

134317

**U.S. Department of Justice
National Institute of Justice**

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been granted by

Regional Drug Initiative

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

Position Paper In Opposition To The Legalization of Drugs

134317

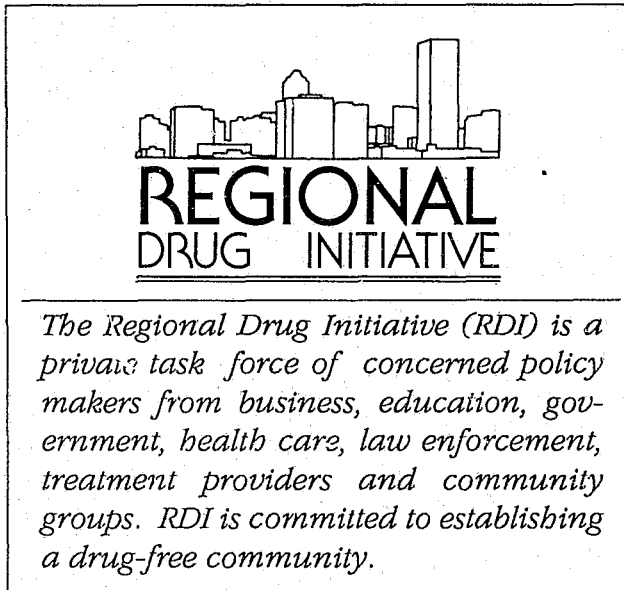
Portland, Oregon
September, 1990

Executive Summary

The Regional Drug Initiative Task Force (RDI) opposes the legalization, the controlled legalization, and the decriminalization of illicit drugs.

The reasons RDI opposes any form of legalization are grouped into three areas: health, workplace, and

criminal justice. The use of drugs and the impact on health is one of grave concern, not only because of the deleterious effects of drugs, but also because of the long-term demands placed on health care systems and the associated financial cost. Worker safety and productivity issues dominate the list of concerns from employers. The business community has shown the positive effects of strong drug control programs in the workplace. It is essential to business that public policy supports its efforts to promote drug-free work environments. A policy of legalization runs counter to business efforts in this arena.



The impact of drug use in this country is readily apparent when looking at the criminal justice system. However, the responsibility for having a positive impact on this country's drug problem does not rest solely with the criminal justice system. To charge the criminal justice system with full responsibility for the problem is to ignore the medical and workplace impacts of drug use. Removing legal prohibitions and lowering drug costs would clearly create a broader and more frequent demand for drugs which would, in turn, result in a surge of drug-related medical and workplace incidents. The RDI Task Force has concluded that legalization of drugs would not only displace society's costs from the criminal justice arena to the health care system and the workplace, but would increase those costs extensively.

TABLE OF CONTENTS

Introduction	2
Position	2
Definitions	2
Consequences	2
Health Issues	2
Drug-Affected Babies	3
Impact on School Settings	3
Physical Effects	3
Child Abuse	3
Boarder Babies	4
Drug Abuse Warning Network	4
Workplace Issues	4
Drug Policy Impacts	5
Crime and the Criminal Justice System	5
Prohibition	5
Enforcement Costs and Impacts	6
Drugs and Violent Crime	6
Black Market	7
Conclusions	7
Treatment	7

This is not to ignore the importance of and the need for expanding treatment capacity, improving treatment programs, and making treatment more available for those in need. A policy of legalization would be equivalent to exposing the population to a highly contagious and debilitating disease without providing an effective cure. Treatment can be effective, but relapse is not uncommon. While it is recognized that criminal sanctions by themselves do not cure drug abuse, they serve as both a precipitating factor for entry into treatment and as a coercive force in maintaining people in treatment.

NCJRS

FEB 5 1992

ACQUISITIONS

Introduction

The issue of legalization of drugs has been raised in several arenas over the past few years. Because of these discussions and the frequent requests received by the Regional Drug Initiative for information on the topic, the RDI Task Force directed a review of information available in the preparation of a position paper on the legalization of drugs.

Position

The RDI Task Force opposes the legalization, the controlled legalization, and/or the decriminalization of illicit drugs. These three aspects of the "legalization" argument are frequently intermingled.

Definitions

For the purposes of this paper each of these terms is defined as follows:

Complete Legalization - Illicit drugs would be treated as a commercial product with little or no restriction on selling, advertising, or use. All legal sanctions and controls would be eliminated. No federal, state, or regulatory body would be required to oversee production, marketing, or distribution.

