



PERSPECTIVES ON CANADIAN DRUG POLICY
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The John Howard Society of Canada

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TABLE OF CONTENTS

	<u>Page</u>
Introduction <i>Gerald Thomas</i>	5
Canada's Drug Laws: Prohibition is Not the Answer <i>Giselle Dias</i>	9
Balance in Theory But Not in Practice <i>Gerald Thomas</i>	25
Drug Policy in Canada: War if Necessary But Not Necessarily War <i>Barbara Macrae</i>	43
Substance Abuse and Crime <i>Dana Brothers</i>	75
An Examination of the Correctional Service of Canada Urinalysis Program <i>Greg Smith</i>	93
A Cost/Benefit Analysis of Methadone Maintenance Therapy in Canadian Federal Prisons <i>Lori Mills</i>	109
About the Authors	123

INTRODUCTION

PERSPECTIVES ON CANADIAN DRUG POLICY

John Howard
THE JOHN HOWARD SOCIETY OF CANADA

PERSPECTIVES ON CANADIAN DRUG POLICY: INTRODUCTION

The issue of illicit drug policy is once again on the official agenda of the Canadian government. Thirty years after the LeDain Commission's thorough, evidence-based inquiry into the non-medical uses of drugs, it appears as though the government is preparing to address some of the long-standing concerns in this highly politicized issue area. From cannabis to corrections, major changes are being considered for Canadian drug laws and policies. Signs of change are numerous and include:

- Health Canada implemented a program allowing for the cultivation, possession and use of marijuana for medical purposes (July 2001).
- Correctional Service Canada released a report stating that it was considering removing THC from the list of substances it screens in the urinalysis of prisoners on conditional release in the community (January 2002).
- The Senate Special Committee released its Report on Cannabis which recommended the legalization of marijuana and a amnesty for all those who have been convicted of possession (September 2002).
- The House Special Committee on the Non-Medical Use of Drugs issued a report which called for the decriminalization of cannabis (November 2002).
- Health Canada made a decision to allow cities to apply for permits to pilot test supervised injection facilities for intravenous drug users (December 2002).
- Two recent Ontario court rulings found that Canadian cannabis laws are too incoherent to allow convictions for possession of cannabis (January 2003).

These and many other examples suggest that we are in the midst of a "window" of policy change in regard to illicit drugs in Canada. Indeed, the current Liberal Government has announced its intention to introduce a bill to decriminalize cannabis in mid-2003. Although the outcomes of these changes are still to be determined, most observers agree that change is inevitable, and that meaningful reforms are on the horizon.

It is within this exciting policy environment that the John Howard Society of Canada supervised the six research projects published in this volume under the Policy Analysis Enhancement Project (PAEP). Funding for the project originated from the Voluntary Sector Initiative of the Privy Council with the intent of assisting organizations in the voluntary sector to develop expertise in policy analysis. The PAEP is a two-year project that takes select members of voluntary sector organizations and guides them through the creation of policy-relevant research related to Canadian drug policy. This volume presents the research undertaken by the first-year participants of PAEP project.

The articles in this collection look at drug control policy in Canada from a number of different vantage points. They range from an analysis of the differences between contemporary drug control policy in Canadian and the U.S., to considering how the assumption that drugs cause crime has influenced drug control and corrections policy in Canada, to a cost/benefit analysis of expanding methadone maintenance programs in Canadian federal prisons to all who are medically determined to benefit from the therapy.

In her article entitled "Canada's Drug Laws: Prohibition is Not the Answer," Giselle Dias, from the Prisoner's HIV/AIDS Support Network (PASAN), takes a critical look at policies related to drug prohibition. After discussing the origins and development of Canadian drug control laws, her research uses Goldstein's (1985) tripartite theory relating violence and drugs to argue that the majority of harms associated with illegal drugs are derived not from the use of illicit substances, but from the laws that make them illegal. Her analysis ends with a call for Canada to follow the lead of several European countries and implement pragmatic policies designed to reduce overall harms resulting from illicit drugs in Canada.

The second article by Dr. Gerald Thomas of the John Howard Society of Canada comparatively analyzes several possible explanations for why the Canada federal government has found it so hard to implement a more balanced approach to drug control in the three decades since the Le Dain Commission's inquiry. Six possible explanations are considered including: (1) bureaucratic imperatives, (2) exportation of the U.S. "war on drugs," (3) "tough on crime" political posturing, (4) hidden agendas, (5) distributive politics, and (6) social judgments/social control. In order to assess the relative contribution of each of these factors in maintaining the enforcement-dominated approach to drug control in Canada, the author first surveys the opinions of leading experts on Canadian drug policy, and then analyzes the historical and contemporary record of drug control policymaking. The article ends by suggesting that in order for meaningful reforms to occur, the government must provide strong leadership to confront prohibitionist influences from the United States and from the well-positioned "bureaucratic enforcement complex" in Canada.

In an article entitled "War If Necessary But Not Necessarily War," Barbara Macrae from the John Howard Society of Ontario takes an in-depth look at what she sees as significant differences between the U.S. and Canadian approaches to illicit drug control. Focusing on the period since 1987, when Canadian and American policies began to diverge, she suggests that differences between U.S. and Canadian cultures have led the U.S. to intensify the drug war, while Canada has actually moved toward a less extreme approach to drug control. The article further suggests that the conservative right in the United States has used the war on drugs as a proxy to promote "hidden agendas" related to race and social control. She concludes by observing that since conservatives in the U.S. have used the "individual rights and responsibility" argument to justify and promote tough anti-drug laws and expand federal police powers, those pressing for drug policy reform in Canada should consider the potential pitfalls of using the individual rights argument to promote drug reform in Canada. She suggests a less risky strategy would be to anchor further drug reform to the need to reach out to groups in society that are disadvantaged and have been marginalized by the mainstream.

The fourth article, "Substance Abuse and Crime: An Analysis of the Relationship and Its Impact on Canadian Drug Policy," by Dana Brothers from the John Howard Society of Newfoundland focuses on what she calls the "untested assumption" that illicit drug use causes crime. She suggests that, contrary to the findings of research that have demonstrated a "complex and recursive" relationship between drugs and crime, some drug control and corrections policies in Canada appear to accept the simplistic view that drugs are causal to crime. Although research has repeatedly shown a strong correlation between illicit drugs and crime, Ms. Brothers suggests that it is in alcohol that we find the strongest pharmacological link to crime and violence, and that prohibitionist drug laws probably play a significant role in generating and perpetuating the link between illicit drugs and crime. The author ends her analysis by providing suggestions that could move Canadian drug and corrections policy in a direction that is based on evidence rather than on unconfirmed assumptions regarding the relationship between drugs and crime.

The fifth article by Greg Smith from the John Howard Society of the Lower Mainland (BC) is entitled "An Analysis of Correctional Services of Canada's Urinalysis Program." The overall goal of this article is to demonstrate that the potential harms caused by cannabis use are of less a concern than the potential harms created by CSC's urinalysis monitoring program. The article begins by providing an overview of CSC's urinalysis program. It then examines current drug use trends of federal prisoners emphasizing the limitations of using random urinalysis testing to assess trends in institutional drug use. Next, it comparatively assesses the potential harms associated with CSC's urinalysis program, including the possibility that some federally sentenced prisoners may be switching from soft drugs like cannabis to 'hard' drugs like heroin to escape detection by urinalysis, with potential harms that may be associated with cannabis use. The article ends with some conclusions based on the findings of this analysis related to the need for further research

The last article by Lori Mills from the John Howard Society of Alberta is entitled “A Cost Benefit Analysis of Methadone Maintenance Therapy in Canadian Federal Prisons.” The purpose of this research is to explore the cost/benefit ratio of expanding existing methadone maintenance therapy (MMT) in Canadian federal prisons. The article begins with a summary of the history of methadone as a treatment for heroin addicted individuals, with specific attention paid to the current statutory obligations of the Correctional Service of Canada (CSC) and its implementation and ongoing operation of its National MMT Program. The remainder of the article provides a cost/benefit analysis of MMT in Canadian federal prisons as a specific strategy in Canadian drug policy. In particular, this article considers the impact that MMT has on inmates with HIV, AIDS and/or Hepatitis C, as well as their future criminality and ongoing drug use. Relevant studies and literature reviews are comparatively assessed. Finally, this article provides a series of recommendations and conclusions in support of the development and implementation of a policy to expand existing MMT programs in Canadian federal prisons to all who are medically determine to benefit from substitution therapy.

From the general to the specific, these articles present important analyses and viewpoints on current drug policy in Canada from individuals working in the voluntary sector. The John Howard Society of Canada is grateful for this opportunity to assist in the development of the policy skills in this important part of Canadian society, and we hope that the information and analyses presented here assist others in their attempts to gain reliable knowledge on this timely and important topic.

Gerald Thomas
The John Howard Society of Canada
April 2003
Kingston, Ontario

CHAPTER ONE

CANADA'S DRUG LAWS

PROHIBITION IS NOT THE ANSWER

John Howard
THE JOHN HOWARD SOCIETY OF CANADA

CANADA'S DRUG LAWS: PROHIBITION IS NOT THE ANSWER

Giselle Dias
Prisoners HIV/AIDS Support Action Network

It is time to recognize what is patently obvious: our policies [on cannabis] have been ineffective, because they are poor policies.

--Report of the Senate Special Committee on Illegal Drugs

INTRODUCTION

The origin of Canada's anti-drug laws in 1908 had little to do with the dangers associated with illicit drug use--these laws were based on public fear as well as on political and monetary gains (Gordon 1994:8). Since the inception of these laws, drug users have been marginalized and minorities have been targeted. The social and economic cost of illegal drugs affects many aspects of society. Many people believe that illegal drugs result in lower productivity, extra costs to health care, business loss, and significant law enforcement costs; specifically police, courts, and prisons (Oscapella 1998). The purpose of this article is to argue that it is not the use of illicit drugs that generates the majority of drug-related harms, but the criminalization and prohibition of these substances. I will argue that Canada's prohibitionist drug laws unnecessarily increase incarceration and crime rates. I will demonstrate that if we adopted more liberal approaches to drug control, as they have in countries such as England, the Netherlands and Switzerland, crime rates in Canada would decrease significantly.

HISTORY OF CANADA'S DRUG LAWS

Up until 1908, the use of opiates in Canada was unregulated. In fact, the use of alcohol and tobacco were considered more of a problem to public health and morals than opiates (Solomon and Green 1988:88). However, there was a close link between the escalation of anti-drug policies and the public's fear of Chinese immigrants (Alexander 1990:50). From as early as the 1850s, Chinese immigrants were filtering into British Columbia in large numbers. Most did not have families to support and were able to work for low wages. They were considered a cheap source of labor for the railroads, mining and other industries in western Canada (Solomon and Green 1988:89). During this time period, the Chinese lived in communities that were relatively isolated and the smoking of opium and the presence of opium dens were not considered harmful. The government's concerns over opium were more financial than anything else, as they saw opium as a "cash cow" (p. 89). When British Columbia joined the confederation in 1871, the federal government placed a five hundred dollar licensing fee on Chinese opium factories (pp. 89-90).

During the 1880's, the Chinese became an "economic threat" to other Canadians. The decline of the railroads and the gold rush meant fewer employment opportunities overall. Canadians with families could not compete with the wages of unmarried Chinese laborers (Solomon and Green 1988:90). As economic conditions deteriorated, the Chinese became a greater target for resentment and fear. Hostility towards Chinese began to be reflected in legislation, which was designed to end Chinese immigration and drive the Chinese out of the economic mainstream in Canada. By 1904, the tax on Chinese immigrants had risen to \$500 per person. While this seemed to slow Chinese immigration to Canada, Japanese immigration into B.C. started to rise dramatically (Tooley 1999:25). This further fueled anti-Asiatic sentiment and Canadian hostility. It was after a major labor demonstration in 1907 (which was directed against Japanese immigrants) that the passing of The Opium Act of 1908 took place. This was Canada's first anti-drug legislation.

In response to the riots that arose from the labor demonstrations, Deputy Minister of Labor, Mackenzie King, went to British Columbia. During his investigation of the labor riots he interviewed two opium merchants and was shocked by the existence of the opium trade in British Columbia (Solomon and Green 1988:91). King had four main concerns: (1) opium smoking was becoming more popular among white people, (2) the Chinese were making vast profits in the opium trade, (3) opium trade was in violation of provincial pharmacy legislation, and finally, (4) as a Christian nation, Canada had to set an example for an international campaign against opium (Solomon and Green 1988). The elimination of the opium “menace” was to become the primary focus of King’s early political career. Under his leadership, Parliament enacted its first prohibitionist drug policy (Tooley 1999:25). “The 1908 Opium Act made it an indictable offence to import, manufacture, offer to sell, sell, or possess to sell opium for non-medical purposes, but prohibited neither simple possession or use” (Solomon and Green 1988:92).

In 1911, the 1908 Opium Act was repealed in favor of even harsher legislation. The 1908 Opium Act had created a black market for opium, and law enforcement interests believed that the way to stop the demand for opium was to create harsher penalties (including imprisonment) and to expand enforcement powers (Solomon and Green 1988:93). The 1911 Act began the “enforcement” phase of Canadian drug policy which continued unchallenged until the 1950s (Tooley 1999:26). Because there were no advocates for the treatment of drug users prior to the late 1950s, it was easy for enforcement-related interests to implement harsh anti-drug legislation. This also meant that although drug users were often thought of as “sick,” imprisonment was a priority over treatment (Blackwell 1988:163). In addition, because habitual drug use was associated mostly with Chinese immigrants, many Canadians felt they were “immune from the effects of harsh drug legislation” (Alexander 1990:32).

During the 1950s, despite the fact that illegal drug use was declining, the media published highly sensational accounts of drug-addicted youth in Canada (Solomon and Green 1988:102). It was during this period that the idea of treating habitual drug users first became significant. Some physicians came to see drug addiction as their territory because it was beginning to be looked upon as a disease instead of a crime. They believed that addiction should be regarded as a social and medical problem, not a criminal one (Alexander 1990:114). In response to the increased calls of the medical community for the treatment of drug users, the federal government established the Senate Special Committee on the Traffic of Narcotic Drugs in Canada in 1955 (Solomon and Green 1988:104). After holding hearings across the country, however, the Committee ended up favoring the view of the law enforcement community and this was eventually reflected in the highly punitive 1961 Narcotic Control Act.

The criminalization of drugs in Canada was made possible because of the strongly held belief that certain drugs had the ability to enslave users (Erickson 1992:247). By the 1960s and 1970s, these beliefs were being questioned and the criminalization of drugs was challenged by the emerging “public health” movement. The “dope fiend” mythology, which the enforcement bureaucracy had used for several decades to justify strict prohibition, became discredited because large numbers of middle class youth were using illicit drugs recreationally without turning into dangerous lunatics. Thus, the social distance between drug users and mainstream society narrowed considerably. When a substantial proportion of the population is engaging in drug use it is difficult to maintain myths that are not supported by experience. Most of the people arrested on drug charges during the “cannabis controversy” did not fit the “drug fiend” stereotype, and the law was criticized for making criminals out of white middle class youth.

In 1969, the Commission of Inquiry into the Non-Medical Use of Drugs (also known as the Le Dain Commission) studied the illicit drug issue in Canada. Between 1969 and 1973, the Commission produced four reports. The most significant point in one of the reports was the recommendation of the gradual withdrawal of criminalization of illegal drugs (Erickson and Smart 1988:336). “The Commission recommended greater leniency for the crime of possession including the abolishment of imprisonment. The Commission also recommended that the possession of cannabis should not be considered an offence.

Despite the Le Dain Commission's recommendations, Canada's drug policy remained unchanged" (p. 339).

In 1986, President Ronald Reagan declared a new war on drugs in the US and Canada followed suit. This began a new era of drug prohibition and law enforcement (Erickson 1992:254). The drug scare of the 1980s, which was driven by politics and re-enforced by the media, led to the development of the Canadian Drug Strategy, which was first implemented in 1987. As part of the new drug strategy, a committee was formed to draft new legislation (Tooley 1999:35).

Almost 10 years later, in June of 1996, the Controlled Drugs and Substances Act (Bill C8) was voted into law. Riley and O'Connell (1996) state that Bill C-8, is technically a 'health bill' but "its punitive focus suggests that it is in fact criminal law, continuing and expanding Canada's strictly prohibitionist approach to the possession as well as the trafficking of numerous substances. This law, like the old one, will result in the continued misdirection of resources, the criminalization of drug users, and the unnecessary infection, and death, of many Canadians" (p. 181). Drug laws continue to be too punitive and distract Canadians from looking at the underlying reasons that people abuse drugs. In a brief written by Line Beauchesne entitled "What Do We in Canada Want?" she states:

Recurrent use of the criminal law to maintain a policy is considered to signify a failure of its content, an absence of consensus among those affected by the policy, or lack of sufficient government support to ensure its implementation. To view criminal law as a component of a policy and not an exceptional measure amounts to accepting the legitimacy of violence as a fundamental aspect of the government's role and a means of forcing the public to comply with its decisions (Beauchesne 2000:2).

The next section presents a framework for analyzing the relationship between drugs and crime that shows that punitive drug laws are a major source of harms to Canadian society.

THE DRUGS/VIOLENCE NEXUS: A TRIPARTITE CONCEPTUAL FRAMEWORK

According to Goldstein (1985), drugs and violence can be related through three distinct processes: psychopharmacological, economic compulsive, and systemic (p. 143). I will show that this same framework can be used to explore the relationship between the prohibition of illicit drugs and violence/crime. I will use Goldstein's framework to demonstrate that criminalizing illicit drugs creates more "criminals" and costs more money than the use of illicit drugs themselves.

The Psychopharmacological Link

Goldstein describes the psychopharmacological link between drugs and violence as the fact that some individuals, after prolonged use of certain substances, may become excitable or irrational, which can lead to violent behavior. He equates this behavior with substances such as alcohol, stimulants, barbiturates and PCP. He argues that although the use of opiates does not normally produce violent behaviors, sometimes withdrawal from opiates may lead to violence (Goldstein 1985:145). A recent study by Brochu et al. (2001) states that half of the prisoners in Canadian federal prisons reported that they did not consume alcohol or use drugs on the day they committed their most serious crime (p. 22). However, 21% of the prisoners consumed alcohol, 16% used illicit drugs, and 13% used a combination of both. Of those who committed violent crimes, the most common substance consumed was alcohol (without drugs). The violent crimes included assault (38%), murder (31%) or sexual assault (30%) (p. 22). A study conducted by Pernanen, Cousineau, Brochu and Sun (2002) suggested that "...the proportion of crimes committed by federal and provincial inmates that are attributed to the use of alcohol and /or illicit drugs in Canada

was estimated as being between 40% and 50%.¹ From these data it is clear that alcohol, which is not considered an illicit substance, has more of a connection with violence than illicit drugs do.

The psychopharmacological model linking drugs and crime is discredited by some because the subjects used in most studies are limited to people who have already come into conflict with the law. This is not the majority of people who are either using illicit substances or alcohol (Erickson 2001). One of the common misconceptions that many government and social agencies want us to believe (in order to maintain prohibitionist drug laws) is that illegal drugs cause violence and crime. This is clearly disputed by Patricia Erickson, a criminologist with the Center for Addiction and Mental Health. Erickson suggests that most criminals are people who prefer short-term gratification. This helps explain why they become criminals. This same focus on short-term gratification also leads them to use drugs (Gardner 2000). Ultimately, this leads to the misconception that drug use causes crime. In fact, although it may be true that a lot of “criminals” use drugs, the vast majority of drug use going on in the world is not happening by criminals (Gardner 2000). Brochu and Collins (1995) suggest that although many studies indicate that some people used illegal drugs the day they committed a crime, there is little empirical evidence to establish a direct causal link between crime, violence and the psychopharmacological effects of drugs. As one author states: “No drugs presently known will inevitably cause violence...it is the human and not the drug which acts violently” (Blum 1969:1467). What is clear though is that drug users need to obtain their drugs from an environment that is violent and where crime is inevitable (Riley 1998:15). This is the subject of the next section.

The Economic Compulsive Link

The second link between drugs and violence that Goldstein discusses is called the economic compulsive model. This model suggests that “[s]ome drug users engage in economically oriented violent crime...in order to support costly drug use. Heroin and cocaine, because they are expensive drugs typified by compulsive patterns of use, are the most relevant substances in this category” (Goldstein 1985:146). Although I believe that Goldstein is correct in stating that “gainful” or “acquisitiveness crimes” are committed by some drug users in order to support their habits, I do not believe that the majority of these crimes are violent in nature. Generally, when crimes are committed to get money for drugs, they are more likely to be property crimes such as theft from a car or home, selling drugs or prostitution rather than violent crimes like robbery or assault (Inciardi and Poteiger 1991). Due to the prohibition of drugs, prices are inflated significantly. This means that many people are not able to afford the quantity of drug they would like and subsequently become involved in crime to support their habits. Goldstein et al. (1989) suggests that drug users engaging in criminal activity usually try to avoid violence and tend to focus more on theft than robbery. Johnson et al. (1985) states that most “underclass” street addicts are found to be engaging in a wide range of activities that generate income including begging, borrowing, part-time work, collecting refundable products like bottles, bartering goods, and prostitution.

Many studies have documented that some illicit drug users commit “gainful crimes” in order to supply their habits (Pernanen et al. 2002:29). One study estimated that between 15% and 25% of illicit drug users were involved in committing gainful crimes. If we limit the denominator to ‘drug addicts,’ this proportion is probably closer to 50% (Pernanen et al. 2002). In a recent report from the Auditor General

¹ “There are two major ways in which illicit drugs and alcohol are causally linked to the commission of crimes in this study. First, the proportion of violent crimes attributable to alcohol or drugs was estimated by taking percentage of inmates convicted of a crime who reported (a) that they were intoxicated at the time of the crime, and (b) that they would not have committed the crime had they not been under the influence of alcohol or drugs at the time. Second, a proportion of crimes attributable to alcohol or drug use were estimated from the percentage of inmates convicted of a crime who (a) reported that they had committed the crime to obtain drugs or alcohol and (b) who were rated as alcohol or drug dependent. Between 10% and 15% are attributed to illicit drugs only, between 15% and 20% are attributed to alcohol only, and 10% to 20% are attributed to both alcohol and illicit drugs” (Pernanen et al. 2002:9).

of Canada, it is estimated that 70% of the crime committed in Vancouver is related to illicit drug users trying to support their habits (Auditor General 2001:3).

A study conducted by Butters, Hallgren and McGillicuddy (1997) looked at the central issues that female crack users face in Toronto. The women involved in this study responded that they had increasing involvement in the sex trade industry in order to pay for their drug use. Close to 90% had worked or were currently working in the sex trade. Seventy three percent of the women surveyed indicated they spent the majority of their income on drugs. Out of the 30 women interviewed, 93% admitted to engaging in illegal activities to obtain drugs: prostitution, theft, and drug trafficking. All but one woman reported being arrested at least once for these activities. The three most common offences were possession, theft, and prostitution. A majority of these women (79%) thought they would stop committing other illegal activities if they had access to free drugs and 41% said they would stop if they could access drugs for less money. Close to two-thirds (62%) thought they would use less crack if they had a steady supply of drugs. Also, 62% thought they would try a substitute for crack (like methadone) if one were available.

Numerous studies in the United States have documented a correlation between addiction and crime (Anglin and Speckart 1988, Ball et al. 1981). For example, a study done by Johnson et al. (1985) found that 40% of the revenues of heroin users came from illegal activity. In addition, a study conducted by Deschesne, Anglin and Speckart (1991) found that over a period of two years, property crimes generated a large sum of money for the 279 heroin users in their sample. "While addicted Chicanos reported over \$11 million in property crime income and almost \$1.5 million in drug income: whites reported \$9 million and over \$1.5 million, respectively. In comparison, employment income was \$4.6 million for Chicanos and \$3.7 million for whites" (Deschesne, Anglin and Speckart 1991:399).

All of these examples support part of Goldstein's economic compulsive model. However, these findings differ in that the evidence suggests that most drug-related gainful crimes are non-violent in nature. Even Goldstein states that "while research does indicate that most of the crimes committed by most of the drug users are of the nonviolent variety, e.g., shoplifting, prostitution, drug selling, there are little data that indicate what proportion of violent economic crimes are committed for drug related reasons" (Goldstein 1985:146). What is clear is that if Canada adopted more liberal drug laws, drug prices would decrease significantly, drug potency could be more closely monitored and if we chose to administer some illicit drugs freely, gainful crimes would be greatly reduced. Drug users may be less likely to commit property crimes due to the fact that they could access drugs and services easier. This statement can be backed up through examining the experiences of countries such as Switzerland, Netherlands and the United Kingdom who have implemented harm reduction strategies. These data are presented later in this article.

The Systemic Link

Goldstein's third model linking drugs and crime relates to what he called systemic violence. He states "violence is intrinsic to involvement with any illicit substance. Systemic violence refers to the traditionally aggressive patterns of interaction within the system of drug distribution and use" (Goldstein 1985:148). Goldstein gives many examples of this including disputes over territory, assaults and homicides dealing with drug disputes, robberies of drug dealers, elimination of informers, punishment for selling "bad" or "phony" drugs, failing to pay debts, etc. (Goldstein 1985:148). In his research on violence associated with the illicit drug trade in New York City, he and his colleagues found that 80% of crime was systemic in nature (Goldstein et al. 1989:651-687). From this evidence, it appears as though the majority of crime associated with drugs is not caused by the drugs themselves, but by their criminalization.

As a result of banning drugs, organized crime grows more and more powerful. When alcohol was banned in the United States in the 1920s, the first three armed robberies of alcohol shipments took place within an

hour of prohibition coming into effect. As the illegal trade boomed, so did the number of violent crimes. Robberies, burglaries and assaults increased significantly during Prohibition. About 880 “gangsters” died in turf wars in Chicago alone. The overall murder rate in America hit record highs. Then, in 1933, alcohol was legalized and violent crime dropped immediately (Gardner 2000). Organized crime is just one of many outcomes of drug prohibition. Because people cannot go through the legal system to deal with disputes around drug dealings, and there is no other structured process in place drug dealers and users must deal with justice in their own way. For example, biker gangs in Quebec are fighting a vicious war to gain control of the drug trade. They have killed 150 people since 1994. Chapters are opening in Ontario and other provinces and threaten to expand the conflict (Gardner 2000).

It is important to note that because of our prohibitionist drug laws, drugs are driven underground and cannot be monitored for content or potency. This means that illicit drugs cannot be regulated and therefore may be extremely dangerous and unpredictable. This would be like going into a store to purchase aspirins and not knowing how many to take because there are no instructions and no ingredients listed. One time it may be safe to take three aspirin, but next time you need to only take one. One of the benefits of more liberal drug laws would be that drug potency could be monitored and regulated. As a result, drug users would know how much to use, have instructions on how to use each drug properly and be instructed to not mix dangerous substances. This is a perfect example of how our prohibitionist drug laws create situations that are more dangerous than the drugs themselves. This issue was best illustrated during Prohibition when tens of thousands of people died or were blinded by tainted bootleg liquor. It is therefore accurate to state the majority of overdose related deaths today as well as high crime rates are the direct result of drug prohibition laws (Beauchesne 2000:2).

With regards to systemic violence, Goldstein states:

Systemic violence is normatively embedded in the social and economic networks for drug users and sellers. Drug use, the drug business, and the violence connected to both of these phenomena are all aspects of the same general lifestyle. Individuals caught in this lifestyle value the experience of substance use, recognize the risks involved, and struggle for survival on a daily basis. That struggle is clearly a major contributor to the total volume of crime and violence in American society (1985:154).

While it cannot be argued that organized crime would be eliminated completely should drugs laws be liberalized in Canada, it is possible to argue that the violence and crime associated with illicit drugs would decrease dramatically; as it did for alcohol in the 1930s. The market for illicit drugs would be greatly reduced as they would be made available to those who are heavily addicted (through prescription). Illicit drugs would not be as valuable to drug dealers and traffickers as they would be made easily available to those who desire them. As a result, RCMP and other police and government officials could re-direct their resources into other areas such investigating and prosecuting violent crime.

The one area that Goldstein's framework does not address is the amount of people who would no longer be incarcerated or have criminal records should drug laws become more liberal and less prohibitionist. I would like to call this model "drug user decriminalization." Currently, statistics only record the number of people charged, convicted or incarcerated for drug crimes in the areas of possession, trafficking, and importation. The number of people charged for these offences within Canada and the United States is astronomical. Police report over 90,000 drug-related incidents annually in Canada; more than three-quarters of these incidents relate to cannabis and over 50% of all drugs related incidents involve possession (Senate Committee 2002). As of the late 1990s, more than 600,000 Canadians had criminal records because of cannabis possession (Boyd 1998).

In the United States, between the years of 1983-1993, the number of incarcerated drug offenders increased from 57,000 to 353,000. In 1996, one in every four prisoners was either awaiting trial or serving time for drug-related offences. Within this, the number of black people arrested for drug offences increased from 24% to 39%. In 1996, Blacks and Hispanics combined constituted nearly 90% of all prisoners sentenced to state prisons for drug offences (Mauer 1996:11). Black people are only 12% of the entire United States population. Some of these disparities can be explained by the racism that exists in laws for crack cocaine versus powder cocaine. It takes five grams of crack to get five years in federal prison versus 500 grams of powder cocaine. Ninety-four percent of 3,430 crack defendants in federal courts in 1994 were black (Mauer 1996:11). It is clear that incarceration with relation to illicit drugs in the United States is based on racism. It is less clear in Canada due to the lack of statistics relating drug offences and race. We do know, however, that in Canada aboriginal people are incarcerated at a disproportionate rate. Although aboriginal people make up approximately 3% of the Canadian population, they make up 17% of the Canadian prison population; it is not known how much or if any of this is drug related.

EFFECTS OF PROHIBITIONIST DRUG LAWS WITH REGARD TO THE COST OF CRIME AND INCARCERATION

Currently, the government and the general public do not know the extent of the social, economic and health cost associated with Canada's illicit drug problem or drug its policy of prohibition (Senate Committee 2002). The cost of prosecuting drug offences in 2000-2001 was \$57 million with approximately \$5 million, or roughly 10% of the total budget, relating to prosecuting cannabis possession offences (Senate Committee 2002). Correctional Services of Canada spends an estimated \$169 million annually to address illicit drugs through incarceration, substance abuse programs, treatment programs and security measures (Auditor General 2001). Meanwhile expenditures on substance abuse programs are unreasonably low, given the number of inmates who have substance abuse dependence problem (Senate Committee 2002). Canada is second in the world, after the United States, in terms of incarceration of drug users (Beauchesne 2000:19).

Federally, eleven departments and agencies spend approximately \$500 million annually to address illicit drug use in Canada (Auditor General 2001:2).² Canada's Drug Strategy calls for a balanced approach to reducing both the demand and supply of illicit drugs through activities such as enforcement, prevention, treatment, rehabilitation and harm reduction. However, almost all of the federal government's resources have focused on enforcement (i.e., supply reduction) (Auditor General 2001). The Auditor General estimates that the total economic cost of all drugs to Canadians exceeds \$5 billion a year. In this estimation they include "costs to health care systems, lost productivity, drug enforcement costs and property crime committed by drug addicts" (Auditor General 2001:2). The principal costs of illegal drugs are externalities, that is, the loss of productivity is estimated at \$823 million, health care is estimated at \$88 million, and the losses in the workplace is estimated at \$5.5 million, "for a total of about 67% of all costs related to illegal drugs" (Senate Committee 2002:28).³

It is through drug prohibition that governments can ensure ample employment for police officers, judges, prosecutors, defense lawyers, social workers, court officials, prison guards and prison builders (Oscapella 1998:2). In the federal correctional system, 17% of prisoners are serving time for serious drug offences (Auditor General 2001:2). As of December 31, 2000, there were 5,779 convicted drug offenders in the

² The main departments include Health Canada, the Department of Justice, the Royal Canadian Mounted Police, Solicitor General Canada, the Canadian Customs and Revenue Agency, Correctional Service Canada, and the Department of Foreign Affairs and International Trade.

³ This data is from a study published by Canadian Centre on Substance Abuse in 1996 based on 1992 data.

Federal system (either in prison or on conditional release). Of these, 3,890 were serving sentences for trafficking, 621 for importation, 225 for cultivation and 2,221 for possession (CSC 2001:25). In 1999-2000, the average annual cost of incarcerating male prisoners in federal institutions was \$67,686 where incarcerating women in regional facilities cost about \$115,465 per year (CSC 2000:17).⁴

Within the United States, drug treatment remains popular and available for middle class drug users, however, it is in short supply for low-income drug users. Incarcerating drug users for five years based on as little as five grams of crack is unjust and impractical. The street value of five grams of crack is estimated at about \$500 in the U.S. Locking up this person over a five year period will cost the taxpayer \$115,000 (The Sentencing Project ND). A Rand Corporation study indicates that investing in drug treatment would reduce serious crime 15 times more than expanding the use of prisons and would be three times as cost effective in cutting cocaine consumption (Rydell and Everingham 1994). The war on drugs opens the back door to re-instituting a form of slavery. The powerful people in society use the war on drugs to justify incarcerating minorities. Then they place these minorities to work on chain gangs within prisoner become commodities of the private prison economic structure. It differs from slavery only in that we have first vilified minorities as drug users or drug traffickers. This gives the appearance and justifies reasons for incarcerating these people in profit making privatized prisons, and then putting them out to forced labor (Oscapella 1998:4). Racism within the United States criminal justice system is obvious. I believe Canada has the potential to be as blatantly racist, especially, if we continue to fight the "war on drugs" and follow in the direction of the U.S.

It is interesting to note that Canada's Drug Strategy has given national leadership to Health Canada yet drug use is still considered mainly a criminal issue and not a health issue. This includes spending which is almost entirely dedicated to supply reduction (enforcement). The Auditor General of Canada found that 95% of the federal governments expenditures that address illicit drugs was spent by the RCMP, Correctional Services of Canada, and the Department of Justice (Auditor General 2001:9). This leaves 5% directed to prevention, treatment, rehabilitation and harm reduction. The spending is at the wrong end; it has been shown that enforcement will only lead to higher crime rates and incarceration and yet yields insignificant results in terms of reducing the costs of drugs in society.

