Robinson. 2005. Justice Blind: Ideals & Realities of American Criminal Justice 2nd ed. Prentice Hall p. 310 – 346

CHAPTER ELEVEN

THE "WAR ON DRUGS": FOCUSING ON THE WRONG DRUGS?

KEY CONCEPTS

INTRODUCTION

This chapter introduces you to the U.S. war on drugs. The drug war is a prime example of a war on crime that serves limited interests and is used to control certain segments of the U.S. population, notably the poor and people of color. The chapter shows who is most affected by the nation's drug war and how ineffective the war is for reducing illicit drug use. You will learn what a drug is, how prevalent drug use is in the United States, and harms associated with various drugs. An interesting issue arises: Why are the most harmful drugs legal, while some relatively

less harmful drugs are criminalized? I conclude the chapter with an assessment of legalization and decriminalization as strategies for American criminal justice.

THE WAR ON DRUGS

The *war on drugs* is the phrase used to describe the American approach to reducing drug use and abuse in the United States. Unless you've been asleep for the last 20 years, you must have heard something about it. President George Bush (the first) declared in a nationally televised message that drug abuse was "our nation's most serious domestic problem" (Beckett 1997, p. 6). Earlier, President Reagan had diverted more than $700 million from education, treatment, and research to law enforcement programs to fight the war on drugs. Reagan also gave more money to prisons and to the Drug Enforcement Administration, the federal agency responsible for preventing illicit drug use (Kraska 1990, p. 117). Now our federal government spends almost $12 billion annually fighting the drug war (this figure does not include state and local government costs). Figure 11.1 depicts federal dollars spent on the war on drugs over the years.

What are we spending this money for? The Office of National Drug Control Policy (ONDCP) stated the goals of the war in 2000:

- To educate and enable America's youth to reject illegal drugs as well as alcohol and tobacco (reduce drug use)

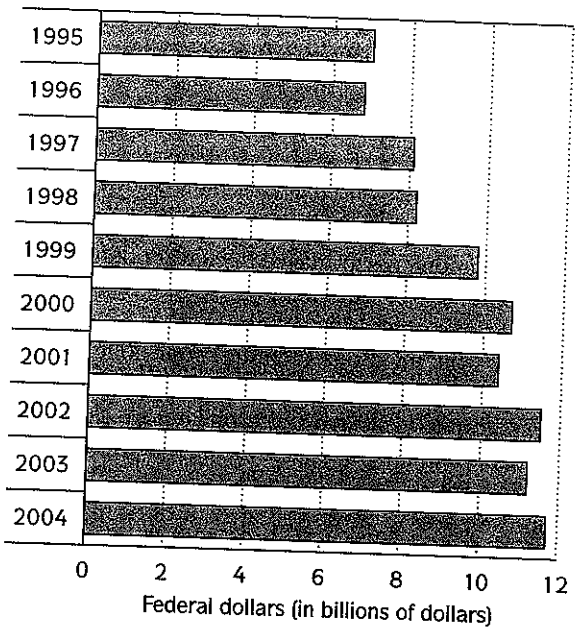

FIGURE 11.1

Trends in Federal Spending on the Drug War

SOURCE: Sourcebook of Criminal Justice Statistics (2003).

- To increase the safety of America's citizens by substantially reducing drug-related crime and violence (reduce crime)
- To reduce health and social costs of illegal drug use to the public (reduce harm)
- To shield America's air, land, and sea frontiers from the drug threat (control border)
- To break foreign and domestic drug sources of supply (eradicate and interdict)

In 2002, the ONDCP put forward some revised goals, including the following.

- Stopping drug use before it starts; education and community action (reduce drug use)
- Healing America's drug users; getting treatment resources where they are needed most (reduce harm)
- Disrupting the market; attacking the economic basis of the drug trade (eradicate and interdict)

Given these goals, the key questions to assess America's war on drugs are:

- Is drug use down?
- Is crime down?
- Are health and social costs down?
- Are drug users more healthy?
- Are drugs less available?
- Is treatment more available?
- Are our borders secure?

If the answer to these questions is Yes, then America's drug war has succeeded.

Unfortunately, most scholars suggest that the answer to the above questions is No. Take, for example, this statement by Glaser (1997, p. 116):

> Narcotics are the bane of our criminal justice system, and control efforts have been much more extensive than for any vice except possibly alcohol use during Prohibition. Attempts to diminish the use of drugs by punishment have been tremendously costly, but usually seem to have no effect on the prevalence of drug abusers and their predations.

In this chapter, I assess our nation's performance in its war on drugs and show that the answer to most of the questions above is No. Additionally, I demonstrate that the war has probably caused more harm than it has prevented.

The main elements of the war on drugs include three policies: crop eradication efforts, interdiction efforts, and street-level drug enforcement (Kappeler, Blumberg, and Potter 2000, p. 159). *Crop eradication* is aimed at destroying crops before they are cultivated and sold as illicit drugs. *Interdiction* efforts include border control and strategies aimed at intervening in countries where drugs are grown and harvested. *Street-level drug enforcement* includes undercover drug busts and seizures of drugs. Treatment of drug abusers and drug prevention education are also involved in the drug war, but these efforts have received far less funding over the years. Finally, *asset forfeiture* involves the seizure by police of cash profits and property generated by drugs.

The majority of American drug war spending is reactive rather than proactive or preventive, as shown in Figure 11.2. Table 11.1 shows what the war on drugs looks like, using data from various government sources. It illustrates how many people are arrested, charged, and sent to some form of correctional supervision for drug offenses.

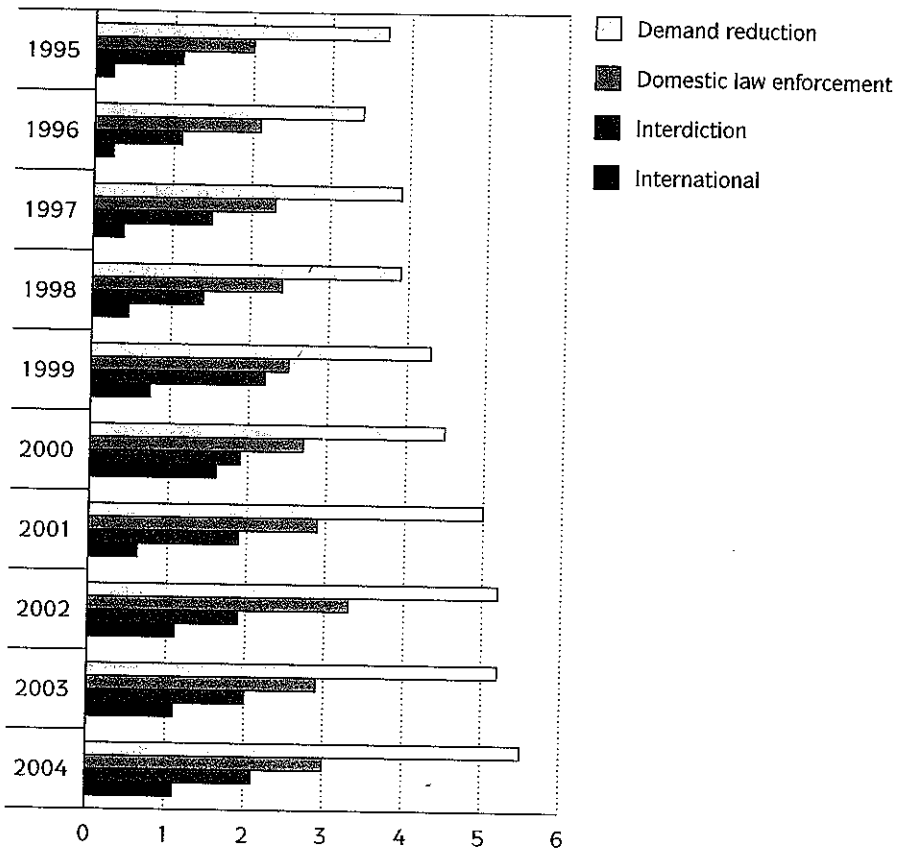

FIGURE 11.2

Trends in Federal Spending on the Drug War, by Area of Spending

SOURCE: Sourcebook of Criminal Justice Statistics (2003).

The Sentencing Project (2003) summarizes what the drug war has looked like:

> Arrests for drug offenses nearly tripled from 580,900 in 1980 to 1,579,566 by 2000. Nearly 315,000 persons were sentenced in state courts for a drug offense in 1998. Of these, 43% were sentenced to prison, 26% to jail, and 32% to probation and/or treatment. The number of inmates incarcerated for drug offenses at all levels—state and federal prisons and local jails—has skyrocketed by more than 1,000% from 40,000 in 1980 to 453,000 by 1999. At that point, there were 251,200 drug offenders in state prisons incarcerated at a [conservative] cost of about $5 billion annually.

According to a study by the U.S. Sentencing Commission, most people sentenced to time in federal prisons for drug offenses are low-level (55%) or midlevel dealers (34%). Further, according to The Sentencing Project, three-quarters of state prison inmates were convicted of drug and/or nonviolent crimes, and most sentenced drug offenders in state and federal prisons (58%) have no

TABLE 11.1
Key Facts of the War on Drugs

Drug arrests, 2000	1.6 million (11% of all arrests)
Most common arrest, 2000	Possession of drugs (81% of all drug arrests)
Marijuana arrests, 2000	73,600 (46% of all drug arrests, mostly possession)
State court drug convictions, 2000	319,700 (35% of all felony convictions)
Federal court drug convictions, 1998	27,274 (35% of all felony convictions)
Drug offenders in corrections, 2001	55% of federal prisoners 25% of state and federal prisoners 22% of jail inmates 24% of probationers

SOURCE: Bureau of Justice Statistics (2003).

history of violence or high-level drug activity. Additionally, more than one-third (35%) of drug inmates have criminal histories that are limited to drug offenses and 21% are first-time offenders. Finally, four of every five drug offenders are African American (56%) and Hispanic (23%).

Virtually every law enforcement agency has a drug budget, including virtually every federal agency, 3 of 4 state-level agencies, and more than 9 of 10 local agencies. In 2000, police officers made 1.6 million arrests, 11.4% of all arrests that year. Most (81%) were for simple possession of drugs, and 46% were for marijuana crimes (41% of the drug arrests were for marijuana possession) (see Chapter Six). In state courts, 35% of all convictions were for drug offenses. In federal courts, 35% of all people convicted were drug offenders. Now drug offenders make up 55% of all federal prisoners and 25% of all inmates in state and federal prisons. They also make up 22% of all people in jail and 24% of all people on probation (see Chapter Nine).

Each year our nation spends tens of billions of dollars on drug law enforcement and incarceration. As a nation, we have spent hundreds of billions of dollars on the war on drugs since 1980 (Merlo and Benekos 2000, p. 19). The cost of the drug war increased sixfold between 1986 and 1996, and most of this money went to domestic law enforcement at the local and state levels of government (Gaines, Kaune, and Miller 2000, p. 610). Meanwhile, domestic social programs have been cut dramatically to pay for the war on drugs (Goetz 1996).

Consider this irony: Police departments in the United States have begun to profit from drug seizures and asset forfeitures of drug dealers. American police can seize assets accumulated as a result of illicit drug trafficking and keep a share of the proceeds to fund training and equipment (Gaines, Kaune, and Miller 2000). If the police have come to need these funds for their own operating budgets, what would happen if they completely eliminated illicit drugs from our society?

The drug war is aimed at stopping *drug-related crimes* (e.g., acts of violence caused either by the pharmacological effects of drugs on people or by the need to obtain money to buy drugs),

crimes associated with a drug-using lifestyle, and *drug-defined crimes* (crimes committed because of coming into contact with drug dealers and other users) (Walker 1998). In similar terms, Beckett and Sasson (2000, p. 40), discuss types of drug-related homicides, including *psychopharmacological homicides*, caused directly by effects of drugs on the brain. Ironically, the war on drugs also creates drug-defined crimes, such as possession and sale of drugs, which obviously would not be "crimes" if drugs were not illegal (ONDCP 2002).

Despite the common image of a drug-crazed criminal, most crimes committed by people involved with drugs are not caused by the pharmacological effects of the drugs on behavior. Some criminal justice statistics promote this myth about the overall harmfulness of drugs. For example, research by the National Center on Addiction and Substance Abuse (1998) at Columbia University found that 80% "of prisoners in the United States were involved with alcohol or other drugs at the time of their crimes." This sounds like clear proof of the link between drug use and crime. But consider what this research actually means: "That is to say, 80 percent were either under the direct influence of alcohol or other drugs while committing the crime, had a history of drug abuse, committed the crime to support a drug habit, or were arrested for violating drug or alcohol laws" (Gaines, Kaune, and Miller 2000, p. 51). Considering all that being "involved with drugs" includes, it is hard to imagine any prisoner who is not "involved with" alcohol or other drugs at the time of his or her crimes.

