

**NLWJC - Kagan**

**DPC - Box 011 - Folder 043**

**Crime - Speech**

*Crime - speech***--- DRAFT CRIME SPEECH FOR NAAG ---****I. Intro -- sharply declining crime rates**

-- Phenomenal success over the past 5 years in reducing crime, especially violent crime.

-- We've all read about New York's wonderful success. Crime is down across the board, and murders are down a staggering 66%. But crime rates are falling across the nation, too. Two-thirds of American cities w/populations of more than 200,000 have experienced double digit drops in their homicide rate.

-- All in all violent and property crime have reached their lowest levels in a generation (since the early 70s).

-- Other good news: the crack epidemic seems to have run its course; gun and juvenile violence -- while still very serious problems -- have started to ebb; domestic violence and violence against women is being taken more seriously than ever; and in key cities in the West and Midwest meth is being nipped in the bud..

-- Most importantly, though, Americans are starting to feel safer...to have hope... to work together to keep the crime rates dropping.

-- Certainly the most talked about example of the magnitude of our progress on crime is the turnaround that has occurred in New York City. While New York's crime problems certainly were never representative of what most cities were experiencing, they became a national symbol of our inability to control crime and violence. And in 1990, when more than 2,200 persons were murdered in New York City, many Americans began to believe that such high levels of crime could never again be reversed.

-- But by cutting crime for five years in a row -- and in so many parts of the country -- we have dramatically reversed the trend of skyrocketing crime rates. And by reducing the number of murders in New York from more than 2,200 to less than 770, we have once and for all shattered the perception that crime couldn't be reduced or had to be tolerated in any community.

**II. Ending Washington's dead-end, right-left debate on crime**

-- As a former AG and Governor, I ran for President calling for an end to Washington's dead-end debate on crime. For years, as crime reached new

heights in the mid-eighties and early nineties, Washington continued to argue between the virtues of punishment vs. prevention -- between the need for more prisons as opposed to more jobs.

-- While Washington debated these false choices, crack cocaine and gun-related youth violence ravaged our streets, and the murder rate soared all across the country. Those of us at the state and local law level -- mayors and police chiefs, Governors and AGS -- did what we could on every front and with the resources we had: first we increased law enforcement, then we built more prisons. We tried to stop the flow of guns and drugs to the street, but we were overwhelmed.

-- That's why, when I came to Washington, I reached out to state and local leaders, to law enforcement, to community groups, and asked for their input. They wanted help on all fronts -- more police, tougher punishments, better prevention and an end to the arms war on our streets and in our schools. So we enacted a Crime Bill like no other before it, and I believe made a difference. It did not in and of itself solve the crime problem, but it gave communities that were fighting back some of the tools and support that they needed.

-- But less than a year after we had passed historic crime legislation, Washington was all too willing to return to its old ways. Immediately there were plans to undo our community policing program, to repeal the Brady Bill and Assault Weapons Ban, and to gut prevention programs that had already been agreed to.

-- Fortunately, most of these efforts failed. But it does make clear that Washington hasn't changed its ways -- and that it is more interested in partisan politics than declining crime rates. Already, the left and right are joining forces to kill important juvenile crime legislation before the Congress.

-- The debate between tough and soft -- between jobs and prisons -- should be over once and for all. Over the past 5 year, we've built x number of prison cells and enacted the toughest anti-crime laws ever (three strikes). We've also invested in the American people and created 15 million more jobs. And even though we've significantly reduced crime, crime, drugs and guns and the lethal violence that accompanies them remain serious problems -- and at higher levels than through most of our country's history.

### **III. What Washington should be learning from declining crime rates?**

A. It's not enough to be tough-- you've got to be tough and smart

-- It's not enough to pass tough sentences, hire more police and build more prisons. Tough penalties need to be targeted and enforced. They need to be focused on the most serious repeat offenders. Studies have shown time and time again that a small percentage of criminals commit the most violent acts, and a small percentage of drug users consume most of the drugs. We need tough, long sentences; adequate prison space; and targeted enforcement to reach these offenders.

-- But it is also not enough to focus on the worst criminals. We need a whole range of smarter punishments for less serious offenders. We can't continue to ignore those criminals that bring down the quality of life in our neighborhoods and make them into breeding grounds for more serious crimes. And we can't continue to wait until they develop into more serious criminals before we act. Instead, we need to enforce "zero tolerance" for certain behaviors in public places (vandalism, graffiti, public drunkenness, prostitution, retail drug dealing). This make neighborhoods more crime resistant.

-- Mark Kleiman of UCLA has pointed out to me how smart punishment -- or "targeted deterrence or zero tolerance" as he calls it -- was a key part of reducing youth violence in Boston. Let me explain:

-- The Boston Youth Gun Project identified some 1,300 juveniles in 60 to 70 gangs that were responsible for virtually all of the youth homicides in Boston. These gangs were called in -- one by one -- and given the message that state, local and federal law enforcement agencies were working together, knew who the gangs were, knew they were engaged in illegal activities, would be watching them and -- most importantly -- wouldn't tolerate any shootings or stabbings. Anybody who broke the rules, would feel the force of law from the combined law enforcement effort until they gave up and turned in their guns..

-- Sure enough, two gangs broke the rules and were taken down by law enforcement. Afterwards, law enforcement sent the message to every other gang that they would meet the same fate. It became possible for the gangs to disarm, and most of them did. One gang held out, and they were made an example of. They were targeted for stiff federal firearms sentences.

-- This type of smart, targeted punishment is neither easy nor intuitive, but it is very effective. Under this approach in Boston, no juvenile was killed with a firearm for two and a half years.

-- Lesson to be learned: the resources of police and the criminal justice system can't deliver sanctions for every violation of every law by every person. But they can deliver effective "zero tolerance" for specified violations. That should be our goal with a whole range of criminal and unacceptable behaviors.

B. It's not enough to simply react to crime -- we need to solve crime problems and preventing crimes from happening in the first place.

-- More police working with members of the community -- in more and more police departments -- has made it clear that we can never go back to simply reacting to crime. The trend must be in the opposite direction: prosecutors, courts, corrections and others in the criminal justice system must embrace community policing's two central tenets: (1) community engagement; and (2) problem solving.

(1) Community engagement means much more than simply improving the police relationship with the community. That's just community or public relations. Community engagement means actually working with the community to identify and solve crime problems. That means engaging the public in the co-production of safety.

(2) Problem Solving means analyzing crime and disorder problems, implementing solutions and evaluating them. This means fundamentally changing the way police and other criminal justice services are delivered. It requires changing criminal justice organizations from the inside out -- allowing those nearest to the problem to develop tailer-made solutions.