BENEFITS OF HARM REDUCTION AND MORE LIBERAL DRUG LAWS IN RELATION TO CRIME AND INCARCERATION RATES

Harm reduction can be both a goal and a strategy (Riley 1998:50). In both instances, a person's drug use is accepted as a fact. This does not mean that people cannot aspire to abstinence if they chose. Harm reduction accepts that there are many possible approaches or strategies to address drug related problems. The National Working Group on Drug Policy suggested the following definition of harm reduction strategies: "A policy or program directed towards decreasing the adverse health, social, and economic consequences of drug use without requiring abstinence from drug use" (quoted in Riley 1998:50). Harm reduction programs and policies include:

- syringe exchanges,
- methadone maintenance programs,
- prescribing of drugs and other than methadone, including stimulants,
- explicit, honest education and outreach programs,
- "tolerance areas," such as safe injection sites, and safe dealing area's, monitored by police, and
- marijuana policies such as de facto decriminalization of small amounts of cannabis (Riley 1998:51).

⁴ Broken down by security level of the institution, the average annual cost of incarcerating a male prisoner was \$96,740 for maximum-security prisons, \$60,673 for medium security prisons, and \$53,634 for minimum security prisons and \$29,921 for community correctional centers.

In the words of one expert:

Harm reduction, in the final analysis, is concerned with ensuring the quality and integrity of human life, in all its wonderful, awful complexity. Harm reduction does not portray issues as polarities, but sees them as they really are, somewhere in between; it is an approach that takes into account the continuum of drug use and the diversity of drugs as well as of human needs. As such, there are no clear-cut answers or quick solutions. Harm reduction, then, is based on pragmatism, tolerance and diversity: in short, it is both a product and a measure of our humanity. Harm reduction is as much about human rights as it is about the right to be human (Riley 1998: 51).

One of the earliest forms of harm reduction was methadone maintenance, which was pioneered in the U.S in the 1960s. Methadone was seen as a harm reduction method for society specifically in terms of the reduction of crime and the eventual reentry of drug users into the workforce (Riley 1993:5). There have been many studies that have reported the positive effects of methadone maintenance with respect to decreasing the cost of gainful crime and facilitating social rehabilitation (Riley 1993). It is widely agreed that methadone programs reduce crime as long as the client remains involved in the treatment program. The savings reported are the result of less economic loss due to theft, but also in terms of legal and prison costs (Riley 1993:23).

In 1990 and 1991, Merseyside police were the only force in the U.K to register a decrease in crime rates (Riley 1993:26). The reason is that in the Mersey Region, services follow a philosophy that you can still care for drug users even if you cannot “cure” them. Caring for drug users can mean providing injectable opiates and other drugs to registered users (Riley 1993). The local police are pivotal in ensuring the success of this type of program. In the Mersey Region, local police do not scrutinize drug services and they often refer drug users who have been arrested to harm reduction services (Riley 1993:53). Dispensed through local pharmacists, clients receive oral methadone, injectable methadone, injectable heroin, amphetamines, cocaine or other drugs. In some parts of the U.K., drug users can also be prescribed smokeable drugs in the form of “reefers.” Merseyside police have been leaders in developing a cooperative harm reduction strategy with the Regional Harm Authority to improve the prevention and treatment of drug problems (Riley 1993:9). The overall effects of some of the policies they have in place are to help direct drug users away from crime and possible imprisonment. With the numerous prevention programs, treatment and policing policies that have been put in place in Merseyside, official statistics have indicated a decrease in drug related acquisitive crime in many parts of the region. It is thought that the low prevalence of crime can only be related to the various policies dealing with drug use in the area (Riley 1993:11).

A Swiss project that gave heroin to 1,100 addicts found that the percentage of income the addicts derived from illegal activity rapidly fell from 69% to 10%. England had a similar experience from the 1920s and the late 1960s when doctors were permitted to prescribe heroin or cocaine to addicts; throughout this period, researchers consistently found that the rate of property crimes committed by English addicts was a small fraction of that committed by American addicts who were forced to get their drugs on the streets. When England abandoned this system, property crime committed by addicts rose to American levels (Gardner 2000).

Switzerland was the first country to prescribe heroin in the modern era. From 1994 to the end of 1996, a number of heroin users were treated in this fashion. The results included a decreased use of cocaine and heroin, a decrease in crime and an improvement in users physical and mental health (Brissette 2001:1). A recent study estimated that the social costs for one untreated opiate-dependent user amounts to \$49,000US per year (Brissette 2001:2). The Swiss program, which started in 1994, began with 700 dependent drug users in eight different cities. It was later expanded to 1,146 patients in seven cities at 18 different treatment centers for a daily fee of \$13US (Riley 1998:53). The program provided participants "with medical access to injectable, oral and in some cases smokable heroin, morphine, methadone and,

under some conditions, cocaine. ...Two programs allowed clients to take a few heroin reefer's home each night" (Riley 1998). The program offered lodging, employment assistance, treatment for health and psychological problems, clean syringes and counseling to addicts. They set no strict limits on dosages, but provided guidelines for what constitutes typical doses for other health officials in neighboring cities to provide cocaine to dependant users (Riley 1998). The results of the study included:

- The participants' housing situation rapidly improved and stabilized (in particular, there were no longer any homeless).
- Fitness for work improved considerably, those with permanent employment more than doubled (from 14% to 32%), and the number of unemployed fell by more than half (from 44% to 20%).
- Income from illegal and semi-legal activities decreased dramatically: 10% as opposed to 59% originally.
- Both the number of offenders and the number of criminal offences decreased by about 60% during the first six months of treatment (according to information obtained directly from the patients' and from police records) (Uchtenhagen, Gutzwiller and Dobler-Mikola 1997).

Heroin Assisted Treatment (HAT) was adopted in Switzerland after many drug users were not responding to traditional abstinence-based treatment programs (Uchtenhagen 2001). The Swiss were encouraged by the renewed British practice with injectable heroin. Participants who were chronically dependent, who suffered from health and social problems as a consequence of their addiction and who had (without success) engaged in other treatment programs at least twice, were accepted for participation in the HAT program (Uchtenhagen 2001). In the HAT program, they found that homelessness was significantly reduced in the study group. "Most spectacular was the reduction of criminal activities according to self-report and police data" (Killias and Rabasa 1998).

In the Netherlands, the main objective of drug policy is to reduce the risks that drug use poses for the drug user themselves, their immediate environment and for society as a whole. They believe that it is important to take the risks to society into account; the government of the Netherlands is committed to ensuring that drug users are not caused more harm by prosecution and imprisonment than by the use of drugs themselves (Riley 1998:54). There is a misconception that soft drugs are legal in the Netherlands but in fact they are not. However, there is no targeting of the police to detect possession of drugs for personal use, or for selling or possessing up to 5 grams of cannabis products (Keizer 2001:3). "In a number of Dutch cities there is undisturbed sale of marijuana in coffee shops, where the use of alcohol and hard drugs is not allowed. The authorities monitor the coffee shops and youth centers where marijuana trade occurs to ensure that there is no sale of large quantities, no sale of other drugs, no advertisements, no encouragement to use and no sale to minors" (Riley 1998:55).

The Netherlands is one of the birthplaces of modern harm reduction. Methadone programs began in the 1970's and were expanded on in the 1980's in order to deal with arising issues such as HIV, Hepatitis C, drug-related crime and other harms. These were considered "low threshold programs" since they do not aim at treating the addiction, and instead they are focused on regulating and stabilizing drug users (Riley 1998:55). Research has shown that programs need to be less rigid in order to reduce rates of crime, reduce other drug use and reduce exposure to infection (Riley 1998). An example of a program that does this is the "methadone by bus" program in Amsterdam. The methadone clinic cruises around the city dispensing methadone at different locations. Methadone is consumed on the spot and needles and condoms are also made available. They require no urine samples and no mandatory contact with counselors. This program has doubled the number of people entering drug treatment and re-socialization programs in Amsterdam since the early 1980's (Riley 1998).

Other projects were developed in the Netherlands because of the amount of public nuisance caused by hard drug users. In the early 1990's, 20% of the hard drug users were involved in petty crime, disorderly conduct, and making the public feel unsafe (Keizer 2001). The government responded by developing

new programs and providing a substantial budget to fund it. Among other things, the project involved developing better shelter facilities for problem addicts (Keizer 2001). Municipal authorities and local addiction organizations had the primary responsibility for implementing the program. "A host of new facilities emerged, such as experimental user rooms (where drug use is tolerated), social hostels, and new forms of addiction clinics specifically developed for this group of problem addicts" (Keizer 2001). Public nuisance was reported to decline after the implementation of these programs.

As these examples show, European cities where harm reduction measures have been implemented have proven that such policies and programs are successful at reducing overall harms to society from drug use. Amsterdam officials have estimated that they are saving \$40.00US per person with harm reduction measures. In every city and country where harm reduction policies have been adopted, property crime rates have dropped dramatically, health costs have been reduced and prison overcrowding has been lessened (VANDU ND). It is believed that heroin maintenance would take away the main reasons to commit crimes to support drug use. This would also dramatically reduce the cost of policing, court services and prison costs (VANDU ND).

CONCLUSION

Canada has turned hundreds of thousands of people into criminals for the possession of illegal drugs. "Incarcerating people unnecessarily, and all the other costs of the criminal justice system, is a financial burden that the economy cannot afford, quite apart from the numerous other problems attendant on such an over reliance on (or addiction to) criminalization as a 'solution' to the drug 'problem'" (Riley 1998:2). Meanwhile the real problems are related to poverty, unemployment, social dislocation in high-risk populations, and racism. These issues attract limited resources and attention. Instead, resources are directed disproportionately at enforcement of drug laws (Riley 1998).

Goldstein's tripartite theory on the drugs/violence nexus outlines how drugs and violence are related. I argued that this framework could be used to link Canada's prohibitionist drug laws and crime rates while adding an additional relationship entitled "decriminalization of drug users." The psychopharmacological connection that Goldstein makes to drugs and violence can be discredited by the fact that studies have almost always focused on drug users who have already come into contact with the law. The majority of drug users and alcohol users are not involved with the criminal justice system. Although there is a reported connection between alcohol, drug use and some forms of violence, the links are more related to anti-drug laws than they are to drug use. They are largely about adding fuel to an already burning fire.

The economically compulsive theory can be directly linked to prohibitionist drug laws and the high cost of illicit drugs. Drug users who are dependant on expensive drugs often commit gainful crimes such as prostitution, petty crimes, property crimes and theft. The use of harm reduction measures within many European countries such as the Netherlands, UK, and Switzerland has been proven to reduce crime rates significantly. It is therefore not drug use which creates crime but the prohibition of drugs that create the problem. Thus, one can conclude that crimes associated with illicit drugs are directly linked to the enforcement of prohibitionist drug laws.

Goldstein's (1985) last link between crime and drugs, which he terms the systemic, involves violent crimes associated with the drug trade and organized crime. Due to the fact that drugs are illegal, dealers, traffickers and users have no means of settling business disputes legally. This leads to people using extra-legal form of "justice." By decriminalizing or legalizing drugs this situation would change dramatically. There will always be some form of organized crime, however, the violence and crime associated with illicit drugs would be lessened because drug users in need would be able to access drugs more easily, safely and legally. Finally, the decriminalization of drug users would seriously lessen the load on the

criminal justice system because it would no longer be considered a crime to use drugs. We can see by the statistics in Canada that of over 90,000 drug-related incidents, 50% involved the possession of cannabis. Canada's prohibitionist drug laws have been a serious disservice to Canadians. In contrast to the perspective put forward by enforcement interests in Canada, it appears as though drugs are dangerous mostly because they are illegal.

Harm reduction is about reducing the harms associated with illicit drug use. We have much to learn from countries such as the United Kingdom, the Netherlands, and Switzerland on this issue. Specifically, their non-judgmental attitude towards drug users and an understanding of the value of all human beings. Harm reduction programs in these countries have led to decreased crime. They have created honest education and outreach programs that have met the needs of drug users thereby decreasing the negative affects of drug use. In Canada, ending prohibition means that governments "could turn away from soul destroying prisons towards understanding drug use as a natural, not deviant, part of human behavior" (Oscapella 1993:6). Canada must move to a more harm reduction approach to drug use, not just as a cost saving mechanism, but also as a statement of value to all members of our communities.

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CHAPTER TWO

BALANCE IN THEORY BUT NOT IN PRACTICE

EXPLORING THE CONTINUED EMPHASIS ON
SUPPLY REDUCTION IN CANADA'S NATIONAL
DRUG CONTROL POLICY

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BALANCE IN THEORY BUT NOT IN PRACTICE: EXPLORING THE CONTINUED EMPHASIS ON SUPPLYREDUCTION IN CANADA’S NATIONAL DRUG CONTROL POLICY

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INTRODUCTION

Since 1987, Canada’s drug control policy has ostensibly been guided by the National Drug Strategy (NDS) under the lead role of Health Canada. The NDS explicitly recognizes the need to strike a balance between efforts to control drug supply and efforts to control drug demand. A recent Auditor General report, however, reveals that in 2000, supply reduction received approximately 94% of the federal funds allocated for drug control (Auditor General 2001). The purpose of this research is to explore why, after fifteen years of promoting a more balanced approach to drug control policy in theory, the government is unable to implement a more balanced approach in practice. This article begins with a brief historical overview of Canadian drug policy and then moves to introduce and discuss several possible explanations for why drug policy reform has been so difficult to implement in Canada. The third part comparatively assesses the validity of these various explanations, first by surveying the opinions of drug policy experts, and then by looking at the history of drug politics in Canada. The final section offers suggestions for promoting drug policy reform in light of the findings of this article.

BACKGROUND

Since the passage of the Opium Act of 1908, Canada has followed a strict prohibitionist approach to the control of illicit drugs (Giffen et al. 1991). Until the late 1950s, a powerful “bureaucratic-enforcement complex” dominated the creation and implementation of Canadian illicit drug policy eventually producing one of the most punitive drug control systems in the world (Fischer 1999:198).¹ This system is characterized by strict laws, expanding police powers, and harsh sentences against both drug users and drug suppliers.² Although Canada’s drug laws were enforced mostly against immigrants at first, they were eventually directed at increasing numbers of Canadian nationals especially after the “cannabis controversy” of the 1960s (Giffen et al. 1991).

Beginning in the mid- 1950s, the policymaking monopoly of the enforcement bureaucracy was eroded to some degree first by the emergence of the “treatment” movement, which preferred to view drug abuse as a medical rather than law enforcement/moral problem, and then the “hippy” movement, which led tens of thousands of Canadian citizens to question the efficacy of repressive drug laws, especially in regard to cannabis. Between 1969 and 1973, the Le Dain Commission extensively studied the non-medical use of drugs in Canada eventually producing four lengthy reports. Although the Commission did not reach consensus in regard to its policy recommendations, all members supported movement toward decriminalization, especially in the case of cannabis (Erickson and Smart 1980). Unfortunately, few of the recommendations of the Le Dain Commission ever found their way into Canadian drug policy.

¹ In the early 1980’s, Canada had the highest per capita drug arrest rate in the world according to UN statistics (Fischer 1994).

² It is problematic to attribute all enforcement activities to supply-side drug control efforts given that enforcement against drug users can just as easily be interpreted as demand management. Although enforcement against users has decreased from its peak in the early 1980’s, approximately 30,000 Canadians are convicted annually for possessing small amounts of cannabis and 1.5M citizens now have criminal records for simple cannabis possession.

In 1987, the Mulroney government rediscovered the “drug epidemic” in Canada (even though use was actually declining according to all objective measures), and pledged support for a new approach, one that would seek a balance between traditional efforts to control the supply of drugs (monitoring, enforcement, interdiction) and efforts to control the demand for drugs (education, research, treatment). The new Canadian Drug Strategy allocated \$210M over five years mostly to promote demand control initiatives. Unfortunately, due to implementation failures, the Strategy once again ended up favouring enforcement interests (Fischer 1994)³. The Drug Strategy was renewed in 1992 and again in 1997, but in each of its successive incarnations the desired balance between supply and demand control efforts failed to materialize.

The new drug strategy also included efforts to “update” Canadian drug laws. These efforts eventually took the form of the Controlled Drugs and Substances Act (CDSA) in 1997. Development of the CDSA spanned five years, three bills, and two ruling governments (Conservatives 1992-1993; and Liberals 1993-1997). In its final form, however, the CDSA failed to move Canadian drug law in a more balanced direction; its primary function was to integrate and update the prohibitionist drug control provisions of the Narcotics Control Act and the Food and Drug Act. In order to address the voices criticizing the prohibitionist character of the CDSA, Parliament agreed to conduct a top-level review of Canadian drug policy after passage of the law.⁴ This review continues today through the work of the Senate Special Committee on Illegal Drugs (authorized on May 11, 2000) and the House Special Committee on the Non-Medical Use of Drugs (authorized on May 17, 2001). The Senate Committee is scheduled to table its final report on August 31, 2002, and the House Committee will report in November 2002.

To summarize, although the topic of drug policy reform has moved on and off the official agenda since at least the late 1950’s, current drug policy in Canada still embodies the basic prohibitionist principles institutionalized by the enforcement bureaucracy during the first half of the 20th century (Fischer et al. 1996). Indeed, the Auditor General of Canada recently reported that in 2000, 94% of federal drug control expenditures went to enforcement/supply reduction (Auditor General 2001). The next section discusses several potential explanations for the continued emphasis on supply-side drug control policies in Canada.

POTENTIAL EXPLANATIONS FOR THE CONTINUED SUPPLY-SIDE EMPHASIS

There are a number of potential explanations for why Canada is finding it so difficult to move toward a more balanced approach to illicit drug control. Six of these are introduced below:

Bureaucratic Imperatives. This perspective suggests that the continued emphasis on supply reduction in Canada can be explained by the political pressure exerted from large bureaucratic interests who benefit from the current enforcement-dominated approach to drug control (Oscapella 1998).

“Tough on Crime” Political Posturing. This perspective suggests that the emphasis on supply reduction can be explained by the repeated playing of the “tough on crime” card by politicians participating in Canadian electoral politics. Tough on crime initiatives often translate into tough on drugs policies since there is a high correlation between alcohol/illicit drug use and crime in Canada (Pernanen et al. 2002).

³ These failures relate to two outcomes: (1) much of the money slated for drug education was allocated to enforcement interests via programs like DARE that pay for police officers to go into Canadian schools and educate students on the dangers of drug use, and (2) provinces were required to “match” the federal funds allocated for treatment and research which did not occur, so a large part of these resources were never dispersed.

⁴ The reformers were quick to point out that the irony of reviewing Canada’s drug policy after passage of the law since it was the law itself that many felt needed to be reformed.

Exportation of the US War on Drugs. This perspective suggests that the continued emphasis on supply reduction can be explained by political influence from the United States that promotes the strict prohibitionist approach to drug control.

Hidden Agendas. This perspective suggests that the continued emphasis on supply reduction can be explained by the secret involvement of agencies like the CIA in international drug smuggling and the alleged ties of global political elites to drug money and the drug trade. The general idea is that these powerful interests promote the strict-prohibitionist approach to drug control in order to maintain high drug prices and profit margins that they then tap into for large, untraceable sources of money.

Distributive Politics. This perspective suggests that the continued emphasis on supply reduction can be explained by the fact that a punitive approach to drug control most benefits the politically active middle and upper-classes of society by keeping them “safe” from the most undesirable effects of the drug problem, while demand control policies most directly benefit the politically inactive under-classes who are the most severely effected by the drug problem (Boyum 1998).

Social Judgments/Social Control. This perspective suggests that the continued emphasis on supply reduction can be explained by the psychological need to blame “others” and use them as scapegoats for intractable social problems (Alexander 1990). A related argument is that the drug war embodies the inherent conflict between the need for social control and the desire for personal autonomy with “drug warriors” personifying the need for control, and reformers personifying the desire for personal autonomy.

ASSESSING POTENTIAL EXPLANATIONS

Survey of Canadian Drug Policy Experts⁵

It is, of course, highly likely that several or all of these factors have some role to play in explaining the lack of progress on drug policy reform in Canada. In order to begin to more accurately assess the contribution of each of these explanations, I conducted a survey of Canadian drug policy experts and asked them to rank from highest (1) to lowest (6) according to the perceived contribution of each to the observed outcome. The results of this survey are presented below:

Explanation	Rank	Score
Exportation of US War on Drugs	1	1.67
Bureaucratic Imperatives	1	1.67
“Tough on Crime” Political Posturing	3	3.83
Hidden Agendas	4	4.00
Distributive Politics	5	4.17
Social Judgment/Social Control	6	5.50

N = 6

⁵ The survey was sent via email to 13 drug policy experts in Canada. Six experts responded to the survey, they were: Patricia Erickson at the University of Toronto, Robert Solomon at the University of Western Ontario, Neil Boyd at Simon Frasier University, Line Beauchesne at the University of Quebec, Eric Single at the University of Toronto, and Benedickt Fischer at the University of Toronto.

According to this sample of drug policy experts, the continued emphasis on supply reduction in Canadian drug control policy is best explained by some combination of pro-drug war pressures from the US and influence from bureaucratic interests in Canada that benefit from the enforcement-dominated approach. Tough on crime political posturing, hidden agendas, and distributive politics all weigh-in with somewhat less of an influence, and social judgements/social control is the least important with a score of 5.50 out of six.

Assessing the Historical and Contemporary Records

It is possible to further assess the contributions of the six potential explanations discussed above by looking at the historical and contemporary record of drug control politics in Canada. The table below sets out the types of evidence that may be used to assess relative contribution of these six explanations.

Explanation	Relevant Data
Bureaucratic Imperatives	Growth and size of drug enforcement bureaucracy. Political preferences and lobbying efforts of organizations and agencies that benefit from drug enforcement efforts. Evidence of enforcement policy preferences showing up in legislation.
“Tough on Crime” Political Posturing	Evidence of “law and order” policies promoted by Canadian politicians in national elections. Evidence of tough on crime parliamentary initiatives. Evidence of tough on crime planks in platforms of major political parties.
Exportation of US War on Drugs	Timing of Canadian drug enforcement initiatives relative to US initiatives. Evidence of pressure from US promoting prohibitionist policies in Canada. Evidence of US promotion of international treaties endorsing the prohibitionist approach to drug control.
Hidden Agendas	Evidence of connections between the CIA and the global drug trade. Evidence of connections between major western politicians and the global drug trade.
Distributive Politics	Evidence of class-based divisions in preferences for responses to the drug problem. Data comparing political participation of upper/middle-class citizens and those from the inner-city.
Social Judgments/Social Control	Evidence of political elites using drugs to pit upper/middle class against “dangerous classes” and minorities. Racist elements of the war on drugs. Propaganda and reporting that stigmatizes drugs and drug addicts. Evidence of drug warriors depicting drugs and drug users as threats to the social order.

Bureaucratic Imperatives. As clearly documented in Giffen et al. (1991), the enforcement lobby in Canada enjoyed a virtual monopoly with regard to drug control policymaking until the late 1950’s when organizational and social changes allowed the treatment lobby and others to gain inroads into this issue area. Over time, non-enforcement interests have gained some influence relative to the enforcers but, as the prohibitionist Controlled Drugs and Substances Act (1997) reveals, their increasing presence in the policymaking process has not translated into significant reform of Canada’s drug control laws. Is this outcome explained by the continued dominance of the enforcement lobby in Canadian policymaking or by legislative inertia?

The enforcement lobby is most often represented in policy discussions by the following organizations: the Canadian Police Association (CPA), The Canadian Association of Chiefs of Police (CACCP), the RCMP, provincial police, municipal police, The Bureau of Customs and Immigration, etc. These organizations represent a large number of politically active Canadian citizens. For example, the Canadian Police Association has 30,000 members, the Canadian Association of Chiefs of Police has 932 members

representing the leadership of 350 police services,⁶ and the RCMP had 20,866 employees as of May 1, 2001. While drug enforcement represents only part of the overall mandate of these organizations, these figures provide a good assessment of the size of enforcement-related interests in Canada.

It is possible to gauge the relative influence of the enforcement lobby in Canadian drug control politics by comparing the number of appearances of enforcement and non-enforcement interests before the House and Senate Special Committees currently reviewing drug policy. Between October 2000 and March 2002, 46 groups or individuals presented testimony to the Senate Special Committee on Illegal drugs. Of these 46, seven (or 12%) represented enforcement interests. Looking at the activities of the House Special Committee on the Non-Medical Use of Drugs, between October 2001 and June 2002, 171 individuals or groups presented testimony and of these, 43 (25%) represented enforcement-related interests. According to this analysis, then, it does not appear as though the enforcement lobby currently dominates policymaking on illicit drugs in Canada.

A close reading of the lobbying efforts of the enforcers in recent policy deliberations on illicit drugs reveals that even though they no longer enjoy a monopoly in this issue area, their arguments and tactics have become more sophisticated as the critique of the enforcement-dominated approach has broadened. In testimony to the Senate Special Committee on Illegal drugs, for example, representatives from the Canadian Police Association appear to have anticipated the critique of their position based on bureaucratic imperatives. They write:

While those critical of Canada's existing laws and strategies to deter the use of illegal drugs will attempt to marginalize our input into these discussions, by suggesting that our contribution is somehow tied to a desire to sustain the allocation of police resources to drug enforcement programs, we will demonstrate in this submission that this is simply untrue (CPA 2001).

To support this statement they report that, on average, there is less than one drug-related conviction per active duty police officer annually in Canada.⁷ A second tactic that the enforcers use repeatedly is to use legalization as a "straw policy" when they defend the enforcement-dominated approach. Most drug reformers argue for the decriminalization of select substances (i.e., cannabis), or the implementation of harm reduction strategies like needle exchange, rather than for all out legalization of illicit drugs. Of course, the enforcers use this tactic because it allows them to make the reformers out to be more radical and "dangerous" than they actually are. A third tactic that the enforcers use repeatedly is to state that they are in favour of the balanced approach to drug control, that current drug policy is already balanced, and so there is no need for change. In theory (i.e., The National Drug Strategy), Canadian drug control policies indeed sound balanced but, as the 2001 Report from the Auditor General documents, in practice they are not.

In comparing the relative influence of enforcement and non-enforcement interests in Canadian drug politics, it is important to recognize that the "bureaucratic enforcement complex" enjoys a functional advantage in this issue area due to the fact that its policy preferences are thoroughly institutionalized in current drug laws. Generally speaking, it takes much less effort to maintain an existing policy than it does to formulate and implement significant policy reform, so even though the enforcement lobby has lost some influence relative to reformers, the presence that they do maintain appears to be enough to ensure

⁶ In 1999, the Canadian Association of Chiefs of Police (CACP) began supporting a less hard-lined approach in regards to cannabis possession. According to testimony by CACP representatives in Parliament, other law enforcement groups in Canada and the US harshly criticized the CACP for this shift in policy. See: Boyd 2002.

⁷ Of course, they do not also interpret this data as showing that the drug problem in Canada is probably less of a threat than pro-enforcement interests like to suggest. For an excellent analysis of the enforcement lobby's tendency to exaggerate the threat from illegal drugs, see: Alexander 1990, Chapter 10.

that significant change does not occur.⁸ In light of these observations, it appears as though bureaucratic imperatives do indeed play a significant role in the continued dominance of supply side drug control policies in Canada.

“Tough on Crime” Political Posturing. In recent years, tough on crime policies have been enacted throughout Canada, and all major political parties now have law and order/community safety planks in their official platforms. It is generally accepted that tough on crime policies are an import from the US where they have been a staple of national politics since the mid-1960’s. The long-term effects of highly punitive criminal justice policies are now becoming evident in the US as that country now has one of the highest rates of incarceration in the world, and many jurisdictions are bordering on crisis with regards to prison overcrowding and costs (Mauer 2001). Tough on crime political posturing often translates into tough on drugs initiatives because there is a high correlation between illicit drug use and crime in Canada (Pernanen et al. 2002).

Ontario is of course the place where tough on crime policies have gained the strongest foothold in Canada. The Tories under Harris (and now Eves) made getting tough on crime a major part of their political agenda, and have implemented a bewildering array of “law and order” type initiatives since coming to power. One can gain an appreciation for the emphasis on tough on crime politics in Ontario by visiting the websites of the Province’s criminal justice related agencies, such as the Ministry of the Solicitor General. These sites are literally bristling with statements relating to law and order initiatives implemented by the Tories.⁹

One excellent way to gauge the significance of tough on crime political posturing in Canadian politics is to analyze the content of private members bills that have been introduced since the last election. Although private member bills rarely make it past the first reading, and are therefore mostly “symbolic politics,” they do provide a general assessment of the overall tenor of politics in Canada. Since the last election, there have been approximately 280 private member bills introduced in the House of Commons on everything from banning the export of water to the US, to establishing a Holocaust Memorial Day. An analysis of the titles of current private member bills reveals that a whopping one fifth (52 of 280 or 19%) of them involve tough on crime legislative initiatives!¹⁰ These data suggest that tough on crime political posturing is indeed a significant part of contemporary Canadian political culture.

Assessing the contribution of tough on crime political posturing to the continued dominance of supply-side drug control policies in Canada is more difficult than for bureaucratic imperatives because we are dealing with the indirect link between a general trend to increase punishment for criminal behaviour rather than on direct, intentional efforts to maintain the enforcement approach to illicit drug control.

⁸ In looking closely at the dynamics played out in the formulation of the pro-enforcement Controlled Drug and Substances Act (1997), it is interesting to note that non-enforcement interests were well represented in the earlier phases of discussions, but once the process progressed to hammering out the details of the new law, only pro-status quo representatives from the Ministry of Health and the Ministry of Justice participated.

⁹ A clear example of Ontario’s commitment to tough on crime policies can be found at:

http://www.mpss.jus.gov.on.ca/english/english_default.html

¹⁰ All though the vast majority of private member bills are unsuccessful, some do make it through the Parliamentary process to become law. In the Spring of 2002, a private member’s bill (C-344) sponsored by Keith Martin, an Alliance MP from BC who also happens to be a medical doctor, almost succeeded in decriminalizing cannabis. When it became apparent that C-344 probably had sufficient support to pass, the Liberal Government attached a “poison pill” amendment which killed it after the second reading. This event is significant because it is the first time in history that a ruling Government has acted so heavy-handedly so late in the policymaking process to kill a bill from a private member. Dr. Martin called the action of the Liberals “a travesty of democracy” and has set out to attempt to reform Parliamentary procedures to protect private member bills from such attacks in the future. See the concluding section of this article for further discussion of the significance of C-344.

Direct evidence of the influence of tough on crime political posturing on Canada's illicit drug policies is evident, however, in the highly punitive Controlled Drug and Substances Act (1997) which is a clear manifestation of the "get tough" approach to drug control. For the purposes of this article, then, it is possible to conclude that tough on crime political posturing probably exerts some influence on the observed emphasis on supply side drug control efforts in Canada, but its influence is probably less important than that of bureaucratic imperatives.

Exportation of US War on Drugs. Historically speaking, the US and Canada have agreed more than disagreed on policies to control illicit drugs (Giffin et al. 1991). In some instances (i.e., the prohibition of cannabis) Canada has actually acted before the US to implement strict policies for the control of illicit drugs. Close cooperation between the US and Canada on drug control is necessitated to some degree by their long border, but there is also evidence that their relationship on this issue is based as much on political objectives as on functional necessity (Giffin et al. 1991).¹¹

The historical congruence between US and Canadian drug control policies appears to be breaking down, however. For example, in the summer of 2000 an Ontario Court of Appeals ruling forced the Government to reconsider its restrictive policy on the medical use of cannabis. The ruling stated that the strict prohibition of cannabis violates the Charter of Rights and Freedoms by forcing citizens with certain medical conditions to "choose between their health and imprisonment." In July 2001, the government of Canada implemented a program that allows people with certain conditions like cancer, glaucoma, and AIDS to possess and use cannabis for therapeutic purposes if they have exhausted all other potential treatments and their use of cannabis is approved by a medical doctor.¹² Approximately 800 citizens now have clearance to use cannabis in Canada under this program. The US federal government reacted quite negatively to this policy change and has openly pressured Canada to return to a more "responsible" cannabis policy (Global National 2002).¹³

Further, in April 2002, the Senate Special Committee on Illegal Drugs issued a Discussion Paper on Cannabis that openly challenges some of the long-standing myths that the enforcement lobby has used to argue for the continued prohibition of cannabis in Canada (Senate Special Committee on Illegal Drugs 2002). One such rationale is the so-called "gateway theory" which says that the use of "softer" drugs like cannabis often leads to the misuse of "harder" drugs like cocaine and heroin. After studying the issue of carefully, the Senate Committee appears to be leaning toward suggesting the decriminalization of cannabis in Canada, and this has drawn the attention of high-level drug policy interests in the US who openly disagree with this change in policy. A few weeks after the Senate issued its Discussion Paper on Cannabis, a top US advisor on drug policy, Colonel Robert Maginnis was interviewed by a Canadian reporter and said that the US was planning:

¹¹ For evidence of this observation consider that Prime Minister Mulroney "rediscovered" the drug problem in Canada just days after then US President Ronald Reagan announced a renewal of the "war on drugs" in the States (Fischer 1999:200).

¹² The use of cannabis for medicinal purposes is still uncertain in Canada, however. Recently, the new Minister of Health balked at distributing the first crop of government grown cannabis to authorized users because of questions regarding its quality. In addition, the two largest organizations representing medical doctors in Canada have cautioned its members from prescribing cannabis to patients because the drug has not been put through full clinical trials to document its therapeutic value.

¹³ The US federal government is actively combating medical marijuana programs that have been implemented in several states including California, Oregon and Nevada. In some instances, DEA agents have physically raided so-called "compassion clubs" that have legal authority to distribute cannabis to medically authorized users in these states. The California Supreme Court recently ruled that cannabis users with medical authorization are not subject to prosecution under State law even though the US Supreme Court ruled previously that they could be prosecuted under national drug laws.

