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Up in Smoke: The Rise and Fall of Federal Anti-Drug Policy in the United States

Madison A. Weiss
University of Pennsylvania

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Abstract

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Keywords

federal policy, drug policy, public papers, war on drugs

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Up in smoke: The rise and fall of federal anti-drug policy in the United States

Madison A. Weiss

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Thesis Advisor: Dr. Eric Feldman

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Introduction

In 1971, President Richard Nixon declared the war on drugs, but this war did not spring Athena-like from nothingness. In 1909, the Opium Exclusion Act was passed, banning the importation of opium, though not its use. Soon after in 1914, the Harrison Tax Act was instated, limiting opium and coca derivative sale to bodies registered with the government. Scholars have named this act as the true beginning of the war on drugs,¹ and it is clear to see why; this legislation had as its ends very similar goals to later drug policy, seeking to decrease drug importation, drug use, and the power of criminal elements in the drug trade. Powerful social forces like temperance movements successfully pushed for alcohol to be made illegal as well, starting in 1920. Yet alcohol illegalization lasted a very short period of time, less than two decades, while drugs have remained illegal for well over a century. Herbert Hoover was president during this period of transition, and his discourse on drugs and alcohol marks trends that would entrench themselves in the national discourse to this day.

Beginnings: Alcohol Prohibition, Drug Prohibition

In a discussion of the Eighteenth Amendment, which prohibited “the manufacture, sale, or transportation of intoxicating liquors”, Hoover stated that at stake was the “moral fiber of the American people”.² This sentiment received support from Evangelicals, important drivers of the temperance movement, and their perceived “obligation to make choices that honored God”.³ While benefits related to Prohibition, like better family dynamics or safer workplaces, were acknowledged, the driving force behind this movement being codified into law was the idea of moral duty. This finds, at its core, tension with the essence of the individual, specifically with regards to the desire for a smaller government. Hoover himself recognized this, for example, in a speech in Elizabethtown, Tennessee, when he said, “if we are to be wholly dependent upon government to cure every evil, we shall by this very method have created an enlarged and deadening abuse through the extension of bureaucracy”.⁴ Yet for Hoover, the case of drugs was consistent with his general principle of “the American tradition of voluntary cooperation”,⁵ through which the individuals and the government would work together to create desired outcomes. However, we see two facets of Prohibition that render it interesting in its application to this conceptualization of government. First is the fact that Prohibition was a national policy, as opposed to the ideal of “local government solving local problems”.⁶ Second is the fact that with regards to Prohibition, the individual and the government largely did not have the same goal in mind. To put it plainly, “The vast majority of the population did not want [the Eighteenth Amendment]”.⁷

This created an interesting dilemma for Hoover, and he found himself often trying to coax the American public into compliance with the Eighteenth Amendment. He chastised his people, speaking of the “extraordinary notion that laws are made for those who choose to obey them”.⁸ He rationalized this new limitation on people’s freedom, “saying liberty itself has but

one foundation, and that is in the law”⁹. Fundamentally, people had to accept this restriction for the greater good. The issue is, of course, that they did not. Much work has been done demonstrating that Prohibition was directly responsible for increasing the incidence of crime, not only with regards to violations of the Eighteenth Amendment itself, but also in terms of other crimes like murder.¹⁰ Hoover himself noted this possibility, saying “laws which are opposed by the majority sentiment create resentments which undermine enforcement and in the end produce degeneration and crime”.¹¹

This is largely due to the fact that a prohibition on alcohol created an environment for smuggling, and the profitability of this endeavor led people to criminal activity. What’s worth noting is that in fact, this relationship was recognized years earlier as it applied to the smuggling of drugs. In 1896, a reporter for the Boston Globe wrote an article describing the duties placed on imports of opium and describing the phenomenon whereby when duties were lowered, the rate of smuggling fell, leading the journalist to call for duties to be lowered even more.¹² In addition to economic incentives, the journalist also detailed the difficulties of enforcement along “the long line of unprotected frontier”.¹³ Such difficulties in enforcing the law constitute one example of what modern academics like Rajeev Goel refer to as “non-price factors affecting smuggling”.¹⁴ Goel also points to corruption as another essential factor in rates of smuggling.¹⁵ Hoover recognized both of these factors, casting blame on both “inefficient and delinquent officials”¹⁶ and the states for failing “to accept their share of responsibility for concurrent enforcement”¹⁷.

In addition to rising crime rates associated with smuggling, Hoover noted a whole host of other related problems. These included “corruption, ... moral and social abuse which debauched the home, ... deliberate interference with the States... permeation of political parties, [and]

perversion of legislatures”¹⁸. It’s worth noting that Hoover did not link these outcomes to the Eighteenth Amendment itself, rather to “the saloon system”.¹⁹ From this point of view, the government was not responsible for having created legislation that would have the unintended effect of strengthening systems of organized crime; rather, the onus sat squarely on the suppliers and consumers of illicit alcohol and the ways in which they created “burdens imposed upon our judicial system”.²⁰ Additionally, Hoover gave other potential causes for rising crime rates, such as “the violence of the war”²¹ and the “romance and heroism”²² of media portrayals of figures “who break the law”²³, that is to say, those who flouted the restriction of Prohibition. This again ties into the idea of morality, giving an almost metaphysical explanation for social factors. From this point of view, violence was rising because we had learned to be violent beings or to romanticize violence; it was not a response to continued demand and a troubled supply chain due to the government having restricted legal action through prohibition. Even so, or perhaps because of this, Hoover chose to emphasize the importance of acting in accordance with the Eighteenth Amendment. He personally spoke in favor of this law, saying “I do not favor the repeal of the 18th amendment. I stand for the efficient enforcement of the laws enacted thereunder”,²⁴ additionally arguing that if people didn’t find it to be a good law, they should “work for its repeal”²⁵ instead of ignoring it.

Evidently, this was the outcome. The Twenty-First Amendment was ratified in 1933, gaining the unique status of the only amendment, so far, that has ever repealed another amendment. It is now largely agreed that Prohibition was a policy blunder.²⁶ Yet over this same time, existing drug laws were percolating, churning out similar results. In fact, as early as 1929, “the largest item in our Federal prisons [were] the violators of the Narcotics Act”.²⁷ Hoover observed that “the Government has been steadily falling behind in its criminal work... probably

more important than any other factor [is] the very large expansion of the Federal Government's activities into criminal control",²⁸ leading "the whole judicial and enforcement system [to be] overloaded as it stands today"²⁹. While President Hoover would deny any link, citizens had already begun to hypothesize that "the increase in narcotic cases [was] directly or indirectly due to prohibition".³⁰



Figure 1: This image³¹ shows a "farewell toast" to Prohibition in 1933. Clearly, the American public celebrated the repeal of this legislation.

It is interesting to note that Hoover's concern with drugs was not with the impacts of the drugs themselves, but that of the "illicit traffic"³² and "excessive manufacture"³³ of narcotics. It makes sense that in the last years of the speakeasy era, attention would be directed to criminal institutions and the harm they caused. What's more, during this period recreational drug use received little if any attention and was functionally eclipsed by concerns with addiction, which itself remained poorly understood. One source, published in 1934, went as far as to claim, "there is such a deep, abiding antipathy to the non-medical use of narcotics among most people that

there exists little danger of the spread of such habits to any great percentage of the people.”³⁴

When drugs were used outside of a doctor’s having prescribed them, such use was considered a mere “leak from presumably legitimate channels”.³⁵ This helps to contextualize Hoover’s concern both with the media, which may have affected the attitude of antipathy towards these drugs, and with systematic corruption, which enabled their use.

Additionally, some drugs, like marijuana, were not at that time considered by Western medical institutions to have any medicinal benefits. As a result, the use of such drugs was treated with much more concern by medical officials. In a 1935 report on marijuana, one doctor wrote “the drug is a powerful intoxicant... and breaks down the moral control built up by the individual”.³⁶ In the same article, he had reported “poisonous doses are rarely if ever reported... if eight or nine hours of natural sleep can be secured few [sic] symptoms will follow the debauch”,³⁷ making it evident that the concern again was with the idea of the morality of society. Scholars have already pointed out that the treatment of marijuana during this period was a result of racism and anti-immigration sentiment towards Mexican Americans.³⁸ The same is true of opium, the first drug to have been restricted, where this law was a response to an influx of Chinese immigrants.³⁹ Hoover himself established a link between illicit substances and ‘illicit peoples’, speaking of the necessity of “consolidation of the various agencies engaged in prevention of smuggling of liquor, narcotics, other merchandise, and aliens over our frontiers”.⁴⁰ Laws around illicit substances have a rich history in how they have shaped relationships between nations, from Hoover’s conception of illicit importation as a “systematic war that is being carried on by international criminals against the laws of the United States”⁴¹ up to present classifications of countries as high-risk for exporting drugs. While this subject has much to reveal about the

ways in which international relations are constructed between the United States and other countries, it is not the focus of this research.

In summary, then, around the end of the Hoover administration we had already discovered the relationship between the prohibition of a substance, rising crime, and resulting strain on our legal system. What's more, trends in discussions with regards to drug law had already made themselves apparent. In terms of medical discourse, these discussions were steeped in social conceptions at the time. With regards to presidential discourse, while Hoover was president, the narrative was that of systematic culpability largely related to individual moral failings stoked nationally by foreign goods in ways that put tension on existing institutions. As such, his solution was to “energize the police power of the several states of this Union to destroy illicit traffic [in narcotics]”.⁴² By encouraging a properly functioning system, the state could keep appropriate watch over her citizens to ensure that those acting immorally would be caught. This was an artifact of Hoover's particular emphasis on the relationship between state and citizen.

Following Prohibition, alcohol lost its place as a moralizing tool in presidential discourse, passing the torch off to drugs instead. Specifically, later administrations were concerned with drugs that were being used recreationally, that is, outside of accepted medical purposes. This includes drugs that were not considered to have any medicinal uses, such as marijuana, as well as drugs that were being abused but did have medicinal uses, like barbiturates. Alcohol, despite technically being a drug, was never lumped into this discourse. Fundamentally, the legal place of alcohol was settled by the Twenty-First Amendment, while other substances floundered to find a place in the cultural milieu.

As will be demonstrated below, discourse on drugs was used to advance a variety of presidential ends. Across administrations, they figured into discussions on the power of the federal government and the place of the citizen. Such spheres made up a salient part of every president's priorities, explaining this continuity. On the other hand, we also see drugs discussed in very particular contexts, such as the Vietnam War. In such instances, this discourse was clearly a product of specific concerns within a given administration. Overall, the narrative around drugs had certain elements of continuity and discontinuity across administrations, emphasizing the ways in which it was being used to broach policy issues touching on either universal or specific concerns held by each president.

Drug Law in the ‘Antebellum’ Period

Franklin D. Roosevelt, 1933-1945

By ending the prohibition on alcohol, we turned a page on the federal government’s relationship with its citizens, at least in some respects. Franklin D. Roosevelt, in a speech marking the ratification of the Twenty-First Amendment, spoke of his hope that this legislation would lead people “to cooperate with the Government in its endeavor to restore greater respect for law and order”.⁴³ With the government no longer intervening in an individual’s person decision of whether or not to drink alcohol, we returned to a state of “trust in the good sense of the American people [to] not bring upon themselves the curse of excessive use of intoxicating liquors, to the detriment of health, morals and social integrity”.⁴⁴ However, this logic surrounding alcohol was not similarly applied to other drugs. Heroin had been made illegal during Prohibition, in 1924. This period also saw the creation of the Bureau of Narcotics in 1930 “to assume enforcement of the provisions of the Harrison Narcotics Act of 1914”.⁴⁵ The Bureau was headed by Harry Anslinger, Hoover’s son-in-law, which Hoover had appointed to the position. Such legislation and such bodies were not similarly dispensed of in 1933 when alcohol prohibition was rolled back. Rather, the restrictions continued adding up, with marijuana being prohibited nationally during Roosevelt’s administration in 1937 under Anslinger’s encouragement.

Despite this development during his presidency, Roosevelt rarely commented on drugs. In fact, the most important reference that he made to them was done in passing during a discussion of the Bill Requiring Deportation of Alien Drug Addicts, which called for “the mandatory deportation of aliens engaging in espionage or sabotage, alien criminals, and those convicted of violation of the narcotics laws”.⁴⁶ Roosevelt refused to sign this bill, drawing a notable contrast between “purveyors of narcotics”⁴⁷ and “unfortunate addicts of drugs”.⁴⁸ To

Roosevelt, it was unfair to treat these two groups in the same way. He posited that, while drug dealing should be given “severe treatment”⁴⁹, “addiction to narcotics is to be regarded as a lamentable disease, rather than as a crime”.⁵⁰ This statement rings strikingly modern in its conceptualization of addiction as a disease. Yet this stark divide between dealer and user as villain and victim proves to be much less clear than this statement would present it as. Research suggests that there is noticeable overlap between these two populations, with drug users reporting that they sell drugs to fund their own use.⁵¹ This rather intuitive nuance has been functionally ignored in presidential discourse in the interest of being able to more easily distinguish between those worthy of governmental assistance and those instead meriting governmental sanction. Where exactly this line has been drawn shifts between administrations, but still undergirds the framing of the issue in some form from this address onward.

While this categorization has proved resilient, a different point about addiction made in this same speech is absent from later presidential rhetoric. This is the dilemma of “those who prove incurable”,⁵² that is, drug users who do not respond to treatment. It is likely that these incurable users in fact make up the majority of the population of those admitted for treatment; current estimates suggest that well below a third of those treated for addiction make a full recovery.⁵³ This calls into question, then, the idea of treatment as an intervention, specifically where the only available alternative is incarceration, especially under later administrations that do not recognize the glaring limitations on what treatment can accomplish.

Regardless of Roosevelt’s sympathy for the struggles of the addict, his conceptualization of addiction was still very much reliant on the idea of drug use as a moral failing. He referred to it as a “weakness”⁵⁴, as well as a “habit”⁵⁵. This language implies that, with enough willpower, a user could simply choose to no longer be addicted, which is particularly striking due to its

contrast with the mentioned existence of the incurable user in the same speech. Such a dissonance brings to the forefront the fact that Roosevelt's ultimate goal here was obviously not a coherent social theory of addiction; rather, he was largely discussing issues related to immigration. He therefore was able to force addiction to adapt a twofold function as it suited his needs. Addiction at the same time could then be conceptualized as incurable, in that its criminalized status would unfairly disadvantage immigrants, as well as a mere character flaw, in that our system of criminal justice was still dependent on the ideal of personal responsibility as it related to moral culpability.

