Drugs and Crime

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The essays in this volume share a common assumption—that the sale and possession of certain drugs, in particular heroin and cocaine, will continue to be illegal. The authors of these essays made that assumption because they were asked to. I do not know whether any of them favor the legalization of these drugs, but I do know that some people who read this book will favor it. It is important, therefore, to be clear as to the arguments for and against legalization. To do so, one must distinguish between the good and bad reasons for controlling the use of drugs.

Some people argue that we must “stamp out” drug abuse in order to reduce crime, break up criminal gangs, and improve public health. But there is no reason to believe that vigorously enforcing the drug laws will achieve any of these goals and many reasons to think that they may make these matters worse.

Consider crime: there is no doubt a strong association between the use of drugs and aggressive behavior, but, as Jeffrey Fagan points out in his essay, it is far from clear that this correlation amounts to a cause. People who become aggressive after drinking alcohol or using cocaine usually turn out to be people who were aggressive before consuming these substances. Personality factors and social setting seem to have a large, perhaps dominant, effect in determining whether getting high will lead to aggression, moody introspection, or quiet gaiety. Heroin seems to induce in its users euphoria, drowsiness, and sexual impo-
ence, but not aggression. There is a good deal of anecdotal evidence suggesting that using phencyclidine (PCP) or amphetamines or smoking crack will cause violent behavior, but so far not much systematic evidence supports this theory.

There is also a strong association between drug use and street crime, and here the research shows that, for at least certain drugs, their use—or more accurately, their purchase—does cause higher rates of income-generating crime. During periods when heroin addicts are using the drug heavily, the rate at which they commit crimes is much higher than it is during periods when they are relatively abstinent. The reason is that the illegality of heroin produces a black market in which price rises to the point where many addicts can only support their habits by theft or prostitution.

Though the search for drugs may cause criminals to increase the rate of their criminality, it is not a desire for drugs that leads people to criminality in the first place. Jan and Marcia Chaiken suggest in this volume that many heavy drug users were committing crimes before they turned to drugs; they began spending money on drugs in part because crime had produced money for them to spend and in part because criminality drew them into a social setting in which drug use was common and expected.

For all these reasons, it is not clear that enforcing the laws against drug use would reduce crime. On the contrary, crime may be caused by such enforcement because it keeps drug prices higher than they would otherwise be.

Or consider criminal gangs: tough law enforcement may break up those criminal enterprises that traffic in drugs, but it may also make such enterprises more skilled, more ruthless, and more dangerous. The more profitable drug sales are, the greater the incentive dealers have to protect their profits by arming themselves against rivals, forcibly maintaining discipline among subordinates, and corrupting or otherwise resisting the criminal justice system. Critics of drug enforcement often compare the effects of our drug laws to those prohibiting the sale of alcohol: any effort to suppress the use of a popular substance will create rich and powerful criminal syndicates.

Or consider public health: injecting drugs, such as heroin or cocaine, can lead to hepatitis or AIDS if contaminated needles are used, and such needles are more likely to be used if the drugs are consumed surreptitiously. Over half the AIDS victims generally contracted the disease through intravenous drug use. Drugs sold illegally are beyond the reach of the pure food and drug laws; as a result, many addicts use heroin that has been "cut," or adulterated, with harmful substances. When marijuana is grown illegally, it may be produced in fields sprayed by the police with dangerous herbicides or covered by the growers with harmful fertilizers. And even when a drug is free of poisons, its strength is often unknown, so that a user may unwittingly take a fatal overdose. Mislabelling a drug is not a crime to those who sell drugs illegally.

In short, attempting to suppress the use of drugs is costly—very costly. This fact has led many people to call for their legalization, either totally or under some form of government regulation. The readers of this volume may wonder why its authors have spent so much effort exploring the law-enforcement strategies when the "obvious" thing to do is to eliminate all the costs of law enforcement by repealing the laws that are being enforced. The result would be less crime, fewer and weaker gangs, and an opportunity to address the public health problems in a straightforward manner.

But there is another side to the story. Legalizing drugs would also entail costs. Those costs are much more difficult to measure, in part because they are to a large degree moral and in part because we have so little experience with legalized drugs that we cannot be certain how great those costs would be.