Drug-related crimes include what Beckett and Sasson (2000) call *economic compulsive homicides*—murders motivated by the need to obtain money to buy high-priced drugs. Others are *systemic homicides*, such as turf war killings aimed at protecting illicit drug markets. In essence, the illegal status of drugs creates *criminal subcultures*, such as gangs, that develop their own norms: being tough, getting respect, and making money through illicit activity. Reiman (1998) calls such crimes *secondary crimes*, which could be virtually eliminated if drugs were not illegal. Inciardi (2002, p. 193) lists several types of systemic violence, including "territorial disputes between rival drug dealers; assaults and homicides committed within dealing and trafficking hierarchies as means of enforcing normative codes; robberies of drug dealers, often followed by usually violent retaliations; elimination of informers; punishment for selling, phony, adulterated, or otherwise bad drugs; retribution for failing to pay one's debts; and general disputes over drugs and drug paraphernalia."

Although the United States has always engaged in wars against drugs, the current drug war really started in the 1970s under President Richard Nixon. In 1973, Nixon created the *Drug Enforcement Agency (DEA)* within the Department of Justice as the federal government's lead agency for suppressing drugs in the United States (Lyman and Potter 1998). Since that time, drug use has been blamed for "the dramatic rise in the murder rate in the 1980s [and] gang violence." The resulting focus on drugs by U.S. criminal justice agencies, however, has produced something perhaps more disastrous—"the soaring prison population, the worsening crisis in race relations, and the steady erosion of individual rights in the Supreme Court" (Walker 1998, p. 243).

Walker links these outcomes directly to U.S. drug policy, which he calls "nonsensical." Sensible discussion about drugs, Walker claims, does not occur because of the public hysteria accompanying our war against drugs. The national outcries over "reefer madness" in the 1930s and "crack babies" in the 1980s, discussed later in this chapter, are prime examples of hysterias that led politicians to promote myths about drug use and crime and to talk tough about how to reduce Americans' use of drugs. The result has been our war on drugs.

Judge James Gray, who served a career as a judge fighting the war on drugs, wrote a book that condemns the war as a failure. In his book, *Why Our Drugs Laws Have Failed and What We Can*

Do About It, Gray (2001) argues that there are actually two sets of Bills of Rights now in place, one for the war on drugs and one for everything else. Gray provides numerous examples of how the Constitution has been eroded to allow the nation's police to fight the drug war, despite its continued failures.

Why, then, have Americans supported the addition of police and prisons in efforts to stop drug use, which is mostly "casual and recreational and does not lead to either addiction of criminal activity" (Walker 1998, p. 247)? Why has the war on drugs become such a powerful force in the United States? Gaines and Kraska (1997, p. 4) claim:

> Most people do not question the political/media cries to do something about our "drug problem"; to wage wars on "drugs"; or that "drug use" destroys a person's, or even an entire community's well-being. Drug war ideology lulls us into assuming a number of properties about drugs. We refer to certain drugs . . . as if they were little demons committing crimes. Waging war on drugs—as if the drugs themselves constitute our "drug problem"—allows us to overlook the underlying reasons why people abuse these substances. . . . The language of ideology fools us into thinking that we're waging war against drugs themselves, not real people. . . .

These authors describe our war on drugs as "hypocritical, exploitative, and dangerously misleading" (p. 5).

Best (1999, p. 144) explains the value of the war metaphor:

> Declaration of war on social problems are dramatic events; they call for society to rally behind a single policy, against a common foe. Typically, the initial pronouncements receive favorable attention in the mass media; the press details the nature of the problem and outlines the efforts designed to wage war against it. Usually, the enemy . . . has no one speaking on its behalf. There is the sense that society is united behind the war effort. Declaring war seizes the moral high ground.

According to Jensen and Gerber (1998, p. ix), misguided drug policies result from at least three factors: political opportunism, media profit maximization, and desire among criminal justice professionals to increase their spheres of influence. Politicians create concern about drug use to gain personally from such claims; they achieve this largely by using the media as their own mouthpiece.

Jensen and Gerber (1998) suggest that concern over drugs typically occurs in a cycle whereby some government entity claims the "existence of an undesirable condition" and then legitimizes the concern, garnering public support through the media by using "constructors" (similar to what Gans has called "counters") who provide evidence of the problem. Claims-makers "typify" the drug problem by characterizing its nature (Best 1989). For example, drugs are typified as "harmful" even if they are being used recreationally. They are characterized as bad regardless of the context in which they are being used. Any drug use is wrong even if it is not abuse (Jensen and Gerber 1998, p. 5). Most troubling, drugs are connected to other social problems to make them seem even worse. Recently, illicit drugs were tied to acts of terrorism in television commercials and print ads, paid for by taxpayers. I return to the specific role that the media have played in creating public concern about drugs later in this chapter.

Several myths about drugs exemplify this typification. For example, the "dope fiend mythology" promulgated by the U.S. government in the early 1900s contained these elements: "The drug addict is a violent criminal, the addict is a moral degenerate (e.g., a liar, thief, etc.), drug peddlers and addicts want to convert others into addicts, and the addict takes drugs because of an

abnormal personality (Lindesmith, 1940)" (p. 8). Another example typified the use of marijuana, as indicated in a pamphlet circulated by the Bureau of Narcotics in the 1930s:

> Prolonged use of Marihuana frequently develops a delirious rage which sometimes leads to high crimes, such as assault and murder. Hence Marihuana has been called the "killer drug." The habitual use of this narcotic poison always causes a marked deterioration and sometimes produces insanity . . . .
>
> While the Marihuana habit leads to physical wreckage and mental decay, its effects upon character and morality are even more devastating. The victim frequently undergoes such moral degeneracy that he will lie and steal without scruple. (Quoted by Bonnie and Whitebread, 1974, p. 109)

The propaganda circulated by the Bureau of Narcotics included the story of a "murder of Florida family and their pet dog by a wayward son who had taken one toke of marijuana" (Kappeler, Blumberg, and Potter 2000, p. 9). Evidence about the relative harmlessness of marijuana was ignored.

Amazingly, the federal government recently called marijuana more dangerous than all other illegal drugs combined! The ONDCP now claims that aggressive antisocial behavior among youths is linked to frequency of marijuana use and that marijuana use is linked to cutting class, stealing, and property crime.

The main effects of the war on drugs have included pressure on police to arrest drug violators, the use of drug assets for police benefits (what Jensen and Gerber [1998] call "policing for profit"), and increased militarization of police departments (Kraska and Kappeler 1997). As the soldiers in the war on drugs, police departments have been encouraged by policies first instituted by President Reagan in the 1980s to pursue drug offenders; as a reward, they are allowed to confiscate and keep some drug-related assets (M. Gray 1998). Again, think of the irony of law enforcement officials coming to rely on drug assets to purchase equipment and conduct training so that police can exterminate drug use (Rasmussen and Benson 1994). It may be startling to realize that the majority of law enforcement agencies in the United States have such asset forfeiture programs in place (Jensen and Gerber 1998; McAnamy 1992).

According to Webb and Brown (1998), such "wars" on drugs as inanimate objects "tend to be concerned less with the drugs they purportedly target than with those who are perceived to be the primary users of the drugs (Morgan and Signorielli, 1990)" (p. 45). For example, the war on opium in the late 1800s and early 1900s was focused on Chinese laborers who represented unwanted labor competition. Thus, the Harrison Act of 1914, which forbade importation and manufacture of opium by the Chinese, excluded the "Chinese living in the United States from fully participating in the labor market" (p. 46). The war on marijuana in the 1930s was grounded in racism against Mexican immigrants, who were characterized as "drug-crazed criminals" taking jobs away from Americans during the Great Depression (Sandor 1995, p. 48). Finally, "the use of crack by the urban poor provided political leaders (in the 1980s) with a convenient scapegoat for both diverting attention from pressing social and economic problems and blaming a specific powerless group for social disaster" (Belenko 1993, p. 9).

Other effects of wars on drugs include overloaded court systems, increased punitiveness in the form of stiff mandatory sentences for drug offenses, exploding prison populations, and, ultimately, a worsening of racial disparities in criminal justice (Jensen and Gerber 1998, pp. 1–2). This chapter examines the American war on drugs in an effort to determine if such effects are justified.

In the next section, I examine what a drug is and then discuss types of drugs. Then, I explore the extent of drug use in the United States and document harms associated with each type of drug.

WHAT IS A DRUG?

What do you think of when you hear the word *drug*? The meaning of the word really depends on who is asked. To a doctor or pharmacist, for example, a drug is something very different than it is to a homeless person living on the street (Liska 2000).

The term *drug* does have a clear definition. Lyman and Potter (1998, pp. 59–60) begin their examination of drugs in American society with a discussion of the dictionary definition of the term. Liska (2000, pp. 3–4) writes that drugs are used to fight infection, reverse a disease process, relieve symptoms of illness, restore normal functioning of human organs, aid in diagnosing sickness, inhibit normal body processes, and maintain health. This is a relatively positive view of drugs.

Have we as a nation declared a war on substances that help fight disease and maintain health? Clearly not. Obviously, there must be another meaning of drugs. Lyman and Potter (1998, p. 60) define a drug as "any substance that causes or creates significant psychological and/or physiological changes in the body." Liska (2000, p. 4) defines a drug as "any absorbed substance that changes or enhances any physical or psychological function in the body." But these definitions of a drug would include coffee, tea, and cigarettes—in fact, virtually any substance. Have we declared war on these substances? Obviously not.

Merriam-Webster's Collegiate Dictionary (2003) includes as its last acceptable definition of the word drug, "something and often an illegal substance that causes addiction, habituation, or a marked change in consciousness." Is this the focus of our war on drugs? Clearly, it is. Our American "war on drugs" is being waged against illegal forms of drug use and the activities that permit it (manufacturing, distribution, sales, possession, etc.).

All drugs, whether legal or illegal, affect the brain by interacting with naturally occurring brain chemicals known as *neurotransmitters* (such as dopamine): "The major drugs of abuse—e.g., narcotics like heroin or stimulants like cocaine—mimic the structure of neurotransmitters, the most powerful mind-altering drugs the human body creates" (Lyman and Potter 1998, pp. 60–61). By altering the brain's chemistry, drugs alter people's behavior. When their effects are dangerous or simply unintended, such as interfering with a person's family, work, or social relations, drugs can be harmful to the user (Lyman and Potter 1998, p. 60). In fact, every drug—from legal drugs such as aspirin to illegal drugs such as cocaine—is potentially harmful.

The effects of any drug depend on numerous factors, including the type of drug, its potency and quantity, the method in which it is ingested, the setting in which it is ingested, the frequency of use, the mood of the user, and the user's biological and psychological makeup (Gaines and Kraska 1997; Lyman and Potter 1998). Effects of particular types of drugs are discussed later.

Keep in mind the clear distinction between *drug use* and *drug abuse*. Drug use is generally understood as any consumption of a drug, including recreational or occasional use. Remember President Bill Clinton explaining, as a candidate in 1992, that he had tried marijuana in college, didn't inhale it, and didn't like it? That's drug use, as is the alleged cocaine use of President George W. Bush (the second).

Drug abuse implies a problematic level of use, or overuse, of drugs. Lyman and Potter (1998, p. 60) define drug abuse as "illicit drug use that results in social, economic, psychological or legal problems for the drug user." They also note that the Bureau of Justice Statistics defines drug abuse as "the use of prescription-type psychotherapeutic drugs for nonmedical purposes or the use of illegal drugs."

Drug use, even of illegal substances, is not the same as drug abuse. It is possible to use illegal drugs without abusing them, although this is a lesson that seems to be lost on U.S. criminal justice agencies. We treat drug use as a crime rather than a recreational habit and do not recognize that most people who use drugs do not abuse them. In fact, most drug-related arrests are for simple possession, not for manufacturing, distributing, or selling drugs (Beckett and Sasson 2000, p. 172).

Drug abuse varies by individual: "Abuse occurs when the use of the drug—whether aspirin, beer, caffeine, cigarettes, marijuana, diet pills, or heroin—becomes a psychological, social, or physical problem for the user" (Gaines and Kraska 1997, p. 6). Only a small portion of drug users, somewhere between 7% and 20%, depending on the type of drug in question, actually become drug abusers (Kraska 1990). In fact, depending on one's definition of a drug, we all use drugs as part of our everyday lives: "Some form of drug use is an everyday part of living for most Americans" (Lyman and Potter 1998, p. 11).

Drugs are useful because they can alter our moods, create feelings of pleasure, stimulate brain activity, or aid in sedation or enhanced physical and psychological performance (Lyman and Potter 1998). Some suggest that drug use is innate or natural, as much as the need for food or sex. Weil (1998, p. 4) writes, "The use of drugs to alter consciousness is nothing new. It has been a feature of human life in all places on the earth and in all ages of history." Hamid (1998, p. vii) suggests that "the human use of psychoactive drugs is both primordial and nearly universal. In almost every human culture in every age of history, the use of one or more psychoactive drugs was featured prominently in the contexts of religion, ritual, health care, divination, celebration (including the arts, music, and theater), recreation, and cuisine." People use drugs in certain rituals in groups, such as during "Happy Hour" or at parties with friends. People may use drugs to relieve boredom (Glassner and Loughlin 1987), to alter their moods, to inspire creativity, and sometimes for medicinal and religious purposes.

