7.5: Drug Policy and the War on Illegal Drugs

Learning Objectives

1. Explain whether the DARE program is effective.
2. Outline the goals and examples of a harm reduction approach to drug use.
3. List the problems arising from the current legal war on illegal drugs.

For many decades, the United States has used several strategies to try to deal with drugs. These strategies generally fall into four categories: treatment, prevention, harm reduction, and, for certain drugs, criminalization and the use of the criminal justice system, or, as we will call it, the war on illegal drugs. We now turn to these strategies.

**Treatment**

Treatment programs are intended for people who already are using drugs, perceive they have a drug problem, and want to reduce or eliminate their drug use. This strategy is probably familiar to most readers, even if they have not used drugs themselves or at least have not had the benefit of a treatment program. Treatment programs often involve a group setting, but many drug users also receive individual treatment from a psychiatrist, psychologist, or drug counselor. Perhaps the most famous treatment program is Alcoholics Anonymous, a program that involves alcoholics meeting in a group setting, acknowledging their drinking problem and its effects on family members and other loved ones, and listening to each other talk about their situations. Other group settings are residential settings, sometimes called *detox units*. In these settings, people check themselves into an institution and stay there for several weeks until they and the professionals who treat them are satisfied. Perhaps the most famous residential treatment program is the Betty Ford Center in Rancho Mirage, California; this center was established by and named after an acknowledged alcoholic who was the wife of President Gerald Ford.
The Betty Ford Center is a residential detox unit for people with alcohol and other drug problems.


In addition to or in conjunction with group treatment programs, individual treatment for drug addiction may involve the use of “good” drugs designed to help wean addicts off the drug to which they are addicted. For example, nicotine gum, patches, and other products are designed to help cigarette smokers stop smoking.

The various forms of treatment can be very effective for some addicts and less effective or not effective at all for other addicts; most treatment programs have a high failure rate (Goode, 2012). A sociological perspective suggests that however effective treatment might be for some people, the origins of drug use ultimately lie in the larger society—its social structure, social interaction, and the drug culture—and that these roots must be addressed for serious reductions in drug use to occur.

### Prevention

Because it is always best to try to prevent a problem before it begins, an important strategy to deal with drug use involves prevention. The major prevention strategies involve drug education or drug testing (Faupel et al., 2010). Many education-based prevention programs focus on children and adolescents. This focus reflects the fact that use of most drugs begins during adolescence, and that if adolescents do not begin using drugs during this period of their lives, they are much less likely to do so when they become adults. Some education strategies follow what is called an informational model: they involve public-service advertising, the distribution of drug pamphlets in medical offices, and other such efforts. Several studies question the effectiveness of strategies based on this model (Faupel et al., 2010).
Other education programs take place in the secondary school system and on college campuses. The most famous such program is almost certainly DARE (Drug Abuse Resistance Education), which involves police officers speaking to middle-school children. DARE programs have been carried out in more than 7,000 schools across the nation. However, several studies find that DARE programs do not generally reduce subsequent drug use among the children who attend them compared to children who do not attend them (Faupel et al., 2010).

Drug testing is very common in today’s society, and you may well have been required to have a drug test as part of an application for a job, involvement in a school sport, or other activity. At least half of US workplaces now perform required drug tests. Drug testing is expensive, and many critics say it is not cost-effective in view of the low prevalence of illegal drug use in the United States (Faupel et al., 2010).

### Harm Reduction

A third strategy involves harm reduction. As this term implies, this strategy attempts to minimize the harm caused by drugs. It recognizes that many people will use drugs despite efforts to prevent or persuade them from doing so and despite any punishment they might receive for using illegal drugs. Our nation is currently using a harm reduction approach with regard to alcohol and tobacco. It recognizes that tens of millions of people use these products, and designated-driving programs and other efforts try to minimize the considerable harm these two drugs cause.

A specific harm reduction strategy with regard to illegal drugs is the provision of clean, sterile needles for people who inject themselves with heroin, cocaine/crack, or other drugs. Many of these users share needles, and this sharing spreads HIV, hepatitis, and other diseases. If they have a supply to sterile needles, the reasoning goes, the transmission of these diseases will be reduced even if use of the drugs with the aid of the needles does not reduce. Critics say the provision of sterile needles in effect says that drug use is OK and may even encourage drug use. Proponents reply that needle-based drug use will occur whether or not sterile needles are provided, and that the provision of sterile needles does more good than harm. Other nations have adopted this type of harm reduction much more extensively than the United States.

