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Running Head: WAR ON DRUGS

A Century of Losing Battles: The Costly and Ill-Advised War on Drugs in the United
States

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Abstract

For nearly a century, the federal government of the United States has engaged in a variety of activities to stem the production, distribution, and sale of illicit substances, known collectively as the “war on drugs.” This article chronicles the war on drugs in the United States, from its inception at the federal level, with the passage of the Harrison Act in 1914, through the major laws and policies that have been enacted since the Nixon Administration, the first White House to declare a “war on drugs.” This paper also examines the failings of the country’s drug policies and recommends a public health approach to addiction that shifts the bulk of resources from supply-side to demand-side initiatives, such as drug treatment programs, which have proven to lower drug use and to be more cost effective than criminal justice responses to America’s drug problem.

Illegal drug use in the United States is a serious threat to public health and safety and has a wide range of pernicious effects on individuals, families, and communities. Illegal drug use can lead to life-altering and often fatal consequences, including overdoses, infectious diseases (e.g., HIV/AIDS, hepatitis, and tuberculosis), premature aging, accidents, and crippling addictions. Illegal drug use also places a tremendous strain on the nation's health care system and increases the cost of health care for all Americans. The distribution and sale of illegal drugs are often associated with violent episodes arising from competition over illicit drug markets and disputes between drug dealers and customers. Illegal drug sales and use are also accompanied by numerous other crimes that can disrupt the stability and social order of neighborhoods (Hamid, 1998).

For nearly a century, the federal government has engaged in a variety of activities to stem the production, distribution, and sale of illicit substances. Overall, these efforts have failed to reduce the demand or supply of drugs, have led to deleterious consequences, and have persisted despite the lack of evidence in support of their effectiveness. As Massing (2001) asserted,

[the drug war] hasn't worked. Today, according to recent government studies, cocaine is cheaper and more plentiful here than ever before. So is heroin. Marijuana is peddled in shopping malls, schoolyards and urban parks across America, and methamphetamine has become a fixture in rural and working-class communities in the western United States. By now, even many drug war hawks have begun to acknowledge the futility of our efforts to keep drugs out of the country and to recognize the true root of our problem is demand. (p.12)

This article chronicles the war on drugs in the United States, from its inception at the federal level, with the passage of the Harrison Act in 1914, through the major laws and policies that have been enacted since the Nixon Administration, the first White

House to declare a “war on drugs.” This paper also examines the failings of the country’s drug policies and recommends a public health approach to addiction and drug crime that shifts the bulk of resources from supply-side to demand-side initiatives, such as drug treatment programs, which have proven to lower drug use and to be more cost effective than criminal justice responses to America’s drug problem.

Introduction

The sale of illegal drugs in the United States is extremely lucrative, earning an estimated \$60 billion and involving 16 million or more customers each year. In 1999, Americans spent an estimated \$36 billion on cocaine, \$11 billion on heroin, \$10 billion on marijuana, \$6 billion on methamphetamines, and \$3 billion on all other illegal drugs combined (Caulkins, Reuter, Iguchi, & Chiesa, 2005). From 1985 to 2001, national surveys consistently found that Americans list “drugs” among the top-ten problems facing the country (Caulkins, Reuter, Iguchi, & Chiesa, 2005).

Since the 1980s, an overwhelming emphasis on law enforcement strategies to combat illegal drug use and sales has resulted in dramatic increases in the nation’s arrest and incarceration rates (Boaz & Lynch, 2002). Rates of arrest and incarceration for drug offenses remained at a record pace into the 21st century, although general population surveys reported declines in illegal drug use in the United States during the 1990s (Tonry, 1999). Drug offenses have been among the largest categories of arrests since the 1980s. From 1980 to 2000, for example, the number of arrests for drug offenses more than doubled. In 2000 alone, more than 1.5 million people were arrested for drug offenses—more than four-fifths for drug possession (Bureau of Justice Statistics, 2002b).

The enforcement of drug laws has been strict, extremely punitive, and exceedingly expensive both in criminal justice and in social costs (MacCoun & Reuter, 2001). For example, in 2000 alone, federal and state governments spent more than \$38 billion on drug enforcement. During the first half of 2006 alone, the war on drugs cost federal and state governments more than \$30 billion (Drug Sense, 2006). In addition, drug-law enforcement initiatives have contributed substantially to the costs of building and maintaining prisons, the number of which has quadrupled in the past 20 years.

Despite these massive efforts and expenditures, no evidence supports the conclusion that the passage and enforcement of stringent drug laws has reduced illegal drug use and sales or any other types of crimes (MacCoun & Reuter, 2001; Tonry, 1995; Zimring, 2001). Furthermore, the nation's drug law enforcement policies have disproportionately affected people of color, especially African Americans, who are significantly more likely than members of other racial groups to be arrested, prosecuted, convicted, and sentenced to prison for drug offenses (Tonry, 1995). As a consequence, the racially tinged war on drugs in this country has diminished the cohesion, economic viability, and political capital of large segments of the African American community (Clear, 2001; Mauer, 1999).

At the beginning of the last century, the United States government began regulating drug production and distribution through the enforcement of drug laws. Many of these regulatory efforts were driven by the prevailing notion that illegal drug use was responsible for a host of social maladies, especially violent and predatory crimes. Since the early 1970s, public officials at every level—federal, state, and local—have attempted

to curtail illegal drug use and sales by implementing a series of legislative, programmatic, and policy initiatives known collectively as the “war on drugs” (Musto, 1999).

The Regulation of Drugs

Overview of the War on Drugs

The federal government’s war on drugs is a set of policies and programs aimed at curbing the availability, sales, and use of illicit substances. The war on drugs has adopted a two-pronged strategy. The first strategy, supply reduction, consists of law enforcement activities that disrupt the growth, manufacture, importation, distribution, and sale of illegal drugs. Examples include crop eradication in other countries to halt the production and harvesting of marijuana, coca plants, and poppies, interdiction to stop the influx of illegal drugs across the vast borders of the United States, and local enforcement and prosecution practices that involve arresting and convicting people for drug law violations (Hamid, 1998). The Drug Enforcement Administration (DEA) and local law enforcement agencies seize millions of dollars of illegal drugs annually through interdiction efforts in the air and on the sea.

The United States has vigorously supported foreign governments’ attempts to eradicate opium and cocaine crops by spraying or burning them. Farmers are deterred from cultivating these crops through the threat of imprisonment and fines and encouraged to grow legal crops through farm subsidies that reduce the monetary incentives of the illegal drug trade. The United States has also provided substantial military and technical assistance to supplement local drug enforcement efforts to apprehend drug traffickers and sellers in Columbia and other countries (Office of National Drug Control Policy [ONDCP], 1998).

The second strategy, demand reduction, consists of several types of programs. The intention of drug education or primary prevention programs is to discourage people from becoming drug users. Drug treatment or secondary prevention programs are designed to help users recover from drug abuse or dependence disorders and to keep them from using more serious drugs or escalating the frequency of their current drug use. Harm reduction or tertiary prevention programs have the objective of mitigating the noxious long-term effects of drug use among people who are already addicted (Musto, 1999). Throughout most of the drug war, and at all levels, significantly more resources have been expended on supply-reduction strategies than on demand-reduction strategies (Boaz & Lynch, 2002; MacCoun & Reuter, 2001).

