

# F.A.S. PUBLIC INTEREST REPORT

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DRUGS

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## FAS PLANNING A DRUG PROJECT

In December, at its 46th Annual Meeting, the FAS Council agreed that the issue on which the Federation had been founded, the threat of nuclear war and world peace, would remain its core issue forever.

At the same time, the Council—acting in concert with explicit approval by all former Council Chairmen since 1970—instructed the President to organize a project concerned with the dangers, costs and occasional benefits of addictive drugs. The goal is to apply reason, common sense, political judgment and the scientific method to reducing the overall costs of both the addictive drugs themselves and of the societal prohibitions against them.

This project is to address not only the so-called illicit drugs, but also those that are legal, yet addictive (or selectively addictive), such as tobacco and alcohol. The latter are involved, in one way or another, with an

incredible 30 percent of all deaths in America each and every year! Imagine the avoidable costs.

In a few decades, with growing numbers of smokers, there will be, world wide, 7,000,000 deaths a year from tobacco alone—the death toll that might result from a one-percent chance, each year, of a nuclear war costing 700,000,000 lives. Thus, the Council has recognized that public health issues rank, in costs, with the dangers of war.

But such illicit drugs as cocaine and heroin have still other dimensions of cost: individual crime associated with supporting expensive drug habits and organized crime associated with black market operations and competition; political instability induced in drug supplying countries and foreign policy costs we incur in pressuring them not to supply drugs; economic costs of building

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## WHO IS SAYING WHAT ON DRUGS

No newsletter, indeed no book, can do full justice to the drug abuse controversy. As a result, we have contented ourselves here with providing reviews of some books and positions to help orient FAS readers.

Broadly speaking, most of the population sees the problem as the drugs themselves. But there is another smaller but growing segment that sees the War on Drugs as the problem. (See page 3 for several schools of thought on alternative approaches.)

These people focus on abuses in the use of civil forfeiture to seize property without convictions; the widespread use of mandatory minimum sentences (and very high minimums) that permit no judicial discretion even in cases that cry out for it; the pressures on constitutional protections that arise from trying to stamp out a consensual, and largely victimless, crime—the crime induced by prohibition, and so on.

A sophisticated observer might note that the War on Drugs was designed as a full-court-press against a rising epidemic, which in fact is no longer either rising or epidemic. With usage of drugs down below the levels of the mid-Seventies, the new problem, to which a new set of policies should be designed, is *endemic* drug use, especially in the urban ghettos. (See top graph on page 5).

Today it is drug-related crime, rather than drug use

directly, that engages the attention of most voters. And it is partly for this reason that a small but significant group of observers wonder whether or not some kind of legalization might be an appropriate answer. The political obstacles to such a shift of context are enormous (See page 10). But this issue deserves study.

The Federation's first task in organizing its drug project is, obviously, to make contact with the best experts espousing each point of view.

Accordingly, FAS is in the process of creating a Board of Consultants to give it advice in the many different areas of expertise involved. RAND Corporation economist Peter Reuter has kindly consented to chair this board, and three others—Mark Klieman, author and professor at Harvard's Kennedy School of Government; Robert DuPont, psychiatrist, prohibitionist and leading advocate of drug testing; and Ethan Nadelmann, perhaps the foremost analyst of legalization issues and professor at Princeton's Woodrow Willson School—have agreed to participate. Indeed, they have already met to discuss some of the issues and to see where they might all agree.

Federation members are encouraged to send their ideas about the myriad issues raised by drug use and, especially, to comment on the areas they feel FAS should emphasize in its evolving project. □

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prisons and enforcing laws, and social costs of imprisoning drug users. Not least of these costs is, of course, the further pain and suffering of those addicted to drugs. How many people have found, in some licit or illicit drug, a pleasure too great to be handled? How many lives destroyed or being lived one day at a time in a precarious abstinence?

Human societies have wrestled with addictive drugs for thousands of years, but the dangers and costs may be rising. With international commerce in drugs, ever higher potency of ever more "distilled" drugs or even synthetic drugs, and with cultures that favor individual freedom in societies of affluence, drug penetration may be harder and harder to stop.