Another harm reduction strategy involves the use of drug courts, which began in the 1990s and now number more than 2,500 across the United States. In these courts, drug offenders who have been arrested and found guilty are sentenced to drug treatment and counseling rather than to jail or prison. Evaluation studies show that the courts save much money compared to imprisoning drug offenders and that they are more effective than imprisonment in reducing the offenders’ drug habit (Stinchcomb, 2010).

### People Making a Difference

**Law Enforcement against Prohibition**

Law Enforcement Against Prohibition (LEAP) is an organization of current and former police and other criminal justice professionals, including prosecutors, judges, and FBI agents, who advocate for the legalization of illegal drugs. Because many of these professionals were on the front lines in the war against drugs and often put their lives in danger, their views about drug policy cannot be dismissed lightly.

One of their members is MacKenzie Allen, a 65-year-old deputy sheriff who worked in Los Angeles and Seattle,
including time as an undercover agent who bought illegal drugs and made countless arrests for drug offenses. Although Allen strongly disapproves of drug use, his many years in law enforcement led him to realize that the drug problem is best understood as a public health problem, not a legal problem. He notes that the United States has lowered cigarette use through public education and without outlawing cigarettes. “Can you imagine the mayhem had we outlawed cigarettes?” he writes. “Can you envision the 'cigarette cartels' and the bloodbath that would follow? Yet, thanks to a public awareness campaign we’ve made a huge dent in tobacco use without arresting a single cigarette smoker.”

Allen adds that most of the problems associated with illegal drug use are actually the result of the laws against drugs. These laws create a huge illegal market, much of it involving violent cartels, he says, that promises strong profits for the manufacturers and sellers of illegal drugs. He is also critical of other aspects of the war on drugs:

If the colloquial definition of insanity is doing the same thing over and over, expecting a different result, what does that say about our “War on Drugs”? We’ve been pursuing this strategy for forty years. It has cost a trillion taxpayer dollars, thousands of lives (both law enforcement and civilians) and destroyed hundreds of thousands more by incarceration. Moreover, it undermines the safety of our communities by overcrowding our jails and prisons, forcing them to give early release to truly violent offenders.

Another LEAP member is Joseph D. McNamara, the former police chief of San Jose, California. McNamara also criticizes the violence resulting from the laws against drugs. “Like an increasing number of law enforcers,” he writes specifically about marijuana, “I have learned that most bad things about marijuana—especially the violence made inevitable by an obscenely profitable black market—are caused by the prohibition, not by the plant.” He continues, “Al Capone and his rivals made machine-gun battles a staple of 1920s city street life when they fought to control the illegal alcohol market. No one today shoots up the local neighborhood to compete in the beer market…How much did the [Mexican] cartels make last year dealing in Budweiser, Corona or Dos Equis? Legalization would seriously cripple their operations.”

As these statements indicate, the legal war on drugs has had many costs. It is difficult to know what to do about illegal drugs, but in bringing these costs to the attention of elected officials and the American public, Law Enforcement Against Prohibition is making a difference. For further information about LEAP, visit copssaylegalizeddrugs.com.

Sources: Allen, 2001; Law Enforcement Against Prohibition, 2011; McNamara, 2010

The War on Illegal Drugs

The most controversial drug strategy involves the criminalization of many drugs and the use of the police and the rest of the criminal justice system to apprehend and punish the users, manufacturers, and sellers of illegal drugs. As the brief history of drug use at the beginning of this chapter indicated, the United States has banned certain drugs since the late nineteenth century, and it accelerated this effort during the 1970s and 1980s as concern grew about heroin, crack, and other drugs.

In judging the war on illegal drugs, two considerations should be kept in mind (Meier & Geis, 2007). One consideration is the philosophical question of the extent to which the government in a free society should outlaw behaviors that may be harmful even if people (let’s assume we are talking about legal adults) want to engage in them. Americans do all kinds of things that may harm themselves and that may directly or indirectly harm other people. For example, many Americans eat high amounts of candy, ice cream, potato chips, hamburgers, and other “fat food” that causes obesity, great harm to individual health, premature death and bereavement, and tens of billions of dollars in health costs and lost productivity...
annually. Although obesity almost certainly causes more harm overall than illegal drugs, no one is about to say that the use of “fat food” should be banned or restricted, although some schools and workplaces have removed candy and soda machines. Americans also engage in many other activities that can be very harmful, including downhill skiing, contact sports, skydiving, and any number of other activities, but no one is about to say that we should be prohibited from engaging in these efforts. Where is the logic, then, in allowing all these behaviors and in not allowing the use of certain drugs? A philosophical argument can be made that all drug use should, in fact, be allowed in a free society (Husak, 2002), and perhaps this is an issue that you and your classmates will want to discuss.

