

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.

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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 other illegal drugs (Caulkins et al. 2005). From 1985 to 2001, national surveys consistently found that Americans listed “drugs” among the top-ten problems facing the country (Caulkins et al. 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 and 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, and from 1980 to 2000, 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 (BJS 2002b).

The enforcement of drug laws has been strict, punitive and expensive both in criminal justice and in social costs (MacCoun and Reuter 2001). 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), not including 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 and 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). In addition, evidence indicates that public health-based approaches to drug abuse are more effective and less harmful than law enforcement-based approaches (McLellen 2002). Unfortunately, these approaches have received little attention from researchers or policy makers.

This article briefly chronicles the war on drugs in the United States and examines the failings of the country's drug policies. We then recommend 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.

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 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, significantly more resources have been expended on supply-reduction strategies than on demand-reduction strategies (Boaz and Lynch 2002; MacCoun and Reuter 2001).

History of Antidrug Legislation in the US

American drug legislation has grown increasingly punitive. 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 the sale of certain drugs 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 (Whitebread 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.

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. Commissioner, Harry J. Anslinger emphasized interdiction and assigned 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 (Valentine 2004; Gray 1998: 65-91). The FBN also 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 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: 64).

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. Much of the discourse was racially tinged, as evidenced in excerpts from Commission Anslinger's testimony at the hearing:

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 user's 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 (Anslinger 1937).

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.

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 (DEA 2003).

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 US.” Nixon created the Special Action Office for Drug Abuse Prevention and, under the leadership of Dr. Jerome Jaffe, a physician and methadone treatment specialist, the federal government spent twice as much on treatment and prevention programs as on law enforcement, . In 1973, Nixon consolidated all federal drug-enforcement agencies under the DEA, the federal agency that is still primarily responsible for prosecuting the war on drugs (Massing 1998).

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 (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,” establishing the Office of National Drug Control Policy (ONDCP) under the aegis of the Executive Office of the President. 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. Federal spending on antidrug programs increased during Bennett’s tenure, 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 drug czar. This opposition was in

response to Walter's overwhelming emphasis on law enforcement rather than treatment and prevention strategies (Berkowitz 2005). Walter's appointment was eventually approved, and like his predecessors, he supported spending billions of dollars to try to stem the flow of drugs into the US (Massing 2001).

After 9/11, President G.W. Bush 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). Intelligence sources in the G.W. Bush Administration also maintained that several terrorist groups had 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).

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).

In the final year of President G.W. Bush's second term, *Kimbrough v. U.S.* (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. In *Kimbrough*, the Supreme Court overturned an 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.* (2007).

Consequences of the War on Drugs

The war on drugs has fueled an unprecedented expansion of the American criminal justice system over the last two decades and social scientists have sought to enumerate the consequences of this growth in the prison population. The more frequently noted consequences of incarceration are formal, such as the political disenfranchisement of most current and many former felons (Uggen and Manza 2002), the inability of former felons to serve on juries or run for office in many states (Demleitner 1999), and the denial of federal benefits like Medicaid, public housing, Section 8 vouchers, and Temporary Aid to Needy Families (TANF) for persons with felony drug convictions (Wacquant 2005; Demleitner 1999).

In contrast, a more recent body of literature on the collateral consequences of incarceration underscores the informal impact of incarceration on former convicts, their families and communities. For example, Pager and Quillian (2005) found that even employers who claim not to discriminate against former felons in hiring practices rarely hire applicants with criminal records; this is especially true for African American applicants. A number of authors (Hagan and Dinovitzer 1999; Johnson and Waldfogel 2004; Nurse 2004) emphasize the impact of incarceration on the children of imprisoned parents, arguing that for already disadvantaged children, the incarceration of a parent can create greater instability and increase the risk for criminal involvement, dropping out of school, and other negative outcomes. Hagan and Dinovitzer (1999) and Lynch and Sabol (2004) also point to the negative impact of incarceration on poor communities of color; in addition to transferring critical political and economic resources from these communities to the white communities where prisons are built and operated, the widespread incarceration of young African American men removes human and social capital and reduces informal social control in communities that can little afford these losses.