-- In New York City, the police developed COMSTAT -- a computer mapping program to help identify crime problems and develop solutions. (more)

-- In Chicago, community police are trained to approach every crime problem by identifying the victim, the perpetrator and the location -- and then developing lasting solutions that remove at least two of these from the situation. (more)

-- In San Diego, when police attempts to shut down a prostitution ring were thwarted by overcrowded jails and insufficient sanctions, community police encouraged local business owners to seek restraining orders that carried hefty fines if violated. The prostitutes disappeared. (more)

-- And in Portland, OR, local businesses and community residents from one neighborhood demanded that the District Attorney dedicate a prosecutor to work in their neighborhood. As a result of this successful effort, Portland

has now established "Neighborhood DAs" throughout the county. (more)

-- Problem solving sounds simple, but it's nothing less than revolutionary.

C. The real "root cause" of crime is not poverty, race, etc., but community breakdown

-- Last August, a ground breaking study about crime in Chicago neighborhoods was released. The study -- which has been going on for 8 years, in hundreds of neighborhoods and is still in the works -- revealed that the single biggest predictor of violent crime rates was not poverty, unemployment, race, etc., but a strong sense of community. Neighborhoods -- black or white, rich or poor -- that shared common values which people were willing to reinforce had crime rates 40 percent below those of other neighborhoods.

-- This challenges the conventional (liberal) wisdom that crime rates are mainly attributable to aggregate demographics that can be addressed through government programs. Rather, it shows that crime is a function informal social controls that are exercised by members of the community -- and that government programs are a poor substitute for these controls and shared values.

[- This also comports w/James Q. Wilson's argument that we have an innate "moral sense," driven in large part by sympathy for our fellow man -- but especially for children. And that this, too, is an important a social control as anything.??]

IV. Conclusions...challenges for future

-- More than thirty years after Kitty Genovese's murder, the American people have tipped the scales of justice back in their favor. They have shown that they're once again willing to accept the responsibility of making their communities safe -- and we in government must make sure we do the same.

-- We need to work together to promote smart, tough policies that reinforce what's rights with laser-like focus. Great potential with respect to drugs and juvenile violence (coerced abstinence, Boston -- reducing crime in 5 cities with 25% of juvenile murders).

-- We need to do more to promote community-based justice that seeks to solve crime problems and prevent crimes from happening in the first place. Community policing has started this revolution, but need to bring all aspects

of the criminal justice system into fold -- prosecutors, courts, corrections. Maybe -- just as Bobby Kennedy helped promote committees of young lawyers for civil rights in cities across the country -- we should promote the establishment of similar efforts to help communities solve crime problems.

-- And finally, we need to ask ourselves what can we do to promote shared values in our communities. Because if we don't, make no mistake: no government program will be able to make up the difference.



Jose Cerda III

03/06/98 08:15:09 PM

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Record Type: Record

To: Elena Kagan/OPD/EOP, Laura Emmett/WHO/EOP, Leanne A. Shimabukuro/OPD/EOP

cc:

Subject: Weekly II

EK:

**Crime** -- We have been working with Rahm on a speech outline that discusses the importance of sharply declining crime rates, and are considering recommending that you touch on some of its points in your address to the National Association of Attorneys General next Thursday (3/12). In brief, the speech would make the following key points:

I. Magnitude of drop in crime. Although everyone knows of New York's success (66% drop in homicides), two-thirds of American cities with populations of more than 200,000 have experienced double digit drops in murder. Moreover, overall crime is down to its lowest level in a generation.

II. Drop in crime should confirm that Washington's dead-end debate on crime -- prevention vs. punishment -- was wrong. While Washington continued to fight this battle, state and local leaders led the way and fought crime on every front. The 1994 Crime Bill provided important tools, but some in Washington immediately tried to undo less than a year after it was passed.

III. Lessons we should learn from 5 years of falling crime rates:

(1) It's not good enough to tough -- we need to be tough and smart. Penalties and enforcement need to be targeted to worst criminals and unacceptable behaviors. We can't deliver all sanctions to all people for all violations -- but we can enforce targeted deterrence.

(2) It's not good enough to react to crime -- we need to solve crime problems and prevent crimes from happening in the first place. Community policing has started a revolution. Its premises now need to be extended to other parts of the criminal justice system.

(3) According to a new and groundbreaking study (released 9/97), the single biggest predictor of violent crime is community breakdown -- not poverty, race, and other demographic factors. In fact, communities with shared common values had 40 percent lower crime rates than others.

Crime - Speech

THE PRESIDENT'S OFFICE

12-8-97

THE WHITE HOUSE

WASHINGTON

December 1, 1997

MEMORANDUM TO THE PRESIDENT  
 FROM RAHM EMANUEL  
 SUBJECT CRIME SPEECH

① Mulholland & Company memo  
 ② Rahm  
 1. Use it as memo #1  
 #2 is useful in its clarity  
 of police presence  
 but give preference -  
 [ES]

Attached are two memos that Mark Kleiman prepared on crime and drugs. As I mentioned in my weekly report last week, I believe that you should deliver a speech outlining our efforts on the issues of crime and drugs. The speech would not put forth specific initiatives or policies but mark your overall philosophy based on what we have learned fighting these issues over the past five years. I think that the speech should be intentionally controversial. It should attack both the left and the right and should be written to create a debate on the issues of crime and drugs.

If you agree I can begin to work on getting a date on the schedule for such a speech.

Copied  
 Emanuel  
 COS

agreed

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To: Rahm Emmanuel  
From : Mark Kleiman  
Re: Targeted Zero Tolerance and Crime Control  
Date: November 6, 1997

Central point:

Using only existing knowledge and resources, the country could have a much smaller crime problem three years from now than it has now.

The important new idea is "targeted zero tolerance," also known as "getting deterrence right." It can work at the neighborhood level, focused on the petty crimes that create the atmosphere for major crimes (e.g., some of Bill Bratton's initiatives in New York), or at the level of the individual offender or offender group (e.g., the Boston Youth Gun Project and coerced abstinence for drug-involved offenders).

Either way, the three keys are focus, communication, and follow-through.

Focus means picking specific behaviors for zero tolerance and, where possible, identifying the individuals or groups most likely to engage in them. Communication means telling those people precisely what won't be tolerated and precisely what will happen to them if the lines are crossed. Follow-through means delivering the promised sanction every time. This requires using the resources and powers of all the elements of the criminal-justice system: not just police, but probation, parole, prosecutors, courts, juvenile authorities as well; not just the locals or the feds, but everyone together.