Drug Control Policies in the European Union

Illicit drug use is much less serious in European countries than it is in the United States (MacCoun & Reuter, 1998). Nonetheless, European countries prohibit the sales and consumption of many of the same drugs that are prohibited in the United States. However, unlike the drug control policies of the United States, which are governed by national and highly similar state policies, the drug control policies of the European Union member states vary considerably within and among countries and are generally less punitive than those of the United States. For example, Italy and France impose no criminal sanctions for possession of small amounts of any drugs for personal use. Germany's policies are similar to Italy's and France's with respect to marijuana use. In addition, Germany allows individual states to define, for legal purposes, the terms, "small quantities" and "occasional private use." In Spain, drug possession has never been criminalized (MacCoun & Reuter, 2001).

The Netherlands' drug control policies, particularly regarding marijuana, are among the most liberal in the world. The country has adopted a formal policy of nonenforcement (de facto legalization) for the possession and sale of small quantities of marijuana. Furthermore, the country permits the sale of marijuana in coffee shops. Switzerland adopted a policy of containment in the late 1980s by permitting the open use and sale of drugs in a public area known as "Needle Park." The park attracted thousands of drug users from throughout Europe. Several violent crimes occurred in the park, including the murders of drug sellers, which eventually led to the park's closure in 1992.

Other European countries as well as Great Britain have adopted harm reduction policies that attempt to lower the tangible and human costs of illicit drug use for individual users and society-at-large. For example, British physicians are authorized to administer heroin to addicts, thus protecting users from infected needles and alleviating the pernicious health consequences of heroin use. Such harm reduction programs also protect the community from the crimes that heroin addicts commit to finance their purchases (MacCoun & Reuter, 2001).

History of Antidrug Legislation in the United States

The federal government's attempt to regulate drugs began with the passage of the Pure Food and Drug Act of 1906, bringing under federal control the manufacture, distribution, and sale of all foods and drugs. At that time, cocaine, heroin, and morphine were sold legally as patent medicines in pharmacies or through mail order catalogs, as long as the drugs' ingredients were clearly displayed on the packaging. The 1906 law also required certain drugs to be sold by prescription only and the testing of patent medicines before their release for human consumption (Massing, 1998).

The Harrison Act of 1914, the first criminal law to regulate drugs, is the legal forerunner of the nation's current drug control policies. The Harrison Act was a model for all subsequent federal drug legislation because it authorized the federal government to regulate the dispensing of drugs and to impose criminal sanctions for the failure to abide by the regulations (Whitehead, 1995). The Harrison Act was a revenue-enhancing measure enacted to render narcotic transfers a matter of public record. The Act criminalized the manufacture, prescription, transfer, and possession of narcotics by people who had not registered with the federal government or paid the government taxes on opium derivatives and cocaine. Physicians and other medical professionals were required to pay an annual tax of only one dollar; however, nonmedical professionals, who wished to distribute or sell these drugs, were charged exorbitant prices that were significantly higher than the costs of the drugs themselves.

No one outside of the medical profession ever paid the taxes or registered as legitimate sellers or dispensers of the drugs. A nonphysician found in possession of cocaine could therefore be charged with tax evasion, instead of drug possession, and could be sentenced to a maximum of five years in prison and a fine of up to \$2,000 (Musto, 1999). The federal drug legislation that followed the Harrison Act grew increasingly restrictive and punitive. For example, the Narcotic Drug Import and Export Act (Jones-Miller Act) of 1922 was intended to eliminate the use of narcotics except for medical purposes—criminalizing the possession of illegally obtained narcotics—and it established the Federal Narcotics Control Board, later known as the United States Treasury Department.

On January 1, 1932, Congress established the Federal Bureau of Narcotics (FBN), a unit in the Treasury Department, and charged it with the enforcement of federal anti-opiate and -cocaine laws. At the same time, Congress consolidated the functions of the Federal Narcotics Control Board and the Narcotics Division. Under President Herbert Hoover, Secretary of the Treasury Andrew Mellon appointed former Assistant Prohibition Commissioner, Harry J. Anslinger, the FBN's Commissioner of Narcotics. Anslinger served in that capacity until his retirement, 30 years later, in 1962. Anslinger believed that the most effective way to control drug distribution was to get as close to the source of the drugs as possible. Hence, he assigned fellow FBN agents to specific ports of entry and concluded agreements with 20 law enforcement agencies worldwide, leading to a dramatic rise in drug seizures in the 1930s (usdoj.gov/org/reports/DEA).

During its history, the FBN established offices in countries such as France, Italy, Turkey, Lebanon, Thailand, and other centers of international narcotics smuggling. FBN agents cooperated with local drug enforcement agencies in gathering intelligence on smugglers and also made local undercover arrests (McWilliams, 1990). Although Commissioner Anslinger's legal jurisdiction did not extend to marijuana, he invested a considerable amount of time and attention to curtailing its use. For example, the FBN's First Annual Report (1931) warned that marijuana had "come into wide and increasing abuse in many states, and the Bureau of Narcotics has therefore been endeavoring to impress on the various States the urgent need for vigorous enforcement of the local cannabis laws" (Federal Bureau of Narcotics, 1932, p. 64).

Throughout the 1930s, anti-marijuana sentiment swept the nation; jazz musicians were vilified for their purported use of the drug and young people were warned about the

drug's potent effects on mood and behavior. In 1936, an exploitation movie, *Reefer Madness*, depicted the dissipation of young adults under marijuana's putative transforming influence; it became a cult film in the 1970s. Early antidrug pundits argued that marijuana produced insanity and drove otherwise wholesome youth to commit violence, rape, and suicide. In the ever-racially charged war on drugs, newspapers published comic strips that showed Latinos smoking marijuana and raping white women. Some current experts characterize marijuana as a "stepping stone" or "gateway" to more serious drug use, although no research has supported such claims (Tarter, Vanyukov, Kirisci, Reynolds, & Clark, 2006).

Between 1915 and 1937, nearly 30 states passed legislation prohibiting the use of marijuana (Whitehead, 1995). The Marijuana Tax Act of 1937 regulated marijuana in the same manner as opiates and cocaine, ordering physicians who prescribed and druggists who sold marijuana to register with the Internal Revenue Service and pay annual fees or taxes. Despite the objections of the American Medical Association, which regarded marijuana as a relatively innocuous drug, the Marijuana Tax Act of 1937 passed without a recorded vote. In fact, Congress held only one hearing on the Marijuana Tax Act in a calculated effort to silence any opposition to the bill. The following are excerpts from Commission Anslinger's Testimony at the hearing (druglibrary.org/schaffer/hemp/taxact):

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.

The primary reason to outlaw marijuana is its effect on the degenerate races.

Marijuana is an addictive drug which produces in its users insanity, criminality, and death.

You smoke a joint and you're likely to kill your brother.

Marijuana is the most violence-causing drug in the history of mankind.

For the first time in the history of criminal sanctions in America, Commissioner Anslinger and members of Congress introduced, in the early 1950s, mandatory minimum sentences for drug law violations, limiting judges' sentencing discretion in such cases and becoming a harbinger for the draconian drug penalties of the 1980s. Specifically, the Boggs Act of 1951 stiffened the penalties for drug offenders by imposing a two-year minimum sentence for first-time offenders and five-to-ten years with no chance for parole for second-time offenders. Third-time offenders received a mandatory 20-year prison sentence with no chance for parole.

Most important, the Boggs Act was the first law to place cannabis in the same category as drugs such as heroin and cocaine in terms of the seriousness of its effects and the criminal penalties that could be leveled for its possession and sale. The bill's detractors argued that the wording of the act concentrated on addicts and dealers and not on traffickers and distributors. They also argued that lengthy prison sentences would not reduce importation because the profits were simply too great to deter people from entering the drug business (Bonnie & Whitebread, 1974).

