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The War on Drugs

David Jakubiec, Andrew Kilcer, and William Sager

Introduction

America is in an epic battle, not against a foreign country but to keep you and every other citizen from putting a certain list of chemicals in your body. Since President Nixon, this battle has been labeled "The War on Drugs". This battle is extremely expensive: total cost to local, state and federal government equals \$19.2 billion a year. In a country of approximately 300 million that equates to \$64 per person (Elsner, p. 22). All of these resources are used in an effort to keep people from getting high. What do Americans get for 64 dollars a year; they get "4,348 [drug related] arrests a day, or one every 20 seconds" (Elsner, 2006, p. 20). All these arrests contribute to America's enormous inmate population of over 2 million (p. 13). For each of those inmates, the government spends \$34,000 a year to have the honor of keeping them as wards of the state (p. 16).

Like all wars, the War on Drugs is obsessed with catching the ring leader, or big fish. This obsession has had international and domestic reproductions. The Drug Enforcement Administration (DEA) when first formed, operated all mostly entirely domestic. It now maintains agents in over 40 countries (Cooper, 95). Back home, police agencies seize billions of dollars in "illegal" private assets, and in most cases pocket the profit. The largest impact from the War on Drugs is by far the isolation and classification of minorities as second-class citizens. African Americans now account for 40 percent of the prison population while only 12 percent of the United States (US) population (Elsner, 2006, p. 13).

Drug Roots *International*

The roots to America's War on drugs lie deep in the history of the 20th century and some even from before. The first real global drug confrontation took place well back in the 1780s and up until the mid 1900s was between Great Britain and China (Brook, 2000, p. 31). During those years the British East India Company formed the modern equivalent of the Columbian drug cartel. The East India Company began official control of the opium smuggling trade between India and China in 1781 in an effort to maintain "stable financial footing during the American revolutionary war" (p. 32). Opium importation to China eventually reached over 9.5 million pounds in 1850 (McAllister, 2002, p. 13). The fact that opiates were banned throughout China eventually led to the Opium Wars in the 1840s and again in the 1850s. By the late 1800s, Britain had grown weary of its never-ending struggle with China and in 1911 attended The Hague Conventions in which its members pledged to restrict opium trafficking.

Drug Roots Enter America

America had bought right in to Asia's opium problem when it gained control of the Philippines following the Spanish American War (McAllister, 2002, p. 27). The Philippines maintained a government regulated opium market, that "offended American moral sensibilities, particularly among temperance advocates and supporters of missionary activities" (p. 27). Washington quickly implemented a policy of "suppression, excepting medical needs" for the Philippines (p. 27). If anything the Philippines made America even more acute to the perceived "evils" of Narcotics (p. 28). This eventually led to President Roosevelt to call for The Hague Conventions.

The Harrison Narcotics Act of 1914

Back home, America's response to the Hague conference was the passage of The Harrison Narcotics Act 1914 (McAllister, 2000, p. 35). This law changed the way Americans dealt with narcotics forever. The act required all distributors of drugs to apply for a tax stamp (p. 35). Crafted by Hamilton Wright, the act was originally intended as a revenue generator. However, it was quickly used to reign in sales for addiction purposes, which were not viewed as medically necessary under the act (p. 35). From the Harrison Narcotics Act, drugs drifted in and out of American focus throughout the roaring 20s. It was not until the 1930s in the middle of the Great Depression that America would make its next big move against drug use.

Harry Anslinger's War on a Weed

During the 1930s, the federal government reorganized its various drug polices under a new agency called the Federal Bureau of Narcotics (FBN) (Isralowitz, 2002, p. 89). This new agency was to be headed by Harry Anslinger, who in 1934 embarked on campaign to rid the country of marijuana. Interestingly, Anslinger until that year showed no interest in wishing to control marijuana (p. 133). Anslinger used a combination of spreading unfound claims against marijuana through propaganda, and playing on the public's fear of minorities, by associating marijuana use with "lower-class Mexican Americans and African Americans who had initiated use of the drug and made the drug even more dangerous to the white middle-class" (p. 134). This public fear allowed Anslinger to secure the passage of the Marijuana Tax Act of 1937, which levied a tax on marijuana, making it nearly financially impossible to obtain legally. All in all, the price of a marijuana cigarette "increased 6 to 12 times to about a dollar" (p. 134). This price, taken in the middle of the Great Depression, was a fortune.

Nixon's Perception

While running for president in 1968, Nixon like all presidents needed to stand apart from his opponents, and his case for doing so was America's unknown drug "problem" (Musto, p. 38). Due to the social upheavals of the 1960s, by the end of 1968 heroin use among college students had risen from 3.2 to 5.14 percent (p. 38). Among high school students, use had risen from less than 1 percent to 3.3 percent (p. 38). In addition, marijuana use from 1960 to 1966 had increased threefold among eighteen to twenty-four year olds (p. 38). While drug use, particularly marijuana use, was increasing in the United States, it was dwarfed in the public's eye by other more pressing concerns, primarily the Vietnam War (p. 39). In the beginning of May 1969, in a White House survey on domestic issues, only 3 percent listed drugs as a issue of importance (p. 39).

Nixon's Policy Takes Shape

Nixon realized that in the political environment of the late 1960s and 1970s getting major new legislation on drugs was going to be difficult to say the least (p. 40). Nixon announced his "War on Drugs" during a special address to Congress on "Control of Narcotics and Dangerous Drugs" (p. 60). This was to be followed the introduction of Senate bill 2637 and an enormous political battle that followed in its wake (p. 60). The bill had three main purposes: "[1] provide more meaningful regulation over legitimate sources of drugs, [2] to strengthen law enforcement against illicit drug traffic, and [3] to eliminate some of the inconsistencies in the present regulation of drugs" (p. 61). While Congress was debating his bill, Nixon focused his efforts on items that existed already under executive power. Primarily on foreign policy with countries that exported narcotics, and law enforcement through the various federal and state agencies (p. 41).