Key organizing ideas:

Disorder makes neighborhoods vulnerable to serious crime. Controlling disorder prevents serious crime.

Most serious offenses are committed by a small number of people. Controlling their behavior is therefore essential. It is also feasible, precisely because they are so active and thus so vulnerable to enforcement focus. Multi-offending and

probation/parole status make high-rate serious offenders manageable, if the system works in a coordinated fashion to use those handles. That rarely happens now.

Deterrent threats need to be communicated to the people they are intended to deter, on an individual, "This Means You" basis where possible. The threat needs to be specific about what behavior will trigger a response and what the response will be. Arrests and sentences are very poor communications channels. Don't strike the rock, talk to the rock.

Most offenders are reckless and impulsive. Low-probability deferred threats of serious punishment sometime in the future bounce off them (otherwise they wouldn't be offenders). We need high-probability threats of immediate punishment; if we can deliver on those, behavior will change even if the punishments aren't severe.

The resources of the police and the rest of the criminal justice system can't deliver sanctions for every violation of every law by every person. But they can deliver effective zero tolerance for specified violations by specified people.

Controlling group offending (as represented by youth gangs) requires group-level accountability. Tell the whole group that if any member commits a specified act (such as shooting someone) the whole group will become a zero-tolerance target with respect to any offense, no matter how petty. Then let the groups control their own members.

A convincing threat can deter much more behavior than could actually be punished. How does the mythical Texas Ranger face down an angry mob when he has only one bullet left in his gun? By letting everyone know that the first one who steps forward will get shot. No one wants to go first.

Neighborhood version:

Crime is going down for many reasons: more cops on the street, more high-rate serious offenders in prison, good people in high-crime neighborhoods getting together to stop the carnage.

We're also getting smarter about controlling crime. Community-based, problem-oriented policing has penetrated more and more deeply into the daily life of police departments around the country, thanks in part to the community policing requirement attached to the COPS grants but in greater part to the growing understanding among police officers and the leadership of police departments that community policing is the best way to do the job of crime control.

One of the key ideas behind community policing is "fixing broken windows." By refusing to tolerate low-level acts of disorder (vandalism, graffiti, public drunkenness, retail drug dealing) and by cleaning up physical signs of decay, we can send a signal to all potential violators that this block, this corner, this neighborhood are not places where "anything goes." That turns out to have a powerful effect on serious crime.

But simply announcing a blanket zero-tolerance policy is an empty gesture, and all the offenders know it even if the pundits don't. There's no way any police department could make an arrest every time some local ordinance is violated, and if they tried the result would be to gridlock the courts. What Bill Bratton's troops did in New York was to focus on a few specific kinds of disorderly activity: some city-wide, like "squeegeeing," but most on a precinct-by-precinct basis. The choice of behaviors for local zero tolerance was made by precinct management, in consultation with neighborhood residents and business owners. In every case, the target behaviors were well-publicized in advance. The goal was not to maximize the number of arrests (that's the idea behind "sweeps") but to get the level of the targeted activity as close as possible to zero as quickly as possible, using the minimum number of arrests necessary.

This variety of targeted zero tolerance makes neighborhoods more crime-resistant. Learning how to make it happen is a central element of doing community policing well.

Offender/group version:

Most serious crime is done by a relatively small number of offenders. Most of them are active in a wide array of crimes, large and small, and many of them are on probation or parole when not in prison. Multi-offending and conditional release give the criminal justice system potential handles that can be used to suppress the serious stuff, but traditionally those handles haven't been used very well; the fact that the police think that a particular probationer is behind a string of robberies tends not to influence how his probation officer handles him. Just recently, practitioners have learned how to use them in a different version of targeted zero tolerance, and the results have been spectacular.

The Boston Youth Gun Project identified about 1300 juveniles and young adults in 60-70 gangs as being responsible for virtually all of the youth gun homicides in Boston. The gangs were called in, one-by one, as groups, for meetings involving the gang unit, the drug unit, the Department of Youth Services, probation, the District Attorney, the State Attorney General, the U.S. Attorney, and the DEA and BATF.

Each gang was given the following message:

1. We know who you are.
2. We know what you're doing, and most of it is illegal. You're playing hooky, you're violating your probation curfews, you're stealing, you're selling marijuana, you're drinking out of open containers, you're driving unregistered cars, whatever.
3. We can't stop all of you all the time.
4. We can stop any of you anytime we want. If all of us work together to enforce all of the laws and probation conditions you guys violate, you won't be able to function for a day. This doesn't mean we're going to violate your rights or harass you; it just means that every time one of you does something illegal he's going to pay for it. You won't have any fun or make any money.
5. Here are the rules: Nobody gets shot. Nobody gets stabbed.
6. If you violate the rules, we'll know. We know who is feuding with whom, and ~~if~~ someone from the Elm Street gang show up with a hole in him we'll know it was one of you Beech Street guys.
7. At that point, we're all over you like a cheap suit, and we won't let up until you say "uncle" and turn in all your guns.
8. There's no deal here: just a threat. As long as you keep doing illegal stuff, you're vulnerable to arrest or other sanctions, and we're not giving you a pass. But if you break the rules, we promise you'll pay for it.

After this series of meetings, there were two shootings (neither fatal). In each case the gang involved was identified and targeted. In each case, they eventually gave in and handed in their guns. The task force then went to all the adjacent gangs, explained that Gang X had broken the rules, been spanked, and had now knuckled under, and explained further that any act of aggression against Gang X would subject the gang responsible to the same treatment. ~~XX~~ This was perhaps the key move: making it safe to disarm.

One especially violent outfit that made it clear they didn't intend to comply was taken out by a DEA undercover operation that will have all its key players doing long federal sentences, except for the ones who wind up doing even longer state murder sentences based on one another's testimony.

There hasn't been a youth gun homicide; over that period, the expected number would have been more than thirty. Everyone is breathing easier; not only juveniles, but adults, are less prone to carry guns now that the gangs are no longer shooting up the town.

A similar program in Minneapolis, started this summer, has had similar results. At the individual-offender level, Lowell, Mass., targeted the sixty people most active in committing aggravated assaults, and the rate of that crime fell by two-thirds. An earlier, less formal project brought homicides in

the Chicago's Cabrini-Green housing project down from more than 100 per year to fewer than five. This isn't just a cute idea anymore; it works, and we know how to do it.

