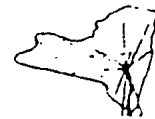


UPDATE



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WAR ON DRUGS NEW YORK POLICIES & SOME SOBER THOUGHTS

If words alone could win the war, every addict would long ago have been surrounded and begging for peace. As it is, despite years of tough laws and tougher talk, the abuse of illegal drugs rises and at its worst, moves towards ever more dangerous and self destructive forms. Cocaine replaced by Crack. 20 year old street dealers replaced by 15 year olds, who themselves are likely to be replaced by the even younger.

In this edition of the UPDATE, we focus on the so called WAR ON DRUGS, including an analysis of the Prison Omnibus Bill of 1989. Apart from Drugs, we comment on the death penalty and Life Without Parole.

We approach the WAR ON DRUGS with a bias. There is no argument that addiction and abuse are dangerous. Like others, we have observed broken lives and dreams. The CRACK phenomenon is especially frightening. We believe, however, that illegal (and legal) drug abuse is an issue of public health, - a catastrophic public health issue, much more than one of crime. If untreated, lives, families and communities are destroyed. The problem with this WAR, however, is that like water poured on an oil fire, the policies we are using spread rather than limit the dangers of drug abuse.

THE WAR

The latest report on the Governor's Anti-Crime Action Agenda (July 1989) details the battle on the criminal justice front. Arrests are up. Indictments are up. Convictions are up. Imprisonment is up. Only sentences to probation are down.

| Felony Drug | 1987 | 1988 | % Chng | 1988 | 1989 | % Chng |
|-------------|--------|--------|--------|---------|---------|--------|
| | | | | 1st Qtr | 1st Qtr | |
| Arrests | 36,252 | 43,465 | +19.9 | 10,065 | 13,866 | +38.0 |
| Indictment | 18,855 | 21,355 | + 4.3 | 9,736 | 12,355 | +26.7 |
| Convictions | 13,436 | 15,184 | +13. | 3,817 | 4,643 | +21.6 |
| Prison | 5,401 | 6,481 | +20. | 1,560 | 2,188 | +40.3 |
| Jail | 2,559 | 2,299 | +10.5 | 695 | 889 | +27.9 |
| Jail + Prob | 3,027 | 3,530 | +16.6 | 938 | 948 | + 1.1 |
| Probation | 2,398 | 2,299 | - 4.1 | 616 | 610 | - 1.0 |

Seems impressive, but at closer look, the criminal justice WAR takes on the symptoms of addiction.

Politicians and policy makers outdo themselves in tough rhetoric, with calls for more severe and, as it turns out, selective sanctions. Because of the tougher sanctions and increased imprisonment, whole communities are hooked on new prisons. An unanticipated but predictable result - more concentrated and lethal

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drugs drive out the bulkier and less lethal. Newer and younger marketers replace the arrested and imprisoned, spreading abuse to new populations.

Moreover, treated as crime, the war is unwinnable.

- * Treatment of drug abuse has to be based on self-worth not punishment. Self-destructive behavior fueled by desperation is unlikely to be deterred by ever more punitive measures.
- * The market for illegal drugs is enormous. Most illegal drug users escape and are likely to continue to escape arrest and prosecution.
- * Both criminal prosecution and access to treatment are highly selective.
- * The profits are great. The product is cheap. The marketers arrested and imprisoned are easily replaced.
- * The cost of arresting, prosecuting and especially incarcerating those caught are staggering. Even marginal increases in current rates would overwhelm governments without having much influence on drug use.
- * Political pressure distorts programmatic goals.

This edition focuses on the avoidance and denial of the current WAR. It is our contention that New York policies have been addicted to a Punitive model of justice. In a later UPDATE, we will focus on models of Restorative justice approaches to the substance abuse WAR, including the Victim Restitution Program - a Good Time proposal produced by the Lifers Committee at Auburn and the Prisoners'/Paroles' Anti-Crime Organization, (P./P.A-C.O.), a newly formed ex-inmate group whose goal is reduction of crime.

WHO USES ILLEGAL DRUGS? (or of avoidance and denial, PART 1)

While New York's state prison population has crossed the 50,000 mark (see page 11), a fourfold increase from the 12,500 population of 1972, the prisons hold an extremely small fraction of the illegal drug using population.

