

prohibition and its discontents

by craig reinarman

Opiate addiction is on a rampage, from Oxycontin to heroin. Overdoses have quadrupled since 2000 and are now the leading cause of injury-related death. "Synthetic marijuana" is putting people in the hospital, while HIV/AIDS is spreading rapidly among injection drug users in Indiana. The most notorious drug kingpin has escaped from Mexico's most secure prison. If asked to design headlines to fuel the War on Drugs, one could hardly do better.

So, why is public support for the Drug War at its lowest in decades? Punitive prohibition has come under increasing criticism as costly, inhumane, and ineffective. In July 2015, President Obama commuted the sentences of 46 non-violent drug offenders and proclaimed to the NAACP that harsh drug laws and the imprisonment they spawned were bad policy: "Mass incarceration makes our entire country worse off, and we need to do something about it.... For non-violent drug crimes, we need to lower long mandatory minimum sentences—or get rid of them entirely." The next day, former President Clinton criticized a Draconian drug law he once boasted about: "I signed a bill that made the problem worse, and I want to admit it." Only recently, these sentiments would be blasphemous; now they only echo shifts in public sentiment bubbling up from below.

In the Reagan years, hysteria about crack cocaine intensified the Drug War, including the 1986 Anti-Drug Abuse Act, which helped lay the foundation for mass incarceration with mandatory minimum sentences of 5 years for possession of 5 grams of crack, often sold on inner-city street-corners. (It took 100 times that amount of cocaine powder, used mostly by more affluent Whites, to trigger the same sentence.) The new law eliminated parole and got whole families evicted from public housing. In a frenzy of bipartisanship, the House passed it 392-16 and the Senate 97-2.

The first Bush administration ratcheted up the Drug War and the Clinton administration added more funding and police to it. Marijuana possession arrests nearly doubled to over 700,000 a year between 1992 and 2000. The Drug Czar's budget increased ten-fold between 1980 and 2008—as did the number of drug offenders in prison, rising from roughly 50,000 to 500,000 over the same years. An Urban Institute study found that harsh drug laws led to less probation, more prison, and longer sentences, resulting in the most massive wave of imprisonment in U.S. history. The prison population quadrupled, giving the U.S. the world's highest incarceration rate.

According to FBI and Bureau of Prisons reports, all this hit people of color hardest—far out of proportion to their drug use, which is slightly lower than that of Whites. Discriminatory arrest patterns and the crippling holes left in families and communities by mass incarceration made drug laws the most potent form of racial oppression in America. Drug policy was transformed into

a major civil rights issue. Today there is fierce new energy around drug policy reform.

Over the last two decades a cornucopia of such reform efforts have solidified into a global social movement. Since 1996, 23 states and the District of Columbia have passed laws allowing marijuana for medical purposes. In 2012, movement activists waged successful campaigns in Colorado and Washington to legalize *all* marijuana use. In 2014, voters in Oregon and Alaska passed similar "tax and regulate" marijuana legalization measures. California reformers will put marijuana legalization on their state's November 2016 ballot.

In 2009, a coalition of activists pressured New York legislators to undo the harshest features of Rockefeller-era drug laws. Then Congress passed the Fair Sentencing Act of 2010, reducing the racialized 100-to-1 sentencing disparity between crack and powder cocaine offenses. In 2014, Senator Richard Durbin (D-IL) introduced the Smart Sentencing Act (still under debate, but co-sponsored by members of both major parties), which would cut mandatory minimums for federal drug offenses in half.

The movement has also worked to keep drug offenders out of prison and to get them the help they need. Reformers



Georgia Army National Guard/Maj. Will Cox

The Georgia National Guard searches for illegal marijuana cultivation as part of the Governor's Task Force/Drug Suppression.

in Seattle built an alliance of police, prosecutors, and politicians to pioneer the Law Enforcement Assisted Diversion Program (LEAD), explored in the Summer 2015 issue of *Contexts*, which allows police to redirect low-level drug offenders to community services before arrest. An independent evaluation by University of Washington scientists found a 58% reduction in recidivism among LEAD participants compared to a control group. Drug policy reform can improve public safety. The LEAD model has been adopted by Gloucester, MA, a small fishing port. In an open letter, Gloucester's Police Chief Leonard Campanello wrote, "Any addict who asks for help will NOT be charged."

The drug policy reform movement now has more organiza-

didn't like. Now, conservatives worried about the size and cost of the state have joined liberals focused on social justice in pushing drug law reform. Who knew the Koch Brothers could find common ground with the Center for American Progress, or Newt Gingrich with Van Jones?

Globally, a growing number of nations have made partial defections from U.N. drug control treaties, fracturing the 50-year old consensus around criminalization. Portugal decriminalized all drug use in 2001. Uruguay legalized the production of cannabis in 2014. Even traditional Drug War allies in Latin America are now in what journalist Alma Guillermopreito calls "open rebellion" against U.S.-style prohibition.

Underlying all this is the cultural force

of a broad political constituency that sees drugs as technologies of the modern self. Illicit drug use is no longer the province of the marginal and deviant. Educated,

employed, engaged citizens around the developed world see drug use as rather normal. They are harder to stigmatize and silence, and they are showing up in voting booths.

By exposing the full costs and consequences of punitive prohibition, the drug policy reform movement has pushed drug policy to an historic inflection point. The Drug War consensus has collapsed. What is emerging to take its place are more harm-reduction programs like syringe exchange, treatment in lieu of prison, and further legalization. All legalization initiatives thus far, however, have been at the state level; marijuana possession remains a federal crime. The Obama administration has allowed these laws to stand. But if the next president is less sympathetic, we may be in for a constitutional confrontation.

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tions, members, and money than ever before, led by the Drug Policy Alliance in coalition with other non-profits. The National Organization for the Reform of Marijuana Laws has 165 chapters in 46 states, 13,000 paid members, and a social media footprint of 1.2 million subscribers. Families Against Mandatory Minimums has been especially influential regarding the human costs of incarceration. Students for Sensible Drug Policy has grown to 100 chapters in 41 states. Americans for Safe Access, founded by medical marijuana patients in 2002, now has 30,000 members in 40 states. And Law Enforcement Against Prohibition (LEAP) was started by former narcotics officers whose front-line experience persuaded them that legalization was the only solution. Approximately 10,000 former police have joined LEAP across the U.S. and 90 other countries.

The movement has also attracted some unusual political bedfellows. The financial crisis of 2008 drew in some on the Right who, until recently, had never met a tough drug law they



terms of surrender

by wendy chapkis

Marijuana prohibition can seem like a joke, especially to people like me—White, middle-class Americans living in politically progressive (and often cannabis infused) communities such as coastal California, where I grew up, or Southern Maine, where I now live. For many like us, "Reefer Madness" seems a ridiculous relic of a much less enlightened age. Stoners and dealers—from Cheech and Chong to Harold and Kumar and on to the Pineapple Express—are funny, not dangerous felons.

And then maybe someone we know gets arrested. For me, it was my friend Valerie, a member of that least-likely-to-be-arrested

demographic: an economically secure White woman living in that most liberal of enclaves: Santa Cruz, California. Because she was growing five marijuana plants in her home garden, she was charged with felony cultivation. As I quickly learned, far from being a joke, marijuana prohibition is an ongoing horror show. It involves almost 700,000 arrests each year, 88% of them for possession. Huge numbers of Americans are being imprisoned, sometimes for decades, for marijuana offenses. In fact, according to the American Civil Liberties Union, at least 69 people are serving life sentences for non-violent pot crimes.