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: 1). By any measure, America's penal system dwarfs all others worldwide. 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 (BJS 2007). The second largest prison population in terms of sheer numbers is in China, which incarcerates an estimated 1.5 million people (Walmsley 2006). 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 prison population in the United States quadrupled from 1980 to 2000 and has exceeded the one million mark every year since 1995. 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.

An arrestee's chances of being sentenced to prison after an arrest for a drug offense increased 447% from 1980 to 1992 (Beck and 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 and 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%) (BJS 2005).

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 and 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) (BJS 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% (Greenfeld and Snell 1999).

Disproportionate Minority Confinement

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 neighborhoods and with low educational attainment—is extraordinary. Massive increases in the incarcerated population have disproportionately involved African Americans (Lynch and Sabol 2000), and the percentage 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). 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 and Beck 1999; BJS 2002e). At the beginning of the 1990s, more African American men were under the control of the criminal justice system than were in college (Haney and Zimbardo 1998), and the likelihood of incarceration for a male infant born in 1991 was 29% for African Americans, 16% for Latinos, and 4% for whites (Bonczar and Beck 1997).

The racial disproportionality in the growth of the prison population is most pronounced for drug offenses (Lynch and 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 US, but they accounted for 35% of those arrested, 55% of those convicted, and 75% of those sentenced to prison for drug possession (Mauer and 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 (Tonry 1995).

Criminal Justice Costs

In the first two months of 2008, federal and state governments 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 and Rasmussen 1991), while in Illinois, from 1984 to 1989, increases in arrests for drug offenses coincided with decreases in arrests for driving while intoxicated (Benson and 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 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 social exclusion,” compounding disadvantage and increasing the risk of homelessness, inadequate healthcare coverage, and disenfranchisement among the children of incarcerated people (Foster and 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 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 and 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 and Johnson 1974; Buikhuisen and Dijksterhuis 1971).

A more 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 and 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 and Austin 1997).

Incarceration further decreases people's human capital through the creation of unstable employment histories that reduce 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). 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: 132) state:

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.

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 and 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 and 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: 413). Incarceration interrupts young men's transitions into the workforce and creates barriers to occupational opportunities following release from prison, making formerly incarcerated people are more likely to participate in criminal activities later in life (Sampson and 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: 43).

The life course perspective also sheds light on the consequences of imprisonment for the children of inmates. 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 and 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 et al. 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). Thus, for a significant majority of children, the incarceration of a parent results in substantial financial strain. Given the generally poor economic status of most prisoners and their families, this financial strain 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, children frequently receive less attention as the remaining parent has less time and money to invest in them (McLanahan and Sandefur 1994). 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 and 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). Paternal incarceration frequently leads to the termination of relationships and less paternal involvement in children's lives, even after 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, and 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 and 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 and Bumpass 1988), which 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 lifecourse of a child, such as the "intergenerational transmission of the risk of imprisonment" (Hagan and Dinovitzer 1999: 146). Children with incarcerated mothers are six times more likely to become incarcerated than their peers (Barnhill and Dressel 1991; see also Johnston 1995).

Parental incarceration is also related to "intergenerational social exclusion," or "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 and Hagan

2007: 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 and Hagan 2007; Walker and Sprague 1999). Moreover, the consequences of this exclusion can 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 (for details on the high rates of imprisonment for African Americans see the following: King 2008 and Provine 2007) Large numbers of incarcerations for drug offenses have rendered the experience of imprisonment commonplace for poor African American men, 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, more 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 and 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 and 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* 2006 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 and Mukamal 2001; Travis 2001).

A Public Health Approach to Addiction

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 (National Institute of Drug Abuse 2002 Western et al. 2001; Hagan 1994).

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 and 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 (Kleiman 1992; Nadelmann 1989).

Offenders with drug problems are a diverse group, and the relationship between drugs and crime is complicated (BJS 1991). Offenders become addicted to drugs and commit crimes as a result of various events in their lives (Lurigio and 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 and Harwood 1990).