Operation Intercept

Operation Intercept began in September 1969 in response to the events of the summer months, which included "Woodstock" where an estimated 90 percent of the some 400,000

present where smoking pot at the event (p. 64). *Intercept* was originally to include forbidding military personnel from visiting Tijuana and other Mexican border towns. However, after a copy of Operation Intercept was leaked to the press on September 9th and several meetings with Mexican officials this portion of the operation was never enacted (p. 64). On September 21, Operation Intercept officially went into effect, despite enormous public opposition. Customs agents by October 6th of that year had seized over 1,830 pounds of marijuana, as well as various other drugs from vehicular search alone (p. 65). Another 165 pounds were sized from the marine searches as well as over 1,000 pounds intercepted on airplanes (p. 66). Intercept however highly degraded Washington-Mexican relations, as well as being unpopular in border towns (p. 67). This resulted in "Operation Cooperation," in which the Mexican government promised to crack down on its side of the border if US Customs relaxed its search measures (p. 67).

The Drug Enforcement Administration

The Drug Enforcement Administration (DEA) was officially established July 1, 1973 and quickly got off to "a less-than-propitious beginning" (p. 145). The "overall policy of the DEA to pursue major players in the illicit drug trade evaporated as individual agents still operated on the assumption that their own success depended on number of arrests made and quantity of drugs seized" (p. 145). This resulted in large infighting, as officers raced to fill the newly formed but not yet filled administrative positions in the agency (p. 147). Upon its creation, the DEA was supposed to work closely with US Customs as well as the Justice Department. However, due to confrontation between different managers brought from the two respective departments, this seemed like a dream (p. 149). The DEA and Customs in particular continued to butt heads until December 1975 with a signing of "a memorandum of understanding" between the two agencies (p. 151).

The Gerald Ford Change-Over

Upon Nixon's resignation and taking office on August 9, 1974, Ford inherited a mess not only in a country but also among his cabinet, including the newly formed Drug Enforcement Administration (p. 143). One of the primary reasons was the fact that public opinion was focused on other issues facing the country. "There were also disagreements between the Justice Department and the Treasury Department about the value of IRS involvement in tax fraud investigations of people suspected of drug trafficking" (p. 143). The infighting, along with lacking public support for drugs controls, caused Ford's administration to create the White Paper on Drug Abuse. The White Papers officially shifted policy towards minimizing the negative side-effects of drug use, rather than direct enforcement (Musto, p. xx).

The Rise of Cocaine

"During the early 1980s, cocaine abuse in the United States maintained epidemic status. Estimates from the National Household Survey on Drug Abuse indicate that in 1994 there were 1.4 million active cocaine users in the United States" (Isralowitz, 2002, p. 109). In the late 1970s and into the early 1980s, America was introduced to a new form of cocaine: "Crack" (p. 110). "When heated, the crystals make a popping sound, and this characteristic sound is the origin of the term *crack*" (p. 110). The impact of crack in terms of dollar amount was substantial; cocaine along with crack were particularly popular with women, leading to the term "crack baby" for the children they bore while addicted to the substance (p. 111). National estimates place total health and care cost for all crack babies in the 1990s at \$2.5 billion (p. 111). With the image of crack babies and the apparent millions of crack addicts, media frenzy ensured, allowing President Reagan and latter President H. W. Bush to secure millions for their war on drug (p. 111).

President Ronald Reagan

Shortly after taking office Reagan rejuvenated the war on drugs, with an enormous emphasis on supply side enforcement never seen before (Cooper, 2002). "80 percent of the \$1.3 billion 1982 drug budget was earmarked for programs intend to reduce the supply of banned substances"(Cooper, 2002). Overall under Reagan funding for the "war on drugs" doubled "from \$800 million in 1981 to \$1.9 billion" by 1987 (Cooper, 2002). "Gradually, it turned into a real war involving the U.S. Customs Service, Coast Guard, Border Patrol, Department of Defense, Federal Aviation Administration, the intelligence agencies and even NASA"(Alexandrova, p. 95). The DEA in particular increased its operations to "more than 40 foreign countries" (p.95).

George H. W. Bush

President Reagan's successor, President H. W. Bush, continued the policy of massive military and law enforcement involvement to stop supply side narcotics (Cherry, 2002, p. 64). "The Bush plan was to increase military and other law enforcement efforts in the Andean region to stop cocaine production at its source"(p.64). The Andean region lies along the western coast of South America. Bush's operations, particularly in Colombia, did little to stem the flow of coca leaves; if anything it just shifted production from large farms to smaller ones (p.64). In addition to Colombia Bush's administration focused its efforts on the small country of Panama (p.64). Panama's leader, Manuel Noriega, was wanted on charges of drug smuggling and money-laundering (p.64). Eventually on December 20, 1989 President Bush authorized Operation Just Cause, which subsequently resulted in the invasion of Panama and the capture of President Noriega. America was now directly taking over entire countries in the name of controlling the spread of narcotics.

War on Drugs: A Pyrrhic Victory

The “War on Drugs” is not a legitimate fight. For the Federal government this is a Pyrrhic victory: *winning the battle, but losing the war*; with profits and news of massive drugs busts used as a money motive and political campaign strategy with a hidden agenda that has enslaved the lower socioeconomic classes and minorities via institutionalization. Drug policies have changed from rehabilitation based measures to deterrence; changing in cycles with varying political agendas. Policy involved with the *War on Drugs* has caused more of a multifaceted social schism (between law enforcement and minorities; whites and blacks; social classes), abandoning the true goal of fighting a pandemic, i.e. drug addiction.

The *War on Drugs* is skewed in terms of its varying degrees of justice for the poor and the rich. Crimes committed in different environments are treated differently: from urban open air drug markets to international money laundering scandals. Those who are most likely to get away with drug related crimes are those at the top of the economic class system. The only way to effectively get away with mass sale of illicit drugs is to be able to effectively launder resources and profits. This is something that is improbable and unlikely for the poor.