The moral reason for attempting to discourage drug use is that the heavy consumption of certain drugs is destructive of human character. These drugs—principally heroin, cocaine, and crack—are, for many people, powerfully reinforcing. The pleasure or oblivion they produce leads many users to devote their lives to seeking pleasure or oblivion and to do so almost regardless of the cost in ordinary human virtues, such as temperance, fidelity, duty, and sympathy. The dignity, autonomy, and productivity of many users, already impaired by other problems, is destroyed.

There are, to be sure, many people who only experiment with drugs or who use them regularly but in a "controlled" way. Citizens—including the contributors to this volume—differ in how seriously they view such use. Some will argue that if users can maintain their moral character while consuming drugs, no social problem exists. Moreover, a national survey suggests that drug use by casual or controlled users has been declining in recent years. The proportion of Americans saying that they currently use any drug has dropped significantly since 1985 (Office of National Drug Control Policy 1989, p. i). The essays here, however, are primarily concerned with the heavy user of the most dangerous drugs—heroin and cocaine. And for that group, the news is
bad. The same survey shows that the proportion of cocaine users who consume it frequently (i.e., weekly or more often) has doubled since 1985 (Office of National Drug Control Policy 1989, p. 3). In this group, the moral costs of drug abuse are undeniable.

But there are some people who deny that society has any obligation to form and sustain the character of its citizenry. Libertarians would leave all adults free to choose their own habits and seek their own destiny so long as their behavior did not cause any direct or palpable harm to others. But most people, however willing they may be to tolerate human eccentricities and support civil liberties, act as if they believed that government, as the agent for society, is responsible for helping instill certain qualities in its citizens. This is one reason (indeed, it was the original reason) for mandatory schooling. We not only want to train children to be useful, we want to train them to be decent. It is the reason that virtually every nation that has been confronted by a sharp increase in addiction to any psychoactive substance, including alcohol, has enacted laws designed to regulate or suppress its use. (The debauch produced by the sudden arrival of gin in eighteenth-century England led to debates not very different from the ones we are having today about cocaine.) Great Britain once allowed physicians to prescribe opiates for addicts. The system worked reasonably well so long as the addicts were middle-class people who had come by their dependence as a consequence of having received painkillers in hospitals. But as soon as oblivion-seeking youth became heroin addicts, Britain ended the prescription system, replacing it at first with a system of controlled dispensation from government clinics and then with a system of substituting methadone for heroin coupled with the stringent enforcement of the laws against the latter.

Even if we were to decide that the government had no responsibility for character formation and should only regulate behavior that hurt other people, we would still have to decide what to do about drug-dependent people because such dependency does in fact hurt other people: a heroin addict dreamily enjoying his euphoria, a crack smoker looking for that next high, a cocaine snorter eager for relief from his depression—these users are not likely to be healthy people, productive workers, good parents, reliable neighbors, attentive students, or safe drivers. Moreover, some people are directly harmed by drugs that they have not freely chosen to use. The babies of drug-dependent women suffer because of their mothers’ habits. We all pay for drug abuse in lowered productivity, more accidents, higher insurance premiums, bigger welfare costs, and less effective classrooms.

The question is whether the costs of drug use are likely to be higher when the drug is illegal or when it is legal. In both cases, society must pay the bill. When the drug is illegal, the bill consists of the law-enforcement costs (crime, corruption, extensive and intrusive policing), the welfare costs (poorer health, lost wages, higher unemployment benefits, more aid to families with dependent children, and various treatment and prevention programs), and the moral costs (debased and degraded people). When the drug is legal, the bill will consist primarily of the welfare costs and the moral costs. Which bill will be higher?

The answer chiefly depends on how many people will use the drug under the two scenarios. We have a rough idea of how many people regularly use heroin and cocaine under the present illegal scenario. How many will regularly use it under the legal scenario?

No one knows for certain, but it will almost surely be many more people than now use it. The free-market price of cocaine is probably no more than 5 percent of its present black-market price. The consumption of a widely desired, pleasure-inducing substance will, without question, increase dramatically if the price is cut by 95 percent (Kaplan 1988; Moore, in this volume). But suppose that the government levies taxes on the legal cocaine, either to raise revenue, discourage use, or both. The higher the government sets the tax on, and thus the price of, the drug, the less will be consumed, but the greater the incentive the drug user will have to steal (in order to pay the high price) or to manufacture the drug illegally (in order to undercut the government price). Either way, high taxes get us right back where we started. There is no such thing as an optimal price of cocaine because there is no such thing as an optimal mix of two radically opposed goals—to reduce the drug use and to prevent drug-related crime.