Drug courts, especially drug treatment courts (DTCs), offer one of the best examples of drug treatment as an alternative to incarceration. DTCs, the second generation of specialized drug courts and the most prominent, are more service-oriented than their predecessors, which were aimed primarily at improving the speed and efficiency of case processing (Davis et al. 1994). Although DTCs differ in their structures, operations, and staffing, they are predicated on the assumptions that drug use is deeply rooted in the community; addiction is “as much a public health problem as a criminal justice problem”; and drug treatment is the only long-term solution “to the drug crisis” (General Accounting Office 1997; Vigdal 1995: 6). DTC was created for persons with substance use disorders who enter the criminal justice system because of a drug-defined (e.g., possession of small amounts of drugs) or drug-related offense (theft to obtain

money to purchase drugs). DTC is client-centered and, as such, its success is measured in “human” (sobriety and employment) rather than “statistical” terms (number of closed cases).

Dade County’s Felony Drug Court (Miami) was the first DTC in the nation. Located in Florida’s Eleventh Judicial Circuit, the court began hearing cases in 1989 and became the prototype for future DTCs. The court is based on the premise that addiction is a disease that promotes criminal behavior; it is therefore highly treatment-orientated and supportive of clients’ recovery efforts. Instead of prosecuting defendants for their substance use problems, the court provides or brokers drug treatment and other services that help them achieve sobriety and stability in their lives (Goldkamp and Weiland 1993).

Following the Miami Dade model, participation in DTCs is voluntary. Eligible defendants must be charged with purchasing or possessing illicit drugs. Those with histories of violent crime, drug trafficking, or felony convictions are not accepted into the program. Most DTCs present defendants with the option of pleading guilty and participating in mandatory treatment or going to trial and risking incarceration or other criminal justice sanctions. Failure to comply with program requirements can culminate in various judicial sanctions, ranging from a verbal reprimand, to a probation sentence, to confinement in jail or prison (Canadian Centre on Substance Abuse 2007; Mugford and Weekes 2006).

In 1997, more than 370 drug courts were operational or being planned in the United States; at that time, the largest numbers of drug courts were in California, Florida, Ohio, Oklahoma, and New York (Cooper 1998). By April 2007, more than 1,000 specialized drug courts were operational in all 50 states as well as the District of Columbia, Guam, and Puerto Rico. A total of 41 states, the District of Columbia, Guam, and Puerto Rico have enacted legislation that supports the planning and operations of DTCs (American University 2007). The

White House has hailed DTCs as “one of the most promising trends in the criminal justice system” (White House 2004).

A study of Miami’s DTC found that participants had fewer cases dropped, fewer rearrests, and lower incarceration rates than nonparticipants (Finn and Newlyn 1993). A separate study of Miami’s drug court participants also reported that they were less likely to be rearrested or sentenced to prison than were nonparticipants. Among those who were rearrested, drug court participants’ time-to-rearrest was two to three times longer than that of nonparticipants (Goldkamp and Wieland 1993).

Another study compared DTC probationers with those on electronic monitoring, intensive probation supervision, and standard probation supervision. Results showed that DTC probationers were less likely than those in the other groups to test positive for illicit drugs while on supervision (Santa Clara County, California Drug Court 1998). In one of a growing handful of randomized experiments of a DTC, researchers reported that program participants had fewer rearrests and reincarcerations than a control group of nonparticipants (Deschenes, Turner, Greenwood, and Chiesa 1996). Another randomized trial found that DTC clients were less likely to be rearrested and had fewer rearrests than did control subjects (Gottfredson and Exum 2002). Two-years following their graduation from the program, DTC participants in the study were again less likely to be rearrested than control subjects (Gottfredson, Najaka, and Kearley 2003).

Several other treatment interventions, most based on the DTC model, have also proven effective. Arizona’s Proposition 200, the Drug Medicalization, Prevention and Control Act of 1996, 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 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 and 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 et al. 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 and 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, and French 2005; Inciardi 1996).

The economic benefits of drug treatment accrue mostly from reductions in incarceration, criminal victimization, medical treatment, and lost wages (Hoffman and 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 et al. 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, “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* treating persons with substance abuse problems would be quite substantial” (58, original emphasis).

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 the costs of incarceration. 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 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 et al. 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 et al. 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 et al. 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 et al. 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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