

20th Century

Alcohol and Drug Legislation

and its Affects

1890 – 1920: nadir of race relations

- Blacks moved north after the civil war;
 - Chinese immigrants came to work on railroads and in mines;
 - Mexican laborers came to the south and southwest to work in fields;
 - and Italians, Irish and other Europeans immigrated.
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- Jim Crow laws were state and local laws enacted primarily but not exclusively in the Southern and border states of the United States, between 1876 and 1965. They mandated de jure segregation in all public facilities

Upper class WASP versus ethnic groups of other religions and lower standard of living.

Drunkenness, drug abuse and crime became associated with minorities

“The legacy of those beliefs and those laws remain with us today”.

SF Ordinance of 1875 outlawed opium dens in city limits: “... many women and young girls, as also young men of respectable family, were being induced to visit the dens, where they were ruined morally and otherwise...”

Federal 1890 law permitting only American citizens to import opium and manufacture smoking opium.

- As opium dens became closed and opium less available and more costly, lower classes took up morphine and heroin
- Law of “unintended consequences”

THE QUEEN OF CHINATOWN

BY JOSEPH JARROW



HURLED BY HIGHBINDERS THROUGH THE RAT PIT'S DOUBLE TRAP.

Early 1900's: alleged cocaine "snuffing" related to southern blacks and a subsequent rise in crime. Even though southern states opposed increased federal interventions, they supported federal drug control laws

Many police forces changed from a .32 caliber to a .38 caliber pistol because the smaller gun was supposedly unable to kill black men when they were high on cocaine

Medically supplied morphine was creating many addicts

- **Was this a medical or moral problem?**
- **Reformism focused on morality**

Patent medicines were readily available (from \$3.5m to \$74m from 1859 to 1904).

Issue of false claims

1905 Collier's magazine

As a result of Peter Collier's pioneering investigative journalism, *Collier's Weekly* established a reputation as a proponent of social reform. When attempts by various companies to sue Collier ended in failure, other magazines became involved in what Theodore Roosevelt described unflatteringly as muckraking journalism.“

The investigative journalism (“muckraking”) approach had great impact, resulting in such changes as the reform of the child labor laws, slum clearance and women's suffrage.

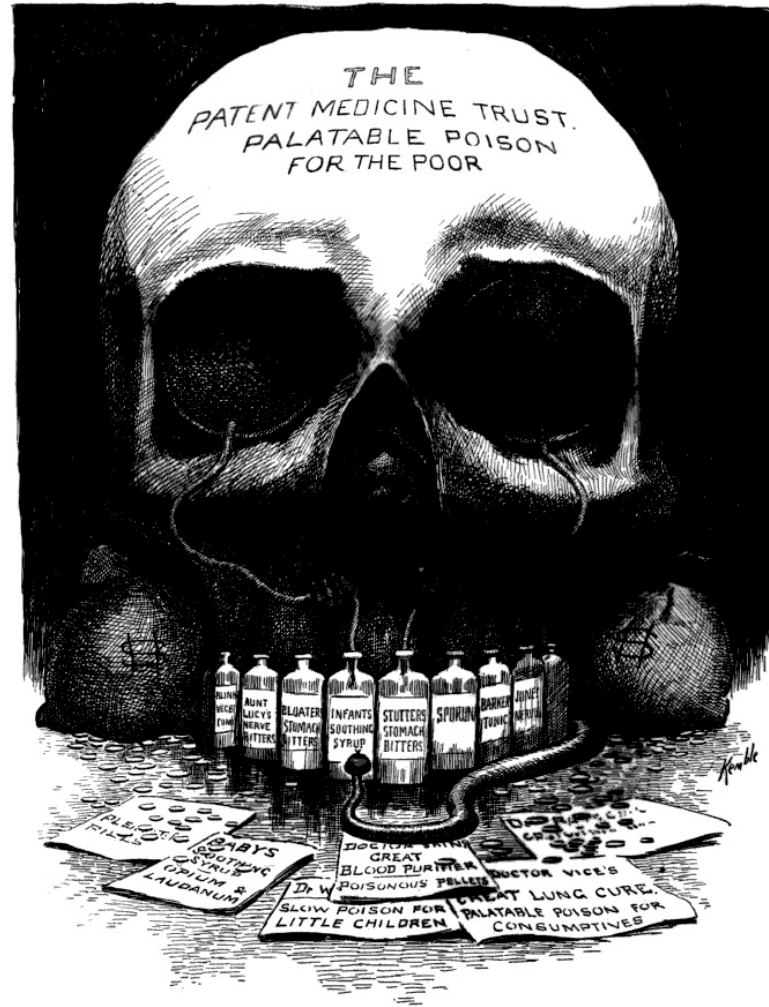
In April, 1905, an article by Upton Sinclair, "Is Chicago Meat Clean?", persuaded the Senate to pass the 1906 Meat Inspection Act.