This approach is not an alternative to community policing. It assumes that the police have detailed knowledge of who is doing what to whom, a focus on problem-solving rather than arrest-maximizing, and a broad definition of their mission and their potential allies. All of these are characteristic of community-policing departments.

#### Coerced Abstinence for Drug-Involved Offenders

Reducing drug use and crime by drug-involved offenders on probation and parole by requiring abstinence from illicit drug use, frequent drug tests, and immediate sanctions for violations relies on the same logic as other targeted deterrence programs: specifying behavior to suppress, singling out a group to be forced to comply, and using certainty and swiftness rather than severity to control their behavior.

#### Administration role:

These programs don't usually need much outside money or manpower; the idea is to focus the resources already present. They do need, or at least benefit from, cooperation by the U.S. Attorneys and federal enforcement agencies, but that has been forthcoming. (Boston started out as a Treasury Enforcement initiative.) DC would be a good testbed, but not until it has a functioning police department.

It would be useful to have some funding for conferences, training, and, most of all, technical assistance. Small dollars, big impact.

But the real opportunity is to put the concept in the public eye, with everybody leading the cheers: the President, the AG, the VP, Louis Frech (maybe), Ray Kelly. "Getting deterrence right" puts some meat on the bones of being smart rather than just tough. Or rather, it shows how to be tough intelligently and compassionately, and elides the distinction between "enforcement" and "crime prevention" by using enforcement to prevent crime.

Lots of outside people would happily sing in the choir: Bratton himself, who would love some opportunities to get back into the national media, Paul Evans, the Boston Police Commissioner, other police chiefs and prosecutors, mayors like Rendell in Philadelphia and Goldsmith in Indianapolis, academics such as Blumstein, Wilson, and DiIulio. This stuff, especially the Boston story, makes great press and could generate lots of columns, talk shows, etc., if the Administration helps give it a high profile. Jeremy Travis at NIJ would gladly help on the research.

and research-promotion end. (I've got a panel on the topic at the American Society for Criminology meetings in San Diego two weeks from now, and can help lay the groundwork.)

A very ambitious version of this could involve a White House Conference on Crime Control where the new gospel would be preached. The point would be to say that crime control is no longer something that would be nice if we could get it; it's now available if we just do what we know how to do. One result would be to leave the pure lock-'em-up types on the Hill looking shrill and irrelevant.

Given that crime control is possible, it gets to be the centerpiece of any serious assault on urban poverty. Of all public services, protection from serious crime is the most unequally distributed by race and class, and the level of crime risk in urban poverty areas is one major reason why jobs there have been disappearing for a generation. As long as there wasn't anything sensible to do about it, there was no point explaining how nice crime control would be if we knew how to do it. But now we know.

Declining crime numbers make a good context for this, but we shouldn't bank too heavily on them. What goes down may come back up, and the demographics over the next decade are strongly against us. The best use of the good news is to make some political space for really intelligent crime control policy.

Draft 14 12/1/97

## A THIRD WAY IN DRUG ABUSE CONTROL

Mark A.R. Kleiman

Much of the damage now done by drug abuse, drug dealing, and drug control efforts in the United States is avoidable. Using only existing knowledge and resources, the nation could have a much smaller drug problem five years from now than it now has. That conviction stands behind a new effort mounted by the Federation of American Scientists and endorsed by some forty experts in drug research, drug policy analysis, and law enforcement. Its first effort was the publication of a set of fourteen "Principles for Practical Control Policies." [See box for excerpts and a list of signers.]

Along with Robert MacCoun of the Graduate School of Public Policy at Berkley and Charles R. Schuster of the Wayne State University Medical School, I helped organize the group and draft its first statement. We plan to organize a number of working groups to prepare detailed policy statements on a number of specific topics, including sentencing, retail law enforcement, treatment, and alcohol regulation.

This essay reflects some of the thinking behind that project. However, while the Principles statement was so thoroughly collaborative an effort that it is no longer possible to assign individual authorship to its sections (the penultimate draft bore the heading "Draft S" and a date almost nine months later than the date of "Draft A"), what follows is very much an individual statement and is the responsibility of its author alone.

### *"Hawks," "Doves," and the Struggle over Drug Policy*

The major barrier to more effective drug control policies is that effectiveness - measured in terms of damage control - is not at the center of policy-making in this arena. Discussion has instead been dominated by a strongly ideological polarization about how to deal with the subset of abusable, addictive, and/or intoxicating substances that also are illegal (or restricted to medical uses alone). At one pole are the advocates of stricter controls, increased enforcement, harsher punishment, and school-based and mass-media efforts to "denormalize" non-medical consumption of those substances: advocates, in the unavoidable jargon phrase, of a "war on drugs." At the other pole are those who are more afraid of anti-drug efforts than of drugs, who therefore favor relaxed controls. In the logical extreme, this tendency

points toward repeal of the controlled substances laws themselves, that is, "legalization."

The stylized combat between "warriors" and "legalizers" is convenient, both for journalists and office-seekers and for the partisans at the two polar extremes. For journalists, it provides an easy set of categories and a source of battling quotations or dueling experts. For office-seekers, it sets up a no-lose situation. Since support for legalization, even of cannabis, remains safely below the 25% mark, if the only options are "drug war" or "legalization" the choice isn't a hard one. For the partisans, the actual horrors of the current situation serve as a firm rhetorical basis from which to attack the other side: as testimony to how much evil would be averted by repeal or, from the other viewpoint, as a both reminder that half-measures are inadequate (there is no substitute for victory) and a faint indication of the extent of the damage illicit drugs would inflict if made even more widely available by legalization.

Against these conveniences of the warrior/legalizer analysis of drug policy must be set some disadvantages. By focusing on the currently illicit substances, it removes from the debate over "drug policy" the question of what to do about alcohol, which entraps several times as many addicts and accounts for considerably more crime, disease, fetal damage, and death than all the illicit drugs combined, and about nicotine in cigarette form, which while not intoxicating is astonishingly addictive and roughly doubles the mortality rate of its addicted users at any given age. Excluding them from the debate makes it possible to be strongly against "drugs" without supporting higher taxes on beer or cigarettes. But thinking about drugs while excluding alcohol and nicotine is a little like thinking about oceans while ignoring the Atlantic and the Pacific. For each of these licit substances, control measures (not the same ones) well short of those now applied to the "controlled substances," and not requiring even a fraction as much enforcement effort, could prevent enormous suffering among users and non-users alike.