In 1956, Congress passed the Narcotics Control (Daniel) Act, the most punitive drug law to date. The Daniel Act rendered the sale of heroin to minors a capital offense punishable by death and mandated prison sentences for individuals convicted of two or more drug crimes. Despite these draconian penalties, recreational drug use soared in the 1960s. Following the Narcotics Control Act, similar drug laws were enacted at the state

and federal levels. For example, the Drug Abuse Control Act of 1965 imposed new registration, inspection, and record-keeping requirements for prescription drugs and added provisions regarding counterfeit drugs, which fostered the pharmaceutical industry's efforts to limit the growing market in generic drugs. Restricted to stimulants and depressants, the law established a ceiling on the number of methamphetamine tablets that could be produced, reducing the supply of the drug and spawning a black market in "speed" (Hamid, 1998; Musto, 1999).

A new federal drug enforcement agency, the Bureau of Drug Abuse Control (BDAC), was established in 1966 under the auspices of the Food and Drug Administration. The BDAC's primary purpose was to monitor the distribution and sales of stimulants, such as amphetamine, and hallucinogens, such as LSD. In 1968, President Johnson consolidated the FBN and the BDAC under the Department of Justice, Bureau of Narcotics and Dangerous Drugs (usdoj.gov/org/reports/DEA).

White House Drug War Policies

Nixon Administration. In 1969, President Nixon recommended a more aggressive national antidrug policy to combat the significant rise in juvenile and street crime that occurred during the 1960s. Nixon declared the war on drugs in 1971, designating illegal drugs as "public enemy number one in the United States." As a tangible demonstration of the White House's serious commitment to the reduction of illegal drug use, Nixon created the Special Action Office for Drug Abuse Prevention. He appointed Dr. Jerome Jaffe, a physician and leading methadone treatment specialist, to head the office and spearhead several demand reduction projects. Under Dr. Jaffe's leadership, the federal government, for the only time in the history of the nation's drug war, spent twice as much on treatment

and prevention programs as on law enforcement programs. In 1973, Nixon consolidated all federal drug-enforcement agencies under the DEA, the federal agency that is still primarily responsible for prosecuting the nation's war on drugs (Massing, 1998).

In 1970, Congress passed the Controlled Substances Act as Title II of the Comprehensive Drug Abuse Prevention and Control Act. The purpose of the law was to place the manufacture, importation, distribution, and possession of certain psychoactive and other substances under federal authority and regulation. The legislation created five schedules (I-V) that categorize drugs according to their medical use and potential for abuse; the schedules are arranged in descending order of potential for abuse and ascending order of approved medical use in the United States. Schedule I drugs, such as heroin and Ecstasy, have no accepted medical use and a high potential for abuse while Schedule V drugs have an accepted medical use (i.e., they are available only for medical purposes) and a low potential for abuse (e.g., Lomotil and Motofen, the brand names of medications used to treat diarrhea).

Carter Administration. The most liberal stance in the federal war on drugs was adopted by the Carter Administration. President Carter supported the decriminalization of marijuana, and his drug policy advisor, Dr. Peter Bourne, viewed marijuana and cocaine as minor threats to public health and safety. Carter campaigned on a platform of decriminalizing marijuana and repealing federal laws that penalized people for possessing less than one ounce of the drug. The federal government's intention to decriminalize marijuana was immediately and vehemently attacked by the parents' antidrug movement, and especially by the organization known as Families in Action (Massing, 1998).

Reagan Administration. The Reagan Administration's controversial antidrug campaign, "Just Say No," was funded by corporate and private donations and focused on white middle-class youth. In his second term, President Reagan signed the Omnibus Anti-Drug Abuse Act of 1986, which increased the penalties for drug-law violations, and he established the office of "drug czar" to oversee and coordinate all federal government activities for combating illegal drug use and sales. The 1986 bill set mandatory prison sentences for violations of heroin and cocaine statutes and created marked disparities in legal penalties for the possession and sales of powder and crack cocaine. According to federal and some state laws, a conviction for selling five grams of crack cocaine carried the same penalty of five years imprisonment as a conviction for selling 500 grams of powdered cocaine (Massing, 1998).

G.H.W. Bush Administration. In 1988, President George H.W. Bush signed the second Anti-Drug Abuse Act "to create a drug-free America." A key element of the act was the establishment of the Office of National Drug Control Policy (ONDCP), which is under the aegis of the Executive Office of the President. The goals of the ONDCP are to enumerate priorities, implement strategies, and allocate federal funding in furtherance of drug control efforts at the national level. The Anti-Drug Abuse Act of 1988 stated that these strategies must be "comprehensive and research-based; contain long-range goals and measurable objectives; and seek to reduce drug abuse, trafficking, and their consequences" (ONDCP, 1989). The ONDCP has directed much of its attention toward reducing the availability and use of illegal drugs among youth. The office also issues an annual National Drug Control Strategy, which was first promulgated in September 1989 (whitehousedrugpolicy.gov). The Violent Crime Control and Law Enforcement Act of

1994 extended ONDCP's mission and authority in terms of policy formation and resource allocation.

Early in his administration, President George H.W. Bush appointed William Bennett as the country's first drug czar. Bennett's approach, referred to as "demoralization," attempted to discourage illegal drug use by framing it as socially unacceptable behavior. Federal spending on antidrug programs increased during Bennett's tenure as drug czar, but treatment accounted for less than one-third of all antidrug expenditures.

Clinton Administration. During President Clinton's tenure, the importance of drug treatment gained greater prominence in the war on drugs; nonetheless, supply-reduction strategies continued to eclipse drug treatment in terms of spending and resources. In 1995, the United States Sentencing Commission recommended a reduction in the sentencing disparity between crack and powder cocaine. For the first time in history, Congress rejected the Commission's recommendations.

In 1996, Clinton appointed General Barry McCaffrey, a veteran of the Vietnam and Gulf Wars, as the nation's drug czar. As part of the administration's international drug law enforcement initiative, Clinton authorized more than \$1.3 billion to finance the Columbian government's efforts to combat drug trafficking. The money was used to purchase combat helicopters and train the military in antidrug tactics. Despite these and other international operations against illicit drugs, the worldwide production and importation into the United States of cocaine, opiates, and other illicit substances remained rampant.

George W. Bush Administration. During President George W. Bush's first term in office, five senators opposed his nomination of John Walters as the drug czar. This opposition was in response to Walter's overwhelming emphasis on law enforcement strategies rather than on drug treatment and prevention strategies (Berkowitz, 2005). Walter's appointment was eventually approved, and like his predecessors, he supported spending billions of dollars in an attempt to stem the flow of drugs into the United States (Massing, 2001).

Since 9/11, President G.W. Bush has explicitly tied the war on drugs to the war on terrorism, initially suggesting that the profits of drug sales had been funneled to the hijackers who destroyed the World Trade Center (Bovard, 2002). To date, no intelligence sources have confirmed that the profits from drug sales have ever gone to support terrorists. Administration experts also speculated that profits from opium sales are supporting both the Taliban government and the al-Qaeda terrorist network in Afghanistan—a country that produces approximately 70% of the world's opium (Bovard, 2002).

Intelligence sources in the G.W. Bush Administration have also maintained that several terrorist groups have been funded by the sale of illicit drugs from Colombia (Bovard, 2002). As a result, in 2003, G.W. Bush requested \$98 million to continue training and equipping the Colombian military to fight the war on drugs. Colombia is the third-largest recipient of U.S. military aid to prosecute the war on drugs (Isacson, 2002). As part of "Plan Colombia," President G.W. Bush also requested nearly \$800 million for assistance to countries that border Colombia, including Peru, Bolivia, Ecuador, Brazil, Venezuela, and Panama, in an increasing effort to couple the war on terrorism with the

war on drugs (Lobe, 2001). The highly toxic chemicals used in the crop eradication activities of the United States in these South American countries have caused many farmers and their families to become ill but have failed to stop drug trafficking (Bovard, 2002). In October 2001, DEA officials reported to Congress that [the administration]

will in fact continue to aggressively identify and build cases against drug trafficking organizations contributing to global terrorism. In doing so, we limit the ability of drug traffickers to use their destructive goods as a commodity to fund malicious assaults on humanity and the rule of law.