For numerous reasons, then, people use drugs without experiencing significant problems associated with drug abuse. This does not mean that drug use should be promoted or supported by government, but it does raise the question of why we spend so many physical and financial resources fighting something that is considered normal by most people at some point in their lives, is relatively harmless, and is not likely to be stopped through criminal justice mechanisms. I would argue that drug abuse (which is only a small portion of all drug use) should be of concern to our government because of its possible outcomes, regardless of whether the drug being abused is legal.

Lyman and Potter (1998, p. 62) list several outcomes of drug abuse:

- *Physical dependence:* The user becomes increasingly tolerant of a drug's effects, so that increased amounts of the drug are needed in order to prevent withdrawal symptoms.
- *Psychological dependence:* The user develops a craving for or compulsive need to use drugs because they provide him or her with a feeling of well-being and satisfaction.
- *Tolerance:* The user who continues regular use of a drug must administer progressively larger doses to attain the desired effect, thereby reinforcing the compulsive behavior known as drug dependence.

- *Withdrawal:* The user experiences a physical reaction when deprived of an addictive drug, characterized by increased excitability of the bodily functions that have been depressed by the drug's habitual use.

These outcomes suggest that drug abuse is maladaptive and thus potentially dangerous. Still, whether the U.S. government should wage a war on drug abuse is debatable, given that drug abuse is more likely to respond to medical treatment. It is clear, however, that our investment in stopping simple drug use is costing us far more than it is returning. Kappeler, Blumberg, and Potter (2000, p. 150) conclude that illicit drug-related deaths are infrequent and that they are actually more likely to occur because of the effects of drug laws.

TYPES OF DRUGS

Drugs can be categorized according to their principal effects on brain function and hence on human behavior. The major general categories of drugs include *stimulants*, *depressants*, *hallucinogens*, and *narcotics/opiates* (Inciardi and McElrath 1998; Liska 2000). Lyman and Potter (1998) also add *inhalants* (drugs that are drawn into the body by breathing in) as a separate category because of their use among young people in particular. Inciardi and McElrath (1998) add *analgesics* (painkillers), *sedatives* (which produce calm and relaxation), and *hypnotics* (depressants that produce sleep).

As defined by Inciardi and McElrath (1998, pp. xii–xiii), these substances are as follows.

- *Stimulants:* Drugs that stimulate the central nervous system (CNS) and increase the activity of the brain and spinal cord
- *Depressants:* Drugs that act to lessen the activity of the CNS, diminishing or stopping vital functions
- *Hallucinogens:* Drugs that act on the CNS to produce mood and perceptual changes varying from sensory illusions to hallucinations
- *Narcotics:* A category of illegal drugs including opium and opium derivatives, as well as their synthetic versions (Lyman and Potter 1998)

The following box gives some examples of drugs that fall into each category. Note that some of the substances within each category are legal; others, illegal. Thus, the nature of the drug does not determine its legal status.

Examples of major drugs

- *Stimulants:* Caffeine, nicotine, cocaine, amphetamines, methamphetamine, ecstasy
- *Depressants:* Alcohol, barbiturates, gamma-hydroxybutyrate (GHB), Rohypnol
- *Hallucinogens:* Marijuana, lysergic acid diethylamide (LSD), phencyclidine (PCP), psilocybin mushrooms, peyote cactus, ketamine
- *Narcotics:* Opium, heroin

As you might guess, stimulants stimulate brain activity. The most common stimulants in the United States are legal—caffeine (in coffee) and nicotine (in cigarettes). These drugs make people feel stronger, alert, decisive, and even exhilarated. Depressants, as you also might guess, depress brain activity. Users become sluggish, have impaired judgment and slurred speech, and suffer from loss of motor coordination. Hallucinogens distort perceptions of reality through the auditory (hearing), tactile (touch), and visual (sight) systems. Narcotics, which produce feelings of euphoria in users, can be accompanied by undesirable effects including nausea, vomiting, drowsiness, apathy, respiratory depression, loss of motor coordination, and slurred speech.

Another way of categorizing drugs is by the government classification system. The Controlled Substances Act (CSA), Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, consolidated many laws regulating the manufacture and distribution of narcotics, stimulants, depressants, hallucinogens, steroids, and chemicals used in the illicit production of controlled substances. This law classified drugs into five categories:

- *Schedule I:* These drugs or other substances have a high potential for abuse and have no currently accepted medical use in treatment in the United States. There is a lack of acceptance of use of the drug or other substance under medical supervision. Examples include heroin, LSD, marijuana, and methaqualone.
- *Schedule II:* The drug or other substance has a high potential for abuse but has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions. Abuse of the drug or other substance may lead to severe psychological or physical dependence. Examples include morphine, PCP, cocaine, methadone, and methamphetamine.
- *Schedule III:* The drug has less potential for abuse than the substances in Schedules I and II and has a currently accepted medical use in treatment in the United States. Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence. Examples include anabolic steroids, codeine and hydrocodone with aspirin or Tylenol, and some barbiturates.
- *Schedule IV:* The drug has a lower potential for abuse than the substances in Schedule III and has a currently accepted medical use in treatment in the United States. Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule III. Examples include Darvon, Talwin, Equanil, Valium, and Xanax.
- *Schedule V:* The drug or other substance has a low potential for abuse relative to the drugs or other substances in Schedule IV and has a currently accepted medical use in treatment in the United States. Abuse of the drug or other substances may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule IV. Over-the-counter cough medicines with codeine are classified as Schedule V.

This classification system is useful for reference later in the chapter when we examine which drugs are targeted by criminal justice agencies. The higher the level of a drug (Schedule I is the highest), the more vigorously it is pursued, regardless of whether it is being used for recreational purposes or is being abused.

EXTENT OF DRUG USE IN THE UNITED STATES

Table 11.2 lists several sources of drug use data available in the United States. The most important sources of drug use data include (1) the *National Household Survey on Drug Abuse (NHSDA)*, conducted by the Substance Abuse and Mental Health Services Administration (SAMHSA), which is a survey of people age 12 years and older; (2) the *Monitoring the Future Survey (MFS)*, conducted by the National Institute on Drug Abuse (NIDA), which is a survey of high school students in 8th, 10th, and 12th grades; and (3) the *Drug Abuse Warning Network (DAWN)*, conducted by the National Institute on Drug Abuse (NIDA), which collects total mentions of drug use by patients in emergency rooms. These sources of drug use data give us a pretty good picture of drug use in the United States.

Arrestee Drug Abuse Monitoring (ADAM), conducted by the National Institute on Justice (NIJ), is a survey and drug testing of arrestees in 34 cities. The *Survey of Inmates in State Correctional Facilities*, conducted by the Bureau of Justice Statistics (BJS) every 5 years, is a survey of inmates. The *Survey of Health Related Behavior among Military Personnel*, conducted by the Department of Defense every 3 years, is a survey of military personnel. These sources allow us to see drug use trends in the military and among our nation's arrestees and inmates.

Figure 11.3 shows how many people use each type of drug in the United States. The most commonly used drugs are legal substances such as caffeine, nicotine, and alcohol. More than 100 million Americans use caffeine (in the form of coffee) and consume alcohol, meaning that about half of the U.S. adult population consumes caffeine in coffee and drinks alcohol. Another 10 million

TABLE 11.2

Sources of Data on Drug Use

1. **National Household Survey on Drug Abuse (NHSDA)**
   By Substance Abuse and Mental Health Services Administration (SAMHSA) yearly since 1976
   Survey of people age 12 years and older
2. **Monitoring the Future Survey**
   By National Institute on Drug Abuse (NIDA) yearly since 1972
   Survey of high school students in 8th, 10th, and 12th grades
3. **Survey of Health Related Behavior among Military Personnel**
   By Department of Defense every 3 years since 1980
   Survey of military personnel
4. **Drug Abuse Warning Network (DAWN)**
   By NIDA yearly since 1972
   Mentions of drug use by patients in emergency rooms
5. **Survey of Inmates in State Correctional Facilities**
   By Bureau of Justice Statistics (BJS) every 5 years since 1974
   Survey of inmates
6. **Arrestee Drug Abuse Monitoring (ADAM)**
   By National Institute on Justice (NIJ) yearly since 1997
   Survey and drug testing of arrestees in 34 cities

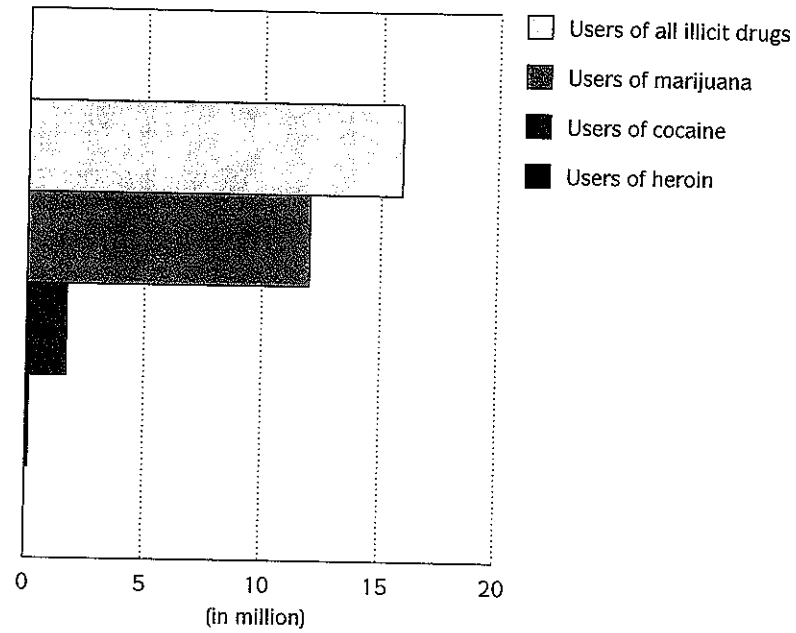

FIGURE 11.3

Extent of Drug Use in the United States (2001)

SOURCE: Sourcebook of Criminal Justice Statistics (2003).

people under the age of 21 years admits to drinking alcohol. There are 67 million users of nicotine (through some form of tobacco use).

The 2001 NHDSA survey found that nearly 40% of all Americans admit to trying an illegal drug at least once in their lifetime. Of these, 54% had tried an illegal drug by high school graduation. Nearly 16 million (15.9 million) Americans 12 years of age or older had used an illegal drug within the previous month. The most commonly used illegal drug is marijuana: 12 million used it within the previous month. Fewer people use cocaine (1.7 million users), heroin (123,000), and other illegal drugs. Are legal drugs more widely used by Americans because they are less harmful than those that are currently illegal, such as marijuana, cocaine, and heroin? Actually, no. I return to this issue later in this chapter.

Figure 11.4 shows drug use trends in the United States according to the NHSDA. Figure 11.5 illustrates drug use trends among the nation's youth according to the MFS. Figure 11.6 depicts emergency-room mentions of drug use in the United States according to DAWN. Figure 11.7 shows deaths attributable to illicit drugs in the United States. Table 11.3 illustrates the percentage of high school seniors who say that they can easily or very easily obtain drugs.

Examining these figures allows us to return to some of the key questions to assess the effectiveness of the drug war:

- First, is drug use down? No, according to NHSDA data, there has been virtually no change among adults in the percentage of previous-month drug users in the United States

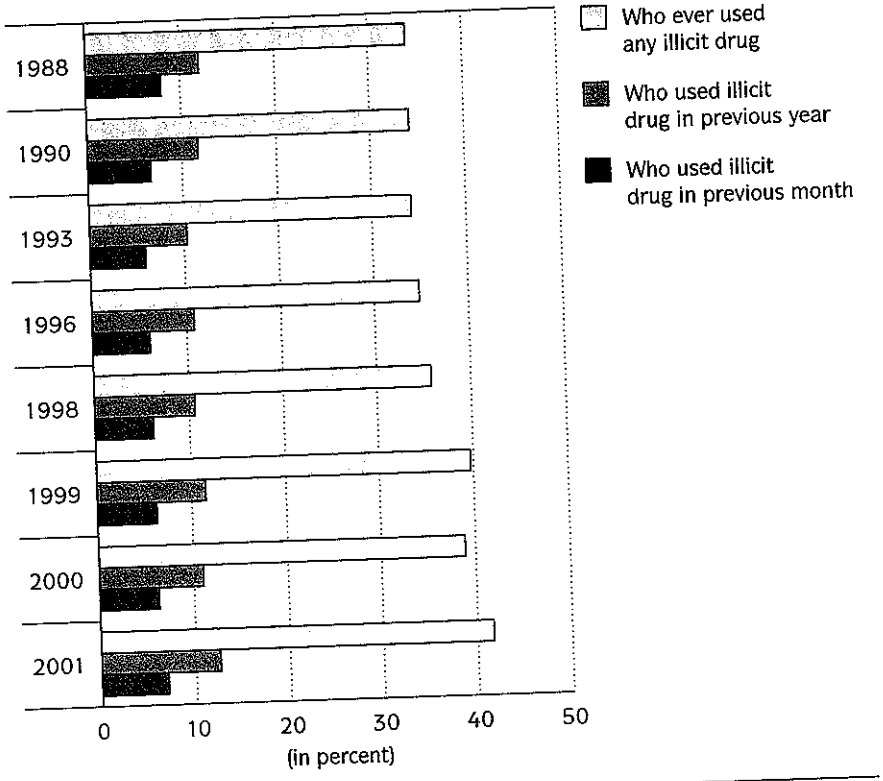

FIGURE 11.4
Trends in Drug Use (NHSDA)
SOURCE: Office of National Drug Control Policy (2003).

for more than 10 years. There has been virtually no change in the number of previous-month marijuana users in the United States for more than 10 years, virtually no change in the number of previous-month cocaine users in the United States for more than 10 years, and virtually no change in the number of previous-month heroin users in the United States for more than 10 years. According to MFS data, previous-month drug use among high school students increased for 10 years before declining over the previous two years. New drug initiates have increased for most drugs, including ecstasy, LSD, PCP, and marijuana.