A final characteristic of Roosevelt's response to this proposed legislation is the orientation of its costs and benefits. Addressing this, Roosevelt said, "the rigor and harshness of the proposal ... may result in hardship not commensurate with the benefits to be derived from this legislation *by the community* [emphasis added]".⁵⁶ While it may be obvious that such a law would punish users in the name of the 'greater good', the plainness with which this is stated is noteworthy. Later rhetoric attempts to repaint punishment as creating a platform for intervention and therefore existing primarily for the good of the user; it is thus worth observing that this is a level of conceptualization that did not originally exist and is therefore more likely to have been invented as post hoc justification. In sum, Roosevelt was largely silent on drugs, but when he discussed them, he placed culpability on the dealer and called on the moral strength of the individual. This was tied to his idea that the power of the government is broad and demands intervention for "the power to stop evil; power to do good".⁵⁷

Harry S. Truman, 1945-1953

Throughout the beginning of his administration, Harry Truman also gave little public attention to drugs. However, this is not to say that he ignored them. Rather, over a period of several years and without much fanfare, he issued proclamations determining a host of drugs to be opiates.⁵⁸ His administration treated these “synthetic drugs capable of producing addiction”⁵⁹ as a byproduct of “the progress of modern pharmacology and chemistry”⁶⁰. From such a perspective, addiction is an unintended consequence of the otherwise miraculous benefits of modern medicine. This was far before the modern phenomenon of the opioid epidemic and the resulting push to prosecute physicians who did not adequately respect the addictive properties of such drugs, meaning that such an orientation of approaching culpability was absent. It would seem, instead, that with respect to these drugs, nobody was being made culpable for their use or abuse.

Yet near the end of the Truman administration, addiction came crashing into the limelight. In 1951, in addresses calling for the support of new narcotics legislation, Truman stated that “number of addicts has... increased sharply”,⁶¹ gravely concluding that “drug addiction has reached serious proportions”.⁶² It is difficult to assess the veracity of these statements; a formal, standardized survey on drug use would not be conducted until 1971, when the Substance Abuse and Mental Health Services Administration (SAMHSA) began collecting a nationally representative sample to complete the National Household Survey on Drug Abuse.⁶³ Regardless of whether addiction was actually rising, it is clear that there was a perception of its having risen. Why? One could assume that, as Truman said, “the tragic effects of drug addiction upon the individual, the family, and the community as a whole are only too self-evident”⁶⁴, yet there is an important clue in Truman’s discourse that may also help to explain this newfound

panic, which is his statement that this change was being driven “mainly among young people under twenty-one”.⁶⁵

The year 1951 was an interesting time to be a young person. The term “teenager” had just been coined three years earlier, and society was grappling with how to conceptualize this category of people. Historically, youth had been treated as ‘little adults’, until a later shift to identify them as a special and vulnerable class came about. As both child and adult, teenagers found it impossible to live up to society’s expectations. They were railed against in the 1950s as “politically, socially and culturally apathetic”⁶⁶ and a “threat to the morals and codes of homogenous society”.⁶⁷ As a cultural figure, they were linked with fears of “transgression [and] delinquency”.⁶⁸ The connection of drugs to young people, then, as factually accurate as it may have been, also returns to the idea of morality, where drug use became just one of many domains of the moral drift of the younger generation. The conception of youth as moral deviants was in tension with the conception of them as learning moral agents that must be fostered and protected; this latter tendency won out as time goes on.

To address the problem, either real or invented, of rising rates of addiction, the Boggs Amendment to the Harrison Narcotics Act was passed in 1951, creating mandatory minimum sentences of two years imprisonment for a person who “receives, conceals, buys, [or] sells”⁶⁹ narcotics. The bill was introduced by Hale Boggs, a Democrat in the House who was the youngest member of Congress at the time of his initial election. The bill passed through the Democratically controlled House and Senate⁷⁰ before being signed by Truman. Speaking to its passage, Truman said, “federal officials who have studied the problem have reported to me that severe prison sentences for the men and women who peddle narcotics are of primary importance in drying up this foul traffic”.⁷¹ His focus was squarely on the culpability of the drug dealer. He

spoke to such people as “hardened offenders”⁷² that had been able “to avoid serving their time in jail”⁷³ up to this point. As such, laws had not had a sufficient deterrent effect; by making the threat of jail a real possibility, we could then completely stop the drug trade.



Figure 2: This image⁷⁴ was taken on the campaign trail during Truman's 1948 bid for re-election. Here, we see the importance that law enforcement had in his message.

At the same time, it is worth emphasizing that this new law did not apply only to those found to be dealing drugs, but also to users. While the majority of his public discourse centered around punishing dealers to stop drug traffic, Truman also held that “above all, the individual citizens cannot evade their responsibility for their patronage without which... narcotics peddling could not exist”.⁷⁵ This stance is more reflective of the actual letter of the law, which punishes both users and dealers in equal measure. One should also note, though, that the individual was being addressed here specifically as a tool to make an additional political point, that of the

responsibilities of the different levels of government under a federalist system. Truman, in this same speech, stated, “the eradication of crime is a job for everyone. The Federal Government cannot evade its responsibilities any more than the States and the municipal governments can”.⁷⁶ From this vantage point, local governments were synonymous with the individual, both had a role to play in upholding the law. This particular discourse under Truman allowed the individual to play a sort of double role with respect to drugs. The individual was protected by policy which prosecuted dealers but was himself prosecuted to protect society at large if he happened to be a user of drugs.

The prosecution of the user was met with resistance. An article published in the Yale Law Journal in the final year of Truman’s presidency referred to the criminalization of drug use as a “grievous error”⁷⁷, arguing that the conception of users as “patients or “sufferers” instead of criminals would instead be ideal.⁷⁸ The author, Rufus King, blamed the Harrison Narcotics Act for this shift, specifically in that it was being enforced by “the same righteous zealots who were undertaking... Prohibition”⁷⁹. As such, the vestiges of moral prescriptivism continued to criminalize substance use unnecessarily. Yet this idea of the criminalization of harmless acts was strained by the linkage of the drug user with criminality of other sorts. Truman held that drug use was “a direct cause of much crime... since many addicts are unable to work at regular jobs, they must obtain this money [to purchase drugs] through criminal activities”⁸⁰. As such, the Prohibitionist linkage of any sort of use with the criminal element was reified and self-reinforced.

King’s ultimate claim was that criminalization caused “narcotics addict[s] to be pushed out of society”.⁸¹ Interestingly, Truman recognized this potentiality with regards to a different topic: immigration reform. Like Roosevelt before him, he was confronted with a bill that would

have made drug use a deportable offense,⁸² and like Roosevelt, he vetoed this bill, arguing that “the threat of deportation would drive the addict into hiding beyond the reach of cure, and the danger to the country from drug addiction would be increased”.⁸³ Thus, it was noted that criminal punishment necessarily turns people away from treatment by forcing them to act clandestinely, but Truman only recognized this with regards to immigrants and not to the general population. It would seem then that this criminalization was only being recognized as a problem when it made for a convenient political tool to veto a bill that Truman opposed primarily on other grounds, such as the maintenance of the quota system.⁸⁴

Fundamentally, the Truman administration continued the moral crusade to stamp out drug use, highlighting the issues posed by this prerogative only when convenient. By largely ignoring the prosecution of users, Truman was able to largely ignore the limits on individual liberties, drawing attention to them only when this function was conceptualized as related to other issues like federalism or immigration. Such a balance between “reconciling our traditional concepts of individual liberty... with the demands of national security”⁸⁵ was considered “the greatest single problem”⁸⁶ confronting legislation during Truman’s presidency, and the realm of drugs was no exception to this phenomenon.

Dwight D. Eisenhower, 1953-1961

Eisenhower's treatment of drugs was largely similar to that of the beginning of the Truman administration. Over the course of his years as president, he issued various proclamations determining certain drugs to be opiates.⁸⁷ He also, like Truman, placed an emphasis on scientific development. During the dedication ceremonies of the Atomic Energy Commission Headquarters Building, Eisenhower said, "the whole field of chemistry has brought to us curing drugs,... wonder drugs... It has also brought to us the most deadly poisons".⁸⁸ In this context, he was, of course, alluding to revolutions in nuclear science, yet it would seem clear that he also would have found drugs to also be a 'deadly poison'. In a letter to the Interdepartmental Committee on Narcotics, established three years earlier by Truman,⁸⁹ he wrote that the government must "omit no practical step to minimize and stamp out narcotic addiction".⁹⁰ To do so, he called for a "comprehensive up-to-date survey on the extent of narcotic addiction".⁹¹ This seems to foreshadow the modern development of calls for evidence-based policy. At the same time, he expressed one of the goals of this survey as being "to promote effective cooperation among Federal, State and local agencies"⁹², again drawing attention to the balance of federalism. By calling for a "determination of what the States and local agencies have accomplished and what they are equipped to do",⁹³ Eisenhower pushed for deference to small government when realistic and appropriate, but also for small government to follow federal policy with "enthusiastic cooperation".⁹⁴ This is in line with his "middle-of-the-road course... holding the line against expansion of government".⁹⁵

The purpose of government involvement with regards to drugs, per Eisenhower, is "law enforcement and... the rehabilitation of the victims of the scourge".⁹⁶ His language here is noteworthy, both in terms of the use of the term "scourge", which reappears often in later presidential rhetoric, as well as the literal victimization of drug users. Such victimization gives

grounds not just for rehabilitation, but rehabilitation at all costs, including “compulsory commitment of narcotic drug users”.⁹⁷ This is a clear infraction on the agency of the drug user. What’s more, Eisenhower expressly refused to allow federal hospitals to be used for this treatment, stating “the existing capacity... is not great enough... for a large volume of commitments from the District and from state courts”.⁹⁸ If the federal government was instructing states to get involved with users, but refusing to provide resources for addiction care, then states might not have been able to respond to users with medical care but rather with incarceration, given that use was still a crime. Transinstitutionalization, the phenomenon whereby individuals are imprisoned instead of receiving care, was noted in the mental health field as the prison population spiked in the 1980s, but again, this later trend had earlier precedent; by refusing to adequately fund treatment institutions, we had to find another way to remove addicts from society, imprisonment.

Eisenhower, like Roosevelt, treated drug use in a revelatory manner when addressing the topic of immigrants. It is in this context in particular that he spoke to how drug trafficking makes people into “criminals of the lowest character”⁹⁹ who “have demonstrated their unfitness to remain in our midst”.¹⁰⁰ Yet he noted that there are “relatively few aliens” who fall under this category¹⁰¹. Even so, it seems clear that there is a particular *type* of immigrant that he was envisioning here. This becomes evident in the context of his other policies. Eisenhower’s presidency is notable for two main pieces of immigration legislation, the Refugee Relief Act and Operation Wetback.¹⁰² The former, targeting mainly Europeans, relaxed quotas and welcomed larger quantities of migrants. The latter, targeting specifically Mexicans, resulted in a mass deportation of over one million undocumented migrants. The distinction could be made between legal and illegal immigration, but evidently the distinction between individuals of European and

Latin American descent is salient. From this perspective, the Eisenhower administration served to reify the existing racist linkage between drugs and nonwhite individuals. In sum, then, Eisenhower used drugs to further his vision of federalism and of immigration.

John F. Kennedy, 1961-1963

John Kennedy's response to drugs had several points of continuity with Eisenhower's. Firstly, he too called for "an accurate and up-to-date assessment of the particular nature and magnitude of addiction".¹⁰³ An interesting point is how he emphasized this assessment, referring to it as "perhaps most important"¹⁰⁴, above both the demands of "law enforcement"¹⁰⁵ and "the treatment to be accorded addicts".¹⁰⁶ The Kennedy administration, as exemplified by figures like Edward Murrow, who Kennedy appointed as director of the United States Information Agency (USIA), was concerned with bringing the truth to light. Murrow is famously quoted as having said, "I don't mind being called a propagandist so long as the propaganda is based on the truth."¹⁰⁷ Assessing addiction to be able to share its true extent and impact with the American public formed one part of this hallmark of the administration. Evidently, an important part of this quote is also that the truth was being used to further a given end. In Kennedy's case, this end was the linkage between drugs and "abnormal and antisocial behavior",¹⁰⁸ including "highway accidents, juvenile delinquency, and broken homes".¹⁰⁹ By gathering information to note the correlation between drug use and crime, Kennedy was able to push a causal relation between them onto the American people, therefore justifying the criminalization of drugs themselves.

In addition to the emphasis on data collection, Kennedy, like Eisenhower, noted how the problem of addiction was fundamentally a result of scientific progress. He referred to narcotics as "agents which possess the capacity to relieve pain and suffering"¹¹⁰ that when "properly and expertly used... contribute significantly to the improvement and betterment of our lives".¹¹¹ It is when people become addicted that drugs cause a "great loss to our society in the form of human suffering and misery and lost productivity".¹¹² Two things jump out in this instance: firstly, that Kennedy recognized the difficulties faced by the addict, instead of focusing only on the burden

that addiction causes to the state, but secondly, that he equated lost productivity with suffering and misery. This seems to be a result of politics during the Cold War period, wherein Kennedy attempted to “build a democratic firewall against Communism”.¹¹³ From this perspective, capital and innovation were the enemy of communism and its resultant losses in productivity; drugs, which were considered to render the population unproductive, became a red menace against whose temptation we had to fight diligently.

However, this fight did not necessarily imply the development of a carceral state to deal with drug users. Kennedy supported providing treatment to addicts, differing importantly from Eisenhower in that he did support federal intervention in the expansion of existing services. He said, “I would certainly support a sufficient number of hospital beds to provide effective treatment for addicts. And if our... two hospitals are not sufficient, I will certainly support others”.¹¹⁴ This is a classic distinction along party lines, where Eisenhower, a Republican, did not see providing this care as a federal task, while Kennedy, a Democrat, did. Kennedy used drugs, specifically the rising production of “barbiturates and stimulant drugs”,¹¹⁵ as an opportunity to attempt to “strengthen Federal authority”¹¹⁶ with respect to drug policy, in line with Democratic ideals of federalism.

Typically, a distinction is drawn such that increased federal intervention decreases local involvement, but this was not the case for Kennedy. Kennedy was a huge proponent of community-based agencies as well, with a bill to construct 1500 such facilities being the last piece of legislation he ever signed.¹¹⁷ This bill, the Community Mental Health Act (CMHA), provided federal grants to construct local mental health care centers, with the goal being to return individuals in need of care, including addicts, to their communities. Unfortunately, “states failed to develop the community services which [the Community Mental Health Act] tried to

initiate”¹¹⁸; in addition to requiring the monetary resources that this Act provided, these community centers also necessitated huge planning and administrative efforts that many areas, due to lack of resources or lack of commitment to providing these services, simply did not provide. This led to those who were supposed to receive care at community centers being returned to their homes, where their families were not equipped to care for them. They often subsequently ended up either incarcerated or homeless. The passing of this Act, then, in addition to blurring the partisan line on local versus federal authority, served to illustrate the potential dangers of government interference in the lives of addicts more generally.