Controlled Legalization - Production and distribution of drugs would be regulated and controlled. Limits on amounts and age of purchaser would be required. There would be no criminal or civil sanction for possessing, manufacturing, or distributing drugs unless these activities occurred in violation of the regulatory system.

Decriminalization - Decriminalization restructures current criminal sanctions maintaining criminal penalties for manufacture and distribution but eliminating criminal sanctions for use. It recommends civil sanctions for possession of small amounts of drugs. (1)

Consequences

While it is difficult to project into the future with unerring accuracy, there are some logical conclusions that can be drawn when considering the possibility of a policy which would legalize drugs. For example, legalization would eliminate a set of crimes currently enforced by the criminal justice system -- an apparent consequence. Other consequences also require consideration.

Legalization would produce both greater availability of drugs throughout the general population and an increased access to drugs by the general population. With both availability and access increased, it is a logical consequence that use would increase. In The New Republic essay "Crackdown" authors James Q. Wilson and John J. DiIulio, Jr., on the issue of increased use, cite cocaine as just such an example. When cocaine was used in its powdered form, it was expensive and use was by the more affluent groups in society. When it became available as crack cocaine, it was significantly cheaper and consequently more widely used. In fact, with the advent of crack cocaine, use increased sharply. (2)

Just as price serves to regulate use, so too, do social norms and values. A public policy of legalization would remove the current legal taboos from drug use, taboos which currently serve to restrict use. The elimination of these legal sanctions would lead to increased use. The U.S. experience with Prohibition is an example of the consequences of removing a legal sanction. Though Prohibition, when in effect, did not eliminate alcohol consumption, it reduced alcohol consumption significantly. What followed after the repeal of Prohibition was an increase in alcohol consumption. (3) An even more telling and current example of increased drug use comes from Zurich, Switzerland. In an effort to curb AIDS the Zurich Public Health Department established a needle exchange program located in Platzspitz Park, known as "Needle Park" because the city has given it over to drug users. The exchange program dispensed 2,000 free syringes and needles a day in 1986 when the program began. It currently dispenses 8,000 a day. According to Dr. Albert Wettstein, Zurich's public health officer,

"This free and unlimited access has given us a spiraling number of users and although it has cut down on the percentage of AIDS victims, it has quadrupled the number of drug users in the past four years . . . Our burglary rate and the number of prostitutes has also increased, and that is a direct result of this drug usage." (4)

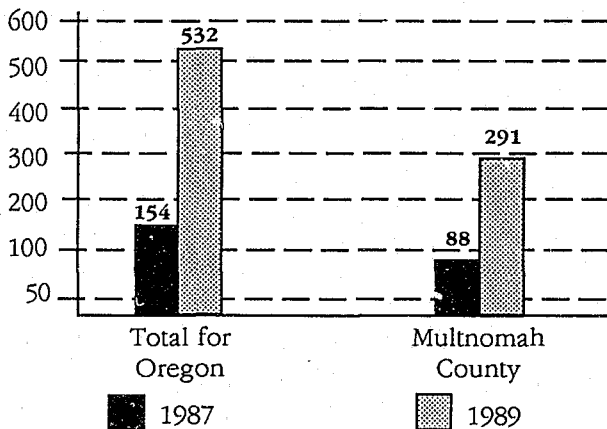
Health Issues

The use of drugs and the impact on health is one of grave concern, not only because of the deleterious effects of drugs, but also because of the long-term demands placed on health care systems and the associated financial costs. The health issues alone affect individuals prenatally, during infancy, childhood, and on through adulthood.

Drug-Affected Babies

The Office for Substance Abuse Prevention estimates that 375,000 newborns annually face the possibility of health damage due to their mother's drug abuse. (4) Oregon has seen a rise in annual births of drug-affected babies. In 1987 there were 154 reports

Drug-Affected Babies: Annual Births



SOURCE: Children's Services Division (6)

of drug-affected babies with 88 of them in Multnomah County. Contrast this with 1989 when there were 532 such births, almost 300 of them in Multnomah County. (5)