To support domestic antidrug initiatives, President G.W. Bush renewed the Drug-Free Communities Support Act of 1997, which created the Drug-Free Communities Support Program (DFCSP). The president reauthorized the bill in 2001 and again in 2006 through the ONDCP's Reauthorization Act of 2006. The latest reauthorization extends the DFCSP until 2012 and "provides grants to community organizations that serve as catalysts for citizen participation in local drug prevention efforts" (DFCSP, 2008). The DFCSP was designed to encourage greater citizen participation in efforts to reduce drug, alcohol, and tobacco use among youth (DFCSP, 2008). It also awards funds to community antidrug coalitions in areas that have been hit hardest by drug use and sales and enlists faith-based institutions as leaders in the war on drugs in local communities. By the end of 2007, Congress had awarded \$9 million in grants to support antidrug activities in such communities throughout the country (DFCSP, 2008).

In the final year of President G.W. Bush's second term, *Kimbrough v. U.S.* (552 U.S. Supreme Court, 2007) became the most recent case in the continuing legal debate over sentencing disparities between crack and powder cocaine. The case was argued before the Supreme Court on October 2, 2007 and decided on December 10, 2007.

Derrick Kimbrough, a veteran of the Gulf War, had been arrested in Norfolk, Virginia

and charged (among other drug crimes) with the intent to distribute crack and powder cocaine.

Although he had no previous arrests, and despite his honorable military record, Kimbrough was sentenced in district court to 15 years in prison—a harsh sentence attributable mostly to the involvement of crack cocaine in the case. His prison sentence was extended to 19 years by the United States Court of Appeals for the Fourth Circuit, which determined that the district court had erred by imposing a sentence outside the guidelines of the United States Sentencing Commission because of the court’s discomfort with the sentencing disparity between crack and powder cocaine.

In *Kimbrough*, the Supreme Court overturned the appellate court decision and ruled that federal judges have the discretion to impose prison terms for crack cocaine convictions that deviate from the United States Sentencing Guidelines. In a vote of 7-2, the majority ruling was a decisive victory for many legal advocates and attorneys who have long fought against the egregious sentencing disparity. Justice Ruth Bader Ginsburg, who wrote the majority opinion in *Kimbrough*, argued that federal judges should impose reasonable prison terms that are responsive to the particular circumstances of a case and unbounded by sentencing guidelines that seem onerous. According to the majority, judges have the obligation to avoid “unwarranted sentencing disparities” *Kimbrough v. U.S.* (552 U.S. Supreme Court, 2007).

Consequences of the War on Drugs

Social scientists have recently focused attention on America’s ever-expanding prison system. Most research on this topic has investigated the causes and the consequences of the unprecedented growth in the country’s correctional population. For

example, studies have examined the role of several factors in the precipitous rise in imprisonment such as, racism (Davis, 1998; Wacquant, 1999), social and economic policies (Garland, 1985; 2001a; Wacquant, 2001), political rhetoric (Mauer & Chesney-Lind, 2002; Tonry 1995), crime-related demographic changes (Blumstein, 1993), and the prison construction lobby (Marable, 2000).

Studies have also examined the indirect and unbidden consequences of incarceration (Mauer & Chesney-Lind, 2002). A prison record can have numerous adverse effects on the lives of formerly incarcerated people, including the loss of voting rights (Uggen & Manza, 2002) and the inability to serve on juries or be eligible for public office (Demleitner, 1999). People with prison records for felony drug convictions are also denied federal benefits, such as Medicaid, public housing, Section 8 vouchers, and Temporary Aid to Needy Families (TANF) (Demleitner, 1999; Wacquant, 2005).

The so-called “collateral consequences” of incarceration include the informal or insidious impact of imprisonment on former inmates and their families and communities. For example, business owners who claim to be non-discriminatory in their employment practices rarely hire applicants with criminal records; this is especially the case for African American job seekers (Pager & Quillian, 2005). In addition, among children who are already disadvantaged, the incarceration of a parent can wreck even greater havoc on children’s lives and increase their risk of criminal involvement, school failure, and other negative repercussions (Hagan & Dinovitzer, 1999; Johnson & Waldfogel, 2004; Nurse, 2004).

The devastating effects of large-scale incarceration have permeated poor, urban communities of color. Some of these areas have lost considerable political and economic

resources to rural white communities where most prisons are built and operated. The widespread incarceration of young African American men has diminished the human and social capital of their communities as well as reduced the informal social control network and collective efficacy of neighborhoods plagued by persistent economic hardship (Hagan & Dinovitzer, 1999; Lynch & Sabol, 2004).

The Prison Explosion

The ongoing expansion of America's penal population has been characterized as "mass incarceration," which has two defining features (Garland, 2001b,c). The first is the "sheer numbers" of inmates (Garland, 2001b, p. 1). By any measure, America's penal system dwarfs all others worldwide. For example, on any given day in 2005, more than 7 million Americans were under correctional supervision—more than 2 million of them incarcerated in prison or jail (Bureau of Justice Statistics, 2007). The second largest prison population in terms of sheer numbers is in China, which incarcerates an estimated 1.5 million people (Walmsley, 2005). With approximately 750 people incarcerated per 100,000, the rate of imprisonment in the United States far exceeds that of most other countries and is more than five times higher than it is in other industrial democracies (Walmsley, 2006).

The second defining feature of mass incarceration is the systematic imprisonment of certain segments of the country's population (Garland, 2001a,c). Here too, the American penal system sets the standard. Notwithstanding the unprecedented extent of prison confinement in the United States, the concentration of imprisonment among young African American men—particularly those from low-income backgrounds and with low educational attainment—is extraordinary.

The prison population in the United States quadrupled from 1980 to 2000 and has exceeded the one million mark every year since 1995. The rate of incarceration per 100,000 Americans climbed from 139 in 1980 to 478 in 2000—a 243% increase (Bureau of Justice Statistics, 2002c). Among 20- to 40- year olds, the age category at greatest risk for incarceration, the increase in the imprisonment rate was even higher than it was in the general population (Mauer, 1999). Throughout the 1980s and 1990s, the United States ranked among the top three industrialized nations with regard to incarceration rate. For example, in 1995, among 59 nations in Europe, Asia, and North American, the United States' incarceration rate of 600 per 100,000 persons was second only to Russia's rate of 690 per 100,000 (Mauer, 1997).

At the end of 2001, more than 1.3 million adults were incarcerated in state and federal prisons in the United States (Bureau of Justice Statistics, 2002f). By midyear 2005, the number of incarcerated adults had grown to 1.5 million (Harrison & Beck, 2006a). The United States now has the highest imprisonment rate in the world (714 per 100,000 persons) and has 100,000 more prisoners incarcerated just for drug offenses than the European Union has incarcerated for *all* offenses (Harrison & Beck 2006b; Walmsley, 2006). In 2007, the prison population in the United States increased by more than 25,000 inmates. At the start of 2008, more than 2.3 million adults were behind bars for an incarceration rate of 750 per 100,000 Americans, which was eight times the incarceration rate in Germany. For the first time in the nation's history, 1 in 100 American adults were imprisoned in the United States (The Pew Center on the States, 2008).

The single most important cause of the explosive rise in the nation's prison population is the burgeoning number of people convicted of drug offenses (Tonry, 1995).