Starting October 7, 1905, Adams startled readers with "The Great American Fraud," an 11-part *Collier's* series.

Analyzing the contents of popular patent medicines, Adams pointed out that the companies producing these medicines were making false claims about their products and some were health hazards.

Collier's

THE NATIONAL WEEKLY



DEATH'S LABORATORY

Patent medicines are poisoning people throughout America to-day. Babies who cry are fed laudanum under the name of syrup. Women are led to injure themselves for life by reading in the papers about the meaning of backache. Young men and boys are robbed and contaminated by vicious criminals who lure them to their dens through seductive advertisements

Collier's launched the series with the following editorial:

In the present number we print the first article in "The Great American Fraud" series, which is to describe thoroughly the ways and methods, as well as the evils and dangers, of the patent medicine business. This article is but the opening gun of the campaign, and is largely introductory in character, but it will give the reader a good idea of what is to come when Mr. Adams gets down to peculiarities. The next article, to appear two weeks hence, will treat of "Peruna and the 'Bracers'," that is, of those concoctions which are advertised and sold as medicines, but which in reality are practically cocktails.

Since these articles on patent medicine frauds were announced in *Collier's* some time ago, most of the makers of alcoholic and opiated medicines have been running to cover, and even the Government has been awakened to a sense of responsibility. A few weeks ago the Commissioner of Internal Revenue issued an order to his Collectors, ordering them to exact a special tax from the manufacturer of every compound composed of distilled spirits, "even though drugs have been added thereto." The list of "tonics," "blood purifiers" and "cures" that will come under this head has not yet been published by the Treasury Department, but it is bound to include a good many of the beverages which, up to the present time, have been soothing the consciences while stimulating the palates of the temperance folk. The next official move will doubtless be against the opium-sellers; but these have likewise taken fright, and several of the most notorious "consumption cures" no longer include opium or hasheesh in their concoction.

"The Great American Fraud" had a powerful impact and led to the first Pure Food and Drug Act (1906).

The entire series was reprinted by the American Medical Association in a book, *The Great American Fraud*, which sold 500,000 copies at 50 cents each.

Rise of the AMA

founded in 1847 and incorporated 1897

For most of the twentieth century, the AMA opposed publicly-funded health care because of concerns physicians would make less money, and the worries that the government would inappropriately interfere with the doctor-patient relationship.

Critics of the American Medical Association, including economist Milton Friedman, have asserted that the organization acts as a government-sanctioned guild and has attempted to increase physicians' wages and fees limit by influencing limitations on the supply of physicians and non-physician competition.

Friedman said, "The AMA has engaged in extensive litigation charging chiropractors and osteopaths with the unlicensed practice of medicine, in an attempt to restrict them to as narrow an area as possible."¹Critics who call the AMA a guild assert that these supply limiting actions not only have inflated the cost of healthcare in the United States but also have caused a decline in the quality of healthcare.¹

MedPage Today estimates that the AMA only represents 15 % of the United States "real, practicing physicians" as of 2005 .