The *War on Drugs* has augmented domestic society by increasing the discretion and power of the police. Internationally it has promoted imperialism with our presence in major drug producing countries around the globe. Internationally the problem is contained and displaced: happening in a vicious cycle- moving from place to place as resources focus on certain hot spot regions at different times. The *Balloon Effect* of containment is described in the World Drug Report 2008 as “squeezing (by tighter controls) in one place produces a swelling (namely, an increase) in another place, though the net effect may be an overall reduction” (World Drug Report 2008, p.216). Markets shift as interdiction effects one illicit market at a time. For policies

to be true success all aspects of the drug trade must be contained simultaneously- something that would be impossible with given resources.

The change that needs to be made in the International Drug War is not only the development of new markets for foreign lands whose primary Gross Domestic Product stems from opium or cocaine production; but the concern for public health, and enforcement of the laws on an even level- not the continued advantages for cartels and other mafia members of the majority who have laundered large sums of money. Lastly, the stigma relating to drug abuse in the Western civilized world must be relinquished. By prohibiting drug use we have created an illegal *Black Market* that is alive and well. We must now effectively control and contain it and deal with side effects accordingly, both internationally and domestically.

What can we consider “winning” in the *War on Drugs*? If it is decreased production- we have failed. If it’s decreased the global spread of the epidemic-we have failed. If it’s containing key drug production areas- we have succeeded. If winning the “War on Drugs” mean enforcing strict and unjust laws on addicts who have little social mobility or legitimate means for work- we have won. Unfortunately, the system has proven to be successful abroad at containment in key production areas and has failed at fighting the drug problem in America.

Public Opinion

Public opinion is neither in favor of the abolition of drugs nor in support of the “War on Drugs.” In a July 2002 poll 84% of participants supported spending on treatment programs and 92% of participants supported spending on drug prevention programs (n=1,360). Participants in the survey were from culturally diverse backgrounds and were nearly even split between sexes. The participants came from the highly populated cities of N.Y.C., Philadelphia, L.A., Chicago, and Houston (Lock, Timberlake, & Rasinski, 2002, p.385). People from urban settings are more

greatly affected by the open-air drug market; their street corners are more often used as distribution centers. The social effects of drugs and drug sales are augmented by households that are headed by a single parent because of the skewed minority incarceration rate since the enactment of harsh drug laws, e.g. Rockefeller Drug Laws and mandatory minimums.

Drug Policies as a Social Control Mechanism

Cracking down on the drug trade and the violent subcategories of criminals and gang activity is a “smoke in mirrors” approach to placing greater controls on minority groups, specifically, African-Americans. “Wanting to increase the number of Africans in prisons in order to control them more effectively, southern states enacted a series of laws targeting African-Americans for differential punishments” (Alexander, R., Gyamerah, J., 1997, p.108). Drug laws control people and unequally punish users or suspected users with searches and seizures, drug testing at work, sentencing disparities with mandatory minimums for nonviolent offenses, and discrimination based on race (The 1986 Anti-Drug Abuse Act).

The 1986 Anti-Drug Abuse Act was an act passed by both houses as a “get tough on crime” measure. It called for mandatory minimums to be put in place. According to Eric E. Sterling, Esq., counsel to the U.S. House Committee on the Judiciary from 1979 to 1989, a mandatory minimum sentence “is a minimum number of years, typically 5- or 10-years in prison that must be served when a person is convicted of a particular crime” (Sterling, Eric E., Esq., 1999). The unjust part of the mandatory minimums isn’t the fact that harsh sentences are being put in place for nonviolent drug offenses, but the sentences are determined by the amount of the substance held by the offender at the time of the arrest. There is a great inequality between the amount of crack and the amount of powder cocaine that can land you a 5-year sentence. For a first time offender 5 grams of crack cocaine will get you 5 years without parole. The same 5 year

sentence is doled out for 500 grams of powder cocaine (Sterling, Eric E., Esq. 1999). The 100:1 ratio in cocaine sentencing harshly punishes crack offenders. Crack offenders are most commonly found in urban areas- due to the relative potency and low cost of the drug mixture. Cocaine is predominately used by white people as a symbol of high status. Drug Law inequality existed in legislation- and went unchanged for over twenty years! This is evidence of the racial disparities in the Drug War.

Even if drug policies don't have the blatant intention of placing minorities under the control of the lawmakers and the majority, they have been effective in skewing punishment. Drug policy has maintained inequality in society- keeping minorities subjected to institutional racism and stagnancy in upward mobility for underprivileged social groups.

The imbalance of this "War on Drugs" has allowed for minorities to become easier targets for law enforcement. Incarceration rates are skyrocketing; communities are ruined in violent turf wars, and once again the racial majority (white, middle class, Anglo-Americans) has control of the minority class because of domestic policies. This is modern day slavery. There is a hidden agenda, even if it is unintentional it is still a reality, there is profit being made by the government (police agencies in particular), and the overwhelming sense of control of African-Americans that take up nearly three quarters of the national prison population. The static quo is being maintained as whites excel, i.e. they are socially mobile while the black population continues to be oppressed.

Fighting crime cannot be something that is oppressive to a nation's own people who are predisposed to lives of crime, due to their lacking of economic stability and opportunity. '...The most significant action that can be taken against crime is action designed to eliminate slums and ghettos, to improve education, provide jobs...we shall not have dealt effectively with crime until

we have alleviated the conditions that stimulate it' (Tonry, M., 2005, p.85). Crime is known to grow in areas where the cost of living is low, tax base is weak, education system lacking, parental oversight is non-existent, et al., just as a virus is known to grow in a warm and moist environment where it can stagnate, fester, and spread. If there could be more of an emphasis placed on giving a sense of direction and a diversion from drugs as a need to get by there would be less of a desire to throw away life with substance distribution and use. Resources should be pooled for vocational training and education programs and transferred from incarceration (the Prison Industry). Instead of focusing on rehabilitation and helping drug offenders and users we have drastically increased the power of the police, implemented military abroad, and expanded our realm of power and influence.