...[t]o antagonize government leaders and grass roots leaders [in Canada] because you insist on having a radical drug policy that we will not ignore in the long term, then its going to have adverse consequences and I hope we would be able to rectify it before it comes to blows (Global National 2002).

The “blows” that Maginnis mentions appear to relate to possible trade sanctions against Canada. The article goes on to state that: “the US is closely watching the Canadian marijuana debate and is working behind the scenes to influence the outcome” (Global National 2002).^{14, 15}

In attempting to investigate exactly how US interests are “working behind the scenes” to influence Canadian drug policy, I spoke with a member of the Senate Committee’s staff who told me that the Committee had several meetings with high-level drug policy representatives from the US in June, and that the US representatives “politely” shared their data which pointed to the continued need to prohibit the use of cannabis. In reaction to these meetings, the Chair of the Senate Special Committee Pierre Nolin recently suggested in the media that Canada would need to consider US policy preferences in any reformulation of Canadian drug policies.

While the US appears to be exerting substantial influence on Canadian drug policies on a bi-lateral level, it is important to recognize that US pressure often acts through multilateral channels as well. A well-established regime for the control of illicit drugs exists in the form of the various UN drug conventions (such as the Single Convention on Narcotic Drugs (1961)). It is well known that the US has long been an active architect and staunch supporter of such agreements. As mentioned previously, in the past Canada has also stood out as a “leader” in the prohibitionist approach to illicit drugs, but the direction of influence appears to be reversing in recent years. Evidence of this fact can be found in the discussions surrounding the Controlled Drug and Substances Act (CDSA, 1997). In attempting to justify the fact that long-standing calls for reform were not being considered in drafts of the CDSA, members of parliament repeatedly suggested that the law was never meant to significantly reform Canadian drug policy, but that an “update” of Canadian drug policy was necessary to bring domestic laws into better alignment with existing international agreements (Fischer 1999:203).¹⁶ Given the disproportionate influence that the US has in international policymaking forums, it is reasonable to suggest that our neighbour to the south uses these conventions to indirectly pressure Canada into maintaining its current enforcement-dominated approach to drug control.

In assessing the contribution of exportation of the US “war on drugs” to the continued dominance of supply side drug control policies in Canada, then, it does indeed appear as though the US has (and

¹⁴ In a recent news story, the US appears to be backing off somewhat from the “tough on Canada” approach suggested by Maginnis in May. A National Post story of July 18, 2002 reports that the US drug “czar” Asa Hutchinson stated that although the US will continue to strictly prohibit the use of cannabis, “its not our job to tell Canada what to do” (Tibbits 2002). Hutchinson did express concern about recent moves toward decriminalization in both Canada and the UK suggesting that policy changes in these countries would likely lead to increased pressure on the US government to reform its laws on cannabis.

¹⁵ Update: The Senate Special Committee on Illegal Drugs issued its final 600 page report on September 4, 2002 which explicitly calls for the controlled legalization of cannabis in Canada. This recommendation is based on a two year exhaustive study that, among other things, suggests that the social costs related to the enforcement of the prohibition of cannabis far out-weigh the harms associated with the use of the drug. The report can be viewed at: http://www.parl.gc.ca/common/Committee_SenRep.asp?Language=E&Parl=37&Ses=1&comm_id=85

¹⁶ Defenders of the prohibitionist status quo often suggest that because Canada has signed and ratified the UN drug conventions, reforms such as the decriminalization of cannabis are not possible because of the requirements set out in international law. Those who argue this point apparently have not read these agreements carefully as they explicitly allow for “alternative” non-enforcement measures such as the diversion to treatment in the case of cannabis. It is this “loophole” that has allowed the Netherlands, and more recently the UK, to decriminalize their domestic cannabis laws.

continues) to exert direct and substantial pressure on Canada to maintain the strict prohibitionist approach to drug control. Especially in light of Senator Nolin's comment about the need to factor US policy preferences into any reformulation of Canadian drug policy, this explanation appears to be a significant factor explaining the observed emphasis on supply control in Canadian drug policy.

Hidden Agendas. Allegations of CIA involvement in the global drug trade have been around since the early 1970s (McCoy 1991). Generally speaking, those who study CIA involvement in the illicit drug trade suggest that intelligence interests often use profits derived from the drug trade to finance their political agendas when more legitimate sources of funding are not available.¹⁷ The best-known example of this was the alleged use of proceeds from the sale of crack cocaine in Los Angeles to support the efforts of the anti-communist "Contras" in Nicaragua in the 1980's (Webb 1998). Some of the more disturbing allegations made by those who have looked carefully at the CIA's use of drug money to fund the Contras were validated in 1998 when the CIA's Inspector General, Fred Hitz, told astounded Representatives in the US Congress that the CIA had maintained relationships with companies and individuals that the Agency knew to be involved in the drug business. Hitz also stated that the CIA had received from Reagan's Justice Department clearance not to report any knowledge it might have of drug dealing by CIA assets (Cockburn and St. Clair 1998).

Some of those currently working to uncover the truth about CIA involvement in the global drug trade are ex-law enforcement officers who encountered evidence of such links during their work in domestic drug enforcement. Michael Ruppert is one ex-police officer (LAPD) who has devoted his life to uncovering the truth about the CIA's involvement in illicit drugs. In recent posts on his website (www.copvicia.com) Ruppert has gone beyond linking the CIA to the illicit drug trade, and is now suggesting that major western politicians, such as Bill Clinton, Dick Cheney, and George W. Bush may be indirectly connected to such activities. For example, in a post entitled: "The Bush-Cheney Drug Empire" Ruppert looks closely at the activities of Kellogg Brown and Root (KBR),¹⁸ a large multinational construction company that is a major subsidiary of Halliburton Inc. where now US Vice-President Cheney was CEO from 1995 to 2000.¹⁹ In this article, Ruppert traces the amazingly complex and far reaching activities of KBR that repeatedly link to major underworld crime and drug rings.

I include this discussion of possible links between US political elites and the global drug trade not to assail the sensibilities of my readers, but to attempt to explain why the US continues to so aggressively promote the strict prohibitionist approach to drug control while the rest of the world (including Canada) appears to be moving toward a more rational and balanced approach to this issue. Given the fact that the US conducts some of the best research in the world on illicit drugs, how is it possible that it continues to rely on such outdated and extreme policies? I for one believe that there may be hidden agendas at work behind the scenes here that would go a long way toward explaining this perplexing state of affairs. In thinking through exactly what these agendas might look like, it seems at least possible to me that certain well-placed US political and economic elites continue to support irrational drug policies because they have come to rely upon drug profits as a source of untraceable money that they then use to further their political and economic objectives. If current estimates of the value of the international drug trade are accurate (\$200-400B/yr) then there is certainly enough money to line many pockets, some of which may just belong to those in a position to make sure that these profits do not disappear (which is exactly what would happen if we moved away from prohibition).

¹⁷ For an example of academic quality research done to support these allegations see: Scott 1999.

¹⁸ One of the more interesting of his findings is that KBR owns or leases nearly 1 million square feet of warehouse space in Columbia, one of the areas now embroiled in drug related conflict. By way of comparison, KBR reports owning only 30,000 square feet of warehouse space in the US!

¹⁹ Halliburton Inc. is currently under investigation by the SEC for corporate accounting abuses, and has become a major political liability to the Bush/Cheney Administration in the recent spat of major corporate accounting crises.

In assessing the contribution of hidden agendas to the continued supply side bias of Canadian drug control policy, it is necessary to link this potential explanation to the exportation of the US war on drugs explanation considered above. In other words, it is possible that these hidden agendas, if they exist, may be at least partly behind the aggressive attempts of the US national government to pressure Canada into maintain its current prohibitionist approach to drug control.

Distributive Politics. In a short but insightful essay, Boyum (1998) offers a compelling explanation for the continued dominance of the enforcement-centred approach to drug control in democratic countries like the US and Canada. According to his analysis, this outcome can be explained by answering one simple question: who benefits from which policy? He writes:

As a first step towards a political understanding of drug policy, take what is probably the most common policy advice of academic experts: that we should spend less on enforcement and more on treatment. The chief benefit of vigorous drug enforcement is reduced drug use. The principal costs are public expenditures and the negative side effects of black markets. Now, as a thought experiment, consider how these benefits and costs stack up from the perspective of two types of communities: middle-class suburban towns and poor inner-city neighborhoods.

The probable answer is that inner cities would fare worse than suburbs under any drug policy, but that prohibition and zealous enforcement have magnified the difference. As evidence of this proposition, note that while alcohol abuse and alcohol-related violence are more common in poor neighborhoods, the distribution of these licit drug problems looks egalitarian when set against the distribution of illicit drug problems. This is hardly surprising: because harsh punishment of drug dealing makes it a risky and disreputable activity, we would expect drug markets to locate in those communities whose social structure is least resistant to them, and in which there are young men whose futures are sufficiently bleak to make drug dealing look like an opportunity. What all of this suggests is that an expansion in publicly funded drug treatment at the expense of drug enforcement is a bad deal for the middle class—at least when judged from the viewpoint of narrow self-interest. Drug enforcement offers the suburbanites considerable protection from drug abuse. Publicly supported treatment programs mainly serve poor addicts, who would clearly gain from additional funding.

While this analysis is far from a comprehensive account of why our drug policy so favors enforcement over treatment, it certainly makes the enforcement bent more understandable. It also, depending on one's perspective, makes current policy look more or less justifiable. That the overwhelming majority of Americans would find themselves ill-served by a shift in public resources from drug enforcement to drug treatment is not something that drug policy critics have told us, nor is it a small consideration in a democratic political system. On the other hand, if one believes that public policy should give disproportionate weight to the welfare of the least fortunate, our present drug policy is hard to defend (Boyum 1998).

In contrast to the potential explanations discussed so far, this explanation is an “unintended consequence” in that it is not based on the intentional activities of any groups or individuals involved in Canadian drug politics, but instead on the “normal” operation of the electoral process. In this sense it is a “tragedy” of the democratic process.²⁰ Assessing the contribution of this explanation to the continued supply-side bias in Canadian drug control policy is more tenuous because of its unintended nature. One could, however, gain insight into the validity of this explanation by collecting drug policy preference data from a sample of middle-class citizens and their inner-city counterparts. This data could then be combined with political participation data to confirm that the preferences of the middle-class (e.g., enforcement) are

²⁰ I use the term tragedy in the same vein as Garret Hardin in his famous essay: “The Tragedy of the Commons.” According to Hardin the essential meaning of tragedy is “the remorseless workings of things.” In this case, no one intends that the enforcement-dominated approach to drug control wins out to the detriment of the inner-city poor, but this outcome is assured due to the normal operation of electoral politics.

indeed being transferred to the political system, while those of the inner-city (e.g., publicly subsidized treatment), are not. For the purposes of this article, however, this explanation will be treated as “potentially significant but unverified.”

Social Judgments/Social Control. In the concluding chapter to his 1990 book *Peaceful Measures*, Bruce Alexander discusses why he believes Canada continues to promote the “war on drugs” even though there is ample evidence of its general failure. After spending most of his professional career working in the area of illicit drug policy, Alexander concludes that the war on drugs continues because it serves some deep-seated and mostly unconscious psychological needs of two of its principal participants: drug warriors and drug policy reformers (or “resisters” as he calls them). He writes:

I have become convinced that drug warriors and resisters use the War on Drugs to cope with the same set of emotional problems. The two most important of these problems are: (1) the need to blame someone for the unremitting evil and cruelty in the world, and (2) the painful conflict between opposing needs for societal control and for individual autonomy (Alexander 1990:329).

According to Alexander, blaming serves three major purposes: “First, blaming and attacking the scapegoat provides a feeling of at least doing something about a threatening situation. Second, identifying someone else as the cause of terrifying problems is one way of escaping the blame oneself. Third, blaming functions to organize and mobilize the emotions of a society. Terrifying problems become manageable when the evil derives from a single source” (Alexander 1990:330-331).

There is ample evidence of the tendency of society to severely judge those involved with illicit drugs and use them as scapegoats for major social problems like crime and delinquency. This has been true in the past and continues to be true today. One need look no further than the evening news or the increasingly popular real-life TV crime shows to confirm this fact. Or, for a more personal validation, the next time you are out socially and someone asks you what you do for a living, try telling them you are working to reform Canada’s overly-punitive drug laws. My experiences with how people react to this statement have been eye opening to say the least. There is no doubt in my mind that a majority of North American citizens are highly judgmental and ready to dole out harsh punishments against those that they consider socially deviant, including those involved with illicit drugs.

Assessing the contribution that social judgments and the need to blame make to the continued emphasis on supply reduction in Canadian drug policy is difficult because “most people’s involvement in scapegoating is not active but passive and symbolic,” so we are once again dealing with a fairly unconscious socio-psychological process (Alexander 1990:332-333). In lieu of directly assessing the influence of this potential explanation, however, it is possible to link social judgments indirectly to the observed enforcement bias by considering that scapegoating is likely a contributing factor to tough on crime political posturing discussed previously. Perhaps the tendency to react to illicit drug use and other criminal behaviour with harsher and harsher penalties is partially based on an unconscious desire to find someone to blame for some of our more intractable social problems.²¹ For the purposes of this article, then, this explanation will be assessed as less influential and reinforcing to the tough on crime political posturing explanation.

²¹ The promotion of harsh penalties for criminal behaviour is based on the theory of deterrence which says that if you make the costs of doing a crime are high enough, people will choose not to offend. Criminal justice research has shown, however, that many of the basic assumptions that sit behind the theory of deterrence are not valid. What is perplexing is why tough on crime initiatives continue to gain in popularity when there is significant evidence of their general ineffectiveness at reducing crime in the long term? If tough on crime initiatives do indeed serve a psychological need to blame and punish, as Alexander claims, then their increasing popularity is more understandable.

Alexander's second major explanation for the continued emphasis on the enforcement dominated approach to drug control in Canada is that the "war on drugs" serves as proxy for the more fundamental conflict between the need for social control and the desire for personal autonomy. In this case, drug warriors personify the need to promote social control while resisters embody the desire for personal power and autonomy.²² According to Alexander:

People seem to resolve the dilemma of mutually exclusive needs for personal autonomy and societal control by embracing one of these compulsively, while angrily denying the other. Illicit drugs are ideal targets for people who fear individual autonomy (i.e., drug warriors), because drugs have a real potential to increase personal power against social control, at least temporarily. When used at the right time, drugs like LSD and marijuana really do facilitate extraordinary, marvelous ways of seeing the world, as testified by serious intellectuals like Aldous Huxley (1963) (Alexander 1990:336).

The major participants in the "war on drugs" rarely admit that their battle is a reflection of the conflict between social control and individual autonomy, however. Alexander observes that "rather than argue directly against the desirability of personal power and autonomy, the rhetoric of drug warriors obscures the underlying issue by incessantly denying that the personal empowering use of illicit drugs is possible. Instead, drug war propaganda attributes great power to drugs, but claims that drugs appropriate this power themselves by inevitably causing users to 'lose control'" (Alexander 1990:337).²³

Alexander's astute observations are confirmed over and over in the presentations made by the enforcement lobby in policymaking forums. For example, in a recent policy brief presented to the Senate Special Committee on Illegal Drugs, the Canadian Police Association (CPA) wrote:

Drugs are not dangerous because they are illegal, drugs are illegal because they are dangerous. There is no such thing as "hard drugs" and "soft drugs," nor bona-fide criteria to differentiate between these terms. People who refer to hard or soft drugs generally do not understand the truth about drugs, or are seeking to soften attitudes towards the use of certain illicit drugs. Generally, cannabis and its derivative products are described in this context to distance the drug from the recognized harm associated with other illegal drugs. This has been a successful, yet dangerous approach, and contributes to the misinformation, misunderstanding, and increasing tolerance associated with marijuana use (CPA 2001).

This quote clearly demonstrates the tendency of the enforcement bureaucracy to deny any functional use of illicit drugs, even though millions of people use drugs like cannabis every year with little or no indication of dysfunction.²⁴

In assessing the contribution of social control to the continued dominance of supply-side drug control policies, then, I would suggest that social control is a less significant influence but that its explanatory

²² There is little doubt that the enforcement lobby believes that the use of illicit drugs constitutes a direct and significant threat to the social order. For example, in a recent brief presented to the Senate Special Committee on illegal drugs, the Canadian Policy Association stated that "the proliferation of illegal drugs remains a serious problem in North American society. Illegal drug use is a significant contributing factor in a wide range of crimes, including property offences, crimes of violence, robbery, prostitution, and organized crime gangs" (CPA 2001).

²³ For their own part, many resisters also side-step the underlying issue by suggesting that all drug use is functional, which is just as unrealistic as the drug warriors suggesting that all illicit drug use is dysfunctional.

²⁴ The tendency to classify all illicit drug use as dysfunctional appears to be less pronounced outside of North America. At a recent international conference on corrections and addiction in PEI, I was struck by the fact that many European countries have a much more sophisticated classification scheme for drug users that includes a distinction between those who are addicted but not overtly involved in criminal activities, and those who are what they call "criminally addicted." In North American jurisdictions, such distinctions seem to be lacking due to a general tendency to categorize all drug use under the same level of dangerousness.

power is enhanced to some degree because it acts indirectly through bureaucratic imperatives. That is, the need for social control is a contributing factor in the anti-drug efforts of the “bureaucratic enforcement complex.”

CONCLUSIONS AND RECOMMENDATIONS

This article has explored why Canada is finding it so difficult to implement a more balanced approach to the control of illicit drugs even though this has been its stated policy since the first National Drug Strategy in 1987. Six potential explanations for the observed enforcement bias were comparatively assessed: bureaucratic imperatives, political posturing, exportation of the US war on drugs, hidden agendas, distributive politics, and social judgments/social control. The table below provides a ranking of these explanations based on an integration of the data collected from Canadian drug policy experts, and an analysis of the historical and contemporary records:

Explanation	Assessment	Rank
Exportation of US War on Drugs	Significant Influence; Hidden Agendas as a Contributing Factor	1 (tie)
Bureaucratic Imperatives	Significant Influence, Social Control as a Contributing Factor	1 (tie)
Tough on Crime Political Posturing	Less Significant Influence; Social Judgments as a Contributing Factor	3
Hidden Agendas	Less Significant Influence; Contributing Factor to Exportation of US War on Drugs	4
Social Judgments/Social Control	<i>Social Judgments:</i> Less Significant Influence, Contributing Factor to Political Posturing <i>Social Control:</i> Less Significant Influence; Contributing Factor to Bureaucratic Imperatives	5
Distributive Politics	Potential Significant Influence but Unverified	6

The analysis in this article suggests that exportation of the US war on drugs and bureaucratic imperatives are the most important explanations for the continued emphasis on enforcement in Canadian drug control policy. Tough on crime political posturing, hidden agendas, and social judgments/social control weigh in with somewhat less of an influence, and distributive politics is listed last as an unverified less significant influence. Most interestingly, it appears as though the top three explanations (exportation of the US war on drugs, bureaucratic imperatives, and tough on crime political posturing) are reinforced by several of the less influential explanations (hidden agendas, social control, and social judgments, respectively). These findings confirm the complexity of this issue, and may help explain why it has been so impervious to reform.

Given these findings, what suggestions can be made to help move Canada toward a more balanced approach to drug control? First, I would suggest that progress on this issue will require effective

leadership to overcome the powerful combination of pro-enforcement bureaucratic interests and US hegemonic pressures that currently stand in the way of significant reform. In other words, without effective leadership this issue will likely remain grid locked in the prohibitionist status quo for the foreseeable future. On this point, the work of the Senate Special Committee on Illegal Drugs may signify the emergence of progressive leadership on drug control policy in Canada. The case of cannabis decriminalization serves as a reliable indicator of progress on drug reform in Canada, and the near-success of a private member's decriminalization bill last Spring suggests that the time may indeed be ripe for change (see Footnote 8). One would hope that the Liberals killed the Martin bill not out of a desire to subvert the democratic process, but because they did not want to be upstaged by a conservative Alliance MP on the issue of drug reform. If the second explanation is the correct one (and lets hope it is), then I believe that the Liberals should be pressured to introduce their own cannabis decriminalization bill after the House Special Committee on the Non-medical Use of Drugs tables their final report in November 2002.

Second, with regards to the less significant influences of hidden agendas, social judgments/social control, and distributive politics, from personal experience I have found that it is often issues that are hidden from view that create the most difficult stumbling blocks to true growth and evolution. This is true on both the individual and collective levels. Simply put, it is exceedingly difficult to heal that which we do not consciously see. Given that several of the less visible explanations assessed in this article may actually sit behind the continued lack of balance in Canadian drug control policy, I believe that it is imperative that we begin to honestly confront the unconscious, unintended, and otherwise "hidden" influences that have allowed this issue to languish in myth-based political absurdity for the last thirty years. To conclude, I'd like to share one of my favourite thought-provoking quotes:

Wisdom is a function of validated observation and a willingness to accept the truth no matter how uncompromising it may appear.

--Anonymous

I wonder if we are indeed ready to accept the uncompromising truth about Canadian drug control policy and begin the long march toward a more rational approach to drug control.

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CHAPTER THREE

DRUG POLICY IN CANADA

WAR IF NECESSARY BUT NOT NECESSARILY WAR

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DRUG POLICY IN CANADA: WAR IF NECESSARY BUT NOT NECESSARILY WAR

Barbara Macrae
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INTRODUCTION

As in real estate so it is in conceptions of social deviance--location is everything. What is seriously deviant, even criminal, in one culture hardly warrants a raised eyebrow in another. And, even where there is widespread consensus on the deviant nature of certain behaviours, different cultural influences may give rise to disparate strategies to achieve similar goals in dealing with the problem. Alternatively, very similar strategies may lead to significantly different outcomes in divergent cultural settings--a statement that might seem obvious when comparing cultures widely separated by geography, language and heritage, but less so when comparing countries for which the differences are considerably less apparent than the similarities. The proximity of Canada to the U.S., both in culture and geography, provides an excellent opportunity to examine the sensitivity of public policy to differences in values and history, especially in the area of drug policy, with all of its emotional and political accessories.

Historically, Canada and America have followed similar paths in response to illicit drugs and intoxicants. But now the two countries' paths have diverged. In the last decades of the 20th century America has engaged in a "war" on illicit drugs, instituting in the process expensive and harsh measures to combat their use and trade. The policy of war garnered widespread public support from Americans, as have those who proposed and executed it. Some see in Canada's tough drug laws a stance and purpose akin to the U.S. war, and the claim has been made that Canada followed the U.S. lead in instituting our own version of their war within our borders. This article will argue that America's war on drugs is a departure--a change, not in degree, but in kind--from its classical prohibitionist policy. Engineered to further a domestic political agenda in the U.S. that has little to do with the individual and social consequences associated with chemical substances and everything to do with the role of the state. This article will also argue that this strategy has not simply walked across the border and taken root in Canada's distinct cultural and political context. In the contest between competing visions about democratic government's responsibility to its people, drugs are not the subject but the modifiers of the American debate and have an importance and meaning in the American context that are not replicated in Canada.

This research will examine the symbols, rhetoric and themes supporting the American war on drugs and explore how these "fit" with Canadian assumptions and myths. It will offer explanations for why Canadian drug policy differs so significantly in its implementation from its U.S. counterpart based on theories of how people select, assimilate and respond to information, and consider what relationship citizens' consequent opinions have to their public policy choices. And finally it will offer some suggestions about how those who propose to improve and strengthen Canada's response to illicit drug use and its attendant social problems should present their policy options to Canadians in ways that strengthen rather than undermine public commitment to health-based solutions.

THE SHARED TERRAIN

Americans and Canadians share more than a long and undefended border. We share a commitment to democratic principles and an adherence to the same, if unevenly applied, principles of trade. We consume the same brand name goods with the same apparent enthusiasm and read many of the same books and magazines. At night we settle down to the same entertainment and, in winter, our elderly

relatives lounge on the same sunlit beaches. And in matters of public policy we share many of the same opinions and attitudes.

In our attitudes on crime and punishment, for instance, Americans and Canadians appear to have a common belief that our systems of justice are too lenient with offenders (Roberts and Stalans 2000, Doob, Sprott, Marinos and Varma 1998). Research also indicates that most North Americans are ill informed about both the operation and penalty structure of their countries' criminal justice systems (Roberts and Stalans 2000, Doob 2000). In addition, both populations express levels of concern about crime that, at times, appear unrelated to its actual incidence or the threat that it poses to them (Roberts and Stalans 2000, Doob et al. 1998).

Similarly, north and south of the border there appears to be a consensus that the consumption of and trade in certain intoxicants is and should be criminal and both countries have chosen, from the array of options available to them, to respond to the problem of illicit drug use in a punitive manner—a choice that seems to have tacit, and often unambiguous, public support.

POINTS OF DEPARTURE

Similarities between Canadian and American public sentiments and attitudes can create a demand for similar public rhetoric, which, in turn, can affect policy directions. But differences in the two countries' symbolic environments limit how much citizens are prepared to back their expressed policy choices with real dollars and commitment. What separates Canadian and American beliefs and attitudes in key areas is as striking as their affinities and can have significant implications for public policy. Although Americans and Canadians can express similar attitudes on issues, differences arise when intention moves from the rhetorical sphere into the world of practice.

Majorities of Americans agree that their federal government should guarantee health insurance for its citizens. Yet, Americans have been stunningly unsuccessful at coming up with the collective will to provide themselves with the protections of a government-sponsored health insurance program of the type enjoyed by most other Western nations. Canadians, on the other hand, express deep commitment to their publicly funded, universally accessible health care system and define it as a core value of their society (Klatt 2000).

By the same token, while Americans have backed their punitive attitudes to illicit drug use with significant public dollars, Canadians have not. As U.S. justice expenditures rose to dizzying heights throughout the drug war days of the 1980s and 1990s, Canadian justice expenditures actually decreased (Besserer and Tufts 1999). This divergence in Canadian and American responses to illicit drugs is a relatively new and significant development that is examined in detail below.

The differences in Canadian and American responses to the drug and health care issues highlight important differences between the two countries' conceptions of the purpose of government and of individual relations to the state—both in terms of state authority and in terms of the state as nation or defining collectivity. Lipset describes the contrasts between the two countries this way:

...Canada has been a much more conservative, traditional, and hierarchical-elitist society than the United States. These differences stem from the varying histories of the two nationals. The United States is a result of a victorious revolution against British rule; Canada is an outgrowth of the triumph of the counterrevolution. The disparate results of the revolution meant the creation of two very different national ethos. One took pride in being the result of a revolution and emphasized egalitarian and populist elements in its self-image. Canada justified itself in not being like the

United States; it took pride in its ties with Britain, its monarchical institutions, its elitist character. Following the American Revolution, Tories migrated north of the new border, supporters of the revolution moved south. The established Anglican Church was strengthened in the north; the Congregational Church was reinforced by the migration of its ministers south (Lipset 1968:xvi).

Canada's strong communitarian or group-oriented culture has rejected the American melting pot in favour of a multi-cultural mosaic. As a nation, Canada has as its central and historical organizing principle what Adams (1997) calls an "Old World Tory Conservatism" that sees the whole as greater than its parts and values group rights over individual rights. The conventional wisdom says that this worldview, along with the challenges presented by Canada's harsh climate, geography and small population (especially relative to landmass), has conspired to make Canadians accepting, even demanding, of state intervention in many aspects of their lives to an extent that Americans would find deeply troubling. Furthermore, Canadians are generally characterized as more deferent to authority, respectful of law and order, and keepers of the peace. Their organic view is reflected in the identifiably Canadian approach of trying to accommodate competing interests within existing frameworks--a deeply reformist minds et.

America's organizing principle differs significantly, making individual liberty paramount above other considerations. According to Wills (2002) a deeply embedded American worldview sees any power given to government as subtracted from the liberty of the governed.

Are Americans less protected against threats to their health than other citizens of industrial democracies? Say that is so--but are we to purchase health at the price of liberty? For that is what giving power to the government would mean, including the power to provide medical care. If government has the power to take away guns, all our liberties are gone. If the states, as lesser units of government, cede power to the central government, tyranny impends. The power to regulate businesses is a power to crush them. Increasing the size of government inevitably decreases freedom (Wills 2002:16).

These differences have led to Canadians' acceptance of collective programs to ensure health care, restrict gun ownership, or protect culture that Americans have not. And it is these two contrasting views of the state and its role, and the attitudes that arise from them, that informs and justifies each country's drug policy.

CANADA: MARCHING AS TO WAR

For most of the last century Canada and the U.S. both pledged their allegiance to the prohibitionist credo relying, like most industrialized countries, on the criminal law and an array of formal and informal social controls to restrict the supply of banned substances and to condemn illicit drug use--the practice and practitioner alike. In the early development of the two countries' respective drug policies it is difficult to say which country was leader and which was led (Erickson 1992). Canada's *Opium Act* of 1908 preceded the *American Act to Prohibit the Importation and Use of Opium for Other than Medical Purposes* of 1909. Dr. Hamilton Wright, educated in Canada, drafted the early American narcotics legislation while Charles Brent, an Episcopal bishop born and raised in Canada, organized the first of a series of important international conferences known as the Shanghai Opium Convention of 1908. Both were notable players in a highly successful international movement to criminalize the non-medical use of narcotics in most Western nations (Hagan 1991, Erickson 1992).

Drug control policies in both countries tended to be driven by their respective enforcement bureaucracies and, in the early years of each nation's legislation, targeted immigrants and racial, especially Chinese, minorities (Giffen et al. 1991). The approach favoured by both countries was punitive, relying heavily on

the criminal justice system to remedy the problem of illicit drug use, and expansive as, over the years, a growing number of substances were outlawed.

The 1980's ended with Canada making tentative moves away from its traditional strict prohibitionist policy on drugs. The Canadian Drug Strategy (CDS) placed the problem of substance abuse squarely in the health issue frame and called for a solution that would balance supply reduction and demand reduction initiatives (Health Canada 1998). But whatever tentative steps forward the CDS achieved in shifting the definition of illicit drug use to something other than a criminal matter were effectively undermined by one giant legislative leap back into the prohibitionist camp when the new Controlled Drugs and Substances Act was passed in 1996. The new law embraced the tough maximum penalties and extensive police powers articulated in the previous Narcotic Control Act, and iced the prohibitionist cake by actually adding resources to the arrest and prosecution capabilities of authorities (Erickson 1999).

It is tempting to see the hand of American influence at work in this seeming about-face in Canada's drug policy direction. Was Canada emulating U.S. priorities and will it be propelled down the same policy cul-de-sac that has been paved by America's bitter drug war experience as some drug reform advocates suggest (Beauchesne 2000, Alexander 1990, Oscapella 1993)?

These speculations give an odd twist to the "cultural lag" thesis which defines the differences between patterns of deviance in Canada and U.S. as matters only of degree and time (Hagan 1991). According to this view, Canada will one day experience the same high rates of crime and illicit drug use we see today in the U.S.--an assumption that underpins much of the alarmist crime coverage to be found in the portentous headlines on the evening television news. Ironically, drug law reform advocates make similar assumptions to buttress their argument that tough, prohibitionist legislation makes Canada subject to the problems that have grown out of U.S. drug policy and that now plague the American justice system.

An alternative view is that Canadian and American cultures differ fundamentally in their mythologies and social institutions to an extent that not only affects the degree to which crime, including illegal drug use, is a societal problem, but also significantly affects how the prohibitionist stance is played out in each nation. To understand why such differences might arise we must begin at the place where attitudes and national mythologies reside--in the realm of message, language and metaphor.

MEDIA, METAPHOR AND THE PUBLIC MIND

The media is a primary source of information for both Canadians and Americans on the whole gamut of public policy issues including drug abuse and crime. A poll in Canada found that 96% of respondents cited the news media as the source of their information about punishment of offenders (Roberts and Stalans 2000). And it is often American sources that are supplying the material. Over a broadcast day, 68% of the programming Canadians watch originates outside the country, primarily in the United States. During the peak viewing hours between 7 p.m. and 11 p.m., foreign content makes up 74% of the programming Canadians watch (Friends of Canadian Broadcasting 1998).

The media, and particularly the American media, has tremendous power to shape public attitudes. Studies have documented how fluctuations in opinions in both countries are closely correlated with the media attention the issues receive (Iyengar and Lenart 1989). Whatever media audiences use to access their information--whether television, radio or print--they are exposed to behind-the-scenes editorial decisions about what is newsworthy, what is important, and how various policy options are packaged. These decisions combine to select and arrange what Lippman (1922) referred to as the "pictures in our head" and influence public attitude formation through two processes: agenda-setting and priming.

Agenda-setting is a process by which public attention is directed toward certain problems or attributes, as issues worthy of concern, and away from others (McCombs 1993). By deciding what issues to cover and how to cover them, the media sets the public agenda, which in turn influences the importance the public attaches to various issues (Terkildsen and Schnell 1997). Furthermore, through the process of priming, the media elevates certain issues over others and, in so doing, influences what criteria are used by members of the public to judge political actors, their actions, and their policy offerings. By focussing accounts of criminal justice policy on the leniency or toughness of sentences or conditions of confinement, for instance, the media focusses public attention on that criterion instead of other measures such as effectiveness or cost --- indicators that might lead the public to demand alternatives to the current and spectacularly unsuccessful practice of relying on greater harshness to curb crime.