For these issues, FAS is a tabula rasa and we mean to make the best of it by looking at everything afresh and taking nothing for granted.

Rarely has a subject posed so many complicated issues to so few unbiased analysts. Drug abuse policy is so daunting that it is often said that no two experts agree. And whatever they think may itself be constantly in flux as the multi-dimensional encyclopedia of facts change and/or their appreciation of them shift.

As a consequence, it will not be easy to maintain a workable consensus within our group on most issues and impossible on many. But there are quite a few policy opportunities for FAS, including:

- the many failed policies that are crying out for review;
- inappropriate priorities that a new Administration should rearrange;
- anomalies of regulation, enforcement and prohibition;
- creative ideas that should be pressed, data that should be collected, studies that should be done and scientific information that ought not be neglected; and
- excesses of zeal from the last 12 years of drug prohibition that need reversing.

Among our assets for doing this work are:

- our presence on Capitol Hill and our reputation for effective activism on science-and-society issues;
- our ability to interface with collegial policy experts in this field and to provide, for them and us, a level playing field on which all ideologies can converse; and
- our intellectual capacity for seeing through the complexities of public policies.

How much we will do will depend, of course, on the extent to which we find funding for our work. But whatever is done, we pledge to temper idealism with pragmatism and analysis with compassion. □

— Jeremy J. Stone

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## No Shortage of Basic Approaches Exists

As seen below, there are policy approaches that leave the drug problem to individuals, to a free market, to the medical profession, to the educators, the militia and the courts. No doubt, if there were Martians, there would be a policy that would leave it to them to resolve the problem.

### Leave It To The Individual

Those who want to leave the issue of drugs to the individual are called "libertarians." Their spokesman is Thomas Szasz. In his *Right To Drugs* (Praeger, 1992), Szasz argues that the right to ingest a drug is "more basic than the right to vote" and is a right beyond which a "limited government, such as that of the United States" has the political legitimacy to deny. Abusing a drug, he would argue, is not a disease.

Szasz's position leads him to condemn the right of the state to license the medical profession to dole out drugs under prescription. But this, in turn, brings him into admitted conflict with American attitudes:

"At this point, we come face to face with our real drug problem, namely, that most Americans today do not want to have legally unrestricted access to drugs. On the contrary, they dread the idea and the prospects it portends."

### Construct A Free Market

Those who want to leave the drug problem to a *free market* may do so with a somewhat less thoroughgoing approach. Their most famous spokesman is the Nobel prize-winner Milton Friedman, who in "An Open Letter to Bill Bennett" wrote:

"You are not mistaken in believing that drugs are a scourge that is devastating our society. You are not mistaken in believing that drugs are tearing asunder our social fabric, ruining the lives of many young people, and imposing heavy costs on some of the most disadvantaged among us. You are not mistaken in believing that the majority of the public share your concerns. In short, you are not mistaken in the end you seek to achieve.

Your mistake is failing to recognize that the very measures you favor are a major source of the evils you deplore. Of course the problem is demand, but it is not only demand, it is demand that must operate through repressed and illegal channels."

### Leave It To The Medical Profession

A step nearer present realities are those who would leave the issue to the *medical profession*, which, as one such advocate put it, is the "least unqualified" to deal with drugs.

Medicalizing the issue could, in theory, produce *more* controls on alcohol and tobacco and fewer on some of the currently illegal drugs, *e.g.*, marijuana. It might, or might not, permit prescriptions for addicts. It might provide doctors with the right to license drug users—perhaps even to provide them, according to some, with a plastic ATM card which would dispense a fixed amount of a drug.

### Decriminalize Drugs

Without going so far as to legalize (via free market) or prescribe (via the medical profession), one could simply avoid the excesses of law enforcement by *decriminalization*. For example, federal laws against illicit drugs could be eliminated, leaving the drug issue to the 50 state legislatures and letting 50 flowers bloom with the thought of benefiting from local experimentation. For advocacy of this approach, see *Undoing Drugs*, Daniel K. Benjamin and Roger Leroy Miller (Basic Books, 1991).

Indeed, for that matter, one could reverse the idea—eliminate state laws and leave the issue to the federal government—and certainly diminish the number of arrests for possession of small quantities of a drug like marijuana.

