort to enforce laws against the sale of both tobacco products and alcoholic beverages to underage persons, cracking down on drunk drivers. Only recently has there been some program development for dealing with the RMAD category II drugs. For the RMAD category III drugs, criminal law enforcement is widely employed while some attempts at education are also made. But they are warped by the artificial bimodality of current policy. The wider question is, if education is the right approach to the use of the most widely used and most dangerous RMADs, why isn't it the right approach to the use of the illicits?

Fifth in this list of defects of current policy, there is the contradiction in Federal government drug-use goals. On the one hand there is the "Drug War's" (apparent) "*non*," "no way" drug-use goal for the illicits in "National Drug Policy". On the other hand, Healthy People 2020, the publication of the current iteration of the program by this name that is updated every ten years by the U.S. Department of Health and Human Services, broadly lays out national objectives for disease prevention and health promotion. Objectives are set for reduced prevalence for the use of the two major RMADs as well as for marijuana and cocaine. There are also goals for significant reductions in alcohol and tobacco-related negative health outcomes. Recognizing reality, "drug free," a goal originally introduced during the Reagan

Administration, supposedly to be dealt with by Nancy Reagan's famous slogan "Just Say No," is no longer on the national health agenda for any of the drugs.

Indeed, the 1988 "White House Conference for a Drug Free America," held in the last year of the Reagan Presidency, had called for just that: "drug free" . A major national advertising campaign supporting the "drug-free" approach (but aimed only at the illicit drugs) was established in the early 1990s. It was produced by an organization called the Partnership for a Drug-Free America . Ironically, the Partnership was originally a creature of the American Association of Advertising Agencies, a trade organization for, among others, most of the companies that make part of their profits promoting the use of tobacco and alcohol, especially to the young. It listed a large number of print media among its sponsors, many of which carry ads for alcoholic beverages and some of which carry ads for tobacco products. Currently, some leaders of the marijuana legalization movement view the Partnership as a promoter of the "Drug War".

As for the "National Drug Policy," as of 2014 , quoted at greater length in chap 3, the President introduced it with the following words:

> "I am pleased to transmit the 2014 *National Drug Control Strategy*, a 21st century approach to drug policy that is built on decades of research demonstrating that addiction is a disease of the brain—one that can be prevented, treated, and from which people can recover. The pages that follow lay out an evidence-based plan for real drug policy reform, spanning

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> the spectrum of effective prevention, early intervention, treatment, recovery support, criminal justice, law enforcement, and international cooperation.
>
> "Illicit drug use and its consequences challenge our shared dream of building for our children a country that is healthier, safer, and more prosperous. Illicit drug use is associated with addiction, disease, and lower academic performance among our young people. It contributes to crime, injury, and serious dangers on the Nation's roadways. And drug use and its consequences jeopardize the progress we have made in strengthening our economy—contributing to unemployment, impeding re-employment, and costing our economy billions of dollars in lost productivity."

He did refer to the problem of "Drug War"-related mass incarceration:

> "We have worked to reform our criminal justice system, addressing unfair sentencing disparities, providing alternatives to incarceration for nonviolent substance-involved offenders, and improving prevention and re-entry programs to protect public safety and improve outcomes for people returning to communities from prisons and jails."

And mirabile dictu, just as I was finishing up the writing of this book, a major plan was announced that could eventually result in the early release of close to 50,000 persons Presently in Federal prisons for non-violent "drug crimes" . This, along with gradual state-level

marijuana legalization, is an important first step in eventually getting to a "Drug-War-Free America." But at the level of dealing with the real drug problem in the United States, neither the President nor the people who wrote the "Strategy" for him have learned anything about how to deal with that problem from the 45 years of failure of the "Drug War."

Significantly, sixth in this list of the defects of current national drug use policy is the simple futility of criminal law enforcement against users that is aimed at simple use. For some time, studies have indicated that the perceived certainty and severity of punishment are insignificant factors in deterring use. In the late 1980s and early 1990s, what apparently was more important in reversing the trend of modestly increasing illicit drug use that marked the 1970s (likely related in part to the return of many addicted Viet Nam War veterans) was the growth in perceived harmfulness of the activity by potential users, which, in turn, likely augmented social disapproval of drug use behavior. Among users, in any weighing of legal and health risks of drug use, concerns about health predominated. There is no evidence that this situation has changed.

Seventh is the failure to recognize the *true* Gateway Drug Effect in terms of all the RMADs. (And it should be noted that this is as much a failure for the current drug policy reform movement as it is for the drug warriors. Apparently the former is just as uncomfortable with dealing with the whole concept of gateway drugs as are the latter.) The fact that in most drug abusers the problem starts in childhood or the early teenage years has been known for quite some time . What has also been known is that for almost all youngsters it is the "OK" drugs, tobacco and alcohol, that form the "gateway" to the use of the "not-

OK" drugs, which are all of the others . Just to reinforce this finding, let us note that as the Research Institute of the New York State Division of Alcoholism and Alcohol Abuse observed as far back as 1989:

> "Unless alcohol is used first, there is very little use of any other drug, including cigarettes and over-the-counter drugs. New York State youth of every age and sex combination — as well as African Americans, Hispanics and whites — follow a definite pattern of progression from alcohol to marijuana to hard drug use."

Another study from some time back found that a teenaged user of marijuana is eight times more likely to also be a cigarette smoker than is a teenager who does not use marijuana.

These findings have not varied over time. For example, for 2001, SAMHSA noted that :

> "The rate of past month illicit drug use among youths and adults was [significantly] higher among those who were current cigarette or alcohol users than in those who did not use these substances: In 2001, the rate of current illicit drug use was approximately nine times higher among youths who smoked cigarettes (48.0%) than it was among youths who did not (5.3%); Illicit drug use also was associated with the level of alcohol use. Among youths who were heavy drinkers in 2001, 65.3% also were current illicit drug users, whereas among nondrinkers, the rate was only 5.1%."

> And then for 2011, according to the SAMHSA current illicit

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drug use was approximately 9.5 times higher among youth aged 12 to 17 who smoked cigarettes in the last month (57.6 percent) than it was among those who did not smoke cigarettes in the last month (6.1 percent)" For "heavy drinkers" ("consumed five or more drinks of more drinks on the same occasion on each of 5 or more days in the past 30 days") as compared with non-alcohol users, the relative rates were 70.4 percent of the former used an illicit drug while 5.3 percent of the latter, used an illicit drug, respectively.

At one time, Dr. Jack Henningfield, then chief of the Clinical Pharmacology Branch of the National Institute on Drug Abuse Addiction Research Center, put the Gateway Drug focus on tobacco succinctly:

> "Reducing tobacco use is one of the most important elements in all long-range strategies for reducing [over-all] drug addiction."

Now, the widespread sale of the "OK" drugs, especially of alcoholic beverages --- as noted promoted with everything from sex on the beach, to climbing a snow-covered mountain and then hacking through ice to deliver beer to a waiting throng at a *bar inside the mountain*, to a James Bond-like sequence (featuring the actor who played James Bond in the films at the time) leading to lunch on a motor-boat runabout with beer, to the exploits of the "world's most interesting man" (an older gent, always surrounded by beautiful younger women), which then for some, as we have seen from the evidence above, leads to the use of the "non-OK" drugs,
--- is just fine. BUT, current national policy says to young people, and

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primarily minority young people at that, "If you happen to follow the natural progression from the approved drugs --- which are promoted --- to the unapproved ones --- which are not --- and we happen to catch you, we'll lock you up." Current "Drug War" policy simply does not deal with this major aspect of the gateway drug effect, and neither does the bulk of the drug policy reform movement.

Eighth in the list is the proposition that the drug warriors put forth that simple availability necessarily leads to drug use. Indeed, the most common argument against ending the "Drug War" then and now has consistently been that to do so would lead directly to vastly increased use [31, 32]. If that were the case, why would the alcoholic beverage industry spend so much money on advertising, and why did the tobacco industry do so before its access to places to advertise was severely limited by the National Smoking Cessation Campaign? And why is the U.S. tobacco industry so desperate to prevent any foreign country to which the U.S. exports cigarettes that does not already do so, from ordering the placing of very strong anti-smoking warning messages on every cigarette pack?

It happens that there is no historical evidence to support the notion that simple availability, without significant advertising and promotion, leads to use or that simple increase in availability leads to increased use. Consider the following. Since World War II, as we have seen the greatest success achieved in the United States in drug-use reduction has been for cigarette smoking among adults. This was accomplished in the face of unlimited supply, low price (compared to the present cost of the illicits, although that has been increasing gradually through taxation), and extensive pro–drug-use advertising and

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promotion.

Consider that before the gradual decline in adult cigarette use that began in the mid-1960s got underway, it took 80 years after the invention of the automatic cigarette-making machine in the 1880s and 50 years after the perfection of the safety match in the early part of the twentieth century for per capita cigarette use, negligible at first, to top out. That was in the climate of a heavy promotional campaign from the early 20th century onwards led in the 1950s by national figures such as Ronald Reagan, and little negative publicity. There were even ads that had doctors recommending cigarette smoking.

At the old Polo Grounds baseball stadium in New York City, where I used to go as a boy to see my beloved New York Giants (of Willie Mays and Bobby Thomson and the "shot heard 'round the world"), if a home run hit one the Chesterfield signs hanging on the rims of the second deck, Chesterfields sent 1500 smokes to a VA hospital [!]. I remember as a medical intern in 1962 making rounds in a rural hospital with the physician attending who had an ash tray on the charts cart [!]. That was the (smoky) atmosphere then. To repeat once again, cigarette smoking has declined very significantly --- without criminalization.

As for alcoholic beverages, it happened that the consumption of spirits did not decline much if at all during Prohibition. The illegal importation and distribution system for spirits, supplemented by some illegally distilled local supply, was just that good. But, as pointed out earlier, beer consumption dropped to almost nil, for beer is big, both

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to brew and to consume to the level required for the desired effect. It took between 30 and 40 *years* following the end of Prohibition for per capita beer consumption to reach the level at which it had stood in 1919 [35], with heavy advertising and wide availability.

Occasional experiments in decriminalization for the illicits that have occurred in the United States have generally not led to a rise in use. Professor Steven Duke referred to the experience of 11 American states in which marijuana was at one time or another fully or partially decriminalized. Not only did consumption not rise; it actually continued down at approximately the same rate as elsewhere. The laws regarding the street sale of cocaine and heroin were informally and partially decriminalized in New York City between 1989 and 1993, during the mayoralty of David Dinkins. Both cocaine street sales and cocaine use went down during that period. Furthermore, if in this instance simple (street) availability had a direct effect on use, it should have been much higher among African Americans than whites. It wasn't.