Priming and agenda-setting occur through a number of mechanisms. Journalists can become involved in a self-generated cycle of issue coverage as they become sensitized to issues with which they are familiar. By producing more on the same theme that they or a competitor have already covered, journalists can create a wave of news stories on one issue, making it seem that the problem, rather than the coverage, has increased (Protess, Leff, Brooks and Gordon 1985). In addition, easy access to particular sources can also have the effect of elevating one elite's agenda over its rivals in the competition for the public's attention and support. Crime stories, for instance, besides possessing the obvious advantages of being well received by the reading and viewing public, are also inexpensive and easy to cover because the police can be relied on as convenient and primary sources for stories. This gives them privileged access to the media compared to other interested parties with competing points of view. As a consequence, police have a sizeable advantage over other contenders in forming and shaping public opinion in ways that support their goals and agenda. In Canada, for instance, the government placed significant resources intended for reducing illicit drug demand (in addition to the sizeable expenditures aimed at strengthening their enforcement capacity) under police purview, thus strengthening their role in drug education and abuse awareness programs for youth, and establishing their "expert" credentials at both ends of the issue. In this way police sources enjoyed a substantial advantage in signifying the drug problem for the Canadian public.

While agenda-setting and priming describe which issues enter the public discourse and how they influence political decisions, issue framing can also influence public attitudes and levels of support. Issue frames--what is left in the stories and what is taken out--present a constructed reality that eclipses other avenues of interpretation. By defining and simplifying a complicated issue through framing, political actors direct voters to use a particular set of considerations, and ignore or dismiss others, in formulating their political preferences. The elite constructed frame interacts with an individual's memory so as to prime these same considerations, making them more accessible than others in memory and, therefore, more likely to be used in formulating a political choice (Koch 1998). As Jacoby (2000) points out, powerful political elites have resources that give them the inside track on framing controversial issues for the public in ways that put their definition of the problem and their preferred solution in the best light.

Iyengar and Lenart (1989) found that various frames used in news coverage play an important part in shaping voters' attributions of political responsibility as well as their preferences for solutions. Stories characterized by "episodic" news frames that focus on specific incidents--the way in which crime is most often reported in the news media--are more likely to elicit attributions of individual responsibility than are "thematic" stories that place social issues in a wider context of historical and other social developments.

Another study found that a racial frame significantly affected Americans' policy preferences: "A mere five-second exposure to a mug shot of African-American and Hispanic youth offenders (in a 15-minute newscast) raises levels of fear among viewers, increases their support for "get-tough" crime policies, and promotes racial stereotyping" (Gilliam and Iyengar 1998:46).

Throughout the 1980s and 1990s, conservative politicians and law enforcement personnel in the U.S. and Canada were strongly associated with an issue frame that identified liberal permissiveness and the lack of respect for authority as the main causes of crime--a definition that inevitably gave rise to the solution of greater punishment and control (Beckett 1997). The get-tough frame that emerged in the last two decades has left little doubt that the crime problem is one of individual, not societal, failings, and that the answers lie in strategies that would restore order and discipline to lives in which these virtues were so obviously lacking.

In 1981, before Ronald Reagan declared war on drugs, only 3% of Americans believed cutting the drug supply was the most important thing it could do to reduce crime, while 22% thought reducing unemployment would be more effective. Sixteen years later, a dramatic turnaround in attitude had occurred with respect to what Americans saw as the causes, and by extension, the solutions to illegal drug use. In a 1997 survey that asked respondents to choose from a list of 10 possible reasons why some people might use illicit drugs, only three reasons were seen by a majority of Americans as a major cause of illegal drug use. All of the options selected referred to personal choice--peer pressure, the marketing efforts of drug dealers, and poor parenting. Two thirds identified the disintegration of the family as a major contributor to illicit drug use, and 58% said parents should share all or most of the blame for the increase in teenage drug use that occurred between 1992 and 1995. The majority of Americans did not believe that difficult social conditions contributed to illegal drug use while 72% of respondents saw the lack of treatment programs for people who wanted to stop using drugs as the *least* important factor contributing to personal drug use. And as late as 1997, the majority (55%) of Americans reported that they were completely unfamiliar with needle exchange programs as an option for injection drug users to decrease their risk of contracting HIV and AIDS (Blendon and Young 1998).

The media frames used to inform Americans about the drug issue shed light on this shift in attitude and information deficit. A study that looked at the frames used to depict the drug issue in the 1980s identified four dominant interpretive packages: (1) get the traffickers, (2) zero tolerance, (3) need more resources, and (4) war fails. Not only were these frames differentially used by various elites to promote their definitions and solutions, each frame received different exposure depending on the propensity of media sources to use one source in preference to another (Beckett 1997). The "get the traffickers" frame which focussed on the need to stop pushers from preying on the young, and the "zero tolerance" frame which focussed on the need to reduce casual drug use, dominated discussion of the drug issue, particularly on television. They were heavily favoured by police and other state sources and, since media outlets relied on state sources to such an overwhelming degree (76% of frames appearing in stories were attributed to state officials), these two law and order frames dominated 77% of all frames presented in stories. The "war fails" frame, which discussed whether harm is increased or decreased by policies that criminalize and punish drug use, was used by state officials in only 4% of the frames they presented and represented only 11% of the total frames presented by all state and non-state sources. It is little wonder then, in such a one-note environment, that Americans have sung the praises of their country's war on drugs so consistently and in such unison. It was perhaps an indication of American media influences in Canada that between 1984 and 1987, the height of Ronald Reagan's war on drugs, Canadian support for decriminalizing marijuana fell from 51% to 39% (Savas 2001).

Exposure is important to winning the "frame game" but it is not enough. Message is also critically important. The findings of cognitive science demonstrate that ideas are not directly transferred from one person to another in discrete word "packages" but, instead, are metaphorically structured. It is through myths and metaphors, parables and symbols that people process information and experience to make sense of the world (Bales 2002). These metaphors provide a correspondence of concepts across conceptual domains allowing forms of reasoning and words from one domain to be used in another (Lakoff 1996). They serve as models of interpretation for events and ideas that, once incorporated, are extremely resistant to change.

These metaphors are more than mere language: they structure thought. The public may think about a social problem in a way that disputes the expert evidence but you can be sure that people continue to reason according to this erroneous model, and to reason systematically, until a more compelling model displaces the faulty one. Ideas that do not “fit” into the metaphors we have accepted to structure our lives are rejected out of hand (Bales 2002:1).

Once received, the manner in which messages are processed also provide opportunities to affect attitude formation. Sears’ (1980) theory of symbolic politics suggests that reactions to some issues are based on strongly held values acquired early in life and occur almost without thought. His assertion that people’s reactions to issues are mostly irrational and “knee-jerk” in character, especially in relation to salient groups such as racial minorities, drug addicts, or welfare recipients, seem at odds with the findings of other researchers who emphasize the ambivalence and thoughtfulness that many study respondents show when considering issues (Doob et al. 1998, Zaller and Feldman 1992). Rather than an uncomplicated uni-dimensional system of thought, it appears more common for people to entertain a complex array of conflicting opinions and attitudes that are held loosely together with generalized, but deeply-held, overriding principles.

Feldman (1988) acknowledges that the public may easily absorb the major elements of the political culture through processes of socialization and continuous reinforcement but the mechanism of attitude formation is less irrational than it might seem. Instead of a knee-jerk reaction, he believes that a sort of constraint or consistency is achieved in people’s belief systems about specific policies by appealing to some superseding position that involves beliefs about big ideas like the nature of social justice or social change. It is the hierarchy of values associated with such a belief system that can be used as leverage to gain public acceptance for a specific social and political agenda.

For instance, in their study of Canadian attitudes to affirmative action, for example, Fletcher and Chalmers (1991) noted that questions about complex issues, a category that would surely include the best way to curb illicit drug use, touch on a recurring dilemma in contemporary life: that of resolving in a substantive way a conflict between two important, competing, abstract values. In the case of affirmative action, some respondents place greater value on the overriding principle of equality while others give primacy to merit. The authors found that a significant segment of respondents would change their original support or opposition to affirmative action policies when probed by making salient the values trade-offs involved in their decisions. Similarly, Doob (2000) found that a substantial number of respondents could be dissuaded from their original harsh views on sentencing to a more moderate position once the consequences of their choices were made salient to them. However, one can also assume that those holding more “progressive” views can also be similarly swayed. It appears that, generally, individuals most open to persuasion on issues are respondents whose opinions are not strongly rooted in their values--those who are said to have non-attitudes about the issue under consideration.

It is the public’s ambivalence on the acceptability or deviance of some behaviours that provides actors with the greatest opportunity to influence the public mood. In criminalizing some conduct and not others, the influence of dominant elites varies but their impact is greatest when public opinion is dormant or divided about the act in question (Hagan 1991). Their success at moving public opinion depends in large measure on their ability to couch their message in metaphors that resonate with widely-held and ingrained audience values in their efforts to make the considerations they think are important for judging a particular behaviour or group decisive to the thinking of a critical mass of their fellow citizens. Our window into what the public is thinking on any given issue is provided by public opinion polls. But rather than affording an unobstructed view, polls offer a view that is often refracted and distorted either inadvertently or with intent.

The potential to manipulate public views arises in large part from the mechanisms people use to process information. In the information-rich North American environment, people have limited resources to cope with the demands of mastering all the data presented to them in the course of their day-to-day life. As a consequence, people develop coping strategies that enable them to function as well as they need to--directing their time and attention resources to processing information in the important areas of their lives and giving the less immediate or less vital concerns shorter shrift. These “cognitive misers” use short cuts or heuristics when asked to form opinions and judgments on issues. According to Roberts and Stalans (1997), studies suggest that an accessibility heuristic underlies the way in which people form responses to questions asked in polls. The notion of an availability heuristic suggests that people rely on what appear to be relevant considerations in their memory when answering questions. The high volume of media coverage of dominant American issue frames that stress punitive remedies to drug use could combine to make “get-tough” responses more accessible in most respondents’ memories and cause these views to be sampled more often. So while attitudes supporting punitive remedies are sampled more often it does not necessarily follow that public support for such strategies is unequivocal and absolute.

Similarly, respondents can use a representativeness heuristic to generalize the characteristics of a population from a small sample. Once again, media frames which provide a lot of information about a small minority of uncommon, sensational crimes or depict atypical characteristics of offenders--focussing disproportionate attention on one race, for instance--can distort people’s opinions about crime and justice, if they assume that the atypical examples they know about are representative of crime and criminals. Finally, research suggests that prior questions can also affect responses to subsequent questions in surveys (Roberts and Stalans 1997).

Zaller and Feldman (1992) suggest that people respond to pollsters from what they call a top of the head orientation. This model assumes that most people do not have pre-existing attitudes on a wide range of subjects. Instead, most individuals possess a series of autonomous and conflicting considerations about important issues. Survey question and format provide cues that help respondents retrieve information. For example, questions that simply reiterate the dominant issue frame by offering a simple choice between harsh and lenient punishment are more likely to recall to mind the evaluation criteria and remedies that have been proposed by the get-tough option. Questions that probe opinions on issues behind the banner headlines will tap into other less punitive values and evaluative criteria. Surveys do not just measure pre-existing public opinion--they also shape and mold it. Raising new considerations in direct proximity to a question, for example, affects responses by making consequences and implications of a particular choice salient (Zaller and Feldman 1992).

The task of moving public opinion is often depicted as a process of providing people with information until they convert from one crystallized position to another. The actual process, however, is far more fluid, ambiguous and complicated than the “conversion” model would allow. Facts as we know them seldom speak for themselves but are framed or contextualized for specific effect. Political actors mobilize support for their positions by relating their claims to a familiar frame of reference using rhetorical devices and cognitive structures (Nelson 2000). These frames act as organizing principles for attitude formation so that whatever selection of the facts gain access to the individual’s attention falls into familiar categories, thus circumventing the troublesome processes of inquiry or thought.

Finally, the message-bearer itself has an effect. As Marshall McLuhan pointed out decades ago, message and medium are intimately connected. Television’s concentrated visual images eschews, indeed makes impossible, literate and discursive modes of thought and argument. Instead, it heightens the importance and quasi-religious function of symbols at the expense of fact. Furthermore, as a commodity it favours discussion and ideas that are familiar enough to audiences to be marketed successfully so, instead of a conscientious debate of the various policy alternatives, audiences are subjected to a dreary repetition of the same frames and conclusions over and over again. Additionally, characters tend not to be complex or

to be situated in a history. According to Cayley (1998), discussion of prison and its consequences on television tends to focus on its symbolic function rather than on its actual effects. And an important symbolic function of prisons and the other trappings of our criminal justice system is their capacity to stigmatize criminals. "The more the character of the outlaw is darkened, the more brightly the virtues of the law-abiding citizens shine. The prisoners becomes a scapegoat and his real being is eclipsed by the angers, resentments, and fears of the good citizens" (Cayley 1998:30).

What people are left with is a cast of stereotypic characters and stock ideas to be conjured whenever, in the course of a busy life, it becomes necessary to consider matters relating to crime or drug policy. Elite groups build support for their agenda by exploiting the manner in which people process and recall information to ensure that considerations supportive of their position are primed and selected over competing interpretations. Public attitudes and opinions on these matters, then, do not stand on a rock of empirical data and objective consideration, but rather float in a sea of symbols and metaphors. Let us turn our attention now to the symbolic undercurrents of Canada's drug policy.

SYMBOLIC LANGUAGE OF LAW

In the context of attitude formation, the law itself carries out an important symbolic function. Each nation, like a family, has its deeply embedded dramas that are played and re-played in a myriad of forms and venues. Even with the best of intentions, feelings and resentments toward the black sheep, prodigals and scapegoats come bubbling to the surface over and over again in vast, unresolved and recurring contests. According to conflict theory, in the melee of competing interests that characterizes modern democracy, powerful interest groups mobilize these cultural themes to designate acts as criminal or undesirable--most often to condemn those who are doing them than to stop whatever harm they allegedly cause. From this standpoint then, the criminal law is a symbolic system acting out deep-seated, internal conflicts between groups. To an alien anthropologist visiting from a distant planet, humankind's law codes could be viewed as a guide to who is on top and who is at the bottom of any given social system.

Within this context, legislation itself becomes an important symbol that goes beyond the declarative effects of denunciation. Written in the carefully coded language of law, it plays an important part in the process by scripting some of these deep-seated conflicts in ways that reach far beyond the ostensible intentions of the lawmakers and their supporters. Law plays an important framing function in society, determining the parameters and terms that govern how we think about an issue. In the case of illicit drugs it has played a pivotal role framing the issue as one of law rather than of public health or recreation, to name but two alternatives, that are used commonly to frame discussions of tobacco or alcohol.

As the Senate Committee in its 2002 report to Parliament points out:

...when it comes to illegal drugs, criminal legislation occupies a symbolic and determinative place. It is as if this legislation is the backbone of our public policy. Public discussions of cannabis do not deal so much with such matters as public health, user health, prevention of at-risk or excessive use, but with such questions as the pros and cons of decriminalization, establishing civil offence or maintaining a criminal offence, or possible legalization and the extent thereof (Senate Committee 2002:33).

Notwithstanding its importance in framing an issue, the analyst must look beyond the narrow sphere of legislation to take an accurate measure of a nation's stand on a given issue. Law is after all one message among many, albeit a powerful one, about the aspirations, values and priorities of a people. It follows that if public policy is "a course of action or inaction chosen by public authorities to address a problem"

(Pal 2001) then legislation is clearly a subset of the larger category of public policy that flows from some overriding, defining vision or principle that reflects or reflects on the national character.

Legislation is an important determinant of public policy and part of a broad framework that structures the actions of many players. But, in a complex modern society, it is a reality that public policy priorities in different areas conflict, subverting and nullifying the effect of law, often in significant ways. In the case of Canadian drug policy, the Common Law authority of police officers *not to act* to enforce the law as it is articulated in legislation, for example, is vital to the success of harm reduction strategies like safe injection sites or needle exchange programs that might be employed by public health departments. The same is true in federal prisons where bleach is provided to prisoners to clean needles even though injection drug use is officially barred.

It is in the concept of discretion, and the negotiation and compromise between players that it necessitates, that the true policy priorities of a nation can find expression and, in the case of Canadian drug policy, contribute to a cumulative public policy on illicit drug use different from that which is prescribed in legislation. For any issue, there are many frames besides legislation, and many framers. The rhetoric of claims-makers is an important determinant of how the issue is perceived by the public, the place it occupies on the public agenda, which in turn affects the many smaller, discretionary decisions, that ultimately determine how the policy plays out in the life of the community. The exercise of discretion is sensitive to the temper of public attitude which sets expectations and determines how discretion is used. And it is in how this discretion operates that the differences between the American and Canadian drug policy situations arise.

THE SYMBOLIC LANGUAGE OF WAR

The metaphors used to describe a problem help constrain how we think about it and what we are prepared to accept as its solution. That America has chosen to characterize its drug policy as a war is significant. Amongst other things, wars are symbolic events that are powerful expressions of national ideals and aspirations. Their driving force can be ambitious, acquisitive, expansive, defensive or punitive. Furthermore, the rhetoric of war can mask intentions as much as they reveal them. One does not have to look far in geopolitical events to see offence masquerading as defence, or repression draped in the trappings of justice.

Under conditions of war, a nation's people and wealth are mobilized towards the achievement of a single purpose. A policy that does not produce the results we want can be amended, circumvented or even abandoned, but a war can only be won or lost. Every consideration must be subordinated to the goal of victory. Every compromise is a defeat, every critic a turncoat, and every dissenter an enemy. If current measures are perceived to be ineffective in achieving victory, then the only recourse is to apply greater resource and rigour. In the context of war, then, it is not shocking that Texas state legislator Al Edwards proposed cutting off offenders' fingers--one for each drug conviction. Or that Delaware state senator Thomas Sharp wanted to see drug felons flogged. War imposes many disciplines on citizens. Mandatory drug testing, withdrawal of federal education grants, summary forfeitures of property, evictions, disenfranchisement, raids and random searches become some of the sacrifices Americans civilians endure as part of their drug war effort (Husak 1992).

Symbolic or not, war inevitably has real consequences for the populations involved. They normally consume enormous quantities of public resource and their execution claims casualties and creates victims. Indeed, without casualties, war's utility as a symbolic event even is considerably diminished. By these measures, few can dispute that America's war on drugs is one involving a considerable mobilization of resources.

THE WAR AT HOME

The rules of engagement for Ronald Reagan's war on crime and drugs were unambiguous, as was the frame he chose to tell Americans who was to blame for the problem and where its solution lay. According to the President: "[T]he war on crime will only be won when an attitude of mind and a change of heart take place in America--when certain truths take hold again...truths like: right and wrong matters; individuals are responsible for their actions; retribution should be swift and sure for those who prey on the innocent" (Beckett 1997:47).

From the time that Reagan declared his first war on drugs in late 1982 the signs of mobilization were clear. Arrests for drug law violations, a measure especially sensitive to police activity, increased from 676,000 in 1982 to 1,579,600 in 2000--a 134% increase (Dorsey 2001). After George Bush Sr. launched his own war on drugs in 1988, spending on drug control increased from \$6.6B to \$18.8B, a rise of 182% over 14 years (Dorsey 2001). Furthermore, under Reagan's watch between 1982 and 1988, total federal expenditure on justice increased by 99%. Between 1988 and 1999, however, federal spending on police, courts and corrections really came into its own and ballooned by 210%. Similarly, state law enforcement, correction and justice expenditures between 1982 and 1999 grew by 393%, and local costs increased by 257% (Gifford 2002).

By contrast, per capita justice spending in Canada decreased during the 1990s and in 2000 was 3% lower than it was in 1990 (Taylor-Butts 2002). Similarly, although Statistics Canada reports that the overall rate of police-reported drug offences increased by 12% between 1993 and 1997, the long-term trend generally remained stable over the 15 years between 1983 and 1998, the apex of the drug war years.

While twenty years ago Canadian and American rates were virtually identical, the rate of individuals charged/arrested for drug violations was about three times lower in Canada in 2000 than the rate in the United States. Charges for drug possession account for 56% of all drug offences in Canada, compared to four out of five American drug offences. In 2000, drug possession represented an approximate rate of 454 arrests per 100,000 Americans, compared with 100 per 100,000 in Canada. Since 1980 the American rate of individuals charged/arrested for drug violation has increased by 117% while the Canadian rate has actually dropped by 29% (Gannon 2001).

In the U.S., changes in federal law during the 1980s and 1990s had a significant impact on the processing of drug offenders. Many offenders are subject to statutory minimum sentences and all federal offenders sentenced to a term of imprisonment are required to serve 87% of the sentence imposed. During the past twenty years, the proportion of American drug defendants sentenced to terms of incarceration rose from 72% in 1984 to 89% during 1999, and two-thirds of the latter were subject to statutory minimum sentences. Sentences imposed on drug offenders increased from 62 months, on average, to 74 months between 1986 and 1999. The proportion of the sentence that drug offenders could expect to serve also rose from 48% to 87% during this time (Scalia 2001).

In Canada there was strong variation in sentencing practices from province to province with Yukon, Alberta and Newfoundland leading the country as the provinces that imposed the highest proportions of prison sentences for drug trafficking (these range from 78% to 83%). However, less than six in ten persons in Quebec and Saskatchewan were sentenced to prison. The longest sentences of imprisonment were imposed in Prince Edward Island and Alberta (medians of 12 months and 8 months respectively). In addition, probation was the most serious sentence imposed in 24% of drug trafficking cases, and fines in 9% of cases (Tremblay 1999).

These are not the figures of a massive war-like mobilization of Canadian resources and public will. Given these figures it is clear that one must look elsewhere for evidence of an all out war on drugs in

Canada. Alexander (1990:34) produces some specific and out-of-context instances of politicians' war-like rhetoric, accounts of incidents of legal and illegal police violence, and cites the awarding of William Deverell's novel *Needles* with the 1979 Seal First Novel Award as evidence that "extravagant violence by police towards criminals in the War on Drugs appears to bear the seal of approval of Canadian society." Such sources are as unreliable as barometers of public policy on drugs or the public attitudes that support it, however, as accounts of sensational crimes in the media are indicative of long-term trends in Canada's crime statistics.

That is not to say that Canada's drug policy is cause for complacency. In recent years, more than 70% of drug offences in Canada involved cannabis, and cannabis possession charges have driven the overall trend in this category of offence (Tremblay 1999). Thousands of Canadians have been needlessly imprisoned at great public expense and little public benefit. But while Canadian practices are not as progressive as some European nations, neither are they reflective of the severity or fervour of America's policy of war. Here, judges are not constrained by minimum sentences while police officers can cooperate with public health workers to reduce the harm, if not the incidence, of illicit drug use in local communities through the use of discretion in applying the law as it is written.

As Patricia Erickson points out, a tough law on the books does not always translate into tough action:

While the punitive direction of Canada's drug laws has not changed, but even intensified, there have also been contrasting developments in policy at more local levels of practice. Several emerging issues [including needle and syringe exchange programs, expanded methadone treatment programs] can be considered to illustrate Canada's tendency to moderate its severe federal laws with its expertise in public health and education in provincial jurisdictions (Erickson 1999:27).

What can be concluded is that while America is at war with drugs, Canada's tough-talking legislation has not translated into the same carpet-bombing engagement that has characterized our southern neighbour's reaction to illicit drugs. Clearly the tough language of law is playing out in two different cultural and political contexts. To understand those contexts, a look back at both nations' earlier experiments with intoxicant prohibition might be instructive.

THE NOBLE EXPERIMENT

Alcohol prohibition, or the "noble experiment" as it was known, was instituted in Canada and the United States during the early decades of the twentieth century. Although stemming from similar roots, the implementation of alcohol prohibition on either side of the border reflected differences between the two nations--differences that continue to affect public policy choices today.

Prohibition had its roots in the Christian Temperance Movement, a very popular, successful and long-lived social movement that was meant to bring moderation and temperance to a pioneer society where heavy drinking, and its associated problems, were common. Early Temperance organizations came mostly from the United States and were closely associated with Methodism and other fundamentalist Protestant, particularly Baptist, religious groups. The Anglican and Catholic Churches, on the other hand, remained largely aloof from the cause.

The Temperance Movement can easily be framed as a manifestation of Victorian morality, racism and prudery. Shifting the perspective to the role Temperance supporters played in highlighting social inequalities and women's issues sets the stage for a somewhat different discourse on its role in Canadian history. At a time when the Anglican Church was pre-eminent in Canada, the Temperance cause was identified early in its career as a lower middle-class movement associated with liberalism. Early

Temperance societies in Ontario included almost all members of the reform movement including Egerton Ryerson and Jessie Ketchum, who were both active in the 1837 Rebellion against the established Family Compact (Smart and Osborne 1996).

In the latter part of the nineteenth century, the Temperance cause brought together two different streams of Protestantism--the conservative Evangelicals with their profoundly individualistic ethos and the reform-minded Social Gospellers. The former were preoccupied with personal, not societal, reformation. The latter, however, were committed to achieving God's purpose by building the New Jerusalem and establishing God's Kingdom on earth through collective political action and social reform.

According to Phillips (1996) prohibition offered the progressives of the Social Gospel an issue that clearly demanded government action which the profoundly individualistic Evangelicals would support. From moral reform social reform would surely flow, addressing in the process the wider social ills of society once the efficacy of government intervention was made manifest to the Social Gospellers' more conservative cousins. "Temperance however was not the central issue in the political agenda of Social Christianity. It served more of a midwife function between the womb of the evangelical world of self-improvement and the world of society regeneration" (Phillips 1996:202).

Opposition to the Temperance movement came from many quarters, including the wealthy liquor interests--the distillers, brewers, and hotel-keepers, and often unfolded along class lines. Drunkenness as a social problem was often defined as one affecting the working classes; presumably inebriation in the upper echelons was less threatening to the social order.

Hardly an egalitarian organization, racial minorities were generally barred from membership in temperance societies as were women. In Ontario, societies were largely formed in the 1800s in reaction to the large influx of Irish immigrants with whom drunkenness and other undesirable social flaws were commonly associated by the province's resident Protestants. In the early 1830s, Upper and Lower Canada even shared common ground on temperance but the congruence between Canada's two solitudes was short-lived (Noel 1995).

Eventually women gained access to the societies and became a dominant force within the movement, co-opting the temperance frame to advance other social issues of concern to them. Lacking property and other legal rights, including the right to vote, women had little recourse to protect their economic or physical security, or that of their children, from what they saw as the effects of men's drunkenness. Although the Women's Christian Temperance Union began in Canada as an organization promoting abstinence, it soon began to connect the dots between drink and a menu of other social problems--poverty, family breakdown, and hardship for women and children. It also worked with women in prison, promoted women's suffrage, and campaigned against smoking, narcotic use, and male infidelity. There were major differences in approach between the Canadian and American women's temperance movements. Canadian women did not sing hymns outside drinking houses or break up taverns, Carrie Nation-style, with hatchets (Smart and Osborne 1996). The Canadian WCTU organized along political lines, lobbied town councils and magistrates who had the power to issue licenses, and petitioned political leaders who set policy. The focus of the Canadian campaign was to reduce the number of taverns and eventually to bring in prohibition. The American Social Gospel, by contrast, never took on the issue of advancing women's rights (Phillips 1996).

By the mid-1890s, the temperance campaign had enjoyed enormous success and a large part of Canada was legally dry. Prohibitionists then looked to Ottawa for national legislation. While the Conservatives resisted pressure from the prohibitionist lobby, the Liberals cultivated its support by promising a plebiscite. After Prime Minister Wilfrid Laurier was elected with prohibitionist help, a national vote on prohibition was finally held in 1898 and won by a very narrow margin. Had women had the vote at the

time, the results would certainly have been even more decisive. Nevertheless, Laurier, mindful that prohibition no longer had the support in Quebec that it once enjoyed or continued to have in the rest of Canada, was never a supporter of prohibition and was disinclined to act on so slight a margin, citing a low voter turn-out as his excuse (Alexander 1990).

Prohibition was enacted in all the provinces during the First World War but was defeated, for the most part, by various plebiscites in the 1920s. Problems with enforcement arose and weakened public support. Although ultimate responsibility for setting liquor laws was a federal responsibility, provinces retained jurisdiction over inter-provincial trade. In a classic demonstration of federal-provincial compromise, buying liquor was outlawed but producing it was not and a vigorous trade between provinces undermined local prohibitions. Enforcement of the law was left to the discretion of local authorities where corruption and incidents of excessive force being used against citizens were problems (Smart and Osborne 1996).

In the end, prohibition was replaced with system of government regulation through provincially - controlled commissions as the idea of banning alcohol entirely was replaced with the idea of limiting its harm. Pioneered in Quebec, the first jurisdiction north of the Rio Grande to repeal prohibition, the Canadian model had two elements: a high price structure with distilled spirits taxed higher than lower-alcohol beverages, and a strongly regulated licensing system for on-premise consumption.

Public support for government regulation of alcohol remains high, in Ontario and possibly elsewhere in Canada. In 1995, a poll indicated that 57% of adults in Ontario thought liquor taxes should remain the same and 19% thought they should be increased. Only 11% wanted to see extended hours for beer and liquor stores and 73% thought beer and liquor should not be available in corner stores (Smart and Osborne 1996). The Canadian model illustrates a strong theme in Canadian political life: an acceptance and even an expectation of the government's role in regulating individual choices.

At the same time the American experience with prohibition unfolded along a somewhat different path. Prohibition began in the U.S. in 1919 when Congress passed the 18th amendment to the Constitution, making the production, shipping, importing or selling of liquor illegal. It was followed closely by an important piece of companion legislation--the Volstead Act a strong enforcement law that passed over President Woodrow Wilson's veto--from which sprang many "little Volsteads" out of various state legislatures.

Many thousands of American lives were touched by the cumulative effects of these acts. In Virginia, for instance, in 1917 (before Volstead) there were 1.8 liquor law offences per 100,000 of population. By 1928, the rate of liquor offences had risen to 63.9 per 100,000. During this period, liquor felonies dominated all other categories of offence (Friedman 1993). Then as now, the true believers in the restorative powers of tough punishment, frustrated by the stubbornness of the many sinners who continued to defy the law, cried out for more enforcement muscle and greater rigour. Against a backdrop of growing anxieties about immigration and growing political dissent, then as now, their calls were answered. In 1929 the Jones Act stiffened federal penalties even more (Friedman 1993).

After the American Revolution, federal responsibilities in crime control were limited to acts that injured or interfered with the federal government. By the time the 21st Amendment was passed, repealing Prohibition in 1933, the restricted role accorded the federal government in criminal justice effectively ended and bureaucratic efforts to increase the authority of the FBI had been successful. By the end of fiscal year 1924, 22,000 federal court cases were pending (Friedman 1993). Prohibition also fed the growth of organized crime as the huge revenues derived from bootlegging were used to finance and protect many other forms of criminal activity. Wiretapping became part of the g-man's arsenal of weapons and several important constitutional cases on such issues as illegal search and seizure came out of the Prohibition background.

In the Canadian and American prohibition movements we see themes that are repeated in their respective drug policies today. In the American experience, the expansion of federal powers into criminal justice matters and specifically the enforcement and control area is an important aspect of today's drug wars. Similarly, the Canadian prohibition movement captured many of the cultural tensions endemic to Canadian politics--conflicts between the established elites and reformers, class and religious divides, French-English differences, moral panics about immigration and urbanization, and gender issues. And we see the typically Canadian solution--half measures designed to appease powerful and competing interests that rely heavily on the discretionary powers of local authorities. And the final outcome in Canada--strong government regulation--betrays a basic difference in the expectation and view of government between Canada and the U.S.

Out of its organizational roots grew many of the mainstays of the progressive movement in Canada women's suffrage, the child saving campaign, the agrarian protest movement, the prison reformers to whom the John Howard Society owes its existence. Ironically, it is in the Temperance hall and hymn, not in the ranks of the Family Compact or the moneyed liquor interests who opposed prohibition that one should look to find the origins of the philosophy and political will supporting Canada's public health infrastructure which has given rise to today's harm reduction programs.

WAR AND THE THREE R'S: RACE, RELIGION AND THE RIGHT

There is little evidence to suggest that it was popular sentiments that drove America's presidents onto the battlefield against crime and drugs. When Ronald Reagan declared his war on drugs in 1982, and then renewed it in 1986, fewer than 3% of those polled expressed the view that illicit drug use posed the greatest problem facing the nation. In fact, the incidence of drug use was declining in the 1980s. On the other hand, when drug use and rates of crime were cresting in the late 1970s, the percentage of poll respondents identifying these issues as their nation's most serious remained quite low (Beckett 1997). Public concerns about crime were similarly low when presidential-hopeful Barry Goldwater made law and order a campaign issue in the 1960s. When George Bush Sr. declared his war on drugs in August 1989, poll respondents reporting that drugs were the nation's most important problem skyrocketed from 15% in July to 64% in September (Beckett 1997) and dropped again to 10% the following year when the president, CNN, and the American public turned their attention to the Persian Gulf.

The public's concerns about drug use appear to be unrelated to incidence of the problem itself but is strongly connected to how much elites highlight the issue in public discourse. This is at odds with the democracy-at-work thesis, that claims that concerns about crime are related to the increasing threat of victimization and the anxiety it raises. In the case of illicit drug use, the perceived danger is twofold--victimization by the street crimes that authorities claim are related to the drug trade, and the threat to one's loved ones, especially children, of becoming engulfed in the drug culture's seductive embrace. Almost 8 in 10 American parents worry (55% worry a lot) about protecting their child from drugs and alcohol. In fact, this concern tops their list of anxieties. Nearly half worry more about protecting their children from negative social influences than they do about paying bills or spending family time together (Public Agenda 2002).

In Canada, where the threats posed by crime and illicit drugs are statistically lower than in the U.S., the *perception* of risk is nevertheless positively correlated with greater concern about crime and greater support for punitive approaches. However, Beckett (1997) points out that anxiety and fear only go part way in explaining demands for harsher punishments. As a group, rural white males in the U.S. feel quite safe but are generally strong supporters of law and order policies. Women and African Americans, on the other hand, are more anxious about their own potential victimization, but are generally less supportive of the get-tough punitive approaches. In any case, even if the actual incidence of drug and crime were more

closely correlated with levels of anxiety about them, it would not explain why harsher punishment is selected, time and again, from among the menu of choices as the best response to the problem.