Drugs and Law Enforcement

In 1971, the first full-time Special Weapons and Tactics (SWAT) teams were assigned to the Metropolitan Division of the Los Angeles Police Department (Los Angeles Police Department, 2006). The brainchild of Inspector Darryl Gates, SWAT teams were an integration of military tactics and equipment designed to respond to situations beyond the capabilities of traditional patrol officers. However, by the 1990s, SWAT teams were increasingly used to serve search warrants for drug dealers and users (Kopel, 2000, p. 44). The development of SWAT was one of the first indications of the militarization of police forces in the United States (US). One of the largest negative effects of the War on Drugs on American law enforcement is militarization. Stemming from the Crime Control model of criminal justice, law enforcement militarization changes the manner that police operate and interact with both citizens and offenders. Spurred by the War on Drugs, the militarization trend in American law enforcement threatens due process and police public relations.

Police Militarization

Boyes-Watson (2003) defines the term, “paramilitarization,” as the, “Use of military equipment, tactics, and weapons in policing” (p. 185). Although the exchange of gear and ideas is part of the process, true law enforcement militarization encompasses the mindset, organization, and motivation of police forces. A legitimate use exists for some paramilitary developments within the American law enforcement community. Examples pertaining to drug enforcement include: infrared and night vision technology, computer communications, and chemical detection devices. However, police militarization goes beyond simple technology and tactics similarities. Since the early 1970s, the shift towards aggressive drug enforcement shows that the original, narrow intent of specialized tactical units such as SWAT teams has broadened into a general law enforcement strategy. King and Maguire (2004) identify militarization as a major transformational goal, or trend, within American police departments (p. 20).

The Posse Comitatus Act of 1878

The United States government has recognized the difference between law enforcement and the armed forces. In 1878, the US Congress passed the principal legislation regarding the use of military forces in American law enforcement, the Posse Comitatus Act, also known as *18 U.S.C. § 1385*. This statute forbids the use of, “Any part of the Army or the Air Force” (18 U.S.C. § 1385, 2008) for *posse comitatus*, or common law. In other words, the US Army, Air Force, and federalized National Guard cannot be used as state law enforcement or peace officers. The only exception is where police action is specifically authorized by Congress or the US Constitution.

Drug Moral Panics

In 1971, President Richard Nixon announced the federal policy of the “War on Drugs”. Harsher drug legislation, along with a seemingly endless media barrage, created a moral panic against the plague of illicit drugs in American society. Ted Chiricos (2003) defines this phenomenon as a “moral panic.” Moral panics occur when intense media coverage of a subject instills artificial focus and fear into the public (as cited in Bunger et al., 2004, p. 43). Moral panics intensify the public’s fear of crime, and lead to demands for increased judicial and police power. For example, constant coverage of crack cocaine as the “scourge of society” in the 1980s led to a public outcry and the passage of even tougher drug legislation. Police militarization has benefited from the drug moral panic. When the public is faced with the image of Willie Horton, or the stereotypical criminal, citizens are more likely to accept a black-clad, tactical police officer for their defense (Boyes-Watson, 2003, p. 41). Although unpublicized in the media, a far-reaching effect of the War on Drugs is the “drug-exception” to the Posse Comitatus Act (Blackman & Kopel, 1997, section VI). These changes, passed in 1981 and 1988, allow the use of American armed forces in law enforcement when drugs are involved. Drugs, the new “enemy,” formed the catalyst that American law enforcement needed in order to hasten the process of militarization.

The Crime Control Model of Criminal Justice

The trend towards more rigid and militarized law enforcement stems from the Crime Control Model of criminal justice. According to Kraska and Cubellis (1997), “Military activity and war remains a core feature of crime-control ideology” (as cited in Blackman & Brandl, 2004, p. 388). In his book, *The Limits of the Criminal Sanction* (1968), Herbert Packer outlines the Crime Control Model of criminal justice. According to Packer, the Crime Control model states that the most important function of the criminal justice system is the “Repression of criminal

conduct” (as cited in Bunger, Cole, & Gertz, 2004, p. 13). Consequently, the system strives to “convict, apprehend, and dispose of a high proportion of criminal offenders” (p.13). When applied to policing, the Crime Control Model relates most to the law enforcement function, as opposed to the order maintenance or service delivery roles (Scott, Personal Communication, RIT lecture, September 17, 2007).

The LEAA Cements Militarization

In 1965, President Lyndon Johnson created the President’s Commission on Law Enforcement and Administration of Justice (Boyes-Watson, 2003, p. 185). In response to the violent riots that occurred in major US cities during the early 1960s, the Commission developed the “War on Crime” policy. Under this federally-funded program, the Law Enforcement Assistance Administration (LEAA) provided grants to state and local police departments for more advanced training and equipment. The LEAA cemented the Reform Era of policing, where law enforcement agencies across the United States embraced rapid response, patrol, and centralized command and control policies in order to fight crime (p. 185). Financial grants from the LEAA, many to support drug enforcement, began the large-scale militarization of American law enforcement.

US Code 10 U.S.C. § 372

The War on Drugs led to statutes that increased the ease in which military resources could be used in order to support domestic law enforcement in the United States. In 1988, Congress amended US Code 10 U.S.C. § 372, which specifies the use of the US military in homeland policing (Blackman & Kopel, 1997). Regarding the general use of military forces, the code reads:

- a) In General.— The Secretary of Defense may, in accordance with other applicable law, make available any equipment (including associated supplies or spare parts), base facility, or research facility

of the Department of Defense to any Federal, State, or local civilian law enforcement official for law enforcement purposes (10 U.S.C. § 372, 2008).

In essence, 10 U.S.C. § 372 permits the use of US military equipment or bases in any law enforcement situation, not limited to drug-related employment. In April 2008, Congress again amended the law to include resources dedicated to an, “Emergency involving chemical or biological agents” (Cornell University, 2008).

