

Executive Summary

DOES THE PUNISHMENT FIT THE CRIME? DRUG USERS AND DRUNK DRIVERS, QUESTIONS OF RACE AND CLASS

Americans have become increasingly concerned about substance abuse, with much of that concern being reflected in the criminal justice system. Two of the most significant areas of attention have been drunk driving and drug abuse. Drunk driving, with 1.8 million arrests annually, is the most frequent category of arrests. Drug offenses, with 1.1 million arrests annually, is the third most common.

Harm Caused by Substance Abuse

Both alcohol and illegal drugs cause a great deal of harm. Drunk drivers are responsible for an estimated 22,000 deaths annually, while overall alcohol-related deaths total 94,000. Drug-related deaths, through overdose, disease, or the violence associated with the drug trade, are estimated at 21,000 annually.

The Criminal Justice Response to Substance Abuse

During the 1980s, most states passed stiffer laws to punish drunk driving. Many states now have some form of mandatory sentencing although this typically involves two days for a first offense and 2-10 days for a second offense. Often, a convicted drunk driver is permitted to perform community service rather than serve a jail term.

The “war on drugs” of the 1980s has resulted in a dramatically increased number of drug arrests and harsher sentencing provisions in most states. Drug possession arrests increased 88 percent in the period 1980-90. Typical state penalties for drug possession (excluding marijuana) are up to 5 years for a first offense and 1-10 years for a second offense.

One in four inmates nationally – an estimated 304,304 persons – is either serving time or awaiting trial for a drug offense. This has increased from an estimated one in eleven inmates – 57,975 – in 1983. The estimated cost of incarceration for drug offenders is now \$6.1 billion annually.

Race, Class, and the Criminal Justice System

While the reasons for the vastly different treatment accorded to persons convicted of drunk driving and drug possession are complex, the situation raises disturbing questions of race and class:

- Drunk drivers are predominantly white males: they are generally charged as misdemeanants and typically receive sentences involving fines, license suspension and community service.
- Persons convicted of drug possession are disproportionately low-income, and African-American or Hispanic. They are generally charged with felonies, and frequently sentenced to incarceration.

- The “war on drugs” has resulted in increasing numbers of African-Americans and Hispanics being arrested, convicted, and incarcerated:
- The black proportion of all drug possession arrests nationally increased from 24 percent in 1981 to 37 percent in 1990.
- Blacks and Hispanics totalled 91 percent of all drug possession offenders sentenced to prison in New York and 71 percent in California.
- While African-Americans constituted 24 percent of monthly cocaine users in 1990, they represented 48 percent of cocaine possession arrests.
- In New York, African-Americans and Hispanics convicted of drug possession are three times as likely to be sentenced to prison as whites. In California, they are twice as likely to go to prison.

Does the Punishment Fit the Crime?

The societal response to drunk drivers – predominantly white males – has generally emphasized keeping the person functional and in society, while attempting to stop the dangerous behavior. While mandatory sentences have been passed in many states, they are frequently circumvented due to their potential impact on jail overcrowding.

For drug possession offenders – disproportionately black and Hispanic inner-city males – the societal response has been through greater use of law enforcement and incarceration. While drug treatment remains popular and available for middle class drug users, it is in short supply for low-income persons.

Policy Recommendations; Developing a Rational Approach to Substance Abuse

Current social policy toward substance abuse is not necessarily based on the relative harm caused to the community, and has disturbing overtones of racial bias. Policymakers should consider adopting the following changes:

- Address drug abuse as a social and economic problem, as well as a public health issue.
- Provide more balanced funding for the “war on drugs.”
- Repeal mandatory sentencing and reduce sentence lengths for drug offenders.
- Provide more treatment options for drug users.
- Analyze racial disparity in arrest, prosecution, and sentencing.
- Expand prevention efforts for drunk drivers.
- Reassess law enforcement priorities in substance abuse.
- Divert more drug defendants from the criminal justice system to treatment.
- Expand the use of “drug courts” that increase the use of treatment.

The full report, “Does the Punishment Fit the Crime? Drug Users and Drunk Drivers, Questions of Race and Class” is available from The Sentencing Project.

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