The answer to this question lies, as so many answers to American social phenomenon, in the complicated and painful history of race relations in the United States. Political actors attempt to mobilize public opinion to their advantage by framing issues that prime, or bring to the top of mind, the considerations that will move public opinion in the direction favoured by the actors and their supporters (Koch 1998). According to Beckett (1997), the creation and construction of the crime issue reflect its political utility to opponents of social and racial reform. It bolstered their efforts to discredit the civil rights movement of the 1950's and 1960's and later to attack Lyndon Johnson's Great Society programs along with the structural explanations of poverty with which they were associated.

Against the backdrop of racial unrest, civil disobedience and political assassination in the 1960s, Republican Barry Goldwater campaigned on the law and order issue even though it did not appear on the list of most important issues facing the country. He was joined by vehement opponents of desegregation like Alabama Governor George Wallace who argued that the "same Supreme Court that ordered integration and encouraged civil rights legislation" was the same one now "bending over backwards to help criminals" (Beckett 1997).

The conflation of crime with civil rights activism and political dissent proved to be an effective frame for promoting the notion that poverty and crime were freely chosen by dangerous and undeserving individuals looking for an "easy way out"--an interpretation that flew in the face of the deeply-cherished mantra of the American dream that says great rewards will follow hard work. Proceeding from that rhetorical base, conservatives also identified a "culture of welfare" as an important cause of social dysfunction including crime, illegitimacy, delinquency, and drug addiction. These neoclassical and cultural interpretations both hit on a common theme of "permissiveness" as the cause of crime and drug problems and served up the self-evident solution--a rededication of government initiative toward the restoration of social control rather than pandering to the misguided, if not downright un-American, activities aimed at improving social welfare. Gradually the concepts of race, crime, violence, delinquency and drug addiction were woven together into a single metaphor--the underclass--that has proven to have great utility to those who wish to legitimize a conservative social agenda that reconstructs the state's roles and responsibilities particularly in regard to the redistribution of wealth. When this interpretation began to resonate with white working class constituents who were finding the American dream to be ever more elusive as they shouldered a growing share of the tax burden, Democrats were not slow to take notice.

Survey research confirms that the law and order approach to the crime problem is particularly popular among those who hold racially and socially conservative views. In-depth interviews with such voters reveal that racially charged hostility toward those who seek "something for nothing" is widespread and that this hostility informs support for punitive anti-crime policies. Thus it appears that the coded racial sub-text of the conservative rhetoric on crime and punishment has not gone unnoticed but has been crucial to its acceptance among [these] swing voters (Beckett 1997:12).

At the same time that civil rights activists were being labelled as the foes of law and order, the FBI was reporting steady increases in the crime rate. Even though white victimization remained relatively constant during this period, a fact that was largely overlooked in the public discussion of the issue at the time, anxieties about crime and support for punitive policies grew substantially among white voters.

And so the stage was set for Richard Nixon's neoclassical approach to crime that stated, in essence, that the real causes of crime were not poverty or unemployment but insufficient curbs on the appetites that naturally impel individuals towards criminal activities. By 1969, 81% of those polled believed that law

and order had broken down and most blamed “negroes who start riots” and “communists” for the disintegration (Beckett 1997).

But there was a problem--the federal government had little authority to deal directly with street crime. If the federal government diverted funds to local authorities to deal with the problem then the local governments, not the administration, would get the credit. Having raised public expectations about their crime fighting intentions, the Nixon administration was reduced to exercising vigorous symbolic leadership through tough sounding rhetoric. Eventually a solution presented itself when the administration identified the area over which it had significant authority--narcotics control--as a means to tackle the rising crime rates to which the administration had drawn so much attention. To justify their new tactic, officials argued that drug addicts commit the majority of street crimes in order to pay for their drugs. And so the war on drugs emerged as an answer to a political and jurisdictional problem, not a criminological concern. The Nixon administration continued its war on crime and drugs until the outbreak of the Watergate scandal in 1974.

The issue lay dormant under Ford and Carter only to be picked up again shortly after Ronald Reagan became President in 1980. The new administration confronted the same difficulty its predecessor had-- fewer than 10 percent of all offences fell under federal jurisdiction. But, following Nixon's lead, the answer was at hand. According to Attorney General William French Smith the administration could secure a “strong federal law enforcement capacity” in a “highly popular” manner, by initiating a federal war on drugs (Mauer 1999:60).

In October 1981, the Justice Department announced it would cut in half the number of investigators assigned to identify and prosecute white collar crime. Instead the Attorney General's Task Force on Violent Crime seized the initiative and began an all-out campaign, not as one might expect from its title *against* violent crime (domestic violence was explicitly excluded from its purview), but *for* the hearts and minds of blue-collar voters based on a Republican platform that called for swift and sure sanctions, increased use of the death penalty, and, especially, harsher punishments for drug pushers and smugglers (Beckett 1997).

The underlying racial message of the crime and drug discourse was not lost to Americans: those most opposed to social and racial reform proved the most receptive to the premises of the get-tough movement. In the coming years, with its racial sub-text well established, the crime/drug issue was a staple in the conservative politician's toolkit as the assault on welfare and other social programs continued.

So when George Bush Sr. raised the spectre of Willie Horton in the 1988 presidential campaign he was treading a well-worn path to power in the footsteps of Goldwater, Nixon and Reagan. There was no need to even raise the issue of race--Horton's mugshot flashed on the nation's television screens, the story of his grisly crime, and the liberal permissiveness that had granted him a weekend furlough were enough for voters to complete the picture and reach the desired judgement.

Mendelberg (1997) found that the Horton advertisement provided a racial message that was very much deniable by the candidate and netted more capital than any of its predecessor appeals. It was found to mobilize whites' racial prejudices and spark greater resistance to government efforts to address racial inequality and policies perceived as disproportionately or even illegitimately benefiting African Americans. Although ostensibly about crime, the coded message of the Horton story for white Americans was one of race. So successful was it that the tactic was repeated in gubernatorial and other contests of the period--campaigns that all included racial symbols including the rise of a supposed welfare underclass and condemnation of unfair federal quota bills. The fact that it was a presidential election was also significant since such contests can extend well beyond voters' choices of parties to encompass citizen views of significant national issues.

By 1993 the Reagan and Bush administrations had been stunningly successful in the pursuit of its agenda: federal spending on employment and training programs had been cut in half, while corrections spending had risen by 521% (Mauer 1999).

The political right in America had found the message that resonated with voters before which its opposition in the Democratic Party ranks capitulated. Early in her tenure, Clinton appointee Attorney General Janet Reno proclaimed the message “prenatal care is more important than prisons” in controlling crime, and formed a working group to document the effect of federal mandatory sentences that found low-level, non-violent drug offenders with limited criminal histories made up close to 20% of the entire federal prison population as a consequence of minimum sentencing policies (Mauer 1999:74). But the Clinton administration, spooked by pressures originating on the right, and attracted by the obvious political gains to be gleaned from the “get-tough” stance, buried Reno’s report and in the 1994 State of the Union Address enthusiastically endorsed federal “three strikes legislation.” Today it is virtually impossible to distinguish between Democrat and Republican on the issues of crimes and drugs. The drug issue touches on the sensitive underbelly of America’s racial dysfunction without having to go through the embarrassment of overtly referring to it.

And the issue captured other aspects of American mythology including the central and congenital American distrust in government. Founded in revolution, the ultimate rejection of central authority, America tells itself that it accepts government only as a necessary evil--the best being that which governs least. “There is more to this attitude, in our culture, than the normal and universal resistance to authority. Americans believe that they have a government which is itself against government” (Wills 1999:15).

The political right in America has successfully exploited this belief, so central to American thinking, convincing voters that their freedom would be seriously jeopardized by a little more health care security and a little less personal fire power. And by some strange twist in logic, the frame depicting good government as limited government has been extended to justify expansion of the nation’s criminal justice system, with all the coercive power, for certain segments of the population anyway, that such a distension entails.

Ronald Reagan drew the connection between the scaling back of social welfare programs in favour of social control considerations this way:

[T]his is precisely what we’re trying to do to the bloated Federal Government today: remove it from interfering in areas where it doesn’t belong, but at the same time strengthen its ability to perform its constitutional and legitimate functions....in the area of public order and law enforcement, for example, we’re reversing a dangerous trend of the last decade. While crime was steadily increasing, the Federal commitment in terms of personnel was steadily shrinking (quoted in Beckett 1997:51).

The right’s law and order message plays well with two other strong themes in American life: traditional conceptions of the family and Christian fundamentalism.

Family values and fatherhood have become central values in conservative politics. In conservative thought it is the “strict father” model of family life which motivates a corresponding set of metaphorical priorities for moral action. This model assumes that the exercise of authority is in and of itself moral and that it is essential to reward obedience and punish defiance because reward and punishment have a further purpose. This model assumes that life is a struggle and that children must learn discipline and build character to survive, and that these virtues are learned through obedience. This conception of proper family life is reinforced repeatedly in conservative discourse in words and phrases that refer to character,

virtue, discipline, get tough, tough love, self-reliance, individual responsibility, freedom, intrusion, and common sense (Lakoff 1996).

Liberals' ideology, on the other hand, is informed by a model of the family--the "nurturant parent," but: "...liberals are less aware of the implicit view of morality and the family that organizes their political beliefs. This lack of conscious awareness of their own political worldview has been devastating to the liberal cause" (Lakoff 1996:31).

By failing to frame their policies in ways that resonate with deep-seated Americans values and myths, liberals have ceded valuable political ground to their opponents who have honed their understanding of how to communicate with the American psyche to an impressive degree.

In the depiction of the nuclear, male-headed family we also find a central feature of the more conservative strains of Christianity which depicts the ultimate metaphor--God the Father. The central figure of conservative Christian fundamentalism is the Strict Father God--the Yahweh of the Old Testament and his Son, Christ the King who will preside on Judgement Day to send the righteous to heaven and sinners to hell--not the nurturant Jesus of Nazareth who admonished those without sin "to cast the first stone" or encouraged sinners to "go and sin no more." These conceptions of judgement, punishment, and reward are central to conservative ideology and act as important pillars of the get-tough movement in corrections and the political right's enthusiastic endorsement of the drug war mobilization.

Indeed, in political terms a new religious cleavage has appeared in America based on the orthodoxy of religious belief. Today differences between doctrinal conservatives and doctrinal liberals *within* various religious affiliations have come to rival the traditional divides that used to occur *between* affiliations, that is between Catholics and Protestants or Jews and Christians (Layman 1997). The traditional divide on left and right orientations towards *political* issues that used to be informed by class considerations appears to be breaking down and replaced with divides between traditional religious versus liberal religious/secular orientations on *moral* issues. These emerging divisions affect American attitudes on a range concerns--matters including welfare, affirmative action, crime and illicit drug use--which have been successfully removed from their former class frames and recast and reinterpreted to prime the moral judgements and considerations of key target audiences which include the so-called "Reagan Democrats" of the 1980s.

Religion, family, ideology and race, these are the themes that underpin America's drug war. Rather than a narrow concern about the relative effects of illicit drugs on individuals and society, its message, through the larger conflicts, myths and metaphors within American society that constellate around these themes, speaks to and legitimizes a particular conceptualization of the role and responsibility of government in providing for the disadvantaged and marginalized segments of society.

THE MOUSE AND THE ELEPHANT

In considering national metaphors, one of Canada's most enduring is probably Pierre Elliott Trudeau's infamous depiction of our relation with the United States as one of a mouse in bed with an elephant--"no matter how friendly or even-tempered the beast, one is affected by every twitch and grunt" (Trudeau 1972:176).

Far from a twitch, the war on drugs has been vast, well-publicized and well-financed seizure. So it would be odd indeed if Canadians were left unaffected by its pervasive presence on page, screen and airwave. Sharing so many news and entertainment sources with Americans, from CNN to *Law and Order* and its endless offspring, Canadians have been exposed to the same media's agenda-setting effects--not so much telling us what to think but what to think about (McCombs 1993). Canadians have responded by thinking

about drugs, by reviewing Canadian drug policy, re-introducing legislation, debating their evils and merits. The question is why have we not simply followed America's lead into the trenches of the drug war.

The capacity of elites to mobilize public opinion depends largely on their ability to select symbols and rhetoric that will resonate with deep-seated cultural myths and metaphors. In this statement we find clues to why the themes underpinning the drug war mentality have fared so differently after crossing the border and landing on Canadian soil.

While clinging tenaciously to our share of prejudices, resentments and grievances, Canadian bigotry was not forged in the furnace of slavery, civil war and reconstruction. Our traditions of bitterness skate on the perennially thin ice of French-English and regional tensions. And since drug use is not associated in any significant way with language or region, traditional Canadian prejudices have not been sufficiently primed by the issue of drugs to spur demands for massive public investment.

Certainly, some racial associations with drugs have been made and particular minority groups have suffered seemingly unwarranted attention from police authorities (McCabe-Lokos 2002). But these groups lack the critical mass necessary to mobilize enough politically useful animosity to make the project of fanning the embers of racial acrimony worthwhile. Attempts have been made in Ontario to prime class divisions by linking illicit drug use with welfare recipients through the policy of mandatory drug tests. How effective this issue frame is at creating the notion of a dangerous underclass in the Canadian context remains to be seen, but there just might be too little of the "other" in Canada's poor to make the effort truly worth the candle.

Furthermore, attempts to mobilize the patriarchal models of the family and religion are unlikely to garner the same reaction in Canada that they achieve with American audiences. The difference between Canadians and Americans reaches right into the most intimate aspects of private life. Canadians have accepted a more flexible definition of family including a greater acceptance of non-traditional relationships, sex outside of marriage, and same-sex relationships. Currently, one in three children are born to parents who are living together but not married, and fewer than half of Canada's families conform to the traditional nuclear model (Statistics Canada 2002). While in the U.S. common-law marriage and the birth of children "out of wedlock" is taken as a sign of moral decay and disintegration of society, it is a trend that goes essentially unnoticed in politics in Canada (Adams 1997). In this context, the power of the right's rhetoric, so centrally tied to the Strict Father metaphor, to resonate with Canadian audiences is considerably diluted.

In fact, Adams (1997) maintains that within the time-span of a single generation, Canadians have thrown off their renowned acquiescence to authority in the family and just about everywhere else, replacing it with a deep distrust of institutions in all their forms--secular and religious. In the late 1940s, 60% of Canadians reported attending church services weekly. By 1999 fewer than 20% of Canadians over the age of 15 were attending weekly religious services and 16% of Canadians were reporting no religious affiliation whatsoever, a figure that has more than doubled since 1981 (Statistics Canada 2001).

Americans, on the other hand, and despite their adherence to ideals of personal autonomy have much greater confidence in religion, state, family and the marketplace. Almost all (95%) of Americans claim to believe in God and nearly half think that the Deity has been giving America His special protection throughout its history. Close to two-thirds of Americans believe children raised with religious faith will grow up to be more moral than non-religious children, 85% say it would be a good thing if religion had greater influence on American life, 58% believe the strength of their society is predicated on the religious faith of its people, and more than half admit to harbouring negative views towards atheists (Pew Research Centre of the People and the Press 2002).

These views on morality are reflected in American concerns on a range of public issues including public concerns about illegal drugs. Among the worries Americans have about their country's illicit drug problem, the negative effects banned substances are thought to have on the national character and on public morals rank among the top four (Blendon and Young 1998). In 1997, only 26% of Americans favoured legalizing marijuana while in the same year 51% of Canadians, perhaps reflecting a more relaxed view of morality, thought marijuana should be decriminalized (Savas 2001). Only 34% of Canadians believe that illicit drugs represent a serious problem for Canada (Harvey 2001), while more than 81% of Americans think that addiction is a very serious problem for the U.S. (Lock, Timberlake and Rasinski 2002).

Confidence in the state has also declined within Canada's once deferent and docile population. The rejection of authority in Canada is reflective of a well-documented shift in values taking place in industrialized nations from those based on the materialist concerns of the Great Depression to what Ronald Inglehart has termed the "postmaterialist" beliefs of the post-war generations. Inglehart's thesis of value change posits that economic security produced in advanced industrial societies has gradually changed the goal orientations of its citizens, not so much replacing concerns about economic and physical security as adding and giving greater prominence to higher-order considerations to do with self-expression, freedom and quality of life. The explanation of why this value shift has occurred is still being debated, but the fact that it has occurred is one of the most highly confirmed of social science generalizations (Warwick 1998).

The changes taking place in Canada are consistent with those documented in 11 other advanced industrialized nations, and are strongly correlated with lack of confidence in government and non-government institutions, higher levels of moral permissiveness, growing secularism, and more emphasis on egalitarianism in spousal and parent-child relationships (Layman and Carmines 1997). As Canadians disengage from the guidance of their institutions, consensus breaks down and rebuilds on along different lines. Linked to the "quality of life" issue, areas of public policy around which there used to be a greater degree of consensus are thus emerging as controversial again--areas like abortion, gambling, death penalty, euthanasia, pornography, gay rights, and drug use (Mooney 1999).

In the U.S. the same phenomenon is happening but with a somewhat different cast. It has been argued that the greater influence of religion in the U.S. has obscured the postmaterialist value shift that has been occurring there. While religion has become a much less salient part of politics and society in most advanced industrial democracies, it continues to play a very important part in American political culture. As some segments in the U.S. population have moved towards greater secularism, there has been a counterbalancing growth in conservative Protestant congregations with all of their emphasis on a "strict father" interpretation of issues. In recent decades postmaterialist value-based issues relating to school prayer, abortion rights, the threat to traditional sex roles and sexual orientation, to name only a few, are beginning to steal ground from the old class-based materialist issues of economic growth and publicly-funded health care. Even the old materialist concern of law and order is being recast along moral, value-based lines. Looking at how these issues breakdown politically, it appears that the postmaterialist category contains both social liberals and social conservatives, while the materialist category contains both economic conservatives and economic liberals so that:

...as value-based concerns move to the political foreground, the important cleavage is not between those who focus on postmaterial concerns and those who focus on matters of economic and physical security. Instead, it is between those who hold more progressive stances on postmaterial, value-based concerns and those who hold more traditional positions on these matters (Layman and Carmines 1997:768).

So the opposition to cultural progressivism in the U.S. has not been a class-based goal of maintaining emphasis on materialist issues, but instead has been a matter of religious conservatives seeking to maintain the role of traditional moral values in American culture. The same conflict can be seen in divisions in the Canadian right, particularly between the secular Progressive Conservatives and a vocal and strong contingent of fundamentalist Christian social conservatives within the Canadian Alliance pushing moral issues related to abortion, same-sex marriage, crime, and the traditional role of women. But the greater secular nature of Canadian society as a whole keeps these issues from gaining the critical mass necessary to produce the sort of divisions apparent in the U.S.--divisions that have been so important to maintaining the American drug war.

In a complete reversal of the conventional wisdom vis-a-vis the respective roles individual rights play in the U.S.--the seat of liberalism--and Tory Canada, a growing preoccupation in Canada for individual rights has prevented the worst excesses of the U.S. drug war from gaining ground here. The drug crime rate plunged immediately after the introduction of Canada's Charter of Rights and Freedoms in 1982 because of the new restrictions it placed on the extravagant powers of search and seizure Canada accorded its police before that time (Tremblay 1999). Similarly, Canada's Human Rights Commission policy on alcohol and drug testing severely restricts workplace drug testing in comparison to U.S. practice (Canadian Human rights Commission 2002). And while drug convictions have permanently disenfranchised hundreds of thousands of Americans, the majority of whom are of African-American descent, a recent Supreme Court ruling in Canada has upheld the rights of federal prisoners to vote.

The differences between American and Canadian attitudes to drug use might be explained by Canadians' exposure to alternate issue frames through their own media. While Canadians were exposed to the war on drugs message particularly, but not exclusively through American media sources, Canadian media sources were, at times, presenting an alternative view. A survey of 1,366 statements about drug policy in five media sources during 1997 (after the height of the American drug war) found that 82% of coverage advocated reform of current drug laws through either legalization, decriminalization, or other reforms compared to 18% of statements which favoured continued criminalization. Within Canadian news reports, 85% of the evidence and arguments presented endorsed reform, while 93% of editorials called for reform. The two most popular frames appearing in the sources studied, which included national and local, electronic and print sources, focussed first on the failure of the drug war/prohibition approach, and second on the rights argument that drug use is a matter of individual choice and individual responsibility (On Balance 1998).

In such a political culture, it should perhaps be no surprise that the third bulwark for the American drug war-- the political right itself--offers another disappointment to the would-be drug warrior in Canada. Canada's right, despite its law and order proclivities, are nevertheless in the forefront of calls to decriminalize marijuana. Canadian Alliance MP Keith Martin flanked by conservative think tank the Fraser Institute, has spearheaded efforts to build public support for the decriminalization of marijuana. The divide separating the Canadian and American right would seem to be a wide one. But the differences narrow considerably if the ultimate symbol of drug policy, rather than its surface issues, are taken into account.

By placing the marijuana issue in the context of a personal choice that should be free of government interference the Canadian right can still employ the symbolic aspects of the drug issue to foster a conservative social agenda, but in a manner that is more likely to resonate with Canadian, and specifically with Canadian postmaterialist concerns--an example of the generalized overriding principles to which Feldman (1988) refers.

By framing the issue as one of personal choice instead of personal morality, the Canadian right primes values quite different than those used by the American right but obtains much the same purpose--

promoting a minimalist, libertarian vision of government that has little to do with people's everyday lives. Such a vision ascribes great importance to the role of maintaining social order--so that those who make the laws can be protected from those who break them--but abandons, indeed repudiates, any responsibility to uphold social justice through the traditional means of redistributing wealth and opportunity through accessible public health and education services.

When, in 1986 Brian Mulroney decreed to Canadians that they were facing an illicit drug epidemic, just two days after Ronald Reagan announced the renewal of his drug crusade, the two leaders' pronouncements fell in two different contexts. Indeed, though both statements referred to illicit drugs, their statements were serving decidedly different purposes.

The Prime Minister's statement, apparently off-the-cuff and unexpected, (Erickson 1992) pledged support for an important trading partner and ideological ally. Evidence now suggests that in the days and months leading up to the famous Shamrock Summit which seemed to capture a new affability in Canada-U.S. relations, Mulroney had met with stiff U.S. demands for Canada to increase military spending and cut social programs, if necessary, as the cost of getting Washington to sign a military trade deal (Chase and Sallot 2002).

In the President's pronouncement was a redrawing of the battle lines on which a crucial ideological battle was being fought--a battle in which the objective was not advancement toward greater social health but retreat from government responsibility to undo social inequalities, in favour of a greater emphasis on its duty to maintain social control. Perhaps expressing support for Reagan's symbolic drug war was a way of treading some middle ground by mollifying a powerful trade partner, expressing ideological solidarity, and cementing the relationship between the two countries without overtly attacking social programs to increase military capacity—a hot button issue with Canadians, whose indifference to their armed forces is surpassed only by their attachment to their medicare.

The great anthropologist Mary Douglas claims that virtually all societies, primitive and modern, use blame and ideas of ritual pollution to alert members of the community to their duty to adjust their behaviours to conform and contribute to the public good.

Pollution seen from this point of view is a powerful forensic resource. There is nothing like it for bringing their duties home to members of the community. A common danger gives them a handle to manipulate, the threat of a community-wide pollution is a weapon for mutual coercion. Who can resist using it who cares for the survival of the community (Douglas 1994:6)?

In the U.S., drugs symbolize a serious threat of pollution to America's character, to her morals, and to a way of life. In Canadian tradition, the threat of pollution--whether the term is used in a literal or figurative sense--derives from America itself, a characteristic that both attracts and repels.

The close and constant proximity of "the elephant" has created a number of themes and preoccupations in Canadian political life--not the least of which is preserving our identity against a constant inflow of American values and culture even while we paradoxically welcome and seek their overwhelming presence in our lives.

The title of this article refers to the quintessential statement of Canadian compromise, uttered in its original by William Lyon Mackenzie King, father of Canada's early opium legislation and the prime minister who made of concession and compromise a fine art. Compromise has always been the hallmark of Canadian policy as we balance precariously the demands of our First Nations, British and French roots, the influence of our American and European trading partners, and our chosen, indeed entrenched, multicultural present and future.

In such circumstances, is it surprising that it is to the middle-ground that Canadian policy generally gravitates? When Canada rejected prohibition it was not in favour of an open market for liquor sales but, in concert with our national character and tradition, for a regime of strict government control and regulation. And in the case of drug policy, we have similarly tread a middle line, this time between the “drug war” mentality of our closest neighbour and the harm reduction focus of some European states.

From the standpoint of the mouse we have achieved a balance of sorts. Canada has pursued a policy, guided but not entirely defined by legislation, tough enough to meet our international commitments and mollify our bumptious southern neighbours. Yet we have avoided the worst excesses of the “drug wars” by preserving the discretion of bench and badge and a strong public health tradition.

But at the time of this writing, the balance appears to be shifting. In announcing that it will soon decriminalize the possession of small amounts of marijuana for personal use, the federal government has again chosen to tread, in Canadian fashion, a path of compromise between the more revolutionary proposal put forward by Canada’s Senate to legalize and regulate marijuana, and the outraged exhortations of the Bush administration to hold the line on zero tolerance. The latter make the choice a risky one given our close ties and trade dependency, but it is also refutes those who deny Canada’s distinctiveness and see in Canadian drug policy simply a pale imitation of American priorities.

CONCLUSION: DIFFERENCES MATTER

In terms of political ideology, Canada inherited strong strains of Toryism, liberalism and socialism while America has only known various strains of liberalism peppered with religious moralism (Adams 1997). And these two different historical and political legacies have created differences that matter. Canadians, even with all the influences they face from American and other international sources, still rate their concerns about health care, child poverty, standards of education, environment, and homelessness well above their worries about drugs and crime. And as far as issues about which they are *unconcerned*, the crime issue outperforms health care and child poverty by a ratio of four to one, and is more than double the proportion of Canadians who are unconcerned about homelessness (Roberts 2001).

Our social safety net has helped reduce many of the social conflicts which plague the U.S. and which elites have exploited to build support for the war on drugs. Ironically it is on this preoccupation, which shares its roots with the temperance movement of a century ago, that today’s public health and harm reduction initiatives are building. Canadian social programs reflected:

...a Canadian philosophy, long in the making, that the healthy should be responsible for the sick and the fortunate for the unfortunate. In embracing this philosophy Canada moved away from the North American worship of individualism which had held back collective solutions to problems of industrialization (Murphy 1999:104).

Canada’s social legislation places the country part way between Western Europe and America, as indeed, it is in other public policy areas, including its drug policy.

The ideological underpinning for Canadian and U.S. social policies arise through different ideas about the relationship between the state and the individual. Traditionally, Canadian politics had been established around a federalist model, and our Constitution was primarily concerned with the division of power between levels of government with little reference to individual citizens and their rights. The Constitution in 1982, its incorporation of the Charter of Rights and Freedoms, and the growth of post-materialist value influences changed the discourse in Canadian political culture.

While the civic elements of American politics have largely given way, in recent decades, to a narrow definition of liberalism that “conceives of persons as free and independent selves, unencumbered by moral or civic ties that they have not chosen” (Sandel 1996:6), Canada’s constitutional foundation is built on a different analysis. Along with the traditional liberal-democratic rights of association, expression, and so on, the new Charter contains modern clauses on equality and group rights. The Charter brought citizen’s rights into the Constitution, but more importantly, articulated many of those rights in terms of minority group identities (Pal 2001), emphasizing equality over issues of individual liberty.

Canada’s preoccupation with equality, as compared to American notions of freedom, lies at the base of our lucky escape from the drug war mentality. Differences matter and in Canada the state still has a role, albeit an attenuated one, in ensuring equality—an equality that cannot be achieved simply by maintaining the fiction that every newborn babe begins life in an atmosphere of absolute equal opportunity. In this Canada is closely paralleling trends in other western nations which demonstrate an aspect of political culture characterized by:

...a tension between individual and group rights. The former consist of the traditional collection of civil and political rights that aim to treat individuals roughly the same, regardless of their social and economic differences. The objective was to build a political community that, for the purposes of public policy, ignored group differences and concentrated instead on equal rights of citizenship. This is a noble political ideal and one that still commands substantial support. However, this type of liberal individualism was vulnerable to the arguments that differences did matter, particularly economic differences, and they impeded the practical achievement of real political equality (Pal 2001:64).

Finding ways to talk to Canadians about drug and crime issues that resonate with and re-enforce uniquely Canadian approaches to social problems is a matter to which community groups like the John Howard Society should give much thought. There are many frames to choose from—ones that advance the cause of social justice and others that can do damage in the long term.

While some drug reform advocates, for instance, have advanced the notion that Canada is engaged in a drug war, despite evidence to the contrary and presumably to discredit the policy, such a strategy weakens rather than supports the idea that Canada is a society distinct from the U.S. with the will and wherewithal to develop its own social vision. Canada, although strongly influenced by our aggressive neighbour and trading partner, has clearly not entered into a U.S.-style drug war and is the better for it. It is an important point for advocates to remember and make, rather than undermine, in their public statements.

Social justice advocates should also be prepared to challenge the dominant frames of news coverage in which the issues that matter most to their clients are presented to the public in ways that advance our solutions. The frame has great power to change the nature of the story and its interpretation by audiences. If, as the Fraser Institute (1998) study suggests, the individual rights frame predominates in Canadian news coverage, then what is being presented is a legal problem with a legal solution—reform the law. Those who seek social justice for the disadvantaged, however, must use frames that advance social justice solutions.

For the social safety net has been damaged by the greater priority post-materialist Canada places on concepts of freedom and individualism over the more collective notions that have historically supported our social policies—equality and collectivism. Those members of the public who have internalized the “new values” are less supportive of policies that would redistribute wealth through publicly funded social programs in favour of an agenda focussed on issues relating to personal autonomy and quality of life (Nevitte 2002). And these new priorities can be successfully exploited using the drug issue.

The leadership that groups like the Canadian Alliance and the Fraser Institute are taking in the liberalization of drug law should be matters of concern to those working to reduce the harm caused to individuals and communities by poverty, homelessness, crime, and substance abuse. Those who see drug law reform as an important element for bringing about a more rational approach to the issues of addiction and marginalization, should be cautious about imitating those who are using individual rights arguments to make their case. This frame situates the drug policy not as a dilemma of social policy or the role of government to provide for social justice for the most disadvantaged, but reduces it to an argument about the intrusion of government into the lives of individuals. While that argument does not lack merit, we should be asking ourselves if it is the one that groups concerned about providing better services to those most disadvantaged by drug abuse should be using their limited communications resources to make. After all, why should the government intrude in our choices about how or whether to help the needy by imposing a “burden” of taxation any more than it should intrude in our choice to use or not use drugs? Others can and will make the individual rights arguments but who will speak for the collective obligation to provide for the disadvantaged--especially the politically unpopular addicts and offenders--if we devote scarce resources to furthering the individual rights arguments?

A discussion about individual rights focuses on the literal aspects of drugs and draws attention away from their symbolic utility in legitimizing the war on drugs and its purpose of making socially acceptable government’s abandonment of the disadvantaged. What protects social programs that help the disadvantaged are arguments that appeal to collective, not individual, notions of equality.

By bolstering the frame that puts personal autonomy paramount above other concerns, drug policy activists might find themselves in world not to their liking--where commitment to the collective goals of reducing the harm done by substance abuse to the very few is lacking among the very many. If our concern is confined to the issue of personal liberty to use drugs or if ensuring the legal right to use drugs will do away with the problems the most disadvantaged among us face, then it matters not. If our concerns are about the marginalized people affected by substance abuse, then it matters a great deal. And if we believe that drug addiction and abuse is, in its essence, a health problem then why seek its remedy in arguments that make of it a matter of law?

Liberalization of the law is no guarantee that the resources previously devoted to enforcement will flow to treatment. Nor does it guarantee that, even if liberated from a criminal justice frame, drug abuse will be embraced by the Canadian public as a health issue for which they will accept any fiscal responsibility to solve. Although Canadians, with their growing consciousness of their individual rights, might fight for the right to use drugs themselves if they choose, they will not necessarily see any need to pay taxes to house or maintain the health of those who have become addicted and marginalized by their drug use any more than they feel obliged currently to provide for those who are marginalized by an addiction to alcohol.

The issue for those who care what happens to those most marginalized in our society--by addiction, poverty, or prison--is not about whether drugs are good or bad or whether the state has the right to restrict their use. The argument is about our responsibilities to the disadvantaged and how much inequality, in the name of freedom, we are prepared to tolerate.

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CHAPTER FOUR

SUBSTANCE ABUSE AND CRIME

AN ANALYSIS OF THE RELATIONSHIP AND ITS
IMPACT ON CANADIAN DRUG POLICY

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SUBSTANCE ABUSE AND CRIME: AN ANALYSIS OF THE RELATIONSHIP AND ITS IMPACT ON CANADIAN DRUG POLICY

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INTRODUCTION

The terms drug-related and alcohol-related crime are commonly used by the general public, policy makers, politicians, corrections staff and the media to describe crimes that are believed to be caused by the consumption of illicit drugs and/or alcohol. Underlying these terms is an assumption that the use of such substances actually causes criminal behavior. This assumption is significant because it influences both drug and corrections policy in Canada. However, effective policy is based on evidence, not assumptions. Empirical research is finding that the relationship between substance abuse and crime is "...complex and recursive" (McBride and McCoy 1993:257) and that "...for the majority of drug using offenders, criminal behavior preceded use of illicit drugs though initiation into drug use increases their level of involvement in crime" (Newcombe 2002:3).

The purpose of this article is to answer the following questions: What does empirical research tell us about the relationship between substance abuse and crime? And, are our current policies informed by this evidence? This article begins by presenting several reasons to question the assumption that drugs cause crime, starting with personal observations taken from the author's work as a clinician in a community corrections rehabilitation program in Newfoundland. The second part reviews existing research on the relationship between drugs, alcohol and crime. Several possible explanations for the high correlation between substance abuse and criminal behavior are discussed. The third section explores the question: Are we using evidence to guide policy? In this section, drug and corrections policies in Canada are evaluated based on their effects on crime rates. This leads to a further set of questions: If drug use is not causing crime in the ways we assume, are our current drug and corrections policies really effective in lowering crime rates? And, could the strict prohibition of certain drugs be a contributing factor to crime in Canada? Finally, this article concludes by offering some suggestions for developing sound, evidence-based drug and corrections policy in Canada.