As doctors see more and more crack damaged infants, many of them premature, a clear picture of the drug's effects is emerging. A mother's crack use triggers spasms in the baby's blood vessels, restricting flow of oxygen and nutrients. Fetal growth, including head and brain size, may be impaired, strokes and seizures may occur and malformations of kidneys, genitals, intestines, and spinal cord may develop. (7,8) Larger cocaine doses can rupture the placenta, putting both mother and fetus in further danger. At birth these babies show tremors, irritability, and extreme lethargy. While some symptoms may disappear shortly after birth the underlying damage remains and exhibits itself in developmental delays, lack of motor control and extreme sensitivities to normal day-to-day stimuli. (9)

Impact on School Settings

Schools are beginning to address the problems of children who are exposed to drugs before birth, as well as those children who are raised in a drug-using environment. Many experience emotional as well as developmental problems. School officials are becom-

ing aware that drug-affected children as a group have a higher likelihood of lower intelligence, short attention spans, and hyperactivity. Drug-affected children also exhibit an inability to adjust to new surroundings easily and have difficulty in following directions. All these traits can lead to failure in school settings (10). Studies on adolescent drug use suggest that it can impede physical development, as well as learning abilities (11). These children present a challenge to our school systems if they are to become productive members of our communities and work forces in the future. In a comprehensive review of over 30 years of research Drs. J. David Hawkins and Richard Catalano have identified fifteen risk factors which predispose adolescents to drug abuse. Included in the list of risk factors are: 1) parental drug use/favorable attitudes toward use; 2) friends who use drugs; 3) favorable attitudes toward drugs; 4) laws and norms favorable toward use; and 5) availability of drugs. All of these risk factors will be increased with legalization and sanction by society of use of currently illegal drugs. (12)

Physical Effects

The physical effects of drug use on adults are well documented. Cocaine use causes a number of medical complications including acute myocardial infarction, cardiac arrhythmias, acute rupture of the ascending aorta, central nervous system complications, such as seizures and strokes, obstetrical complications, intestinal and other miscellaneous complications. (13) As a direct result of the drug-induced judgment impairment which leads to both unsafe sexual practices and shared needle use, increased numbers of AIDS cases are being seen. Dr. David Smith, Director of the Haight Ashbury Free Clinic in San Francisco, reports that his program is seeing an alarming rise in AIDS patients in both crack cocaine and "ice" users, neither of which is administered intravenously. The impact of increased drug use on the medical care system is profound.

Child Abuse

Tragic consequences of drug use by pregnant women is only one aspect of the impact of drug use in the health arena. Oregon, like other states, has experienced an increase in the number of incidents of physical abuse and threat of harm to children during 1989. The Children's Services Division ascribes these increases to the growing problems of substance abuse within families. Suspected drug and alcohol problems within families of child abuse victims has more than tripled in Oregon since 1983 and is the second most

Continued to 4

commonly found stress indicator in families of child abuse victims. (14) This is consistent with the national trend. In 1988 an estimated 73% of all children beaten, tortured, and starved to death in the United States died at the hands of adults using drugs. (15)

Boarder Babies

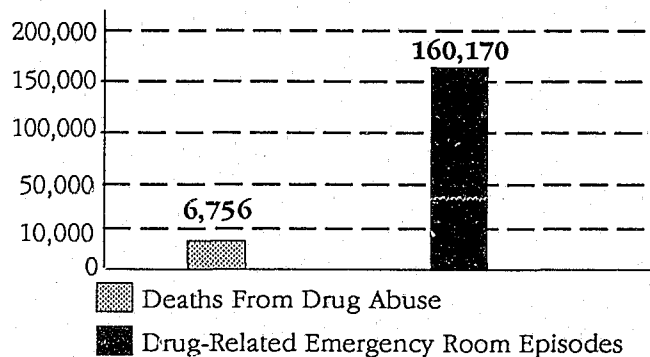
The "boarder-baby" phenomena alone is telling. The Child Welfare League of America, Inc., conducted a survey of hospitals throughout the United States. Fifty-four of 92 hospitals reported having 304 boarder babies; babies who had been medically cleared for discharge but had no home to which they could be released. These babies ranged in ages from newborn infants up through 2 years of age. Some of them had never left the hospital. (16)

Drug Abuse Warning Network

Annual data from the Drug Abuse Warning Network (DAWN) clearly illustrates the burden carried by both private and public hospitals due to drug-related hospital emergency room visits. Hospitals in the 27 metropolitan areas participating in DAWN reported 160,170 drug-related emergency room episodes and 6,756 deaths from drug abuse in 1988.