Personal marijuana use, in one's home, has been quasi-/sort of-/maybe legal in Alaska for quite some time [39]. As for what has actually happened in the early states to legalize the personal use of marijuana, Colorado, Oregon, and Washington, one report on the first year of legalization in the latter found that :

> "Filings for low-level marijuana offenses are down 98% for adults 21 and older; all categories of marijuana law violations are down 63% and marijuana-related convictions are down 81%; the state is now saving millions of dollars in law

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> enforcement resources that were previously used to enforce marijuana laws; violent crime has decreased in Washington and other crime rates have remained stable since the passage of I-502; Washington has collected nearly $83 million in marijuana tax revenues. These revenues are funding substance abuse prevention and treatment programs, youth and adult drug education, community health care services, and academic research and evaluation on the effects of marijuana legalization in the state; the number of traffic fatalities remained stable in the first year that adult possession was legalized; youth marijuana use has not increased since the passage of I-502; Washington voters continue to support marijuana legalization. Fifty-six% continue to approve of the state's marijuana law – about the same as when it was approved in 2012 – while only 37% oppose, a decrease of 7 points since the election of 2012. More than three-quarters (77%) believe the law has had either a positive impact or no effect on their lives.

Or consider this from the British organization "Tansform" (mentioned on the previous chapter) on the topic of the follow-up on marijuana legalization in Colorado :

> "Given that Colorado's cannabis market only began trading in January 2014, it is not yet possible to draw firm conclusions about longer-term impacts. But a review of early evidence on key indicators suggests that, aside from some relatively minor teething problems, the state's regulatory framework has defied the critics, and its impacts have been largely positive.

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> "There has been no obvious spike in young people's cannabis use, road fatalities, or crime, and there have been a number of positives, including a dramatic drop in the number of people being criminalised for cannabis offences; a substantial contraction in the illicit trade, as the majority of supply is now regulated by the government; and a significant increase in tax revenue, which is now being spent on social programmes."

But the real argument is, so what if use had increased (and it still might)? If our nation can very significantly reduce the use of the most highly addicting of the current RMADs without criminalization, marijuana certainly could be dealt with that way if there were a will to do so.

Finally, ninth on the list of defects in current policy is the fact that *the drug problem is caused primarily by demand for drugs and those factors that create demand*. Again, simple supply is just not it. This which is why supply-side "solutions" of one kind or another have been such monumental failures since Prohibition. What, in addition to the Drug Culture (see chap. 2), might those factors be? In a classic study published in 1992, Drugs, Crime, and the Justice System, *the Department of Justice itself* listed at length the factors considered at that time, by the DOJ, the primary engine of the "Drug War" itself, to cause or lead toward drug use .

Included are such factors as:

1. The desire to achieve the effects the drugs produce, such as

pain relief, relaxation, or excitement;

2. Among persons with psychiatric disorders, the need/desire to self-medicate;

3. Among youth especially, peer pressure, inadequate parent–child relationships, personality factors such as low self-esteem and orientation toward risk-taking, poor school performance.

While the USDOJ did not include either the Drug Culture or the ready availability of the *li*cits, the gateway drugs, *conspicuous by its absence from the Department of Justice's own list is simple availability of the illicits*. And this came out of the GHW Bush Justice Department (!).

Nevertheless, although the rhetoric has certainly become milder under the Obama Administration there was no indication that the proponents of the "Drug War" are considering either broadening their purview to cover all three categories of the RMADs or changing their tactics, ranging from attempts at source control to imprisoning otherwise noncriminal users, tactics that, once again, that have no effect on illicit drug use.

C. The Achievements and Limitations of the Drug Policy Reform Movement

There has been a prominent drug policy reform movement

(DPRM) in the United States for many years. Funded in a major way by George Soros and headed for many years by Dr. Ethan Nadelmann, this movement has centered on an organization now known as the Drug Policy Alliance. There are certain other, smaller and less visible organizations, such as the Criminal Justice Policy Foundation, Common Sense for Drug Policy , the Marijuana Policy Project , and Support Don't Punish.org . And there are certainly others that I don't know about.

As has been pointed out so many times, the "Drug War" maintains an entirely artificial dichotomy between the "licits" and the "illicits." Unfortunately, by and large, so does the U.S. drug policy reform movement the (DPRM). (There are certain exceptions like, to a certain extent, Common Sense for Drug Policy.) For the U.S. drug policy reform movement it is the "Drug War," not drug *use* and its negative health, familial, community, societal, and economic effects, that is the enemy. This posture has not changed since this writer first started dealing with drug policy and the drug policy reform movement and its representatives in the late-1980s.

Over the years, they have consistently refused to entertain any alternate approaches based on the understanding that the drug problem, in terms of its health, social, and societal effects, is a unity, not a duality. I remember one occasion at the then annual drug policy reform meeting, when the organization running it was still a fairly informal one, I asked one of my friends on the Board if I could have a few minutes to attend the Board meeting to present some of my thoughts. "You want to talk about tobacco and alcohol, don't you?" I was asked. "Yes, that's it," I said. "Sorry, we don't want to hear about

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that," or words to that effect, was the reply.

The Prohibition Act created a new gangster culture, soon exploited in pulp fiction and numerous films. The outlaws, who eventually began to organize in larger groups, soon became rich enough to corrupt all tiers of civil society.

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ABOVE: A still from *Little Caesar* (1931), a Warner Bros. blockbuster that featured Edward G. Robinson as the pugnacious mobster Cesar Enrico Bandello. *Little Caesar* was Robinson's breakthrough role and immediately made him a major film star. Besides the protagonist's outsize ego, much of the action concerned intergang violence, illicit liquor, prostitution and other drugs. The movie seemed to suggest that Prohibition and its litany of ills were a fixed, immutable aspect of American life, but Prohibition proved a failure, and it was eventually terminated. The criminal culture it engendered continued, however. Bad as the anti-liquor war was for society, the current drug war has proven immensely more damaging to the Constitution itself, and cemented the creation and maintenance of a vast "incarceration state" with a clear class and racial bias.

Thus, even though they can mobilize all the information about the illogic, the ineffectiveness, and most of all the tremendous societal damage that has been wreaked by of the "Drug War," they have never been able to attack it head-on, in the context of the widespread, heavily promoted, *licit* RMAD-use, in the context of the

U.S. Drug Culture. And that is because they have consistently refused to recognize the unitary nature of the drug problem. Instead they have accepted without any challenge or even questioning, the false theoretical basis of the "Drug War," that the drug problem is binary, not unitary.

This has created a series of problems/grave disadvantages for them. First, the DPRM does recognize that use of the illicits does have risks and does in certain users (many in the cases of heroin and methamphetamine) produce some very serious medical and mental health problems. They certainly promote "harm reduction" for the use of the illicits, and that is to their credit. But that is "harm reduction" for the use of the illicits. Because they consistently refuse to deal with tobacco and alcohol they cannot put those harms into the context of the much greater harms produced, on a societal as well as individual basis, by the two major licit drugs. Nor can they deal with any comparisons to gambling addiction, which as noted is actually promoted in part by any state government that uses a lottery to help finance its education system, the same state governments that come down so hard on illicit drug use.

If they did not adhere to the binary formulation of the drug problem, reformers would not be put in the position, and certain reformers do take this position, that, well, "marijuana in particular is not that harmful to health (or not bad at all)," when for certain users it can be very harmful to health. And while they occur much less frequently that alcohol-related driving fatalities, there is the very occasional marijuana-related "drugged driving" death. If one

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accepted that the drug problem is unitary, the response to that would be a) yes, and limiting marijuana use or promoting safe use, as is done to some extent with alcohol, should be the number one goal of any program, and further, b) the most effective way of limiting marijuana use would be to deal with the Gateway drugs effect of alcohol and tobacco use in children and teen-agers.

In that regard, they cannot deal with the Gateway Drug Effect of alcohol and tobacco use precisely because they accept that alcohol and tobacco are not in the purview of the "Drug War" that they are battling, just as the "Drug War" does. Furthermore, they are concerned about the controversy over whether or not marijuana itself is a gateway drug to the use of the "harder" drugs (which it seems not to be). But so what? As shown in some detail above, the evidence is clear that the most dangerous gateway drugs are alcohol and tobacco. If the DPRM recognized the unitary nature of the drug problem, they could focus first on the gateway effects of tobacco and alcohol, the most serious ones, then on marijuana. That would put them in a much stronger position to deal with the matter of legalization.

Further, in terms of the available responses to the arguments of the drug warriors, by not accepting the unitary nature of the drug problem the DPRM cannot point out that every argument in favor of the "Drug War" as "preventing harm" (as if it did, which it doesn't; it only creates harms) is an argument for the return of Prohibition and the application of it to cigarettes as well.

Then we come to the Drug Culture. The DPRM cannot deal

with the contradictions of the Drug Culture that strongly encourages RMAD use, especially for alcohol. It has been said that certain youngsters, being aware of the harmful effects of alcohol, especially when it comes to drunken behavior, to aggressiveness, and to drunk driving, are turning to marijuana because for most users it has a calming rather than a simulative effect . They cannot adopt a "yes, tobacco and the addictive pharmaceuticals are definitely bad for your health, and alcohol and any of the currently illicits can be, but they are all in the same boat" position. Because they accept the binary approach of the "Drug War," they cannot take the position: "We use public health approaches for the most harmful RMADs and criminalization approaches for the much less widely-used ones? That makes no sense." (Which it doesn't.)

When they talk about decriminalization/legalization, they are always on the defensive, because they cannot say, "well, consider that the major RMAD killers and causers of other harms, are legal." Finally, and perhaps most important, in accepting the binary approach of the "Drug War" they are totally prevented from attacking the broad range of stakeholders, except for the Prison-Industrial Complex, in its maintenance (see chap. 4). All of this together has created a major disadvantage for the drug policy reform movement.

D. An Interim Solution to the "Drug War" Problem

In the meantime, let us consider an interim solution to the "Drug War" problem. It is, in fact found at the center of many of the proposals presented both by the U.S. drug policy reform movement

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and some of those found overseas (see chap. 6). Anything like the adoption of the Public Health Approach would require very significant changes in the way the Federal and state governments deal with RMAD-use. It would also involve some serious confrontations with numbers of the Stakeholders in the maintenance of the War on Drugs. Thus at this time one can posit an interim, partial solution to the "Drug War" problem, at least in the United States. That is to bring the way the "Drug War" uses the criminal law into accord with the way Prohibition used it. This short section is based on two published columns of mine that appeared on The Greanville Post, published by my dear friend Patrice Greanville, who also is the publisher of the Punto Press, publishers of this book .

As we know, in the "Drug War" it is the *criminalizing* of possession and use that fills our prisons with so many people, especially black young men. But supposing the criminality elements of the "Drug War" were the same as they were for Prohibition (that is up until the passage of the Jones Act in 1929, which *partially* criminalized possession and use [and in so doing may have speeded up the demise of Prohibition]). Yes, just suppose. Although it would do nothing to solve the drug problem, as the Public Health Approach would, making such a change in the law would lead to a very rapid change in the U.S. criminal justice system. That is to remove "possession and use" from the list of crimes as defined under it, with the sole focus then being on the drug trade. Many fewer people would be sent to jail and then on to prison. If the law were applied retroactively to persons currently serving time for non-violent "possession and use" crimes, hundreds of thousands of persons would be released from the U.S. penal system. (Just as I was writing

this section of the book, as noted above, a major move in this direction was being commenced at the U.S. Federal level.)

If this policy were applied across the board at both the Federal and state levels (where many more "drug crime" prisoners are held), the problem of "mass incarceration," which even some Republican lawmakers and Presidential candidates in 2015 were getting concerned about (or at least were saying they were concerned about it) would be solved overnight. Other problems might be created, like having the African-American unemployment rate go up, while the number of African-American "felons" excluded from the polls would go down, but at least the U.S. incarceration rates would drop.

