

NOTE: The original 1,000+ page manuscript for *Slaying the Dragon: The History of Addiction Treatment and Recovery in America* had to be cut by more than half before its first publication in 1998. This is an edited excerpt that was deleted from the original manuscript.

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Addiction Criminalization in the 1950s

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In the early 1950s, public alarm over reports of increased drug addiction among youth set the stage for a political drive toward intensified penalties for drug use and drug trafficking. Three images fueled this drive. The first was the portrayal in the daily newspapers that characterized heroin users as inner-city Blacks and Puerto Ricans who were young and poor, and who committed crimes to support their habits. The second image was that of "the pusher"--a predator without conscience, lurking outside school grounds and preying on children with free samples of his narcotic poison. The third image was that of a Chinese communist criminal syndicate (operating through Cuba) that sought to undermine America by smuggling narcotics into her key cities and feeding these drugs to American soldiers in Korea (Kinder, 1981). This last image periodically shifted to that of a profiteering Italian-American Mafioso.

Theses image permeated the Congressional hearings of the Kefauver Committee, which was investigating the role of organized crime in interstate commerce. In 1951, Congress passed the Boggs Act (named after Representative Hale Boggs of Louisiana). This law amended the Harrison Narcotic Tax Act of 1914 and the Marijuana Tax Act of 1937 to establish increased drug penalties, including mandatory minimum sentences on all narcotic offenses. Sentences for drug violations shifted from prior maximums of two years in prison to mandatory minimums of two, five and ten years for the first, second and third convictions on the same offense. Maximum sentences were extended to five, ten and twenty years for first, second and third offenses. The Boggs Act also eliminated the options of suspended sentences, probation, or parole for repeat offenders.

The Boggs Act had a number of significant effects on the criminal justice system. By denying judicial discretion in sentencing, the Boggs Act transferred the determination of punishment from the judge to the law enforcement officer, who could set the length of sentence by manipulating the charges brought against the accused. The flexibility of the arresting officer in setting charges--and the threat of severe, fixed sentences--gave these officers considerable power to persuade those arrested to cooperate in ongoing narcotics investigations. An unintended effect of the law was an increased judicial caseload, which was produced by a decrease in the number of drug offenders pleading guilty to narcotics offenses (Platt, 1986).

A year after the Boggs Act was passed, the New York Academy of Medicine hosted a conference on addiction that called for an approach to drug addiction that emphasized medical treatment. It would be many years, however, before such isolated voices merged into a national consensus. The decade of the 1950s was one of increased criminalization, rather than treatment.

In November, 1954, President Dwight D. Eisenhower declared a “new war on narcotics addiction” and appointed a five-member Cabinet Committee to coordinate the new campaign. In response, Senator Price Daniels of Texas pushed through a resolution in early 1955, empowering a special Committee on Narcotics to study the narcotics problem in the U.S. Several themes emerged from the televised testimony presented before this Committee.

- 1) Efforts of the Bureau of Narcotics under the leadership of Harry Anslinger had dramatically reduced the narcotics problem in the U.S.
- 2) The only threat on the horizon was that of Red China, manufacturing and distributing heroin to free countries.

- 3) Treatment had not been effective in eliminating the drug problem.
- 4) The narcotic problem in the U.S. could be eliminated with an intensified enforcement effort.

The Daniels Committee report set the stage for even higher penalties for possession and sale of narcotics. One of the more severe proposals that came out of the Committee was the recommendation that all addicts who could not be cured be incarcerated for life. This proposal reflected the view that addiction was contagious and that addicts should be quarantined to prevent them from further infecting their neighborhoods and communities.

The Daniels Committee report set the stage for the Narcotic Control Act of 1956. This Act:

- increased minimum and maximum sentences on all drug offenses (the penalty for first-offense possession was 2-10 years)
- increased fines for all drug offenses to \$20,000
- introduced the possibility of life sentences and death sentences (if recommended by a jury) for the sale of drugs to a person under 18 years of age by a person over 18 years of age
- required that any user, addict, or drug offender declare this status before leaving or entering the country, under threat of a penalty of 1-3 years imprisonment and a \$1,000 fine, and
- made conviction of a drug offense grounds for exclusion or deportation of aliens.

Both the 1951 and 1956 Acts also applied to marijuana the increased penalty structures for illegal possession and sale of opiates. These penalty structures awaited the new marijuana users who would surface in the 1960s. For the first time, the 1956 Act also allowed narcotic agents to carry guns. There was probably some justification for this, given that a person addicted to drugs could receive a shorter sentence for a murder conviction than for a drug conviction.

It is appropriate to stop our story for a second, to reflect on what had unfolded in less than 50 years. When the Harrison Tax Act was passed, the maximum possible penalty for violation of the Act was five years in prison. In less than fifty years, penalties had risen to include the option of life imprisonment and the death penalty.

States and local municipalities followed the federal lead in increasing penalties under their existing drug statutes. Various state anti-drug laws in the 1950s:

- made the status of drug addiction a crime (these were later declared unconstitutional)
- provided punishment for possession of paraphernalia used to inject drugs
- made it illegal for known addicts to associate with one another (in places like Washington D.C. and Chicago, these were known as "loitering addict" statutes)
- required addicts to be formally "registered" and, in states like New Jersey, to register with the police in any place they remained more than twenty-four hours
- required physicians to report all people they knew to be addicts; and
- prohibited the sale of a substance believed to be a narcotic, even if that substance turned out neither to be a narcotic nor to produce a narcotic-like effect.

The process used to generate these kinds of laws almost always contained the same elements: political posturing, public hearings, newspaper headlines, law enforcement and addiction experts providing warnings of a new drug threat, and citizen volunteers coming forward to launch a campaign to save the community--all speaking in the metaphors of war. And all of the participants except those addicted benefitted substantially from these campaigns. Politicians were elected. Newspaper publishers made profits. The law enforcement and fledgling treatment programs increased the size of their budgets and the scope of their influence. Citizen volunteers achieved public visibility and acknowledgment. As for the addicts, each campaign against addiction drove them deeper into what by the 1950s was a highly deviant subculture.

While there were critics of America's increasing criminalization of addiction, they often paid a high price for voicing their criticism. When doctors chose to continue to treat addicts after local morphine maintenance clinics had been closed, they found themselves the objects of threats and criminal indictments. When Alfred Lindesmith continued his highly vocal attacks on criminalization policies through well-reasoned articles and books, both he and his publisher (Indiana University Press) were verbally attacked (charged with being part of a criminal organization) and investigated (Kinder, 1981).

References

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