The warrior/legalizer polarization also conceals the reality that neither an unreflective tightening nor an unreflective loosening in current measures aimed at the illicit drugs is likely to improve matters. The shape of the function relating total social damage to the overall tightness of drug controls remains not merely an unexplored question but an unasked one. In particular, how it slopes near the current level is quite unknown. In the abstract, there is no reason to think either that doing more of the same will produce a radically better result or that, where a fairly heroic dose has failed to cure, a homeopathic dose will succeed. But there is every reason to think that a variety of changes, some in the direction of tightening and others in the direction of loosening, would markedly improve the overall situation.

The metaphor of "drug war" has, perhaps inevitably, generated "hawks" and "doves" as an alternative set of labels for the two poles. These labels have stuck in part because this version of the struggle over drug policy is conducted along substantially the cultural and ideological fault lines that characterized the anti-war movement. The pro-war/short-hair/jock world view and sensibility are as recognizable at meetings of drug-war "hawks" as the anti-war/long-hair/hippie world view and sensibility are at gatherings of those who call themselves "drug policy reformers." (Even back then, someone suggested that at least the on-campus aspect of the Vietnam issue had less to do with "hawks" and "doves" than with "jocks" and "freaks.")

In this instance, however, the hawks have had very much the better of the political confrontation. While discontent with the performance of the anti-drug effort is quite widespread, the legalization option has consistently failed to catch the public imagination other than as a bogey-man. Legalization advocates draw some comfort from the widespread support they enjoy among some elites, noticeably academic economists and law professors, and the unmeasured but substantial "underground" legalization constituency among judges, prosecutors, and police; they can also reflect that support for the Eighteenth Amendment remained strong until almost the end, and hope for a comparable turnaround as a result of a major scandal or the sudden accession of a few very prominent leaders to their cause. In the meantime, however, the public doesn't seem to be at all receptive. The political sociology and psychology of why this should be so is a fascinating question, but the situation stands, with no current hint of any substantial change.

Moreover, the drug-war doves have consistently failed to come up with any coherent description of post-prohibition control regimes or any plausible predictions of the extent of drug abuse and drug-related damage under alternative policy scenarios. They tend to assume new regimes with the magical property of exerting all the consumption-reducing powers of the drug war with none of its costs. Their speeches and publications tend to be long on horror stories about the present and future if prohibitions are maintained, but short on the details of the "taxes," "regulations," "educational campaigns," and programs to abolish poverty and racism that are to replace those prohibitions. To unsympathetic ears, they sound like nothing so much as Marxists asked what practical arrangements are to replace capitalism or libertarians asked how, precisely, the minimal state is to handle air pollution and the maintenance of city streets or keep the improvident and unfortunate from starving. In particular, the drug policy reformers, like their drug-warrior opponents, have been virtually silent about how to control the carnage and other suffering associated with the currently legal drugs.

Thomas Szasz continues to say what he has always said - that an unregulated market in psychoactive drugs would lead to a substantial increase in the number of people who severely damage themselves with such drugs, and that such an increase is a price worth paying for freedom - but he remains cheerfully marginal, with few drug-war doves capable of matching his clear-mindedness or willing to copy his apparent hard-heartedness.

### *Harm reduction as slogan and policy*

With the legalization campaign largely bankrupt both politically and intellectually, the anti-prohibition forces have fallen back on a strategy of piecemeal attacks on current policies, under the general rubric of "harm reduction." As a result, this innocent-sounding label has become highly ideologically charged.

To understand how it is that someone could be against "harm reduction" requires a little simple algebra.

Let us imagine that the total damage done by drugs and drug control efforts under a given set of policies and surrounding social conditions could be measured as a single quantity. Call that quantity  $D$ , for (total) "Damage"; it might be measured in lives, or dollars. Imagine also a single number measuring the extent of drug use; it might be the total number of dosage units consumed, or the total number of users, or some more complicated measure. Call that quantity  $U$ , for "Use." Dividing  $D$  by  $U$ , we have the ratio of damage to use, which we can think of as a measure of the tendency of drugs, under those policies and social conditions, to create damage; call that  $H$ , for "Harmfulness."

Concretely, imagine society  $X$  in which the use of alcohol is widespread, and society  $Y$  in which it is rare; if the total damage  $D$  associated with alcohol in the two societies were equal, we would say that alcohol is more harmful in  $Y$  than in  $X$ , because the ratio of aggregate damage to use is higher. Prohibition of alcohol, for example, would be expected to reduce use but increase the rate of harmfulness in a variety of ways, from creating illicit markets to weakening informal social controls of moderation in drinking. To a lesser extent, so would heavy taxation, which would shrink consumption by increasing price but at the same time make any given level of drinking that much more difficult economically for low-income heavy drinkers. Conversely, lower taxes, or the repeal of prohibitions, would be expected to increase use but reduce harmfulness. In each case, much would depend on the details of policy and of user behavior; more than abstract theorizing is required to determine whether a particular policy would push aggregate damage up or down.

To favor drug control policies that minimize total damage is merely to apply to the drug problem the general rule of policy analysis dictating that policies be judged by their (likely) results. Holding use constant, anything that reduces harmfulness ought to be welcome, since if  $U$  is fixed and  $H$  falls,  $D = U \times H$  must fall in proportion.

But that is precisely the fly in the "harm reduction" ointment. There is no reason to think that drug use, however measured, is a fixed quantity in the face of policy changes. In general, if those who use drugs are at all rational, one would expect that any reduction in the harmfulness of drug-taking to them would lead, all else equal, to an increase in the level of use. So it will not in general be true that reducing harmfulness will reduce aggregate damage; that will be true only if a given reduction in  $H$  does not lead to a more-than-proportionate increase in  $U$ .

Of course, any given program to reduce harmfulness (what MacCoun has called "micro harm reduction") may in practice contribute to reducing aggregate damage ("macro harm reduction"), even if it were to increase use somewhat. I can think of several good candidates, including the familiar "designated driver" campaign (which aims to reduce not drinking, or drunkenness, but only the probability that a given drinking incident will lead to a car crash) or changes in law and police practice designed to reduce the extent of needle-sharing among injection drug users. Many "doves" believe, sincerely and not unreasonably, that current policies tend to over-emphasize reductions in drug use at the expense of opportunities to reduce harmfulness. But those who interpret "harm reduction" in terms of micro harm reduction alone reject out of hand any policy that would reduce aggregate harm by reducing use, and it is hard to believe that no such opportunities exist. This has fueled suspicion among drug war "hawks" that the "doves" are merely trying to seize a fine-sounding slogan, especially in light of the indiscreet statement by the head of a prominent "drug reform" group that "Harm reduction is what we're calling legalization now." Those who favor macro harm reduction - minimization of aggregate damage - are left with an unpleasant choice between abandoning a useful term to the harmfulness-minimizing extremists or using it and risking being confused with them.