E. How the "Drug War" Might End

Given the power of the Stakeholders, it may well be that it will be as difficult to end the "Drug War" as it is that any reasonable gun policy reform can be achieved in the U.S. But there are five factors that could lead to the end of the "Drug War." If they collectively do lead to its demise, it will go not with a bang, but with a whimper.

First, and one does have to give the drug policy reform movement a great deal of credit for this, is the gradual movement in the states for legalization of marijuana.

Second is the increasing difficulty that the Federal, state, and local governments are having in raising revenues. Legalizing of one or more of the illicits, especially marijuana, could raise significant

amounts of tax revenue (and in order to raise tax revenue the change would have to be legalizing, not simply decriminalizing). (Recall that the potential for raising tax revenue was an important factor in ending Prohibition.)

Third, dealing with rampant violent crime was a consideration in ending Prohibition. Even though it does not affect the general community the way crime did during Prohibition, so it could be, both in the U.S. and abroad, for ending the "Drug War."

Fourth, as previously noted, an increasing number of observers, including some on the political Right, are calling for an end to or at least a modification of the "Drug War". (Even New Jersey Gov. Chris Christie has "declared the war on drugs 'a failure' that imprisons people who really need treatment". However, the influence of politics on drug policy showed itself clearly in 2015, when in the midst of his campaign for the Republican Presidential nomination, the Governor took as opposite position. He allowed that if he became President, on his very first day in office he would reverse the Obama policy of declining to have the Federal government interfere with state laws legalizing the retail sale of marijuana.) They find themselves in a tradition that goes back many years .

Fifth, the "Drug War" is not aimed at the rapidly increasing problem of the use of prescription medications on a non-prescription basis. There does need to be a new public health program that is focused on that one. As a former counter-narcotics prosecutor, Morris Panner, said:

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> "The Policies the United States has had for the last 41 years have become irrelevant. The United States was worried about shipments of cocaine and heroin for years, but whether those policies worked or not doesn't matter because they are now worried about American [mis-]using prescription drugs."

Sixth are the developments overseas in decriminalization/legalization, especially those that are taking place in Latin America (see chapter 6). These are already putting pressures of several different sorts on the United States and its "Drug War," like the end of attacks by certain governments on certain Drug Cartels.

F. What Ending the "Drug War" Could Accomplish

In summary, and to repeat, there is a major series of problems that could be addressed by ending the "Drug War" and legalizing the illicits (and I am certainly not the first to put forth such a list, and since comprehensive drug policy reform is not on the horizon for the United States, I will hardly be the last). First, all of the ever-rising toll of death, both in the U.S. and abroad would be brought to an end. Second, a major new source of tax revenues would be created. Third, the U.S. prison population would be significantly reduced, resulting in significant reductions in Federal, state and local spending on incarceration. (That would, however, affect a major group of workers, the prison guards and those in the supporting prison food and supply industries, as well as the predominately rural communities in which many prisons are found. Those are problems that would have to be addressed.) Fourth, doing so would significantly unclog the courts, especially at the Federal level where they are so over-burdened with

drug cases that the waits for trials on much more important matters, especially in the civil realm, can become interminable.

Fifth, there would obviously be a significant reduction in the demands on the law enforcement sector of government, which could either save money or enable the diversion of resources to other important areas, such as dealing with financial fraud in the banking, investment, and insurance industries, which do not always receive the attention they deserve. Sixth, the Taliban, currently supported in part by the cultivation of and commerce in opium poppies at significantly higher prices than the market would bring were heroin sold legally under proper controls, would lose a major source of their funding. Finally, the recognition of the unitary nature of the RMADs and the spectrum of problems that their use causes, would enable for the first time the implementation of the over-arching, comprehensive Public Health Approach to the Drug Problem.

The result would be a much healthier nation, in many senses beyond the physical and mental health of individuals. Since finding sources of new government revenues in the face of ever-increasing deficits has become such a major concern and since certain major foreign policy aims could be achieved more easily than they are now, now is the time to begin developing strategies and tactics for ending the "Drug War," once and for all.

It should by now be obvious why the U.S. drug *problem* cannot be solved if first the "Drug War" is not ended. Doing so, and only by doing so, would enable the development of the Public Health Approach to the Drug Problem, based on the U.S. National Smoking

Cessation Program. Doing so too would also bring the full understanding that the drug problem will never be "solved" in the sense that there will be no more use of any RMAD by anybody. That had of course been the ridiculous, totally unrealistic and unachievable original "drug free" goal (for the illicits alone, of course --- one can imagine how much alcohol was served at that 1988 White House conference that put the "drug free" goal on the table) of the "Drug War," as it was brought to its full fruition by the Reagan and GHW Bush Administrations. Only, as has been shown by the Public Health Approach to tobacco use in this country and the British post-World War I approach to alcohol consumption, can a marked reduction in *all* RMAD use and the negative consequences of it be achieved.

However, science and logic have not ended the "Drug War." All of the various drug policy reform commissions, established in both the United States and abroad base their studies and conclusions on logic and science. They are very important, indeed essential if the "Drug War" is to be brought to an end and a reasonable approach to dealing with the drug problem can be begun. But while logic and science certainly played a role in ending Prohibition, it was not until the *political* will to do so and the political forces were mobilized that its end was brought about. If anything significant is to be accomplished, that is what is going to have to happen once again in the United States.

What can help in organizing politically around the Public Health Approach is the understanding that in order for it to begin to be effective not every element of it, as detailed in chapter 5, would

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have to implemented in order for it to have some significant effects both in cleaning up after the "Drug War" and for significantly lowering the rates of overall RMAD use. For example, dealing with the U.S. Drug Culture would be highly controversial and opposed by many powerful vested interests. Job training/retraining programs and providing productive work for persons put out of work by the ending of the "Drug War" would be very expensive. Getting the Republican Party to agree to do any of it would be very difficult.

But I am ever hopeful. After all, Prohibition was repealed. As Mr. Rothstein of The New York Times said in his review of the exhibition on Prohibition (see Chap. 1):

"We tend to think of Prohibition now as some kind of crazed moral paroxysm, reflecting the worst in the American character."

It is to be fondly hoped that someday, perhaps even in the not-too-distant future, once a Public Health Approach for dealing with the overall drug problem begins to be instituted, we may look back on the "Drug War" in the same way.

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Chap. 8: Some of What Else has Been Happening in the "Drug War" and its Consequences

The modern "Drug War" has been going on for about 45 years. As we have seen, in the United States, various attempts to control human behavior in the use of carefully selected RMADs by employing the criminal law at one level or another has been going on for over a century. This chapter contains a series of short notes on various aspects of the problems associated with both RMAD-use and the "Drug War" that for one reason or another came to my attention after I finished the primary manuscript or for which a re-visit was thought to be useful. These items are loosely grouped by subject matter. The references for each are not numbered but are printed in the text following each item.

I. The Race and Class Basis of the War on Drugs

Thom Hartmann is long-time progressive author and radio/TV commentator who has made many important contributions to the left-wing policies and programs, both in the U.S. and around the world. I myself have been a long-time listener to Thom on progressive talk radio, presently on "Progressive Talk," channel 127 on Sirius/XM Satellite Radio. On December 29, 2015, Thom published a very significant column concerning the "Drug War" on his own webmagazine. He had some very important and cogent observations about the "Drug War." Here is a selection from his column:

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"[T]he war on drugs, since it's very beginning, has been about controlling political power - by breaking up black communities and the dissident left. And we know that because the people who have been involved, the architects and the leaders in the war on drugs, have admitted it - even bragged about it!

"Before he died, Nixon counsel and former Assistant to the President John Ehrlichman [who after his release from prison for Watergate-related crimes underwent a political conversion of sorts, among other things turning on Nixon from the left] told author Dan Baum that:

> 'The Nixon Campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar Left, and black people. You understand what I'm saying? We knew we couldn't make it illegal to be either against the war or black. But by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did.'

"In other words, Nixon and the GOP used the War on Drugs to help politically assassinate community leaders, and to fracture communities by removing individuals from society and throwing them in prison. . . .

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“The plan went hand in hand with the Republican "Southern Strategy,” [as described by the former Republican strategist Lee Atwater, one of its inventors; see]

“Nixon and his advisers didn't invent the racist war on drugs though. Using drug enforcement as a way to oppress minority communities already had a 40 year precedent.

“In the 1930s, Harry J. Anslinger [who had been an important official in the “War on Alcohol,” otherwise known as Prohibition, and was an ardent opponent of Repeal] served as the first commissioner of the U.S. Treasury Department's Federal Bureau of Narcotics, [established by the strongly pro-Prohibition President Herbert Hoover in 1930 while Prohibition was still underway] which eventually became the Drug Enforcement Agency.

“Back then, he [Anslinger] reportedly claimed: ‘There are 100,000 total marijuana smokers in the U.S., and most are Negroes, Hispanics, Filipinos and entertainers. Their Satanic music, jazz and swing result from marijuana use. This marijuana causes white women to seek sexual relations with Negroes, entertainers and any others.’

“He also more bluntly complained that ‘Reefer makes darkies think they're as good as white men.’ [It was Anslinger who promoted the idea that marijuana was a demon drug, long before Nixon and his people came up with the idea of the

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'Drug War.']"

II. Heroin, the Legal Narcotics, and their Associated Problems

A. In 2015 heroin addiction and its negative outcomes, especially in the realm of overdose deaths, all of a sudden became a problem gaining national recognition. And all of a sudden the proposed solutions for it did not focus around law enforcement measures aimed at users, with subsequent imprisonment. Among the Republican candidates for President, New Jersey Gov. Chris Christie became particularly outspoken on this one.

Christie, who has always presented himself as a hardline "law and order" type of guy, was all of a sudden talking about the need for treatment and understanding, rather than imprisonment and hard-lining, for heroin addicts. Indeed, Christie is still a hard liner when it comes to marijuana legalization, saying, as noted previously, that were he to be elected President, on his first day in office he would rescind the Obama Administration's decision not to apply Federal law that illegalizes marijuana sale, possession, and use to those states where marijuana legalization had been voted in. One wonders what happened to the "states' rights" principle that Republicans are always campaigning on when it comes to such matters as voting, abortion rights, and gay rights, but that is another matter.

Concerning heroin addiction, couldn't be that in New Hampshire the problem --- a rampant one in relative terms --- is a "white" one rather than a "black" one, could it? Indeed, a New York Times article on the subject was headlined "White Families Seek a Gentler War on

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Heroin". The article noted that nationally 90% of the persons who tried heroin for the first time in the last decade were white. That couldn't be it to a Governor who said that he were elected President he would not meet with representative of the national organization "Black Lives Matter"? Could it?

In 2013, nationally there were 8260 deaths from heroin overdose, quadrupling since 2000. (It happens that heroin rarely kills except by overdose, unlike cigarette smoking.) As for cigarette smoking there are more than that number of deaths nationally *in less than five days*, while OxyContin and related prescription opioids killed about twice that number in 2013. Funnily enough no one is talking about criminalizing the possession and use of the latter.