The result of any form of legalization would be an increase in drug use. (18) Increased use would result

*Reporting Hospitals from
27 Metropolitan Areas*



SOURCE: Drug Abuse Warning Network (17) YEAR = 1988

in a larger number of births of drug-affected babies and an increase in the associated health problems of adolescents and adults further taxing the health care system. Legalization would aggravate already serious health

problems. A public policy supporting legalization fails to protect the general population from increased health problems, and fails to protect the most fragile and innocent of the victims of drug use, infants, and children.

Workplace Issues

According to a 1983 Research Triangle Institute report drug abuse cost this nation nearly \$60 billion, \$24 billion for drug related crime, and \$33 billion for lost productivity, injuries, and other damages. (19) There is ample evidence of damages caused by drugs in every business and industry. ABC's 1988 production, "Drugs: A Plague Upon the Land," cited several examples:

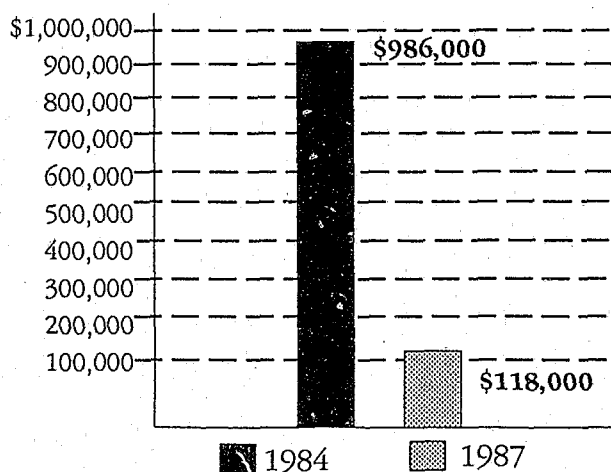
- In Durango, Colorado, a commuter airliner crashed leaving nine dead. The pilot tested positive for cocaine.
- Forty-eight train wrecks in the past decade were directly attributable to drug and alcohol abuse. In one incident, the fatal crash of two commuter trains in Mount Vernon, New York, all five railroad workers involved tested positive for illegal drug use including the engineer who was killed in the wreck.
- Sixteen people were killed and 170 injured on January 4, 1987, when a Conrail engine rear-ended a passenger train. The engineer ran several warning signals before merging into the path of the high speed Amtrack passenger train. He later tested positive for marijuana.
- A bus company found that 30% of the applicants for experienced driver positions tested positive for drug use.
- In a Whirlpool plant in Ohio an undercover investigation, instigated by workers concerned about safety on the job, resulted in 84 individuals arrested on felony drug charges.
- One medical treatment center estimates that between 10% and 20% of medical personnel are drug or alcohol abusers.
- One trucking company began drug testing at the request of their drivers. On the day of the test 50% of the drivers tested positive for drugs. (20)

Drug Policy Impacts

Oregon employers have become increasingly aware of national trends relating to employee drug use on the job. In the metropolitan Portland area, some businesses have pioneered efforts to address drugs in the workplace issues before they could become problematic. These businesses achieved positive results by

Worker's Compensation Costs

Hoffman Construction Company



SOURCE: Oregon Business Council

establishing drug policies and programs. Hoffman Construction experienced a 17% reduction in worker's compensation claims. In 1987, three years after adoption of a strong drug control program, Hoffman's workers' compensation losses dropped from \$986,000 to \$118,000. (21) Northwest Natural Gas Company experienced similar success with a 27% drop in days lost from accidents and a 14% reduction in illness absences following implementation of a drug and alcohol policy and a smoking policy as part of the employee health and wellness program. An Omark Industries Chainsaw Division has seen their drug test failure rate drop by 12% to 15% (22).

Business and industry have not taken a position favoring legalization of drugs. On the contrary, in Oregon there has been an aggressive effort by the Regional Drug Initiative and the Oregon Business Council (OBC) to inform and persuade all businesses to realize their responsibility and provide drug-free workplaces. Since February 1989, OBC companies providing an Employee Assistance Program or rehabilitation opportunities have increased from 87% to 100%.

