

PHOTOCOPY
PRESERVATION

DRUGS -
© 608
Reynolds

John R. Dunne

Paying For Failed Drug Laws

Last month the nation's drug policy director, retired Gen. Barry McCaffrey, criticized New York State's harsh and inflexible drug laws, asserting that building more prisons will not solve the problem of drug-driven crime and that New York needs more drug treatment programs rather than more prison beds. He's right.

In 1973, as a member of the New York State Senate, I supported enactment of the Rockefeller Drug Laws, intended to reduce illegal drug use and force dealers off the street. The hard experience of the last quarter-century shows that those measures have failed to achieve their goals. Instead, these and similar laws across the nation have handcuffed our judges, filled our prisons to dangerously crowded conditions and denied sufficient drug treatment alternatives to nonviolent addicted offenders who need help and who pose no danger to public safety. Government leaders must agree now to meaningful reforms.

Largely fueled by the Rockefeller Drug Laws, which require substantial prison sentences for many offenders who are not dangerous to public safety, New York's prison population has exploded from 12,500 in 1973 to more than 70,000 today. Prisons across the nation are bulging with more than 13 million inmates—and the biggest contributor to the rise in prison populations is nonviolent drug offenders. Almost one-quarter of all state prisoners are locked up for nonviolent drug offenses, an increase of nearly 400 percent in just two decades, despite the fact that drug trafficking and usage have remained relatively constant.

New York has a higher percentage of drug offenders doing time than the national average because the Rockefeller Drug Laws require some of the nation's longest prison sentences. For example, a judge must impose a prison term of no fewer than 15 years to life for anyone convicted of selling two ounces or possessing four ounces of a narcotic substance. These Draconian penalties apply without regard to the circumstances of the offense or the individual's character or background. Whether the person is a first-time or repeat offender is irrelevant. Yet these offenders face the same penalties as murderers, arsonists and kidnappers, while rape, sexual child abuse and armed robbery carry lesser sanctions.

Too often, our drug laws result in the long-term imprisonment of minor dealers or persons only marginally involved in the drug trade. They do not generally deter drug addicts; to them, the threat of imprisonment is irrelevant, as drugs are an integral part of their lives. Many are sick and need help and would welcome the opportunity to participate in a drug treatment program. Similarly, the laws have little deterrent effect on drug kingpins, because the profits are great and the risk of apprehension slight.

Compounding the failure of the drug laws is their uneven enforcement, which has been disproportionately harsh on communities of color. In New York 94 percent of those in prison for drug offenses are African American or Latino. This despite studies that show that whites make up the majority of those who consume drugs. Further, while about 70 percent of the women now being sent to prison are committed for drug crimes, a large percentage, including some 95 percent of those charged as drug couriers, have no previous history of criminal involvement.

Despite the failure of our drug laws, the prison building and operating costs required by them have been staggering: about \$2 billion for construction and more than \$700 million annually for confinement. New York's prison budget alone, not including police, prosecution, defense and court costs, has grown to close to \$2 billion a year.

Flexibility and sentencing discretion must be restored to judges to enable them to tailor appropriate prison or alternative sentences based on the nature and circumstances of the offense and the history and character of the offender. The most suitable sanction for most nonviolent drug offenders—and one that is less costly and generally more effective than imprisonment—is mandatory drug treatment, residential or outpatient. More treatment and graduated penalties should follow when relapses occur. Intensively supervised probation that includes such features as day reporting, community service and job training is appropriate for addicts as well as low-level sellers.

Numerous studies, including those sponsored by the National Institute on Drug Abuse, have shown that drug treatment programs are successful in reducing drug abuse and crime. A recent study by the Rand Corp. found that drug treatment reduces violent crime far more than does imprisonment.

As Barry McCaffrey has repeatedly counseled, our nation can no longer afford to build prisons for thousands of people for whom imprisonment is unnecessary. And justice demands sentencing laws that are fair to drug offenders and that will, at the same time, improve public safety.

The writer, a former assistant attorney general for civil rights under President Bush, was the chair of the New York State Senate Prison Committee when the Rockefeller Drug Laws were enacted.

The Washington Post

THURSDAY, AUGUST 12, 1999

Christopher T. Cross

A Tax Cut That Keeps on Giving

The news out of Capitol Hill has been dominated by stories about tax cuts, the budget surplus and how to use the latter to pay for the former. Both parties, indeed, different factions of both parties in the House and the Senate, have wildly different views. In an attempt to find something that everyone can agree on, here is a modest proposal.

For 30 years the federal government has imposed an excise tax on foundations, somehow figuring that private philanthropy should be taxed for the privilege of assisting the government in meeting society's needs.

Back in 1969, when the tax became law, it was to have been used to pay for oversight and enforcement activities. In fact, that has never been the case; the money generated simply becomes a general revenue stream for the Treasury. In fact, in 1997 that tax raised almost \$500 million, all of which now might be counted as part of the budget surplus.

This excise tax amounts to one percent of investment income for foundations that distribute an amount equal to at least 5 percent of their net assets each year. For foundations that distribute less, the tax is 2 percent.

In order to make this a win-win situation for everyone, under my proposal, foundations would have to add to their giving an amount equal to the taxes they would have paid under current law. If they fail that test, they would be subject to the 2 percent federal tax. It is hard to imagine any foundation that would not jump at this opportunity.

The result? A net increase in charitable giving of a half-billion dollars; a slight decrease in the budget surplus and a positive incentive for the private sector. All of this could come at the time that budget caps on domestic spending are actually threatening federal spending on the very programs that are most likely to benefit from an increase in foundation spending.

When the law was enacted in 1969, the nation was in the throes of social unrest and a deficit created by the Vietnam War. The tax was in some ways punitive, reflecting Congress's unhappiness over the funding of some programs and the appearance of some alleged golden-parachute arrangements with former officers. In comparison with public and private-sector personnel actions in the late 1990s, these arrangements look tame.

In the intervening years, regulation of all nonprofits has been tightened, public disclosure of all types has been improved by electronic means, and as a nation we have put the scars of the '60s and '70s behind us. Terminating this unwarranted tax, freeing resources and continuing to build our social safety net, would seem more important today than simply adding to the federal surplus.

The writer is president of the nonprofit Council for Basic Education.

The Washington Post

THURSDAY, AUGUST 12, 1999