B. On November 24, 2015, one Bradley Bender, 54, a Southampton, NY, town councilman, resigned from his position "shortly before pleading to a charge of conspiracy to illegally distribute oxycodone pills". He ran a scheme in which he obtained phony prescriptions from a local physician's assistant and then sold some of the pills to other users. Mr. Bender faced up to 20 years in prison although it was likely that (being white and "respectable" [?!?]) he would face only 24 to 30 months. But whatever his penalty, it was for non-prescription distribution of a medication legally available only on prescription. Unlike heroin addicts, he would not face any jail time simply for possession and use. Of course, it should be emphasized that in terms of function, and addict-ability, oxycodone (and similar medications like Vicodin) is simply a pill form of heroin.

C. View the above case against a charge of trafficking in

OxyContin (a further processed form of oxycodone). On September 30, 2015, a Long Island Oxycodone dealer was sentenced to 18 years in prison. This reflects a Prohibition-type use of the criminal law (which of course could be used for any of the "illicit drugs"). "Somehow," the dealer got blank physicians' prescription blanks, forged signatures, and pharmacies "somehow" accepted the prescriptions, although they certainly could have checked with the physicians named on the forms, but apparently did not. But that's another story. Also another story is the possible responsibility for the pharmaceutical companies that produce the pills in very large numbers but then do nothing to track their distribution patterns. But further, compare this man's sentence to the one faced by the "respectable" Mr. Bender. Of course, in this case, the dealer (and Mr. Bender was a dealer too, admittedly on a more modest scale) just happened to be African-American.

D. Interestingly enough, over the period 2003-2013 the non-medical use of prescription opioids actually declined. On the other hand, "the prevalence of the *prescription opioid use disorders* [emphasis added], frequency of use, and related mortality increased." This despite the fact that it is thought in some medical quarters at least (although there is a good deal of controversy among medical authorities on this) that the opioids are not of particularly good use in long-term pain management, especially as compared with non-opioid medications like ibuprofen and acetaminophen (which do have be used in moderate doses because of potential side-effects). Couldn't have anything to do with pharmaceutical company marketing of the opioids, could it?

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E. Of course the alarms are being raised about heroin use, without making any comparisons to either tobacco or alcohol use. In 2014 there were about 300,000 regular users of heroin nationally. At the same time, there were 42,000,000 smokers and enough regular users of alcohol to cause 88,000 deaths related to excessive use. Note that the alcoholic disease-related *death* toll is about 30% of the total number of *users* of heroin.

F. According to the Centers for Disease Control and Prevention: "Heroin use has increased across the US among men and women, most age groups, and all income levels. Some of the greatest increases occurred in demographic groups with historically low rates of heroin use: women, the privately insured, and people with higher incomes. Not only are people using heroin, they are also abusing multiple other substances, especially cocaine and prescription opioid painkillers. As heroin use has increased, so have heroin-related overdose deaths. Between 2002 and 2013, the rate of heroin-related overdose deaths nearly quadrupled, and [as noted above] more than 8,200 people died in 2013. States play a central role in prevention, treatment, and recovery efforts for this growing epidemic." Of course, (as noted frequently in this book [!]) that compares with close to 500,000 deaths from cigarette-smoking related disease, among both smokers and non-smokers (from "second-hand smoke" --- about 41,000), and (to repeat) about alcohol-use-related 88,000 deaths (2010 figures). But a hew and a cry about either? Nah!

G. A significant number of undocumented immigrants to the United States from Latin America are children fleeing the violence of the "Drug War" in their home countries. Thus many would consider

them refugees, not immigrants in the conventional sense. Of course, for the Republican Party in 2015, that would be a distinction without a difference. They all should be either kept out or turfed out of the United States.

H. In an article in the Long Island, NY daily newspaper, Newsday, Kevin Deutsch reported that for 2013, there were 144 heroin-related overdose deaths on Long Island. In the same period, it can be calculated that there were approximately 3800 cigarette smoking-related deaths. And the possession and use of which drug is criminalized again?

III. Alcohol Use in the U.S.

A. While "the overall prevalence of alcohol use in the United States has not changed substantially between 2005 and 2012, the prevalence of heavy drinking and binge drinking has increased in 2012-2013. Indeed, 12-month and lifetime prevalence of alcohol use disorder in the United States were 13.9% [for 2005] and 29.1% [for 2012]". That represented very large numbers and more than a doubling of serious alcohol-use-related pathology over that time. Where was/is the outcry on this pathology that affects tens of millions of adults? Buried somewhere by the noise level associated with alcoholic beverage advertising and, could it be, by the political influence of the industry and the enterprises that benefit from all of its advertising, like the major sports leagues. This situation of course is impacted by the fact that the majority of people who use alcohol are not problem drinkers of any kind.

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IV. On Cigarette Smoking

A. "The evidence indicates that interventions that raise the unit price of tobacco products through taxes generate substantial healthcare cost savings and can generate additional gains from improved productivity in the workplace."

B. Seen on a box of Camels cigarettes sold in the Bahamas, under the "Camels" name and the decades-old logo: "Smoking Kills" in stark black letters on a white background. These are the kinds of warnings that appear in other countries (not the U.S.) that the U.S. Chamber of Commerce is working hard to get taken off or never put on such packages.

C. The tobacco industry continues to try to hook people on cigarettes, using various new packaging for their products. Since the industry knows, perhaps better than anyone else, that almost all smokers begin smoking when they are children or teenagers, not when they are adults, they presumably are aiming their new products at those two population groups. In late 2015, the Food and Drug Administration, operating under its authority to regulate the tobacco industry, banned four new R.J. Reynolds brands as unsafe (at any speed). The agency determined that the new brands did not meet the requirement that they be "essentially the same as older products in terms of health risks". The four brands were "Camel Crush Bold," "Pall Mall Deep Set Recessed Filter," "Pall Mall Deep Set Recessed Filter Menthol," and "Vantage Tech 13." While the FDA did not explicitly state why they were banning the new ones, one can safely assume that it was because they packed a higher concentration of the

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addicting RMAD for which they are the delivery system: nicotine.

D. Under the "is it good news or bad news" department, in 2014 only five percent of U.S. college students said that they were daily cigarette smokers. That's down from 19% in 1999 (without the benefit of the use of the criminal law, by golly [!]). On the other hand, "about 5.9 percent of college students were smoking marijuana on a daily or near-daily basis." And on the "third hand", "[t]he survey found that the number of students smoking tobacco with a hookah at least once in the prior 12 months rose from 26 percent in 2013 to 33 percent in 2014. E-cigarette use remained relatively stable but high at 9.7 percent over the prior 30 days, flavored little cigars 9.8 percent, regular little cigars 8.6 percent and large cigars 8.4 percent."

E. The e-cigarette has become very popular in recent years. It is an electronic delivery system for vaporized nicotine that physically resembles a cigarette in one way or another. There is a great deal of controversy over its production, sale, and use,,. The bottom line for this one is: "Health claims and smoking-cessation messages that are unsupported by current scientific evidence are frequently used to sell e-cigarettes. Implied and overt health claims, the presence of doctors on websites, celebrity endorsements, and the use of characterizing flavors should be prohibited"; . . ." (There are numerous papers on e-cigarettes by this author.) There are indeed increasing concerns that e-cigarettes themselves may increase disease risk. (No one, thankfully, is calling for their illegalization, and given the powers behind them, it is unlikely that any such calls would be monumentally unsuccessful.)

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At the same time, makers of e-cigarettes seem to be going out of their way to make their products attractive to the palate. Consider such flavors as banana split, cheery cheesecake, gingerbread man, and mint chocolate chip. Are they ice creams? Why no. They are e-cigarette flavors.

A comprehensive set of studies and policy statements on e-cigarettes have been produced by the Center of Tobacco Research and Education at the University of California at San Francisco. In sum, e-cigarettes are not particularly useful in helping people to quit, they may be harmful in and of themselves, and when used by young people they may lead eventually to cigarette smoking. (More recent studies have shown that for teens e-cigarette smoking does lead to smoking the real thing at an increased rate.) However, none of these situations/findings should be considered arguments for illegalization (for if we wanted to go that route for any of the RMADs, cigarettes would of course be first in line). They are arguments for strong and effective regulation, along the lines those outlined below in the discussion of effective regulation of marijuana use.

V. <u>The War on Drugs and Mass Incarceration</u>

A. Here's a stark example of what mandatory minimums have led to. In Louisiana in 2011, a man riding a bicycle was pulled over by police (just why this African-American was pulled over, *on a bicycle*, is not stated) and found to be in possession of two marijuana cigarettes. He was convicted of possession of a banned substance, and because he had two previous minor drug convictions this small business owner and family man was sentenced to 13 years and four

months in prison, with no possibility of parole. As of June, 2015, Louisiana Gov. Bobby Jindal, at that time running for the Republican Presidential nomination had made no move to reduce his sentence (surprise, surprise). After all, this Governor, who is one of the strongest "right-to-lifers" in the country when it comes to fetuses, was not concerned with the right to life of a father of seven among whom is one autistic child. He couldn't open himself up to the charge of being "soft on drugs," now could he?

B. As a letter to The New York Times said, in responding to claim by the columnist David Brooks that the "drug war" had/has little to do with mass incarceration:

> "Mass incarceration grew out of harsh sentencing for drug offenses, mandatory minimum sentences that required imprisonment for less serious crimes, and very long sentences, especially for violence. This may be the 'popular' narrative, as David Brooks asserts, but it is also the consensus of the National Academy of Sciences report on incarceration that systematically reviewed all the scholarly research.
>
> "To minimize, as Mr. Brooks does, the effects of the war on drugs flies in the face of the evidence. Over the last four decades, incarceration rates for drug offenses increased tenfold, compared with a fourfold increase for all other crimes.
>
> "Similarly, it is deeply misleading to claim that prosecutors simply became more aggressive over this period, without acknowledging that stricter penal laws provided them new

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leverage to negotiate more punitive outcomes.

"To reduce the country's needlessly high incarceration rates, we must recognize the crucial role of our policy choices to launch a war on drugs, to enact mandatory minimums and to embrace very long prison sentences that are largely unknown outside the United States."

The writers of the letter were the co-editors of the National Academy of Sciences Report they cited in their letter [see also chap. 4]. And here is a quote from the introduction to it on the National Academy Press website (see reference #34):

"After decades of stability from the 1920s to the early 1970s, the rate of imprisonment in the United States more than quadrupled during the last four decades. [That coincides with the launching and maintenance of the "Drug War." Must just be a coincidence, no? Well, NO!] The U.S. penal population of 2.2 million adults is by far the largest in the world. Just under one-quarter of the world's prisoners are held in American prisons. The U.S. rate of incarceration, with nearly 1 out of every 100 adults in prison or jail, is 5 to 10 times higher than the rates in Western Europe and other democracies. The U.S. prison population is largely drawn from the most disadvantaged part of the nation's population: mostly men under age 40, disproportionately minority, and poorly educated. Prisoners often carry additional deficits of drug and alcohol addictions, mental and physical illnesses, and lack of work preparation or experience. The growth of incarceration in the United States during four decades has prompted numerous critiques and a growing body of scientific

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knowledge about what prompted the rise and what its consequences have been for the people imprisoned, their families and communities, and for U.S. society.