In 1980, 19,000 inmates, or 6% of all inmates, were imprisoned for drug offenses; in 1999, 251,200 inmates, or 20% of all inmates, were sent to prison for drug offenses—an astounding increase of 1,222%. From 1980 to 1999, the number of drug offenders admitted to prison rose ten-fold, from 15 to 150 inmates per 100,000 Americans. The largest one-year increase in the number of incarcerated drug offenders (52%) occurred from 1988 to 1989, after the passage of the Anti-Drug Abuse Act of 1988, which intensified the current war on drugs (Bureau of Justice Statistics, 2002d).

An arrestee's chances of being sentenced to prison after an arrest for a drug offense increased 447% from 1980 to 1992 (Beck & Gillard, 1995). The number of drug offenders in prison rose 478% between 1985 and 1995, compared to an increase of 119% in the overall size of the prison population during those years (Mumola & Beck, 1997). Between 1990 and 1999, the number of drug offenders in prison increased by more than 100,000, accounting for 20% of the total growth in the prison population. Between 1995 and 2003, the number of people incarcerated for a drug crime accounted for the largest percentage of growth in the nation's prison population (49%) (Bureau of Justice Statistics, 2005). Only the growth in the number of incarcerated violent offenders was larger, accounting for 51% of the total growth of the prison population during the 1990s (Beck & Harrison, 2001).

The majority of drug offenders admitted to prison in the previous decade have been convicted of low-level drug possessions or sales. Relatively few were convicted of high-level sales or drug trafficking; most had no previous convictions for violent offenses (Sabol & Lynch, 1997). In 2001, the number of persons admitted to prison for drug offenses (251,000) exceeded the number of those sentenced for property (238,500) and

public-order offenses (124,600) (Bureau of Justice Statistics, 2002e). In addition, the percentage of women convicted for drug offenses has surpassed that of men. Between 1990 and 1996, for example, the number of women convicted of drug offenses increased 37%, whereas the number of men convicted increased 25% (Greenfield & Snell, 1999).

Disproportionate Minority Confinement

Massive increases in the incarcerated population have disproportionately involved African Americans (Lynch & Sabol, 2000). The percentages of African Americans sent to prison in the 1980s and 1990s rose at substantially higher rates than did those of whites (Cahalan, 1986; Tonry, 1999). In 1979, for example, African Americans constituted 39% of all prison admissions in the United States; in 1990, they constituted 53%. From 1980 to 1996, the incarceration rate for African Americans rose from 554 to 1,574 per 100,000 and was more than seven times higher than the incarceration rate for whites (Blumstein & Beck, 1999; Bureau of Justice Statistics, 2002e).

From 1986 to 1997, the percentage of African Americans under correctional supervision—in jail or prison or on probation or parole—rose from 5.7% to 9%, whereas the percentage of whites rose from only 1.4% to 2% (Bureau of Justice Statistics, 2002a). At the beginning of the 1990s, more African American men were under the control of the criminal justice system than in college (Haney & Zimbardo, 1998). The likelihood of incarceration for a male infant born in 1991 was 29% for African Americans, 16% for Latinos, and 4% for whites (Bonczar & Beck, 1997). In 1995, nearly one in three African American men, aged 20 to 29, were under some form of correctional supervision on any given day in the United States (Mauer, 1999). In 1996, 1 in every 20 African American

men was in state or federal prison, compared to 1 in every 180 white men (Human Rights Watch, 2000).

Nationwide, the percentage of incarcerated African Americans was higher than their representations in every state's general population and was 13 times higher than the percentage of incarcerated whites during the 1990s (Human Right Watch, 2000; Tonry, 1999). In 1996, for example, the proportion of African Americans in prison in 11 states was more than six times greater than their representation in their states' general population (Bureau of Justice Statistics, 1997). African Americans' rate of incarceration in 2000 (9,749 per 100,000) was more than nine times higher than whites (1,108 per 100,000) for men in their late 20s. Nearly 10% of African American men, aged 20 to 29, were in prison in 2000, compared to 3% of Latino men and 1% of white men (Beck & Harrison, 2001).

At the end of 2001, African Americans accounted for 46% of inmates sentenced to prison for more than one year, compared to 36% of white inmates, and 16% of Latino inmates. Furthermore, the number of African American men in prison in 2001 (585,200) eclipsed the number of white (449, 200) and Latino men (199,700). In contrast, whites accounted for 55% of adults on probation, whereas African Americans accounted for 31%. These racial disparities also occurred in the female prison population. The incarceration rate of African American women in 2001 was 199 per 100,000, more than three times higher than the incarceration of Latina women (61 per 100,000) and more than five times higher than the incarceration rate of white women (36 per 100,000 (Bureau of Justice Statistics, 2002e).

In 2006, for example, African American men constituted less than 6% of the general population in the United States but 41% of its incarcerated population. Similarly, the country's current rate of incarceration (per 100,000 members of the population) is 736 for whites, 1,384 for all Americans, and 4,789 for African American men (Bureau of Justice Statistics, 2007). One of every 9 African American men, aged 18 or older, is now in prison or jail (The Pew Center on the States, 2008). African American men without a high school diploma have a 50% chance of being incarcerated during their lifetime (Pattillo et al., 2004a; Western & Petit, 2005). The rate of incarceration of African American women between the ages 35 to 39 (1 in 100) was higher than the rate of incarceration of white men aged 18 or older (The Pew Center on the States, 2008). Thus, imprisonment has become a common experience for poor African Americans (Garland, 2001c; Petit & Western, 2004). The high rate of imprisonment of African Americans has entrenched them in a deep pocket of social inequality (Blumstein, 1982, 1993; Tittle, 1994).

The racial disproportionality in the growth of the prison population is most pronounced for drug offenses (Lynch & Sabol, 2000). Research has shown that the war on drugs has led to an overrepresentation of African Americans at every stage of the criminal justice system (Tonry, 1995). In 1992, African Americans constituted 12% of population in the United States, but they accounted for 35% of those arrested, 55% of those convicted, and 75% of those sentenced to prison for drug possession (Mauer & Huling, 1995). Furthermore, the sentencing disparity between powder and crack cocaine, a cheaper form of cocaine that is readily available, has resulted in more African Americans being sentenced to mandatory prison terms. Almost 90% of the defendants

sentenced for crack cocaine sales, at the federal level, have been African American (see earlier discussion) (Tonry, 1995).

From 1985 to 1995, African Americans sentenced to prison for a drug offense accounted for 42% of the increase in the total number of African Americans in the prison population; violent and property offenses accounted for 37% and 14% of the increase, respectively. Among whites, the percentage increase attributable to those sentenced for drug offenses was 26%, much lower than the percentage increase attributable to those sentenced for violent offenses (42%) and nearly equal to the percentage increase attributable to those sentenced for property offenses (23%) (Mumola & Beck, 1997). In 2001, the one-year increase in the number of admissions to prison for drug offenses accounted for 27% of the total growth in the African American prison population, compared to only 15% of the total growth in the white prison population and 7% of the total growth in the Latino prison population (Bureau of Justice Statistics, 2002e).

Criminal Justice Costs

During only the first two months of 2008, federal and state governments have spent more than \$7 billion on the war on drugs, mostly on supply-reduction efforts (Drug Sense, 2008). The concentration of law enforcement resources spent on waging the war on drugs has had several harmful byproducts. Research suggests that significant increases in drug enforcement initiatives have drawn resources away from other law enforcement efforts. For example, an investigation in Florida found that increases in the state's arrests for drug offenses during the 1980s were associated with decreases in the state's arrests for property crimes (Benson & Rasmussen, 1991). Similarly, in Illinois, from 1984 to

1989, increases in arrests for drug offenses coincided with decreases in arrests for driving while intoxicated (Benson & Rasmussen, 1996).