But the fury with which the drug warriors have attacked "harm reduction" as an idea is not entirely attributable to this suspicion, or to the perhaps justified concern that measures intended to reduce harm without increasing use will go awry. Just as many of the micro-oriented "harm reduction" advocates oppose attempts to reduce aggregate damage by reducing use, many "use reduction" advocates oppose attempts to reduce aggregate damage by reducing harmfulness. Psychologically, there is no great distance between thinking that drug use is a dangerous practice and ought to be discouraged in order to avert harm and feeling

that drug use is an evil practice whose practitioners deserve all the harm that can be made to come to them. The generational and cultural baggage which the drug issue carries merely adds to the tendency for disapproval of drug use to shade over into hatred of drug users and dealers.

The political controversy over needle exchange programs illustrates this phenomenon. Several careful studies have found that exchange programs not only reduce HIV transmission but increase the rate at which participants enter treatment, and there is no evidence whatever that needle exchange does anything to increase the rate of needle initiation or the consumption rate among those who do inject. Yet the Congressional ban on funding such programs remains, and the relevant officials remain unwilling to provide the certification of benignity that would clear the way for such funding.

It is possible to be unenthusiastic about publicly-supported needle exchange efforts on pragmatic grounds. There are several reasons to think that small-scale, voluntary efforts might outperform large-scale publicly funded ones. Other means of outreach to injection drug users might be equally effective in changing behavior while creating much smaller political problems. Changes in police practice independent of needle exchange - especially the cessation of arrests for possession of injection equipment - might have comparable potential for changing sharing behavior. Even the scientific evidence, while unanimous, is not quite conclusive.

But it is not on these grounds that the Helms Amendment rests. The Archangel Gabriel could appear on the Senate floor with a scroll written in letters of fire attesting to the fact that needle exchange reduces drug abuse as well as disease transmission without noticeably changing the politics of the situation. It is the sense that needle exchange represents a compromise with heroin addiction, rather than any actual undesirable side-effects it might have, that keeps it controversial. It would be unkind, but not unfair, to say that the continuing opposition to needle exchange programs expresses a preference that injection drug users who cannot or will not quit should die, as painfully as possible.

Only by liberating ourselves from the illusions of "harm reduction" in its harmfulness-fixated "micro" sense and "use reduction" as preached by those who still pretend to believe that America could become "drug free" can we develop practical policies to shrink the total damage drug abuse, drug dealing, and drug control measures do to individuals and institutions.

### *Prevalence Measurement as a Policy Trap*

The dominance of the "use reduction" viewpoint is both illustrated and reinforced by the extent to which measures of prevalence, especially the prevalence of self-reported illicit drug use among adolescents, as measured by the annual Monitoring the Future surveys, dominate public discussions of the effectiveness of drug control policies. That dominance is unfortunate for at least three separate reasons, even putting aside concerns about the accuracy of self-reports not verified by any chemical test:

- Prevalence in the use of any drug is a poor proxy measure for aggregate damage. Most users of most drugs (cigarettes and heroin are the prominent exceptions) are occasional users, suffering little damage, doing little damage to others, and contributing little - even in the aggregate - to the illicit markets. The highly skewed distribution of drug consumption means that a relatively small number of individuals on the right tail of the distribution account for most of the activity and most of the damage. If the shape of the distribution were fixed, reducing the total number of users would reduce the size of the right tail proportionately, but there is neither theory nor evidence to suggest such a fixed relationship. Thus, for example, the dramatic decrease in the prevalence of cocaine use since 1986 has not been accompanied by any detectable shrinkage in volume consumed or aggregate damage: rather, volume and damage continued to rise until about 1989, even as prevalence fell, and at best have fallen slightly since despite sharp continuing declines in prevalence.
- Illicit-drug prevalence numbers, especially among adolescents, are dominated by those who use marijuana only, and relatively modest amounts of that. While the damage associated with heavy, chronic marijuana use is far from negligible, aggregate marijuana-related damage represents a small proportion of the total illicit-drug problem. Again, if there were a fixed proportion between cannabis use and the use of more dangerous drugs, as postulated by the strong form of the "gateway hypothesis," or even if there were some weaker tendency for marijuana use to increase vulnerability to the use of harder drugs, shrinking the number of adolescent cannabis users would be a powerful way to reduce total drug-related damage; but again, there is no convincing theory nor evidence to suggest that the observed correlation between marijuana use and the use of other drugs has any causal significance.
- Like other fashions among adolescents, the use of various psychoactive substances varies wildly over time, for reasons very imperfectly understood and in patterns not easily manipulated. Even as apparently substantial an intervention as the decriminalization of marijuana by several states in the 1970s seems to have left very little measurable trace on rates of adolescent marijuana

use in those states. The relationships between current policies, especially at the national level, and prevalence rates are probably even weaker, and in any case entirely obscure. Thus using the Monitoring the Future numbers as scorecards for the performance of the current national Administration is utterly inappropriate.

### *The Means of Drug Abuse Control*

Conceptually, the elements of explicit drug abuse control policies can be listed under five headings:

Legal restrictions on supply and consumption (regulation, taxation, prohibition);

Law enforcement to give effect to those restrictions;

School-based, community-based, and mass-media efforts to persuade potential drug users not to start (called, conventionally but not quite accurately, "prevention"); and

Efforts to persuade, help, and coerce current users to cut down or quit (conventionally but again inaccurately, "treatment").

To this catalogue must be added an often-omitted fifth category: policies not aimed directly at explicitly at drug abuse control, but whose operation serves to reduce drug-taking or its unwanted consequences. (One way to reduce drunk-driving fatalities is to build safer cars and highways; better job opportunities, or stronger conventional values - if we knew how to provide either one - might reduce drug dealing among poor adolescent males.)

Understanding the roles and limits of these elements in reducing drug damage is the meat of drug policy analysis as a practical enterprise. That understanding is made difficult by a combination of genuine complexity, ideological preoccupation, and organization and professional self-seeking.

While the oversimplified categories of "licit" and "illicit" break down under close examination - sufficiently high taxes or tight regulations are not practically distinguishable from prohibitions - laws restricting availability and increasing price are nonetheless of great importance. Relatively modest changes in price levels brought about by taxation have measurable impacts on consumption of alcohol and nicotine, and especially on initiation rates among the young. Prohibition, even in the absence of aggressive enforcement, tends to suppress consumption not merely

by increasing prices but by decreasing the ease of access, especially for new users. These effects - what Peter Reuter has called "the structural consequences of product illegality" - are illustrated both by American alcohol prohibition and by Dutch cannabis policy, where despite the *de facto* legalization of the retail trade the price of a gram of cannabis is not markedly lower than in the United States.