As we have noted, Kennedy was most concerned with addiction as a result of barbiturate and stimulant use. This again ties in with the idea of scientific progress as a driving force behind the rise in drug use. Barbiturates were only first synthesized about a century earlier and had begun to be used commercially to induce sleep around the beginning of the twentieth century.¹¹⁹ They were largely portrayed as safe, “since the drug is quickly and completely destroyed in the body”, with advertisements proclaiming their benefits for “little patients”, that is, children.¹²⁰ It is interesting to note that the commercial popularity of these drugs was related to their ability to render a patient docile; it was recommended that parents give this medication to their children to enable parents to take them without incident to an appointment that was causing them anxiety. It is this very function that gives barbiturates such a high potential for abuse, with patients self-medicating in a phenomenon dubbed as “chemical coping”¹²¹ by Yale researcher Dr. Michael Weaver.

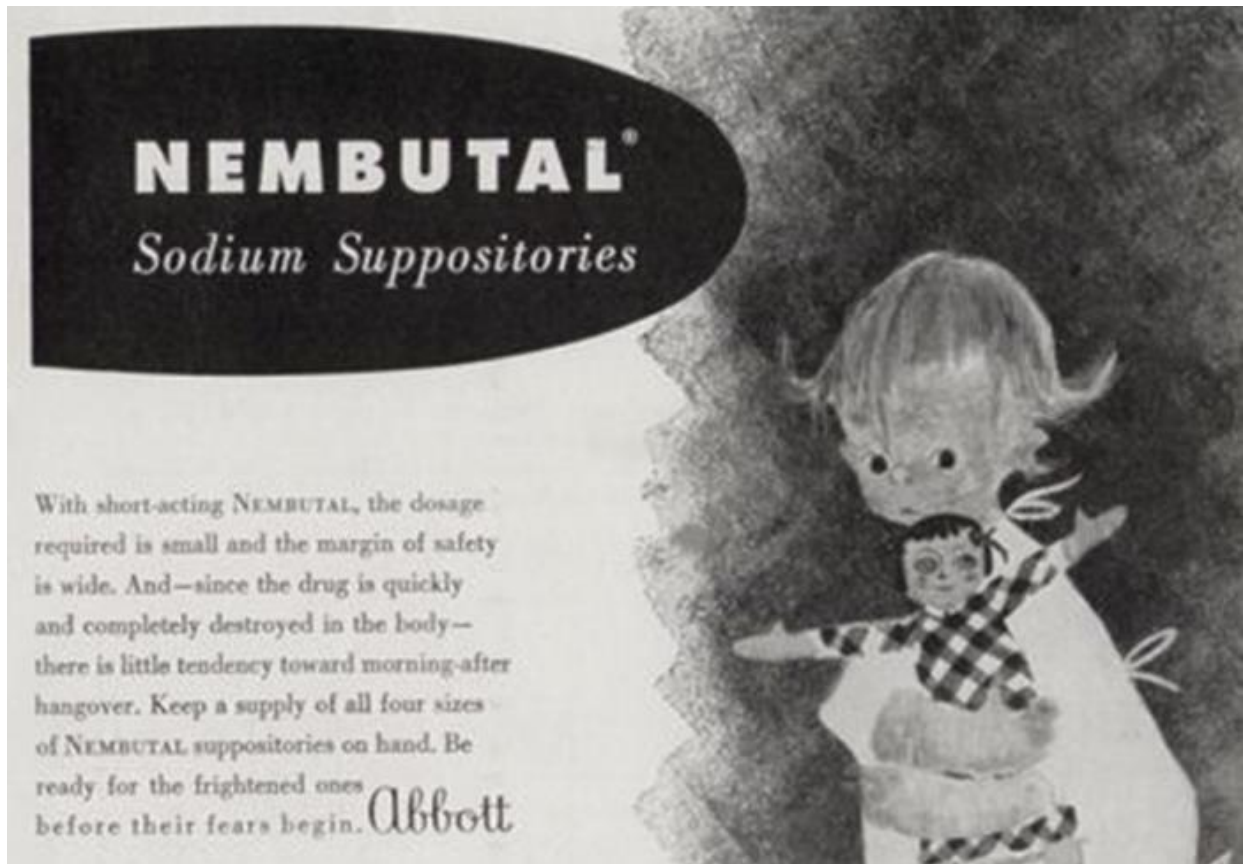


Figure 3: This image¹²² shows an advertisement marketing barbiturates towards young children as a safe form of anxiety relief.

Barbiturates' potential for abuse and addiction was recognized starting in the mid-twentieth century, leading such medication to be placed under increasing surveillance. Kennedy said that "the manufacture and distribution" of these drugs "should be the subject of continuous, extensive scrutiny".¹²³ It is worth noting that, from this perspective, it was the supply side that the government should be watching; it was up to the government to ensure that such drugs stayed within their proper channels and were dispensed properly. However, this targeting of the supply side was already being noted to have some substantial flaws. In his remarks to the White House Conference on Narcotic and Drug Abuse, Kennedy boasted that "35 years ago addicts could purchase 100 percent, or pure, heroin, the sharply curtailed amount entering the United States today requires traffickers to dilute their product to the point that the addict obtains only 3 to 5

percent heroin in the packet that he purchases”.¹²⁴ Yet evidently, drug use did not experience a mirror ninety-five percent decrease. The axis upon which the entire issue of drug addiction turns was being observed: the substitution effect.

Kennedy himself spoke of this term, noting that “society’s gains will be illusory if we reduce the incidence of one kind of drug dependence, only to have new kinds of drugs *substituted* [emphasis added]”.¹²⁵ The characteristic that makes drug addiction such a thorny issue is the lengths to which an addicted person feels compelled to go to maintain access to drugs. This means that if heroin is no longer potent enough, an addict will begin using a different drug, leading to, for example, “the growing abuse of nonnarcotic drugs, including barbiturates and amphetamines”.¹²⁶ We have relearned this lesson time and again throughout the history of drug law, up through the modern ramifications of tighter restrictions on opiates being linked with increasing heroin use.¹²⁷ Fundamentally, it is impossible to cut off access to drugs completely, so eliminating one drug will merely drive demand for another. The same is true of cutting off access to particular drug dealers through incarceration. Almost fifty years earlier, the Detroit Free Press published an article about Charles Harris’ arrest for selling cocaine, which was subtitled, “drug users must seek [a] new dealer for awhile”¹²⁸. As long as people feel driven to use drugs, there will always be providers willing to step in and product that will not be confiscated; this knowledge places a certain level of tension on all efforts to incarcerate dealers and to find and destroy contraband. This tension foreshadows the later push to drive down demand for drugs.

Robinson v. California,¹²⁹ decided in 1962, helps to illuminate the particular relation between the individual and the state with respect to drug use under the Kennedy administration. In this case, the Court held that imprisoning an individual for being an addict without being

“guilty of any antisocial behavior” constituted cruel and unusual punishment in violation of the Eighteenth Amendment. The use of the term “antisocial behavior” is a telling parallel between this decision and Kennedy’s rhetoric; this carries through Roosevelt’s thread of drugs being made illegal for the benefit of the community, or society at large. Additionally, Justice White, appointed by Kennedy, dissented from the holding of this case, citing his belief that the decision would “cast serious doubt upon the power of any State to forbid the use of narcotics under threat of criminal punishment”, and that it left as an open question whether “the Court would forbid the application of the criminal laws to the use of narcotics under any circumstances.”¹³⁰

Fundamentally at question was whether the prosecution would have to prove a specific case of use or not in order to reach a conviction; White was arguing that this should not have to be the case. White’s rhetoric makes it evident that he is Kennedy’s appointee— he reflected Kennedy’s same belief that the “field of narcotics and drug control of abuse” is characterized by “so much possible to do, and, in some places, so limited in action”.¹³¹ Both would have liked to see a country wherein the state clearly retained the power to take action against drug users.

The holding in the Robinson case turned on the distinction between making an action illegal, like the use of drugs, as opposed to making a category of person, as in this case, the addict. Later scholars have made the distinction between whether the law “punished people based on their sickness as opposed to a criminal act.”¹³² This schism between the user as addict and the user as criminal is an essential and glaring feature of the law. Evidently, drug addicts are committing a criminal act by the nature of their addiction. The difference, then, between penalizing the use or penalizing the category holds conceptual importance. One specific concept that elucidates this idea is that of *mens rea*, or the intention to commit a crime. From this point of view, an addict, who uses because he feels he must, does not intentionally commit a crime and

should therefore not be subject to the same punishment. By punishing use, the state was instead focused on an activity, something that could be more closely linked to intention. Even if the end result was the same, focusing on criminalizing use allowed this keystone of the legal system to be maintained.

Another reason why it was so important to attempt, at least rhetorically, to separate the addict from the criminal was the growing attention given to the relation between social situation and drug use. Kennedy recognized “how important a role environment, circumstances, [and] jobs... play on men and women who have been cured but who must return to the same environment from which they came, in which their addiction first began”.¹³³ From this perspective, drug addiction can be a consequence of a confluence of factors outside of an individual’s control, implying that addicts should be treated with a certain degree of leniency. This seems to draw on the work published by Jane Jacobs in 1961, representing the first stirrings of the body of research that would later spawn broken window theory and the idea of blight remediation. Jacobs wrote, “the public peace... of cities... is kept primarily by an intricate, almost unconscious, network of... standards among the people”.¹³⁴ If one is living in an area where drug use is the norm, this bakes itself into their environment, and that person will have a much more difficult time giving up the use of drugs. On one hand, this theory too seems to exculpate the individual to a certain extent, turning them into a product of those by whom they are surrounded. On the other hand, it also raises the level of responsibility of the individual, holding them accountable for the impact that their behavior may have on others. These two lenses lend themselves to the dichotomous relationship of the addict and the criminal: as an addict, an individual has been victimized by their surroundings, as a criminal, an individual victimizes their compatriots.

It also bears noting that this phenomenon was framed as strictly an urban problem. When Kennedy spoke of individuals who “turn to drink and narcotics addiction”, he concluded with the pessimistic notion that “this dispossessed generation bears children little better equipped than their parents to cope with *urban* life [emphasis added]”.¹³⁵ According to Kennedy, it was the fact that urban Americans found themselves with “no work and little hope”¹³⁶ that pushed them to use drugs. This is chemical coping in action. Under later administrations, drug use will be reframed as a problem also affecting suburban and rural life, yet one must note the association reified under the Kennedy administration between urban life, drugs, and crime.

Additionally, Kennedy was truly speaking to a particular subset of urban dwellers: teenagers. Like Truman, Kennedy was largely concerned with the ways in which drugs implicated youth. He stated that “drugs are contributing to... juvenile delinquency”¹³⁷, echoing this sentiment multiple times in other discourse.¹³⁸ In parallel to fears around scientific developments, Kennedy’s linkage of drugs to youth marked a fear of cultural development, specifically that of youth culture. In his statement announcing a grant for a youth training demonstration project in New Haven, one of the aforementioned speeches where he discusses juveniles and drug use, he also reflected on the fact that “the children born after World War II are coming of age. In 1965, 3.8 million youths will reach age 18, compared with 2.6 million in 1960.”¹³⁹ This was the generation whose lifespan marked the length of the Cold War; American parents were in the process of raising a generation of children whose upbringings were fundamentally different from their own and who they had begun to feel that they could never truly understand. In sum, Kennedy recognized that the question of drugs was one which inspired much “divided opinion”¹⁴⁰, yet he still argued that “there is universal agreement that the two key objectives of an effective program are the elimination of illicit traffic in drugs and, secondly, the

rehabilitation and restoration to society of drug addicts".¹⁴¹ Fundamentally, the Kennedy administration continued past trends with respect to drugs, both in the attention given to scientific and cultural development, as well as the schizophrenic treatment of the drug user. These themes were broached in the context of the Cold War, the balance between federal and local power, and questions of the urban environment.

Lyndon B. Johnson, 1963-1969

The conception of drugs as both an urban problem and a youth problem continued in full force during the Johnson administration. Johnson stated this quite plainly in his 1968 message to Congress on crime, saying, “heroin addiction is largely an *urban* problem, focused in slum areas. But hallucinogens, such as marihuana and LSD... have *spread* to suburban and rural regions, and are taken by far too many American *youths*. The improper use of dangerous drugs... cuts across all segments of the population [emphasis added]”.¹⁴² It is clear that this perspective held that drug use spawned in urban areas and only began to affect other regions later. Research has been done suggesting that there are specific facets of urban life that make urban regions more conducive to drug use, including residential segregation and poverty.¹⁴³ Johnson’s historic initiative, that of the Great Society, sought to address exactly these issues. When advised not to take action to rectify these inequalities, Johnson is quoted as having said, “what the hell’s the presidency for?”.¹⁴⁴ These concerns led Johnson to create “key initiatives [in areas] from health care... to ... urban renewal”.¹⁴⁵ In a way that typified the turn to ‘big government’ under his administration, Johnson called on “the cooperative efforts of Federal, State and local authorities and public services”¹⁴⁶ in order “to deal promptly and intelligently with... measures of education, regulation, law enforcement, [and] rehabilitation”.¹⁴⁷ As part of this huge undertaking, Johnson was prepared for huge government involvement. Unfortunately, his vision of urban renewal was, at least in part, reliant on the mechanism of incarceration, which we now know has had a racially disparate impact in terms of drug-related arrests.¹⁴⁸

Incarceration under the Johnson administration was reliant on two trends that have already been noted: the schism between the addict and the criminal, as well as the ideal of the good of the community. Johnson noted that the “continued insistence on treating drug addicts, once apprehended, as criminals, is neither humane nor effective”.¹⁴⁹ Evidently, this same point

was made by other administrations decades earlier, yet the criminalization of addiction continued. Even as Johnson made explicit that the incarceration of addicts “has neither curtailed addiction nor prevented crime”¹⁵⁰ and pushed for legislation “to authorize the civil commitment of certain addicts”,¹⁵¹ he sought to maintain “full criminal sanctions against those who peddle and sell narcotics... to eliminate the driving hunger for drugs that leads so many into lives of crime and degradation”.¹⁵² Firstly, we have already noted the overlap between those who use drugs and those who sell them. We have also recognized that supply-side interventions are largely unsuccessful with respect to actually reducing drug use. We must additionally attempt to reconcile the concept of leniency for addicts with Johnson’s argument that “penalties for improper use of these substances are inconsistent—and in the dangerous drug field, too weak”,¹⁵³ which led him to sign “into law a bill to... impose, for the first time, a penalty for its [LSD’s] possession... a misdemeanor punishable by up to 1 year in prison and a \$1,000 fine”¹⁵⁴.