The War Model of Policing

The development of the War Model of policing is a result of ideals from the “War” on drugs and crime in the 1970s and 1980s. The military model of policing traces its roots to the early 1950s, when Los Angeles Police Department (LAPD) chief William Henry Parker implemented a war model of policing inside the city (Boyes-Watson, 2003, p. 167). Beginning in the 1980s, the US military began large-scale adoption of the special operations military model. American police organizations soon followed with the development of police paramilitary units, or PPU (as cited in Blackman & Brandl, 2004, p. 388). Military units routinely train PPU, often funded by federal money allocated for the War on Drugs (Kopel, 2000, p. 45). The War Model of policing builds on the “War on Crime” concept, and includes military command and rank structure, boot-camp training, and use of military weapons and tactics. Since its creation, the quasi-military organization of the War Model has become extremely common in American policing (p. 167).

Militarization and the Crime Fighter Myth

The Crime Control Model and police war mentality on crime both contribute to the idea that police are solely crime fighters. According to researchers Jack Greene and Carl Klockars (1991), “Findings in no way lend support to the headline news vision of police work as a violent running battle between police and criminals” (as cited in Kappeler & Potter, 2005, p. 238). This

myth devalues other vital police roles, such as administrative tasks, service delivery to citizens, and order maintenance functions (Kappeler & Potter, 2005, p. 237). The myth of police as crime fighters is dangerous because the myth has become self-perpetuating. In other words, police begin to believe and act on the concept. The self-realized role of crime fighting is a major justification for the continuing militarization of American law enforcement.

Problems with the War Mentality

The concept that police officers are “soldiers fighting the war on crime,” (Boyes-Watson, 2003, p. 169), creates many problems. Due to militarized policing, offenders are often considered the “enemies” in the “war” of law enforcement versus law breakers (Parenti, 1999, p. 18). However, unlike armies or insurgencies, offenders do not wear any uniform or rally under a common ideology. Thus, the war mentality forces police to employ frequent stereotypes, often based on race and economic class, in order to identify the “enemy” in the war on crime and drugs (Boyes-Watson, 2003, p. 169). Furthermore, according to Kopel (2000), military training is not synonymous with successful policing because of the different missions of each profession (p. 45).

Police Solidarity and the Blue Curtain

Police solidarity and sub-culture is also affected by the militarization of police forces. According to Skolnick (1994), “The police, as a result of combined features of their social situation, tend to develop ways of looking at the world distinctive to themselves, cognitive lenses through which to see situations and events” (as cited in Kappeler & Potter, 2005, p. 258). Thus, police officers tend to view the world as “Cops and Others,” or an “Us-vs.-Them” mentality. Although the nature of law enforcement creates a certain degree of camaraderie, the intense loyalty and secrecy created by police socialization mirrors military organizations. The war

mentality of policing magnifies this already present “Blue Curtain” that separates the police community and rest of society (Boyes-Watson, 2003, p. 165). Police solidarity can cause officers to forget that they are also citizens. Unlike active duty military organizations, police officers do not live on isolated bases, or abide by separate rules of justice. The crime fighter myth and resulting military organization negatively bias police officers against “outsiders,” or other citizens.

The Dirty Harry Problem

It is important to point out that most offenders are also in fact citizens of the United States, and consequently they still possess civil rights pursuant to the United States Constitution and Bill of Rights. In the United States, the standard of “innocent until proven guilty” is paramount. The militarization of policing facilitates the erroneous categorization of society into regular citizens and “criminals.” This quasi-taxonomy stigmatizes convicted offenders and allows the degradation of civil rights, since “criminals” are viewed as different from the rest of society. This phenomenon is called the *Not Me Fallacy of criminal behavior* (Schreck, Personal Communication, RIT lecture, September 11, 2008). The *Not Me* fallacy results in harsher treatment for convicted offenders. For example, many non-violent felony drug offenders face the stigma of disenfranchisement, reduced federal financial assistance, and elimination of the right to own a firearm. According to the US Constitution, even convicted offenders still have a degree, albeit more limited, of civil rights that must be respected. Unfortunately, police who see offenders as enemies are often enticed to break the law in order to make arrests, produce evidence during searches, and obtain information. Carl Klockars refers to this situation as “The Dirty Harry Problem” (as cited in Boyes-Watson, 2003, p. 169). The title references the previously mentioned Hollywood movie by the same name. In the film, the main character, a

police officer, employs illegal methods in order to obtain information concerning a kidnapping. The War on Drugs has even made it financially beneficial to stretch the law. Asset forfeiture and property seizure laws allow law enforcement agencies to reap the profits of captured criminal property. In short, the war mentality of policing diminishes the fact that offenders are fellow citizens, not enemies to destroy.

The Paradox of Coercive Power

In addition to misrepresenting offenders as the enemies of society, the militarization of police can lead to a dangerous increase in the use of police power. Unfortunately, an overall increase in police use of authority will come at a price. Boyes-Watson (2003) refers to this problem as the “Paradox of coercive power” (p. 167). The theory states that the use of power based on rightful authority is inversely proportional to the amount of recognized authority. Thus, frequent aggressive action (ex: SWAT teams) during drug searches, will undermine police authority in the future. The 1992 Los Angeles riots are an example of a situation where citizens refused to accept police authority. As militarized as American police may be, they still rely on the cooperation and respect of citizens to maintain order.

Mount Carmel and the Branch Davidians

The most recent example of the disastrous results of police militarization is the Waco, Texas incident of 1993. The event involved a failed raid on the compound of the Branch Davidians, a religious cult, by the Bureau of Alcohol, Tobacco, and Firearms (BATF) on February 28, 1993. On April 19, 1993, after a 51-day standoff, the Federal Bureau of Investigation (FBI) also failed to successfully control the compound. A resulting fire destroyed the compound, and 74 Davidian members were killed. The Waco disaster illustrates the ill effects of law enforcement militarization. Under the drug exception clause of the Posse Comitatus Act, US military members were deeply involved in the training and equipping of both the BATF and the FBI Hostage Rescue Team (HRT). In the staging area for the raids, located at Fort Hood, Texas, US Army advisors conducted raid and close-quarters battle exercises with both BATF and FBI agents (Blackman & Kopel, 1997). During both agencies' operations, military tactics were used, including building assaults, a helicopter assault flyover, and CS gas saturation. In addition, military armaments were heavily used, including two M1A1 Abrams battle tanks. The military training and equipment resulted in an over-aggressive mindset and execution, which contributed to both the escalation and failure of the raids (Blackman & Kopel, 1997).