Moreover, the true price of the drug is the monetary price plus the difficulty and inconvenience of the search for it and the risk associated with consuming a product of unknown quality. Though drugs are sold openly on the streets of some communities, for most people—especially for novice, middle-class users—they are hard to find and are

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1 There will also be law-enforcement costs when the drugs are legal, if we assume—as do most proponents of legalization—that the drugs would not be sold to minors. As we know from our experience with alcohol, it is neither easy nor cheap to keep forbidden taxed, partly to pay for the welfare costs associated with their use and partly because "sin taxes" are a politically popular way of raising general revenues. The higher the tax, the greater the incentive to evade it; hence, the government will have to invest in enforcing
often found only in unattractive and threatening surroundings. Legalizing the drugs, even if the price is not cut, will make the drug more attractive by reducing the costs of searching for the product, negotiating a transaction, and running the risk of ingesting a dangerous substance. The combined effect of lowered market prices and lowered transaction costs will be very great.

Just how great cannot be known without trying it. And one cannot try it experimentally, for there is no way of running a meaningful experiment. The increase in drug use that would occur if people in one neighborhood or patients at one clinic were allowed to buy the drug at its market cost can give us no reliable information on how many people would use it if the drug were generally available in all neighborhoods and at any clinic.

The experience of other countries confirms that ease of availability is associated with large increases in use. When Great Britain allowed private physicians to prescribe heroin and young people began to avail themselves of this source, the number of known addicts (many more were unknown to the authorities) increased thirtyfold during a fifteen-year period. It was because of this increase that the British government changed the law. After a brief period in the 1970s when the number of known heroin addicts stabilized, a new storm broke. Between 1980 and 1985, the number of newly notified heroin addicts increased fivefold. Geoffrey Pearson (1990) estimates that by the mid-1980s Great Britain had some 15,000 registered drug addicts and probably ten times as many unregistered ones; this in a country whose “system” some people once thought should be a model for the United States. The increased availability of heroin in Europe, a continent once generally free of addicts, has been followed by a sharp increase in the number of addicts.

Even if legalization increases the number of addicts, would it not dramatically decrease the number of crimes committed by addicts? Not necessarily. No doubt the average number of crimes per addict will fall (few people would have to steal in order to buy drugs at market prices), but the increase in the number of addicts would mean an increase in the number of people leading such deviant lifestyles that occasional crime might be their only (or their preferred) means of support. Thus the total number of crimes committed by drug users might not fall at all.

Because we cannot know what our level of drug use would be under a legalized regime (though we can be certain it would be much higher than today) and because people disagree about many of the costs—especially the moral costs—of drug use, the debate over legalization will never be resolved. However, being aware of these issues will help people focus the debate on the right question. That question is this: how can we minimize the sum of the law-enforcement, moral, and welfare costs of drug use? If we want drugs to be illegal, it is because we believe that the very high law-enforcement costs will be offset by lower moral and welfare costs. If we want drugs to be legal, it is because we believe that the higher moral and welfare costs will be offset by the lower law-enforcement costs. In making this choice, we are making an estimate of how large the drug-using population will be in each case, and we are assigning a value to the tangible but real moral costs.

I. Designing a Strategy

Assuming that heroin and cocaine will be illegal because of the moral and welfare costs associated with their use, we want to design a rational control strategy that will minimize those costs for a given level of effort. In doing so, we want to know where the marginal dollar can most effectively be invested.

In answering that question, it is customary, and correct, to distinguish between the demand for drugs and the supply of those drugs. It is also customary, but wrong, to consider demand-reduction strategies as involving prevention, education, and treatment and to think of supply-reduction strategies as involving law enforcement and foreign policy. Demand reducers are the nice guys—teachers, doctors, scientists, publicists; supply reducers are the tough guys—detectives, customs inspectors, and crop eradicators. Much of the debate over the relative budget shares that should go to demand or supply reduction reflects an ideological predisposition to choose either the tender-minded or the tough-minded approach.