Pure Food and Drugs Act (1906):

prohibited mislabeling of ingredients for “any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease.” Ingredients must be listed (alcohol, opiates, cocaine, marijuana).

- Administered by Dept. of Agriculture (primary concern was food)**
- Did not restrict the sales of drugs.**
- Did not address false claims/advertising.**

The 1912 Sherley Amendment to the PFDA outlawed “false and fraudulent” therapeutic claims on the labels. The government had to prove it was false and that the manufacturer knew it was false (fraud).

Between 1851 and 1896, 20 states enacted alcohol prohibition laws, and then 13 repealed them.

These laws were stimulated and supported by the reform movements, including the temperance and prohibition parties.

Between 1907 and 1919, 34 states enacted legislation enforcing state-wide prohibition.

By 1917 64% of the population lived in dry territories.

Between 1917 and 1919 the Volstead Act was written and ratified.

The law came into effect in 1920 as the 18th Amendment prohibiting the manufacture, sale or transportation of alcohol.

A large minority of the population continued to drink, increasing the strength and wealth of organized crime through the sale of illegal alcohol.

Initially, decreased alcoholism and deaths, but they gradually began to rise again, but never as high as before prohibition.

In order to gain favorable trade status with China US agreed to help China control opium trade.

Harrison Act was passed in 1914 to tax opiate and coca trade. (Laws against possession or use *were considered unconstitutional*).

The law passed in large part because of the emotional and racist lectures of Dr. Hamilton Wright that stirred fears against blacks (snuffing cocaine) and Chinese opium smoking.

Administered by the Treasury Dept. Allowed MDs to prescribe for “legitimate medical purposes”.

About 1 in 400 addicted to opiates – physicians and clinics provided opiates to addicts

Enforcement of the Harrison Act now responsibility of the Narcotics Division of the Prohibition Unit of the Treasury Dept. after 18th Amendment.

Dr. Webb convicted for prescribing over the phone.

From 1919-1929 25k physicians and druggists arrested. AMA supported view that addicts shouldn't be given narcotics. Created a black market with prices 50x greater – led to crime.

In 1925 Supreme Court decided it was ok to use narcotics as part of a curing program and validated the rights of physicians to practice their trade, but too many MDs were now gun-shy.

1922 Congress passed the Jones-Miller Act increasing the penalties for dealing in illegally imported drugs and made heroin illegal – attempting to eliminate heroin as if it were the problem.

By 1928 1/3 of federal prison population convicted of drug offenses. Because of the expense, Congress decided they should try to effect a cure, so opened 2 narcotic farms in 1935.

By 1932 a separate Narcotics Division was created in the Treasury Dept. Henry Anslinger was the first commissioner (first drug czar) and was intend on focusing on big dealers instead of users.

From 1932 to 1962 he was head of almost all federal drug education, prevention, treatment and enforcement. Anti-drug, opposed outpatient treatment.

Food Drug and Cosmetic Act (1938) created to address poisoning

- required testing (to avoid poisoning) before marketing.
- Creating labeling directions, and OTC vs. prescription drugs.

Kefauver-Harris Amendment (1962)

- required advertisements to contain adverse effects
- established rules for human testing.
- Required drugs prove effectiveness.

By 1970 6,133 drugs were removed from the market.

A group of the wealthiest citizens and heads of large corporations became concerned that the lack of taxes on alcohol put too great a burden on them via income tax, and they believed that with so many people disregarding prohibition that a general disregard for the law would lead to a revolt, especially since the country was in a depression which began in 1929. In 1933 the 21st amendment repealed prohibition.

Newspaper articles in New Orleans in 1926 associating marijuana with Mexicans and crime created public concern about the “alarming spread” of the drug.

By 1936 all 48 states had laws restricting marijuana. Anslinger states in 1937 that marijuana is cause for the “greatest national concern”. Scientific American in 1936 “makes the smoker vicious, with a desire to fight and kill”.

Continued association between marijuana use and violent and/or perverted crimes. Based on hearsay, a “pyramid of prejudice”.