Police Militarization and the GWOT

Although first developed for a "war" on crime and drugs, supporters of police paramilitary units (PPUs) such as the FBI HRT cite another reason for their existence: combating terrorism. Even in light of the failures at Waco and Ruby Ridge, police tactical units and law enforcement militarization as a whole continue to increase. The major reason for this trend is the

threat of terrorism to homeland security. Grossman and Klinger (2002) argue that ordinary law enforcement does not have the capability to defend against a “military-style assault” from Islamic terrorism. The law enforcement term for this type of attack is, “Active shooter” (p. 819). The authors support the legalization of direct intervention by the US military forces against persons on US soil, regulated by a “probable cause” standard for determining if said persons were acting under foreign terrorism (p. 829). This mindset, along with recent legislative changes, such as the US Patriot Act and 2008 amendment to 10 U.S.C. § 372, suggests that the militarization of American law enforcement will continue to increase into the 21st Century.

Reducing Police Militarization

Due to the continuing threat of terrorism, law enforcement militarization will not likely desist completely. However, several steps can be taken in order to control the unchecked advance of militarization and its associated negative consequences. First, PPU's such as the FBI HRT and state/local SWAT teams must narrow and re-focus their role. According to Kraska and Cubellis (1997), the number of PPU's in agencies serving small jurisdictions grew 157 percent between 1985 and 1995 (as cited in Barlow & Brandl, 2004, p. 388). Another problem within police militarization is the increasing use of tactical units for routine patrol tasks and property searches (Parenti, 1999, p. 18). Between 1985 and 1995, the number of police departments using PPU's to serve warrants increased by 342 percent, or mathematically exponentially (as cited in Barlow & Brandl, 2004, p. 395). Police paramilitary units such as SWAT teams can be effective when employed in their original, narrow function: crisis situations such as hostage incidents or barricaded gunmen (Parenti, 1999, p. 18). In addition, the American armed services and domestic law enforcement must coexist, not merge. According to Falcone and Smith (2000), the military and police can share tactics and techniques without militarization. As an example, the

US Army Military Police Corps (MPC) is very similar in practice and execution to the strategy of American county sheriff's offices (p. 247). This comparison illustrates a more decentralized model of law enforcement, as opposed to the traditional "military model hierarchy" followed in most large urban departments (p. 254). The operation and shared training by sheriff's offices and the US Army MPC proves that American armed forces and law enforcement can practice interoperability without militarization.

The Future of Militarization

Law enforcement militarization parallels the Crime Control model of criminal justice. Amplified by the War on Drugs, militarization is a negative trend in American policing that destroys police authority and reduces civil rights for the accused. However, due to current criminal justice policies that support the War on Drugs and GWOT, it is unlikely that police militarization will decrease in America. In order to stem the tide, police organizations must re-examine the roles of tactical units and work for partnerships with the community. Without departmental efficacy, militarization will continue to cause problems in American law enforcement.

Asset Forfeitures and Seizures

The DEA has tapped into the valuable resource of asset forfeiture in order to exceed annual funding. "By 1987, the Drug Enforcement Administration was effectively paying for itself, with seizures exceeding its annual budget. Between 1985 and 1991, the Justice Department collected more than \$1.5 billion in illegal assets. Over the next five years, the Justice Department almost doubled its income...to \$2.7 billion in its Asset Forfeiture Fund...The Department...regularly exhorted its attorneys to make *every effort* to increase *forfeiture production* so as to avoid budget shortfalls" (Blumenson & Nilsen, 1998, p.63).

There is an excess of wealth and attainable profit in police units when they are able to single-handedly rake funding. No one wants to settle for less, every officer wants the capitalist *American Dream*, all the money they can get in the easiest way possible. “According to news reports, Louisiana police engaged in massive pretextual stops, with the seized money diverted to police department ski trips and other unauthorized uses” (Blumenson & Nilsen, 1998, p.83). Furthering the financial standing of their own agencies, police corruption runs rampant in departments to aid better working environments for the officers.

Street level drug busts appease the public outcry and fear about the terrors of drug dealers and user. What the public, i.e. white suburbia, doesn't know is that the real dealers are in their neighborhoods. The real dealers don't deal in plain view; they take their business indoors, in cars, at bars, etc. As “Senator-scholar Daniel Patrick (1993) has written, “‘Interdiction and ‘drug busts’ are probably necessary symbolic acts, but nothing more.’”(Tonry, M.,2005, p.87).

The need for making multiple arrests and stops is not just a means of giving a false sense of security to Americans, but for sufficient funds for departments. Every time there is a seizure of property, the money made from the seizure goes directly to the local department of law enforcement, as opposed to the federal funding they receive. The more busts made, the more money the department has for its own private funding. As it is told, “One amendment, part of the 1984 bill (on forfeiture), allowed federal law enforcement agencies to retain and use the proceeds from asset forfeitures, rather than requiring these assets to be deposited in the Treasury's General Fund”(Blumenson & Nilsen,1998, p. 50). Police have been put in a situation where the more drug arrests they make the more money they have for their department. It is a lot easier to make an “open air” arrest in the urban areas than to obtain search warrants, do surveillance, and track suburban drug dealers. As Heather MacDonald explained in a segment about racial

profiling, “Between 1976 and 1994, 64 percent of the homicide victims in drug turf wars were black, according to a Heritage Foundation analysis of FBI data. Sixty-seven percent of the perpetrators were black” (Macdonald, 2003, p.19). The black population has been enslaved by a substance that has been out of their control. In the late 1980s crack cocaine was introduced to the ghettos and with it came all the crime, i.e. drive-bys, turf wars, and societal damage that is equivalent to that of a real war. Before locking away lives that could contribute to society’s success, there must be adequate funding for rehabilitation or more programs aimed at giving aid to the parts of society that are economically disadvantaged and riddled with these problems.