Once a drug is prohibited, and that prohibition is enforced sufficiently to prevent flagrant retail distribution, the potential contribution of additional enforcement to reducing its consumption may not be very large. That potential is greatest for drugs which have not yet achieved mass-market status and in "border" zones between areas where more or less open illicit distribution flourishes and areas where such distribution is absent. In general, however, the phenomenon of market replacement - new dealers entering the trade or current dealers expanding their business to fill the market niches left by dealers deterred by enforcement or incapacitated by imprisonment - puts strict limits on the value of enforcement as a means of drug abuse prevention.

~~X~~ What well-designed and competently-executed enforcement can do, however, is greatly reduce the neighborhood impacts of illicit markets, by creating pressure on dealing organizations to deal discreetly and to avoid the employment of adolescents and the use of violence. Careful economic and operational analysis can identify specific tactics to put identified open markets out of business. Enforcement aimed at maximizing the number of arrests or the number of felony convictions, and sentences based largely on drug quantities and such irrelevancies as being within some given distance a school, sacrifice these opportunities. For example, there is a federal statute creating an enhanced sentence for a dealer who employs a minor, but the quantity-based mandatory sentences are so harsh that the enhancement is very rarely pursued, leaving dealers with no effective incentive to avoid minors as employees.

The anti-drug persuasion effort (usually referred to as "prevention," as if the laws and their enforcement did not serve to prevent drug abuse) is virtually everyone's conceptual favorite. The problem is learning how to do it, actually implementing programs that successfully replicate proven prototypes, and finding out whether the effort worked. The first two would be enormously difficult in any event, but that difficulty is multiplied by the enormous complexity of the last. Since severe substance abuse disorder (especially involving illicit drugs) is a rare outcome, and one that typically develops several years later than the ages at which school-based programs typically work, outcome evaluation represents a huge challenge.

The easily-measured outcomes, since they involve common and early occurrences, are the rates and ages of initiation for alcohol, nicotine, and marijuana,

but there is no strong reason to believe that all or only, programs that succeed on these measures will succeed in reducing the incidence of serious drug problems. For example, the popular and widely-implemented DARE program, which brings police officers into fifth-grade classrooms for thirteen hours of instruction focused largely on the social skill of refusal, has consistently failed to show benefits in delaying the onset of drug use, but one recent study shows that DARE students are less likely than matched controls to take up the use of cocaine or inhalants several years later.

Even if more were known about how to deliver anti-drug messages in classrooms, actually getting it done with actual school personnel would represent an daunting challenge. (Recall that the "New Math," as delivered by highly skilled and highly motivated pilot-program staff, was a well-documented and successful program.) As to mass-media efforts, their proven efficacy in reinforcing anti-drug sentiments among adults who do not themselves use illicit drugs has not been matched by any demonstration that they influence the behavior of current or potential drug users.

Some anti-drug persuasion efforts almost certainly produce measurable benefits, and benefits well in excess of their costs. But the hope that any feasible persuasion effort can produce age cohorts with markedly less propensity to get into trouble with drugs than current cohorts seems unjustified. There may be a good case for aiming more effort at earlier ages and addressing the broader problem of impulse control and health-risk avoidance rather than drug abuse specifically.

The transition away from frequent, high dose use of psychoactive drugs is often a difficult one; that's what the term "addiction" means. External assistance, in the form of help, advice, exhortation, medication, and pressure, can increase both the number of attempts to quit and their success rate. For many of those who have had severe drug abuse problems, the recovery process will involve more than learning how not to abuse drugs; they also need to reintegrate themselves into the entire fabric of family, living space, neighborhood, and workplace relationships that they have been neglecting, and in some cases to catch up on pieces of education and maturation that were omitted in an alcoholic or otherwise drug-induced haze. It is conventional, but far too simple, to speak in terms of "drug treatment;" while it is true that formal treatment can help in the recovery process, it is also true that most people who have, for some substantial period, smoked cigarettes or used intoxicants on a more-than-daily basis, no longer do so, and that only a minority of those ex-abusers have had any formal drug treatment.

While long-term cessation is a highly desirable goal, and for most ex-drug abusers probably represents the only stable healthy state, imperfectly successful quit

attempts also have benefits, in the form of reduced drug consumption and drug-related harm during the attempt and for some time following it. The conventional evaluation of treatment efforts in terms of the percentage of their graduates who remain entirely abstinent a year later misses this important class of benefits. Worse, it gives program managers a strong incentive to seek out and serve low-cost, high-recovery-probability clients rather than concentrating on those whose problems are causing the most damage. Far better to evaluate programs in terms of their ability to reduce the absolute level of drug-related damage to those they treat and to surrounding individuals and institutions.

~~XX~~ ( Evaluated as a crime-control measure alone, providing drug treatment for criminally-active addicts is strikingly cost-effective. Yet publicly-funded drug treatment remains scarce, and is frequently of poor quality. The lack of effective political pressure to remedy the situation has many causes, including some internal to the treatment programs themselves and the public agencies which manage them, but reluctance to do anything for the hated class of drug abusers surely accounts for a substantial part of the problem. The focus on prevalence as the single measure of drug control success also plays a role; because they concentrate on the minority of problem users, treatment and related activities have little impact on the total number of drug users even when they dramatically reduce total damage.

( Expanding drug treatment and making sure that it is available to the right people is one way to shrink drug-related harm on the right tail of the distribution. Another is to use the coercive pressure of the criminal justice system to induce reductions in drug use and drug-related crime among probationers and parolees. With heavy users accounting for about 80% of cocaine and heroin volumes, and last year's arrestees including about 75% of heavy heroin and cocaine users, it seems probable that as much as 60% of the cocaine and heroin sold in this country goes to people who are nominally under criminal-justice supervision. Drug courts and drug-diversion programs are useful efforts in this direction, but limited in scope and scale. It is possible that making frequent drug testing - with immediate and predictable, even if mild, sanctions for each missed or "dirty" test - part of routine supervision for drug-involved probationers and parolees could make a major dent in the illicit markets and in drug-related crime. Here again, the problem is to take an attractive concept that seems to work well in pilot programs and operate it at a scale big enough to matter.