The Literary Digest reported that the chief psychiatrist at Bellevue Hospital in NYC reviewed 2200 cases of convicted criminals and concluded no assault or rape had been committed under the influence of marijuana and that “it is quite probable that alcohol is more responsible as an agent for crime than is marihuana”.

Marijuana Tax Act (1937):

Required registration and taxation of anything involving marijuana.

Most states adopted a “uniform” law prepared by the Bureau of Narcotics making Cannabis Sativa illegal.

The MTA was ruled unconstitutional by the US Supreme Court in 1969.

After passage of the MTA reports of crimes dropped immediately. A year later the mayor of NYC, LaGuardia, recalled a 1930 study of soldiers in the Panama Canal Zone found use of marijuana innocuous and trouble was due to alcohol being used concurrently. In 1944 the NY Academy of Medicine completed a comprehensive study that concluded that marijuana was relatively harmless.

The AMA reacted with an intense rebuttal in 1945 saying “for years medical scientists have considered marijuana a dangerous drug...”; parents brought 16 yo son to a physician.

In 1951 the Boggs Amendment to the Harrison Act imposed mandatory minimum sentences on drug convictions
McCarthyism in the '50's; narcotics were a way for Communist China to conquer US.

McCarthy was an alcoholic and morphine addict – Anslinger arranged to supply him with morphine. In 1956 the Narcotic Drug Control Act made 2nd offenses punishable by prison without parole. Sale of heroin to anyone under 18 could result in the death penalty.

The 1965 Drug Abuse Control Amendment included barbiturates, amphetamines and hallucinogens.

In 1970 the Comprehensive Drug Abuse Prevention and Control Act (The Controlled Substances Act) – still in effect – supplanted all other laws.

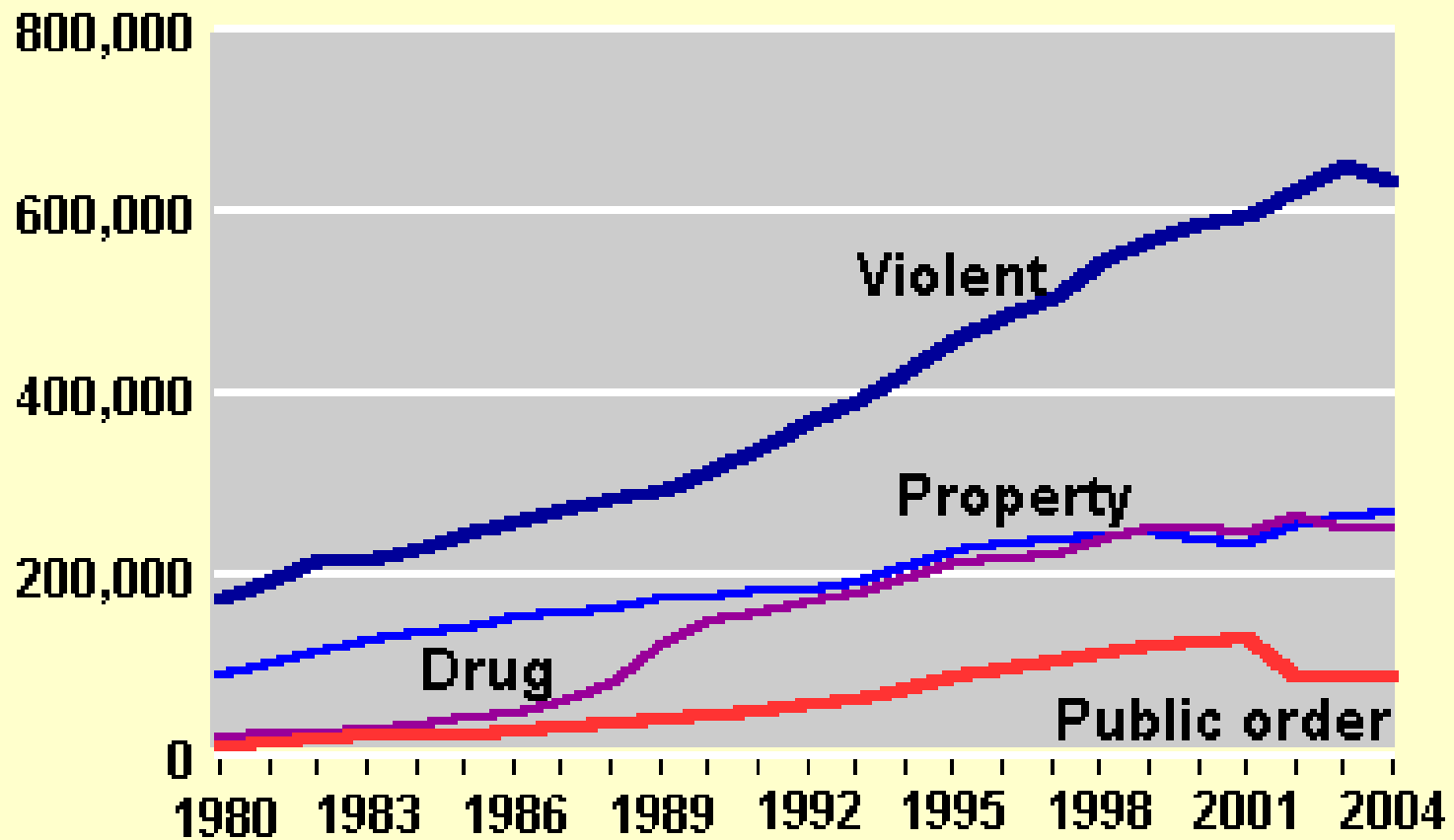
- **Claimed all controlled substances were under federal jurisdiction, whether involved in interstate commerce or not.**
- **No longer a tax act, but an attempt to directly control drugs.**
- **Enforcement ceded to a new Drug Enforcement Administration (DEA) in the DOJ instead of the Treasury.**
- **Created Schedules, and specifically excluded alcohol and tobacco.**
- **Penalties for possession lessened – created diversion programs.**
- **Developed the Uniform Controlled Substances Act – model for states.**
- **Established a budget for prevention education and treatment.**