By Division of Substance Abuse Services (DSAS) accounts (Table 10 on Page 3), over a million of New Yorkers use drugs illegally and over 400,000 use drugs on a weekly or daily basis. The regular or extensive user is more likely to be White (61%) than Black (23%) or Hispanic (14%); more likely to have an annual income over \$25,000 (52%) than under (48%); and to be employed fulltime (69%) rather than unemployed (22%).

The following excerpts from the 1986-87 Annual Report of DSAS highlight the problem:

"Substance Abuse in New York State 1986/1987 - During 1986 and 1987, substance abuse continued to be one of the leading threats to the health and well-being of New York residents.... According to estimates prepared by the Division's research office, more than 6 million persons - some 44 percent of the State's population - had used a substance nonmedically in their lifetime. About half of those - 22 percent of the population - had used substances recently (within a six month period). Of such recent users, about half - ten percent of the states population - were considered to be "regular" users (i.e.) used

approximately once a week) and one-fourth - about six percent of the population were "heavy" users (i.e. used almost daily). In all there were more than 616,000 heavy abusers of nonnarcotics and 260,000 heavy abusers of narcotic drugs."

"Comparing these figures with the data from 1985 shows that the prevalence of substance abuse continues at a faster rate than the population generally. Specifically, the number of recent users increased from 3,142,100 in 1985 to 3,189,400 in 1987...The number of regular users increased over two percent from 1,504,800 in 1985 to 1,524,800 in 1986 and to 1,541,700 in 1987. And the number of heavy abusers increased by one percent from 865,000 in 1985 to 871,800 in 1986 and to 876,100 in 1987."

"...Between 1985 and 1986, however, the increase was most striking - an increase of 72 percent from 7,305 to 12,586 admissions to funded drug-free programs with cocaine as the primary drug of abuse..."

"...With estimates of the number of IV users in New York State running as high as 260,000 and the number of cases in treatment programs steadily rising, it was clear that the impact of AIDS on this population was already enormous and growing worse."

The Statewide Household Survey of Substance Abuse, 1986 from DSAS includes the following TABLE.

10. Selected Level of Illicit Substance Use (a) Among N Y Residents by Demographic Characteristics
12,669,000 Residents, 18 years of Age and Older, Spring 1986

| | Total Population | Infrequent Use | | Regular Use | | Extensive Use | |
|------------------------------|------------------|----------------|-------------------|-------------|----|---------------|----|
| Total | 12,669,000 | 946,000 | 7% | 323,000 | 3% | 63,000 | 1% |
| Age | | | | | | | |
| *18-24 | 2,266,000 | 351,000 | 12% | 119,000 | 5% | 23,000 | 1% |
| *25-34 | 2,815,000 | 351,000 | 12% | 150,000 | 5% | 24,000 | 1% |
| *35-44 | 2,008,000 | 117,000 | 6% | 43,000 | 2% | 15,000 | 1% |
| 45+ | 5,430,000 | 24,000 | * | 11,000 | * | 1,000 | * |
| | | | * Less than 0.5%. | | | | |
| Sex | | | | | | | |
| Male | 5,891,000 | 595,000 | 9% | 215,000 | 4% | 39,000 | 1% |
| Female | 6,778,000 | 442,000 | 6% | 108,000 | 2% | 23,000 | * |
| Ethnicity | | | | | | | |
| White | 9,542,000 | 702,000 | 7% | 209,000 | 2% | 24,000 | * |
| Black | 1,547,000 | 119,000 | 8% | 68,000 | 4% | 19,000 | 1% |
| Hispanic | 1,074,000 | 101,000 | 9% | 36,000 | 3% | 19,000 | 2% |
| Income | | | | | | | |
| Under \$15,000 | 2,844,000 | 197,000 | 7% | 83,000 | 3% | 27,000 | 1% |
| \$15-24,999 | 2,259,000 | 170,000 | 8% | 51,000 | 2% | 7,000 | * |
| \$25-50,000 | 4,107,000 | 310,000 | 8% | 113,000 | 3% | 17,000 | * |
| \$50-99,999 | 1,730,000 | 158,000 | 9% | 35,000 | 2% | 1,000 | * |
| +\$100,000 | 492,000 | 63,000 | 13% | 14,000 | 3% | 4,000 | 1% |
| Employment Status (b) | | | | | | | |
| Full-time | 6,453,000 | 522,000 | 8% | 185,000 | 3% | 23,000 | * |
| Part-time | 1,179,000 | 118,000 | 10% | 21,000 | 2% | 7,000 | 1% |
| Unempld | 620,000 | 91,000 | 15% | 44,000 | 7% | 23,000 | 4% |

a) Level of illicit substance use reflects the history and recency of drug use as well as the extent and frequency.

b) This is a classification of the workforce only and excludes homemakers, students, retired and the disabled.