BACKGROUND: REASONS TO QUESTION THE ASSUMPTION THAT DRUGS CAUSE CRIME

Clinical Observations

Many assumptions that are not based on reason or fact exist because we have beliefs that are so entrenched in our culture that we are not even consciously aware of their existence. When I completed my education and training as a social worker, I accepted the assumption that the use of illicit substances causes criminal behavior. I first began to question the assumption of a causal link between substance abuse and crime while attending a presentation by Dr. James Bonta, of the Solicitor General's Office of Canada, on what the research was beginning to tell him and his colleagues about the main predictors of future criminal behavior. The data they compiled indicates that offenders who had a previous history of criminal behavior, had peer and family support for criminal activity, held "anti-social" beliefs and attitudes and demonstrated "anti-social" personality traits had the highest rates of recidivism. Their research also indicated that programs that focused on shifting pro-criminal attitudes and associates and coping with anti-social personality traits had the greatest success in lowering recidivism. Before learning of this research I believed, as did many of my colleagues, that programs that focused on increasing employment and reducing substance abuse would assist my clients in avoiding future criminal behavior.

As I became more experienced working in this field, however, I came to realize that the work for those who wanted to stop committing crimes was far more complex than learning how to find a job and how to stop getting high. In my work I have discovered that turning away from a criminal lifestyle requires leaving behind a very elaborate set of beliefs, social networks, and long practiced coping mechanisms. Basically it involves having to learn and develop an entirely new “culture.”

As our community corrections treatment program evolved, we began to notice things such as:

- many of our clients had no apparent substance abuse problem;
- many clients had a court order to attend substance abuse treatment because they told a judge that they committed their crime(s) because of using drugs or alcohol in an attempt to receive a lighter sentence – often at the advice of defense lawyers;
- many of our clients did not recognize themselves having a substance abuse problem – even if their use was characteristic of what we considered ‘problematic’
- many of our clients reported that their use was part of the ‘lifestyle’ along with criminal activities, other risk taking behaviors and feelings of hostility and distrust towards the “straight world;”
- many of our clients reported committing numerous offences while sober without getting caught but were arrested while committing an offence while intoxicated;
- many drug traffickers were court mandated to substance abuse counseling because it was assumed they were selling to supply a habit but it turned out they had little or no addictions problems and were selling simply to make money;
- often when clients said they felt substance abuse was a problem for them, they wanted to talk about it and not the offence and often this occurred when the offence was of a more shameful nature such as a sexual offence or domestic assault;
- many clients who received only substance abuse counseling recidivated shortly afterwards;
- many clients who had identified substance abuse problems but had addressed other criminogenic needs, such as attitudes or hostility, and began to make changes in their criminal behaviors, seemed to also decrease their problematic use of substances, indicating that the lifestyle and attitude changes led to a natural reduction in drug and alcohol use.

These experiences and observations led my colleagues and I to begin to question the usefulness of focusing on substance abuse treatment as a way to reduce recidivism. This, in turn, led me to question the relationship between of substance abuse and criminal behavior and, eventually, to question the utility of continuing to criminalize certain substances in Canada.

Risk Factors For Criminal Recidivism

The research on effectiveness of treatment programs in reducing recidivism continues to point to a need to target many factors other than substance abuse. These factors have been termed criminogenic needs by the pioneers in the field and have been identified primarily through meta-analytical research that determines the presence of these factors in offenders and compares the rates at which recidivism occurs when a factor is present to the recidivism rates of clients without these factors.

Such research overwhelmingly indicates that certain characteristics are stronger predictors of future criminal activity than others. The presence of a substance dependency, or any other pattern of substance use, is not considered a strong risk factor according to the research literature. Based on research into “what works” in criminal rehabilitation, Andrews (1995) and his colleagues concluded that: “the best established of the risk/need factors may be assigned to a major and minor set.” The major set includes:

1. Anti-social or pro-criminal attitudes, values, beliefs and cognitive-emotional states.
2. Pro-criminal associates and isolation from anti-criminal others.

3. Temperamental and personality factors conducive to criminal activity including psychopathy, weak socialization, impulsivity, restless aggressive energy, egocentricism, below average intelligence, a taste for risk, and weak problem-solving/self-regulation skills.
4. A history of anti-social behavior, evident from a young age, in a variety of settings, and involving a number and variety of different acts.
5. Familial factors that involve criminality and a variety of psychological problems in the family of origin, and in particular, low levels of affection, caring and cohesiveness, poor parental supervision and discipline practices, and outright neglect and abuse.
6. Low levels of educational, vocational, and financial achievement, and, in particular, an unstable employment record.

The minor set includes:

1. Lower class origins as assessed by adverse neighborhood conditions and/or parental educational/vocational/economic achievement.
2. Personal distress whether assessed by way of the sociological constructs of anomie, strain and alienation, or by way of the clinical psychological constructs of low self-esteem, anxiety, depression, worry or officially labeled 'mental disorder'.
3. A host of biological/neuropsychological indicators that have yet to be integrated in a convincing manner by way of either theory or the construction of practical risk/need assessment instruments (Andrews 1995:37-38).

Studies have also been conducted to test the effectiveness of treatment on reducing recidivism. The logic is that if treatment changes the occurrence of certain dynamic (changeable) factors, for example, pro-criminal beliefs, and that factor is criminogenic, there would also be a reduction in future criminal behavior. By reverse logic, changes in factors that are not criminogenic would not have an impact in lowering an individual's criminal behavior although it may have other positive effects for the individual. These non-criminogenic factors may co-occur with criminal behavior with great frequency, but changing them does not significantly reduce future criminal behavior. Sometimes, because of the high correlation of a factor with criminal behavior in an individual, it is easy to assume that one causes the other. Cause, however, cannot be determined by the co-occurrence of conditions or behaviors. Empirical studies of recidivism, however, can give us some indication of the factors that could have a more causal influence on criminal behavior.

The data from a recent meta-analysis conducted by Dowden (1998) shows an insignificant correlation of substance abuse treatment to reductions in recidivism; (0.03) as compared to correlations of 0.33 with programs that focus on teaching methods of self control, 0.32 with anger and negative affect, and 0.29 for those that target anti-social beliefs and attitudes. This led the author to conclude that substance abuse treatment tends to be associated with weak positive effects on recidivism. From these data it seems logical to question if substance use or abuse has a causal effect on criminal behavior.

Canada appears to have a long history of assuming that the use of psychoactive substances tends to cause human beings to commit a wide range of criminal acts. Our society and policy makers seem to believe that the use these substances, especially those that have been deemed illegal, will turn users into criminals. Statistics suggest, however, that for most users of illicit substances the only criminal act they commit is the possession and use of a substance that is prohibited. Creating laws that criminalize the use of certain drugs has made their users criminal when they would otherwise not be considered as such. This in turn has heightened the sense of a causal link between illicit drugs and crime. The development of corrections policy that focuses on preventing and ending substance use in prisoners has served to further link the two in the minds of many people, but the question remains: Is this link based on the evidence or on untested assumptions about the relationship between substance abuse and crime?

AN EVIDENCE-BASED ANALYSIS OF THE SUBSTANCE USE-CRIME RELATIONSHIP

When the evidence is examined, a very different picture develops from the one that views drug use as causal to crime. One thing that becomes obvious in a review of the relevant literature is that the Correctional Service of Canada (CSC), which tends to have a good reputation worldwide for basing its treatment programs on empirical research, has not directly questioned the assumption of a causal link between substance use and crime. No research on this topic was found from any sources associated with official corrections policy in Canada. In fact, the main research referred to by CSC and Solicitor General officials regarding this issue is the report entitled: "Proportions of Crimes Associated with Alcohol and Other Drugs in Canada" (Pernanen et al. 2002). This work carries out a statistical analysis of the self-reported and police reported correlations between drug and alcohol use and crime. It does not, however, systematically explore the nature of the relationship between substance abuse and crime.

The research that does explore this association in depth is still in its beginning stages, but some patterns are starting to emerge. Advanced research into the drugs/crime nexus is showing that, typically, criminal or delinquent behavior appears in an individual before substance use, but the use of certain drugs may intensify criminal activity of an individual. Also, research shows that different substances are associated with different types of crime. Most significantly, many experts hypothesize that both substance abuse and crime may stem from common etiologies and this may explain the strong correlation between the two phenomena. Finally, evidence indicates that the black market for illicit substances has the strongest link to violence, and that drug traffickers tend to have the lowest rates of substance dependencies.

General Patterns

Beginning in the 1980s and continuing to present day, a number of studies have attempted to examine the relationship between drugs, alcohol and crime. Chaiken and Chaiken (1990), in a paper focusing on the quantitative research exploring the connection of drugs to predatory crime, conclude that despite the prevailing view that drug abuse leads to acts of crime as a means to raise funds to buy more drugs, other patterns of behavior were more prevalent. Predatory crime here is defined as instrumental offense committed for material gain. They also brought forward the idea that offenders who are intoxicated when committing a crime may be more likely to get caught, and therefore are over-represented in the populations being studied. Most research on the drugs/crime nexus has been conducted with inmates and arrestees. Therefore, Chaiken and Chaiken suggest we use caution not to over generalize when using data from arrestees or inmates because we may be not hearing from another type of offender: someone who does not use drugs or alcohol while committing a crime, who does not get caught when committing crime and who does not commit crime to help obtain drugs or alcohol.

McBride and McCoy (1993) conducted a well-designed study of the drug/crime relationship in the United States. They found that: "a wide body of research suggests that drug use and crime have a complex, recursive nature to their relationship, and that drug use, in spite of a long history of public perceptions, cannot be viewed as a direct and simple cause of crime" (p. 257). In a 1995 study of juveniles in re-education centers in Quebec, Serge Brochu, a Canadian leader in this field, stated that "Young Offenders do not attribute their delinquency to drug use" (Brochu et al. 1995:103). And in a thorough study with adult federal and provincial inmates and arrestees from several Canadian cities, Brochu and his colleagues stated that: "It should be noted that a very small share of crime can be said to be exclusively determined by the use or abuse of drugs or alcohol" (Pernanen, et al. 2002:115).

In their study with 140 women prostitutes, Maxwell and Maxwell (2000) found "that frequent use of crack, heroin, or marijuana was neither positively nor negatively related to the likelihood of ever prostituting, but frequent involvement in property crimes significantly increased the likelihood of prostitution" (p. 800). They surmise that rather being caused by becoming enslaved to a drug addiction, a

popular belief about the typical lifestyle trajectory of a prostitute, "...prostitution seems to be an alternative route for women who engage in other crimes for economic gain, specifically property crimes" (p. 800). They also point out that women who had engaged in drug trafficking were the least likely to engage in prostitution for income.

In reviewing 15 years of research on the subject, Farabee et al. (2001) concluded that two main interpretations were drawn: "Early onset of criminal activity is one of the strongest predictors of criminal severity, and frequent criminality is positively correlated with high levels of drug and alcohol use" (p. 196). This led them to state in this report that "the nature of interacting addiction and criminal careers is complex and merits further study" (p. 197).

Initiation Patterns

One of the most predominate methods used by researchers to unravel the interconnection between substance use and crime is to study the order in which these two behaviors appear in an individual. The logic is that if one behavior, drug use, causes the other, crime, it would occur first. A number of studies have examined this and they have repeatedly found that crime, or delinquent behavior in the case of youth, tends to occur before the onset of substance use.

For example, Chaiken and Chaiken (1990) conclude that "Among populations involved in drug abuse and predatory crime, a temporal sequence from drug abuse to predatory criminality is not typical; on the contrary, predatory criminality more commonly occurs before drug abuse." They conclude that research does not support the view that drug abuse precedes onset of criminal activity, and it does not show a causal ordering between drug use and criminal activity. They also point to a study of Fagan, Weis and Cheng (1990) that found that youth who engage in predatory crime are more likely to use illicit drugs than youth who engage in illicit drug use are to commit predatory crimes. They go on to cite quantitative research that does not support the belief that drug use leads to crime, and point out facts such as:

- youth's delinquent behavior begins before initial drug use as often as it occurs afterwards;
- while "...over two-thirds of youthful users of drugs are likely to continue use as adults...half of the juveniles who commit crimes stop" in early adulthood; and
- criminality is more predictive of future drug use than drug use is if criminality (p. 219).

From an extensive literature review on primarily quantitative research, McBride and McCoy (1993) concluded that: "For the past 20 years, researchers have consistently found that individuals who frequently use illegal drugs such as cocaine, heroin, or marijuana have engaged in criminal behavior prior to or concurrent with the initiation of any stable illegal drug use pattern" (p. 267). Additionally, Brochu et al. (1995), in a survey of 310 juveniles, determined that the average age of onset of delinquent behavior was 10 years, the onset of alcohol consumption was 12 years and drug use began at age 13. In another survey of youth in Canada, Brunelle et al. (2000) found that: "The majority of respondents revealed that they had committed crimes before their respective initial experiences with illicit drugs" (p. 862). Finally, in a study of 7,189 clients in community based substance abuse treatment, Farabee et al. (2001) found that offenders who commit mainly predatory crimes tend to begin addictions at a younger age but mainly after the onset of criminal behavior. In this article the term predatory "refers to crimes in which the 'victim' is not a consenting participant, as contrasted with drug sales or prostitution" (p. 218). These authors also established that offenders who engage in mostly victimless crimes began their addictions careers before the onset of criminal activity.

Intensification Patterns

One of the strongest connections between psychoactive substance use and crime appears to be in the role that drugs can play in intensifying criminal activity once drug use begins. Research shows this pattern to be quite common and this effect may account for some of the tendency to causally connect drugs and crime. For example, Chaiken and Chaiken (1990) studied crime frequencies among drug-using populations and concluded that the strongest relationship to crime rates was the amount or frequency of drug use and not drug use alone. They also found that rates of criminal behavior vary with the amount of drugs used. McBride and McCoy (1993) determined that “once illegal drug use is initiated, it has a dramatic effect on the amount of criminal activity” a person engages in (p. 268). They concluded that the frequency of drug use has a strong impact on the extent, direction and duration of a criminal career. It has been demonstrated that, for juvenile delinquents, criminal activity intensifies slightly earlier for drug users than non-drug users (Brochu et al. 1995). Finally, Farabee et al. (2001) reported that the research demonstrates that high rates of drug and alcohol use are positively associated with frequent criminality. Their data suggest that drug dependence may be an intensifying factor in predatory crimes, and both causal and intensifying for victimless crimes.

Patterns of Crimes Committed by Type of Substance Used

There appears to be a relationship between the type of substance used to the type of crime, and the intensity of drug use to the intensity of criminal activity. Use of expensive drugs, such as cocaine and heroin, seems linked to more criminal acts. Drug use appears to be related to crimes of acquisition, while alcohol seems to be more closely associated with violent crime. These connections help explain the role that substance abuse may play in intensifying criminal behavior. Heavy use of expensive drugs may lead to the intensification of an already developed pattern of criminal activity. Use of alcohol may lead to aggression in those whose belief systems are favorably predisposed to the use of violence.

In a study of Canadian juveniles, Brochu et al. (1995) found that non-drug using delinquents committed acquisitive crimes as frequently as they committed violent crimes, but that drug using delinquents committed predominately crimes of acquisition, and more of them. For example, the average number of thefts reported by drug users was 35.8, while the number for non-drug users was 24.8. Many studies have found that heavy drug use, especially use of the more expensive drugs like heroin and cocaine, is positively associated with frequent criminal activity (Ball et al. 1981, Nurco et al. 1988). Farabee et al. (2001) reported that those who are dependent on cocaine and/or heroin were involved with a greater variety of crimes. They also concluded that “...some forms of illicit drug dependence, when compared with alcohol dependence alone, are associated with reduced likelihood of participating exclusively in predatory crime” (p. 217).

In a study of adult prisoners and arrestees, Pernanen et al. (2002) found that: “Alcohol appears to have a somewhat stronger causal impact on serious crime than do drugs. Drugs seem to have a stronger impact than alcohol on minor crimes, such as shoplifting, prostitution, drug possession and small-scale trafficking” (p. 116). On the other hand, Maxwell and Maxwell (2000), in a thorough study on the drug-prostitution nexus, determined that crack cocaine was the only drug whose use had a positive association to the frequency of prostitution, but that age of onset of use was also a factor; having a positive effect on crime when the age of onset of crack cocaine use was fourteen years or younger.

In 1993 McBride and McCoy suggested that, “sequentially examining each of the specific intersections between each type of drug and each type of crime could help build a systematic body of knowledge about the totality of the drugs-crime relationship” (p. 264). Unfortunately, this research suggestion is still valid, a decade later.

Alcohol, Drugs, and Violence

While some researchers suggest that the assumption that substance use causes crime is overly simplistic, others report correlations that indicate that alcohol is much more strongly linked to crimes of violence than any other drug. Brunelle et al. (2000) state that their juvenile respondents did not report that drugs caused their violence and write that "...this explanation has been increasingly argued to be inadequate, simplistic, and incomplete" (p. 843). In a study conducted for Canadian Centre on Substance Abuse, (Pernanen et al. 2002) reported much more crimes of violence occurred while consuming alcohol than any other substance. Farabee et al. (2001) found predatory offenders are more likely to be dependent on alcohol only rather than illicit drugs. They also report that, according to the Bureau of Justice Statistics (1998), "violent crime... is more closely associated with the use of alcohol than with the use of illicit drugs" (p. 215).

Even when the research shows that the substance with the strongest link to violent crime is alcohol, we are not at a point of being able to attribute causality of aggression to alcohol. Fagan (1990), when exploring the role of substance use in aggression concluded:

Research on the nexus between substance use and aggression consistently has found a complex relation, mediated by the type of substance and its psychoactive effects, personality factors and the expected effects of substances, situational factors in the immediate settings where the substances are used, and the socioeconomic factors that channel the arousal effects of substances into behaviors that may include aggression (p. 241).

While alcohol's psychoactive effects may have a link to aggression for some people, it does not for all people. It seems reasonable to assume that if the act of ingesting alcohol led to violent behavior in all humans, it would be a highly controlled and criminalized substance. Therefore, Fagan's (1990) research suggests that the link between alcohol and violence results from a combination of alcohol's effects (such as lowering inhibitions) with the personality, beliefs, and learned behavioral patterns of the individual and with the immediate situation. It appears, ironically, that the main links to violence are with the use of alcohol and the operation of the illegal drug trade. From this perspective, Canadian drug policy may be contributing to outcomes that are quite different than intended (see the discussion under "Patterns of Crime in the Illegal Drug Market" below).

Patterns of Substance Use to Facilitate the Commission of Crime

Another factor in the link between substance use and crime may be that psychoactive substances are sometimes used to assist an offender in committing a crime by way of reducing anxiety or blocking feelings of guilt. Brunelle et al. (2000) determined that the link of drug use to crime that was most often reported was intentionally using a substance either before carrying out an offence to reduce anxiety and/or increase courage, or using after committing a crime to avoid feeling guilt or fear of consequences. Those who engage in both property and violent crimes reported this behavior. Pernanen et al. (2002) ended their research report on proportions of crimes associated with alcohol and drugs in inmates and arrestees by stating that the occurrence of planned use of intoxicants as a tool to assist in carrying out criminal behavior "implies serious conceptual problems for the assignment of a causal role to a substance" (p. 115).

Patterns of Common Etiologies

Perhaps the most compelling explanation for the strong statistical coincidence of drugs, alcohol and crime is that both substance abuse and crime stem from similar underlying causes. This concurs with the belief

that addictions and criminal lifestyles are behavioral manifestations of more deep-rooted problems in the individual and/or society in general.

Chaiken and Chaiken (1990) suggest that both drug use and predatory criminal behavior usually occur in early puberty and are products of similar external factors. Fagan et al. (1990) concluded that these external factors are usually either “destructive factors in the environment” such as physical abuse, or the “absence of traditional social control,” such as positive rewards for education (p. 212). Chaiken and Chaiken also refer to a study they published in 1982, which analyzed survey responses of male prisoners and concluded that drug use may be one of a variety of behaviors that are associated with the anti-social lifestyle of predatory (instrumental and gainful crimes) offenders, along with irregular employment and lack of marital ties.

McBride and McCoy (1993) develop a theory that suggest that “drugs and crime occur together because they share a similar set of causal variables and are part of the same sub-cultural value and role system” (p. 272). They describe the conclusions of ethnographers of street-drug/crime cultures as “the sub-cultural values that emerge in street-drug-using cultures encompass crime as a means to obtain drugs and as a cultural value itself in opposition to the straight world of legitimate low-paying jobs” (p. 269). Brochu et al. (1995) concluded their report by stating that our “...results seem to indicate that, for juveniles in reeducation centers, there is no causal link between the alcohol/drug use and crime, but rather that the consumption of alcohol at an early age and the use of drugs, as well as the commission of delinquent acts, are both concomitant manifestations of an involvement in a deviant life style.”

Brunelle et al. (2000) compared institutionalized youth to non-institutionalized youth and found that the non-institutionalized youth had committed less serious crimes with less frequency, and they consumed a smaller variety of drugs to a lesser degree. These youth also reported that they felt they would lose a lot if they were caught in either behavior and they had stronger bonds to family and commitment to school. In contrast, the institutionalized youth indicated, “that they had nothing to lose by getting involved in crime or drugs” (p. 853). This could be interpreted as verifying a common etiology for both behaviors: a lack of positive reinforcements for more pro-social behaviors stemming from a lack of bonds to pro-social supports of family and friends. In the same study it was noted that many respondents reported using drugs and committing crimes in the pursuit of pleasure. Again, it can be suggested that a hedonistic lifestyle can be an independent variable associated with the occurrence of both drug use and crime simultaneously. It can also be suggested that this lifestyle can be the result of a lack of emotional bonds and positive reinforcements for the pursuit of other life goals.

In a study comparing non-criminal males who were in addictions treatment to male offenders who were also receiving treatment, Brochu et al. (1998) found that the offenders being treated were younger, less integrated to the pro-social world, reported more anti-social behaviors and less mental health problems than the non-offenders. This again indicates that substance abusers that commit crimes are significantly different from non-offending substance abusers. In other words, substance abuse does not lead to crime for everyone. This further calls into question the assumption that drugs cause crime.

Although there is little research of this conducted with women prisoners, the available data indicates similar findings. In a 1995 study, Biron et al. examined drug use and its relation to crime in 94 female provincial and federal inmates in Quebec. They concluded that the women’s “economic situation and family responsibilities...usually put them in a very disadvantaged socioeconomic position. Because they have few opportunities for legitimate wage earning, drugs and offending seem to offer a way out in terms of escaping a difficult situation and gaining easy access to money” (p. 40).

There appears to be much evidence that suggest that substance abuse and crime result from similar causes and, therefore, are likely to occur together in a number of individuals. They are both also part of a

lifestyle that is often developed in response to, or to cope with, lack of ties to “pro-social” elements of society. This may help explain why programs that target pro-criminal beliefs and attitudes, peer support for criminal behavior and anti-social personality characteristics have a documented higher success rate in reducing recidivism than do programs that target substance abuse.

Patterns of Crime in the Illegal Drug Market

Evidence suggests that one of the strongest links of drugs to crime stems from the criminalization of certain drugs. Just as prohibition of alcohol led to the strengthening of organized crime and a dramatic increase in violence, it seems that the prohibition of certain drugs has created a venue for certain offenders to make large amounts of money through illegal activities where violence is the preferred method of control and regulation.

Chaiken and Chaiken (1990) point out that the correlation between drug selling and criminality is substantially stronger than the relationship between drug use and criminality. Pernanen et al. (2002) report that inmates who are drug traffickers report one of the smallest addiction rates of all inmates. Chaiken and Chaiken (1990) found that “adult robbers who sell drugs on average report committing more robberies and burglaries than robbers who do not sell drugs” (p. 211). In other words, many studies have shown that the systemic aspects of the drug trade seem to greatly enhance criminality due to the non-regulation of this industry where violence and theft are often used to weaken the competition and protect supplies and income. This market attracts those who engage in criminal behavior on a regular basis as employees and owners. Those who use or abuse the drugs make up the consumer base of this industry.

Two interesting questions arise from this analysis: Do people who are involved in a criminal lifestyle take advantage of the illegal status of certain substances to make profit, and what would occur if prohibition ended? Further, are we enhancing the conditions for crime by establishing prohibitionist policies and practices that, in turn, enable the illegal drug trade?

ARE WE USING EVIDENCE TO GUIDE POLICY?

Canada’s drug laws, and even our correctional policies, still appear to be at least partially driven by a belief that substance use/abuse causes crime. This is evident in our enforcement-dominated approach to drug control, and in our efforts in corrections to reduce crime by treating offenders for drug and alcohol problems. Experts in policy development know that effective policy is based on evidence. If the assumption that drug and alcohol use cause crime is not supported by available evidence, it seems logical to expect that policy based on this assumption would be ineffective at best and harmful to society at worst.

Have Our Prohibitionist Drug Policies Been Effective at Reducing Crime?

There are numerous studies and data that point out the failure of drug prohibition to significantly lower drug use. The evidence that will be presented in this section indicate that Canada’s drug laws and correctional drug policies have been ineffective in lowering crime rates and may have played a role in enhancing crime. It also seems logical to expect that if drug policies were based on evidence, we would not have laws that contribute to increased crime and we would have corrections policy that would focus on more effective means of reducing recidivism.

Are Our Correctional Drug Policies Lowering Crime Rates?

In a press release issued from then Solicitor General of Canada, Lawrence MacAulay's office on April 18, 2002 announcing an International Experts Forum on Addictions and Criminal Justice, it was stated that: "Research has shown that over 70 per cent of offenders have substance abuse problems at the time of their admission. Offenders who are addicted to drugs and alcohol are also more likely to be under their influence when they commit their crime. CSC believes that by helping offenders to overcome their addiction, they will have a better chance of becoming responsible, law-abiding citizens. This in turn contributes to the Government's objective of safer communities" (CSC 2002a). On April 30, 2002, Lucie McClung, Commissioner of the Correctional Service of Canada stated that: "seventy percent of offenders entering our institutions have a substance abuse problem that is directly linked to their criminal behavior." She says that the CSC can best protect the citizens of Canada by helping offenders return to the community without returning to criminal behavior, and that offering substance abuse programs should reduce recidivism by 30%—and possibly up to 60% (CSC 2002b).

These examples demonstrate that key decision makers in our criminal justice and correctional systems appear to assume a causal link between substance abuse and crime. While "research" may have been used to produce the statistics used here, the best empirical evidence has not documented causality in this case. Causality is assumed, without question. This situation may have encouraged corrections policies to place much of its focus on reducing substance use in offenders while ignoring the evidence that suggests drug abuse is not as strong a criminogenic need as other factors. If the intent of these policies is to reduce future crime, this may not be the most effective method.

Could it be possible that the policies that have been developed to lower the consumption of certain drugs have in fact created a stronger link between the use of these substances and crime? Research gives us information that point to this being a strong possibility because of such things as the creation of the crime of possession of a controlled substance, the effects of prohibition on the price of drugs like heroin and cocaine, and the development of conditions that fuel the illegal drug trade. Ironically, the drug whose use appears to be the most strongly correlated to violent crime, alcohol, is a legal substance. The next section points to some of the evidence supporting the claim that our prohibitionist drug laws are not effective in lowering crime rates and may, in fact, be a contributor to crime in Canada.

Rates of Criminal Code Violations for Drug Possession

When you look at the numbers of criminal code violations for possessing a prohibited substance, an argument can be made that the criminalization of these substances is manufacturing crime. And how much crime is created in this way? It turns out that it is a non-trivial amount. In a research report commissioned by the Senate Committee on Illegal Drugs, Casavant and Collin (2001) tell us that: "in 2000, Canadian police departments reported a total of 87,945 offences under the Controlled Drug and Substances Act. Three-quarters of those offences involved marijuana, 68% of them possession" (p. 4). That is a lot of crime created by the criminalization of the personal possession of one drug. Casavant and Collins (2001) go on to conclude that "the research shows that police resources and strategies adopted in the fight against drugs very much influence official crime statistics" (p. 5).

It is common to blame drugs for crime – but what if we stepped back and looked a little deeper and asked that if these drugs were not prohibited, what would happen to all of this crime? Obviously, it would disappear because an illegal act would not occur if the laws making possession illegal were repealed. When we internalize the assumption that drug use causes crime, the logical response to this is that removal of the law would lead to widespread increase in the use of the drug, which would lead, in turn, to an increase in crime. However, if we based these policies on the evidence discussed in this article, we may come to believe that drug use rarely leads to crime directly, and that removal of the law would not

create an increase in crime. In this case, the crime of possession would fall dramatically, along with the many costs to us of enforcement of these laws.

A Tripartite Model Examination of the Link Between Substance Use and Crime in Canada

To further the thesis that the assumed causal link between drugs and crime has led to policies that have not achieved their intended goals, this article will examine the findings of two recent Canadian studies applying Goldstein's (1985) tripartite conceptual framework to exploring the link of drugs to violent crime. Brunelle et al. (2000) applied this model to a study of youth in drug treatment and young offenders in re-education centers in Quebec, and Casavant and Collins (2001) applied the Goldstein model in their review of the drug use and crime relationship. Goldstein's model puts forth three ways that drugs and violent crime are linked:

1. The psychopharmacological link: This says that the intoxicating effects of drugs and alcohol cause criminal behavior.
2. The economic-compulsive link: This suggests that a dependency on expensive drugs often leads to criminal acts committed to obtain money to buy the drug.
3. The systemic violence link: This proposes that "violence is an integral part of the illegal drug distribution market...and exists mainly because the drug market affords no legal way of obtaining justice when rules are violated" (Casavant and Collins 2001, p.15).

The Psychopharmacological Link. Brunelle et al. (2000) concluded that the psychopharmacological link "...most present in the youth's accounts is the use of drugs to facilitate the commission of crime by enhancing courage or reducing nervousness. The decision to commit violent acts was made before consuming drugs in many of these cases." Casavant and Collins (2001) conclude that while intoxication is often cited as a reason for committing a crime, "...evidence supporting this model is limited. The few empirical elements are drawn from research which present numerous methodological problems...and many recent studies have challenged the notion that psychoactive drugs stimulate violent behavior in any systematic way" (p. 8).

The strongest psychopharmacological link appears to be between alcohol and violence. Parnanen et al. (2002) report that 24% of federal inmates said they were under the influence of alcohol at the time of their most serious offence, while 16% stated they were under the influence of drugs and 14% were intoxicated by both drugs and alcohol. Of those that committed homicide, 33.9% reported alcohol intoxication at the time of the crime, while 7% reported being under the influence of only drugs. In a 1999 study, Brochu et al. concluded: "There was a rather clear distinction between acquisitory crimes and violent crimes in the prevalence of use of drugs and alcohol. While homicides and, more pronouncedly, assaults and wounding were predominately alcohol-related, crimes such as thefts and break and enter showed a higher prevalence of drug use on the day of the crime" (p. 9).

The conclusion to be drawn from this is that there is little evidence to suggest that being intoxicated by a substance will lead to committing a criminal act, and the strongest psychopharmacological link that can be made is with the use of alcohol. Has policy been effective in reducing this drug-crime link? It appears as though criminalizing drug use has had little impact on violent crime since alcohol is the substance with the strongest link to the most serious crimes.

The Economic-Compulsive Link. When examining the economic-compulsive link, Casavant and Collins (2001) point out this link is well supported by media reports, and by offenders themselves as a way of not accepting personal responsibility for an offence. They conclude, however, that it "largely disregards some research findings, including the fact that a number of drug users, even those who are dependant users, do not commit crimes...and many drug users got involved in crime before they used drugs" (p. 15).

They do suggest, however, that criminal activity, while not inevitable, is most often linked to those individuals who develop a dependency to expensive drugs such as cocaine and heroin. Further, Brunelle et al. (2000) found that “youths who were regular or dependent users of drugs, especially costly drugs like cocaine, did in fact engage in various money oriented crimes to a greater degree than the other youths in this study” (p. 860).

Has Canadian drug policy been effective in reducing this drug-crime link? It can be suggested that the criminalization of certain drugs has made them more expensive and that this has, in turn, led to an increase in acquisitory crime to obtain these substances once a dependency has been established. Casavant and Collins (2001) report that in the 1990s a daily cocaine habit in Quebec could cost \$43,000 a year, and current heroin users in Toronto report spending an average of \$3,133 a month to buy their drug of choice. It can also be argued that a dependency to illegal drugs must be hidden and, therefore, may persist because of the criminality associated with it. There is very little documentation of crimes being committed to acquire funds to obtain alcohol, which appears to be considerably less expensive than illegal substances.

The Systemic (Drug Trade) Link. Brunelle et al. (2000) found that: “Youths are also involved in drug-selling activities, but they did not seem to lead to as much violence as for adults” (p. 856). Casavant and Collins (2001) write that, “it is impossible to quantify all the crime stemming from the illegal drug market in Canada” (p. 16). The data they provide is demonstrative of the role that criminalization of drugs has played in creating a venue for violent crime in Canada. In 1997, 12% of homicides were linked to the drug trade (Tremblay 1999:7) and between 1994 and 1998, the war between Canada’s two main organized crime gangs (the Hell’s Angels and the Rock Machine) resulted in 450 known violent incidents: 103 homicides, 124 murder attempts, 9 missing persons, 84 bombings and 130 acts of arson (Criminal Intelligence Service of Canada 1999:4).