These policies of decriminalization *de jure* have their counterparts in policies of decriminalization *de facto*, in which the federal government, or the states, would simply stop enforcing laws left on the books.

### Harm Reduction: Between Philosophical Millstones

Harm reduction is the clarion call of those who do not seek, in the first instance, changes how society views drugs—especially antipathy toward drugs—or major changes in the laws. Instead, harm reductionists seek to ameliorate the harm caused by drugs, as well as that caused by enforcing prohibitions.

In a sense, harm reduction leaves the drug issue to public health specialists who seek to work directly on the problems posed by drug addiction and to lobby for changes in law and enforcement—changes that are minor in contrast to those inherent in the policies proposed by the decriminalizers, much less the medicalizers, legalizers or libertarians.

Needle exchange programs to provide addicts with clean needles are an example of a harm reduction strategy. Ensuring that medical use of marijuana is made legal, providing drug treatment, alleviating bad social conditions, etc. are other examples.

Harm reductionists look to experiences abroad, particularly in Holland and Switzerland, to learn how a kinder, gentler approach to drug prohibition in the U.S. might work. These countries, which, like America, are also caught for good or ill in the same international web of laws and conventions that make all existing illicit drugs illegal, still manage to deal with drug prohibition in ways less destructive of their societies than have we.

### Prohibitionists: The Dominant Majority

The majority of Americans, and virtually all Members of Congress, are among those who want to enforce the drug laws more effectively, rather than decrease public antipathies with a view to instituting a different drug regime.

The prohibitionists do differ, obviously, in how they want to do it. Like the libertarians, legalizers and reductionists, their methods depend upon public antipathies toward drugs. But they want to *increase*, rather than de-

## THE PROHIBITIONIST POINT OF VIEW

Among policy analysts of a thoroughgoing prohibitionist bent, the most prolific appears to be Dr. Robert L. DuPont, Jr., a psychiatrist who served as the first Director of the National Institute on Drug Abuse (1973-78) and was, also, White House Drug Chief from 1973-75.

Dr. DuPont's *Getting Tough on Gateway Drugs: A Guide For the Family* (American Psychiatric Press, 1992), while only one of a number of his works, contains his basic program. As the title indicates, the controversial notion of a "gateway" drug, and the effort to prevent teenagers from using them, is fundamental to his position.

He would define a "gateway" drug as one perceived as "safe" or "fun," as opposed to one considered "dangerous"—*i.e.*, marijuana, cocaine and, to a lesser extent, quaaludes and amphetamines compared to heroin, LSD, PCP or barbiturates. Statistics do show that persons using "dangerous" drugs are more likely to have previously used those considered "safe" or "fun."

Based on his "gateway" definition, DuPont interprets the statistics to show that if young people could be prevented from using the "gateways," they could be prevented from using other drugs. In sum, he sees a drug "escalation ladder" with specific rungs.

It is unclear, however, even if this "ladder" interpretation of the statistics is accepted, whether or not it would make much difference to cocaine or heroin addiction if marijuana were wiped off the face of the planet and a rung in the ladder thus removed. And some analysts point to cases in which marijuana use escalated enormously without producing any significant increase in heroin use, which suggests no causal relationship between marijuana use and heroin use.

Nevertheless, it seems evident that the success of a campaign to persuade adolescents that they should never use even marijuana would, *a fortiori*, mean that a campaign to educate against more frightening drugs would be similarly successful. And this is Dr. DuPont's theme. He also believes that alcoholic beverages and marijuana teach adolescents the pleasures of getting "high," which encourages use of other drugs.

Surprisingly, he does not single out cigarettes as a "gateway" drug because, he says, tobacco is not intoxicating. However, he does consider abstinence from smoking a high priority in avoiding drug dependency, although he does not discuss the connection between them in this book.

DuPont sees drug use as moving from experimentation to occasional use to regular use and, finally, to dependen-

cy. His conclusion is that preventing experimentation is the cheapest and easiest way to prevent addiction. Unless this is done, he feels, natural pleasures, such as academic success, popularity with peers, athletic achievements or sex, will be found more difficult to experience and generally less intense—in short, they will not compete.