- Second, are drug users more healthy? No, mentions of drug use in emergency rooms have increased in the United States over the previous 20 years. And drug-related deaths have increased in the United States for more than 10 years.
- Third, are drugs less available? Yes, the war on drugs has made illegal drugs slightly harder to obtain for young people in the United States but drugs are still easily accessible.

The answer to the other key questions are also No, as direct and indirect social costs of drug abuse have increased every year through the 1990s, treatment is no more available to drug

abusers, and drugs still flow freely into our borders (see the Issue in Depth at the end of this chapter). Finally, crime is down, yet as you saw in Chapter Four, this is not due to the war on drugs. In fact, a recent study (Sphon and Halleran 2002) reports that drug offenders sentenced to prison have higher rates of recidivism than those sentenced to probation, and tend to re-offend more quickly.

HARMS ASSOCIATED WITH DRUGS

Every drug, legal or illegal, is at least potentially harmful. In this section I examine the relative harms of nicotine (found in tobacco) and tetrahydrocannabinol (THC; found in marijuana), two drugs that are consumed through smoking. The following box contains the U.S.

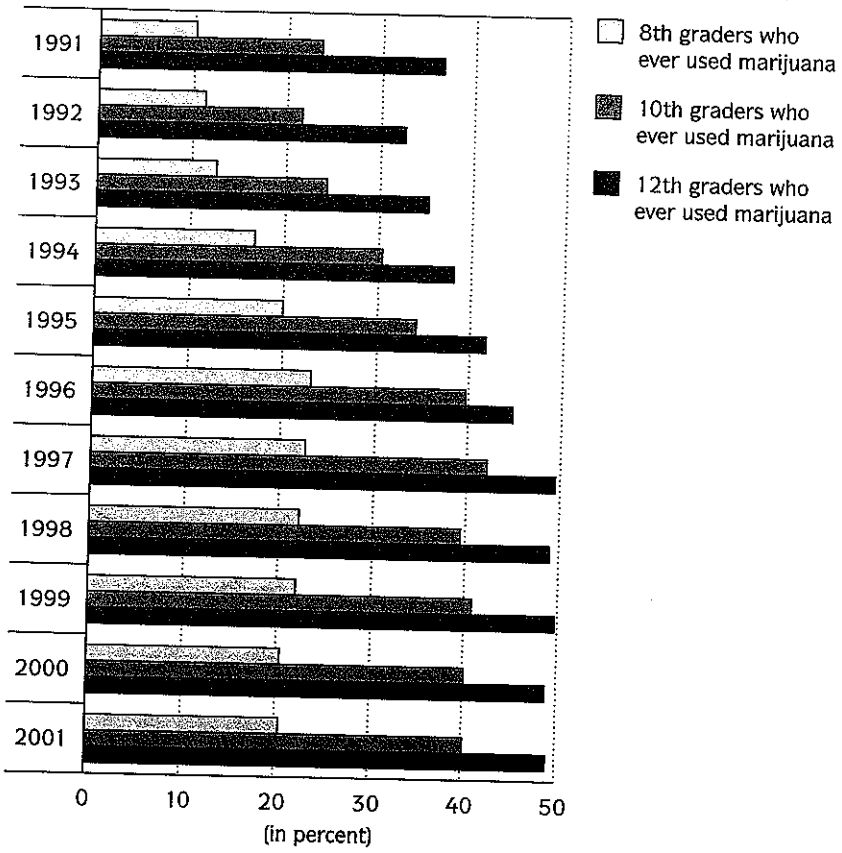

FIGURE 11.5
Trends in Youth Drug Use (MFS)
SOURCE: Sourcebook of Criminal Justice Statistics (2003).

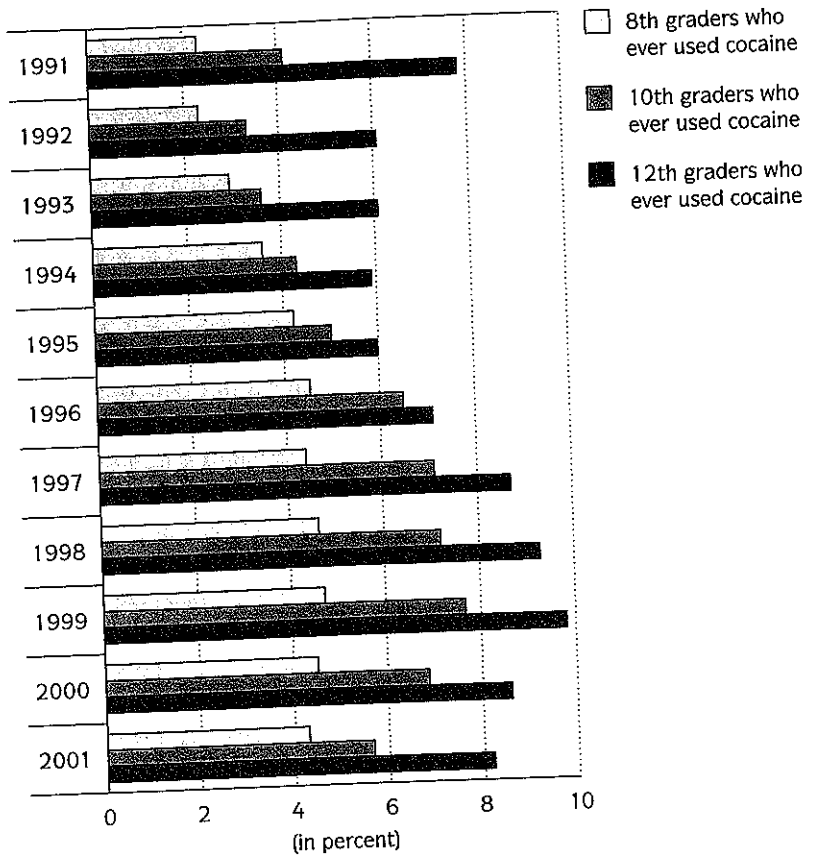

FIGURE 11.5
(continued)

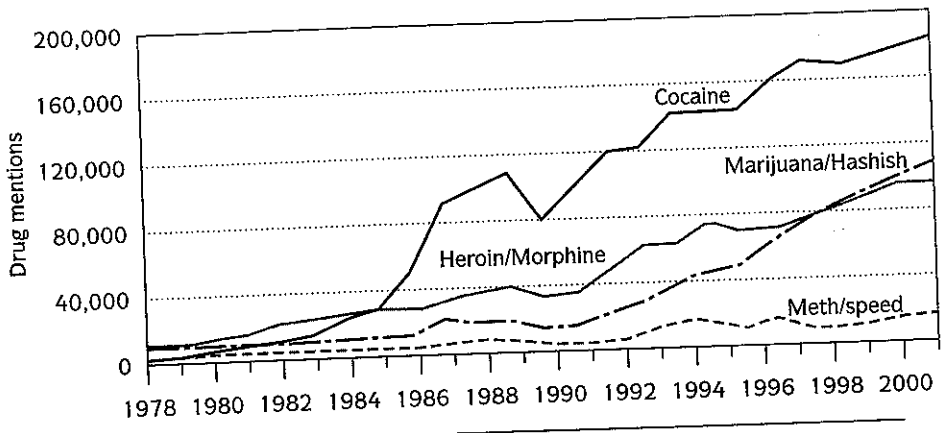

FIGURE 11.6
Trends in Emergency-Room Mentions of Drugs (DAWN)
SOURCE: Office of National Drug Control Policy (2003).

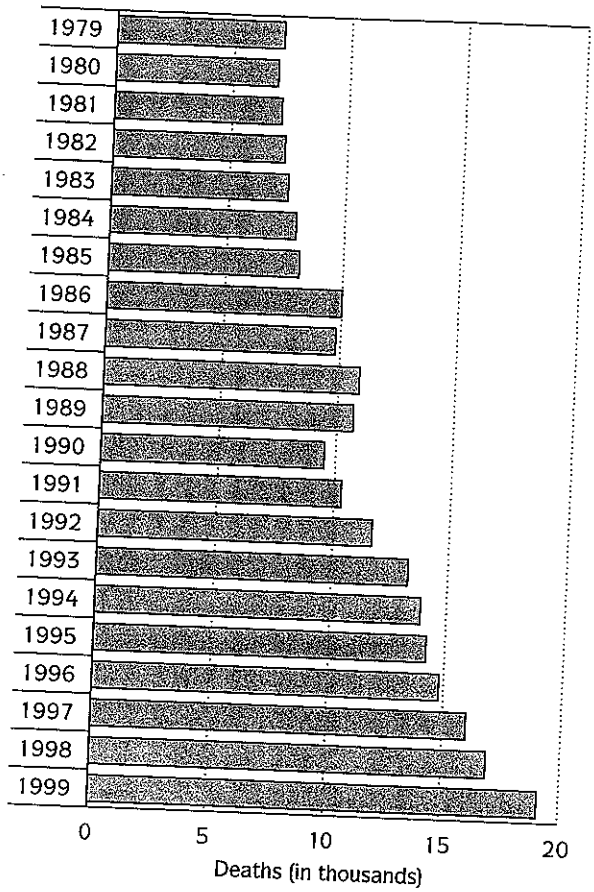

FIGURE 11.7

Trends in Deaths Attributed to Illicit Drugs

SOURCE: Sourcebook of Criminal Justice Statistics (2003).

TABLE 11.3

Availability of Drugs among High School Students

	Percentage Saying "Fairly Easy" or "Very Easy" to Obtain Drugs
Marijuana	88.5
Ecstasy	61.5
Amphetamines	57.1
Cocaine	46.2
LSD	44.7
Crack	40.2
Barbiturates	35.7
Tranquilizers	33.1
Heroin	32.3
Crystal methamphetamine	28.3
PCP	27.2

SOURCE: Sourcebook of Criminal Justice Statistics (2003).

government's "official line" on the dangers of marijuana versus those of cigarettes. Which sounds worse to you?

Marijuana versus cigarettes

Short-term effects of using marijuana

- Sleepiness
- Difficulty keeping track of time, impaired or reduced short-term memory
- Reduced ability to perform tasks requiring concentration and coordination, such as driving a car
- Increased heart rate
- Potential cardiac dangers for those with preexisting heart disease
- Bloodshot eyes
- Dry mouth and throat
- Decreased social inhibitions
- Paranoia, hallucinations

Long-term effects of using marijuana

- Enhanced cancer risk
- Decrease in testosterone levels for men; also, lower sperm counts and difficulty having children
- Increase in testosterone levels for women; also, increased risk of infertility
- Diminished or extinguished sexual pleasure
- Psychological dependence, requiring more of the drug to get the same effect

Risks associated with smoking cigarettes

- Diminished or extinguished sense of smell and taste
- Frequent colds
- Smoker's cough
- Gastric ulcers
- Chronic bronchitis
- Increase in heart rate and blood pressure
- Premature and more abundant face wrinkles
- Emphysema
- Heart disease
- Stroke
- Cancer of the mouth, larynx, pharynx, esophagus, lungs, pancreas, cervix, uterus, and bladder
- Cigarette smoking is perhaps the most devastating preventable cause of disease and premature death.
- Smoking is particularly dangerous for teens because their bodies are still developing and changing and the 4,000 chemicals (including 200 known poisons) in cigarette smoke can adversely affect this process.

SOURCE: Substance Abuse and Mental Health Services Administration, an agency of the U.S. Department of Health and Human Services (2000).

Nicotine is a drug. It is the substance in tobacco that keeps smokers smoking. Since nearly one-fourth of all Americans smoke, nicotine is the most prevalent psychoactive drug—that is, affecting the mind and mental processes—used in the United States. Nicotine is the second most abused drug in the United States, behind alcohol. This is attributable to many factors, including the legal status of the drug, the numerous social contexts in which smoking nicotine is acceptable and even expected, and the advertising campaigns of the tobacco industry. Given the highly addictive nature of nicotine, tobacco use is thus considered a legal form of substance abuse. According to the Boston University Medical Center, each cigarette delivers about 6 to 8 milligrams of nicotine.