An over-reliance on costly imprisonment for drug offense convictions has resulted in fewer funds being available for community-based correctional alternatives. Probation and parole populations have been growing at the same rate as prison populations, but funding for probation and parole agencies has lagged far behind that of prisons, leading to heavier caseloads for probation and parole officers and more probation and parole violations (Mauer, 1999). Even more disturbing are the findings of a Rand Corporation study of the effects of imprisonment on California's budget, which suggested that prison construction and maintenance drained dollars from the state's higher education and healthcare budgets (Greenwood et al., 1994).

Social Costs

Mass incarceration has had a fundamental effect on American society (James, 2002; Pattillo et al., 2004b). The bloated penal system is not only the product of an underlying imbalance of social power but it also affects the distribution of social power and mobility. Specifically, mass imprisonment creates inequality by restricting the economic prospects and derailing the employment trajectories of former prisoners (Western et al. 2001). Furthermore, by causing family strain and increasing social and economic hardship, mass incarceration has triggered a process of "intergenerational detainment," which compounds disadvantage and increases the risk of homelessness, inadequate healthcare coverage, and disenfranchisement among the children of incarcerated people (Foster & Hagan, 2007).

Three conceptual frameworks have been useful in explaining the mechanisms by which incarceration exerts an oppressive influence on employment and earnings: the stigma perspective, the human/social capital perspective, and the life course perspective. In addition, strain, socialization, and social exclusion are also useful concepts in illuminating the negative impact of parental incarceration on children's lives.

Stigma. Imprisonment is a primary source of stigmatization in contemporary American society (Pager, 2007). The stigma perspective can help explain the pernicious, enduring consequences of imprisonment, including blockage from the employment arena (Goffman, 1963). The first experiment on the effect of a criminal history on employment involved sending prospective employers four sets of fictitious resumes with or without criminal histories. Applicants with criminal records fared substantially worse than those without criminal records (Schwartz & Skolnick, 1962). Other seminal studies also sent job application letters from fictitious job seekers with or without criminal histories and found that applications that included a conviction for a crime received negative responses more often than those that included no conviction for a crime (Boshier & Johnson, 1974; Buikhuisen & Dijksterhuis, 1971).

A recent study provides the strongest evidence to date demonstrating the stigmatization of the formally incarcerated in the era of mass incarceration—specifically, the negative impact of a fictitious prison record on employment opportunities, particularly for African American job applicants (see also Pager, 2003; Pager, 2007; Pager & Quillian, 2005). The study suggested that formerly incarcerated people are highly stigmatized in the job market. The extent of employment exclusion was significantly worse for African American job seekers than for white job seekers. One of

the most noteworthy findings of the study was that African Americans without prison records received fewer callbacks than whites with prison records, supporting the assertion that the impact of the pervasive incarceration of poor African American men has stigmatized not only the individuals who are incarcerated but also an entire segment of the population (Garland, 2001a).

Human and social capital. According to the human/social capital perspective, success in life is attributable to people's possession of skills and knowledge (human capital) and their connections to social networks (social capital). Different types of human capital are necessary for participation in the workforce and are related to different economic outcomes; similarly, different types of social networks afford people with varying levels of access to jobs and other opportunities (e.g. housing and education) (Granovetter, 1995). In terms of human capital, prison-related employment interruptions hamper the ability of former inmates to acquire job skills (Waldfogel, 1994). The human capital of former inmates will likely decrease as job training and education programs are eliminated in prisons and government-funded educational loans for prisoners are reduced (Irwin & Austin, 1997).

Incarceration further decreases people's human capital through the creation of unstable employment histories that reduces both the level and growth of wages (Western, 2002). Mass incarceration has exacerbated economic inequality because it has stocked the labor market with low-skilled formerly incarcerated people who remain stuck on the lowest rungs of the wage-distribution ladder (Western, 2002). For example, the disproportionate incarceration of African Americans has accounted for 10% of the

African American-white wage gap by eroding the absolute size of wages and wage increases (Marable, 2002; Western, 2002).

Incarceration squanders social capital by attenuating inmates' connections to other social institutions and to people outside the penal system. Participation in criminal activities embeds people in social networks with few opportunities for legitimate employment. In short, imprisonment strengthens bonds to illegitimate social networks that provide few avenues for legal employment (Hagan, 1993). As Hagan and Dinovitzer (1999) stated:

Imprisonment can swiftly and irreparably alter the social networks and structures to which inmates, and those to whom they are connected, belong ... when imprisonment becomes more common and widely expected in a social group, the changes in social networks and structures may often become damaging for the group more generally (Hagan and Dinovitzer 1999: 132).

Life course analysis. In the context of key life transitions, the life course perspective attempts to account for the negative outcomes caused by stigma, labeling, and depleted human and social capital (Sampson & Laub, 1993; 1997). Life course analysis is grounded in control theory (Hirschi, 1969). According to control theory, individuals with strong bonds to social institutions are less likely to commit crimes because their attachments to these institutions encourage conformity to social norms and legitimate behavior. Individuals with weak bonds to social institutions have little investment in normative behavior and, consequently, are more likely to engage in criminal activity (Hirschi, 1969).

The life course perspective argues that different types of social bonds have different importance at various points in the life course (Thornberry, 1997). For example, family bonds are most important in childhood whereas employment bonds are more

important in young adulthood. People's interactions with various institutions at particular stages in life can be turning points, increasing the likelihood that they will be involved in either normative or deviant behavior (Sampson & Laub, 1997).

Contact with the criminal justice system can be a crucial turning point in people's lives and "can contribute to an accumulation of disadvantage, including school failure, limited labor-market opportunities, unstable employment trajectories, and increased involvement in crime later in life" (Western et al., 2001, p. 413). Incarceration interrupts young men's transitions into the workforce and creates barriers to occupational opportunities following release from prison. Hence, formerly incarcerated people are more likely to continue participating in criminal activities later in life (Sampson & Laub, 1997).

Contact with the criminal justice system can also affect attitudes, furthering a sense of social exclusion for individuals who are already socially and economically marginalized and lowering the likelihood of attachments to normative institutions. On this point, the life course perspective also draws on labeling theory, suggesting that labeling people, and not just their illegal acts as deviant or criminal, actually increases criminality (Hagan, 1994). "Individuals so signified [as criminal or deviant] may begin to think of themselves as the types of people who do evil things— for example, as delinquents," and consequently, continue to engage in destructive behaviors (as cited in Hagan 1994, p. 43).

Our understanding of the consequences of imprisonment for the children of inmates is also informed by the life course perspective. Parental incarceration can be a critical juncture in children's lives, especially if it worsens familial strain and economic

uncertainty. In addition, the economic hardships of prisoners negatively affect their partners and children. The imprisonment of parents can be a traumatic event that creates or exacerbates children's problems (Hagan & Dinovitzer, 1999). In the context of the life course perspective, strain and socialization theories have been instrumental in analyzing the impact of incarceration on prisoners' families (Western, Lopoo, & McLanahan, 2004).

Family strain. In 1999, approximately 700,000 prisoners were the parents of 1.5 million children. Of these, 44% of fathers and 64% of mothers were custodial parents; one-third of incarcerated mothers were the sole caretakers of their children prior to imprisonment. Moreover, more than 70% of incarcerated parents were employed prior to incarceration and contributed financially to their families (Mumola 2000).