Has policy been effective in reducing this drug-crime link? An answer to this question can be explored in the following table:

POSSIBLE DRUG/ALCOHOL CRIME LINK		
1. Psychopharmacological Support for this is limited. Strongest link is between alcohol and violence.	2. Economic-Compulsive Some evidence to support this link. Strongest link is to expensive drugs (cocaine and heroin).	3. Systemic Violence is often used to regulate illegal drug trade.
IS CURRENT POLICY REDUCING THIS LINK?		
No. Alcohol is not a criminalized substance. If policy makers believe criminalization works for reducing consumption, and reducing consumption reduces crime, it seems as though alcohol would be the one drug to criminalize.	No. Current policy of criminalizing drugs is linked to increased prices which further fuels the drug trade.	No. Prohibition creates the illegal drug trade.
IS CURRENT POLICY STRENGTHENING THIS LINK?		
No evidence to indicate such.	Yes. Prohibition of cocaine and heroin has created high price structures and increases secrecy which may prolong dependency and connect users to street culture. All of this contributes to further crime.	Yes. Prohibition creates and perpetuates the illegal drug trade.

CONCLUSION AND RECOMMENDATIONS

This article has examined what the evidence is telling us about the relationship between substance abuse and crime. Available research indicates that drug or alcohol use does not seem to directly cause criminal behavior in an individual, although it may intensify criminal behavior that has already started. A likely hypothesis for the strong correlation of substance use and/or dependency to criminal behavior is that they both arise from similar factors, such as a lack of bonds to supportive and pro-social family. The literature finds the strongest connection of drugs to crime occurs in the illegal drug trade where, besides the crime of trafficking, other, more violent crimes are committed as part of the operation of the black market in prohibited substances. However, offenders involved in high-level trafficking also tend to have the lowest substance dependency rates. The second question that was put forward in this article is: Are we using and developing policy that is evidence based? This article has identified ways that our drug and corrections policies appear to be based on unverified assumptions. It also demonstrated that the evidence points out that these policies are not effective in lowering crime rates and may, in fact, be contributing to an increase in crime.

So, the question remains: How can we use the evidence to develop drug policies that are more effective in creating safer communities? Based on this research, the first recommendation is to reconsider our beliefs about the link between substance use and crime. We could begin by separating them as two distinct 'concerns' and examine what the research is saying about the most effective ways to reduce the harms caused by them. The main distinction between the two is that the harm caused by substance use is mostly to the individual who chooses to use, while the harm caused by crime is mostly to people other than the individual who chooses to engage in this behavior. This separation very clearly points to significantly different policy perspectives. Substance use, dependency and abuse are first and foremost health concerns and, therefore, should not be treated as a criminal justice issues.

The second recommendation is that we become attentive to our policy makers use of evidence when creating policy. In this case, I believe that it is important that we ask the questions: What are the reasons for prohibiting certain substances and making it a crime to possess and use them? Were these policies created in an attempt, at least in part, to reduce crime? If so, these policies need to be re-examined because they do not appear to be effective in producing their intended outcomes.

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CHAPTER FIVE

AN EXAMINATION OF THE CORRECTIONAL SERVICE OF CANADA URINALYSIS PROGRAM

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AN EXAMINATION OF THE CORRECTIONAL SERVICE OF CANADA URINALYSIS PROGRAM

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INTRODUCTION

Correctional Services Canada (CSC) has long held the position that it will not tolerate drug or alcohol use in their institutions. They further maintain that: “a safe, drug-free institutional environment is a fundamental condition for the success of the reintegration of inmates into society as law-abiding citizens” (CSC 1996). Given this policy, CSC has implemented a number of programs designed to reduce the amount of alcohol/narcotics trafficked and consumed within its institutions. One of these interventions is the urinalysis-testing program which is now administered both in prisons and in the community. This article will examine the use of urinalysis by CSC as it relates to tetrahydrocannabinol (THC), the psychoactive ingredient in marijuana (cannabis). The overall goal of this article is to demonstrate that the potential harms caused by cannabis use are of less a concern than the potential harms created by CSC’s urinalysis monitoring program. The article begins by providing an overview CSC’s urinalysis program. It then examines current drug use trends of federal prisoners emphasizing the limitations of using random urinalysis testing to assess trends in institutional drug use. Next, it comparatively assesses the potential harms associated with CSC’s urinalysis program, including the possibility that some federally sentenced prisoners may be switching from soft drugs like cannabis to ‘hard’ drugs like heroin to escape detection by urinalysis, with potential harms that may be associated with cannabis use. The article ends with some conclusions based on the findings of this analysis.

AN OVERVIEW OF URINALYSIS TESTING AT CSC

Correctional Services Canada began urinalysis monitoring in 1985 when Parliament authorized its use in an amendment to *Penitentiary Act* (CSC 1990). Within a few months, the legality of urinalysis was challenged based on the Charter of Rights and Freedoms. There were at least three separate legal challenges, and it took over ten years for the issue to be resolved in the courts. In 1995, the courts ruled that:

Both fulfillment of its mandate, and application of the statutory principles which guide its pursuit of that mandate, justify the Correctional Services of Canada conducting random urine testing.... Moreover, as a deterrent to prison drug use and the violence associated with it, random testing constitutes neither an unreasonable diminution of inmate’s liberty or privacy or the integrity of their persons (CSC 2002).

CSC uses their urinalysis program as “a method to detect and deter drug use by prisoners, to provide a baseline for assessment of current levels of drug use, to identify trends or patterns in drug use behavior, and to identify prisoners in need of treatment”(MacPherson 2001:54). CSC has established objectives and guidelines regarding collection of samples, testing, reporting, consequences and classifications of narcotics for both the community and institutions (CSC 1990), (CSC 2001a, CSC 2001b). From 1992-1997 the rate of urinalysis testing increased from 250 tests per month to approximately 3700 tests per month (CSC 2002). CSC now spends approximately \$2.1M a year administering the urinalysis program, with \$600,000 devoted to institutional testing, and \$1.5M to testing in the community (Malarek 2002).

As a result of the legal challenges to urinalysis testing, CSC introduced very specific guidelines under which an offender may be tested. While incarcerated, a prisoner may be tested under four separate grounds:

1. *Reasonable Grounds*: Where there are indications that the prisoner has “taken an intoxicant into his/her body” but there are insufficient grounds to convict without urinalysis
2. *Random Selection*: five to ten percent of the inmate population is tested monthly on an ongoing basis (no individualized grounds).
3. *Participation in a Community Program or Activity Involving Community Contact*: Inmates with a history of substance abuse may be required to give urine samples as part of their conditional release agreement.
4. *Three Consecutive Negative Urine Samples*: A prisoner convicted of taking an intoxicant may be required to provide a sample each month until three consecutive negative samples are provided (CSC 2002).

As a result of the various Charter challenges, random urinalysis testing is now allowed in federal penitentiaries only under the condition that inmates have the right to refuse to give urine samples. However, current CSC regulations stipulate that the sanctions for refusing to provide a sample are identical to those incurred when a sample tests positive for drug use, making the point somewhat moot. CSC reports that inmate refusals to provide urine samples have increased significantly from 9% in 1996, to 14% in 2000 (MacPherson 2001).¹ Since August 1995, urinalysis has been a regular part of operations at all CSC institutions and approximately 5% of the inmate population is randomly tested each month.

In the community, there is no random urinalysis testing. However, CSC considers drug use a significant criminogenic factor, so community parole officers monitor ex-detainees with a history of drug or alcohol abuse on a regular basis. Community parole officers can request urinalysis under the following conditions:

1. *Reasonable Grounds*: Where there are grounds to suspect that a conditionally released prisoner has breached the condition to abstain from ingesting drugs or alcohol;
2. *Monitoring Additional Conditions to Abstain From Intoxicants*: Where the National Parole Board indicates that abstinence from intoxicants as a condition of release, an prisoner may be required to undergo urinalysis at regular intervals (CSC 2002).

CSC currently screens for the following substances:

1. Alcohol,
2. Amphetamines,
3. Benzodiazepines (e.g. Valium, sedatives),
4. Cannaboids (hashish and Marijuana),
5. Cocaine (cocaine and crack),
6. LSD,
7. Opiates,
8. Phencyclidine (PCP),
9. Volatiles (solvents),

¹ The significant increase in refusals negatively affects the ability of CSC’s random testing program to accurately assess institutional drug use. For example, in order to attempt to “factor in” inmate refusals, CSC researchers were forced to run three separate analyses on their data: one that assumes that every refusal was negative, one that assumes that 50% of refusals were positive, and one that assumes that 100% of refusals were positive. Not surprisingly, the outcome of their analyses varied significantly depending upon the assumptions made regarding refusals (MacPherson 2001).

10. Methylphenidate (Ritalin),
11. Pentazocine (Talwin),
12. Meperidine (demerol),
13. Hydromorphone,
14. Fluoxetine (prozac) (CSC 2002).

During testing the individual must provide his or her urine sample in 'full view' of an official observer, who must witness the body fluid leaving the body directly into the sample collection bottle. This practice is often described as humiliating and demeaning. The right of the state to examine another person's bodily fluids presents a real challenge to individual rights and there is a need to balance this with the rights of a safe and peaceful community. Current drug use trends of federal prisoners in Canada are discussed in the following section.

CURRENT DRUG USE TRENDS OF FEDERAL PRISONERS IN CANADA

Drug use is a problem for corrections in Canada and around the world. In fact, the only countries that do not have serious drug problems within their penal institutions are those countries that have the death penalty for both drug use and trafficking (Jürgens 1998). In Europe, for example, between 180,000 and 600,000 drug users pass through the various national correctional systems annually (European Centre For Drugs and Drug Addiction 2002). New Zealand reports that 83% of their prisoners have had issues with drugs or alcohol at some point in their lives (Morris 2001). Findings are similar in Canadian correctional settings. Over 80% of federal prisoners in Canada indicate that they have used illicit substances at least once in their lives, and approximately 50% are considered "regular" users of illegal drugs (Brochu et al. 2001). Of the drugs used prior to incarceration by federal prisoners, the most popular in descending order of preference are cannabis, cocaine and heroin (Brochu et al. 2001).

Despite the threat of harsh penalties, prisoners in Canada continue to use drugs while incarcerated. As one observer points out:

Drug use and abuse are ways of dealing with boredom, anxiety and despair; just how many prisons are there that are able to promote stimulation, relaxation and hope in their inmates by natural means? Drug use as a means of altering consciousness is a universal phenomenon that has been documented since the beginnings of recorded history. To imagine that there would not be drug use in prisons would be to ignore facts about human nature as well as about the effects of drugs (Jürgens 1998:2).

To assess the prevalence of drug use within its institutions, CSC relies largely on data collected from the random urinalysis program. From July 1996 to May 2000, 24,766 random urinalysis tests were conducted on federal inmates across Canada. According to the test data, the national positive rate for all drugs has shown a slight increase, from 11% in 1996, to 12% in 2000, but this change is not statistically significant. Of these positive samples, 9.32% were for cannabis (THC), 1.19% were for opiates, 0.23% were for cocaine, and 0.02% were for alcohol (MacPherson 2001). This data corresponds with self-reported drug use surveys, such as one conducted in Quebec in 2001, where 91% of prisoners said cannabis was their drug of choice, while only 6% named heroin (Plourde 2002). Results from random testing indicated harder drugs are more prevalent in maximum-security institutions where up to 25% of positive tests are for opiates (CSC 2002).

Independent self-reported surveys in federal institutions indicate that prison drug use may be more prevalent than CSC's urinalysis data indicates. For example, a 1996 study of prisoners in Matsqui Institution found that 40% of those surveyed admitted to using prohibited substances while incarcerated

(Jürgens 1996:2). Additionally, 71% of those questioned indicated they had used IV drugs at some point in their lives and of these:

- 12 percent reported IV drug use only in prison,
- 20 percent had used IV drugs only on the street,
- 68 percent reported using IV drugs both inside the institution and on the street,
- 89 percent reported sharing a needle at least once,
- 19 percent reported sharing a needle only on the street,
- 23 percent reported sharing a needle only in prison,
- 47 percent reported sharing a needle both inside the institution and outside (Jürgens 1996:20-21).

Prisoners admit that the sharing of injection equipment inside institutions is prevalent and "...that sometimes 15 to 20 people will use one needle without cleaning it" (Jürgens 1996:2). Moreover, only 57% of prisoners who admitted to using IV drugs in prison reported they were sure their equipment was sterilized. Obviously, when the possession of injection equipment is a punishable offense, the numbers of available injection equipment will be low, and inmates will share. Based on these alarming findings, Jürgens postulates that "the idea of a drug free prison does not seem to be any more realistic than the idea of a drug free society and institutional stability may actually be [increased] by moving beyond this concept" (Jürgens 1998:10).²

There are a number of reasons why it is difficult to gain an accurate picture of drug use behind prison walls. As previously discussed, the right of prisoners to refuse to submit urine samples for testing in Canadian prisons significantly decreases the ability of CSC's random urinalysis program to accurately assess institutional drug use trends. Secondly, the rapid turn over of prison populations creates an interesting challenge for researchers attempting to develop accurate assessments of drug use in prisons. In particular, "snapshot" studies done at one institution may not provide accurate assessments of drug use throughout a given correctional system. Thirdly, a review of urinalysis testing procedures reveals that there may be predictable "windows of opportunity" that allows inmates to use drugs without being detected. In particular, testing data revealed a majority of urinalysis tests happen on weekdays, specifically in the second and third weeks of the month. In fact, 10% of tests occur on the weekend, although in true random testing one would expect 28% of tests to occur on weekends (MacPherson 2001). Given the short detection time for drugs like heroin (2-3 days), it is possible that some amount of drug use in Canadian prisons is not being detected by CSC's "not quite random" urinalysis testing.³ Consequently, CSC's use of data generated from random urinalysis programs may not be providing an accurate account of drug use in its prisons. The negative impact of the sanctions imposed upon prisoners who have tested positive for cannabis use will be discussed further in the next section.

² The recognition of these types of problems has prompted CSC to provide bleach kits to sterilize injection equipment apparently with the tacit understanding that residents of their institutions will share needles if new ones are not available. Through "harm reduction" measures such as these, CSC hopes to reduce the risk of spreading blood-borne diseases such as HIV and Hepatitis C. The harm reduction approach allows a drug user to participate in drug use without judgment while providing counseling and support to address the issues in their lives that led to drug use in the first place. This is in direct contradiction to the traditional abstinence model of drug rehabilitation which implies that a drug user must first stop using drugs, and then get their life in order.

³ It has been this writer's experience while working in a halfway house in Vancouver B.C. that some prisoners reach the community and are caught for heroin or cocaine use on urinalysis without any indication of heroin/cocaine use while they were incarcerated. Thus, some individuals that this writer has worked with have apparently been able to continue their drug use for several years without detection while incarcerated.

SANCTIONS FOR POSITIVE DRUG TESTS AND THEIR POTENTIAL NEGATIVE EFFECTS ON PRISONER REINTEGRATION

A prisoner testing positive for drug use will undergo both administrative and/or disciplinary sanctions to modify their behavior toward abstinence. In the institution or community, a prisoner who tests positive for intoxicants will be re-assessed for increased risk, and consequences may include but are not limited to:

- A review of the correctional plan and the modification of the plan where necessary;
- A review of participation in a program of conditional release, including temporary absences, work releases and parole;
- A suspension or recommendation to the National Parole Board to suspend a program of conditional release;
- The restriction of open visits and/or other community contact, including general social events, visits from family or volunteers;
- The restriction of private family visits;
- The denial of all visits;
- The review of security classification and placement which may lead to placement in special facilities
- The referral to relevant programming;
- The suspension from a job that requires a degree of trust or affords freedom of movements throughout the institution, and consequential pay impacts;
- The suspension from a job that requires operation of machinery or heavy equipment with consequential pay impacts;
- The restricted access to work programs in the community
- A review of the inmate's accounts, including canteen expenditures (CSC 1996).

Inside the institution, the sanctions imposed for an infraction may hamper the reintegration process. Prisoners in lower security settings may be forced to move to institutions with higher security ratings, disrupting their correctional programming. This is problematic because inmates who are moved to higher security levels will have to establish a new relationship with their institutional parole officer who may be unaware of the prisoner's personal qualities or efforts expended toward rehabilitation. Also, it may take time for the prisoner to come to a place where they feel they can trust or confide in unfamiliar staff members. Secondly, A return to a higher security level exposes a prisoner to greater risk of violence, as inmates with a greater potential for violence are housed in higher security prisons. Thirdly, there is the unintended consequence of placing drug users and drug dealers in the same location. Drug dealers are sent to higher security levels for selling drugs, while drug users are sent to the same higher security ratings for using drugs, effectively placing dealers and users in the same locations. Finally, positive drug tests may preclude prisoners from participating in work programs. This sanction may lead a prisoner to find less pro-social means to earn income, such as drug dealing, thus enabling the exact behaviors that the sanctions were attempting to discourage. In the words of one observer:

Drug dealing provides high incomes, requires no equipment or training, and drugs can be easily passed without detection. In a climate of prohibition, drug costs are high and correctional officers and other staff can be offered high levels of pay for their assistance. The result is an economy that is almost perfect for the prison environment, especially since many of the participants have been involved in dealing before entering the institution (Jürgens 1998:2).

Sanctions imposed for positive urinalysis tests in the community may require that a prisoner be returned to the institution. They may also be dropped from a work program that is designed to give valuable career training to people whose problem, in part, may be from the lack of salable skills, which precludes viable employment in the first place. Sanctions may also force a return from the community where a prisoner spends time to increase positive community contacts and establish family support while partaking in an unescorted temporary absence release. Prisoners on day parole or statutory release may be returned to the

institutions either in a temporary detention capacity (30 days), or revocation of parole (90 days, next calculated statutory release date). A return to the institution can be a traumatic experience potentially involving loss of employment, personal property, despair, loss of educational opportunities, and strain on newly developed relationships in the community including family, volunteers and others offering positive support. In addition, prisoners may risk future acceptance to halfway houses where they receive day-to-day support, education, employment help, as well as an opportunity to remain in the community while on day parole.

National Parole Board (NPB) and CSC policies indicate that prisoners will be re-assessed for risk each time they violate a condition of their parole (such as a positive urinalysis test). In the case of drugs, risk base is determined by the degree in which substance abuse has been a factor in the prisoner's criminal history. The NPB has the authority not to suspend an individual for cannabis use, alternatively providing enhanced counseling and treatment. The NPB may make a "no action" decision, add a new condition to the prisoner's parole agreement, or modify an existing condition, or it may take the extreme step of revoking the prisoner's release (Crowley 2001).

Each violation is assessed on a case-by-case basis, repeated positive tests for cannabis often result in increasingly harsh sanctions. Parole officers have considerably less discretion than the NPB. For example, it is mandatory, for parole officers to report any violation of parole conditions and submit recommendations concerning their perception of the risk factor for the prisoner returning to criminal activity. However, the NPB has the authority to accept or refuse the parole officer's recommendations. The National Parole Board has some discretion in parole decisions, but attention raised by providing repeated positive tests for cannabis use in the community are likely lead to revocation of parole even in the face of other positive behavior.

Over time, the increased attention toward a prisoner for positive urinalysis tests may eventually lead the Parole Board to suspend or revoke community release. Recently, the *Globe and Mail* newspaper released an article stating that CSC is considering removal of THC testing in their community urinalysis program (Malarek 2002). This would allow responsible users of cannabis to continue use despite multiple positive tests potentially preventing a return to the institution.⁴ According to the suggested policy change, those prisoners whose cannabis use is identified as a direct contributing factor to criminal behavior would continue to be tested and assessed on a 'risk' scale by the NPB.

Are current sanctions for cannabis use protecting the community at large from a great harm and dramatically improving the ability of prisoners to reintegrate into the community? Graham Stewart of the John Howard Society of Canada writes:

We have been critical of the present strategy which emphasizes enforcement and control at the expense of prevention and treatment. We feel that the evidence relating to the benefits of the "war on drugs" approach which emphasize[s] enforcement and control is questionable at best. The costs include loss of family contact, employment/training and other "privileges" which can improve the prisoners chances of success in the community on release and...more injection drug use which increases the risk of very serious health problems – HIV/AIDS and Hepatitis C...A further concern relates to prisoners who want to stop using drugs but are reluctant to go for treatment for fear that their admission of drug use will affect their privileges within the institutions and their chances for release on parole (quoted in Jürgens 1996:21).

⁴ Predictably, conservative elements in Canadian society, including the Canadian Police Association and the Union of Prison Guards severely criticized the suggested change in testing policy stating that such a change would negatively affect safety and security both in prison and in the community.

It is evident that administrative and disciplinary sanctions for institutional drug use set forth by CSC policy disrupt positive community contact, hamper employment training, and stifle positive progress toward reintegration because of transfers to different institutions. In the community, sanctions that return an individual to prison for cannabis use, can be traumatic and counter productive to the objective to help prisoners reintegrate, by removing them from their jobs and interrupting efforts to develop positive community contacts. Without a change in the practice that guides community tests for THC, normally responsible cannabis users will continue to be returned to institutions despite positive efforts toward reintegration. The result of these sanctions may lead some prisoners to switch from using soft drugs to hard drugs while incarcerated because of random urinalysis testing, which will be discussed in the next section.

THE SWITCH FROM SOFT TO HARD DRUGS

Central to any discussion on the potential harms created by CSC's urinalysis program is the idea that some prisoners may be switching from cannabis to harder drugs, like heroin, to avoid detection via random urinalysis testing. According to MacPherson (2001:54), "Evidence of opiate use will remain detectable in urine for only 1-2 days, while THC, the active ingredient in marijuana and hashish, can be detected for as long as 5 weeks after chronic use."⁵ CSC data indicates that the majority of random urine tests happen during the week, which leaves a three-day window for heroin use without detection (Friday evening to Monday morning). Given these conditions, it is probable that some prisoners may choose to use opiates rather than cannabis in order to avoid detection on urinalysis tests. In fact, it has been reported to this author that drug dealers in institutions often use the existence of urinalysis testing to sell heroin to a first time buyer inside. In these cases, heroin is sold under the premise that "they don't test on the weekends...it'll be out of your system by Monday."

There have been a few studies that have attempted to verify that some prisoners are making a switch from soft to hard drugs both in Canada and the UK. Jürgens conducted a survey of drug use perceptions on prisoners in the Matsqui Institution (Pacific Region, Medium Security) in 1996. They found that 42% of prisoners felt others had not switched less detectable but generally more addictive drugs, 30% were undecided and a significant 28% felt prisoners were switching to avoid detection (Jürgens 1996, 1998). Jürgens writes:

We agree that urinalysis testing is encouraging some inmates to change their drug of choice from marijuana and hashish to harder drugs like cocaine and heroin because they are flushed out of your system faster, thus making random detection much harder. There is also a good portion of inmates that really do not care and will take their chance with random testing. In my opinion, this strategy is not reducing the amount of drugs in prison, instead, it is increasing the amount of hard drugs available (Jürgens 1996:4).

At the onset of instituting mandatory drug testing in the UK prison system, researchers conducted a study to assess the impact of drug testing programs on drug use in prison. In their study, 30 of 111 prisoners reported they had stopped using drugs completely, 17 reported to have reduced their consumption, 7 reported they were smoking less cannabis but continuing to use heroin and 4 prisoners had switched to heroin as their drug of choice, and cut down on their cannabis use in response to urinalysis the remainder in the survey indicated no change in their drug use patterns (Edgar and O'Donnell 1998). They also found that 1 in 5 prisoners in their survey had been introduced to heroin for the first time while in prison.

⁵ The inclusion of the words "chronic use" are significant here. It is well documented that THC is cleared from the body much quicker in infrequent users than in chronic or regular users. The detection time for cannabis use ranges from 3 to 30+ days depending upon factors such as the THC content of the drug, the metabolic rate of the user, the intake of fluids, and the frequency of use.

Significantly, their study determined that the ability of random urinalysis testing to accurately assess institutional drug use was suspect. In addition, 17 of the 111 inmates (who were also randomly tested) indicated they had used cannabis or heroin in the last month and had evaded detection on random screening tests.

CSC's knowledge of the possible shift from soft drug to hard drugs is evident in an article by Warden Ron Wiebe published in 1999. He states:

Somebody could have used heroin or cocaine, and 72 hours later, it may not be possible to detect the abuse, whereas we could detect THC. Marijuana is certainly a lesser concern for us than the harder drugs. Offenders often argue that they switch from THC and use the harder drug simply because it's less detectable. I don't know if that's true or not, but it's an argument they give us from time to time (Wiebe 1999:2).

In addition, a 2002 report of the Corrections and Conditional Release Act states that "...initially, there were concerns prisoners would move from soft drugs to harder drugs because a verage time for harder drugs such as cocaine and heroin to clear the body is 48 hours, whereas substances such as cannabis clear in 30 days" (CSC 2002:186). These examples provide evidence of CSC's awareness of the possibility inmates switching from soft to hard drugs to escape detection on random urinalysis. Despite this, there are no known CSC studies that examine the problem directly. Instead, CSC has conveniently relied upon their urinalysis statistics, that may not provide an accurate assessment of institutional drug use, to dismiss the claim that prisoners may be switching to harder drugs in its prisons.

It is difficult to gain a clear picture of drug use inside prisons, as suggested previously. Urinalysis is not without drawbacks. Variations in the random testing regime, different rates of body metabolic breakdown and prisoners developing methods to cheat testing are all examples of how the current system could produce inaccurate or incomplete data. In addition, those people that are making a switch from soft to hard drugs are likely to be small in number. Edgar and O'Donnell's (1996) finding that only 4 of 111 people had switched to heroin from cannabis as a result of urinalysis, but none persisted with heroin use. However it is important to note that the potential downstream costs of even one extra person leaving prison with a heroin habit are extremely high for both the individual and for society.

Although opiate consumption inside the institutions has remained fairly stable over time (according to CSC's urinalysis statistics), a look at community positive rates for opiates may give an indication of a switch to harder drugs inside the institution. CSC reports that overall consumption of opiates in its institutions has decline since 1993 (CSC 2002). However, in the community there has been an increase in positive tests for opiates from 20% in 1994, to 24% in 1996 (CSC 2002). It is possible that the increased detection of opiate use in the community could in part be due to the continuation of use that began inside.

It is important to mention that there is no official CSC evidence supporting the allegation that prisoners are switching from soft drug to hard drug to escape detection in urinalysis. There are, however, a number of CSC studies and reports negating the possibility, without a proper study of the phenomenon. In light of the anecdotal evidence presented in self-reported studies, and the study by Edgar and O'Donnell (1996) of the effects of urinalysis testing on drug use in UK prisons, it is imperative that CSC investigate this phenomenon directly, especially in light of the enormous potential downstream costs of even one extra case of prison related heroin addiction.

Heroin use traditionally brings more harm to both the individual and society at large than cannabis use. Increased consumption of hard drugs inside institutions has the potential to bring significant harm to our communities as well as negatively affecting the individual involved in its use. Heroin addiction is

designated in the DSM-IV.⁶ Addiction is a group of cognitive, behavioral, and physiological symptoms indicating that the individual continues use despite significant substance related problems (Woody 1997). Woody indicates that most heroin users experience problems in one of these areas: involvement in drug related crime such as shoplifting or burglary, overdose, skin infections, hepatitis, HIV infection, nasal and pulmonary irritation, family, psychiatric difficulty and employment. “It has been unequivocally established that narcotic addiction in the United States is associated with exceptionally high crime rates. With few exceptions, narcotic addicts engage in a great amount of criminal activity, frequently on a daily basis, and as a consequence commit hundreds and, at times, thousands of offenses per individual during their addiction careers” (Nurco 1997:47). Heroin’s link to crime has been well documented. Nurco’s article relates many studies examining heroin relationship to criminal activity, while the Senate Committee found no correlation between cannabis use and criminality with the exception of trafficking, heroin clearly is linked to crimes of acquisition, as well as subjecting an individual to a community fraught with systemic violence issues (Goldstein 1985). The heaviest heroin users are more likely to be serious offenders. Nurco’s report found that ‘expensive’ drug use was a partial explanation for “income generating crime.” These studies found that more-than-once-a-day heroin use predicted comparatively with high levels of illegal activity (Nurco 1997).

The most significant risk to both individual drug users and society at large is the exposure of heroin addicts to dangerous practices that increase the possibility of contracting a life altering disease, such as HIV and Hepatitis C. “Intravenous injection offers important economic advantages as a route of drug administration: it produces a very strong immediate drug effect, and almost all the drug is used” (Des Jarlais 1997:63). Des Jarlais states “transmission of HIV among drug injectors is now the engine driving the continuing AIDS epidemic in this country. If we do not control the transmission of HIV among injecting drug users, we will not be able to control the AIDS epidemic as a whole” (Des Jarlais 1997:65). Mills (2002) points out that the lifetime social costs of one intravenous drug user with AIDS can be as high as \$606,209 (costs of health care and lost productivity).

It is important to note that there can be many reasons that prompt people to switch their drug of choice from soft drugs to hard drugs. For example, the compact size and high potency of heroin allows for easier importation of the narcotic inside the institution. CSC (1998) reports that of 350 prisoners surveyed at Joyceville Institution, 21 had tried heroin for the first time in prison. Prisoners are often described as “using what substances are available”, and because of easier importation and higher profit margins, harder drugs may be more available and/or “marketed” harder in some institutional drug markets than soft drugs like cannabis. In addition, offenders may be making the switch to hard drug use very early in their sentences prior to their first random urinalysis test, making it difficult to document a shift from softer to harder drugs. Although there are a variety of reasons why prisoners may turn to hard drug use while in prison, this article’s focus is on the effects that urinalysis may have on that choice. It is imperative CSC conducts an empirical analysis specifically designed to identify if offenders are indeed switching to hard drugs, and if so, to account for why this may be the case. We now will consider the harms that may be associated with cannabis use.

POTENTIAL HARMS ASSOCIATED WITH CANNABIS USE

The Canadian Senate Special Committee on Illegal Drugs notes that the knowledge base in around drugs, including cannabis, is often ‘limited and clouded by myth’ (Senate of Canada 2002:10). Their goal in conducting a study around cannabis use⁷ was to examine the myths and disparities surrounding cannabis

⁶ DSM-IV stands for Diagnostic and Statistical Manual of Mental Disorders.

⁷ The information presented here on the health and social effects of cannabis has largely been gathered from the work of the Senate Committee on Illegal Drugs in Canada.

use, thereby determining a reasonable approach in Canada as it relates to our criminal law. Their contention is ‘only offenses involving significant direct danger to others should be matters of criminal law’ (Senate of Canada 2002:12).

The findings from the Senate study conclude that current levels of THC in an average cannabis cigarette range from 6 to 31%, bringing about feelings of euphoria, relaxation and sociability. These sensations are usually accompanied by short-term memory impairment, loss of the ability to concentrate and some loss of psychomotor skills. The pharmacological effects of cannabis reach a peak in approximately 9 minutes and effects fall to 5% within an hour. There is no evidence of cannabis leading to violent/aggressive behavior. In fact, most report that the drug has a calming effect that reduces, rather than enhances, violent tendencies.

According to the Senate report, cannabis use is quite prevalent in Canada. Enforcement agencies estimate that 800 tons of cannabis circulate in Canada each year. According to the best available data, 30% of the population has tried cannabis at least once in their lives, 2 million people have used cannabis in the past year, 600,000 in the past month and approximately 100,000 Canadians use it on a daily basis (Senate of Canada 2002). The study also suggests most experimenters stop using cannabis, while long-term users implement cannabis use in their family, social and occupational activities. Long held opinions that cannabis use leads to hard drug use, the so-called “gateway effect,” were rejected as unsubstantiated in the Senate study. Moreover, the study suggests that cannabis is not a cause of delinquency and not a cause of crime or violence.

There are risks associated with the trade and distribution of cannabis inside of institutions as well as the community, through the exposure to systemic violence (Goldstein 1985). Drug trade inside the institution may lead to threats or acts of violence and extortion by rival dealers, or as a result of running up drug debts. “Because these criminal entrepreneurs operate outside the law in their drug transactions, they are not bound by business etiquette in their competition with each other, in their collection of debts, or in their non-drug investments. Terror, violence, extortion, bribery, or any other expedient strategy is relied upon by these criminals” (Goldstein 1985). It is important to note that it is not the drug itself that causes this violence; it is rather the creation of a black market economy where there exists no ruling bodies to guarantee fair and equitable trade.

The Senate report does acknowledge there are health risks associated with cannabis use. Heavy use of cannabis may lead to respiratory system difficulties, which can ultimately lead to chronic bronchitis and cancer of the upper respiratory tract (Senate of Canada 2002). Psychological consequences may include impaired concentration and, in cases where users are predisposed, psychotic and schizophrenic episodes. In addition, “heavy use of cannabis can result in dependence requiring treatment. However, dependence caused by cannabis is less severe and less frequent than dependence on other psychotropic substances, including alcohol and tobacco” (Senate of Canada 2002). Except for the heavy user and those predisposed to psychotic episodes, the use of THC is generally considered less harmful than alcohol.

In assessing the potential harms associated with cannabis use, Judge Francis Young of the US Drug Enforcement Administration (DEA) states:

Drugs used in medicine are routinely given what is called an LD-50. The LD-50 rating indicates at what dosage 50% of test animals receiving a drug will die as a result of drug induced toxicity. At present it is estimated that marijuana’s LD-50 is around 1:20,000 or 1:40,000. In layman’s terms this means that in order to induce death, a smoker would have to consume 20,000 to 40,000 times as much marijuana as is contained in one marijuana cigarette. NIDA supplied marijuana cigarettes weigh approximately 0.9 grams. A smoker would have to consume nearly 1,500 pounds

of marijuana within about 15 minutes to induce a lethal response. In practical terms, marijuana cannot induce a lethal response as a result of drug related toxicity (A-Mark Foundation 2002).

In determining the societal harms of cannabis use, the Senate Committee notes that cannabis involves none of the addiction and attendant problems that follow from heroin or cocaine use. In the conclusion to its lengthy report, the Senate Committee states the following:

It has been maintained that drugs, including cannabis, are not dangerous because they are illegal but rather are illegal because they are dangerous. This is perhaps true of other types of drugs, but not of cannabis. We should state this clearly once and for all, for the public good: it is time to stop this crusade. ... We believe... that the continued prohibition of cannabis jeopardizes the health and well-being of Canadians much more than does the substance itself or the regulated marketing of the substance. In addition, we believe that the continued criminalization of cannabis undermines the fundamental values set out in the *Canadian Charter of Rights and Freedoms* and confirmed in the history of a country based on diversity and tolerance” (Senate of Canada 2002:38 and 45).