It is essential to the business community that public policy supports its efforts to promote drug-free work environments. A policy of legalization would undermine the progress made by business and industry

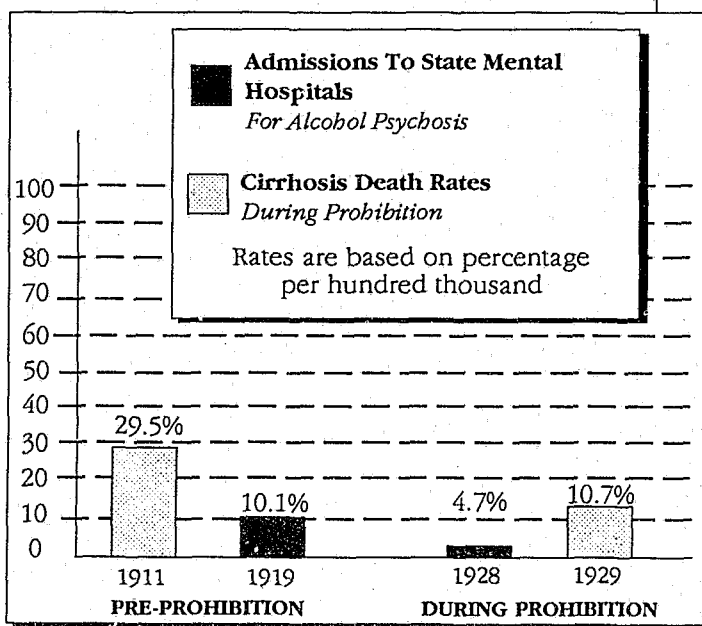
to provide safe work environments and to return drug abusing employees as productive members of the workforce. Drug-free workers and work sites are essential to the United States competing effectively in international business markets.

Crime and the Criminal Justice System

Perhaps the loudest argument favoring legalization of drugs is based on the highly visible impact of drug use on criminal justice systems across the country. Nowhere else has the impact been more concentrated or more easily counted. The public sector impact is far more open to public scrutiny than the impact on private care systems, the medical establishment, or business operations. The intellectualized examinations of the high cost of prosecuting drug crimes often put forth by proponents of legalization fail to take into account the high cost of not prosecuting drug crimes and ignores both the human factor and the insidious and addictive nature of drugs.

Prohibition

Legalization proponents appear to have adopted the position that the drug problem is not one of drug use, but of drug prohibition. (23) They further argue that prohibition has been and continues to be ineffective. However, the experience this country had with the Volstead Act of 1920 and the 18th Amendment, commonly known as Prohibition, actually supports the



effectiveness of prohibition. The amendment prohibited the commercial manufacture and distribution of alcoholic beverages; it did not prohibit use or production for one's own consumption. During the period of Prohibition, alcohol consumption actually declined dramatically. The best estimates are that consumption of alcohol declined by 30% to 50% during the Prohibition years. Contrary to many popularly held opinions, the violent crime rate did not increase dramatically during prohibition, although organized crime may have become more visible. Prohibition did not end alcohol use; however, it succeeded in reducing by one-third the consumption of a drug that had wide historical and popular sanction. The real lesson of Prohibition is that government can affect the consumption of drugs through laws. (24)

Enforcement Costs and Impacts

The cost of enforcement of drug laws is not insignificant. For 1990 the total Federal budget authority for anti-drug programs is \$7.9 billion. If one is to measure the depth of commitment to the Drug War by the federal spending authority attached to it, the United States has yet to wage a war on drugs in the financial sense. For example, in the late 1960's the annual price tag for the Vietnam War was \$35 billion per year. (25) More federal money is put into public transportation subsidies than into drug enforcement. There are more police personnel committed to protecting the members of Congress than there are Federal drug agents. (26)

Other countries have had experiences with drug epidemics in the past. Those that have been most successful have applied strong enforcement in conjunction with public education and user rehabilitation. (27) Some examples include:

- Japan routed an amphetamine epidemic after World War II and a growing heroin problem in the late '50's and early '60's through aggressive law enforcement and the stigmatization and rehabilitation of users.
- Great Britain discovered that allowing doctors to prescribe heroin created a large black market and led to an increase in its drug problems. (29)
- Spain relaxed drug laws in 1983 and has experienced a recent spurt in cocaine and heroin addiction. A crackdown on drug pushers is now underway. (30)

- Amsterdam, frequently cited by pro-legalization elements as a city successfully coping with a drug problem, is rethinking its liberal drug policies as legalization has led to an increase in certain crimes. (31)