For a significant majority of children, the incarceration of a parent results in a substantial degree of financial strain. With this financial strain, the generally poor economic status of most prisoners and their families can degenerate to economic deprivation. An ethnographic study of incarcerated men in Washington, D.C. found that in addition to causing economic hardship through the loss of income, the incarceration of fathers also resulted in economic hardship due to increased childcare costs and expenses related to maintaining contact with the incarcerated parent (i.e., transportation expenses, phone calls, and lost wages for the mother) and navigating the legal system, such as attorney fees (Braman, 2002).

Among families with an incarcerated parent, the children frequently receive spotty attention as the remaining parent has less time and money to invest in their needs (McLanahan & Sandefur, 1994). In such families, older children often assume more responsibilities, including childcare and early labor force participation, both of which can

lower educational achievement as well as encourage participation in illegal activities (Hagan & Dinovitzer, 1999). Parental incarceration also creates family dissolution by undermining the relationship between the incarcerated and the non-incarcerated parent. For example, women are less likely to marry their children's fathers following the father's incarceration, largely because women view the father's incarceration as an indicator of diminished economic stability and potential (Western et al., 2004). Furthermore, paternal incarceration frequently leads to the termination of relationships and less paternal involvement in children's lives, even after the incarcerated parent's release from prison (Edin et al., 2004; Nurse, 2004).

Socialization theory. Parental incarceration undermines children's socialization for many of the reasons it causes family strain. The family is a key institution of social control (Clausen, 1968). Even parents who are engaged in illegal activities typically act as positive socializing agents in their children's lives. The loss of a parent negatively affects children. For example, the absent parent is not there to provide supervision or support or to be a prosocial role model (Hagan & Dinovitzer, 1999). The loss of one parent increases the workload of the available parent and lessens that parent's presence in the lives of each of the children in the family (McLanahan & Bumpass, 1988). This in turn, increases the influence of children's peers in the socialization process, fostering greater participation in deviant activities.

Following their parent's arrest or incarceration, children are more likely to engage in illegal or antisocial behaviors and to reject participation in normative social institutions (e.g., school) (Braman, 2002). For the already-disadvantaged youth, parental imprisonment, combined with other adverse life experiences, can produce long-term

changes in the life-course of a child, such as the “intergenerational transmission of the risk of imprisonment” (Hagan & Dinovitzer, 1999, p. 146). For example, children with incarcerated mothers are six times more likely to become incarcerated than their peers (Barnhill & Dressel, 1991; see also Johnston, 1995).

Parental incarceration is also related to “intergenerational social exclusion,” which is “the process of being shut out, fully or partially, from any of the social, economic, political, or cultural systems which determine the social integration of a person in society” (Foster & Hagan, 2007, p. 400). Incarceration is a critical juncture in the life course that adds to accumulated disadvantage by creating economic and emotional strain and decreasing people’s investment in normative institutions (Foster & Hagan, 2007; Walker & Sprague, 1999). In the context of already marginalized families and communities, the consequences of this exclusion extend beyond individual prisoners to negatively affect entire communities.

Imprisonment, Race, and Drugs

The massive imprisonment of African American men for drug offenses has taken a toll on African American communities throughout the United States. Large numbers of incarcerations for drug offenses have rendered the experience of imprisonment commonplace in African American neighborhoods, undermining the deterrent effects of prison and diminishing residents’ respect for the criminal justice system (Clear, 1996; Clear, 2001). Imprisonment also has led to fewer African American fathers being available to raise their children, culminating in higher rates of illegitimacy, single-mother households, economic strain, unstable family life, and the weakening of extended social networks (Braman, 2002; Courtwright, 1996). The steady rise in the numbers of African

American women incarcerated for drug offenses also has had a devastating impact on family stability and well-being in the African American community (Bloom & Steinhart, 1993).

Prison terms for felony drug convictions have foreclosed employment prospects and disenfranchised millions of African Americans. Estimates suggest that 40% of African American men will temporarily or permanently lose their right to vote as the result of a felony conviction (Fellner & Mauer, 1998). In an attempt to restore the voting rights of convicted felons, attorneys have recently filed cases challenging disenfranchisement laws. (For example, see *Hayden vs. Pataki* in New York State.)

The effect of imprisonment on family stability, neighborhood cohesion, and employment might actually have increased crime rates in some communities by squandering human and social capital and attenuating networks of informal social control (Clear, 2001; Mauer, 1999). Convictions for felony drug offenses also make many African Americans and others ineligible for welfare benefits, student loans, public housing assistance, and drivers' licenses, resulting in harmful, lifelong consequences for those who have already served their sentences (Rubinstein & Mukamal, 2001; Travis, 2001).

A Public Health Approach to Addiction

The most widely used definition of *health* is found in the World Health Organization's (WHO) 1948 charter: "Health is a state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity." This definition was expanded by the WHO in its 1986 *Ottawa Charter for Health Promotion* in order to underscore the notion that health is "a resource for everyday life, not the objective of

living. Health is a positive concept emphasizing social and personal resources as well as physical capacities” (WHO, 1986, p. 11). By this definition, drug addiction is a serious public health problem that adversely affects all of these domains. As we have argued throughout this article, drug abuse and dependence are formidable threats to public health and safety, costing hundreds of billions of dollars in yearly healthcare expenditures, crime, poor work productivity, and job loss (Hoffman & Fromeke, 2007; United Nations Office on Drugs and Crime, 2006).

Treating addiction as a crime rather than a health problem compounds its negative impact on individuals and communities in terms of public health and safety. Not only do most addicted ex-offenders emerge from behind bars with untreated substance use disorders, but they are likely to have been exposed to a variety of contagious diseases in prison, to have learned criminogenic behaviors that discourage contributive citizenship, and to have lost connections with family and friends whose support is critical for their healthy reintegration into society.

Importance of Treatment

Prevention and education programs for nonusers and treatment programs for users are widely recognized as the most effective means of decreasing the demand for drugs. However, throughout the long history of the drug war, approximately two-thirds of government expenditures have been on supply reduction efforts. Numerous experts acknowledge that supply-side interventions have done little to curtail drug use or the violence that accompanies the sale and distribution of illegal drugs in the United States (MacCoun & Reuter, 2001). Moreover as we noted above, prohibition and strict penalties for drug possession and sales have spawned many unanticipated problems. Nonetheless,

few government officials are willing to shift the emphasis of the war on drugs away from punitive measures and toward treatment and rehabilitation programs for people with substance use disorders. Most politicians are particularly reluctant to decry punitive drug policies out of fear of being labeled as “soft on crime” and losing the support of their constituents (Kleinman, 1992; Nadelmann, 1989).

Offenders with drug problems are a diverse group, and the relationship between drugs and crime is complicated (Bureau of Justice Statistics, 1991). Offenders become addicted to drugs and commit crimes as a result of various events in their lives (Lurigio & Swartz, 1992). Whatever the road to addiction and criminality, drug control policies must fully incorporate what research has consistently shown: drug addiction is a chronic relapsing brain disease with biological, psychological, social, and behavioral concomitants. Therefore, programs for drug-abusing offenders should be comprehensive and include a wide range of treatment and adjunctive social services (Gerstein & Harwood, 1990).

One of the most successful examples of drug treatment as an alternative to incarceration has been Arizona’s Proposition 200, the Drug Medicalization, Prevention and Control Act of 1996. This initiative prohibits incarceration for first- and second-time non-violent drug offenders, mandating probation and drug treatment instead of prison. A 1999 evaluation of the initiative by the Arizona Supreme Court found that it saved taxpayers 2.6 million dollars annually. Furthermore, nearly 75% of the drug offenders who had been sentenced to probation and drug treatment as a result of Proposition 200 remained drug-free during their participation in the program and paid their own money to offset the cost of treatment (Arizona Supreme Court, 1999).