The rationalization that this is a mere case of ignorance or cognitive dissonance is not compelling, especially given Johnson’s awareness from the beginning of his presidency that “some of our criminal laws are obsolete. Others do not make the penalty fit the crime”, paired with his resulting demand that “all must be reviewed in light of the experience and the requirements of our complex and growing society”.¹⁵⁵ One possible explanation that seeks to rectify this incongruence relies simply on temporality: two years had passed between these two sets of statements being made, and new evidence could have come to light suggesting that, in fact, a harsher intervention was necessary or preferred. But what sort of evidence could have been discovered that would have inspired a complete one-eighty in terms of policy preference?

It is typical to conceptualize the passing of such legislation in terms of a focusing event occurring, which opens a policy window.¹⁵⁶ As the sixties carried on, it would appear that not

one single event, rather, the confluence of many events, would force open the window for stricter drug law. Steven Pinker has referred to societal changes beginning in the 1960s as a “decivilizing process”¹⁵⁷, leading to what others would call the “great crime tsunami”.¹⁵⁸ Rising crime was without a doubt a major concern for Americans starting in the sixties through its decline in the eighties. While scholars today accept that it is impossible to pinpoint one specific cause of this rise, political figures, most importantly the President, had to name a cause to elect a course of action. This is an example of the president fulfilling his unofficial role of “comforter-in-chief”,¹⁵⁹ reassuring the people that a terrifying problem is understood and, as a result, that it can be solved. An easy scapegoat to the problem of rising crime presented itself in drug use, which was already, as has been discussed, linked to crime. This continuation of the past linkage is clear when Johnson said, “the return of narcotic and marihuana users to useful, productive lives is of obvious benefit to them and to society at large. But at the same time, it is essential to assure adequate *protection* of the general public [emphasis added]”,¹⁶⁰ as well as when he referenced, “how much street crime results, for example, from narcotics addiction”.¹⁶¹

Johnson himself recognized that the policy that he proposed is functionally a band-aid on a bullet hole. Discussing his twenty-two point crime program, he admitted, “it is not a solution to the illnesses of alcoholism and drug addiction. But it will enable us to deal with them more effectively. It is not an answer to the blight of our cities and suburbs. But it will help to make our metropolitan areas more livable”.¹⁶² One must recognize that here, the incarceration of some was being used as a tool to improve the experience of others. By limiting some lives, we were perhaps able to make others ‘more livable’.

It is fascinating to witness this sort of ‘law and order’ rhetoric from a liberal democratic President. Not only was this viewpoint being expressed verbally, but it also very much found a

home within concrete policy. In 1968, Johnson transferred the Bureau of Narcotics out of the Department of the Treasury and the Bureau of Drug Abuse Control out of the Department of Health, Education, and Welfare, both of which were placed under the purview of the Department of Justice as the Bureau of Narcotics and Dangerous Drugs.¹⁶³ This Bureau was headed by John Ingersoll, a California police officer, until it was rolled into the Drug Enforcement Agency under Nixon.¹⁶⁴ Ingersoll was selected by Attorney General Ramsey Clark, a progressive compatriot of Johnson. Both the transfer of the Bureau, as well as the appointment of Ingersoll, were pieces of political theater. Eugene Rossides, the Assistant Secretary of the Treasury at the time, later commented that “Johnson's main reason for moving the Bureau... was to strengthen the crime-busting image of Ramsey Clark”, claiming that this represented just one instances in which drug policy was “a political football”.¹⁶⁵

Having the Bureau of Narcotics as a subsidiary of the Treasury made sense to the original conception of legal control on drugs, as it was concerned entirely with trade and restrictions on importation of certain substances, like opium, as discussed earlier. Moving this Bureau to the Department of Justice reflected the shift to drugs being construed as a domestic issue and the criminalization of drugs as used among the American citizenry. Equally notable is the taking of political power over drug issues away from the Department of Health, Education, and Welfare. As we've seen, much rhetoric was being addressed with respect to the relationship between drugs and these three areas; this continued under the Johnson administration when, for example, Johnson says, “these powders and pills threaten our Nation's health, vitality, and self-respect”,¹⁶⁶ or when he referred to drugs as “a tragic menace to public health”.¹⁶⁷ Yet at the end of the day, when drug law became a responsibility of the Department of Justice, it was obvious that it was not the welfare of the citizenry that mattered most, rather, the enforcement of the law that was

paramount. Interestingly enough, Ingersoll himself objected to this emphasis on law enforcement, vouching for a “policy of deemphasizing street arrests” that got him into hot water with the White House.¹⁶⁸

The rising emphasis on law enforcement had tangible effects on the country within the span of a Johnson’s term alone. Johnson boasted that the “seizure of illegal narcotics and marijuana rose 62 percent from 1962 to 1965”.¹⁶⁹ This might lead us to conclude, as Johnson did, that “dependence upon drugs is a growing problem”.¹⁷⁰ Yet increased surveillance in the name of upholding the law may have merely revealed existing use that had not yet been uncovered, illuminating part of the so-called “dark figure of crime”.¹⁷¹ If this is the case, it is not dependence on drugs that was becoming more prevalent, rather, only criminal intervention that was on the ascent.



Figure 4: This image¹⁷² shows residents of Harlem protesting Johnson’s war on crime in 1964. An increase in the presence of law enforcement led to harmful effects, particularly on minority communities.

The priority given to enforcing the law at this time was also reflective of the beginnings of a shift away from science-based practice. During the Johnson administration, research was

already being conducted that suggested potential medicinal benefits to the use of LSD, including positive changes in personality,¹⁷³ beneficial effects on schizophrenia and depression,¹⁷⁴ among others. While Johnson insisted that drug legislation be enacted “to control the abuse of these dangerous drugs without constricting their legitimate medical uses”,¹⁷⁵ he still introduced the first penalties for LSD use in direct contradiction of such potential medical purposes. In contrast with earlier administrations that viewed drugs as beacons of scientific achievement that could have unintended consequences, Johnson’s focus was on the consequences of drugs over their benefits. When discussing the implementation of the Drug Abuse Control Act of 1965, Johnson stated that this legislation “is designed to prevent both the misuse and the illicit traffic of potentially dangerous drugs, especially the sedatives and the stimulants, which are so important in the medicines that we use today. Unlike narcotics, some of these drugs are very easily and very cheaply manufactured. Production has been rapidly increasing”.¹⁷⁶ Whereas earlier, increased production capacity was seen as a medical miracle, the consequences of this overabundance were now being shown as a clear danger. In fact, the cheap production of legal drugs began to be explicitly linked to criminality, with an editorial published in the *New England Journal of Medicine* stating, “the profits to be gained from the illegal sale of these drugs have proved an attraction to organized crime, for amphetamine can be purchased at wholesale for less than \$1 per 1000 capsules, but when sold on the illegal market, it brings \$30 to \$50 per 1000 and when retailed to the individual buyer, a tablet may bring as much as 10 to 25 cents”. In the field of drugs, scientific progress had become something to fear instead of something to laud.

Instead, then, of being informed by scientists, this administration’s legislation was built primarily on the recommendations of law enforcement. When calling for new anti-crime legislation, Johnson spoke to the fact that “the police in our large cities know from daily

experience how much street crime results, for example, from narcotics addiction”.¹⁷⁷ This type of experience outweighed that of researchers who spoke to the benefits of certain drugs, as well as to the lived experience of users of these drugs, which reflected similar benefits.¹⁷⁸ The underlying idea here is that there was a certain type of experience that, either for reasons of trust, respect, or identification, was being privileged over the experience of other groups. In the face of rising crime and social turmoil, the voice of law enforcement found itself elevated.

Yet the phenomenon of distrusting scientific development does not seem to have been universal; rather, it appears to have been espoused primarily by the executive branch. Congress seems to have shown much more trust in the scientific uses of drugs. We can take as an example the aforementioned Drug Abuse Control Act of 1965. This Act was a series of amendments to the Food, Drug, and Cosmetics Act passed unanimously by a Democrat-controlled House before being signed by the President. The fundamental purpose of this Act was to forbid individuals from taking part in the “manufacture, compound, or process any depressant or stimulant drug”.¹⁷⁹ The authors of this Act spoke of their concern regarding “wide-spread illicit traffic” in these drugs, not necessarily of concern with the drugs themselves. In fact, they declared that the justification of this Act rested specifically on the commerce clause and its ability to limit traffic to that “under the supervision of a licensed practitioner”,¹⁸⁰ again suggesting that it was not these drugs on the whole that posed a problem. Finally, they did not ban these drugs outright, instead limiting their lawful traffic to hospitals, laboratories, pharmacies. This level of moderation did not aid in ‘tough-on-crime’ discourse and appears to have been largely glossed over by the Executive as a result.

However, it remains clear that even this balanced legislation ignored the experience of the drug user, who was directly affected by the limiting of these drugs to prescribed settings.

One reason that the voice of the drug user was often ignored relates to a point that was alluded to earlier: the idea that drug use is a youth phenomenon. Unlike earlier in administrations, this linkage was no longer being maintained through a primarily disparaging or othering attitude of youth. Teenagers were still being recognized as a distinct social category, characterized by their relatively new access to “free capital (due to increased employment opportunities),”¹⁸¹ yet this fact was now being treated as a source of concern with respect to the implications that such financial resources would have for their ability to purchase “less expensive and more available... drugs”.¹⁸² In a world where youth have more resources, the thinking went, unscrupulous characters could more easily take advantage of them to claim these resources for themselves. Indeed, in 1967, it was estimated that “more than half the Nation’s narcotics addicts are under 30”.¹⁸³ As a result, during the Johnson administration, Americans began to treat teenagers as a group in need of protection from “the peddler of dope and dangerous drugs who preys on our young, enslaving their minds, damaging their bodies, and destroying their spirits”.¹⁸⁴ This rhetoric continued the thread of seeing drug dealers as purely villains; not only that, Johnson also treated them as completely irredeemable figures that were “deaf to political sermons”.¹⁸⁵ Such conceptions served to reify the necessity of incarcerating drug dealers, both from the standpoint of retributive justice and incapacitation; drug dealers as villains deserved punishment and, since they did not listen to reason, they had to be removed from society.

Additionally, if we were unable to successfully reason with drug dealers, we had to limit ourselves to reasoning with drug users. However, as we’ve seen, the state’s interaction with addicts was largely limited to criminal intervention in the name of treating their addiction; such people were being treated as past the point of being able to halt their drug use with reason alone. What’s more, the casual user of drugs as opposed to the addict had not yet begun to receive

attention in the presidential discourse on drugs. This left as a possible figure for demand-side intervention only the *potential* user, who had not yet begun to use. The potential user is a fascinating role in that it comprises the majority of the population, making them a subject of scrutiny on no basis other than an action that they may decide to take.

Given the perception that addiction was largely rising among youth, the President was most concerned with youth as potential users. His goal was to steer youth away from drugs, and he aimed to do so by “alerting young people to the threat addiction poses to their lives”.¹⁸⁶ This idea that we could educate youth out of drug use began to pervade interventions, both federal and private, with respect to drugs. While education in itself was considered to be a wise tool for preventing youth drug use, the particular form that this education took was “abstinence-only”, meaning the actual educational function was made secondary to, as Johnson said, the function of ‘alerting’, or functionally employing scare tactics. Critics point out that abstinence-only forms of education “don’t give students the tools they need to make safe decisions or to get help if problems with alcohol and other drugs do occur. Furthermore, abstinence-only education too often has the effect of making teenagers cynical about any drug information coming from adults”.¹⁸⁷ Johnson’s administration set the tone for this relationship between youth, figures of authority, and drugs that will be carried on by later administrations.

Notably, this perspective assigned by its nature a certain level of ignorance or naivete to youth as potential drug users. This created the figure of the young drug user as a twofold victim. Firstly, he was seen as victimized by the drug dealer, who made substance use a possibility for him. Secondly, he was seen as victimized by his own lack of knowledge, which prohibited him from making an informed decision on drug use, where in this case, an informed decision would be the ‘correct’ decision of complete abstinence. In future administrations, he will be victimized

threefold with the addition of external pressures in the form of media and peer pressure, as they return to the rhetorical spotlight following their post-Hoover hiatus.

Preventing this victimization remained the goal of anti-drug policy. Yet, as Johnson recognized, some Americans reacted to this policy with the “fear... that the Federal Government has become a major menace to individual liberty”.¹⁸⁸ In response, Johnson argued that “far from crushing the individual, government at its best liberates him from the enslaving forces of his environment. For as Thomas Jefferson said, ‘the care of human life and happiness is the first and only legitimate object of good government’”.¹⁸⁹ Mirroring Kennedy’s rhetoric, Johnson again touched on the idea of the importance of environmental factors to human behavior and therefore the necessity of limiting the sale and use of drugs for the greater good. This is especially the case if we, as Johnson did, ignore the potential benefits of drugs and see them only as a force acting against human flourishing.

Even so, drug law found itself in particular tension with a right that was first officially upheld by the Supreme Court during Johnson’s administration: the right to privacy.¹⁹⁰ Johnson attempted to conceive of this right as being fortified by the legislation that he introduced, saying, “better police forces” would act “to stem the rising tide of organized crime, to stop the illegal flow of narcotics, to keep lethal weapons out of the wrong hands, guarantee the right of privacy of every American citizen”.¹⁹¹ While a ‘better’ police force does seem to be one that appropriately respects citizens’ privacy, it remains far from clear whether this was an actual result of the increased funding and training that police received under the Johnson administration. Fundamentally, this seems to be a smokescreen, a cheap reassurance in the face of the fact that the individual’s rights were indeed being infringed upon.