In his view, dependence on a drug, once established "is unlikely to permit the addict ever again to be only a *social user*"—as if an "addiction switch" is thrown in the user's brain. The "switch" is activated, according to his clinical experience, after "a period of prolonged high-dose drug use."

[This same view is widely reported in anecdotal reports from addicts, some of whom can even remember the drug binge at which they felt they had become, henceforth, addicted. And, certainly, Alcoholics Anonymous and the other Narcotics Anonymous groups agree completely that no addict is ever completely cured. But whether this addictive "switch" occurs to marijuana users is not clearly documented, since marijuana use does not give rise to withdrawal symptoms.]

DuPont plays down theories of psychological or genetic vulnerabilities to drug dependency, as well as economic or racial theories. Instead, he views drug dependency as a primary disorder, not a symptom of something else, and he blames the drug user himself.

Drugs differ, of course, in their dependence potential. Tobacco is the worst, with virtually all users dependent. By contrast, many people, can use alcohol in moderation, although it is estimated that 13 percent of adult Americans are diagnosable as alcohol abusers or alcoholics. One-third of marijuana users are believed to progress to a period of daily use.

DuPont's program for dissuading adolescents from drug use turns on firm control of children up to age 19 by parents who take their responsibilities seriously and view all drug use as extremely serious. And while he advocates building trust in the parent/child relationship, DuPont is prepared to recommend urine testing, despite a number of problems which he enumerates and discusses, if dissuasion fails.

In the event of drug abuse—and he considers any continuing use of an illegal drug as drug abuse—he leans heavily on family and the self-help groups like Alcoholics Anonymous, Narcotics Anonymous, and their counterpart family groups. The book offers a great deal of common-sense advice. □

