

# It's time to rethink and reform drug laws

by *Denver Post Editorial Board* (Sept. 2004)

Thoughtful conservatives such as William F. Buckley are joining the call for sweeping reforms, including legalization, taxation and regulated sale of marijuana.

America's war on drugs is now in its 90th year. Federal law first restricted access to cocaine, heroin and related drugs in 1914. Marijuana was outlawed in 1937. Now, after nine decades of largely futile and often counterproductive efforts at drug prohibition, the time has come to reevaluate and reform America's drug laws.

All wars have casualties, and this one is no exception. According to a recent report from the Independent Institute in Oakland, Calif., there are now more than 318,000 people incarcerated in the United States for drug-related offenses. The U.S. spends about \$33 billion a year prosecuting this war, and law enforcement makes about 1.5 million arrests per year, according to Boston University economist Jeffrey A. Miron.

Wars - especially long and fruitless ones - inevitably generate war protesters. What is striking about the new wave of criticism of the drug war is how much of it comes from conservative sources. Most prominent, William F. Buckley Jr. wrote in the June 29 issue of *National Review* in support of the proposition that "the government should treat marijuana more or less the same way it treats alcohol: It should regulate it, control it, tax it, and make it illegal only for children."

That conservatives should question a government policy that intrudes on individual freedoms for no apparent public benefit is as natural as it is welcome. Their voices join with progressives, libertarians, and the downright hard to classify, such as former Minnesota Gov. Jesse Ventura, in an impressive new book, "The New Prohibition," from Accurate Press in St. Louis. Seven Coloradans have essays in that book, including federal Judge John Kane, San Miguel County Sheriff Bill Masters, and Mike Krause and David Kopel of the Golden-based Independence Institute.

We obviously cannot report all the information packed into that book in this short space. But Masters, Kane and others make a compelling argument that the problems with some drugs, notably marijuana, are actually magnified by the current prohibition policy.

"Marijuana use decreases aggression and threatening behavior," Kane notes. "The crimes by some drug users are committed in order to pay for drugs in the highly inflated black market. In other words, the crimes are caused by prohibition-induced high prices, not by the pharmacological effects of drug ingestion."

Even the last-gasp argument of prohibitionists against legalizing marijuana - the claim that today's varieties are more potent than the pot so many baby boomers puffed in the '60s and '70s - is actually an argument for the legalization and regulation of the product. Tell major companies such as R.J. Reynolds that they can make billions of dollars growing and selling marijuana legally if they keep it within specified ranges of potency and you can be assured that their legal products will fall within the specified standards. As long as marijuana remains outlawed, there is no possibility of setting such standards.

Clearly, there are drugs available that are far more dangerous than marijuana - including the ubiquitously legal alcohol. Certain drugs, such as methamphetamine, are so devastating to users and so likely to induce violent behavior that the current prohibition is the only feasible policy. A reassessment of the drug war should include an evaluation of the effects of each drug on users and adjusting the legal status of that drug accordingly. Drug policy should then be placed on a continuum ranging from continued prohibition to outright legalization. Medications that are cleared by the FDA go through a rigorous process. Drugs such as heroin, which induces passive behavior, might be placed on the British system, where existing addicts can get inexpensive "fixes" from licensed physicians. As Judge Kane notes, heroin users are now forced to steal to get money to buy their drug from greedy pushers. If addicts can get an affordable prescription from doctors, they have no need to steal. More important, pushers no longer have an incentive to recruit new addicts because they can't profit from the misery they are sowing in the community by selling their outrageously priced illegal drugs to a captive market.

It is also time to recognize that federal mandatory minimum sentencing laws for drugs have become a wellspring of injustice that puts petty offenders away for draconian sentences while major drug dealers beat the rap by ratting out their underlings. It is time that such laws be changed to restore reasonable discretion to federal judges in meting out sentences in drug cases.

The first step toward a rational drug policy is, as Buckley eloquently argues, to legalize, regulate and heavily tax the sale of marijuana - with the taxes earmarked to fund treatment programs for victims of truly dangerous drugs. In Colorado, there's not much left to be done on that score. Possession of 1 ounce or less is already a petty offense subject to a fine of up to \$100. State voters also approved the growing and use of medical marijuana to victims of certain diseases, and that state law is being followed about as well as a surly federal government will permit.

Because of the federal government's pre-emptive authority, Colorado cannot take the final step of legalizing and regulating marijuana on its own. It is time for Congress and the president to call a cease-fire in what has become not a war on drugs but a war on people who use drugs. Buckley and the wide-ranging authors of "The New Prohibition" have performed a signal service by highlighting the

current drug war as a microcosm of the inevitable failures of a federal nanny-state mentality.

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