This is true not only in the context of being able to deal or use drugs, but also with respect to other fundamental rights, most notably, the right to bear arms. The Gun Control Act of 1968 banned any “unlawful user”¹⁹² of drugs from owning a firearm. Discussing similar legislation passed earlier in D.C., Johnson attempted to assuage the American people, reassuring them that “any person who is not a felon or drug addict may possess a pistol in the District”.¹⁹³ The implication here is that Johnson was not addressing the drug user as part of the American citizenry and thus did not need to reassure them about the status of their rights; he relegated the user to a subclass undeserving of full citizenship. This is also noted in terms of acquisition of citizenship, in that “foreign nationals who have been convicted of serious crimes, or narcotics traffickers, will still be barred [from traveling to the United States]” under Johnson’s immigration reform.¹⁹⁴ It is striking to note how in both of these cases, drug crimes achieved a status of ‘separate but equal’ to “serious crimes”. Their separation notes their legal distinction, while their equation implies a moral similarity; we note here an increasing gravity of not only the sale of drugs, but also their consumption.

The moralizing element of drug law ties back into the idea of law and order. In his 1967 statement on crime, Johnson emphasized that “our country’s laws must be respected; order must be maintained; crime must be controlled”.¹⁹⁵ If the letter of the law is of the most fundamental importance, then a drug user really is no different than a murderer; both flout the law. Any breach of the law is a case where “decent and law abiding society”¹⁹⁶ is “corrupted, undermined, or mocked by... criminal elements”.¹⁹⁷ Most fundamentally, the issue at hand was the contention that “the values of our society and the security of our homes and communities can be protected by the law”.¹⁹⁸ Again, we must not forget to note that such rhetoric was addressing a

subcategory of American society, literally creating a dynamic of ‘us versus them’ by speaking to “*our* society” and its corruption by the other, the drug user and the drug dealer.

A final point worth noting about drug law during the Johnson administration is the fact that it had become entrenched as a federal priority. Johnson noted that by this time, “drug addiction has been a matter of federal concern for more than a half century”.¹⁹⁹ And yet, if we accept his rhetoric as truth, the problem continued to worsen substantially despite this federal involvement. Paradoxically, Johnson still treated it as a problem that could be solved. He spoke to the fact that “we all look forward to the day when the human suffering and misery occasioned by the abuse of narcotics and other drugs will no longer require our attention”,²⁰⁰ that is to say, when the drug problem is solved. In this speech, he thanked the members of “the Commission”²⁰¹ for their work towards this end. Here, he was referring to the group colloquially known as the Prettyman commission, officially called the President’s Advisory Commission on Narcotic and Drug Abuse.

The Prettyman commission was “a temporary advisory body with no statutory authority to initiate action”.²⁰² The group was gathered through an Executive Order made on January 15, 1963 with the goal of advising the President on how to prevent drug abuse and to treat addicts. Its members included figures ranging from Elijah Barrett Prettyman, a Senior Judge appointed by Truman to the D.C. Court of Appeals, to Dr. Roger Egeber, the Chief of Medicine at Wadsworth General Hospital, to James Dumpson, the first social worker to serve as Commissioner of the New York City Department of Welfare. The group worked with “state and local officials and experts, and it visited public and private hospitals, research centers, rehabilitation centers, and correctional institutions”²⁰³ in the name of crafting its recommendations. Among these, the commission spoke out against severe penalties for drug possession, drawing attention to what

they viewed as “the weakness of the deterrence position”,²⁰⁴ instead emphasizing the importance of education, treatment, and civil commitment. Nevertheless, as Johnson’s presidency came to an end, the country would again not only embrace deterrence, but embrace it to an extreme, focusing on rising crime rates to justify incarceration and other limitations on Americans’ rights, thus setting the stage for the legal phenomenon that would come to be known as the war on drugs.

Summary: 1933-1969

Thus far, the ways in which five administrations dealt with the 'drug problem' have been detailed. It has been observed how Roosevelt, Truman, Eisenhower, Kennedy, and Johnson all grappled with drugs as a subcategory of the larger problem of federalism. Roosevelt characterized the federal government as having broad powers to deal with the broad demands of drugs, while Truman gave more credence to individual liberties. Both Roosevelt and Truman, as well as Eisenhower, were specifically concerned with a connection between drugs and immigration. With respect to international concerns, Kennedy instead built a link between drugs and the Soviet Union. Domestically, he was concerned with drugs as a product of the urban environment. Johnson shared this concern, tackling drugs as both a product of and a cause of the 'crime tsunami' of the 1960s. In these cases, we note the ways in which discourse on drugs was both a product of existing Executive concerns, as well as a tool to open discussion on these concerns. This function of drugs is carried to new heights during the war on drugs.

Jus in bello: Developments during the War on Drugs

Richard M. Nixon, 1969-1974

Nixon's presidency emphasized just how much had changed with respect to the federal government and drug policy since its earliest years. This is noteworthy from purely a financial perspective. In 1932, the entire Bureau of Narcotics received \$27,573, according to Hoover's Statement on Budgetary Deficits and Reorganization of the Executive Branch.²⁰⁵ Adjusted for inflation, this has the equivalent purchasing power of \$70,781.13 in 1971,²⁰⁶ whereas in his Remarks About an Intensified Program for Drug Abuse Prevention and Control in 1971, Nixon announced a "budget for drug abuse" of over \$350 million.²⁰⁷ This amounts to the federal budget for drug-related concerns having experienced an almost a *five hundred thousand percent increase* in funding from Hoover to Nixon.

One factor in this increase is Nixon's "New Federalism", a program whereby federal aid was given to state and local governments "on the premise that the goals of Johnson's Great Society were worthy but could not be carried out effectively by heavy-handed, muscle-bound federal bureaucracies".²⁰⁸ New Federalism "had a decidedly progressive cast"²⁰⁹ in that it allocated more federal funds generally towards social ends, which was clearly also reflected in rising federal spending on drug-related concerns. However, New Federalism had as its goal a shift to a more 'hands-off' approach to federal involvement, while Nixon implemented legislation allowing for extensive federal involvement in drug law. Nixon addressed this explicitly, explaining, "I very much hesitate always to bring some new responsibility into the White House... but I consider this problem so urgent— I also found that it was scattered so much throughout the Government, with so much conflict, without coordination— that it had to be brought into the White House."²¹⁰ Nixon's rhetoric, then, painted a sense of necessity with respect to this increased federal involvement; there was no time to waste, and it was the

responsibility of the federal government to ensure swift, decisive action. It appears that this urgency was being stoked by the same trend that drove Johnson to take action, that of the crime wave. Jeremy Kuzmarov described the fear that continued into the early 1970s that addicts were acting “to exacerbate skyrocketing crime rates and domestic disorder”;²¹¹ if this is the case, then cracking down on drug use would have represented a key component of restoring order to the country.

Yet taking a step back, we must recognize that this is the *narrative* that was constructed, not necessarily the reality of the situation. It bears repeating that the relationship between drug use and crime is not strictly causal in the way that this conception would paint it as being, and it is federal action that served to build up the idea of this relationship in the first place through, to take one example, the holding of Congressional subcommittee hearings on addiction. This begs the question of why exactly the narrative would be constructed in this way. Of course, there is carryover from the Johnson administration of drug use having provided an identifiable cause to combat in the fight against rising crime. Nixon asserted that “narcotics have been cited as a primary cause of the enormous increase in street crimes over the last decade”.²¹² While it is certainly true that drugs were cited as a cause of crime, the evidence behind this claim is still indeterminate today; the picture was even less clear during the Nixon administration. This was recognized by individuals like police chief Jerry Wilson, who stated, “our data, which is [sic] not good data, indicates that about 50 percent of these serious offenders are probably narcotic addicts”.²¹³ Regardless, Nixon used this “not good”, correlational data to argue that criminalizing drugs was essential to limiting crime.

An additional factor in Nixon’s interest in drugs is linked to the fact that Nixon became president midway through the Vietnam War. One year into his presidency, fifty thousand U.S.

troops had been killed in Vietnam.²¹⁴ This war was initially grounded in the idea of fighting communism, continuing American preoccupation with this subject, and eventually took on additional symbolism as “an issue of American pride and honor.”²¹⁵ Given this fact, it became essential for the President to explain why so many troops had died. An essential part of this explanation was reliant on, once again, using drugs as a scapegoat. Nixon’s administration was able to foment “the broad popular perception that drug use was endemic in Vietnam and linked to a breakdown in military discipline and fighting efficiency”.²¹⁶ This sentiment was picked up by popular media, with, for example, drug use and subsequent addiction being referred to as “another wound of war” in a 1971 article published in the New York Times.²¹⁷ Vietnam was presented as a place where drugs could be obtained easily and for very little money, with “\$5 or so” allowing a soldier to “buy enough heroin to keep at bay for a day or so the irritations of military discipline”.²¹⁸ Again, we see the link being created between drug use and mental weakness; if those stationed in Vietnam were more resilient with respect to these “irritations”, they would not have used drugs. Nixon spoke similarly to this point, arguing that rising drug use is a sign that “the spirit of [the] nation may certainly be impaired”.²¹⁹ Drugs continued posing a threat to the American mentality itself.

A related factor that is essential to note is the continued portrayal of drug use as distinctly foreign or un-American. Nixon noted, “America has the largest number of heroin addicts of any nation in the world. And yet, America does not grow opium”.²²⁰ Firstly, we must note in this rhetoric an attempt to shift blame: if Americans were not the ones producing opium, they cannot have held the true culpability of its rising use. Secondly, this reasserted the idea of drugs as a red scare, a foreign evil that must be forcefully fended off. This served to justify taking such drastic action, both in terms of invading individual rights – the Nixon administration introduced

mandatory urinalysis for soldiers with orders to quarantine those who tested positive for drugs,²²¹ among other massive infringements – and in spending the aforementioned gigantic sum of money in order to counter a problem that, per estimates at the time, affected “one-tenth of 1 per cent of the population”.²²² It was the nature of the problem, not the number of people it affected, that allowed Nixon to call drug use “a serious national threat”.²²³

Despite the ties established between drugs and foreign nations, Nixon insisted on the fact that drugs were a domestic problem as well. In remarks to the Department of State, he said, “I think it is well for us first to put the problem of drug addiction in Vietnam in perspective. It is not simply a problem of Vietnam veterans; it is a national problem”.²²⁴ On one hand, this seems to have allowed Nixon to partially counter the anti-war sentiment that had been growing for years.²²⁵ If drugs were not only affecting those in Vietnam, the War could not be said to have caused drug use, and it could not therefore be vilified to quite the same extent. On the other hand, Nixon claims that “the primary use, as far as drugs are concerned, has moved to the upper middle class, those families who have better opportunities than others”.²²⁶ This clearly mirrors earlier claims that drug use was born in blighted areas and only later began to infiltrate more privileged regions. Again, this justified increased intervention, even beyond the domain of drugs. We were coaxed into supporting New Federalism to uplift poorer areas and keep them from ‘contaminating’ the entire country; the expense was justified in that this policy was presented as protecting the richer tax base.

It would be unwise to note the stratification across wealth without also giving attention to the very prominent impact of race on drug policy. In particular, it is evident that Nixon’s drug policy composed one element of what has come to be referred to as his Southern Strategy. The Southern Strategy was an attempt by Nixon to capture southern voting blocks by attracting them

to the Republican party; this was accomplished by a rebranding effort that served “to transform the Republicans’ reputation as the party of Lincoln, Yankees, and carpetbaggers into the party that protects white interests”.²²⁷ Drug policy served this goal through two mutually reinforcing actions, as described by John Ehrlichman, Nixon’s counsel: “getting the public to associate... blacks with heroin, and then criminalizing [it] heavily”.²²⁸ The racial motive here cannot be overstated. Criminalizing black communities was not a side effect of this policy, but an explicit goal. Ehrlichman elaborated on this point, saying, “we knew we couldn’t make it illegal to be... black. But... we could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. *Did we know we were lying about the drugs? Of course we did.* [emphasis added]”. The question of drugs had morphed from the dilemma of how to best serve addicts or protect communities into an exercise in how to best demonize minorities in the name of political clout.

This fact explains the even more marked drift away from drug policy backed by science. A striking example of this is the implementation in 1970 of the Controlled Substances Act. This Act was passed by the 91st Congress, which had a Democratic majority in both the House and the Senate. The bill itself was prepared by Republicans John N. Mitchell and John Dean, as well as Michael Sonnenreich and John Ingersoll, under Nixon’s encouragement. This legislation was passed by the House with only six dissenting votes from Democrats then was passed without a single opposing vote in the Senate. The Act served to place drugs under one of five schedules, based upon the substance’s “medical use, potential for abuse, and safety or dependence liability”.²²⁹ The intention here does seem to have been to create scientifically informed policy, which may explain its broad support, but one must still note the political uses that were written into the legislation; the initial determinations as to scheduling were informed by Congressional

findings,²³⁰ and the power to reschedule any given drug was given to the Attorney General.²³¹ These figures had clear political motives to favor legislation that restricted drugs in ways that were not necessarily reflective of scientific truths of potential damages to individuals or to society, which is exactly what took place, most evidently with the decision to classify marijuana as a Schedule I drug and the failure to reclassify it in the almost half a century following this decision.

Nixon himself revealed the lack of true scientific backing behind this decision. When pressed on the heavy criminal sanctions related to the use of marijuana, he did not mention scientific research once, replying, “I realize this is controversial. But I can see no social or moral justification whatever for legalizing marihuana. I think it would be exactly the wrong step”.²³² We must note, then, that the true justification for criminalization was indubitably moral. Interestingly enough, though their rhetoric espouses this idea, political leaders of the Nixon administration directly reject it. Republican Senator Jacob Koppel Javits, to take one example, claims that “we are not making any moral judgments. We don't know. Therefore, we say no”.²³³ This statement was made in response to Secretary of Health, Education, and Welfare Robert Finch’s point that “research we are doing now for the first time tells us that” an individual’s response to drugs depends “on body chemistry and a lot of other factors”.²³⁴ In such an instance, it was the lack of scientific evidence on a drug’s safety that was being held as reason to criminalize it, as opposed to hard evidence of any danger it posed. This murky and undefined danger acted as a scapegoat for what was truly, in spite of any objection, still a moral argument.

Such a moralizing element rings clear when drugs were once again used as an agent to create a political other. Firstly, Nixon attacked those who question America’s drug law, saying such protest only came from “people who are too unsophisticated to understand it; because there

are real dangers”²³⁵. Here, he created a false dichotomy between individuals who wanted to reform drug law, and consequently could not have been taking seriously the risks associated with drug use, and individuals that accepted current drug law, meaning they appreciated the potential dangers. Thus, anyone that opposed his policy was painted as either ignorant or malignant and therefore, and their opinion could not be taken seriously. Beyond the purely legislative element, Nixon again defined drugs in terms of the racial other, saying, “when you look at some of the societies of Asia... you see what has happened to them when they accept this [drug use] and move in that direction. You don't want it to happen here”.²³⁶ Per Nixon, not only is drug use risky, it is the antithesis of an American future; a true American, that is, given Nixon’s record on race relations, a white American, would never use drugs.