"*The Growth of Incarceration in the United States* examines research and analysis of the dramatic rise of incarceration rates and its affects. This study makes the case that the United States has gone far past the point where the numbers of people in prison can be justified by social benefits and has reached a level where these high rates of incarceration themselves constitute a source of injustice and social harm.

"*The Growth of Incarceration in the United States* recommends changes in sentencing policy, prison policy, and social policy to reduce the nation's reliance on incarceration. The report also identifies important research questions that must be answered to provide a firmer basis for policy. The study assesses the evidence and its implications for public policy to inform an extensive and

thoughtful public debate about and reconsideration of policies."

C. In 2015, much was being made of a supposed alliance between the "left" and the "right," especially in Congress, on the matter of sentencing reform as raised by the National Academy of Sciences study and many other authorities,. Proposed Federal legislation to deal with the problem of the totally illogical mandatory minimums that are such a major cause of the over-incarceration from which our nation suffers was working its way through the Congressional mill.

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But then there was an "Ooops!" It turns out that support for the measure which came from the Koch brothers and their powerful political lobbying effort was really aimed not so much at sentencing reform but rather at adding a requirement for much of Federal law and regulation concerning industry, that those persons in charge charged with various violations knew in advance that their actions were indeed violations. In other words the goal of the right-wing effort was to remove from much of Federal regulation the hoary legal dictum that "ignorance of the law is no excuse."

In other words, the Republicans in Congress were trying to use sentencing reform as a way to make it much easier for polluters to pollute, violators of labor law to violate, companies unconcerned about consumer protection to be unconcerned and get away with it, because the government would have to prove that they knew what they were doing in advance of doing it. That's a very difficult proof to achieve indeed, and turns the old principle, "ignorance of the law is no excuse," on its head. The move was led by Rep. Jim Sensenbrenner (literally "scythes burner") of Wisconsin, a long-time stalwart rightist in Congress.

> "If the bill passes, the result will be clear, said Melanie Newman, the Justice Department spokeswoman. 'Countless defendants who caused harm would escape criminal liability by arguing that they did not know their conduct was illegal.' "

It was thought at the time that the Republicans might very well hold the comprehensive sentencing reform measure hostage to getting their totally unrelated "get-out-of-liability-for-regulation-violation-free" card passed at the same time. Republicans may be many things, but not clever is not one of them.

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VI. On Marijuana

A. Smoking marijuana can be harmful to one's health. That has been well-known for quite some time. A major factor in causing the incidence of harmful effects to rise in recent years is that commercial marijuana is appearing in ever-more concentrated forms. Of course, the potential harms of marijuana pale in comparison to those of tobacco products and alcoholic beverages. But further, it is the "Drug War" itself that has produced those more concentrated forms. If larger amounts of the RMAD can be contained in ever-smaller amounts of the delivery system, why then it is much easier to transport the product to and sell it on the retail market. And smaller amounts of the delivery system make is ever more difficult for law enforcement agencies to track it down.

B. As more and more states decriminalize the personal use of marijuana, there has been increasing attention paid towards the effective regulation of its use in terms of maintaining the public's health. Among the lessons learned from the effective regulation of tobacco products (and to a lesser extent of alcoholic beverages, in the United States at least) are: keep prices artificially high (but not so high as to create a black market for the product); adopt a state monopoly on production, distribution, and sale of the substance, in its various forms (this occurs in other counties); restrict and carefully monitor licenses and licensees; limit the types of products sold; attempt to limit marketing; restrict areas of public consumption; measure and prevent impaired driving; limit the market to non-profit companies (this also occurs in other countries).

VI. Drug Policy Reform Efforts (beyond the major ones in the U.S.)

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A. As noted in chapter six, a leading drug policy reform organization in the United Kingdom is Transform. In their November, 2105 Newsletter it was noted that: among prominent public figures supporting major reforms are Kofi Annan, (former UN Secretary General), "M" (otherwise known as the actress Judi Dench; as of "Spectre" the late "M," but Ms. Dench, fortunately is, at the time of writing, very much alive), Juan Manuel Santos (President of Colombia), Sir Richard Branson (President of the Virgin Group), former U.S. President Jimmy Carter, Brad Pitt (the actor), Jose Mujica (President of Uruguay), Dr. Richard Horton (Editor-in-Chief of The Lancet), and George Schultz, (former U.S. Secretary of State); that the United Nations Office of Drug Control (long a staunch supporter of criminalization of the "illicits," has now come out in support (sort of), of decriminalization and has been joined by nine other UN agencies (including WHO, UNESCO and UNICEF) (the April 2016 United Nations General Assembly Special Session on Drugs will have been a fascinating one); and that Transform itself has produced a very reasoned and reasonable guide towards a regulated model for marijuana legalization: How to Regulate Cannabis a Practical Guide.

B. In the early 1990s the government of Ireland undertook a comprehensive study of the "drug problem." That study, undertaken by the "National Coordinating Committee on Drug Abuse," in 1991 produced a document entitled "Government Strategy to Prevent Drug Misuse". It confines its definition of "drug" to the illicits. Yet, and this is fascinating, in its extensive set of recommendations it is only marginally concerned with law enforcement. It primarily focuses on identification, prevention, treatment, and rehabilitation, which are (and should be) the central foci of any public health approach to the

drug problem. A follow-up study by Dr. Aileen O'Gorman was published in 1998. Its principal conclusion was that:

> "Problematic drug use, mainly regarding the use of opiates, has been identified as a major social problem in Ireland. Such problematic drug use has been found to be concentrated in Dublin's inner city areas and outer estates where poverty, multi-generational unemployment, high population density (particularly of young adults), and poor facilities are the norm. Policy responses, although acknowledging the environmental context of the drug problem, have tended to focus on the medical treatment of the individual, rather than tackling the wider social and economic issues."

From Dr. O'Gorman, see also "Mapping Study of Drug Policy Reform Organisations". One conclusion to draw from her work is that when social scientists, regardless of country, look at the "drug problem" they come to the same conclusion. Criminalization and law enforcement are not the answer. In fact, they only make things worse. Want to know why change occurs so slowly, especially in the United States? Just see chapter 4, "The Stakeholders," and the next item as well.

C. In the United States a major current non-governmental organization leading the battle to *prevent* the reform even of marijuana-criminalization laws is something called the Community Anti-Drug Coalition. Two others are the Partnership for Drug-Free Kids and the Partnership for a Drug-Free America (and oh by the way,

tobacco products and alcoholic beverages don't count as "drugs" for these groups). Have a guess from whence these organizations acquire major parts of their funding. Time's up! It's the "opioid manufacturers and other pharmaceutical companies." Couldn't be a concern about competition, particularly from a drug that is rather less potentially harmful than any of the prescription narcotic? Could it? This same article also provides a brief review of the efforts of some law-enforcement agencies to block drug policy reform. (Again, see also Chapter 4, "The Stakeholders.")

VII. Conclusion

As noted throughout this book, the United States is literally drowning in drugs. One just has to look at the television ads that run all day every day urging viewers to "take this pill" --- prescription/talk-with-your-doctor or over-the-counter --- to "solve that problem." Then there are the alcoholic beverage ads, both for beer and spirits, as well the ads promoting gambling, both government and privately-offered. (Gambling is not a "drug," of course, but it sure can be addicting.) All of this and more leads to the wide-spread Drug Culture that exists in the United States, in which the use of certain drugs is strongly encouraged, which in turn leads to the major RMAD problem caused by the use of tobacco products and alcoholic beverages.

Since alcohol and tobacco are clearly the gateway drugs leading right to the use of the "illicits," it should come as no surprise that the U.S. has an "illicit" drug-use problem, which just happens to be much less widely spread and far less damaging in terms of its negative health effects than the licit drug-use problem. What should come as a surprise is of course that the U.S. approach to dealing with the

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"illicits" is so heavily focused on the criminalization of both the trade and possession and use, when 45 years of experience shows that is simply doesn't work. What works, of course, is the Public Health Approach to the Drug Problem, as exemplified by the U.S. National Smoking Cessation Program. And so on, and so forth, as we have set forth in great detail throughout this book.

Since the Drug Problem is so prominent in U.S. society, it receives continuing attention in both the popular and the scientific literature. This chapter contains just a sampling of some recent (and certain not-so-recent-but-important-to-note) events, developments, and documents most of which were not covered in the body of the text. Indeed, one can find something new coming out on the Drug Problem almost every day. My hope is that the data and discussion presented throughout this book can help lead in the direction of ending an approach to the Drug Problem which for so many years has caused so much harm in the United States and, under U.S. leadership, in so many countries around the world. At the same time, the primary aim here is to encourage the general adoption of the types of principles, policies, and programs that have proven to be so successful in reducing the use of tobacco products, for dealing with the Drug Problem as a whole, that is the Public Health Approach to the Drug Problem.

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APPENDICES

Appendix I

Introduction

In 1996 I published the original version of a dystopic fictional non-fiction book that I had written in 1994-95. It was then entitled The 15% Solution: A Political History of American Fascism, 2001-2022. The book was purportedly published in 2048, on the 25th anniversary of the Restoration of Constitutional Democracy in the Re-United States. The author was a pseudonymous "Jonathan Westminster." That was a play on the name Jack London, for it was he wrote the first book that described the fascist state, entitled The Iron Heel, published in 1907.

London would prove prophetic, for although fascism did not arrive first in the United States as London projected it. In the sense that it was the first authoritarian dictatorship in history not to be headed by a monarch, fascism made its first appearance, not in Italy (which gave the state structure its name), but in Hungary. The dictator was one Admiral Miklos Horthy. But Hungary is land-locked, you say. How could they have an Admiral, unless they had a little fleet on their famous Lake Balaton? Well, from 1867 until the end of the Great War Austria and Hungary existed together as a dual monarchy. Austria had an extensive coastline on the Adriatic Sea, thus it had a navy, and its navy

had an Admiral Horthy.

At any rate, my book was about what might happen to the United States should the Republican Party, which by the mid-90s was increasingly wedded to the Christian Right, take over power in the United States. The projections for the first 15 years or so from 1996 were based on what the Republican Christian Right was already then telling us what they would do if they ever took significant, not even total power. Sadly, many of those projections are coming true. So true, that the publisher of this book, my dear friend and comrade Patrice Greanville, decided that he wanted to re-publish the book, with certain modest changes at the beginning and the end. Since the central narrative would remain as it was when I first wrote it, I jumped at the stance. And so, it reappeared as: "The 15% Solution: How the Republican Religious Right Took Control of the U.S.: 1981-2022" http://www.puntopress.com/jonas-the-15-solution-hits-main-distribution/ http://www.amazon.com/15%25-Solution-Steve-Jonas/dp/0984026347/ref=sr_1_1?s=books&ie=UTF8&qid=1369071141&sr=1-1&keywords=The+15%25+Solution.

After several chapters of introduction, the narrative of the book begins with the election in 2000 (remember the book was originally published in 1996) of the "Last Republican" President. (Sorry, but you will have to read the book if you want to know how he got that moniker.) This character was modeled in part on Bob Dole. I wrote for him his first and only inaugural address. It focused on what he called "The Real Drug War." The program, if you want to call it that, contained

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every programmatic cliché with which the Republicans and their Democratic collaborators had endowed the "Drug War" over the years. I thought that it would make a fitting supplement to this book.