A similar initiative in California has also significantly reduced incarceration rates and criminal justice expenditures. California's Proposition 36, the Substance Abuse and Crime Prevention Act (SACPA), allows first- and second-time non-violent drug offenders to enter substance abuse treatment programs as opposed to being incarcerated. Although the impact of SACPA varied by county based on the characteristics of drug treatment programs (in-patient vs. outpatient, duration of treatment), results showed that after 5 years, SACPA reduced the prison population of those convicted of drug possession by 27%. This resulted in an estimated savings of \$350 million in prison costs alone (Ehlers & Ziedenberg, 2006). The costs associated with arrests and convictions were also significantly lower among drug offenders who completed treatment, compared to those who never entered treatment and those who entered but did not complete treatment (Longshore, Hawken, Urada, & Anglin, 2006). California saved more than \$2.50 for every dollar spent on drug treatment; for those who completed treatment, the savings increased to \$4 saved for every dollar spent (UCLA, 2007).

Studies of substance abuse treatment for drug offenders have repeatedly demonstrated the success of these programs in reducing drug use and its attendant problems, as well as in significantly decreasing the costs associated with crime and the criminal justice system. Drug treatment programs have proven effective as an alternative to incarceration and as a prison-based, post-release, or work-release intervention for addicted offenders. Hence, drug treatment is suitable for a wide range of offenders, and it is a cost-effective intervention at various points in the criminal justice process.

Considerable research shows the crime-reducing benefits and cost effectiveness of treatment relative to other antidrug measures (e.g., interdiction) and supports a greater

investment in drug treatment (Anglin & Hser, 1990). Nonetheless, the treatment infrastructure in the criminal justice system has eroded over the past several years, a disheartening development that bodes ill for future efforts to control crime and reduce illegal drug use (Lipton, 1995). For example, despite record numbers of people incarcerated for drug crimes, the proportion of drug offenders who received drug treatment in prison declined throughout the 1990s and remained at a low level during the early 2000s (Belenko, Patapis, & French, 2005; Inciardi, 1996).

The economic benefits of drug treatment accrue mostly from reductions in incarceration, criminal victimization, medical treatment, and lost wages (Hoffman & Fromeke, 2007). A recent study in California found that the state saved \$7,500 in aggregate reductions in crime and incarceration for every addicted person treated (Ettner, Huand, Evans, Ash, Hardy, Jourabchi, & Hser, 2007). A similar study found that every dollar spent on drug treatment resulted in an average savings of seven dollars, stemming from decreased crime and its corollaries (e.g., increased employment and major reductions in healthcare expenditures) (McCarthy, 2007).

In an extensive review of hundreds of studies of drug treatment programs, Belenko, Patapis, and French (2005) found that drug treatment reduces drug use and crime, incarceration, and victimization as well as health care expenses and other medical costs. Belenko et al. (2005) concluded that “it is clear from research on the economic impacts of substance abuse addictions on health, crime, social stability, and community well-being that the costs to society of *not* (authors’ italics) treating persons with substance abuse problems would be quite substantial” (p. 58).

The Criminal Justice System as a Treatment Resource

The criminal justice system is in a unique position to provide appropriate, evidence-based health interventions to people with substance use disorders, given the substantial number of individuals with addiction who are under the system's control. Recovery can begin in prison. Most drug treatment programs in correctional settings are located in the safest and least-crowded areas in jails and prisons. As a result, even offenders with low motivation for drug treatment are likely to remain in these programs long enough to benefit from the experience.

In addition, jail and prison inmates are already being housed; hence, residential treatment, which is expensive when provided in the community, costs much less per capita when implemented in jails or prisons. Inmates in drug treatment are less likely to break rules or become involved in violent altercations than those in the general prison or jail populations. Therefore, jail and prison drug treatment programs help administrators to manage and control their inmate populations (Early, 1998). Nonetheless, far too few inmates have their drug treatment needs met during incarceration.

Programs in California, Delaware, and Texas have successfully combined in-prison drug treatment programs with post-release aftercare to reduce significantly drug use, recidivism, and carceral costs. All three states used therapeutic community (TC) models of drug treatment in which participants live together and engage in group interaction to reinforce social norms and address a variety of behavioral and attitudinal problems relating to addiction. All of these models combined in-prison TC programs with post-release aftercare services, although some offenders participated only while in prison or only in aftercare. Recidivism rates were significantly reduced for those individuals

who participated in both in-prison and aftercare programs; participation in either type of program also lowered recidivism and drug use rates, even without program completion.

In California, the recidivism rate for inmates who completed in-prison and aftercare TC programs was 27% after three years, compared to a 75% three-year recidivism rate for those who experienced no treatment. Moreover, those who completed TC but also recidivated, did so after twice as much time as non-participants (579 days versus 295 days) (Wexler, Melnick, Lowe, & Peters, 1999). The California program did not track the effect of TC participation on the rates of drug use; in Delaware however, participation in either in-prison or aftercare drug treatment resulted in almost four times more people remaining drug-free after three years, even among the individuals who did not complete treatment. Arrest rates were also reduced among program participants. Among those who completed Delaware's work-release treatment program, 55% were arrest-free after three years; and 69% of those who completed both the work-release treatment program and aftercare treatment remained arrest-free. In contrast, 71% of those who did not participate in either program were rearrested within three years (Martin, Butzin, Saum, and Inciardi, 1999).

The outcomes in the Texas TC programs were comparable, with only 25% of those who completed in-prison and aftercare treatment being reincarcerated after three years, compared to 42% of non-participants. For participants with severe crime and drug-related problems, recidivism after three years was 52% in the untreated comparison group and only 26% in the aftercare-completion group (Knight, Simpson, Hiller, 1999).

According to a cost analysis by the Center for Health and Justice at Illinois Treatment Alternatives for Safe Communities (TASC), combining diversionary and

treatment approaches and integrating drug treatment into various stages of the criminal justice system is an effective approach for combating addiction. By mandating drug treatment rather than incarceration for 10,000 non-violent drug offenders every year (approximately half the number of non-violent offenders who enter the Illinois Department of Corrections annually), the State of Illinois could save up to \$167 million each year. In addition, by providing drug treatment for 15,000 of the 45,000 probationers with substance abuse problems, Illinois could save up to \$57 million annually (Braude, Heaps, Rodriguez, & Whitney, 2007). Although these estimates are clearly optimistic, even if treatment reduced recidivism by 50%—less than the programs in Arizona and California—the savings would be still impressive in terms of taxpayer costs and the well-being and life trajectories of former and potential prisoners.

A public health approach to addiction must rely on the criminal justice system as its principal instrumentality for treatment and other addiction services. The goals of the criminal justice system and the treatment system are compatible with regard to complete abstinence from substance use. Nevertheless, their respective paths toward achieving that goal are predicated on different assumptions about the causes of, and most effective responses to, drug addiction. A public health approach recognizes that ameliorating the negative consequences of drug use is an attainable endeavor that can also reduce crime, violence, and imprisonment, thus serving the interests of public safety and community well-being.

In conclusion, the lengthy debate about the best means to reduce illegal drug use in the United States continues to be fueled by ideological fervor instead of sound research. However, there is no debate that illegal drug use is a complex and significant social

problem that will continue to challenge policy makers, criminal justice professionals, and drug treatment providers for many years to come. Until quite recently, the criminal justice system was oriented exclusively toward the punishment of substance users, which has only exacerbated the problem of addiction in this country. Because so many people with substance use disorders are under criminal justice control, the system could become a site for effective large-scale recovery interventions. Several models of integration between the criminal justice and drug treatment systems already exist. They must be adopted more aggressively and explicitly to address substance abuse as a public health problem.

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