The confluence of the drug user as both political and racial other allowed Nixon to tie drugs into a conservative policy agenda. Despite the fact that drug use stretches back eons in some form or another, Nixon redefined it as a problem related to a rejection of tradition. “Drugs and crime”, he said, make but one example of “old standards violated, old values discarded, old precepts ignored”, leading Americans to find themselves “in a deeply troubled and profoundly unsettled time”.²³⁷ In this speech, he presented drug use as being on the same plane with “campus revolts, racial discord, draft resistance”²³⁸, representing “a chasm of misunderstanding” between “old and young”.²³⁹ This created a system wherein drugs became both a cause and a symptom of social discord, reifying the idea that tradition maintains stability.

Nixon, like past presidents, also pointed to developments in modern science as an additional cause of drug use. In remarks to the American Medical Association (AMA), he said, “it is estimated that one-third of all Americans between the ages of 18 and 74 used a psychotropic drug of some type last year. And little wonder— for there were enough drugs of this

type available last year [1988] to medicate every adult in the United States at very high dosage rates for more than 11 days”.²⁴⁰ He presented this as evidence that “we have created in America a culture of drugs. We have produced an environment in which people come naturally to expect that they can take a pill for every problem– that they can find satisfaction and health and happiness in a handful of tablets or a few grains of powder”.²⁴¹ While less than a century ago, the ability to produce such a huge quantity of ‘wonder drugs’ would have been conceived of as a great achievement, the dark side of such medications, their addictive properties, had been pushed into center stage.

From this perspective, drug addiction was an accidental outcome of scientific developments, but it is key to note that this logic was not applied in all cases. Nixon continued conceptualizing drug use as something that “has moved from the ghetto to the suburbs”.²⁴² That is, while our growing production capacity for drugs lead to rising rates of addiction in suburban, meaning white, America, the cultural propensity for addiction, created in “the ghetto”, that is, black communities, had already existed. This culture was not, per Nixon, a result of the commercial availability of drugs. Rather, it was related to, as past presidents argued, a personal failure of willpower; people “turn to these drugs... to give that lift... because of boredom”.²⁴³ This created two opposing conceptualizations of addicts, coded along racial lines, where the white addict was a victim of the addictive properties of medication, while the black addict had nobody to blame but himself for his use. Such a split mentality helps to explain the racial divide in incarceration with respect to drug use; it would feel unjust to imprison a victim but righteous to imprison a user who would willingly perpetuate the destruction caused by ‘drug culture’.

In the face of a cultural problem, Nixon presented a cultural solution, built on the idea of a return to tradition. An important facet of this was his attempt to connect drug users with

religious figures. Issuing Proclamation 4080, establishing Drug Use Prevention Week, he called on “the clergy, and all of our moral and spiritual leaders, to make a special effort during this week to take up the problem of drug abuse and to offer those answers of the spirit which alone can fill the void where drug abuse begins”.²⁴⁴ This emphasis on the power of religion to make a positive impact in countering drug use was a new phenomenon in the presidential sphere, and it seems to have been, at least in part, a result of the Southern Strategy and Nixon’s attempt to appeal to Southern white Christians. At this point, drug use became firmly entrenched in the language of morality.

The challenge left to the Nixon administration was how to convince the American public that drug use is truly wrong, immoral. One manner to achieve this is an information campaign, which, in this Nixon’s case, more closely resembled a campaign of propaganda. Nixon’s administration pushed for “an expanded effort to show that addiction is all too often a one-way street beginning with ‘innocent’ experimentation and ending in death”.²⁴⁵ Here, the notion of ‘innocent experimentation’ was likely referring to marijuana use and the implication that marijuana is a ‘gateway drug’. There are several problems with this notion. Per the National Institute on Drug Abuse (NIDA), “the majority of people who use marijuana do not go on to use other, ‘harder’ substances”.²⁴⁶ Additionally, even amongst users of ‘hard drugs’, the rate of addiction is actually quite low;²⁴⁷ one year after trying crack cocaine, for example, less than ten percent of people will find themselves dependent on it.²⁴⁸ While such precise statistics are a modern discovery, the crux of this truth is not; addiction has never been an inevitable result of drug use except in political rhetoric. Finally, addiction itself is not a death sentence. Treatment is available, and Nixon himself pushed for expanded inpatient and outpatient addiction treatment when he proposed a comprehensive health insurance plan²⁴⁹ and backs methadone maintenance

clinics.²⁵⁰ This tension between the simultaneous portrayal of addiction as deadly and addiction as medically treatable highlights just how fluid the discourse around drugs has been in order to prove a point. In particular, historians, such as Edward Jay Epstein, suggest that Nixon's support of medical treatment for addiction was primarily driven by a desire "to reduce crime statistics, if not actual crime".²⁵¹ Nixon portrayed addiction as deadly to justify "his law-and-order tactics, his rhetoric of being tough on crime and drug abuse, and his emphasis on punitive approaches to drug abuse",²⁵² but recognized the falsity of this sentiment when it allowed him to make politically beneficial moves.

In addition to addiction being treatable, it is also worth noting that the majority of overdose deaths actually result from polypharmacy, the combination of drugs, not the overconsumption of a single drug.²⁵³ This typically happens when an addict can't afford enough of his drug of choice to avoid the symptoms of withdrawal. In most cases, then, addicts die not from consuming too much of a drug, but from not being able to consume enough of it. Given this information, an increase in the price of illicit drugs raises the risk of mortality for addicts. Yet Nixon made drying up the market to drive up prices an important part of his drug policy. In a message on drug abuse prevention, he said, "the scarcity of heroin in our big Eastern cities has driven up the price of an average 'fix' from \$4.31 to \$9.88, encouraging more addicts to seek medical treatment".²⁵⁴ Certainly, the scarcity of drugs would have caused problems for addicts, but it does not follow that they would have been encouraged to seek treatment, given that they likely would have been financially unable to; Nixon's health insurance expansion had received a "decidedly unenthusiastic"²⁵⁵ response from his administration, leaving it dead in the water. As such, addicts' lives were made more difficult, while recourse to treatment existed only in theory.

Nixon summarized his sentiment on this point in his remarks to athletes on drug abuse: “you have to take care of the addicts. That doesn’t mean you excuse them from breaking the law”.²⁵⁶ When his attempts to provide medical care for addicts failed, he was left with law and order. What’s more, the justification that he gave for legal intervention was not deterrence or the ability to help an addict reach care, rather, it was strictly punitive. Speaking to drug-related arrests, he said, “when you get to the point that you have to apply criminal penalties to the users and dispensers of drugs, then the damage has already been done”.²⁵⁷ If this is the case, then, punishment was not being doled out in the name of ameliorating the problem, but only to punish the infraction.



Figure 5: This image²⁵⁸ shows a pin proclaiming Nixon's campaign focus on law and order, highlighting just how large of a role such rhetoric played in Nixon's politics.

Part of Nixon's enthusiasm in punishing the user was likely related to the fact that, even though he continued emphasizes how drug use leads to addiction, he also introduced ideas related to the 'casual' user. As the first President to really take this step, he did not stray far from his predecessors, still referring to these users as addicts, but he did recognize that there was something unique about them, these "remaining addicts, those who may even think they enjoy their condition".²⁵⁹ Nixon suggested that "persuasion, and incentives, applied within the

criminal justice system”²⁶⁰ be aimed at these individuals in particular. The focus on legal punishment, as well as the conception of the user as a moral failure, both make more sense when the discussion of use caused by compulsion was replaced by the idea of use as inspired by pleasure or enjoyment, with users being driven by desire but not true need. While shaping people’s desires would seem to be an incredibly difficult task, Nixon claimed it is one which his administration succeeded at. In a 1972 address on crime, he boasted, “we are winning this war”.²⁶¹ Yet even if, as he stated, “the raging heroin epidemic of the late 1960’s has been stemmed”,²⁶² this is a case of winning the battle, not the war, as the war on drugs would continue its unsuccessful march onward for decades. As has been described, the beginnings of this war were established as part of Nixon’s New Federalism. Drugs were most directly discussed with respect to increasing crime, but also constituted an important topic with respect to the Vietnam War and Nixon’s Southern Strategy.

Gerald R. Ford, 1974-1977

For all of the attention that Nixon gave to drugs, his successor, Gerald Ford, paid the topic very little mind. This is sensible, given the modern opinion that during his presidency, “Ford was confronted with almost insuperable tasks”.²⁶³ Among these were “the Watergate scandal,... mastering inflation, reviving a depressed economy, solving chronic energy shortages, and trying to ensure world peace”.²⁶⁴ It is therefore interesting to note that, on the occasions that he did speak of drugs, he largely returned not to a continuation of Nixon’s rhetoric, but rather to an earlier conception of drugs. In fact, even the most general way that he framed the phenomenon of drug use was fundamentally opposed to Nixon’s framing; where Nixon claimed that the country was winning the war against drugs, Ford recognized that “the sale of hard drugs is tragically on the increase again”.²⁶⁵ Of course, these claims were made several years apart, meaning it is possible that a true reversal of the downward trend in drug use over this period took place between these administrations. It is unfortunately not possible to point to hard statistics to address this question given that broad surveys on drug use were not conducted until the latter half of the 1970s.²⁶⁶ However, leaving aside the question of an actual change in rate of use, drugs as a constructed problem served two different purposes under these administrations. For Nixon, they were an enemy upon which he had declared war and therefore represented a victory that he won for the country. For Ford, drugs did not hold a position of such exalted importance and as a result, it was not necessary that he confront them as public enemy number one; he was free to recognize rising drug use without admitting a failure of duty.

This also changed the way in which Ford conceptualized the specifics of the ‘drug problem’. Like earlier presidents, he spoke of users as people “sick with addiction”²⁶⁷ who began use largely due to “fundamental conditions”,²⁶⁸ that is, social and environmental factors that left them “so empty inside, so devoid of hope that they fill themselves with artificial

illusions of contentment”.²⁶⁹ From this perspective, addiction once again found itself portrayed as a societal failing, not an individual moral one. For this reason, Ford had to turn away from Nixon’s punitive view of drug law to one whose end was “not to impose vindictive punishment but to protect society from those who prey upon it and to deter others who might be tempted to sell drugs”.²⁷⁰ Additionally, in contrast with Nixon, he refused to give drug law enforcement agencies a blank check. On the contrary, while enacting legislation such as the Alcohol and Drug Abuse Education Act Amendments of 1974, he emphasized his “determination to keep the overall budget in line, in this area as in other areas of Federal activity”.²⁷¹ In doing so, he limited the role of drugs to one mere part of his presidential priorities; he also respected, unlike Nixon, the Republican party’s commitment to small government and limited spending.

At the same time, we must recognize that Ford did not stop presenting drug use as a threat. Indeed, Ford asked Congress “to enact [a] proposal for mandatory minimum sentences for drug traffickers, so those who are spreading this evil throughout our communities will be put behind bars where they belong”.²⁷² Returning to the earlier point of Ford recognizing rising rates of use, this allowed him to take a concrete step to combat this trend. Unlike concerns related to inflation or energy, drug policy presented Ford with an ‘easy’ policy win: tighten the law, decrease use, earn voter support. He made this idea clear in discussing such policy, claiming, “we, working together in conjunction with one another, can stem the tide of new drug invasion within a year”.²⁷³ Drug policy provided a hopeful domain for action in an otherwise fraught administration. Interestingly, Ford used Nixon’s same reasoning to explain why even users of a drug like marijuana, which seemed relatively harmless, needed to remain criminalized, and that is because of a lack of scientific consensus on its safety. He alleged that there was still “a great controversy in the scientific world as to whether or not the use to a substantial degree of

marijuana is good or bad for a person's health",²⁷⁴ concluding as a result that "until there is a higher degree of unanimity among the scientific world that marijuana is not harmful to the individual, I do not think we should decriminalize marijuana".²⁷⁵ Lack of evidence continued to be used as evidence in itself, allowing drugs to remain a salient legislative topic. Even so, discourse on drugs was rarely employed by the Ford administration, given the existence of even more salient issues during this time, but when drugs were spoken of, this discourse took place in the context of Ford's other concerns, such as a balanced budget.

James E. Carter Jr., 1977-1981

Like Ford, President Jimmy Carter treated other policy areas as more pressing than drugs. Specifically, his domestic focus was on energy, while his international focus was on navigating the Cold War by managing relations with the Soviet Union, Korea, and Afghanistan. However, drugs did find a home in the Carter administration, largely as they fell under the umbrella of one of the administration's important, but often overlooked, accomplishments, that of improved treatment for mental health. The Carter administration gave birth to a "comprehensive bill [that] mandated that mental illness be put on par with other diseases in the eyes of the government",²⁷⁶ among other reforms, such as Executive Order 11973, creating the President's Commission on Mental Health. In remarks on this order, Carter addressed its relation to the "problems of alcohol and drug abuse and how related they are... to mental health".²⁷⁷

As a result of this medicalized mental-health-based approach to drug use, Carter took a hard turn back to emphasizing scientific evidence. Firstly, he rejected the portrayal of drugs as 'pure evil'; among his administration's First Year Accomplishments Summary, he listed having "directed the scientific reexamination of marijuana and heroin for possible medical uses, particularly in the treatment of cancer".²⁷⁸ Additionally, he turned to something akin to a harm-reduction approach, arguing that "since heroin, barbiturates and other sedative/hypnotic drugs account for 90 percent of the deaths from drug abuse, they should receive our principal emphasis".²⁷⁹ This speaking out against the harsh penalization of users of low-mortality drugs pushed him to rail against the punitive nature of drug law more broadly, saying that "penalties against possession of a drug should not be more damaging to an individual than the use of the drug itself"²⁸⁰ and concluding that "where they are, they should be changed",²⁸¹ an end which he took real steps to achieving by backing a "change in law to end Federal criminal penalties for possession of up to one ounce of marijuana, leaving the States free to adopt whatever laws they

wish concerning marijuana”.²⁸² He was able to strengthen this conclusion with the benefit of a developing case study, pointing to “states which have already removed criminal penalties for marihuana use, like Oregon and California”.²⁸³ He recognized that these states “have not noted any significant increase in marihuana smoking”.²⁸⁴ In this case, these states acted as ‘laboratories of democracy’,²⁸⁵ and their experiment demonstrated that abandoning a penal system could be done successfully. Finally, a return to evidence led Carter to directly reject Nixon’s rhetoric of a link between drugs and the Vietnam War, concluding, “the frequent image of the Vietnam Veteran as unbalanced, unstable and drug-dependent is simply not borne out by available information”.²⁸⁶ Frankly, Carter seemed to bring a much-needed reality check to the presidential relationship with drugs. He recognized that while he did “not condone any drug abuse”,²⁸⁷ “decriminalization is not legalization”²⁸⁸ and was able to offer a better way forward.