The most likely future nicotine addicts are teens targeted by tobacco industry advertisers. Children are about twice as likely as adults to smoke the three most advertised brands. According to recent study, tobacco advertising has increased every year since 1998, the year big tobacco companies signed an agreement with Congress to stop targeting children. Nicotine addiction occurs when a person has a compulsive need for nicotine, as discussed earlier. Smokers thus feel a persistent craving for a cigarette, which is, in essence, what the Food and Drug Administration calls "a delivery system for an addictive drug" (Centers for Disease Control and Prevention 1994b).

The large majority of smokers begin smoking before the age of 18 (M. Robinson 1998). Every day, thousands of new young people begin to smoke. Teenagers see smoking as "cool" or "sexy," images created by the tobacco industry and reinforced by peers in social situations. The amount of nicotine used and the frequency of use start small but increase over time as the user becomes addicted to nicotine. People continue to use nicotine even after they learn of the health risks associated with smoking. Smokers claim that they cannot quit because they experience irritability, lowered concentration, weight gain, cravings for nicotine, and even tremors. These effects suggest that nicotine is being used to avoid physical withdrawal symptoms (Boston University Medical Center 2000).

Nicotine is smoked because it is most rapidly absorbed into the body in this way. About 90% is absorbed into the lungs, oral cavity, and gastrointestinal system. Nicotine particles act on every cell and thus on every organ of a user's body, including the heart, kidneys, skin, and brain. According to the Boston University Medical Center (2000), nicotine increases salivation, stomach acid and motility, heart rate, and blood pressure and reduces circulation in the blood. It also can lead to impotence in as little as 10 years of prolonged use.

Nicotine can be used more safely through alternative methods of ingestion, for example, through an inhaler. Tobacco companies developed such a mechanism, similar to that used by asthmatics, but ultimately rejected it because it was inconsistent with their portrayals of cigarettes as harmless and nonaddictive products (Glantz et al. 1996).

When inhaled by smoking, nicotine becomes a very dangerous drug. For example, cigarettes contain more than 40 known carcinogens as well as thousands of other harmful chemicals such as carbon monoxide, carbon dioxide, formaldehyde, and ammonia (M. Robinson 1998). Cigarettes include various amounts of metals such as aluminum, copper, lead, mercury, and zinc. Not surprisingly, then, smoking kills more than 30 times as many people as murder does each year, through lung diseases such as cancer, emphysema, chronic mucus secretion and air flow blocks, bronchitis, and respiratory and bacterial infections. It also causes heart disease because of cholesterol buildup, which restricts blood flow (the same thing that causes impotence). Smoking causes

stiffness in the artery walls, high blood pressure, blood clots, and oxygen demand in muscles (Boston University Medical Center 2000).

Lung cancer is not the only type of cancer caused by smoking, which is also a major cause of cancer of the lips, tongue, salivary glands, mouth, larynx, esophagus, stomach, bladder, renal pelvis, uterine cervix, and pancreas. Secondhand smoke also kills thousands (M. Robinson 1998), mainly because it contains dozens of dangerous chemicals (Centers for Disease Control and Prevention 1997). Thus, nonsmokers (such as children of smokers) suffer chronic ear infections, coughing because of phlegm buildup, and acute respiratory illnesses such as bronchitis and pneumonia.

What about marijuana? Does this illegal substance cause the same problems as tobacco, which is legal? Virtually every expert who has studied this issue answers a resounding "no."

Let us start by dispelling some myths about marijuana, which come from Zimmer and Morgan's (1997) book, *Marijuana Myths, Marijuana Facts:*

- Marijuana is relatively harmless. The British medical journal *Lancet* concluded in 1995 that "the smoking of cannabis, even long term, is not harmful to health."
- Most people who smoke marijuana do not smoke it regularly. Only about 1% of users smoke the drug daily.
- Marijuana does not lead to physical dependence or addiction.
- Smoking marijuana does not lead to use of hard drugs (the so-called gateway drug hypothesis). Because marijuana is the most popular illegal drug in the United States, the majority of people who use other drugs have also used marijuana at one time. Most marijuana users, however, never use another illicit drug, and, in fact, virtually every illicit drug user started with tobacco and alcohol.
- Marijuana offenders are not dangerous. The effects of marijuana use are relatively mild. About 80% of those arrested for marijuana in any given year are arrested for mere possession of the drug, not for growing or selling it.

In 1988, Francis Young, a judge affiliated with the DEA, reached the following conclusions about marijuana (in Kappeler, Blumberg, and Potter 2000, p. 152):

- There has never been a single documented cannabis-related death.
- Among the 70 million Americans who have used marijuana, there has never been a reported overdose.
- Marijuana in its natural form is one of the safest therapeutically active substances known to humans.
- In strict medical terms, marijuana is far safer than many foods we commonly consume.

Still, the THC in marijuana is a drug and it is harmful. It is the substance in marijuana that is addictive. The use of marijuana as a psychoactive drug is far less prevalent than nicotine use, for many reasons: Marijuana is illegal, there are fewer social contexts in which smoking marijuana is acceptable compared to smoking cigarettes, and it is not advertised by any corporate industry.

Smoking marijuana is typically a behavior associated with young people. Whereas smoking tobacco increases over time as the user becomes addicted to nicotine, smoking marijuana is consistently limited to relatively small amounts. Effects of marijuana begin immediately upon ingesting

the substance into the body, so there is no need to smoke greater and greater amounts over time. As explained by the National Institutes of Health (NIH) (1997):

> THC is quite potent when compared to most other psychoactive drugs. An intravenous (IV) dose of only a milligram or two can produce profound mental and phsyiologic effects (Agurell et al., 1984, 1986; Fehr and Kalant, 1983; Jones, 1987). Large doses of THC delivered by marijuana or administered in the pure form can produce mental and perceptual effects similar to drugs usually termed hallucinogens. . . . However, the way marijuana is used in the United States does not commonly lead to such profound mental effects.

THC is smoked because it is more rapidly absorbed into the body in this way, much like nicotine. THC particles are absorbed within seconds and delivered to the human brain immediately, and they also act on every cell and thus on every organ of a user's body, including the heart, kidneys, skin, and brain. Marijuana contains over 400 chemicals, including THC and other cannabinoids, which are the psychoactive chemicals in the plant. Yet it has a "remarkably low lethal toxicity" (NIH 1997). Whereas one in three cigarette smokers will die from a smoking-related illness, there has never been a recorded human death associated with marijuana use. The effects of marijuana on the user are numerous, including the following:

> a sense of well-being (often termed euphoria or high); feelings of relaxation; altered perception of time and distance; intensified sensory experiences; laughter; talkativeness; and increased sociability when taken in a social setting; impaired memory for recent events; difficulty concentrating; dreamlike states; impaired motor coordination; impaired driving and other psychomotor skills; slowed reaction time; impaired goal-directed mental activity; and altered peripheral vision are common associated effects. (Adams and Martin 1996; Fehr and Kalant 1983; Hollister 1988; cited in NIH 1997)

Other adverse effects can include anxiety, panic, depression, delusions, and hallucinations (Adams and Martin 1996; Fehr and Kalant 1983; Hollister 1988). Such effects usually present themselves rapidly and last for only 2 to 3 hours. Although marijuana use can heighten the effects of mental illnesses such as schizophrenia and bipolar affective disorder, it is not a significant cause of these illnesses, which are thought to be biologically based (Raine 1993). Use of the drug can, however, lead to temporary lessening of motivation and impaired educational performance (Pope and Yurgelun-Todd 1996).

The physical effects of smoking marijuana include temporary increases in heart rate and blood pressure, as well as lowered body temperature, which has not "presented any health problems for healthy and relatively young users" (NIH 1997). However, chronic use can lead to bronchitis, pharyngitis, and increased frequency of pulmonary and respiratory illnesses because of suppressed antibody formation and resistance to infection from bacterial and viral infections. Still, "[c]onclusive evidence for increased malignancy, or enhanced acquisition of HIV, or the development of AIDS, has not been associated with marijuana use" (NIH 1997).

From this comparison, we can confidently conclude the following:

- Cigarettes contain nicotine, a physically addictive drug that produces dependence and withdrawal symptoms when ceased.
- Smoking cigarettes is a highly deadly form of drug use.
- Marijuana contains THC and other cannabinoids, which are psychologically addictive drugs that do not cause dependence or physical withdrawal symptoms when ceased.

- Smoking marijuana is a potentially harmful form of drug use.
- Smoking cigarettes is far more dangerous than smoking marijuana.

Nevertheless, smoking cigarettes is generally legal, while smoking marijuana is generally illegal. Even though there are only one-sixth as many marijuana users as nicotine users, smoking kills about 440,000 people each year, and marijuana kills none. Alcohol kills approximately 110,000 people per year. The death rate for tobacco users in any given year (440,000 deaths per year divided by 67 million users) is 0.66%, meaning that in any given year, 1 in 152 tobacco users will die from the drug. The death rate for alcohol (110,000 deaths per year divided by 109 million users) is 0.1%, meaning that 1 in 990 alcohol users will die from the drug. The death rate for illicit drugs (19,000 deaths divided by 15.9 million users) is 0.12%, meaning that 1 in 837 illicit drug users will die from the drugs. This means that tobacco use is 4.5 times more deadly than illicit drug use, yet tobacco is legal. The death rates for illicit drugs and alcohol are nearly identical, yet alcohol is legal.

Government-funded studies in the 1970s, as summarized by Hamid (1998, pp. 47–51), were far more pessimistic and alarmist in their conclusions with regard to marijuana. These studies found evidence of what Hamid calls amotivational syndrome, cannabis psychosis, mental and physical deterioration, brain damage, and escalation to harder drugs. Evidence from more recent studies shows that these effects were, at best, grossly overstated.

Use and abuse of other illicit drugs include adverse health consequences (Jensen and Gerber 1998; Liska 2000). In 2000, for example, more than 1 million people visited emergency rooms and mentioned some form of drug use, including 175,000 for cocaine use and 97,000 for heroin use. Long-term health consequences of opiates include hypotension, allergies, and insomnia; overdose can cause fatal convulsions and seizures. Cocaine's adverse effects include death via seizures and strokes (Fishbein and Pease 1996). Most deaths from cocaine are caused by smoking the drug in the form of crack (Goode 1999); these deaths are not attributable to the dangers of cocaine itself, but rather to the fact that there are fewer quality controls on street-level crack than on powder cocaine.

Even relatively harmless drugs, such as marijuana, produce smoke that is carcinogenic, and chronic smokers of marijuana suffer from "toxic effects on several organs, including the brain, heart [and] lungs" (Fishbein and Pease 1996, p. 310). Of course, these outcomes are not as severe as those suffered by users of legal drugs such as tobacco and alcohol. Using the harmfulness of illegal drugs to justify their illegal status while simultaneously ignoring the harms of these legal drugs is hypocritical at best.

Glaser (1997, p. 117) describes the hypocrisy of the nation's drug war when he writes: "The law prohibits marijuana, cocaine, and the opiates but allows our intake of items that can be equally disabling, including whiskey, wine, and beer, as well as tranquilizers, sedatives, analgesics, stimulants, and antidepressants sold in drug stores, some without prescription." At the same time, "Relatively affluent users (and abusers) of illicit drugs are able to engage in their habits with impunity. They are likely to be able to insulate themselves from criminal justice activity. If they are in need of medical assistance, they are likely to arrange for private care and are likely to have health insurance that covers such treatment." In contrast, poor people who live in urban areas are the most likely to suffer from the horrible side effects of illegal drugs, are most likely to be discovered because of their limited access to medical care, and are most likely to suffer whatever violent crime does result from drug use and abuse (p. 199).

LEGAL STATUS OF EACH DRUG: WHY ARE THE MOST HARMFUL DRUGS LEGAL WHILE SOME RELATIVELY HARMLESS DRUGS ARE ILLEGAL?

Given that illegal drugs (such as marijuana) are typically less dangerous than legal drugs (such as tobacco), why are these drugs illegal? One primary reason is the fear that illegal drug use is associated with an increased risk for criminality.

According to Nuro, Kinlock, and Hanlon (1998, p. 221): "Evidence of criminal activity among narcotics users is longstanding and abundant; however, it is apparent that relationships among the important variables involved are much more complex than were initially believed." These authors suggest that prevalence and diversity of criminality among narcotics users are high, but that most crime committed by drug users is for the purpose of supporting drug use. Higher levels of drug use, then, tend to be associated with higher involvement in criminality. For heavy users of drugs and persistent criminals, initiation into both criminality and drug use begins at early ages (p. 225).

The smallest portion of criminality among drug users is violent crime (Nuro, Kinlock, and Hanlon 1998, p. 227), and most crime is petty, nonviolent crime (Goldstein 1998, p. 246), but amounts and types of crimes vary by individual (Nuro, Kinlock, and Hanlon 1998, p. 229). Drug research thus supports the claims of legalization proponents that alternative approaches to the drug war would reduce overall criminality in the United States (see the Issue in Depth at the end of this chapter).