In reviewing the potential harms related to CSC’s urinalysis program and those associated with the use of cannabis, then, it is clear that the harms associated with urinalysis testing for CSC are greater than the harms associated with the use of cannabis.

CONCLUSION

Correctional Services Canada faces a challenge when approaching the cannabis debate. They have a mandate that states: “a safe, drug-free institutional environment is a fundamental condition for the success of the reintegration of prisoners into society as law-abiding citizens” (CSC 1996). This article has provided an alternative perspective on the potential effects of CSC if they continue to include THC in the urinalysis-testing program.

It is demonstrated that drug use is prevalent within federal correctional facilities in Canada. Urinalysis testing is the method that CSC uses to assess prison drug use, despite the methodological difficulties associated with the program. The sanctions for cannabis use, both in prison and in the community, appear more harmful than the alternative use of the substances to the institution or society. In particular, we presented some evidence suggesting that the sanctions designed to create a drug free prisons in Canada may actually be promoting hard drug use. Perhaps there is a more logical way to approach this problem. To quote from Plourde:

Adopting a [comprehensive] harm reduction approach in a prison context would require recognition that some substances, such as cannabis, are less harmful to the institution than others because they are less likely to lead to aggressive behavior. It must also be recognized that drugs are not simply a pharmacological or moral issue; other factors are involved such as infection (from injection or needle sharing), inmate health and violence induced by drugs or inherent in the drug trade. It would thus be useful, bearing in mind the whole context involved, to reconsider the impact of strategies that are aimed at interrupting the supply of drugs or punishing users (Plourde 2002:18).

Correctional Services Canada has already implemented a series of harm reduction initiatives to decrease the harm associated with drug use in its institutions. The initiatives include providing bleach for sterilizing injection equipment and implementing the methadone maintenance program to treat those suffering from severe opiate addiction. They concede a drug free penal system, although ideal, is an unlikely occurrence. It is suggested that elimination of THC in urinalysis tests is a logical extension of CSC’s current harm reduction approaches.

Most significantly, there is a real need for CSC to directly study the issue of inmates switching from soft to hard drugs. The methodological issues associated with using urinalysis results as the primary determination to assess levels of drug use, and detection of a switch from soft drugs to hard drugs, is simply inadequate. CSC needs to place a priority on determining if the urinalysis testing program is causing some offenders to switch to less detectable drugs.

It is suggested here that detection measures should continue to focus on importation into the institution thus fulfilling the mandate set out by the Commissioner's Directive. However, there must be an understanding that there will be drugs within the institution regardless. Correctional Services Canada should continue to search visitors of institutions and rely on internal security reports to target the suppliers of narcotics within the institutions, thus effectively combating the drug trade that brings systemic violence. However, they should not force a low-risk behavior like cannabis use completely underground potentially leading drug users to adopt life threatening behavior resulting from a shift to harder drugs.

CSC has conducted research looking at the relationship between substance abuse and criminal activity. For example, a recent CSC study found that alcohol is more closely associated with violent crime, such as rape, assault and murder, while illicit drugs are more closely associated with crimes of acquisition, such as breaking and entering and theft (Brochu et al. 2001). These studies document a connection between alcohol, illicit drugs and crime, but failed to distinguish between specific types of drugs. Put simply, one cannot accurately portray the link between drug use and crime if all illegal drugs are classed together indiscriminately. A more discerning approach needs to be developed in order to accurately assess the true relationship between substance abuse and crime, and to develop a more accurate assessment of the effects of drug use within federal institutions. Perhaps the more appropriate solution is to look at the actual harm that the use of a substance causes an institution rather than creating policies that treat all drugs as equally harmful. Currently, CSC policy states they shall maintain "drug free institutions." Perhaps, we could look at cannabis use in terms of comprehensive harm reduction rather than continuing to place it beside cocaine and heroin in the manner that we approach its use?

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CHAPTER SIX

A COST/BENEFIT ANALYSIS OF METHADONE MAINTENANCE THERAPY IN CANADIAN FEDERAL PRISONS

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A COST/BENEFIT ANALYSIS OF METHADONE MAINTENANCE THERAPY IN CANADIAN FEDERAL PRISONS

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INTRODUCTION

In dealing with drug-related issues, harm reduction is a public health approach that places first priority on reducing the negative consequences of drug use, rather than on ensuring abstinence (CCSA 1996). As there is currently no agreed upon definition of harm reduction among practitioners and the addictions literature, the following definition is suggested: “A policy or program directed towards decreasing the adverse health, social, and economic consequences of drug use without requiring abstinence from drug use” (CCSA 1996:9). That harm reduction is now the official basis of Canada’s Drug Strategy is evidence both of its proven effectiveness as well as its increasing authoritative acceptance (Single 2001). In particular, harm reduction is credited with developing a wide variety of new and innovative approaches to the problems of injection drug users (IDU’s), such as methadone maintenance treatment (MMT) for those addicted to heroin and other opiates.

The purpose of this research is to explore the cost/benefit ratio of expanding existing MMT programs in federal prisons in Canada. It is not intended to promote the use of incarceration as a method of dealing with heroin addiction. On the contrary, given that many heroin addicts come into contact with the criminal justice system and often find themselves imprisoned, the following discussion is intended to promote the expansion of existing MMT programs in federal institutions, so as to assist heroin addicted individuals who end up in that environment. This article begins with a summary of the history of methadone as a treatment for heroin addicted individuals, with specific attention paid to the current statutory obligations of the Correctional Service of Canada (CSC) and its implementation and ongoing operation of its National MMT Program. The balance of this article will provide a cost/benefit analysis of MMT in Canadian federal prisons as a specific strategy in Canadian drug policy. In particular, this article will consider the impact that MMT has on inmates with HIV, AIDS and/or Hepatitis C, as well as their future criminality and ongoing drug use. Relevant studies and literature reviews will be comparatively assessed. Finally, this article will provide a series of recommendations and conclusions in support of the development and implementation of a policy to expand existing MMT programs in Canadian federal prisons.

BACKGROUND

Developed in a lab, methadone is a long lasting narcotic that was first used in the mid-1960’s by Dr. Vincent Dole and Dr. Marie Nyswander of Rockefeller University as a maintenance treatment for opiate addiction (Institute of Medicine 1995). As methadone is made in accordance with strict manufacturing guidelines, its exact potency is known (CCSA 2001). Notwithstanding the fact that its use has been constantly challenged since its discovery, methadone maintenance treatment remains the most effective, safe and successful means of treating opiate addiction. To illuminate how MMT achieves its success, “[t]he tolerance mechanism that blocks the narcotic effect of heroin also blocks the narcotic effect of methadone itself” (NIDA 1999:5). Methadone is effective because it provides relief from the effects of opiate withdrawal without inducing the “high” associated with opiate derived drugs like heroin and morphine.

In Canada, methadone is a controlled substance which means that its use is governed by the *Controlled Drugs and Substances Act* (CDSA). As such, Health Canada applies strict rules and guidelines to its use in each of the territories and provinces, except in British Columbia and Ontario where such rules and guidelines are applied through their respective Colleges of Physicians & Surgeons and Colleges of Pharmacy (NIDA 1999). Importantly, and with respect to the criminal justice system, the Correctional Service Canada (CSC) is legally obligated to ensure that these rules and guidelines are followed within its institutions. More specifically, CSC must adhere to the provisions of the CDSA with respect to accessing, dispensing, recording, storing, handling and distributing methadone from pharmacies to institutions to prisoners (CSC 1998b).

In addition, operations at CSC are governed by the *Corrections and Conditional Release Act* (CCRA) with relevant policies being sections 70, 86 and 87. These sections read as follows:

70. The Service shall take all reasonable steps to ensure that penitentiaries, the penitentiary environment, the living and working conditions of inmates and the working conditions of staff members are safe, healthful and free of practices that undermine a person's sense of personal dignity.
- 1992, c. 20, s. 70; 1995, c. 42, s. 17(F).
- 86.(1) The Service shall provide every inmate with
- (a) essential health care; and
 - (b) reasonable access to non-essential mental health care that will contribute to the inmate's rehabilitation and successful reintegration into the community.
- (2) The provision of health care under subsection (1) shall conform to professionally accepted standards.
87. The Service shall take into consideration an prisoner's state of health and health care needs
- (a) in all decisions affecting the prisoner, including decisions relating to placement, transfer, administrative segregation and disciplinary matters; and
 - (b) in the preparation of the prisoner for release and the supervision of the prisoner.

Further to CSC's statutory obligations, the National Institute on Drug Abuse (1999) points out that:

While the CCRA does not directly identify any specific therapeutic treatment, MMT is a clinically accepted treatment towards effective management of opiate addiction that contributes to the health and safety of prisoners, staff and the public. CSC should consider the obligations set forth by the CCRA when evaluating inmates for methadone maintenance treatment (p. 6).

In fact, CSC's statutory obligations have become even more significant as MMT has taken on an expanded role due to the proliferation of HIV, AIDS and Hepatitis C. Since methadone is orally ingested, IDU's who are treated with methadone are able to significantly reduce or eliminate entirely the injection of illicit substances. As inmates often use "dirty" injection equipment, the provision of MMT in prison fosters a marked decrease in the spread of HIV, AIDS and Hepatitis C among inmates. In fact, "there is ample data supporting methadone as an effective measure in reducing high risk injecting behaviour and thereby reducing the risk of transmission of blood-borne pathogens," such as HIV, AIDS and Hepatitis C (NIDA 1999:6).

On December 1, 1997 the Solicitor General of Canada announced that a National MMT program would be implemented in all federal institutions as a proactive step to prevent HIV, AIDS and Hepatitis C from spreading among incarcerated inmates (CSC 1998a). CSC's MMT program has been implemented in two

phases, with the first phase commencing in January 1998 (CSC 2001) and the second phase commencing in May 2002 (CSC 2002).

During Phase I, available placement slots were reserved for those inmates who had been receiving MMT in the community immediately prior to their incarceration. Eligible prisoners included:

- current opioid drug user[s]; assessed as having an extensive and chronic history of opioid dependence; or
- current opioid drug user[s] who [are] HIV positive, ha[ve] AIDS, hepatitis B or C; or
- current opioid drug user[s] who [are] pregnant (CSC 1998b).

Anecdotal evaluations of Phase I have been noted by NIDA (1999). Generally:

The results of urine drug screening suggest that participants are no longer engaging in injection drug use.... Parole officers and unit staff reported dramatic improvements in institutional behaviour once participants were stabilized on methadone treatment.... CSC's Offender Management System and participants report improvements in institutional performance and reintegration potential. Although anecdotal in nature, the above statements indicate that CSC's MMT program is proving effective in reducing relapse to opio[i]d drug use, thereby reducing the risk of transmission of infectious diseases and contributing to improvements in offender health (p. 3).

Now that Phase II has been initiated, inmates who wish to begin MMT during incarceration are permitted to participate (CSC 1998a). Eligible prisoners are required to meet the following three criteria:

- a diagnosis of dependence to opiates as established in the DSM-IV or a well-documented history of opiate addiction indicating a high risk of relapse as confirmed by a certified institutional physician; and
- a small likelihood of benefit from non-methadone treatment as evidenced by a past history of treatment failures; and
- agree[d] to terms and conditions of the Methadone Maintenance Treatment Program as evidenced by acceptance and willingness to sign the Methadone Treatment Agreement (CSC 2002).

Unfortunately, the current demand for MMT, both in the community and in Canadian prisons, exceeds available services. As a result, treatment is being provided on a prioritized basis. Within federal institutions, eligible inmates seeking MMT must not only meet the three criteria outlined above, but they must further be included in one of the following five categories of inmates:

- federally sentenced women who are pregnant and currently opioid dependent or were previously opioid dependent and are a high risk of relapse.
- inmates who are HIV positive and currently opioid dependent.
- inmates who have been determined to require treatment for Hepatitis C. A period of abstinence from all drugs including alcohol is required prior to initiation of Hepatitis C treatment.
- inmates who are currently opioid dependent with a recent history (within the past 3 months) of a life-threatening opioid overdose, endocarditis, septicemia, septic arthritis and/or suicidal behaviour directly related to their opiate dependence.
- inmates who are opioid dependent and will be released within the next 6 months with successful release plans for a community methadone provider (CSC 2002).

This last category of inmates necessarily raises important questions regarding the availability of MMT programs in the community. Unfortunately, federal inmates who receive MMT while institutionalized

often experience a lack of continuity of care upon release. In fact, obtaining methadone by prescription in some places in Canada is extremely difficult, if not impossible. Accordingly, it is suggested that long-term success will best be achieved in helping heroin-addicted individuals, only if the community follows the nation's lead in both providing and expanding existing MMT programs.

With long-term success in mind, the primary goal of Canada's Drug Strategy with respect to MMT programs in federal prisons "is to reduce the harm associated with injection drug use, including outbreaks of HIV and overdose deaths" (NIDA 1999:6). Notwithstanding the fact that this and comparable policies have played a leading role "in the use and expansion of [federal MMT programs], cost factors also have played an important role. Authoritative studies have demonstrated that methadone-maintenance is cost effective" (Stoller and Bigelow 1999). Accordingly, the balance of this article will explore the cost/benefit ratio of MMT programs, with specific reference to the expansion of existing programs in Canadian federal prisons.

COST/BENEFIT RATIO OF MMT IN FEDERAL PRISONS IN CANADA

Denying Methadone Maintenance Therapy in Prison: A Case Study

To properly determine if there is a positive cost/benefit ratio to expanding MMT in federal prisons in Canada, it is perhaps helpful to consider the consequences of denying such treatment. Following is a discussion regarding one federal inmate who was denied access to MMT.

Prior to his admission to prison, Jason Pothier had never used heroin and only became addicted to the drug while incarcerated. Through injecting himself with heroin using dirty needles, Mr. Pothier contracted both HIV and Hepatitis C in the federal penitentiary in which he has been housed for the last five years. He had repeatedly asked to receive MMT before he contracted HIV, "but was refused because he was not eligible for methadone under CSC's policy guidelines [Phase I]: he had not been treated with methadone outside the prison system and was deemed not to be a serious enough user of heroin." (Jürgens 2002:39)

Mr. Pothier commenced legal action against CSC in 2001, alleging that CSC must be held responsible for his contraction of HIV, its failure to provide him with MMT prior to his infection and its denial of sterile injection equipment (Kloeze 2002). In support of his allegations, Mr. Pothier is specifically relying on section 86 of the CCRA (see above).

In particular, "Mr. Pothier argues that CSC:

- acted negligently because the health care he received while in prison did not meet acceptable standards of care;
- owed him a fiduciary duty to ensure his safety and well-being, and breached this duty (CSC has a special responsibility to ensure that inmates are receiving necessary health care, since they clearly cannot provide for their own health care); and
- infringed his rights under the Charter (sections 7, 12, and 15) (Jürgens 2002:40).

Now 25 years of age, Mr. Pothier, whose lawsuit still remains before the Ontario Superior Court of Justice, is seeking both monetary compensation for the serious loss of health he has suffered, as well as institutional change with respect to the manner in which inmates with HIV are treated during incarceration (Kloeze 2002).

Cost of Methadone Maintenance in Canadian Prisons

Before considering the various benefits of providing MMT in federal prisons in Canada, this article will first concentrate on the costs associated with such an intervention. Recently, NIDA (1999) reported that the annual cost of providing MMT is approximately \$1,700 per client. To properly determine the cost effectiveness of providing MMT programs in federal prisons in this country, it is useful to compare this figure to the annual health care costs that would otherwise be required for one IDU living with HIV/AIDS.

According to the Harm Reduction Action Society (2000) in Vancouver, the required health care for one IDU may extend beyond twenty years. The subsequent cost of such a long-term commitment becomes significant given that, in 1998, the average age of newly diagnosed cases of HIV was 23 (Bognar, Legare and Ross 1998). Projected treatment costs for IDU's living with HIV/AIDS in British Columbia alone were \$72.3 million in 1999/2000 (Hanvelt, Copley, Schneider and Meagher 1999). In the long-term, those researchers projected that the lifetime expense of medical treatment for one IDU living with HIV/AIDS in British Columbia would be approximately \$134,559.

For calculation purposes and notwithstanding the Vancouver Harm Reduction Society's prediction that the required health care for one IDU may extend beyond twenty years, let us assume that one IDU living in British Columbia will live for exactly twenty years following his/her commencement of intravenous drug use. Let us also assume the accuracy of Hanvelt et al.'s (1999) projected lifetime expense of medical treatment for one IDU living with HIV/AIDS in British Columbia to be approximately \$134,559. In turn, the annual health care cost of one IDU living with HIV/AIDS in that province would be approximately \$6,728 (\$134,559 divided by 20 years). This figure is almost four (4) times the estimated annual cost of providing MMT to one IDU.

Long-term savings calculations indicate that approximately \$3 million for treatment could be saved in one year alone, if only five to seven of every 100 HIV infections were prevented each year (Hanvelt et al. 1999). Such a financial incentive is a substantial reason to adopt a policy to expand existing MMT in federal prisons in Canada.

Not only are health care costs important to this discussion, however, but so too is the cost of incarcerating one heroin-addicted IDU. To be sure, studies (which will be explored later in this article) indicate that the provision of MMT in prison is associated with a reduction in both future criminal behaviour and heroin use. It is therefore suggested that the expansion of MMT in federal prisons in Canada will render it possible to reduce the "recycling" of IDU's through the criminal justice system and, in turn, reduce the costs of incarcerating those IDU's in the future.

The annual cost of incarcerating one IDU in Canada is approximately \$68,300. Consider the potential expenditures for incarcerating one heroin-addicted IDU repeatedly over the course of twenty years, and then consider the potential long-term savings by providing MMT in Canadian prisons instead.

To summarize:

- The estimated annual cost of MMT is \$1,700 per IDU.
- The estimated annual cost of health care required for one IDU living with HIV/AIDS in British Columbia is approximately \$6,728; almost four times the estimated annual cost of MMT.
- The estimated annual cost of incarcerating one heroin-addicted IDU is approximately \$68,300.

Comparing and contrasting the above figures clearly reveal that the expansion of MMT in federal prisons in Canada would be highly cost-effective in the long-term. In fact, Zaric, Brandeau and Barnett (2000) suggested that such an expansion would be cost-effective, even if the expanded MMT programs were twice as expensive and half as effective in reducing risky behavior as are existing programs. By way of demonstration, the expansion of MMT availability in Vancouver accompanied by the requisite mental health care and counseling would cost approximately \$6 million annually (1,500 IDU's @ \$4,000) to serve 1,500 additional heroin addicts. At the same time, as much as \$36 million in savings (1,500 x \$30,000 x 80% effectiveness) could be generated annually for health care, criminal justice, and corrections services in British Columbia (Millar 1998). Millar further calculated that, even using a more conservative estimate of \$15,000 for direct annual costs for treating one IDU, \$12 million annually (\$18 million in savings minus \$6 million in costs) could be the estimated net savings. In fact, "[t]he actual overall savings would be much greater, of course, because of more employment and productivity and less reliance on social assistance" (p. 19). Certainly, these factors would be of serious consideration following the release of heroin addicted inmates from federal prisons.

Clearly, the extent of potential cost savings in expanding existing MMT programs in federal prisons is enormous, and this evidence supports the adoption of such a policy in Canada. In fact, when CSC (2001) conducted its own study to determine release outcomes of offenders who had participated in its National MMT Program (Phase I), it found positive results relating to the cost/benefit ratio of its program. Not only did researchers conclude that participation in the National MMT Program provided a beneficial effect on post-release outcomes, but its report highlighted that:

An important implication of these findings is that CSC may spend less money on these offenders in the long term. The cost of the institutional MMT program may be offset by the cost savings of offenders successfully remaining in the community for a longer period of time than equivalent offenders not receiving MMT. In addition, health related costs such as treatment for HIV or Hepatitis C infection could be affected by MMT availability in prisons. (pp. 30-31)

Such a finding is highly significant given that two real barriers to expanding MMT programs in federal prisons include the general under-funding of health care and CSC's ongoing suggestion that drug use is not that prevalent in federal prisons. In fact, such a suggestion necessarily flies in the face of one Canadian study that indicates that 50 times as many federal penitentiary inmates die from drug overdoses as in the general population. In a recent media report in which that study was publicized, researcher Dr. Peter Ford states that there's no truth to a reported Correctional Service of Canada (CSC) claim that methadone programs are universally available. True or not, CSC is legally obligated to provide health care to inmates comparable to that provided to people living outside prison walls. After all, a prison sentence is not a sentence to disease. Prisoners retain all rights that are not expressly forbidden due to incarceration, and access to medical treatment comparative to that available in the community is one such right; not a privilege. Given that MMT is recognized as the most effective treatment for heroin addiction and is used extensively in the community across Canada for treatment, it should be routinely used within prisons, as well.

Indeed, the expansion of existing MMT programs in federal prisons in Canada is a good, sound strategy in long-term cost-effectiveness. Notwithstanding the necessary funds to adopt such a policy, doing so is arguably the best strategy to contain long-term health care and incarceration costs. As CSC has only recently initiated Phase II of its National MMT Program, it is far behind the best treatment practices curve. While CSC may have subsequently saved money in the short-term, it could witness substantially more cost savings in the long-term by expanding existing MMT programs as outlined above.

Currently, however, federal prisons in Canada are not doing all that they can to prevent the spread of HIV, AIDS and Hepatitis C, and accordingly are failing to meet their legal responsibility to provide health

care to inmates comparable to that available to those living outside prison walls. (Jürgens 2002) To this end, Jürgens states that:

Measures that have been successfully undertaken outside prison with government funding and support, such as making...methadone maintenance available to injection drug users, are not being undertaken in Canadian prisons, although other prison systems have shown that they can be introduced successfully, and receive support from prisoners, staff, prison administrations, politicians, and the public. (p. 65, Italics in original)

Benefits of Methadone Maintenance Therapy (MMT)

Having now demonstrated that there are, in fact, substantial financial incentives to expanding the availability of MMT programs in federal prisons in Canada, this article will now critically discuss the various benefits that they provide. These benefits include but are not limited to: general benefits, combating HIV, AIDS and Hepatitis C, reducing crime rates and criminal behaviour, reducing heroin use, and benefits of MMT when it is accompanied by additional treatment.

General Benefits. Numerous scientific studies have revealed a multitude of benefits that MMT provides. One very important finding is that the health of long-term MMT patients is not negatively compromised, even after twenty or thirty years of use. (Zaric, Brandeau and Barnett 2000).

According to Ontario Region Health Services (1998), the general benefits provided by MMT include:

- decreased illegal activity;
- increased employment;
- reduced illicit drug use;
- improved health status; and
- increased cost-effectiveness (pp. 1-2).

Combating HIV, AIDS and Hepatitis C. The first specific benefit that will be discussed in this article is the impact that MMT has in combating HIV, AIDS and Hepatitis C infections among the IDU community. To begin, the expansion of existing MMT programs in federal prisons is a cost-effective health care intervention, as illustrated above. In fact, researchers have found that MMT can play an important role in slowing the spread of HIV and improving the length and quality of life for IDU's, even in populations with low HIV prevalence among IDU's (Zaric, Brandeau and Barnett 2000). Accordingly, long-term health care costs are substantially reduced, and the funds saved can be re-allocated as required.

Indeed, the expansion of existing MMT programs in federal prisons in Canada has been recommended by many "as an *AIDS-prevention strategy* that provides people dependent on drugs with an additional option for getting away from needle use and sharing. *The main aim of MMT is to help people get off injecting, not off drugs.*" (Jürgens 2002:34, italics in original). One such expansion of MMT programs was realized in Australia, where "[m]easures introduced to combat the spread of AIDS...[resulted in] changes in national and state policy towards drug abuse such that the highest priority has been given to the containment of HIV" (CCSA 1996:4).

Certainly, the reasons for expanding access to MMT programs in federal prisons in Canada are compelling. First, IDU inmates continue injecting while incarcerated and are more likely to share injection equipment, thereby generating a high risk of HIV transmission (Jürgens 2002). Second, "as in the community, MMT, if made available to prisoners, has the potential of reducing injecting and syringe sharing in prisons" (p. 36). Finally, researchers have revealed the positive effect that MMT has in

reducing HIV, AIDS and Hepatitis C infections among the IDU community (Simoens, Matheson, Inkster, Ludbrook and Bond 2002).

Reduction of Crime Rates and Criminal Behaviour. The second specific benefit that this article will consider is the impact that MMT has in reducing crime rates and criminal behaviour.¹ While it has not yet been shown that drugs cause crime, some research studies have demonstrated that MMT is effective in reducing crime rates (Anglin and Maugh 1992, Capelhorn and Dalton 1994, Simoens et al. 2002).

In addition, Millar (1998) commented that:

The criminal activity needed to purchase illegal drugs affects people in all communities through burglaries, robberies, and other forms of personal and property crime. Moreover, the costs associated with the criminal justice system...represent a considerable burden on the taxpayer. This 'opportunity cost' means that tax dollars are not available for such needed purposes as effective health care interventions, the provision of quality child care, or government debt and deficit reduction (pg. 4).

Reduction of Heroin Use. The third specific benefit that will be discussed in this article is the impact that MMT has in reducing heroin use. To be sure, Strain et al. (1993) found that clients who received 50 mg of methadone per day showed lower rates of opioid-positive urine samples (56.4% compared to 67.6% and 73.6% for the 20 mg and 0 mg groups respectively, $p < 0.05$). As well, maintaining clients on 80 mg of methadone per day until they can be enrolled in a standard MMTP has been found to reduce heroin use (from 63% positive at intake to 29% positive at one month) (Yancovitz et al. 1991).

Other research studies that have shown MMT to be effective in reducing illicit heroin use include: Anglin and Maugh 1992, Capelhorn and Dalton 1994, Simoens et al. 2002.

Benefits When MMT is Accompanied by Additional Treatment. Finally, this article will consider the specific benefits of MMT when it is accompanied by additional treatment. In fact, numerous studies have consistently revealed promising results with respect to combining MMT with additional treatment.

According to the Centre for Addiction and Mental Health (2001), the provision of MMT when combined with counseling is typically believed to produce greater positive effects than does MMT alone. Indeed, Simoens et al. (2002) have established that combining MMTP's with increased and quality counseling, as well as medical and other services, results in the provision of more effective treatment.

Other researchers have found that "[t]he provision of medical services and psychosocial services in addition to methadone maintenance produced improvements in employment status, social functioning, risk-taking behaviours, criminal activity, and psychiatric status" (McLellan, Arndt, Metzger, Woody and O'Brien 1993, Woody, McLellan, Luborsky and O'Brien 1995).

In addition, Millar (1998) stated that:

For any therapeutic intervention to be effective, there must also be provision for such needs as housing, social support, vocational training, and treatment of co-existing mental illness and medical conditions like HIV. Given these, then methadone treatment is recognized as being very

¹ Research into the relationship between drugs and crime has called into question the assumption that drugs, in and of themselves, cause crime (see the Brothers article in this volume). In fact, the best explanation for a connection between illegal drugs and crime relates to the "economic compulsive" model which says that many drug users resort to crimes of acquisitiveness to get money buy drugs that are prohibitively expensive, like cocaine and heroin. It is the existence of prohibitionist drug laws, of course, that inflate the price of these substances.

effective in achieving the harm reduction objectives of reducing injection drug use and criminal activity and unprotected sexual activity. In some studies, 70-80% of heroin IDUs show significant improvements in these areas (p. 19).

Notwithstanding these positive findings, however, Simoens et al. (2002) point out that further research is required to properly ascertain at which stage of treatment that additional services, in combination with the provision of MMT, are most effective. As well, research is needed to investigate the long-term effectiveness of these combined interventions. Finally, it must be both realized and accepted that the success of combining MMT with additional supports is logical, as it is not drug use itself which leads to addiction, but rather a person's inability to cope that causes him or her to become addicted to drugs.

Having now examined a number of general and specific benefits that are provided by MMT, it is suggested that there is clearly a substantial, positive cost/benefit ratio of expanding existing MMT in Canadian prisons. Accordingly, the obvious question is raised: Why has Canada not yet developed and implemented a policy to expand the use of MMT to all those who are medically determined to benefit from it?

RECOMMENDATIONS

In an effort to promote the development and implementation of a policy to expand the use of MMT, the following six recommendations are made:

1. If it is medically determined that a heroin addicted inmate who is incarcerated in Canada would benefit from MMT, then he or she should be permitted to either *continue* or *begin* receiving such treatment while incarcerated. This policy should be implemented regardless of short-term cost considerations. That is, immediate funding should be provided to the MMT program such that every prisoner who has a medically determined need, should be allowed access to methadone.
2. Increased and quality education about addictions and MMT should be provided to ALL staff and inmates within Canadian federal prisons.
3. Further research is required to properly ascertain at which stage of treatment that additional services, in combination with the provision of MMT, are most effective. As well, research is needed to investigate the long-term effectiveness of these combined interventions (Simoens et al. 2002). Inasmuch as CSC manages one of the highest risk drug using populations in Canada, it should take a leadership role in this research effort.
4. Determine the "real" barriers to the expansion of existing MMT programs in federal prisons in Canada, and do what is necessary to eradicate them.
5. Ensure that sufficient follow-up treatment is made available for federal inmates upon their release back into the community.

CONCLUSION

Throughout this article, the substantial, positive cost/benefit ratio of expanding existing MMT in Canadian prisons has been illuminated. Even though CSC has implemented a policy to provide MMT to prisoners in federal prisons in Canada, it did so only after being forced by legal challenges (Canadian HIV-AIDS Legal Network 2002). In addition, short-term cost considerations have negatively affected the ability of the program to reach all prisoners who could benefit from it. This article has revealed

significant justification for universal expansion of MMT programs at CSC. Not only has MMT been proven cost-effective, but its benefits range from a heroin addicted inmate feeling clear-headed and energetic, to substantial reductions in future criminality, illicit heroin use and HIV, AIDS and Hepatitis C infections among IDU inmates (Centre for Addiction and Mental Health 2001). As Millar (1998) properly stated, these aspects of MMT should absolutely be considered, as “a number of suffering people will be provided with better social circumstances and better health, and a potential source of infection that threatens everyone will be removed” (p. 19).

While methadone is not itself a cure, it nevertheless is “a tool that helps you to repair the damage caused by dependence, and to build a new life” (Centre for Addiction and Mental Health 2001:6). The time has come for not only stakeholders, but the whole of society as well, to acknowledge that:

- drugs are consumed in prisons;
- needles and syringes are used (and shared) in prisons;
- HIV prevention is more important than upholding ‘morality;’
- the provision of sterile injection equipment is not contrary to staff’s mandate, and provides more security for staff and inmates; and
- harm reduction is more cost-effective than total prohibition (Jürgens 2002:50).

While the provision of MMT is a medical decision that is not appropriate for every heroin addict and is usually reserved for those who have tried numerous approaches but have repeatedly failed to stop injecting, it is a decision that should not be curtailed by short term cost considerations.

Notwithstanding each of the important comments noted above, the expansion of existing MMT in Canadian prisons necessarily require community support or a policy to exploit their use will be futile. It is hoped that this article will shed light on the necessity of such a policy, not only for the benefit of heroin-addicted inmates, but also for the benefit of us all.

To conclude, two quotes are provided with the hope of clearly illustrating the substantial benefit of expanding existing MMT in Canadian prisons:

First, and with respect to the costs associated with the development and implementation of such a policy: “What is being suggested is a small investment by government standards. It is not often that a health care intervention has so much potential for direct savings to government” (Millar 1998:19).

Finally, and with respect to the immeasurable benefits provided by MMT, Dr. Marie Nyswander, co-founder of MMT, once stated:

When an addict no longer has to worry compulsively about his source of supply, then he can concentrate on other things. At that point, rehabilitation can become a meaningful word (Centre for Addiction and Mental Health 2001:36, quoted from: *A Doctor Among the Addicts* by Nat Hentoff, New York: Rand McNally 1968).

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IMPORTANT TELEPHONE NUMBERS

Drug and Alcohol Registry of Treatment (DART): 1-800-565-8603

This organization provides information about treatment for drug and alcohol problems. Call their 24-hour toll-free number to find the number of the assessment referral centre in your community.

Methadone Registry, College of Physicians and Surgeons of Ontario: 1-416-967-2600

The Methadone Registry keeps a list of all doctors authorized to prescribe methadone in Ontario. Call to find a doctor offering treatment in your area.

IMPORTANT WEB SITES

An Addict's View www.geocities.com/HotSprings/9740

From Australia, this personal site details one woman's experiences with heroin, depression and methadone maintenance.

BCRecovernet – Recovery Issues and Resources: www.BCRecovery.org

Provides information on drug-related medical and legal issues, self-help, and addiction treatment, especially alternatives to 12-step programs.

Drug Text: www.drugtext.org

This drug policy and human rights organization provides “globally accessible drug-related information.” A search will lead you to dozens of on-line references on methadone, including a methadone client handbook from the U.K.

INDRO: <http://home.muenster.net/~indro/travreg.htm>

This site offers information on travel regulations for methadone clients in more than 150 countries.

The Lindesmith Center: www.lindesmith.org

This U.S. drug and drug policy research institute offers news stories, an on-line library, discussion forums, listservs and links to other resources. Type “methadone” into their search engine.

Methadone Today: <http://www.methadonetoday.org/>

The official newsletter of the Detroit Organizational Needs in Treatment, a methadone advocacy group. The newsletter offers articles by methadone clients on a range of methadone issues, plus a doctor's column answering questions about treatment.

The National Alliance of Methadone Advocates: <http://www.methadone.org/>

A U.S. organization of clients and supporters of MMT. Their primary objective is to de-stigmatize and empower the methadone client.

Safeworks: www.safeworks.org/injection/

Graphic visual description of safe injection practices that reduce harm to the body.

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