#### *Current Drug Control Efforts*

( Drug law enforcement, including prison cells to hold convicted drug offenders, accounts for something like three-quarters of the estimated \$35 billion in annual public-sector drug abuse control expenditures. At any given moment,

approximately 400,000 Americans are behind bars for drug law violations, and in the poverty areas of many big cities noticeable fractions of all the young men are, or have recently been, so confined. If one could, by some heroic feat of measurement, weigh the total suffering caused by illicit drug abuse against the total suffering caused by incarceration for drug-law violations, it is not at all clear which side would be heavier. While most of those imprisoned for drug offenses also commit non-drug offenses, it appears that on average they do so at only about half the rate of those locked up for "predatory" crimes. Consequently, the expansion of drug-related imprisonment has probably had the tendency to increase crime by reducing the incapacitative effectiveness of the average prison cell.

There is a shocking lack of evidence that this very substantial expenditure of resources and infliction of pain is matched by any proportionate impact on drug abuse or drug-related harm. The price of cocaine is substantially lower now than it was fifteen years ago, even though the number of cocaine dealers imprisoned has increased by an order of magnitude over that period. Even more shocking is the lack of curiosity about the effectiveness of enforcement: it is as if the punitive process needed no external justification.

In a pale reflection of the hawk-and-dove battle over legalization, there is a long-standing quarrel over the appropriate shares of the drug abuse control budget. Here the "dovish" camp - by no means restricted to those who favor wholesale revision of the drug laws - favors expanding the share of treatment at the expense of enforcement. (Everybody talks about prevention, but nobody does much of anything about it in budgetary terms.)

There is a good case to be made for expanding drug treatment, and another good case to be made for shrinking (and, more importantly in my view, redirecting) drug law enforcement. But the conclusion often drawn - that drug law enforcement dollars ought to be redirected to treatment - does not follow from these premises and is probably incorrect.

The "drug budget" is an artifact of measurement. No one actually has a fund of \$35 billion to allocate to among drug law enforcement, drug prevention, and drug treatment. Rather, spending for drug abuse control comes out of appropriations to law enforcement agencies, schools, and a variety of health-care and social-service agencies, including the state departments of alcohol and drug dependency which in turn buy services from private, largely non-profit, treatment providers.

The total national health-care effort totals about \$1 trillion. Between public programs such as Medicare and Medicaid and the tax subsidy to employer-paid health insurance, about half of those dollars come from the public fisc. If drug

treatment is under-funded, that is because it gets a tiny share of a colossal "health budget." By contrast, the national law enforcement and criminal justice effort totals about \$125 billion. If drug law enforcement is over-funded, that is because it gets a generous share of a much smaller "law enforcement budget." On this analysis, the case for moving money from drug enforcement to drug treatment seems quite weak. If more resources are needed for drug treatment - as I believe they are - why should they not come out of the health care sector? If resources can be saved by reducing drug law enforcement, why should they not be redirected to, say, reducing the proportion of homicides which go unsolved from the current 35% to the less than 10% which was the national average a generation ago?

Thus cutting drug law enforcement is neither a necessary nor a sufficient condition for increasing drug treatment; even if one wanted to redirect drug law enforcement spending into drug treatment, the budgetary mechanisms are simply not there to make the transaction work. Getting health care providers and their financing mechanisms to pay appropriate attention to substance abuse - including the large proportion of substance abuse that occurs in relatively mild forms among those who are not socially dispossessed, and that can be substantially reduced if primary-care physicians are trained and induced to make appropriate early and brief interventions - will require a mammoth effort. That effort must embrace changes in medical education and certification, the management of health insurance programs and health maintenance organizations, policies of public providers of health services or health insurance, and the health-coverage purchasing behavior of employers and their labor unions. The sooner we stop playing budgetary games instead, the sooner we can get to work.

### *The Licit Drugs*

The political transformation of the tobacco issue over the past generation, but more strikingly in the past five years, has created conditions under which it may be possible to make a serious run at reducing the level of tobacco-related disease. But how far we are from treating even the least popular of the licit addictive substances as if it were a "drug" is illustrated by the proviso in the proposed "global tobacco settlement" that conditions the FDA's authority to regulate nicotine content on a certification that any such regulation would not create any "substantial market in contraband."

In any case, it seems likely that significantly higher cigarette prices are on their way, perhaps along with subsidies for smoking-cessation programs. (Amazingly, most health insurers will not pay for the nicotine patch; the turnover in their subscriber pools, and their reluctance to offer benefits that might attract smokers onto their rolls, makes it financially imprudent for them to do so, despite

evidence that the patch roughly doubles the success rate of unassisted efforts to quit smoking.) Whether anything else will be done for the large population of strongly addicted smokers, especially the elderly poor remains to be seen. Some sort of exemption from higher cigarette taxes for smokers over a certain age and under a certain income level would be easy to justify, but the most likely outcome, as reflected in the proposed settlement, is that they will be allowed to add impoverishment to the other harms they inflict on themselves by continuing to smoke. Even a licit-drug addict, it seems, gets little sympathy or help.

Part of the reason anti-smoking sentiment may be expressed in legislation is that most smokers are addicted and hate both the fact that they smoke and the companies that supply them. (In this, smokers resemble heroin addicts.) Efforts of the tobacco companies to create a "smokers' rights" movement have proven signally unsuccessful. By contrast, most people who drink alcohol (like most people who smoke cannabis) are controlled users and satisfied customers, much easier to mobilize against any increase in price or decrease in availability for their favorite mind-altering chemical. That makes the prospects for higher taxes on alcohol much dimmer. Bolder measures, such as public service advertisements directed against drunkenness (as opposed to drunken driving or underage drinking) or an effective ban on the sale of alcohol to those convicted of drunken driving or drunken assault seem even more remote. On the other hand, the widely violated ban on sales to, or use by, minors, and the definition of the age of majority for that purpose as 21, remain sacred cows.

### *Conclusion*

Anyone who expresses real optimism about the prospects for significant drug policy improvements in the short run might reasonably be asked what he has been smoking (or drinking). The forces that support the current unsatisfactory set of policies and outcomes cannot be wished out of existence.

Yet the gap between actual performance and optimal performance – between what we now do and what we know how to do – is too wide to tolerate. Elite and mass dissatisfaction with the situation, albeit unfocused, may be too widespread to ignore. Many officials, given adequate cover against the dreaded charge of being "soft on drugs," might be willing to try something new. Under these conditions, pointing out a "third way" between the warriors and the legalizers seems worth a try. Even where optimism seems unjustified, hope remains a virtue.