Liberalizing drug laws would result in an increase in drug use, drug addiction, and drug related criminal activity. Particularly with cocaine, Dr. Frank Gawin at Yale and Dr. Everett Ellinwood at Duke report the following:

"...a substantial percentage of all high dose binge users become uninhibited, impulsive, hypersexual, compulsive, irritable, and hyperactive. Their moods vacillate dramatically, leading at times to violence and homicide." (32)

The responsibility for having a positive impact on this country's drug problem does not rest solely with the criminal justice system. To charge the criminal justice system with full responsibility for the problem is to ignore the medical and workplace impacts of drug use. Just as business has demonstrated an increasing ability to manage the impact of drugs in the workplace by strong drug control policies so too can government. Tough drug enforcement, detection, and education programs in the military, for example, have brought about a 62% drop in drug use among U.S. Navy personnel. (33)

Drugs and Violent Crime

Many proponents of legalization hold the mistaken belief that drug users commit crimes solely to support expensive drug habits. They argue that a reduction in the cost of drugs would cause a decrease in the level of drug related crime. Unfortunately, the more likely outcome would be that cheaper legal drugs would increase the level of both violent person crimes and property crimes. In Philadelphia, for example, 50% of the child abuse fatalities involve parents who are heavy users of cocaine. (34) In actuality, cheaper legal cocaine would result in more children murdered as well as more babies born drug-affected. A recent Department of Justice report showed that more than 80% of criminals arrested for violent felonies were on drugs when they committed their crime. Rapes, assaults, and murders that are unrelated to a need for drug funds are included in these statistics. (35)

Black Market

Another element in the argument for legalization is an assumption that the black market in drugs is not only the major problem, but would disappear altogether with legalization. Unless the government was prepared to provide all drugs to anyone of any age at any time day or night—an unconscionable public position—a black market would continue to exist. According to Dr. Arnold M. Washton,

"...in short, any attempt to limit legal distribution would encourage a thriving black market for willing buyers who prefer to acquire their drug supplies without rules or hassles. For many of the same reasons, legalization of heroin has failed in Great Britain and Italy. It is unlikely that legalization of cocaine/crack would fare any better here in the U.S." (36)

Removing legal prohibitions and lowering drug costs clearly would create a broader and more frequent demand for drugs. Increased drug use would result in a surge in incidents of random violence and higher crime rates.

Conclusions

After careful review of the available materials both favoring and opposing the legalization of drugs, the RDI Task Force has concluded that legalization of drugs would not only displace society's costs from the criminal justice arena to the health care system and the workplace but would increase those costs extensively. Legalization of drugs would result in more, not less, use. Greater use of drugs would escalate drug-related damage to individuals and to communities and businesses. A policy of legalization would be equivalent to exposing the population to a highly contagious and debilitating disease without effective cures.

Treatment

This is not to ignore the importance of and the need for expanding treatment capacity, improving treatment, and making it more available to those in need. In his Commentary essay, "Against the Legalization of Drugs," James Q. Wilson states, "One thing that can often make it (treatment) more effective is compulsion." Douglas Anglin of UCLA in common with many

other researchers, has found that the longer one stays in a treatment program, the better the chances of a reduction in drug dependency. But he, again like most other researchers, has found that drop-out rates are high. He has also found, however, that patients who enter treatment under legal compulsion stay in the program longer than those not subject to such pressure. His research on the California Civil Commitment Program, for example, found that heroin users involved with its required drug testing program had over the long-term a lower rate of heroin use than similar addicts who were free of such constraints. If for many addicts compulsion is a useful component of treatment, it is not clear how compulsion could be achieved in a society in which purchasing, possessing, and using the drug were legal." (37) Treatment can be effective but relapse is not uncommon. While it is recognized that criminal sanctions by themselves do not cure drug abuse, they serve as both a precipitating factor for entry into treatment and as a coercive power in maintaining people in treatment. (38)