The second consideration is the social science question of whether laws against drugs do more good than harm, or more harm than good. In a rational society, if a law or policy does more good than harm, then we should have the law or policy. However, if it does more harm than good, however much good it might do, then we should not have it, because the harm outweighs the good.

In considering this issue, critics of drug laws say they do much more harm than good, and they often cite Prohibition as an example of this dynamic. Prohibition was repealed because our society decided it was doing much more harm than good and was thus a “triumphant failure,” as one author has called this period of our history (Okrent, 2011, p. 67). Prohibition caused several harms: (1) the rise of organized crime to earn illegal profits from the manufacture, distribution, and sale of alcohol; (2) the violence and murder among organized crime gangs that fought each other over drug "turf"; (3) the wounding and death of innocent bystanders from gunfights between organized crime gangs; (4) the wounding and murder of police officers who enforced Prohibition; (5) rampant corruption among police officers and political officials who took money from organized crime to ignore violations of Prohibition; and (6) the expenditure of much time, money, and energy by the criminal justice system to enforce Prohibition.

Prohibition did reduce drinking and the violence associated with drinking. But some scholars say that the organized crime violence caused by Prohibition was so common and deadly that the homicide rate grew during Prohibition rather than lessening (Jensen, 2000), though other scholars dispute this finding (Owens, 2011). In yet another problem, many people during Prohibition became sick and/or died from drinking tainted liquor. Because alcohol was no longer regulated, illegal alcohol often contained, by accident or design, dangerous substances. As an example, 15,000 people in the Midwest became sick with a severe neurological problem after drinking an illegal alcohol laced with a paint thinner chemical (Genzlinger, 2011).

Critics of today’s war on illegal drugs say that it has reproduced the same problems that Prohibition produced. Among these problems are the following:

- Drug gangs and individual drug sellers engage in deadly fights with each other and also kill or wound police officers and other law enforcement personnel who fight the war on drugs.
- Many innocent bystanders, including children, are wounded or killed by stray bullets.
- Many police officers take bribes to ignore drug law violations and/or sell drugs confiscated from dealers.
- The criminal justice system and other agencies spend much time, money, and energy in the war against illegal drugs, just as they did during Prohibition. Enforcing drug laws costs about $50 billion annually (McVay, n.d.). Police and other law enforcement personnel make more than 1.6 million arrests for drug offenses annually, including about 850,000 arrests for marijuana possession (Federal Bureau of Investigation, 2011). Some 500,000 people are in prison or jail for drug offenses.
- The drug war has focused disproportionately on African Americans and Latinos and greatly increased their numbers who have gone to jail or prison. Even though illegal drug use is more common among whites than among blacks,
the arrest rate for drug offenses is ten times higher for African Americans than the rate for whites (Blow, 2011). Partly because of the drug war, about one-third of young African American men have prison records.

- Most of the 17,000 annual deaths from illegal drug use stem from the fact that the drugs are illegal. Because they are illegal, they may contain dangerous substances that can be fatal, just as in Prohibition. In addition, some illegal drug users overdose because they underestimate the purity of a drug.

One of the harms associated with the war on drugs is that police officers die in the line of duty when they are killed by drug sellers or users.

Greg Matthews – Riverside Police Officer Memorial Service – CC BY-ND 2.0.

Because of all these problems, drug law critics say, the United States should legalize marijuana, the most benign illegal drug, and seriously consider legalizing some or all other illegal drugs.

Proponents of the drug war reply that if drugs were legalized or decriminalized (still against the law, but violations would be treated like traffic offenses), many more people would use the newly legal drugs, and the problems these drugs cause would increase. Responding to this argument, drug law critics say it is not at all certain that drug use would increase if drugs were legalized. To support their view, they cite two pieces of evidence.