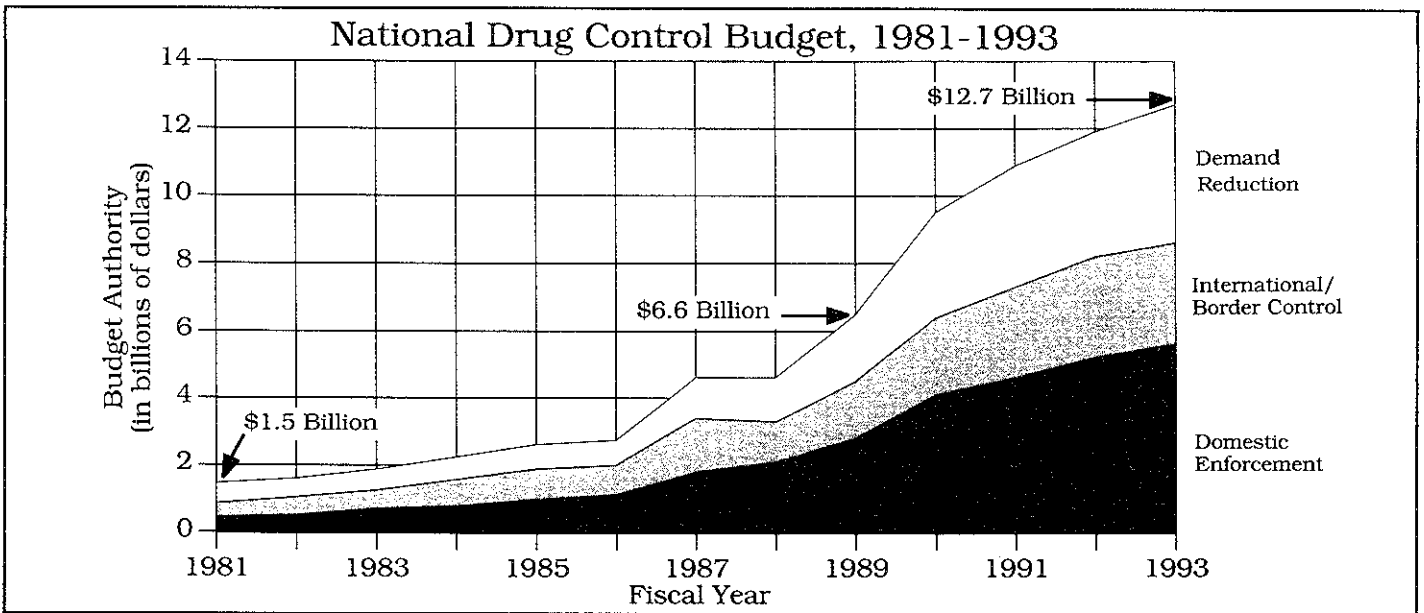
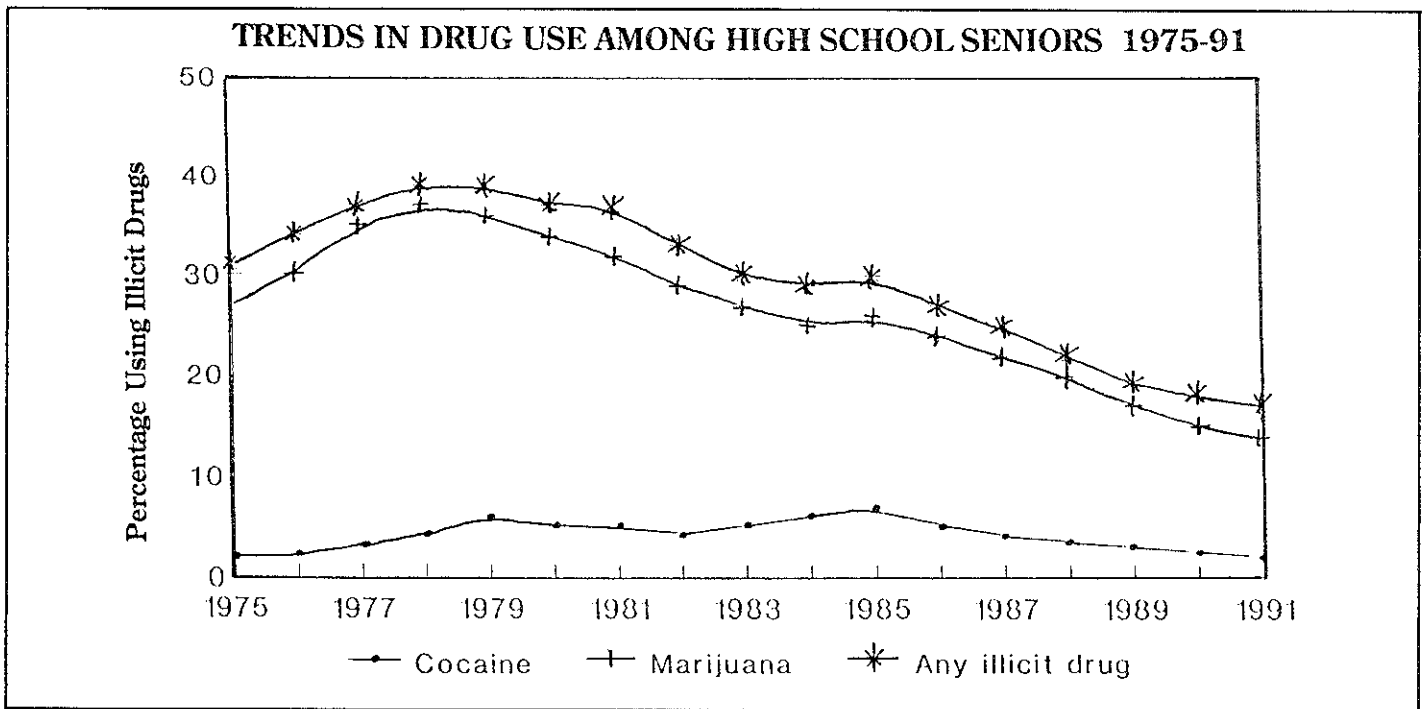
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crease, the antipathy.

Their approaches to resolving the drug problem are divided between relying upon education, the military and, finally, the police and courts.

Educational approaches range from public education to propaganda, such as TV commercials asserting that "drugs

can fry your brains." Public education may involve school programs in which students discuss drugs and drugs issues.

It also includes "tough love" programs. In the most extreme of these programs, children are placed in psychological surroundings that resemble the "thought reform" techniques used in Maoist China to force dissidents to reform their thinking. Privileges that make life livable are



doled out, as in China, by program participants slightly further along the road to reform.