Footnotes

1. Citizens for a Drug Free Oregon, letter of April 17, 1990.
2. Wilson, James Q. and John J. DiTulio Jr., "Crackdown," The New Republic, July 10, 1989, p. 23.
3. Moore, Mark H., "Lessons of Prohibition Don't Support Drug Legalization," The Oregonian, October 31, 1989.
4. Dr. Arnold Rustin, "Swiss Program Keeps AIDS in Check, but Not Drug Use." The Oregonian, August 7, 1990.
5. "Drugs - Victimless Crimes?," The Oregonian, September 15, 1988.
6. Child Abuse Report, Children's Services Division, Oregon Department of Human Resources, 1989, Salem, Oregon, p. 13.
7. Ira Chasnoff et al., "Temporal Patterns of Cocaine Use in Pregnancy - Perinatal Outcome," JAMA, Vol. 261, No. 12, 1989, pp. 1741-1744.
8. "Medical Complications of Cocaine Abuse," Special Report, New England Journal of Medicine, Vol. 315, No. 23, 1986, pp. 1495-1499.
9. Dr. Jan Bays, "Drug Babies," Child Maltreatment Conference, January 20, 1990, San Diego, California.
10. Naomi Kaufman, "Schools Brace for Drug Babies," The Oregonian, June 4, 1990.

Continued to 8

Footnotes

11. Dr. Darryl Inaba and William E. Cohen, Uppers, Downers, All Arounders, Biomed Arts, Inc., and Cinemed, Inc., Ashland, Oregon, 1988.
12. "The Social Development Strategy," Social Development Research Group, University of Washington School of Social Work, 1989.
13. New England Journal of Medicine, op. cit., p. 1495-1499.
14. Child Abuse Report, op. cit., pp. 5-6.
15. Charles H. Turner, United States Attorney, Portland, Oregon, memorandum of October 26, 1989.
16. "Impact of Drugs on Boarder Babies Documented," Child Welfare League of America, Washington, D.C., July, 1989.
17. Data from the Drug Abuse Warning Network (DAWN) 1988, Alcohol, Drug Abuse and Mental Health Administration, U.S. Department of Health and Human Services, Public Health Service, Series 1, No. 8, 1989.
18. "Legalization Concerns," Citizens for a Drug Free Oregon, July, 1988.
19. "Drugs: A Plague Upon the Land," ABC-TV, April 10, 1988.
20. Drugs on the Worksite: The Employer's Concerns, Options, and Needs, Regional Drug Initiative, Portland, Oregon, March, 1989.
21. Fightback Against Drugs, Oregon Business Council, Portland, Oregon, 1989.
22. Drugs Don't Work, Regional Drug Initiative, Portland, Oregon, March, 1990.
23. Robert DuPont and Ronald Goldfarb, "We Have Not Yet Begun to Fight," The Columbian, February 7, 1990.
24. Mark H. Moore, op. cit.
25. Danny Coulson, Special Agent in Charge, Federal Bureau of Investigation, Portland, Oregon, February, 1990.
26. Robert E. Peterson, "Stop Legalization of Illegal Drugs," Drug Awareness Information Newsletter, Danvers, Massachusetts, July, 1988, p. 3.
27. Ibid.
28. Ibid.
29. Ibid.
30. Ibid.
31. Ibid.
32. James Q. Wilson, "Against the Legalization of Drugs," Commentary, February, 1990, page 23.
33. Robert E. Peterson, loc. cit.
34. Robert E. Peterson, op. cit., p. 5.
35. Ibid.
36. Arnold M. Washton, "Legalization Arguments Off-Base," undated.
37. James Q. Wilson, op. cit., p. 26.
38. "Dealing With Drug-Addicted Mothers," The Mainline, Vol. III, No. 6, Center for Local Prosecution of Drug Offenses, American Prosecutors Research Institute, June, 1990, p.1.

Thank You

The Regional Drug Initiative would like to thank the following committee members who provided information for this report:

Ann Uhler, Committee Chair
Comprehensive Options for Drug Abusers
Danny Coulson
Federal Bureau of Investigation
Roseanna Creighton
Citizens for a Drug Free Oregon
Jeff Kushner
State Office of Alcohol/Drug Abuse Programs
Harold Ogburn
Multnomah County Juvenile Court
Dr. Delores Orfanakis
Emanuel Hospital and Health Center
Edna Robertson
Northeast Neighborhood Office
Charles Turner
U.S. Attorney

Reprinting of this document in whole or in part is permitted with the acknowledgment of the source. The Position Paper in Opposition to the Legalization of Drugs was developed by the Regional Drug Initiative and published in Portland, Oregon, in September, 1990.

For further information, please contact:

Regional Drug Initiative

522 S.W. 5th, Suite 1310
Portland, Oregon 97204
(503) 294-7674