The drugs most relevant for a psychopharmacological violence effect are alcohol, stimulants, barbiturates, and PCP (e.g., see Asnis and Smith 1978; d'Orban 1976; Ellingswood 1971; Feldman, Agar, and Beschner 1979; Gerson and Preston 1979; Glaser 1974; Tinklenberg 1973; Virkunnen 1974). The suspected and sometimes asserted link between opiates and marijuana and violence has been discredited (e.g., see Finestone 1967; Greenberg and Adler 1974; Inciardi and Chambers 1972; Kozel, Dupont, and Brown 1972; Kramer 1976; Schatzman 1975). In fact, these drugs may actually "ameliorate violent tendencies. In such cases, persons who are prone to acting violently may engage in self-medication, in order to control their violent tendencies" (Goldstein 1998, p. 245). Heroin users will refrain from committing violent crimes to acquire money to buy their drug if alternatives exist (e.g., see Cushman 1974; Goldstein 1979; Gould 1974; Johnson et al. 1985; Preble and Casey 1969; Swezey 1973).

There is obviously violence in the drug business, so what causes it? According to Reuter (1998, p. 315), "The violence, overdoses, and massive illegal incomes that are such a prominent part of our current concerns with psychoactive drugs are not consequences of the nature of the drugs themselves, but rather of the conditions of use that society has created." In other words, violence typically does not stem from drug use per se, but rather from the fact that drug use is illegal and violence is required to protect business interests of drug dealers. This is systemic violence rather than psychopharmalogical violence.

James Inciardi, a notable expert on the drug war, agrees. In his book *The War on Drugs III* (2002, p. 193), he writes, "The economic compulsive model or violence best fits the aggressive behavior of contemporary heroin, cocaine, and crack users." This means that many, if not most, violent crimes committed by users of these drugs are aimed at obtaining resources to buy their drugs, rather than caused by the influence of the drugs on their brains. In fact, Inciardi concludes that there is more evidence of a crime–drugs connection (drug use intensify criminal careers) than a drugs–crime relationship (drug use produces crime).

In numerous drug scares throughout U.S. history, this fact has escaped the public. Each drug scare has centered on some type of illicit drug use. Beckett (1997, pp. 45–46) briefly outlines several of these, including the antiopium movement in California in the late 1870s, the temperance (antialcohol) movement of the Women's Christian Temperance Union (WCTU) in the 1890s, the cocaine scare of the post-Reconstruction South, the "killer weed" antimarijuana movement in the southwestern United States in the 1930s, and the crack cocaine scare of the 1980s. Each of these drug scares blamed all sorts of societal evils on "outsiders" (Becker 1963) or on poor minority groups, from Chinese immigrants (opium smoking in the 1870s) to Mexicans (marijuana in the 1930s) to African Americans (cocaine and crack). As explained by Beckett and Sasson (1998, p. 37), crime and drug problems were typified as "'underclass' problems resulting from insufficient social control."

Traditionally, drug use becomes characterized as problematic only when it involves particular groups of people (Jensen and Gerber 1998, p. 3). In essence, this serves as a form of "institutional racism" (p. 21). Drug use by targeted groups is characterized as a source of other societal problems (Reinarman 1994), while institutional sources of poverty and crime are ignored. The nation's drug war meets the definition of *institutional discrimination* proposed by Walker, Spohn, and Delone (2000), because race and class are not explicitly stated as valid factors for utilizing criminal justice agencies selectively against drug offenders, yet racial and ethnic disparities appear in criminal justice outcomes that result from the application of racially neutral factors. In the drug war, the racially neutral factor is the fallacious notion that "their drugs" are more harmful than "our drugs." In the case of crack versus powder cocaine, this spurious belief is built directly into the written criminal law.

Because such drug scares are focused on relatively powerless groups such as minorities, immigrants, and lower-class people, you may be wondering whether the drug scares are actually aimed at lowering drug use and abuse rates or whether their legislative intent is aimed at other outcomes. Recall from Chapter Two the difference between intended goals and functions served by particular criminal justice policies (policies can serve functions without being intentional). By examining the role of the media in portraying drug scares, you may get a sense of the functions they serve for powerful members of society.

The Role of the Media in Drug Scares

As discussed in Chapter Five, the media, in what they portray and in what they choose not to portray, reinforce moral boundaries in society. At various times, the media have created *moral panics* focused on drug use. The crack cocaine scare is the most recent of those discussed earlier. As Potter and Kappeler (1998) write, "The media—particularly news magazines, televison, and newspapers—and the state engaged in a frenzied attempt to create a moral panic in the form of a drug scare as a means of continuing and extending the 'War on Drugs' begun in the Reagan administration" (p. 9). As noted by Merlo and Benekos (2000, p. 16), images and stories in the media (especially about crack cocaine) spread fear that drug use was a major source of the nation's problems, especially crime.

Claims by field sources from the Community Epidemiology Work Group (CEWG), established by the National Institute on Drug Abuse to provide community-level surveillance of drug abuse in 20 metropolitan areas, show the concern about crack cocaine in American inner cities. The following box contains some quotes from field sources in the early 1980s.

Community Epidemiology Work Group field quotes about crack cocaine

- Boston: "Cocaine is a massive problem."
- Miami: "Cocaine is more available than ever before."
- Newark: "Cocaine is gaining rapid popularity."
- New Orleans: "Cocaine appears to be dominating the drug scene."
- Philadelphia: "There is a significant increase in availability and use."
- Phoenix: "Large quantities are available through Miami; prices have dropped."
- Seattle: "Cocaine is the county's most important problem."
- Buffalo: "There has been a marked increase in cocaine use."
- Chicago: "Cocaine is the only drug to have shown consistently increasing patterns of abuse."
- Denver: "It's the major drug of abuse in the state."
- Detroit: "Cocaine use continues to increase."
- Los Angeles: "Cocaine use has reached epidemic levels."
- New York City: "Cocaine activity continues to increase."
- St. Louis: "Cocaine is readily available throughout the metropolitan area."
- Washington, DC: "Cocaine use continued to rise."
- Dallas: "Pushers were selling cocaine in capsules in African American lower income communities. Cuban cocaine traffickers were arrested."
- Newark: "African Americans were dealing large amounts of cocaine."

These quotes from field sources suggest that crack cocaine was becoming a significant problem for American cities. As a result, a war was launched to stop crack cocaine.

Public demand did not create this "war on drugs." Beckett (1997, pp. 55, 58) reports that in 1981 more Americans believed that reducing unemployment would be more effective in curbing drug use than cutting the drug supply. Only about 2% of Americans at that time felt that drug abuse was the nation's most important problem (also see J. Roberts 1992). In fact, public concern over drugs increased only after President George Bush (the first) made the nationally televised speech mentioned at the beginning of this chapter. After Bush said on national television, "All of us agree that the gravest domestic threat facing our nation today is drugs" (Bertram et al. 1996, pp. 113–114), media coverage of problematic drug use increased, as did concern about drugs among Americans. Thus, public concern did not start the drug war.

Reinarman and Levine (1989a) outline this 1980s drug scare, in which all sorts of societal problems were blamed on crack cocaine. These authors argue that media portrayals of crack cocaine were highly inaccurate. The scare began in late 1985, when the *New York Times* ran a cover story announcing the arrival of crack to the city. In 1986, *Time* and *Newsweek* magazines ran five cover stories each on crack cocaine. *Newsweek* and *Time* called crack the largest issue of the year (Beckett 1997). In the second half of 1986, NBC News featured 400 stories on the drug. In July 1986 alone, the three major networks ran 74 drug stories on their nightly newscasts (Potter and Kappeler 1998). Drug-related stories in the *New York Times* increased from 43 in the second half of 1985 to 92 and 220 in the first and second halves of 1986 (Beckett 1997), and thousands of stories about crack appeared in magazines and newspapers (Reinarman 1995).

After the *New York Times* coverage, CBS produced a 2-hour show called *48 Hours on Crack Street*, and NBC followed with *Cocaine Country*. In April 1986, the National Institute on Drug Abuse (NIDA) released a report called "Cocaine: The Big Lie," and 13 public service announcements that aired between 1,500 and 2,500 times on 75 local networks. This was followed by 74 stories on crack cocaine on ABC, CBS, and NBC in July 1986 alone. In November 1986, approximately 1,000 stories about crack appeared in national magazines, where crack was called "the biggest story since Vietnam," a "plague," and a "national epidemic."

As media coverage of drugs increased, people were paying attention. Consumers of media information are more likely to recognize issues as the "most important problems" when they receive a lot of notable attention in the national news (Bennett 1980; Iyengar and Kinder 1987; Leff, Protess, and Brooks 1986; McCombs and Shaw 1972). Drug coverage in the media was more extensive in the 1980s than at other times. The CBS program *48 Hours on Crack Street* obtained the highest rating of any news show of this type in the early 1980s (Reinarman and Levine 1989a, pp. 541–42).

Once the media and public were all stirred up, laws were passed aimed at toughening sentences for crack cocaine. For example, the *Anti-Drug Abuse Act of 1986* created the 100:1 disparity for crack and powder cocaine (5 grams of crack would mandate a 5-year prison sentence, versus 500 g of powder cocaine). Additionally, the *Anti-Drug Abuse Act of 1988* lengthened sentences for drug offenses and created the Office of National Drug Control Policy (ONDCP). The U.S. Sentencing Commission recommended to Congress that this disparity be eliminated, yet Congress rejected this (which was the first time Congress ever rejected the Commission).

The intense media coverage of crack cocaine is problematic because it was invented, inaccurate, and dishonest. News coverage did not reflect reality, as crack cocaine use was actually quite rare during this period (Beckett 1994; Orcutt and Turner 1993; Walker 1998) and, according to research from the NIDA, was in fact declining at this time. According to the NIDA, most drug use peaks occurred between 1979 and 1982, except for cocaine, which peaked between 1982 and 1985 (Jensen and Gerber 1998, p. 14). Media coverage of cocaine use increased in the late 1980s even after drug use had already begun to decline.

The crack war was dishonest and the media failed to report this. The war was aimed at getting tough on crime and maintaining the status quo approaches to fighting drugs. The public was not concerned about drugs until after the media coverage captured their attention. Jensen and Gerber (1998, p. 17) suggest that President Reagan's declaration of war against drugs in August 1986 created an "orgy" of media coverage of crack cocaine, and public opinion about the seriousness of the "drug problem" changed as a result. According to Clymer (1986), in mid-August 1986, drugs became the most important problem facing the nation in public opinion polls. By late August 1986, 86% of Americans said that "fighting the drug problem" was "extremely important" (*U.S. News & World Report* 1986).

This coverage of drugs in the media typified social problems as stemming from the pharmacological properties of drugs such as crack cocaine, when in reality most of the associated violence stemmed from volatile crack cocaine markets (Beckett and Sasson 2000, p. 28). News stories were also generally inaccurate and/or misleading in the way they characterized addiction to crack cocaine as "instantaneous," as if everyone who tried crack would become addicted immediately (Reinarman 1995). As a teenager in the 1980s, I recall, adults warned me that one-time use of crack cocaine would lead to inevitable addiction. Without personal experience to rely on,

these adults were likely relying on information supplied by the media. In fact, the NIDA estimates that very few of those who use cocaine will become addicted: Fewer than 3% of users will ever become problem users (Kappeler, Blumberg, and Potter 2000). Cocaine does not produce physical dependence, as, say, tobacco does and, thus, is not considered a physically addictive drug.

The addictive nature of nicotine in tobacco received relatively little if any attention in the 1980s (Reeves and Campbell 1994), although, for every cocaine-related death in that decade, there were 300 tobacco-related deaths and 100 alcohol-related deaths (Potter and Kappeler 1998), facts that escaped widespread media coverage. Although there is much more media focus on tobacco these days, the negligent and reckless actions of tobacco companies were not discussed widely until the mid- and late 1990s.

Finally, the coverage of crack in the news did not accurately portray the racial composition of people involved in drugs. The Sentencing Project reports that about two of every three crack users are Caucasians, even though in 1994, 84.5% of people convicted in federal courts for crack possession and 88.3% of those convicted for crack trafficking were African Americans.

Even though half of all television news stories about drugs show African Americans using or selling drugs (Reed 1991), the majority of drug users are white; African Americans are not overrepresented among users (Walker 1998). This does not imply that the media are racist in their coverage of drug issues but, rather, that the media, like most Americans, were duped by the focus of criminal justice agencies on particular types of drugs and drug users. Harrigan (2000, pp. 137–38) suggests that most Americans

> lead lives that are far removed from the pictures of their lives portrayed on television. They go to work regularly, pay most of their taxes, try to raise their children as best they can, are faithful to their spouses for years on end, do not steal from their employers, have no connection with drug traffickers or organized crime, and live from paycheck to paycheck without margin for economic setbacks.

Because these facts do not make for "news," they are ignored. The stereotypical image of the poor person or the African American person as lazy or criminal results from such ignorance.

Beckett (1997) reviewed media depictions of drug-fighting strategies and found that two types of "frames" for drug issues were most often used. She calls these the "Get the Traffickers" and "Zero-Tolerance" frames. Criminal justice policies aimed at reducing drug use do not necessarily have to reflect a "law and order" perspective (see the Issue in Depth at the end of this chapter). Yet according to Beckett, stories that depict drug raids and tough sentences for drug runners dominate the media. These depictions create and reinforce public support for get-tough measures and hence a "war on drugs," despite the tremendous harms that result.