I present here the whole chapter which contains the inaugural, beginning with the Commentary of the then "author," Jonathan Westminster, which gives you some of the historical background, then the Inaugural Address, followed by a short "Author's Note," followed further by a letter from a fictitious English journalist named Alex Poughton (a play on the name Alexis de Tocqueville) to a friend/colleague of his in England (otherwise unknown) named "Karl." The chapter's full reference list is also included.

Author's Commentary

The year 2000 marked the election of President Carnathon Pine, who came to be known as the Last Republican. A former Republican Senate majority leader, he was known for his sharp tongue, his wardamaged leg, and over the course of a long and not otherwise distinguished career, his exquisite attention to politics rather than policy and governance. At age 74, he was the oldest man ever to be elected President.

He had run on a platform of "if not her, then me," "everything they do is wrong," and, referring to the series of natural disasters which had befallen America annually since Hurricane Andrew of 1992 and the Great Floods of 1993, "God is punishing America for its sinful ways." This theme had become increasingly popular for RightWing Reactionaries since the mid90s. For example, in 1993 Christian Coalition leader Pat Robertson said this about the flooding in the

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midwest of the old U.S. (*RightWing Watch*):

"I just grieve to see this happening and we have to pray for them [the victims]. But . . . the Bible makes it very clear. When you take God out of your life, and the Supreme Court clearly mandated God out, . . . and [when you] have a President . . . who is opening the floodgates of homosexuality and opening as best he is able the floodgates of this horror of abortion, . . . [then] the Bible says that the blood of the innocents will cry out against us and the land will be cleansed and the only way it will be cleansed is through the blood of others . . . So don't be surprised if you see natural disasters (700 Club, July 2, 1993)."

For the focus of their Year 2000 campaign, the RightWing Reactionaries took off from the Republican 1996 Presidential election platform. That platform itself was much like the 1992 Platform (Bond), which had essentially been written by the Christian Coalition. However, by the Year 2000, the Republican Party, now the untrammeled promoter of RightWing Reaction in the old U.S., had become even more blatant and in essence honest about what they were really about.

And so, in addition to their themes of the 90s, they organized variously around such additional ones as: increasingly unvarnished racism and xenophobia expressed in such slogans as "you *know* who is stealing your jobs, sucking up your taxes, and attacking you in the streets—and we do too, trust us—we'll take care of them," "the U.S. is a Christian nation," "the Bible is our fount of natural law," "taxes are inherently unAmerican and unGodly," "the free market way is the only *moral*

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way," and "poverty is the fault of the poor, and no one else."

This last position was utterly central to RightWing Reactionary thinking. Its adoption was essential if the "poor" were to be characterized and maintained as the "enemy" of "hardworking" Americans. (Of course, by constant RightWing Reactionary propaganda contrary to the facts, in the minds of many the word "poor" was made synonymous with the word "black.")

But said straight out like that, it had a judgmental, some said "cruel," sound to it. A formulation designed to deal with that problem that became popular had first been uttered by one Michael Forbes, a RightWing Reactionary member of the famous "Freshman Class" of the 104th Congress. Shortly after his first election to the House of Representatives from the First District of Long Island, NY he said (Henneberger): "We don't have *actual* poverty. We have *behavioral* poverty. Very few people out there go to bed hungry [emphasis added]."

This original thought, and others like it, comprised an internally consistent ideology. Never mind that in some cases this ideology, as reflected in the Rightwing campaign themes of 1992, 1996, and the Year 2000 seemed to many outside observers to be in conflict with the facts and an understanding of reality that had been built up over decades.

Even more importantly for the future of the country, this ideology was in conflict with the basic, fundamentally American precepts of the Declaration of Independence, and the Constitution from the Preamble through the Bill of Rights (see Appendices I and VII). But no opponents

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of the RightWing Reaction in general or the Republican Party in particular ever made anything out of that finding or even seemed to recognize it.

The centrists, liberals, and progressives had been split, between the Democratic Party and a variety of "third parties of the left." They agreed on little except that RightWing Reaction was a bad idea. Neither the Democrats nor the third parties presented any coherent program for rescuing the continuously declining economy. And no major political organization, Democratic Party or otherwise, at the time recognized, publicly at least, the danger that the growing power of RightWing Reaction in general and the Religious Right in particular presented to the maintenance of Constitutional democracy in the United States.

Thus the opposition to RightWing Reaction failed to organize around the obvious theme, one with which they might well have been able to mobilize large numbers of Americans, especially nonvoters, to turn back the RightWing tide: "only the Declaration of Independence and the Constitution represent true American values, and only adherence to those values will preserve Constitutional democracy and the United States as we know it." (This theme was the basis of Dino Louis' political theory and program, "Progressive Patriotism." Generally ignored at the time, in this book excerpts of Louis' own writing on it are presented in Appendix VII.)

For the Democrats, not only was there was no comprehensive national strategy. Instead, as the Bush Republicans had done in the election of 1992, for example, all the Democrats offered was "we can do better than we have done—we deserve one more chance."

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And the so-called "left" was not much of an improvement. They offered neither a comprehensive national strategy nor a specific program for the defense of Constitutional democracy. Rather, they presented a laundry list of complaints about both major parties; vague, worn-out slogans like "no justice, no peace," and "the people, united, shall never be defeated"; and, in no particular order, a laundrylist of specific "fixit" programs from "jobs for all" to "affordable housing for all," all of which would cost much money. But they offered no politically viable program for raising it, saying only "tax the rich and cut military and prison spending."

In this environment, "The 15% Solution" worked to perfection. With neither the Democratic Party or the leftwing third parties offering viable, politically attractive and salable alternatives to either then-present policy or the longer-term RightWing Reactionary threat, voter turnout for a Presidential election fell to an alltime low in the year 2000: 39% of registered voters, representing 28% of the eligible voters. Former Senator Pine won the Presidency with 53% of that vote, amounting to precisely 15% of those eligible, just as the original "Solution" had called for. With similar voting outcomes, the 15% Solution also lead to the election of increased Republican majorities in both Houses of Congress.

Further, by this time almost all of the sitting Republicans had the endorsement of the Christian Coalition and openly espoused its political agenda. That agenda, first presented in summary form in 1995 in a document called the "Contract on the American Family" (PFAW; Porteous) featured the socalled "morality" issues, for example: terminating freedom of choice in the outcome of pregnancy, mandating

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prayer in the schools, government support of religious schools, banning sex education, denying the civil rights of homosexuals, and so forth. At the same time, its writers were giving almost equal billing to the primary interests of their major backers: further tax cuts, evermore deregulation of private economic activity, everfreer rein to the reign of the profit-driven "free market."

In late 1994, with the prospect at that time of a Republican takeover of the Congress, the Coalition had briefly abandoned its primary focus on the "morality" agenda to concentrate on RightWing economic issues, such as tax cuts for the wealthy (DNC, 2/13/95). (It is fascinating that in his speech to the Republican National Convention in 1992, Pat Robertson had actually used the word "taxes" more than he had used the word "God.")

But after the election of the Republican Congress in 1994, in the runup to the 1996 Presidential elections that began in early 1995, the Coalition made it clear that "morality" (in its sense of the term) would always come before economics (Edsall). Since the Coalition controlled the core vote for the Republican Party, and showed that it could wield that control very effectively, every serious Republican Presidential candidate from 1995 onwards put Christian Coalition type "morality" first, even if he or she didn't really believe it. Thus Pine's heavy emphasis on the matter in the year 2000. (Knowing that Pine wasn't *really* one of theirs, his Christian Coalition supporters often referred to him in a term they had also used for Bob Dole: "transitional President" [Judis].)

Actually, that sort of maneuvering for Right-Wing favor was nothing new for Republicans. In 1980, George Bush was offered the VicePresidential

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nomination with the former Governor of California, Ronald Reagan, a determined opponent of freedom of choice in the outcome of pregnancy. Bush and his wife had been lifelong supporters of an organization called Planned Parenthood. It provided sex education and elective pregnancy termination services across the country. But Bush overnight switched to being an outspoken opponent of freedom of choice. And during his term as President the majority of his vetoes, the highest number ever recorded by a one term President, were related to that issue.

Just like President George H.W. Bush, his Republican contemporary by age, Carnathon Pine had no real policy alternatives for governing the country and no concerted plan to turn the economy around other than "cut taxes and end government regulation, interference, and red tape." This approach had already been tried under both Bush's predecessor, Reagan, and his successor, the Bill Clinton/Newton Gingrich tandem. (Newton Gingrich was the first Republican Speaker of the House of Representatives in the '90s.) It was, however, not a solution to, but a major cause of, problems. But no one seemed to recognize that fact, or if they did, make much of it.

Although not a true believer himself, Pine had leaned heavily on the Religious Right for support. Thus in his speeches he spent much time talking about "moral decay," "turning away from God," the "failure of the family," and (referring to the then stilllegal medical procedure elective termination of pregnancy before the time of fetal viability) the "slaughter of innocent children in the womb," as the primary causes of the problems the country faced. As has been pointed out previously, they were, of course, nothing of the kind. But given the weak

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opposition he faced, Pine was able to use the "moral decline" theme with great effectiveness.

The solution to the national problems that he proposed was "moral restoration as the savior of the nation." Although the slogan had a nice rhyming ring to it, it unfortunately had nothing real to offer in the way of problemsolving. Pine sought to get around that problem by focusing the "strategy" on one or two welldefined areas of human behavior. A prominent one for him was the use of the socalled "illegal drugs," primarily marijuana, heroin, and cocaine.

All of the "recreational drugs," whether "legal" or "illegal," were non-medicinal chemical substances used to achieve various desired alterations of the conscious state. (Such drugs often caused undesirable short and longterm outcomes as well.) They ranged from alcohol through tobacco to cocaine. (As is well known, today only those few of such substances that are relatively safe, unlike tobacco and alcohol, are widely used. The use of no psychoactive recreational drugs is promoted or advertised, of course, and all are sold only on a nonprofit basis.)

Some saw the issue of the use of the "illegal" drugs as a moral one, while others viewed it as one of the public's health (alcohol and tobacco use being responsible for over 25% of all deaths at the time). But moral or health issue, following a traditional old politicallybased American practice, government attempted to deal with the problem through the use of the *criminal* law. (Today, of course, this approach just makes no sense.) Thus, in the old United States all drug use was illegal, at least for some persons. However, the laws were enforced differently for different

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drugs and different types of person (Jonas). That reality created serious problems of its own, beyond those created by the action of the recreational drugs on those individuals using them.

For example, the sale of tobacco and alcohol to underage persons was seldom the focus of criminal prosecution, the nonprescription sale and use of prescription psychoactive drugs, also "illegal," almost never. However, in that national program called the "Drug War," violations of the laws concerning the possession, distribution, sale, and use of the "illegals" were heavily enforced—for certain persons. Blacks and Hispanics were much more likely than whites to be punished for violating such laws.

Although the "War on Drugs" had little effect on drug use, it did wreak havoc on the minority communities in which it was waged, and filled the prisons with (mainly minority) nonviolent drug offenders (Mauer and Huling). And it was very useful politically. Like President Bush, President Pine knew that. And so he set out to resurrect a strategy that had lain virtually dormant for the decade of the 90s. Mobilizing the "moral imperatives," Pine resolved to revitalize the "Drug War" by declaring "The Real Drug War."