Rehabilitative Approach

Drug busts are a great money making incentive for authorities. With these busts comes the forfeiture of property and possessions. The majority of funds used for the “War on Drugs” go directly to the police work; not to treatment programs that can help thwart the addiction problems of the petty dealers and users on the streets. These small time dealers and users are most commonly recidivists a solution for them, as justified by Michael Tonry (2005): “Because use and offending tend to coincide in the lives of drug-using offenders, the most effective and cost-effective way to deal with such offenders is to get and keep them in well-run treatment programs” (Tonry, M.,2005, p.87).

There needs to be more effective solutions to fighting drugs and drug crimes. The first step should be rehabilitating those who are dependent on illicit and illegal substances. Offenders and users are one and the same- at least at the smaller levels. For society to attempt to abolish drug sales we must first be able to effectively cut off drugs at the smallest retail and usage level and allow for people stuck in the grasp of addictive drugs to be offered the option to get off of them.

Increased Incarceration Rates

The “War on Drugs” has only increased the incarceration rate and minority involvement in the criminal justice system. The government portrays a false sense of security; wanting people in suburbia and the thriving middle class to think that violent drug users and dealers are being put away for the safety of the public. There is a feeling that more drugs are off streets, when in reality there are more and they are of greater potency. If there was such a concern for public safety there would be more of a focus on alcohol, as it accounts for a number of automobile accidents, domestic violence occurrences, and addiction. In the federal prisons “...25% of the resident population was drug offenders. By 1992, 58% of the resident population was drug offenders. In state prisons, 5.7% of inmates in 1979 were drug offenders, a figure that by 1991 had climbed to 21.3% to become the single largest category of prisoners...”(Tonry, M.,2005, p.92). The incarceration of minorities allows there to be shackles placed on them by the white majority. Incarceration is a means of control that is within the bounds of the law with benefits to white policy makers who win votes for being “tough on crime” and towns dependent on the Prison Industry. Policies evolve from the history and the conglomeration of people in power. Along with the conglomeration of ideals comes a mixed opinion on sentencing, discretion, and societal reactions to these decisions. This makes its seem like there is an easy objective to combat (i.e. drugs), when in reality we (society) are incarcerating great numbers of people involved in victimless crimes instead of getting them the help that they need.

The imbalance in the criminal justice system can be seen after the “War on Drugs” was declared and the arrest rates of minorities sky-rocketed. While the numbers of arrested folks of all colors are rationalized in proportion to their respective populations, it is the incarceration rate that is much higher and severe for the minorities, specifically African-Americans. As Steven

Cooper wrote, “All indicators suggest that blacks and whites use drugs at approximately the same rate, yet blacks are arrested on drug charges at much higher rates than whites” (Cooper, S.,1998, p.123). The blacks are racially profiled and targeted by law enforcement, not always on a basis of direct discrimination, but because the arresting officer feels he/she has had success with a certain race in making drug arrests, i.e. a “good collar.” Most drug arrests are made at the discretion of the arresting officer. The belief is that if a pretext stop is made; initiated by a minor traffic infraction, there will be reasonable suspicion and thus a means for searching the vehicle. This is highly likely if the suspect fits the so-called “thug profile.” This profile does not indicate race, but is suggestive of African-Americans, who, more times than not, wear baggy pants, backwards caps, dew-rags, undershirts, etc. The imbalance in dealing with the “War on Drugs” starts from the point of initial suspicion and profiling to sentencing and incarceration.

With nearly one in three black men under correctional supervision or control it can be alleged with ease that once again blacks have been disenfranchised, discounted from the realm of democracy with a political strategy used to make their vote not count. According to the U.S. Census Bureau “Thirteen percent of all adult black men – 1.4 million – are disenfranchised...Election voting statistics offer an approximation of the political importance of black disenfranchisement: 1.4 million black men are disenfranchised compared to 4.6 million black men who voted in 1996” (U.S. Census Bureau).

Institutional Oppression

Too much of the Drug War is based upon targeting the wrong roots of the drug problem in America. Putting the muscle on the street to beat up on small dealers and users isn’t the same as having clinics and rehabilitation centers for addicts and people who live and breathe the drugs they sell and use. This statement of underfunding is factually supported by the statement that

claims, “Out of approximately \$15 billion in annual federal Drug War funds, approximately two-thirds are dedicated to law enforcement and interdiction. Meanwhile the slim budgetary allotment for the substance abuse...” (Blumenson, Nilsen, 1998, p.80). If politicians and policy makers were concerned, and really wanted to put a damper on the use and sale of drugs in the United States they would realize the drug war is not a war to be fought with physical force, but with rehabilitation and help for people who are over the edge with addiction and the drug lifestyle.

As the case usually is, those who are higher up in the social caste system can get away with more criminal behavior. In New Jersey, for example, a defendant facing a *drug kingpin* indictment (twenty-five years to life) obtained a dismissal of that charge and parole eligibility in five years on a lesser conviction, by agreeing to forfeit \$1 million in assets (Blumenson & Nilsen, 1998, p. 37). Another case of authorities taking offerings from hustlers can be found in the Boston Police Department. “In Massachusetts, a recent investigation by journalists found that on average a ‘payment of \$50,000 in drug profits won a 6.3 year reduction in a sentence for dealers’” (Blumenson & Nilsen, 1998, p. 37).

Alcohol Abuse, Prohibition, Drugs & the War on Drugs

The crime that correlates most directly with drug users and dealers is nowhere near as harmful to society as the deviance involved with alcohol use. The drug busts affect the urban culture while alcohol is left legal as an abuse and crime promoter in the suburban areas. This doesn’t disregard the fact that there are still many alcohol abusers in the city, but there are a lot more drug users (that are caught) in the urban environment. This shows a bias in the system, allowing drinking to be made legal so that drunks, who act violently, can be punished with fines, license suspensions, and metaphorical slaps on the wrist, while drug users and sellers are locked

up and aren't allowed to see the light of day. Both the drug addict and the alcoholic suffer from a genetic addiction; a physical and mental addiction to a substance that controls every facet of their lives.