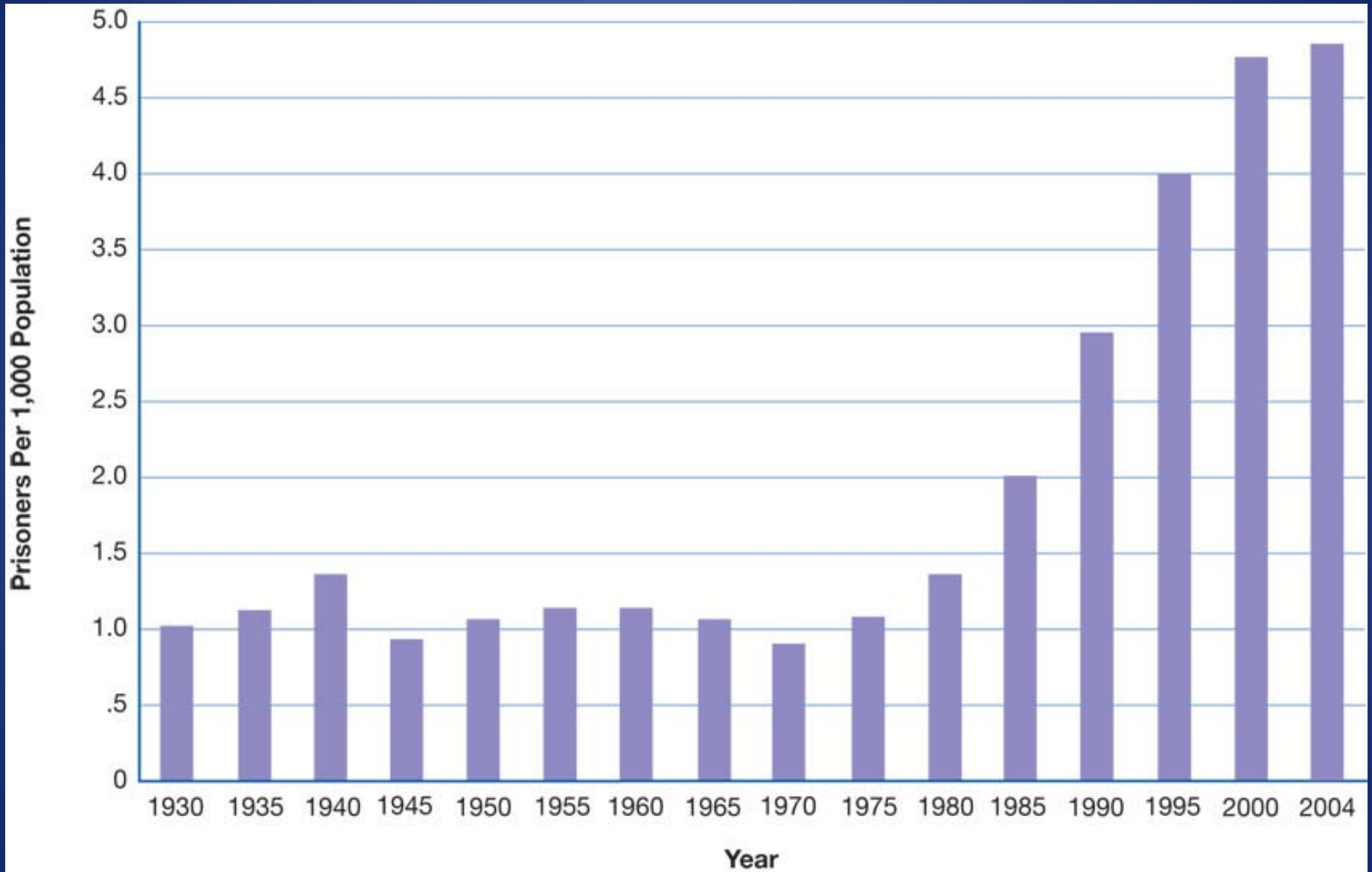
1986 amendment increased penalties and reintroduced mandatory minimum sentences.