"The Real Drug War" no more solved the problem of drug use/abuse as it was defined by RightWing Reaction than did the original "Drug War," prosecuted with varying degrees of vigor by Republican Presidents from Nixon through Bush (Jonas). But the idea was very effective politically, just as its predecessor had been. It created an enemy, and that enemy could conveniently be defined as black (even though the overwhelming majority of the users of illegal drugs were white).

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More importantly, as we shall see, the "Real Drug War" was very significant in laying down the physical and psychological foundation for the coming Fascist Period. Pine felt that the drug issue would be so useful to him politically and institutionally that he devoted virtually his whole Inaugural Address to it. We present the complete text of that address (one of the briefest in Presidential history) here.

The Inaugural Address of President Carnathon Pine, Jan. 20, 2001

Mr. Chief Justice, Madam Speaker, friends, my fellow Americans. It is both a privilege and a burden for me to appear before you in my new role today. A privilege because no one can aspire to a higher office than the Presidency of our great, God-blessed, land. A burden, because after all of my years in the Senate, many of them spent criticizing Presidents for doing this and not doing that, I now have to try to do what I said all along they ought to be doing but weren't.

But in all seriousness, it is a burden because I take over this awesome responsibility at a time when our moral stock as a nation has sunk so low that it is hard to imagine it sinking any lower. The problems of the economy, overstated by some, are real. The problems in health care, in education, in getting the poor to bear some responsibility for their own situation, in dealing with our still ballooning Federal deficit are real too. But underlying all of these is the fact that as a nation we have turned away from God. We have turned our back on Him.

Of course I subscribe to our Constitutionally mandated protections of religious freedom. All of our cherished freedoms are built on provisions of the Constitution such as those protections. But does that mean that there is an impenetrable wall of separation between

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church and state? Does that mean that we must shun God in any public place or ceremony? Does that mean that we must exclude religion from the public square? I don't believe for a moment that it does. And I pledge that this Administration will do everything in its power to restore God to His rightful place in our public life, within Constitutional limits, of course.

And as we restore God to His rightful place in our public life, we must restore Him to His rightful place in our private lives as well. For only by doing so can we recover from the depths of moral degeneracy into which we have plunged by turning our backs on Him.

Everywhere we turn we see evidence of this, from the glorification by our liberaldominated media of the sexual act to the promotion of homosexuality as a preferred way of life. Some say that the series of natural disasters that has plagued our great land since Hurricane Andrew of 1992 is God's way of telling us that we must reform before it is too late.

But perhaps there is no symbol of our moral decay more prominent than the use of drugs. So powerfully do I feel this to be true, that it is to the use of illegal drugs and what the Pine Administration will do about it to which I will devote the rest of my address to you today.

Although these poisonous drugs, chief among them marijuana, heroin, and cocaine, have been illegal for many years, some of our people persist in their use. Thus these people fall into what some would call a double sin: the sin of use and the sin of violating the law. As our great and revered first Drug Czar, Dr. William Bennett, said way back in 1989 (Weinraub): "We identify the chief and seminal

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wrong here as drug use. Drug use, we say, is simply *morally* wrong."

President George Bush saw the problem with simple clarity (Pear): "People think the problem in our world is crack, or suicide, or babies having babies. Those are symptoms. The *disease is moral emptiness.*"

But in this case the immoral act of taking is compounded by the fact that that taking is a crime. And so the taking of illegal drugs, to say nothing of their importation, distribution, and sale, must all be treated as all crime should be. As once again Dr. Bennett said, oh so long ago (Massing): "Those who use, sell, and traffic in drugs must be confronted, and must suffer consequences. . . . We must build more prisons. There must be more jails."

So, as our nation descends into the slime of moral turpitude, it becomes apparent that symbolic of that descent is the double sin of drugtaking. To destroy the sin and redeem ourselves from it calls for nothing short of War.

Now we have had drug wars in the past. In fact President Bush and the revered Dr. Bennett did their best to launch a truly effective one. But as we have seen so many times, they were thwarted in their efforts by the liberal dogooders and donothings. Well, I am announcing today, as the first priority of this Administration, The Real War on Drugs. We are going to do it, and this time we are going to do it right.

During the election campaign we promised you a Federal budget, in balance, now, that will also deliver an across the board 10% tax cut. That was our number one promise. But as our first order of business,

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even before we submit that budget, we are going to send to the Congress our program for The Real War on Drugs. Once and for all, we are going to solve this problem. We are going to win this war. We are going to begin the long and arduous process of rescuing our nation from sin, and we are going to begin it right now.

The Real War on Drugs has three distinct arms.

1. Interdiction. The lily-livered ones of the last eight years suspended this operation telling us that it could never be done right. Well, it simply never *was* done right. We are going to do whatever it takes to stop the growing of drugs in whichever countries persist in growing them to poison our young people.

First, if it proves necessary, we will not hesitate to use our own military forces to destroy those drugs at their source. Second, as proposed not too long ago by the Great One, Newt Gingrich, we are going to enact the death penalty for drug smugglers. As Mr. Newt once said (NYT): "The first time we execute 27 or 30 or 35 people at one time, and they go around Colombia and France and Thailand and Mexico and they say, 'Hi, would you like to carry some drugs into the U.S.?' the price of carrying drugs will have gone up dramatically."

Furthermore, as proposed by the same fount of wisdom, we are going to modify the provisions these vermin will find waiting for them when they enter our criminal justice system: "They'd have once chance to appeal. They wouldn't have 10 years of playing games with the system."

2. Street-supply reduction. The lily-livered ones of the last eight years

deemphasized the arrest and incarceration of the snakes and gutter-rats who sell and use drugs on the street. They told us that the effort was futile, that when one was sent to jail, another would always appear. They told us too that the filling of our jails and prisons with nonviolent drugoffenders just didn't make sense, especially since it cost so much to build the prison beds we needed, and overcrowding kept violent, nondrug, criminals on the street.

Well the other side was right—and it was wrong, unfortunately dead wrong. Mandatory sentencing for even nonviolent drug offenders is necessary if the message on drug use is to be clear. At the same time, that practice does take up space in prisons which should be reserved for those violent wretches who prey so mercilessly upon on our citizenry.

And so, on abandoned military bases which are crying out for use, we are finally going to establish the chain of drug offender camps that Dr. Bennett and many other right-thinking people have been calling for, for so long. These camps are for punishment, yes, and well-deserved punishment for the crime of drugs too. But in the new spirit of redemption which is sweeping across our land, moral rehabilitation of these lost souls will be high on the agenda of the camps' educational program. In fact, the camps will be called "Moral Rehabilitation Centers."

3. Finally, we are going to formalize in legislation the "drug exception" to our valued and traditional American protection of civil liberties, that "drug exception" which the Supreme Court, even when it was of that nowdiscredited liberal persuasion, has been developing

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so assiduously in case law over so many years.

I should note that, determined to make our great country once again safe for right-thinking Americans, our predecessors in the 104th Congress attempted to significantly weaken the so-called "exclusionary rule" that had let so many criminals go scot-free.[1] Like them, we cannot and will not allow slavish devotion to the discredited liberal interpretation of the Fourth Amendment to the Constitution to interfere with our efforts to once again make our streets safe for the true Americans among us.

Thus, once and for all we are going to put the "drug exception" to the Fourth Amendment into the law. And if those liberal opponents of everything that is right and good about God's America somehow succeed in getting that just law overturned in the courts, we will amend the Constitution as necessary. [2]

4. Now, we have every confidence that these measures, none of them extreme, all of them measured to the need, will work. But if by some chance they do not, we will go further. I want everyone within the borders of our great country and beyond who is any way connected with trafficking in or using the poisonous drugs of which we speak to be very clear about what I am about to say.

If the need arises, we will give very serious consideration to implementing a proposal that our esteemed colleague, Paul Weyrich, made back in 1990 when he spoke to Washington's University Club on this subject (Stan). At that time he "advised Congress to declare an official war on drugs, so that drug users and dealers, once apprehended, could be denied their right of *habeas corpus* and held as

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prisoners of war, allowing for their indeterminate incarceration under the provisions of the Geneva Convention."

My friends, I am making The Real Drug War my first order of business, even as we begin the mammoth job of reordering the disorder that has been dumped on our country during the last eight years. I will be making the Real Drug War my first order of business with the Congress because this drug problem is indeed the most serious one our country faces today.

We can solve it, we must solve it, and we will solve it, with God's help and with His blessing. And God's blessing we shall receive because He will know that in fighting the mortal sin of drug use we are doing the Lord's work. We can only hope that the Lord will see this effort as the first step we are taking on the long road to national redemption.

Good night, and may the God of Christ Bless you.

Author's Note

It may interest the reader to know that as far as "Drug War" strategy was concerned, there was not a single original thought in the Pine speech. (As we will see, this was a phenomenon that characterized both the thinking and the speeches of most of the fascist leadership throughout the Period.) All of his program components could be found in all or in part in the work of such leading RightWing Reactionaries and "Drug Warriors" as the ones to which he referred, Newton Gingrich and William Bennett, and less wellknown ones such as Peter Bensinger, Robert Bonner, Herbert Kleber, David Musto, William Olson, and John Walters (Schumer).

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The Supreme Court's "drug exception" mentioned by Pine is discussed by Alex Poughton in his letter reproduced below. Also as mentioned by Pine, in 1995 the House of Representatives had passed a bill which would have significantly undercut the provisions of the Fourth Amendment to the Constitution by allowing warrantless searches in certain circumstances (Seelye). Due to various legislative and judicial developments over the years, the measure had never been fully implemented. Of course, as noted the controversy was ultimately brought to closure by repeal of the Fourth Amendment in its entirety in 2006.

Following is the first of the series of letters by the English journalist Alex Poughton that appear throughout this book. You may recall from the Preface that for the *London Sunday Times,* throughout the Fascist Period Poughton reported on it under the heading "American Democracy." Consistent with the politics of the paper's owner, Poughton's published pieces tended to be puffier than penetrating presentation and analysis. His private views however, contained in letters to a mysterious "Karl" and preserved in his library, were something else again. And so we turn to the first of those reproduced in this book, written shortly after the Pine Inaugural. For a journalist, Poughton reveals a fairly sophisticated understanding of the drug issue, among others.

An Alex Poughton letter

February 13, 2001

Dear Karl,

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First let me note the quite remarkable fact that in his Inaugural Pine addressed in no way, even from the RightWing Reactionary perspective he personifies, the real problems facing the country: the declining standard of living for most Americans; the increasing economic and personal insecurity, both present and future, and the declining standard of health care and education for most Americans; deindustrialization and the gradual crumbling of the public infrastructure; the evergrowing cancer of racism; the evergrowing intolerance for "difference." But then again, how could he, really? It is the policies of his party that either cause, abet, or exploit to the full for its own political purposes, all of them.

Turning to the side, thoroughly distractive, subject Pine did address, I know that you know my private fears about Pine's "Real War on Drugs," and I think, I hope, that you share many, if not most of them. I also know that you know that given complete Republican control of the three branches of the American Federal government (capped off by a "filibusterproof" majority in the US Senate) there is little hope of stopping the RightWing onslaught, on drugs and everything else.