The influence of drug policies on people's perceptions of drugs, crime, and the proper role of government in intervening in lives of drug users is an example of how "[p]olicy-making is a form of reality construction" (Brownstein 1996, p. 59). Although criminal justice policy perhaps should be the primary source of information for policymakers (Barak 1988; Brownstein 1991; Burnstein and Goldstein 1990), criminal justice policy today is neither rational nor orderly. Instead, it is driven by "competition and collaboration of claimsmakers as they strive to advise and influence policymakers [where] . . . lobbyists, political constituents, and anyone else with a vested interest argues in this arena for their own favored position" (Brownstein 1996, p. 61).

Even when research clearly shows that crack-related homicides are mostly systemic (because they are related to volatile, illicit crack markets) rather than due to the pharmacological effects of the drug, laws tend to get tough on crack users for fear they will become violent (Brownstein 1996, p. 65). And even when disparities in sentencing for crack versus powder cocaine were demonstrated to Congress to be unjustified, given that crack cocaine is no more addictive or dangerous than powder cocaine (Lockwood, Pottieger, and Inciardi 1996; W. Moore 1995), lawmakers voted to reduce the disparities but, nevertheless, to maintain them. The National Criminal Justice Commission claims that "evidence of meaningful pharmacological differences between crack and powder cocaine is exceedingly thin" and that "violence associated with crack stems more from turf battles between police and crack dealers, and among crack dealers battling between themselves to control lucrative markets, than from the narcotic effect of crack itself" (Donziger 1996, p. 119). Perhaps this is why many judges in the United States do not agree with sentencing disparities between crack and powder cocaine (Gray 2001).

The drug war has been aimed at disrupting, dismantling, and destroying the illegal market for drugs (Brownstein 1996, p. 45). Of course, a war can be conducted only against people, as noted, not against an abstract target such as "drugs." A "declaration of war suggests an imminently threatening national crisis or open conflict requiring the use of extraordinary power and authority, and the mobilization of massive resources to curb the threat and vanquish the enemy" (Merlo and Benekos 2000, p. 17). The real enemy in this war has unquestionably been poor minorities, as indicated by the prison populations in the United States today (see Chapter Nine). In fact, more than half of prison admissions for drug offenses are African Americans and Hispanics (Donziger 1996), largely because of the focus of law enforcement in minority communities (Tonry 1995). Not surprisingly, the majority of people convicted and sentenced for crack cocaine offenses are African American (M. Robinson 2000).

Imagine if Presidents Nixon, Reagan, Bush, and Clinton had declared war directly on poor people or minorities. Such a thing would have alarmed the media and would have been rejected by Americans as unacceptable, intolerant, and downright bigoted, especially after the struggles of the civil rights movement. A more indirect war against the same people, however, apparently is acceptable.

Imagine also a president suggesting that we take away individual Constitutional rights of all Americans to stop some from using drugs. The media would have featured such a story on the front page of every magazine and newspaper in the United States. Americans of all political persuasions—from members of the National Rifle Association (NRA) to members of the American Civil Liberties Union (ACLU)—would join forces to fight such a move. Yet the declared war on drugs in the 1980s has led to increased use of law enforcement actions that infringe upon Second, Fourth, Fifth, and Sixth Amendment rights. "Taking away rights of criminals" is how such infringements are sold to Americans, even though all of us enjoy less freedom today. Apparently, we see such sacrifices as necessary to stop drug abuse (Treaster 1990). Each of these is a cost of the drug war, which I discuss below.

HARMS CAUSED BY THE DRUG WAR

The war on drugs not only fails to meet its own goals, but also creates or exacerbates significant harms. These include the following.

- ***The drug war leads to overburdened criminal justice agencies.***

As you have seen in this chapter, our police, courts, and corrections spend a significant portion of their time and resources dealing with drug offenses. Every minute and every dollar spent fighting the war on drugs are a minute and a dollar not spent fighting those acts that most threaten us, including violent crime and white-collar deviance. Since many drug offenders are sentenced through mandatory sentences, when correctional facilities are overburdened, drug offenders cannot be released early. Instead, more serious offenders are released early, including violent criminals. Thus, the war on drugs can create crime.

- ***The drug war leads to crime and violence.***

Since drugs are illegal, crimes such as theft, prostitution, and other secondary crimes are committed to support drug habits. Drug offenders are also involved in gangs, drive-by shootings, and murders for the right to sell drugs. Internationally, we see that the drug war creates money laundering, funds revolutionary groups, and provides money for the training of terrorists (Gray, 2001). Systemic violence caused by drugs is discussed earlier in the chapter.

Some drug users also commit crimes to support their habits. Hamid (1998, p. 106) claims, "The greater the police presence on the streets, the greater the resort to risky behaviors on the part of users." These risky behaviors include stealing, selling sex for money, breaking and entering, robbery, and even murder. Vigorous drug enforcement by police may actually lead to more rather than less "organized, professional and enduring forms of criminality" (p. 109, citing Dorn and Smith 1992).

Currently, "Because [drug] criminal entrepreneurs operate outside of the law in their drug transactions, they are not bound by business etiquette in their competition with each other. . . . Terror, violence, extortion, bribery, or any other expedient strategy is relied upon by these criminals" (Goldstein 1998, p. 249, citing Glaser 1974).

There is a positive relationship between a drug's perceived seriousness by government and the price at which it sells. That is, as a drug is made illegal, and especially as it is labeled a serious threat to the community, it becomes more expensive to buy, even though production costs for most illicit drugs are comparable to those for many legal drugs. As noted by Nadelmann (1991, p. 29), "Most of the price paid for illicit substances is in effect a value-added tax created by their criminalization which is enforced and supplemented by the law-enforcement establishment, but collected by the drug traffickers." This amounts to a subsidy by the government (i.e., taxpayers) paid to the black-market drug offenders. Herbert Packer (1968) called it a *crime tariff* paid to those individuals and groups who must be willing to take tremendous risks to succeed in the drug business. Essentially, as the risks associated with drug offenses increase, so too will the rewards that drug offenders will expect. The American drug war, aimed at deterrence through increased risk, seems simultaneously to achieve higher rewards for those willing to engage in the drug trade.

Wisotsky (1991, p. 107) claims that the war on drugs has made things worse by spinning a "spider's web of black market pathologies," including homicides and other street crimes and widespread governmental corruption. Wisotsky claims that these pathologies were foreseeable because of the laws of supply and demand inherent in the market for an illicit substance that is in high demand. The crime tariff is the result. It is "what the seller must charge the buyer to monetize the risk he takes in breaking the law, in short, a premium for taking risks" (p. 107).

- ***The drug war erodes Constitutional protections and privacy.***

In addition to creating crime, the drug war erodes our freedoms. As explained by Wisotsky (1991, p. 108), the U.S. drug war has led to greater levels of pretrial detention resulting from a statutory bias in favor of such detention for those facing certain drug offense charges. Second, within the political framework of the war on drugs, the Supreme Court has eroded defendants' rights not to have illegally seized evidence used against them in a court of law (Gray 2001). Wisotsky (1991, p. 109) outlines some of these erosions:

- Establishing the authority of police officers to stop, detain, and question people who fit the "profile" of drug couriers in airports, even without probable cause
- Permitting travelers' luggage to be sniffed by dogs without probable cause
- Making searches of automobiles without a warrant
- Searching ships in inland waterways without probable cause
- Obtaining warrants based on informants' tips
- Establishing the "good-faith exception" for police who use flawed warrants
- Permitting warrantless searches of open fields and barns adjacent to residences
- Enlarging the authority of police to stop motorists on the road without probable cause
- Permitting warrantless aerial searches over private residences and of motor homes used as residences.
- Allowing warrantless searches of public high school students' purses

Police also can claim exigent circumstances to justify gathering and using unlawful evidence, including evidence that was in their plain view or within reach. Also, police can seize a person's property though asset forfeiture programs based on suspicion of drug activity. The burden of proof falls on the accused to prove that he or she is not involved in the drug trade; even when this is accomplished, the government can keep up to 30% of the property for administrative purposes. This is inconsistent with the presumption of innocence and due process, as defined in Chapter One.

- ***The drug war is a significant source of corruption.***

Related to increased powers of police and prosecutors, the war on drugs is a significant source of corruption in agencies of criminal justice. The amount of money involved in the drug trade is a source of unbelievable temptation, leading to numerous highly publicized cases of corruption in law enforcement (Gray 2001). Recent cases include the Dallas Police Department (Texas) and the Tulia Police Department (Texas), where minorities were arrested after officers planted evidence and invented cases against innocent individuals (see Chapter Six).

- ***The drug war leads to death and illness among drug users.***

Ironically, the drug war ends up causing death and illness among users (Gray 2001). Addicts are less likely to seek medical attention and treatment because of fear of criminal sanctions (MacCoun and Reuter 2001). Deaths are directly attributable to high prices of illegal drugs, and as you've seen in this chapter, emergency-room mentions of drugs and deaths due to illicit drugs are actually increasing.

The Food and Drug Administration (FDA) does not have the jurisdiction to regulate illicit drugs (or to regulate nicotine in tobacco, according to the Supreme Court in 2000). This

means that the levels of active ingredients in drugs are typically not known and certainly not intentionally managed as is alcohol content. "Imagine that Americans could not tell whether a bottle of wine contained 6%, 30%, or 90% alcohol, or whether an aspirin tablet contained 5 grams or 500 grams of aspirin" (Nadelmann 1991, p. 33). Also, imagine that manufacturers of legal drugs like alcohol were permitted to add far more dangerous substances to their products, as in the case of cocaine and heroin. The drug war makes even relatively harmless recreational drug use much more dangerous than it would be if drugs were legal and regulated for quality control.

- ***The drug war leads to financial cutbacks to other social services.***

Every dollar we spend fighting the war on drugs is a dollar not spent on other social services. This ultimately harms Americans. For example, since the 1970s, spending on the war on drugs has increased tremendously, as you've seen in this chapter. Now that state budgets are in crisis, it is nearly impossible to cut back funding for operations of police, courts, and corrections as they fight the war on drugs. Yet funding for social service functions has been cut, including education, mental health treatment, and welfare assistance, as have basic investments in vital infrastructures needed to run communities effectively.

- ***The drug war heightens racial disparities.***

As discussed earlier in this chapter, minorities disproportionately suffer criminal justice processing when it comes to the war on drugs. According to Hamid (1998, p. 122), "Minority persons who have been arrested for drug offenses and other crimes far outnumber European Americans." The penalties they receive are frequently harsh and unfair. Figure 11.8 illustrates that even though Caucasians account for a higher percentage of drug users and people arrested for drugs, minorities account for the majority of inmates convicted of drug offenses and sentenced to the nation's prisons.

- ***The drug war causes environmental damage.***

Many harms associated with the war on drugs are rarely considered because they tend to be felt most by those who reside in *producer countries* (e.g., Colombia, Afghanistan) and *transporter countries* (e.g., Mexico) rather than *consumer countries* (such as the United States). One of the harms is the destruction of crops, the soil in which it is grown, and the drinking water that surrounds it, by the use of pesticides and other means by the U.S. government (and foreign governments in cooperation with the U.S. government). Crop eradication is one means by which the war on drugs is fought. Yet according to our very own ONDCP, total cultivation of illicit drugs is unchanged: As one spot is eradicated, another pops up in its place, which is a form of displacement.

- ***The drug war threatens the sovereignty of other countries.***

Another harm of our drug war is that we threaten the sovereignty of other nations. Countries such as Mexico and Colombia have had numerous disagreements with the U.S. government over our threats to *decertify* them if they do not cooperate with our war on drugs. This causes resentment among the people of these countries because it interferes with their ability to govern themselves as they see fit.

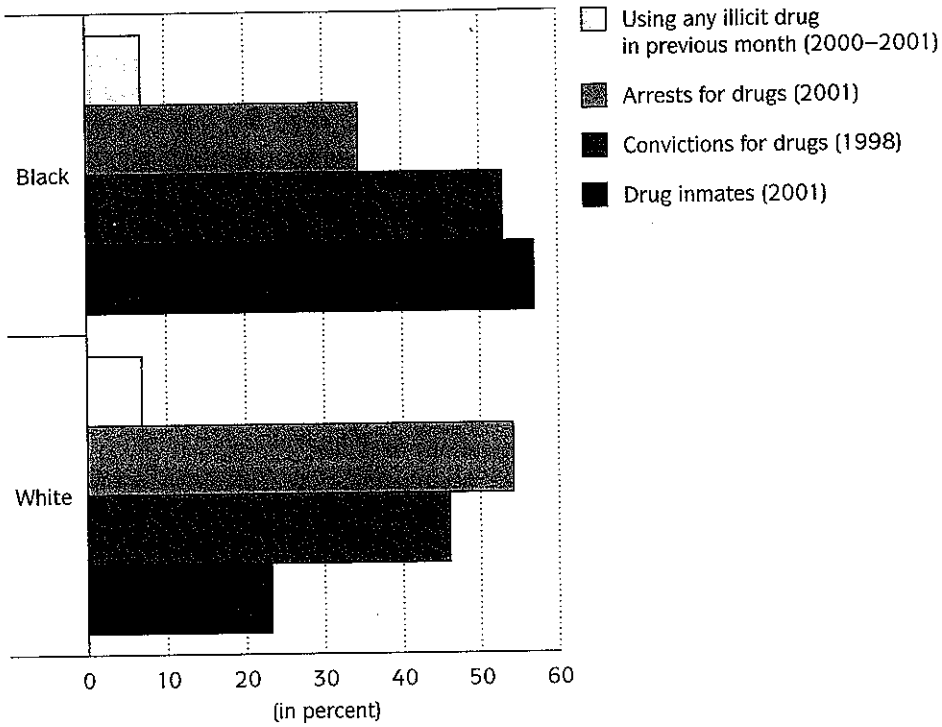

FIGURE 11.8
Race and Drugs
SOURCE: Sourcebook of Criminal Justice Statistics (2003).