This makes it all the more surprising when, in his State of the Union address in 1980, Carter said, “one of the important goals of my Administration at the beginning of this decade is to change the social acceptance of drug use”,²⁸⁹ or when he continued to speak of drugs as one of “the threats to society, to the family”²⁹⁰ that had to be dealt with “to sustain the ideals and morals of a nation itself.”²⁹¹ It seems as if Carter, Janus-like, had two faces when it came to drugs; one spoke with nuance, while the other relied on the old rhetoric of drugs as a social issue. It could be argued that this difference stemmed from the fact that drugs simply weren’t that important of a topic to Carter and that such inconsistencies were due to the unimportance of having a defined platform for something that to him was insignificant. However, I find this conclusion to be misguided. I believe that the inconsistencies here were intentional and that drugs were being used to advance different rhetorical goals in these two cases. The former was, as has been discussed, a fragment of Carter’s real concern with the expansion of healthcare. The latter, then,

was slightly more difficult to explain. One potentially compelling explanation is that this conception was a “political move designed to aid his reelection”.²⁹² Such an analysis has been applied to some of Carter’s other maneuvers that gave the impression of Carter having “overreacted”, such as the case of the Persian Gulf. Scholars like Jonathan Alter have introduced critiques that these actions represented instances of Carter “just trying to look tough”.²⁹³ Indeed, Republicans attacked Carter on the grounds that he did not have “the firmness necessary to win the Cold War”,²⁹⁴ so it would make sense that, in seeking re-election, Carter would have attempted to paint himself as someone capable of more of a hard-line approach to governance. In the realm of drugs, this took the form of an insistence on decreasing use, as well as the moralizing element of drugs as a threat. Such a strategy had worked for him previously, as his successful presidential bid was due in part to his ability “to win the support of cultural conservatives as well as hold on to other Democratic constituencies by ‘speaking the language of moral values’”,²⁹⁵ so it would make sense that Carter would have turned again to such an approach as the next presidential election drew near. Whether true or not, Carter both bought into and thus spoke to reinforce the impression that drugs were “condemned by almost everyone”.²⁹⁶ In the name of being one of “the servants of the American people”²⁹⁷ and of maintaining his role in said position, Carter backed anti-drug sentiment.

While this evidently did not win him the election, it did allow him to claim some political victories. For example, he spoke to the fact that “1,000 fewer Americans died of heroin overdoses in the twelve-month period ending June 30, 1978 than in the previous twelve months”²⁹⁸ and that “seizures of illegal drugs are at their highest level ever”.²⁹⁹ However, it is worth noting the limits of his rhetoric; his claims never went beyond these small wins. He directly recognized that “drugs cannot be forced out of existence... if we are honest with

ourselves we know that is beyond our power”.³⁰⁰ Again, the drug war was not a phenomenon upon which his presidency was built, leaving him the opportunity to address it realistically in this way. Carter’s presidency marked the second administration during which drugs were not a main issue in executive rhetoric, but they were still discussed in the context of Carter’s concern with the provision of mental health care and additionally acted as one of several domains in which Carter was eager to take a hard-line approach in the interest of attracting conservative voters. The decrease of their prevalence during this period, rather than signifying the death rattle of this sphere of discourse, was instead but a brief breath before drugs were again a live issue.

Ronald W. Reagan, 1981-1989

Ronald Reagan encapsulated the shift that we see under his administration with respect to drugs when he said, “the catchphrase of the seventies, ‘Do your own thing,’ has been replaced in the eighties by ‘Just say no’”.³⁰¹ In a dramatic swing back to a purely anti-drug agenda, Reagan’s platform rested on what he called “two powerful words: zero tolerance”.³⁰² There are several factors that explain why this shift occurred. One factor is noted given the context of Reagan’s introduction of zero tolerance; he prefaced this concept by saying, “if the Senate were controlled by Republicans today, we’d already have signed into law that drug bill, and dealers and users everywhere would know [where] this country stands”.³⁰³ Clearly, then, this was a political tool, and a partisan one at that.

A second factor is the confluence of a variety of social factors, including two already mentioned, that of rising crime and of the Red Scare. Abroad, it seemed that we were making progress; Reagan’s call to tear down the Berlin Wall “marked a Cold War turning point”,³⁰⁴ with Reagan acknowledging that “for the first time in the postwar era, the Soviet menace shows some signs of relenting”.³⁰⁵ Yet in this same speech, he drew attention to “long-festered social problems like drugs, crime, and a decline in our educational standards”. Domestic problems, then, seemed to reclaim the primary place of concern during this period. The attention to domestic crime was grounded in reality, as the rate of violent crime reached a thirty-year high by the end of Reagan’s administration.³⁰⁶ But it would also seem that the attention given to domestic issues was being ramped up because international affairs were losing their political salience.

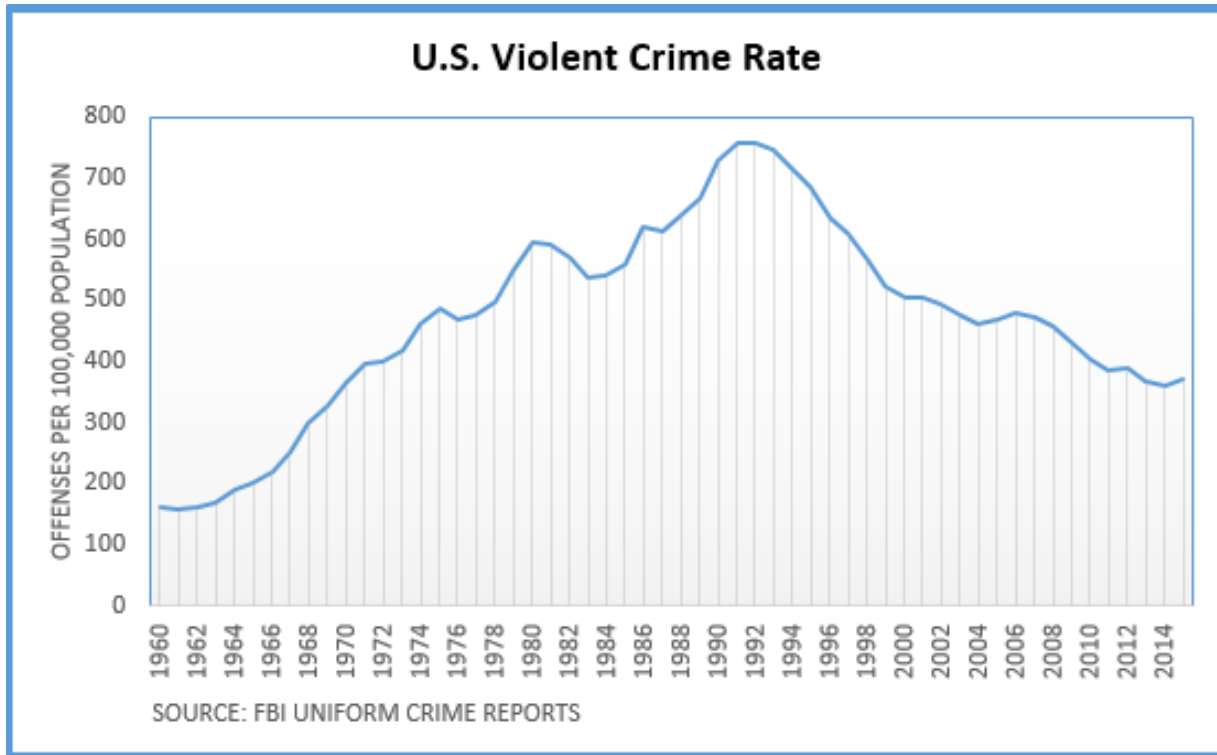


Figure 6: This chart³⁰⁷ shows changes in the annual crime rate. We note here how this figure rose beginning in the 1960s, peaked around 1980, then began to rise again in the mid-1980s.

Reagan made the claim that “by 1980 illegal drugs were every bit as much a threat to the United States as enemy planes and missiles”.³⁰⁸ This is certainly true with respect to how the issue was being politically and socially constructed. As the threat of the red menace faded, the government found a related enemy to replace it by revamping the fight against drug use. Just as was the case in earlier administrations, resistance to drugs was linked to the capitalist, or anti-communist, ideal of maximizing productivity and out-competing communist countries. Reagan spoke to this, saying, “lost productivity because of drugs costs America nearly \$100 billion a year, and that’s like having a pulled hamstring in the race of international commerce”.³⁰⁹ He also connected drug use to productivity more abstractly when he said, “in the 21st century, staying employed will mean more than just knowing something. It will mean being able to keep on learning... There won’t be opportunities in years to come for those who handicap themselves

with drug use now”.³¹⁰ Drugs thus gave Reagan the ability to create a new enemy to fight against, even after it had become clear that the Soviet Union itself was no longer a threat.

Yet framing all drugs as public enemy number one again would seem to be a difficult task, given the previous shift to a scientifically based drug policy that relaxed restrictions around certain drugs and the existing scientific data, which for years had shown minimal risks associated with the consumption of drugs like marijuana. Reagan overcame this hurdle largely by ignoring any evidence that would contradict the view that drugs are irredeemably bad. He said, for example, “we must mobilize all our forces to stop the flow of drugs into this country, to let kids know *the truth*, to erase the false glamor that surrounds drugs, and to brand drugs such as marijuana exactly for what they are—dangerous [emphasis added]”.³¹¹ This quote is striking for a number of reasons. Firstly, it shows to what extent drugs had become a replacement for the threat of the Soviet Union; it was drugs against which we had to mobilize our forces. Secondly, it created a false dichotomy between media and truth, where popular representations showing drug use as positive were immediately deemed false. This allowed any and all sources depicting drug use as positive, even those grounded in reality, to be decried as false.

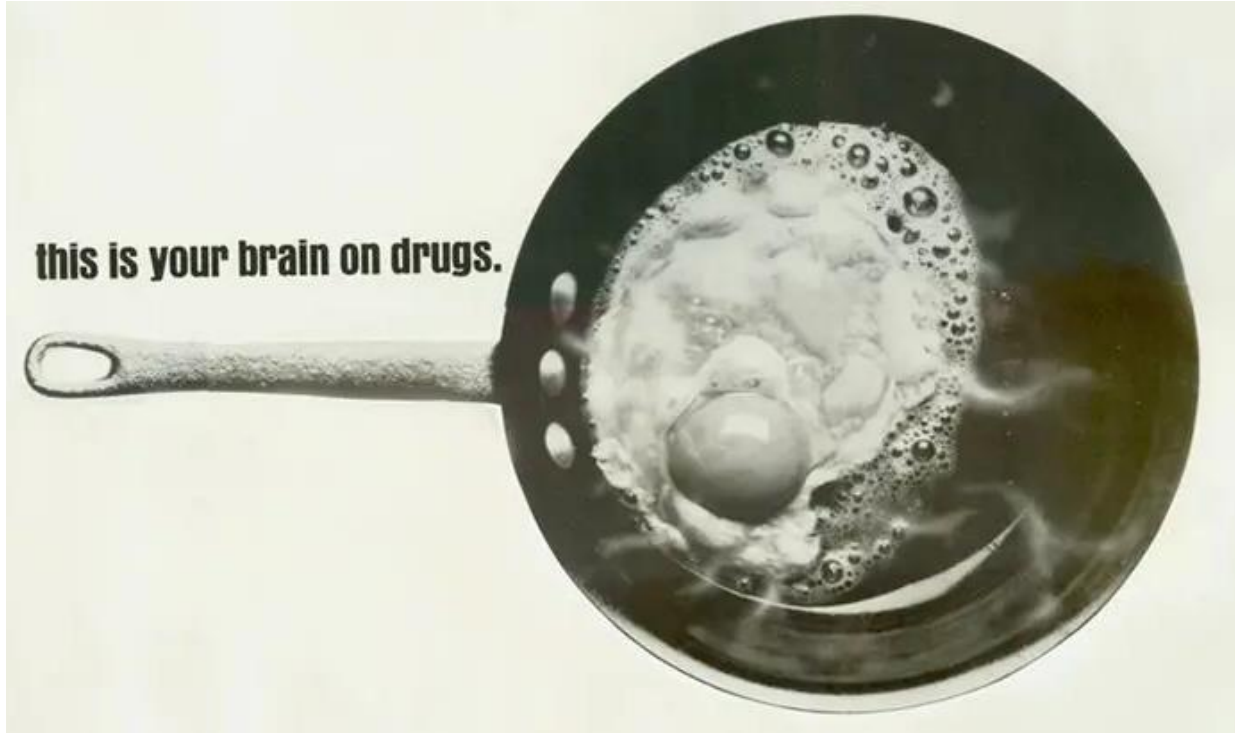


Figure 7: This is an "indelible image"³¹² from a commercial that aired during the war on drugs. The commercial ended by asking "any question?", implying there was no possible disagreement with its message.

At its core, then, Reagan's tool in waging his version of the war against drugs was pure rhetoric. Many have already noted his "enduring legacy as president, and... his legendary status among his supporters as the 'great communicator'".³¹³ This means that in his hands, rhetoric could be a powerful tool, and this seems to have been exactly the case with respect to drugs. Reagan was able to forge a strong connection with an American audience, fueling a strong anti-drug response from them. At a campaign rally, for example, he stated that people "are saying no to drugs", then asked, "do you want this progress to be lost and this era to be over?", to which the audience replied with an emphatic "no!".³¹⁴ This was not an isolated incident; Reagan was able to stir up this sort of sentiment over the course of his time in office. Halfway through his presidency, "71 percent of the people said our greatest problem today is drugs".³¹⁵ There are two ways to interpret this statistic and its relationship with Reagan's concern with drugs: either Reagan was reflecting the rising concern with drugs already present in American society, or he

himself was feeding such a concern. These interpretations are not mutually exclusive, and in fact, I believe they are both true to an extent.