First, illegal drugs are relatively easy to obtain and use without fear of arrest. If people have decided not to use illegal drugs now, it is unlikely they will use them if the drugs were legalized. Support for this argument comes from national data on high school seniors (Johnston, O’Malley, Bachman, & Schulenberg, 2011). In 2010, 82 percent of seniors said they could easily obtain marijuana, and 35.5 percent said they could easily obtain cocaine. Despite these numbers, only 35 percent had used marijuana in the past year, and only 3 percent had used cocaine in the past year.

Second, marijuana use in the United States decreased in the 1970s and 1980s after several states decriminalized it. As we noted earlier, marijuana use also declined in the Netherlands after they decriminalized the drug in the 1970s. Moreover, even though use of marijuana is legal in the Netherlands, its rate of marijuana use is no higher than the rate of marijuana use in the United States (Drug Policy Alliance, 2012). In another international comparison, Portugal decriminalized possession of all drugs in 2001; after it did so, teenage drug use declined (see Note 7.28 “Lessons from Other Societies”).

At this point, it is impossible to know how much, if at all, the use of illegal drugs would rise if they were legalized. Critics
of the drug war say that even if the use of drugs did rise, the benefits of legalizing or decriminalizing them would still outweigh the disadvantages (Feiling, 2010).

**Lessons from Other Societies**

What Happened after the Netherlands and Portugal Decriminalized Drugs?

As the United States ponders its drug policy, the experience of the Netherlands and Portugal provides some provocative lessons.

The Netherlands decriminalized drugs in 1976. Under the Netherlands’ policy, although criminal penalties remain for possessing hard drugs (cocaine, heroin, etc.) and large quantities of marijuana, drug users are not normally arrested for possessing drugs, but they must receive drug treatment if they are arrested for another reason. Drug sellers are not normally arrested for selling small amounts of drugs, but they may be arrested for selling them in large. Marijuana use in the Netherlands dropped in the immediate years after it was decriminalized. Although it increased somewhat since then, as in some other nations, it remains much lower than the US rate. According to the Netherlands Ministry of Foreign Affairs, 23 percent of Dutch residents ages 15–64 have used cannabis at least once in their lives, compared to 40 percent of Americans ages 12 and older (2005 figures). Dutch use of cocaine and heroin also remains much lower than American use. Reflecting the Netherlands’ experience, most of the nations in Western Europe have also decriminalized marijuana possession and use, and their rates of marijuana use also remain lower than the US rate.

In 2001, Portugal became the first European nation to remove all criminal penalties for drug possession. Portugal took this step because it reasoned that fear of arrest keeps drug addicts from seeking help and because it recognized that drug treatment costs far less than imprisonment. Anyone convicted of drug possession is sent for drug treatment, but the person may refuse treatment without any penalty.

In the first five years after Portugal decriminalized all drug possession, teenaged illegal drug use declined, new HIV infections from sharing needles declined, and the prison population also declined. Meanwhile, the number of drug addicts receiving treatment increased by 41 percent. A researcher who reported these trends commented, “Judging by every metric, decriminalization in Portugal has been a resounding success. It has enabled the Portuguese government to manage and control the drug problem far better than virtually every other Western country does.” A Portuguese drug official agreed, “The impact [of drugs] in the life of families and our society is much lower than it was before decriminalization,” and noted that police are now freer to spend more time and energy on high-level dealers. Adult drug use in Portugal has risen slightly since 2001, but so has adult drug use in other European nations that did not decriminalize drugs. Portugal’s increase has not been higher than these other nations’ increase.

Although the Netherlands, Portugal, and other Western European nations certainly differ from the United States in many ways, their experience strongly suggests that decriminalization of drugs may cause much more good than harm. If so, the United States has important lessons to learn from their experiences.

Sources: Hughes & Stevens, 2010; Netherlands Ministry of Foreign Affairs, 2008; Reinarman & Hendrien, 2004; Szaalavitz, 2009; Tracey & Jahromi, 2010
Key Takeaways

- To deal with drugs, the United States has used several strategies, including treatment, prevention, harm reduction, and the legal war on illegal drugs.
- According to its critics, the war on illegal drugs has done much more harm than good and in this respect is repeating the example of Prohibition.

For Your Review

1. Do you think the United States should make sterile needles and syringes freely available to people who are addicted to drugs that are injected? Why or why not?
2. Do you agree or disagree that the war on illegal drugs is doing more harm than good? Explain your answer.