How does the WAR deal with those numbers and types of illegal abusers? A look at the ethnic characteristics of arrests, imprisonment, and treatment shows a very

selective pattern in drug arrests, imprisonment, and treatment. As seen in the following pages, and the summary chart. Whites who make up the majority of drug users, 47% of the clients in Drug Free Treatment Centers and 39% of all Treatment modalities, and who constitute at least 29% of Arrests for Sale and Possession, are under 10% of all the 1988 commitments to State prison.

| Ethnicity | Drug users | Drug Treatment | Drug Arrests | Drug Commitments |
|-----------|-------------|----------------|--------------|------------------|
| White | 935,000-71% | 19,844-39% | 33,169-29% | 573 -9% |
| Black | 206,000-16% | 16,791-33% | 51,116-45% | 2,694-42% |
| Hispanic | 167,000-13% | 13,229-26% | 29,681-26% | 3,147-49% |

Judging by state imprisonment, it is not too far fetched to say that the State has effectively legalized drugs for whites. The WAR ON DRUGS is having much better success in arresting and imprisoning street dealers in poor and mainly minority communities than getting major dealers or the users who drive the business.

WHO GETS ARRESTED?

Drug arrests doubled from 53,000 to 106,000 in the years 1983-1987. The increase has continued in 1988 and 1989.

There is some conflict in the data as to the racial characteristics of drug arrests. For example, the Division for Criminal Justice Services (DCJS) issued an October 1988 Report "Trends in Felony Drug Processing 1983-1987" which states: "In 1987, 47 percent of the drug arrestees were identified as Hispanic, 42 percent as black and 10 percent as white. In contrast, whites comprised 29 percent and blacks 49 percent of the non-drug felony arrests, while Hispanics made up 21 percent." (This report lists 43,161 Felony drug cases and 63,497 misdemeanor cases).

However, according to the same Division of Criminal Justice Services 1987 Crime and Justice Annual Report, the racial characteristics (It should be noted that Hispanics arrests are counted as either White or Black.) of Drug Arrests on a statewide basis are as follows:

| SALE | | | | | | |
|----------|----------|----------|-----------|---------------|--------------|--|
| Tot Sale | Wht Sale | Blk Sale | Hisp Sale | Non Hisp Sale | Wht w/o Hisp | |
| 44,695 | 23,951 | 20,687 | 15,901 | 28,794 | 8,050 | |
| | 54% | 46% | 36% | 64% | 18% | |

POSSESSION

| Tot Poss | Wht Poss | Blk Pos | Hisp Pos | Non Hisp Pos | Wht w/o Hisp | |
|----------|----------|---------|----------|--------------|--------------|--|
| 69,668 | 38,899 | 30,479 | 13,780 | 55,888 | 25,119 | |
| | 56% | 44% | 20% | 80% | 36% | |

Even if all Hispanics arrests were subtracted from White arrests, at least 18% of all Sale arrests and 36% of all possession arrests would be White. The DCJS Annual report data agrees with the Uniform Crime data from the FBI. Since all drug sales arrests are felony arrests, the October report seems to be mistaken.

WHO GETS INTO TREATMENT?

There are two tracks into treatment. One is supervised and funded by DSAS. The other is private and for the most part paid for by Third Party Insurance Coverage. This second track based on a medical model has costs of \$10,000 and more per month of treatment. The figures below do not include private sector. (DSAS funded programs also may include Third Party Payment for clients with Insurance coverage). The following tables (which comes from the Division of Substance Abuse Services) reflect the ethnic and racial breakdown of clients in treatment, sorted by modality:

| | | | |
|---|-----|--|-----|
| <u>Total Active (as of 11/01/88) - 50,881</u> | | <u>Drug Free (Drug Free, Medically Supervised, Chemical Dependency) - 19,557</u> | |
| Black | 33% | Black | 38% |
| Hispanic | 26% | Hispanic | 13% |
| White | 39% | White | 47% |
| Other | 2% | Other | 1% |
| | | | |
| <u>Methadone (Detox, MMTP, Keep) - 29,514</u> | | <u>Methadone to Abstinence - 1,761</u> | |
| Black | 31% | Black | 23% |
| Hispanic | 34% | Hispanic | 51% |
| White | 34% | White | 24% |
| Other | 1% | Other | 2% |