As you know only too well, I cannot write about any of my true views and feelings on these matters in my column and hope to keep my job. Thus, as we have discussed, I have decided to commit some of my true thoughts to paper from time to time, in private to you, to have them on the written, if unpublished, record, at least.

It is strange but I suppose highly appropriate that Pine should choose to start off what is bound to be the most RightWing Presidency ever in the US with a renewed "War on Drugs." Of course, his "War" will

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be no more successful in reducing the use of those drugs against which it is aimed, marijuana, heroin, and cocaine, than the BushBennett, Reagan, Rockefeller, or Nixon versions were over the previous 30 years. And of course like its predecessors, it fails to address those two "legal" drugs, tobacco and alcohol, which not only cause the vast majority of druguserelated illness and death in the U.S., but also, through their use by kids, *lead to almost all use of the "illegals" in the first place.*

(But heaven help the RightWing Reactionaries if they were ever to go after the real drug demons in the United States, the tobacco and alcohol industries. The Republicans actually go out of their way to protect those devils incarnate. They have to. They get too much in the way of campaign contributions and other goodies not to.)

But, again like its predecessors, the "Real Drug War" is in any case not designed to deal with the real drug problem. Like that of its predecessors, its primary purpose will be to reinforce political racism by framing the "drug problem" as a black one, when in reality 75% of illegal drug use is among nonblacks. And it will be useful for continuing to maintain a high level of drugtrade, not druguserelated, violence in the black communities. Among other things at this time, this violence will sap the strength from a black community which might otherwise be prepared to offer real resistance to the oncoming fascist regime which as you know I see getting evercloser.

It amazes me, although I suppose it shouldn't, that Pine is turning back to programs that failed and failed badly the last time around: "massive interdiction" and "supplyside strategies." Of course, it is

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the new ones he has added that have me the most worried. First, the wild Gingrichian proposal for dealing "drug smugglers." Then, the open suspension of civil liberties for drug dealers/users on the "drug exception" developed over the years by the Supreme Court. Remember that fine paper by our mutual friend Steve Wisotsky (1992)? Steve pointed out that over the years Supreme Court justices from left (William O. Douglas) to right (Antonin Scalia) have been prepared to abrogate the Fourth Amendment when it came to drugs. Well, this now has become national policy. Mark my word, as they say, it ain't going to end here.

Then, the building of that string of camps advocated so many times over the years by so many "Drug Warriors." Now, added to all of this is the new emphasis on (forced) "moral rehabilitation" under which the Right will finally get its chain of camps, on those abandoned Army bases, just like Phil Gramm proposed back in the '96 campaign (Berke).

Among other things this program will revive local employment which had been eliminated by the "liberal campaign against the military," and further build support for the "Real War on Drugs." In this way it will be very similar to the role played by prison construction in rural and semirural areas in the 1980s and 1990s, creating that which what is left of the opposition now calls the "prisonindustrial complex" (Davis). Of course, you know what I think those camps (and all that wonderful local employment) are really going to be ultimately used for. [3]

I know, I know, I'm nothing but an alarmist. As so many say, "the

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genius of America is that somehow it always rights itself at the last moment." Well, my friend, not this time, I'm afraid.

By the way, where are those socalled "libertarians" of the Cato Institute now that we need them? I'll tell you where. As in 1995, after the Republicans first took control of Congress, so caught up are they in the "freemarket capitalism/antigovernment/antigovernment regulation (of business)" act that Pine is going through, that just as the Milton Friedmans have always done, they are willing to overlook "a few limitations on civil liberties" in exchange for the enshrinement of the myth of the "free market."

"Few limitations," my foot. Civil liberties in the US are going, going, soontobegone, my friend, the soontobegone American Civil Liberties Union to the contrary notwithstanding. But the "libertarians" will have their "free market," which failed to work when Reagan gave it to them, and their "freedom from government redtape," which will just lead to evermore degradation of the environment, more white collar crime, more bankruptcy, and so on and so forth. But once again, as is my wont as you know, I digress.

Thanks for bearing with me. I hope, hope, hope, that I'm wrong about where this country is headed, but sadly I don't think I am.

All the best, Sincerely, Alex.

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Author's Notes

[1] Actually, in the mid90s a defendant's claim of violation of the "exclusionary rule" by police lead to the failure of the prosecution's case in only from 0.6% to 5% of the criminal cases of the time (Seelye).

[2] *Author's Note:* The whole of the Fourth Amendment protecting all persons in the United States from unwarranted search and seizure was eventually repealed, by a provision of the "Balancing Amendment" to the Constitution ratified in 2006 (see

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Chapter eight).

[3] *Author's Note:* In the Transition Era, the "camps solution" was proposed by many observers for many problems. And it was not the RightWing reactionaries alone who climbed on this bandwagon. President Bill Clinton endorsed the idea of "boot camps" for dealing with youthful offenders of all types. A centrist columnist of the time, one Pete Hamill, proposed that to solve the problem of homelessness then plaguing the big cities, camps should be set for them in which both conventional education and "moral instruction" would be provided (Hamill).

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Appendix III

Author's Qualifications and Publication/Papers List

I. Qualifications of the Author, Steven Jonas, MD, MPH

Dr. Jonas has published extensively on drug policy, drug policy reform, and the public health approach to the drug problem, since 1970. He was active in the U.S. national drug policy reform movement, from the late 1980s to the mid-1990s. He was a member of the National Drug Strategy Network Advisory Board from 1990 to 1994. He was the author of "The Public Health Approach to the Prevention of Substance Abuse," in the 2nd, 3rd, and 4th editions of the then standard textbook, Substance Abuse: A Comprehensive Textbook (for details, see below). He has published two papers on the subject in law reviews (for details, see below). During this period, he was a regular speaker at drug policy reform conferences (for details, see below).

II. Publication List: Original Papers

1. "Narcotics: A Conference for Professionals, Nonprofessionals, and the Community in Health." New York State Journal of Medicine, 70, 799, 1970.

2 "Heroin Utilization: A Communicable Disease?" New York State Journal of Medicine, 72,

1292, 1972.

3. "Is the Drug Problem Soluble?" American Behavioral Scientist, 32, 295, 1989.

4. "Fight New Enemies in the War on Drugs." Newsday "Viewpoints," February 20, 1990, p. 45.

5. "Public Health Approach to Designing Drug Policy." The Drug Policy Letter, Vol. II, No. 2, March/April, 1990, p. 10.

6. "Solving the Drug Problem: A Public Health Approach to the Reduction of the Use and Abuse of both Legal and Illegal Recreational Drugs." Hofstra Law Review, Vol. 18, No. 3, Spring, 1990, p. 751.

7. "The Drug Problem, the Drug Culture, and the Public Health Approach." Journal of the InterAmerican Medical and Health Association, Vol. 2, May-August, 1993, p. 13.

8. "A Public Health Approach to Reducing Harm from Drug Use," American Journal of Health Promotion, 8, 247, March/April, 1994.

9. "Commentary: Dealing With the Drug Problem." Preventive Medicine, 23, 539-544, 1994.

10. "The "Drug War": Myth, Reality, and Politics." Connecticut Law Review, 27, No. 2, 1995, pp. 623-637.

11. "Is Substance Abuse a Medical Problem?" Addictive Disorders and Their Treatment, 14, 123-134, 2003.

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III. Publication list: Book Chapters

1. "The U.S. Drug Problem and the U.S. Drug Culture: A Public Health Solution," chapter 8 in Inciardi, J., Ed. The Drug Legalization Debate, vol. seven of the series "Studies in Crime, Law, and Justice." Newbury Park, CA: Sage Publications, 1991.

2. "The Public Health Approach to the Prevention of Substance Abuse," chapter 70 in Lowinson, J., et al, Eds., Substance Abuse: A Comprehensive Textbook, 2nd ed., Baltimore, MD: Williams and Wilkins, 1992; chapter 77 in the 3rd ed., Baltimore, MD: Williams and Wilkins, 1997; chap. 79 in the 4th ed., Baltimore, MD: Lippincott Williams and Wilkins, 2004.

3. "Public Health as the Focal Point," chapter 7, part 4, in Trebach, A.S. and Zeese, K.B., Strategies for Change: New Directions in Drug Policy. Washington, DC: The Drug Policy Foundation Press, 1992.

4. "Politics, Drug Policy Reform, and the Public Health Approach," chapter H, Section I, The Faces of Change: Policy Track Manual. Washington, DC: The Drug Policy Foundation, 1993.

5. "Why the 'Drug War" Will Never End," in Inciardi, J., Ed. The Drug Legalization Debate, 2nd edition. Newbury Park, CA: Sage Publications, 1999.

6. "Is Substance Abuse a Medical Problem?" chapter in Shoji, Z. and Kiang, N.Y.S., Eds. Health Care, East and West: Moving into the 21st Century. China: China Science and Technology Press,

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2002.

IV. Papers Presented at Conferences

"Dealing With Drugs: The Role of the Drug Culture:" The Mayor's Drug Policy Workshop, Baltimore, MD, August 4, 1988; International Conference on Drug Policy Reform, Bethesda, MD, October 21, 1988.

"A Public Health Approach to Solving the Drug Problem:" ACLU Drug Policy Forum, Hofstra University, Hempstead, NY, January 25, 1989; presentation to the Due Process Committee of the Board of Directors of the American Civil Liberties Union, New York, NY, December 16, 1989. Similar presentations were made at the: National Drug Policy Network, Washington, DC, January 23, 1990; ACLU/CUNY Training Session on Legalization, February 17, 1990; Mayor Dinkins' Study Group on Drug Addiction, March 13, 1990; New York Institute of Technology, Central Islip Campus, April 4, 1990; New York County Lawyers' Association, April 26, 1990; American Public Health Association Annual Meeting, New York, NY, October 4, 1990; Fourth International Conference on Drug Policy Reform, Washington, DC, November 3, 1990; American Public Health Association Annual Meeting, Atlanta, GA, November 12, 1991; Sixth International Conference on Drug Policy Reform, Washington, D.C., Nov. 13, 1992; 1993 National Drug Policy Summit, Washington, DC (invited speaker from the floor), May 7, 1993; Center on Addiction and Substance Abuse, New York, NY, Nov. 10, 1993; Seventh International Conference on Drug Policy Reform, Washington, DC, Nov. 19, 20, 1993; International Perspectives on Crime, Drugs, and Public Order, John Jay College of Criminal Justice, New York, NY,

June 16, 1994.

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ABOUT THE AUTHOR

Steven Jonas, MD, MPH is a Professor of Preventive Medicine at Stony Brook University (NY) and author/co-author/editor/co-editor of over 30 books. In addition to being a senior columnist for The Greanville Post (Duopoly Watch), he also serves as the Managing Editor of and a Contributing Author to TPJmagazine.net.

In his academic career Dr. Jonas has received numerous honors and awards. Among other things, he is a Fellow of the New York Academy of Sciences (elected), the American College of Preventive Medicine, the American Public Health Association, the New York Academy of Medicine, and the Royal Society of Medicine (UK) . He is a Past President of the Association of Teachers of Preventive Medicine, and a past member of the New York State Board for Medicine. He is Editor-in-Chief of the American Medical Athletic Association Journal. Dr Jonas can be reached at Sjtpj@aol.com.

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