As previously mentioned, the rate of crime was rising during the Reagan administration. Crime had already been connected to drug use, but this connection was reinforced by the introduction of a new idea in social science research, broken windows theory.³¹⁶ This theory held that signs of ‘disorder’, like broken windows or, perhaps, drug use, increase the incidence of crime. While Reagan never addressed this idea directly, he upheld it implicitly, speaking to the fact that “the street criminal, the drug pusher, the mobster... —they form their own criminal subculture; they share the climate of lawlessness”.³¹⁷ Similarly, he argued that although legally “we do draw distinctions between violent crime, sophisticated crime, or between crimes like drugpushing and crimes like bribery, the truth is, crime doesn’t come in categories. It’s part of a pattern”.³¹⁸ As the logic of broken windows theory took hold, drugs, as a subset of social disorder, would have represented a growing concern among Americans.

In addition to broken windows theory, another idea sought to explain rising rates of crime: the superpredator. Per this theory, there was a subset of young people who were committing crimes with no remorse, and this was driving part of the crime wave. Reagan did address this theory directly, stating, “from these statistics about youthful offenders and the impact of drug addiction on crime rates, a portrait emerges. The portrait is that of a stark, staring face, a face that belongs to a frightening reality of our time—the face of a human predator, the face of the habitual criminal. Nothing in nature is more cruel and more dangerous”.³¹⁹ It is fascinating to note the way in which Reagan co-opted this concept for his own ends. Per John J. DiIulio Jr., who introduced the term into the cultural lexicon, this theory described “murderers, rapists, and muggers”;³²⁰ at no point were drugs related to the superpredator. In this case,

Reagan took an existing sensational concept and twisted it to fit his own agenda. It is worth noting that both broken windows theory and the idea of the superpredator have since largely been discredited as racist concepts that criminalized poverty.³²¹ The fact that Reagan leaned on these theories is telling of the self-reinforcing cycle between his rhetoric and public perception.

In addition to embracing these two newly developed theories and their implications with respect to drug use, Reagan also sought to question an existing conception of drugs as a victimless crime. He did so in one instance by speaking to road safety, saying “drug abuse is not a so-called victimless crime. Everyone’s safety is at stake when drugs and excessive alcohol are used by people on the highways or by those transporting our citizens or operating industrial equipment”.³²² In a second instance, he did so by speaking to the safety of law enforcement, saying “many in society rationalize the drug use as being a victimless crime and not harmful to anyone. Paul Seema and George Montoya [Special Agents who were shot and killed while conducting an undercover narcotics purchase] were victims of society’s demand to satisfy their desire for drugs”.³²³ However, it does not seem clear that protection of human life was Reagan’s foremost goal. In fact, in certain circumstances, he accepted loss of life as a sign of successful drug policy, such as when he spoke about the attempted assassination of Alexander Haig, his Secretary of State. Reagan said, “there were reports that the attempt was linked directly to the drug trade, and if true, this desperate move is a clear sign of the toll we’re taking. But we’re not satisfied. We’re proposing to step up the pressure to make convicted drug kingpins subject to the death penalty”.³²⁴ If Reagan noted that cracking down on the drug trade had led to greater loss of life, yet insisted on taking even more pronounced action regardless, the protection of human life could not have been his greatest concern with respect to drugs.

Indeed, an area of concern that seems to have marked Reagan's discourse on drugs to a much greater extent is that of the rights of the citizen. He claimed plainly that "each American has a right to live in a drug-free family, to dwell in a drug-free community, to learn in a drug-free school, to earn a living in a drug-free workplace, and to travel on drug-free roads, waterways, railways, and airways".³²⁵ For Reagan, an individual had to surrender any right he may have to use drugs in the interest of the rights of others to live in their absence. Not only that, the individual had to submit himself to a certain level of surveillance to ensure his compliance through programs like Neighborhood Watch, as well as drug screenings.

One can certainly find faults with this logic, but even taking it as true, Reagan did not apply it evenly in all cases. In the case of mandatory drug testing for federal employees, he shied away from such strong surveillance, stating, "I would rather see a voluntary program in which... people who might be detected... won't lose jobs and there won't be punishment. What there would be is an offer of help".³²⁶ Yet when he instead spoke to the surveillance of those involved in the criminal justice system, he showed no such leniency, boasting in a radio address on new zero-tolerance policy recommendations that "criminals on probation or parole would be drug tested, and testing positive might send them right back to jail".³²⁷ It is clear, then, that Reagan, as was the case with earlier presidents, was only concerned with the rights of some Americans.

Certainly, it is true that breaking the law is a breach of social contract that necessitates that an individual relinquish some of his rights, but it is also true that in dictating who is surveilled, the government dictates who is held accountable as a criminal. Reagan looked away from federal employees, instead focusing on the policing of primarily poor communities via his policy informed by broken windows theory. In doing so, he, like those before him, pandered to his electorate. He addressed his supporters as having a "constitutional right to live in peace...

[from] massive immigration, rampant crime, and epidemic drug smuggling”.³²⁸ In this speech in particular, he was addressing “the nearly 2 million people of south Florida”;³²⁹ this detail is significant in that Reagan, like Nixon, relied heavily on Southern support, returning “southern conservatism to the center of power in Washington”.³³⁰ Those with which Reagan identified, white, middle and upper-class Americans, were to be trusted and thus escaped surveillance, but in turn merited protection from those who were not deemed as trustworthy, people of color and those living in poorer communities.

It is worth noting that for Reagan, this issue also held a moral valence. On one hand, that valence was religious, with Reagan arguing, for example, that “if we could get God... back in our schools, maybe we could get drugs and violence out”.³³¹ This again seems like a clear attempt at coalition-building with Southern Christians. On the other hand, Reagan appealed more generally to “basic values— values that say right and wrong do matter”.³³² From such a perspective, policy criminalizing drug use was no longer an issue of weighing varying societal concerns to determine the best interventions, and as such an issue open to debate; it was rather the case that drugs in themselves are morally wrong, full stop. Such a framing of drugs was an important facet that allowed Reagan to oppose legalization so fervently, claiming, “with my last breath in my body I will oppose this perverse and inhuman notion”.³³³ When our country’s moral future was thought to be at stake, how could we even entertain the idea of surrender? This is the argument that Reagan was making when he spoke to “taking down the surrender flag that has flown over so many drug efforts” and instead “running up a battle flag”.³³⁴ Of course, this attitude is not exclusive to drugs. On the contrary, drugs were merely one arena in which the fight for the soul of the nation is taking place. When Reagan said, “we’ll be satisfied with

nothing less than a drug-free America”,³³⁵ this is just one step that had to be taken for America to truly be an upstanding moral nation, his “shining city on a hill”.

Yet however influential and charismatic he may have been on the issue of drugs, there obviously remained those that did not buy into this ideal. Some pointed to his focus on, as he described it, “winning over the users”,³³⁶ as really representing, as one journalist put it, “an acknowledgment that you can’t do anything about the supply” given that “the supply of illegal drugs has never been more varied, more abundant, more potent, or less expensive than it is today”.³³⁷ This journalist specifically referred to Reagan’s efforts as a “new crusade”.

Functionally, this is true. In pushing his vision of America, he worked to criminalize those who dissented via his strict drug policy.

It is interesting to again note a tension here between what Reagan said and the actions he took. When asked directly, “should drug users go to jail?”, he responded, “no, I think we should offer help for them”.³³⁸ Yet in the same year, the Anti-Drug Abuse Act of 1986 was signed, “increasing penalties for drug possession, creating minimum sentences for drug-related offenses, increasing funds for drug enforcement measures, and importantly resulted in the creation of a disparity of 100:1 for crimes related to crack versus powdered cocaine”.³³⁹ As a bill, this Act was the subject of much debate, with amendments being introduced to involve different law enforcement agencies to varying degrees, to remove funding caps, and to introduce harsher punishments for repeat offenders, among other changes. Yet when discussion of the Act was over, it was passed in the Senate with only two dissenting votes, one Democrat and one Republican, and in the House with only seventeen dissenting votes, sixteen Democrats and one Republican. While it was not the subject of an amendment at the time, one particular provision of this Act that was later viewed as controversial is the sentencing disparity between crack and

powdered cocaine. This disparity suggests that part of the intent of this policy was to earn white support; much work has been done recently suggesting a racial impetus for this sentencing disparity.³⁴⁰

Beyond the Reagan administration reintroduced the distinction between the addict and the casual user. Reagan made this distinction quite explicitly, saying, “whereas the addict deserves our help, the casual user deserves our condemnations, because he could easily stop, and yet he chooses not to do so. He must be made to feel the burden of brutality and corruption for which he’s ultimately responsible”.³⁴¹ While an addict was someone who “can’t help themselves”³⁴² and was not considered morally culpable as a result, the casual user was directly defying Reagan’s vision of America. But again, there was no real legal distinction between these groups, meaning all were punished equally, or rather, of those upon whom punishment was being meted, that is, the socially disadvantaged, addict and casual user alike were punished.

Finally, Reagan’s drug policy helped to advance his policy platform outside of the social realm. We see this with respect to “Reaganomics”, his push towards “reducing government spending, taxes, and regulation”.³⁴³ Reagan spoke of the “three hundred and eighty-five thousand corporations and private organizations... already working on social programs ranging from drug rehabilitation to job training”,³⁴⁴ as one example of the success of private enterprise in providing solutions to America’s problems. He also used drugs to highlight what he saw as existing failures of bureaucracy, like “the explosion in social spending” that sought to “get crime and drugs off the street”, but instead made “the disadvantaged... more dependent on Federal programs”.³⁴⁵ Overall, then, while drugs mostly served Reagan’s agenda in abstract, value-based ways, such as acting as a stand-in for the Soviet Union, an element in new ways of

conceptualizing crime, and a manner of appealing to Southern Christians, drugs also had important implications for Reagan's economic policy, Reaganomics.

Summary: 1969-1989

This section has described the ways in which presidents interacted with drugs during the war on drugs. The two presidents who are most representative of this war, Nixon and Reagan, used drugs as a moral battleground to appeal to their electorate. They also treated drugs as an important cog in the machine of rising crime rates, and as representative of a threat to America due to the links between drugs, Vietnam, and the Soviet Union, for Nixon and Reagan respectively. What's more, drugs made up an important aspect of their discourse on federalism, characterizing the ways in which they conceived of the role of the government in general, with Nixon vouching for New Federalism and Reagan for Reaganomics. While Carter focused less on drugs in general, his administration was also characterized by both the moralizing of drugs to win a wide voter base, as well as the connection with federalism, specifically, for Carter, with respect to an expanded provision of mental health care. Finally, the Ford administration, while also giving little attention, focused on the relationship between drugs and federalism in the context of priorities like a balanced budget.

The Quiet Death of the War on Drugs

George H. W. Bush, as Reagan's successor, largely continued Reagan's crusade, intensifying the stakes of the issue by involving military forces in the process of uncovering and seizing drugs. Given this trend, we would expect America's relationship with drugs to reach a fever pitch following his presidency. Yet the most curious thing happened: on the contrary, drugs largely lost their place as a major policy issue. In less than a decade, the country transitioned from a president who fought for a drug-free country to Bill Clinton, a president who himself admitted to having tried marijuana.³⁴⁶ Extend the timeline by another decade, and we see elected Barack Obama, dubbed in his biography as "a pot-smoking innovator".³⁴⁷ This is no executive anomaly, as by 2021, polls found that over ninety percent of Americans supported legalizing marijuana.³⁴⁸

While this thesis does not seek to explain the process by which this change occurred as a whole, it can help to elucidate at least part of the shift. Specifically, we have noted how drug policy acted as a tool for approaching other executive policy concerns. We have also remarked on the fact that when presidents were confronted with more salient issues, as was the case most evidently during the Ford administration, drug policy was largely ignored. The fact that today, the war on drugs has taken a back seat to other policy issues implies that there are other topics that are easier to manipulate towards the same end in today's political climate. I believe that one issue in particular was a natural stepping-stone to move onward from drugs: the threat of terrorism.



Figure 8: This image³⁴⁹ shows Bush addressing a crowd in the wake of 9/11, promising to “find out who was responsible and ‘kick their ass’”.

Terrorism became far and away the main concern of Americans following the tragedy of September 11, 2001. As the country grappled with responding to this event, all other threats paled in comparison. Even once other issues returned to the policy agenda, they were often discussed in the context of terrorism. During George W. Bush’s presidency, drugs were framed as a problem largely not in their own right, but because of their relation to regimes of terror. Bush said, for example, “the drug trade has enriched our society’s enemies. It has funded acts of terror”.³⁵⁰ At least for a time, political problems were defined almost exclusively in their relationship to this one overarching threat. This allowed for a sort of reset of the political narrative, where issues like national security and the country’s moral future were no longer reliant on drugs as a tool for framing. This allowed drugs as a central political issue to slip quietly from the scene, relinquishing their status as a major political issue with little fanfare.

This does not imply that drugs are being ignored outright in modern politics. Opioids in particular have been the center of a series of efforts in litigation and legislation that have sought to address rising rates of abuse and addiction. However, the issues surrounding opioids have not been approached from the framework of the war on drugs, wherein users were being painted as a social enemy. Rather, the concern has largely been related to themes of corporate responsibility and harm reduction. These areas are politicized in their own right, but in a way that is distinct from past trends.

At the end of the day, it seems as if the portrayal of drugs as an existential threat to the country is no longer feasible. Firstly, public sentiment on the issue is stacked against its framing as some moral evil. It would be exceptionally difficult to once again persuade the American public that all drug use must cease or else we face ruin. Secondly, and perhaps even more importantly, there are a whole host of new issues that have taken on massive moral importance in the modern cultural zeitgeist. In addition to terrorism, which itself has recently declined in rhetorical importance, conflicts have cropped up around issues of race, gender, and sexuality, such as the teaching of critical race theory or the inclusion of transgender athletes in competitive athletics. These issues fulfill the same function that drugs did in previous administrations, acting as platforms for discussions on presidents' views of the country's future in a way that feels more salient for this generation.

Conclusion

In summary, we have seen how, from the 1930s onward, drugs have been used as a political tool. Under the Hoover administration, they related to the question of Prohibition and the role of the state; Franklin Roosevelt used them to speak of the role of the federal government; the Truman administration confronted them in the balance of liberties, while the Eisenhower administration was instead faced with the balance of federal and state power; Kennedy treated them as a problem linked to cities and to communism; Johnson contextualized them within the first crime wave; Nixon used them to speak of problems associated with the Vietnam War and race relations; Carter subsumed them under mental health; and Reagan grappled with them during the second crime wave. Throughout this entire period, we saw drugs also being applied to questions of morality and the rights of the citizen. Yet in the new millennium, we have witnessed the war on drugs crumble in the face of the war on terror. As new issues began to fulfill the political function formerly occupied by drugs, drugs have gained new legal status across the country, drug-related convictions have been nullified, and it seems like we are drawing very near indeed to the end of this chapter in American history.

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