There is some truth in this distinction, but not much. Law-enforcement efforts can reduce demand as well as supply. Prevention and education programs can reduce supply as well as demand. The

2 Having stated the issue in what I trust is an evenhanded way, let me be clear about my own views. I believe that the moral and welfare costs of heavy drug use are so large that society should bear the heavy burden of law enforcement, and its associated corruption and criminality, for the sake of keeping the number of people regularly using heroin and crack as small as possible. I also believe that children should not be raised in communities in which heroin and cocaine are sold at the neighborhood drugstore. Obviously, there is some point at which the law-enforcement costs might become too great for the gains they produce, but I do not think we are at that point yet. I set forth my arguments at length in Wilson (1990).
reasons are explained in the essays by Mark Moore, Dana Hunt, and Mark Kleiman and Kerry Smith.

Demand reduction occurs when for any reason drugs become less attractive. If an education or prevention program persuades young people not to seek out drugs, demand is reduced. If the police make it very hard for a first-time or novice user to find a willing seller of drugs, supply is reduced—but so also is demand. The reason is that first-time, novice, or occasional users will abandon the search for drugs if that search is difficult, dangerous, or costly. By the same token, if law enforcement results in the commitment of the user to a mandatory treatment program that the addict would not have voluntarily entered, law enforcement may contribute to demand reduction. Indeed, the chief reason we have laws against possessing (and in some states, using) drugs is to reduce demand. They work—up to a point.

Similarly, if a treatment program successfully eliminates the desire for drugs on the part of a junkie, demand will have been reduced. But if that junkie is also a drug dealer who no longer feels he must deal in order to feed his own habit, then the treatment program has also removed a source of supply. Of course, a reformed supplier may be quickly replaced with an unreformed one, in which case there has been no supply reduction at all. But sometimes the reformed dealer sold to a circle of occasional users who did not know any other “connection”; when their friend/dealer is gone, their drug supply drops.

Drug use, in its early stages, tends to be a social activity occurring among—and often with the encouragement of—friends and associates. Whatever interdicts that network, whether it be a program labeled “prevention,” “treatment,” or “law enforcement,” constitutes demand reduction. Deeply dependent addicts, by contrast, often use drugs in a more individualistic and isolated manner; their demand is much harder to reduce, whether by treatment or law enforcement.

The ambiguity of the distinction between prevention and law enforcement is illustrated by the case of drug testing. There is good evidence that drug testing in the military reduced drug use by curbing demand. Such testing may—no one yet knows for certain—reduce drug demand in civilian occupations. Is drug testing an example of prevention or of law enforcement? If the tests are conducted by doctors in a treatment program, we call it prevention. If they are conducted by probation officers desirous of knowing whether probationers have observed the terms of their freedom, we call it law enforcement. But the tests are identical in the two cases. The consequences for the person tested may also be identical if he is in the treatment program as an alternative to incarceration.

The failure of policymakers to understand that demand reduction is not synonymous with treatment or law enforcement with supply reduction has led them to make funding decisions based on such false identities. The debate over the Omnibus Drug Abuse Act of 1988 was in large measure a debate over whether 50 percent or 60 percent of the federal antidrug budget should be earmarked for prevention, treatment, and education in the belief that these activities, and only these activities, will reduce demand.¹

The essays in this book try to avoid this artificial distinction. Moore and Kleiman and Smith explain how demand may be reduced somewhat by street-level law enforcement aimed at breaking up vulnerable dealing systems. Eric Wish and Bernard Gropper suggest ways in which random testing for drug use, using either urine or hair samples, may reduce demand. Douglas Anglin and Yih-Ing Linser, in evaluating the effectiveness of drug treatment programs, point out that, the longer drug users spend in such programs, the higher their chances of success. But left to their own devices, users tend to drop out of most programs. Legal coercion can keep these users in programs longer and thus increase their chances of successfully reducing drug use.

II. The Problem

No one should underestimate the difficulty of reducing drug abuse no matter what methods are used. Relatively modest law-enforcement and prevention efforts may be successful with many novice or occasional users, but the persistent heavy user presents a formidable challenge. In the essays by Dana Hunt, Jan and Marcia Chilken, and Bruce Johnson and his colleagues, we encounter the urban underclass in all its refractory and frightening complexity. Persistent, heavy users have almost every personal and social problem one can imagine; they tend to be poorly schooled, unemployed (except in drug sales), deeply involved in criminality, and lacking any semblance of a normal family life. Some are homeless. They often use many drugs, not just one; if heroin becomes costly or frightening, they shift to barbiturates. They will use amphetamines, PCP, and crack almost interchangeably as circum-

¹ The final split was 55 percent for “demand reduction” (by which was meant treatment and education) and 45 percent for “supply reduction” (by which was meant law enforcement).