ON LEGALIZATION

This chapter concludes with an examination of the relative merits of drug legalization as a policy alternative to America's drug war. Before I begin discussing legalization, consider the range of possible outcomes of the drug war.

When law enforcement agencies invade a neighborhood or community to interfere with drug activity, any combination of three outcomes may result. These outcomes are depicted in the three models shown in Figure 11.9. These models are ideals and are not necessarily mutually exclusive.

Model 1, which I call the *subterfuge model*, characterizes all neighborhoods where drug-related activity exists. Because selling drugs is illegal, drug dealers must hide their activity from the police. Police are at a distinct disadvantage in the war on drugs because they must identify, locate, and apprehend drug offenders, who are typically very good at concealing and disguising their activities. For example, street-level crack cocaine dealers utilize numerous strategies to avoid detection by the police. Two strategies involve moving transactions from street corners to apartment buildings and frisking potential buyers for wires (Gaines, Kaune, and Miller 2000, p. 611). In the subterfuge model, when police efforts are directed at a particular neighborhood,

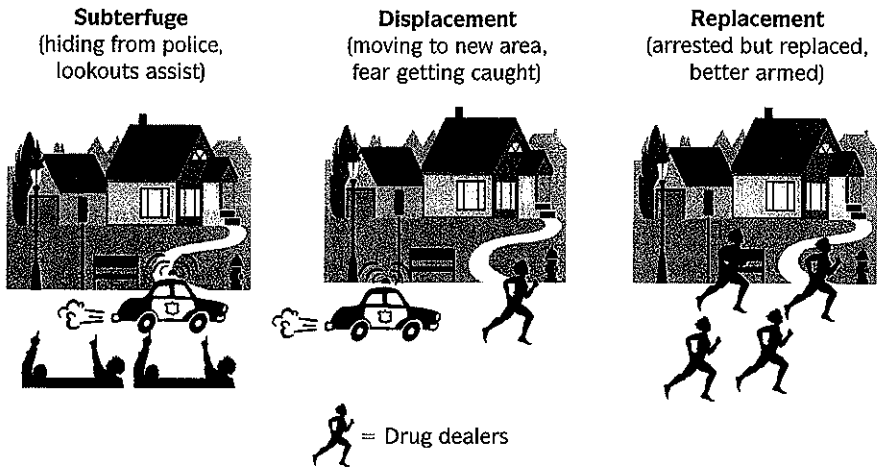

FIGURE 11.9
Possible Outcomes of Policing Drugs

drug dealers utilize lookouts to warn them of police presence. This makes preventing or controlling drug sales very difficult.

It is illogical to assume that police agencies can ever stem the flow of the tide of illicit drug dealing in the United States. There are currently only 2.86 police officers per 1,000 U.S. citizens. Given the amount of illicit drug use among these 1,000 people, it would be impossible for the police ever to be able to stop enough of it to make much of a difference. Additionally, given that drugs can be grown virtually anywhere, and given that growers of drugs "camouflage and protect" their operations from detection efforts (Nadelmann 1991, pp. 22–23), national and international efforts to stem the production of drugs in the United States and the flow of drugs into the United States are doomed to fail. Consider these facts:

- Thirteen truckloads per year can satisfy the entire national demand for cocaine.
- The United States has 88,633 miles of shoreline, 7,500 miles of international borders with Canada and Mexico, and 300 ports of entry (Frankel 1997).
- Most arrests for drug offenses are for small-time offenders such as people who simply possess drugs (Page 1999).

Nadelmann (1991, p. 22) makes an argument consistent with the evidence from the study of street-level crack dealers mentioned above. He writes: "In the final analysis, the principal accomplishment of most domestic drug-enforcement efforts is not to reduce the supply or availability of illegal drugs, or even to raise their price; it is to punish the drug dealers who are apprehended, and cause minor disruptions in established drug markets."

In Model 2, the *displacement model*, drug dealers are literally scared away by the police into other neighborhoods and communities. In the presence of zero-tolerance policing, police intervene in even the most minor of criminal infractions and attempt to eliminate "social incivilities" such as the presence of homeless and mentally ill people on the streets. Street sweeps of the

homeless and mentally ill are merely means of "sweeping such problems under the rug," so to speak, rather than dealing with them more effectively and, some would say, more humanely. Likewise, efforts to capture and arrest street-level drug dealers, under the umbrella of zero-tolerance laws, is a very ineffective method of attempting to eliminate drug use and abuse in the United States.

Zero-tolerance laws are based on the following assumptions:

- If there were no drug abusers, there would be no drug problem.
- The market for drugs is created not only by availability, but also by demand.
- Drug abuse starts with a willful act.
- Drug users are not powerless to act against the influences of drug availability and peer pressure.
- Most illegal drug users can choose to stop their drug-taking behaviors and should be held accountable if they do not.
- Individual freedom does not include the right to self-destruction and societal destruction.
- public tolerance for drug abuse must be reduced to zero. (Inciardi 1991, p. 11)

With zero-tolerance laws, drug dealers are theoretically deterred from engaging in drug-related crimes in the presence of police. But rather than giving up their illegal and immensely profitable livelihoods, drug offenders simply move their criminal operations elsewhere.

In Model 3, the *replacement model*, law enforcement efforts are temporarily successful. In neighborhoods and communities where police efforts result in numerous arrests of drug offenders, drug dealers are temporarily put out of business. Yet, as suggested by the title of this model, when drug dealers are taken off of the street, others simply take their place in the illegal drug market. This is because of the "push-down/pop-up" nature of urban drug markets (Nadelmann 1991, p. 23)—when one market is shut down, another simply "pops up" in its place. Glaser (1997, p. 119) claims: "Arrest of any individual involved in drug production usually impairs the drug supply only briefly, because the trade consists of many independent entrepreneurs in diverse roles, in all types of illegal drug distribution, and most getting the highest income from it. Others hurry to replace anyone removed from the industry by arrest."

Because the new drug dealers will be aware of the increased risks of apprehension, they will be better prepared to avoid detection and arrest. They may also be better armed and more ruthless than the previous drug dealers so that they can better battle the police. Skolnick (1997, p. 412) calls this the "Darwinian trafficker dilemma," whereby only the "fittest" drug dealers survive.

So we are left with this result: When drug dealers are taken off the street, others simply step in and take their place. We are left with the same number of drug dealers on our streets but more inmates in our prisons. There are no fewer drugs available but we're spending more of our money. The National Criminal Justice Commission puts it this way:

> Somebody else almost always steps in to take the place of the dealer when he or she goes to prison. Incarcerating the second drug dealer costs just as much as incarcerating the first. By the time the criminal justice system has passed through several generations of drug dealers, billions of dollars have been spent and the corner is still scattered with empty vials of crack cocaine. (Donziger 1996, p. 61)

As noted, these models represent ideals, so any neighborhood or community with any amount of drug-related problems and any level of law enforcement presence will experience some of

each outcome. That is, to some degree, subterfuge, displacement, and replacement will occur as police attempt to prevent and control illicit drugs. This means that the likely results of the American drug war are arrests, convictions, and punishment of some but not most drug dealers, entrenchment of new drug dealers to replace those who are removed from the market, and displacement of drug offending to areas where law enforcement presence is not as great. Do you consider this a success?

For these reasons, success in the war on drugs is not likely. In fact, I argue that because of the effects of subterfuge, displacement, and replacement, it is impossible to win the war on drugs. This is why American drug control efforts, though they may be well intended, are futile at best. Whether this provides a valid rationale for legalizing drugs is debatable, but it does suggest that the United States should abandon its war on drugs—unless, of course, you believe that the war really is successful at something else entirely. The following box briefly shows how the war on drugs could be considered a success.

How America's drug war is a success

Failure in the war on drugs may actually amount to success if, as pointed out in Chapter Two, the goal is really not to succeed. Erickson and Butters (1998, p. 177) assert that if we look at the war on drugs as a policy aimed at reducing harm, then prohibition is a failure. Yet if we look at it as an ideology (an orientation that characterizes the thinking of a group), then it is "one of the great success stories of the twentieth century." That is, as a means to shift control to the political right and lock people up for political gain, the war on drugs is working. It is pretty clear who benefits from the failing drug war and who is most harmed by it. While the incarceration boom may be beneficial for those with vested financial interests, it disproportionately affects poor people and minorities. Given the resulting disparities based on race and class, by definition the drug war is not just. This is why the war on drugs provides evidence that American criminal justice agencies are not blind. Instead, they seem to have poor people of color clearly in their sights. Tonry (1995, p. 105) writes, "Urban African-Americans have borne the brunt of the War on Drugs. They have been arrested, prosecuted, convicted, and imprisoned at increasing rates since the early 1980s, and grossly out of proportion to their numbers in the general population or among drug users." Now that we know this to be fact, how can we allow it to continue?

Results of the war on drugs have included "enormous profits for drug dealers and traffickers, overcrowded jails, police and other government corruption, a distorted foreign policy, predatory street crime carried on by users in search of the funds necessary to purchase black market drugs, and urban areas harassed by street-level drug dealers and terrorized by violent drug gangs." Astonishingly, efforts to prevent drugs from coming into the country stop only about 20–30% of illicit drugs such as marijuana and cocaine from entering the United States (ONDCP, 2004). Inciardi (1991), a staunch opponent of drug legalization, nonetheless admits that interdiction efforts aimed at reducing the passage of drugs into the United States have failed and that more drug abuse treatment is needed (p. 75). Finally, the nation's drug war is a major source of police and criminal justice corruption (Lyman and Potter 1998). This led Kappeler, Blumberg, and Potter (2000, p. 166) to call the drug war a "government-sponsored subsidy to organized crime."

Given these startling revelations, some alternatives to the American drug war may be justified. These include

- *decriminalization,*
- *legalization,* and
- *harm reduction.*

Decriminalization calls for eliminating or reducing the penalties for the recreational use of illicit substances. Canada and Britain have recently decriminalized marijuana possession. Another alternative includes outright *legalization* of all drugs, although, considering all the possible negative outcomes, I do not personally support this approach. Legalization calls for eliminating drug offenses from the criminal statutes and thus could lead to a complete government withdrawal from drug-related issues. In a commercialized, capitalistic society, advertisers would push substances and inevitably increase drug use (MacCoun and Reuter 2001). Decriminalization does not take the government out of drug prevention efforts. Instead, decriminalization involves limiting the use of drugs and taxing and limiting their production, promotion, sales, and use. Further, profits from drug use would be used to treat those who are involved in harmful drug abuse (Kleiman 1997). *Harm reduction* approaches are not necessarily aimed at reducing drug use. Based on the realization that some drug use is inevitable, harm reduction strategies are simply aimed at reducing harms associated with recreational drug use. They include *methadone maintenance, needle exchange programs,* and similar approaches to reduce overall harm. These are discussed in the Issue in Depth at the end of this chapter.

Will Americans embrace alternatives to the drug war? Americans do seem well aware that the drug war is not working. For example, 94% of respondents in a survey by the Harvard School of Public Health reported their belief that drug use was not under control, and 58% thought that drug use would get worse with time (Blendon and Young 1998). Despite the implications of these findings, Gallup polls still show that Americans want more of the same to stop drug use—more severe criminal penalties, more money for police, and increased military involvement in intervention efforts (Gaines, Kaune, and Miller 2000). In other words, Americans may think that the war on drugs is failing, but they still want more of it.

CONCLUSION

American history is dotted with wars on drugs. In these wars, which we seem to conduct every so often against drugs perceived to be used by problematic populations, we generally ignore the lessons of the past. The criminal justice network remains blind to its own illogical drug war. Even though the actual harms attributed to use of illicit drugs pale in comparison to the harms caused by legal drugs, we seem content to use law enforcement and military efforts to try to solve problems associated with the medical problem of drug abuse. Although our recent efforts have had no appreciable effect on drug use or abuse in the United States, our nation's prisons and jails are filling up with poor street criminals, many of whom are people of color, who have committed very minor drug crimes. The media continue to fall prey to politicians' efforts to wage war against the poor and people of color in the name of the war on drugs rather than independently asserting how the nation's drug war is a massive failure. More violence is attributable to the nation's drug war than to the actual use of drugs. Thus, decriminalization seems to be a legitimate alternative worth pursuing.