DRUGS AND PROFITS

The July 30th, New York Times carried an article: "Airborne Drug War is at a stalemate". The article noted that the Federal Government is now spending \$1.5 Billion of its \$5.4 Billion Budget to intercept smuggled drugs. There have been notable successes, 65,000 pounds of Cocaine were seized in Miami - a 26 percent increase from the prior year, but, according to the article, "All the Federal agencies involved agree that the overall flow of Cocaine has not abated and even be rising". New tactics are being used to smuggle Cocaine. Using much more expensive planes, smugglers drop their loads without having to land. They carry about 1,000 pounds per flight and are highly paid - as much as \$500,000 per flight. Transporting the Cocaine, even with the losses, amounts to about 10% of the street value. An earlier report, by the Rand Corporation estimated that increasing seizures of smuggled Cocaine from 20% to 50% would increase the street price by less than 3 percent.

We all have heard the stories of the money to be made on the street. On the street, kids who might get \$3.50 an hour at MacDonalds can make hundreds if not thousands by serving as a lookout, a carrier, or seller. Despite the difference in money, it is unlikely that the kid turning burgers or the one taking a package of cocaine across town is any more important to their respective organizations. They are easily replaced. They also tend to sell the higher priced drugs. As William Hopkins, the Supervisor of the Street Studies Unit of DSAS said in an August 6, 1989 NY Times interview: "...But what we found is that in many cases you can go out on the street and buy crack. You have to look sometimes for the

person who is selling the pot".

WHO GOES TO STATE PRISON?

Drug Commitments by Felony Class Category and by Ethnicity, 1987 and 1988. The figures are for commitments only. The total number of inmates in DOCS for drug offenses was around 14,000 on July 1st.

1987

| Felony Class Category | Ethnicity | | | | | | Total | % |
|-----------------------|------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| | White | % | Black | % | Hispanic | % | | |
| A-I Felony | 17 | 3% | 23 | 1% | 61 | 2% | 101 | 2% |
| A-II Felony | 116 | 23% | 78 | 4% | 417 | 15% | 613 | 12% |
| Class B | 190 | 38% | 738 | 39% | 744 | 27% | 1675 | 33% |
| Class C | 61 | 12% | 366 | 19% | 419 | 15% | 846 | 17% |
| Class D | 75 | 15% | 516 | 27% | 833 | 31% | 1426 | 28% |
| Class E | 35 | 7% | 174 | 9% | 236 | 9% | 445 | 9% |
| Total | 494 | 100% | 1895 | 100% | 2710 | 100% | 5106 | 100% |
| Racial % | | 10% | | 37% | | 53% | | |

1988

| | | | | | | | | |
|-----------------|------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| A-I Felony | 22 | 4% | 22 | 0% | 71 | 2% | 115 | 2% |
| A-II Felony | 146 | 25% | 111 | 4% | 401 | 13% | 666 | 10% |
| Class B | 211 | 37% | 916 | 34% | 771 | 24% | 1901 | 30% |
| Class C | 77 | 13% | 535 | 20% | 466 | 15% | 1081 | 17% |
| Class D | 89 | 16% | 794 | 29% | 1006 | 32% | 1890 | 29% |
| Class E | 28 | 5% | 316 | 12% | 432 | 14% | 779 | 12% |
| Total | 573 | 100% | 2694 | 100% | 3147 | 100% | 6432 | 100% |
| Racial % | | 9% | | 42% | | 49% | | |

- THE OMNIBUS PRISON BILL - 1989

As predicted in the last UPDATE, the Governor and Legislature have approved a major piece of prison legislation. The 1989 Omnibus bill increases prison capacity by 6,000 regular prison spaces plus 2,150 drug and alcohol treatment spaces. An additional 3,000 "temporary" spaces are also included in the legislation which adds \$814 Million of expenditures to the Department of Correctional Services compared to 1989-90 budgets increases to the Divisions of Parole and Probation and Correctional Alternatives of \$5.9 Million and \$20.5 Million respectively.

As seen from the bill's introductory language, the stated intention is to deal with the drug crisis and there is no doubt that drug arrests and sentences are behind the tremendous growth of NY's prisons. That the Governor, Senate, and