Reaction to the presence of crack cocaine – smaller quantities of crack than of powdered cocaine resulted in heavier penalties.

Increased prison population.

State prison population by offense type, 1980-2004





Omnibus Drug Act of 1988

- required registration of chemical components used to make drugs.
- Added funding to treatment and prevention programs.
- Increased penalties for users.
- Asset forfeiture
- Removes from public housing the entire family of anyone convicted of a crime in or near public housing.
- Established the ONDCP; czar reports directly to the president and advises the National Security Council.

Federal Trafficking Penalties

Drug Schedule	Quantity	1st Offense	2nd Offense	Quantity	1st Offense	2nd Offense	
Methamphetamine Schedule II	5-49 gms pure or 50-499 gms mixture	Not less than 5 yrs and not more than 40 yrs. If death or serious injury, not less than 20 or more than life. Fine of not more than \$2 million if an individual, \$5 million if other than an individual.	Not less than 10 yrs and not more than life. If death or serious injury, not less than life or more than life. Fine of not more than \$4 million if an individual, \$10 million if other than an individual.	50 gms or more pure or 500 gms or more mixture	Not less than 10 yrs and not more than life. If death or serious injury, not less than 20 or more than life. Fine of not more than \$4 million if an individual, \$10 million if other than an individual.	Not less than 20 yrs and not more than life. If death or serious injury, not less than life. Fine of not more than \$8 million if an individual, \$20 million if other than an individual.	
Heroin Schedule I	100-999 gms mixture			1 kg or more mixture			
Cocaine Schedule II	500-4,999 gms mixture			5 kgs or more mixture			
Cocaine Base Schedule II	5-49 gms mixture			50 gms or more mixture			
PCP Schedule II	10-99 gms pure or 100-999 gms mixture			100 gms or more pure or 1 kg or more mixture			
LSD Schedule I	1-9 gms mixture			10 gms or more mixture			3rd Offense or More
Fentanyl Schedule II	40-399 gms mixture			400 gms or more mixture			
Fentanyl Analogue Schedule I	10-99 gms mixture	100 gms or more mixture					
Others Schedules I & II <i>(Includes 1 gm or more flunitrazepam and gamma hydroxybutyric acid)</i>	Any	Not more than 20 yrs. If death or serious injury, not less than 20 yrs, not more than life. Fine of \$1 million if an individual, \$5 million if other than an individual.	Not more than 30 yrs. If death or serious injury, life. Fine of \$2 million if an individual, \$10 million if other than an individual.				
		1st Offense		2nd Offense			
Others Schedules III <i>(Includes 30 mgs - 999 mgs flunitrazepam)</i>	Any	Not more than 5 yrs. Fine not more than \$250,000 if an individual, \$1 million if other than an individual.		Not more than 10 yrs. Fine not more than \$500,000 if an individual, \$2 million if other than an individual.			
Others* Schedules IV <i>(Includes less than 30 mgs flunitrazepam)</i>	Any	Not more than 3 yrs. Fine not more than \$250,000 if an individual, \$1 million if other than an individual.		Not more than 6 yrs. Fine not more than \$500,000 if an individual, \$2 million if other than an individual.			
All Schedules V	Any	Not more than 1 yr. Fine not more than \$100,000 if an individual, \$250,000 if other than an individual.		Not more than 2 yrs. Fine not more than \$200,000 if an individual, \$500,000 if other than an individual.			

*Although flunitrazepam is a Schedule IV controlled substance, quantities of 30 or more milligrams of flunitrazepam are subject to greater statutory maximum penalties than the above-referenced penalties for Schedule IV controlled substances. See 21 U.S.C. §841(b)(1)(C) and (D).

The United States has the highest documented incarceration rate, and total documented prison population in the world.

The United States has less than 5 percent of the world's population, but it has almost a quarter of the world's prisoners.

As of year-end 2006, a record 7.2 million people were behind bars, on probation or on parole.

Of the total, 2.3 million – more than 1 in 100 American adults – were incarcerated at the start of 2008– an all-time high.

The People's Republic of China ranks second in total population incarcerated with 1.5 million, despite having over four times the population of the US.

The only other major industrialized nation that even comes close to per capita incarceration rates is Russia, with 627 prisoners for every 100,000 people.

Other countries have much lower rates. England's rate is 151; Germany's is 88; and Japan's is 63.

At midyear 2007 there were 4,618 black male sentenced prisoners per 100,000 black males in the United States, compared to 1,747 Hispanic male sentenced prisoners per 100,000 Hispanic males and 773 white male sentenced prisoners per 100,000 white males.

A majority of state inmates (53 percent) and almost half of federal inmates (45 percent) were abusing or were dependent on drugs in the year before their admission to prison.

Nearly half of violent offenders in state prison (47 percent) met the criteria for recent drug dependence or abuse

More than a quarter (28 percent) committed their current offense while under the influence of drugs;

10 percent said that the need to get money for drugs was a motive in their crimes.

Marijuana remained the most commonly used drug, with 40 percent reporting use in the month before the offense, followed by:

- cocaine or crack (21 percent),**
- stimulants (12 percent), and**
- heroin and other opiates (8 percent).**

State prisoner reports of overall drug use in 2004 were almost unchanged since 1997.

There are more than 230,000 drug law violators in state prisons and 60,000 in federal prison

A 2005 study of California's system found that more than two-thirds of parolees were being returned to prison within three years of release, 40 percent for technical infractions.

The corrections system is costing state governments nearly \$50 billion a year and the federal government \$5 billion more.

Cost of enforcing drug laws went from 1 billion in 1980 to 12.7 billion in 2007.

After 75 years of effort to combat them, 85-90% of illegal drugs are never confiscated.