The War on Drugs is not effectively combating crime...alcohol poses more of a threat to citizens' safety than drugs. Alcohol related incidents of crime and accidents are much higher than those of drug related incidents. More people die in car accidents with intoxicated drivers than people smoking a joint on the road. That is not advocating the legalization of drugs; it's just blatantly obvious that alcohol has more of an impact on criminal behavior in the United States than people on drugs. Drunks are to blame for most domestic violence problems and the calling of Child Protective Services. If the pedophile uncle of the family was stoned he'd be more likely to watch cartoons and take naps vs. the drunken uncle who wants to cop a feel off his young niece. The effects of alcohol are clearly outlined as having "affects (on) attention, cognition, and perception, resulting in a narrowing of the field of attention/ vision. This, in turn, may lead to misperceptions of others' intentions and a reduction in the ability to solve problems such that an intoxicated person is more likely to interpret a comment ...arguments escalate into physical violence" (Martin, Maxwell, White & Zhang, 2004, p.19).

Like drugs alcohol can have a "broken windows" effect on a community. Drunks and drug users loitering can diminish a small community's sense of pride and appearance, making it more susceptible to criminal activity. "Areas with high outlet density recently have been shown to be associated with elevated rates of violence (Costanza et al., 2001).'In addition, such outlets not only sell alcohol, but are social magnets that attract undesirable clientele and often become sites for drug dealing, prostitution, and other illegal activities..." (Martin, Maxwell, White & Zhang, 2004,p.20). There are support and rehabilitation programs for alcoholics that seem to

work wonders, due to proper funding and societal support. Instead of keeping drug users as societal skeletons in the closet, we should support the idea that drug users, like alcoholics, can be rehabilitated and placed back in society.

Global Intervention & “Containment”

The foreign policy initiatives call for the *containment* of the means of production followed by the *geographical displacement*, i.e. shifting of the global market from places where production is seen as a cash crop and a means of obtaining wealth, and of course being in a region that is favorable and fit for growing crops such as opium. This is well discussed on page 216 in the World Drug Report 2008. The Opium problem has successfully been pushed through Southwest Asia, from China to Myanmar, and now into Afghanistan (World Drug Report 2008, p.216). This displacement shift results in a wild goose chase between cartels and international law enforcement.

One consequence most noted on the global scale was that the control of one market's production, resulting in the control of both the supply and demand, would result in users having to switch to another market- a new drug of choice. (World Drug Report 2008, p.216). Certain markets are easier to control. The comparison was made in the prior mentioned report that cocaine is easier to control than methamphetamines because the production site and the consumer region are so far apart, e.g. Colombia and Los Angeles- there is a great span the drugs have to travel before getting to their buyer/consumer, whereas methamphetamines can be produced and distributed in small communities- commonly being seen as a growing problem in rural America.

Economic Implications in the *War on Drugs*

The dealers that are being taken off the streets are the small time dealers. They are arrested on a larger scale. The rate of production of illegal drugs and their distribution has only increased over the years. Afghanistan alone from 2006 to 2007 had a 17 percent increase in

opium production (World Drug Report 2008). The street-level distributor is the bottom of the food chain in distribution. They are the peons that have no other means of an income due to stigma placed on them from institutionalization. Deterrence by itself is not an effective approach to thwarting the Drug Trade “Large-scale arrests have repeatedly been shown to have little or no effect on the volume of drug trafficking or on retail prices of drugs” (Tonry, M.,2005,p.87). The global illicit drug retail market, according to the United Nations Office on Drugs and Crime (UNODC), was valued at \$322 billion (World Drug Report 2005). This would be a major incentive to not disrupt the distribution among large-scale dealers.

Despite the ongoing effort of the west to thwart drug production related terrorism in Afghanistan, the UN Office of Drug Control reports in its *World Drug Report 2008* a steady increase in the production and distribution of Opium in Mesopotamia. (World Drug Report 2008).

Money Laundering

One of the main efforts put forth in the international War on Drugs is the prevention of money-laundering. According to the American Banker’s Banker Glossary, *Money Laundering* is defined as: *The conversion or transfer of property derived from a criminal offense for the purpose of concealing, or disguising, the illicit origin of the property.* (American Banker, 2008).

Big time drug dealers have an easy time laundering money because not only has the law been able to protect them, but they can afford the attorneys to do the legal work. The law has, in recent years, made it harder to prove laundering.

Conclusion

The War on Drugs has had enormous repercussions on the American way of life. Limitations have been placed on the liberty of the individual as well as the community, all in the

name of protecting the population from the evil of narcotics. Militarization has evolved American police into a quasi-military branch able to operate inside the United States with little oversight. Most drug enforcement is targeted at the poor, mainly minority populations of America, who use narcotics. When drugs do get in to the hands of individuals and they are caught, the full arm of the law is emplaced upon them. Rather than try and rehabilitate addicts, they are simply warehoused in American's enormous prison industry. This endless cycle has resulted in the disenfranchisement of large portions of non-white America.

When law enforcement fails, American sons are sent to fight wars in foreign lands to reduce the flow of narcotics into America. Does the failure of our border agents constitute a full regime change in a legitimate country? Even when full war is not employed, America maintains a long list of various agencies, which operate essentially as spies in order to "assist" other countries with their drug problem.

Luckily, the effects of the War on Drugs are reversible, or at least modifiable. While total legalization of all narcotics is not likely, and would have its own list of repercussions, moderation is possible. First, the extended use of prisons only hides the problem from the public, not fixes it. Prison sentences need to be reduced; this could be best accomplished with community involvement, and greater research into rehabilitation programs.

Drugs, like guns and alcohol, will always be part of American culture. The question that remains is how to limit them. Lax controls and one ends up with an epidemic. Strict controls result in underground markets and enormous law enforcement expenses. A successful balance needs to be established that limits the most harmful narcotics, rehabilitates those already addicted, and eliminates racial discrepancies. All of these goals must be accomplished while being cost-effective to the American taxpayer.

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