#### Foreign Supply Reduction

Prohibitionist strategies that go beyond education seek *foreign supply reduction*, in which the military and the foreign service are assigned the task of limiting the supply of drugs that enter the country.

The prohibitionists encourage foreign states to engage in crop substitution, seek to interdict processing of drugs, disrupt foreign markets, encourage foreign governments to use military forces or agree to crop eradication, etc. And if and when much or all of this fails, they fall back on border interdiction.

#### Coercive Domestic Demand Reduction

The policies that put the greatest strain on societal antipathies, *i.e.*, those that demand the most feeling against drugs, involve coercing the population, through police and courts, not to use drugs.

Mobilizing public support against sellers of drugs is not so difficult. Mobilizing support against addicts is more difficult. Getting the public to support the imprisonment of recreational users is hardest of all, even though it is, according to one prohibitionist theory, necessary. This theory holds that the drug epidemic is spread more by the glamour of a cocaine sniffing Georgetown partygoer than by the less appetizing scene of a central city ghetto addict shooting up heroin. □

## THE SYSTEMS ANALYSIS APPROACH



Mark A.R. Kleiman

Drug policy appears to be a field with more ideological divisions than serious policy analysts.

In the small collection of analysis, by far the most impressive and ambitious work is that found in Mark A.R. Kleiman's *Against Excess: Drug Policy For Results*, (Basic Books, 1992). In a rational world, this book and the information Kleiman has assimilated in preparing it would make the author a leading candidate for "Drug Czar."

Addressing societal costs of drug abuse and ways to manage or control them, rather than dealing with the relative harms and benefits of using drugs, Kleiman has a disarming and disabused approach to the merits of drug analysis, admitting that "the greatest benefit or cost of a policy may turn out to be its contribution to preventing or promoting a largely unforeseeable disaster."

Nonetheless, his book is a gold mine of plausible analysis. The reasoning, and the information put into the reasoning, is every bit as interesting as the conclusions themselves. But, in any case, the conclusions are important and are roughly as follows:

**Alcohol:** It should be taxed at three to ten times the current rate, *viz.* 34 cents to a dollar per drink, to cover the otherwise unreimbursed harm that drinking does to society. Individuals purchasing alcoholic beverages should be required to have a license, which could, of course, be revoked for such things as drunken driving.

**Marijuana:** Enforcement should concentrate on marijuana-related organized crime with no more than "minimal semi-symbolic efforts to squeeze marijuana production and distribution", *i.e.*, a policy of informal grudging toleration, like that currently applied to the still-illegal forms of gambling.

**Cocaine:** Kleiman considers the "ferociously expensive" enforcement costs unavoidable in the face of flagrant dealing. He advocates neither more nor less enforcement, but "smarter enforcement" designed to deter the most destructive behavior and to take advantage of the vulnerabilities of the market.

His analysis suggests that source-country control and border control are both "near the limits of their effectiveness" and that high-level domestic enforcement lacks the capacity to shrink the market, leaving enforcement to buyers and sellers in retail markets.

The buyers most worth deterring—those who sell drugs or steal to buy them—should usefully receive, he believes, sentences that include, as conditions of parole or probation, mandatory abstinence enforced by random drug testing on pain of reimprisonment. But rather than locking them up long term, sentences of punitive labor and home confinement or curfews, combined with short prison sentences, should be imposed. Users should be dealt with through the development of "cheap, credible threats of low-intensity punishment".

**Tobacco:** The author recommends moving from a smoking to a nonsmoking world by phasing in tobacco prohibition by creating a maintenance program for existing cigarette addicts. Current smokers would register as addicts and be able to buy a quantity of tobacco product that they set themselves—a limit such as two packs of cigarettes a day or a pound of tobacco a week, etc. Sellers would have to verify that the user was within quota by checking a central register.

When the last current smoker is dead, prohibition would be totally in effect. The author asks, rhetorically, "why do many drug warriors turn pacifist when the battle is about cigarette taxes?"

**Heroin:** Kleiman believes a high priority should be preventing a new heroin epidemic associated with low-cost, high purity, smokable heroin—an epidemic that, to his surprise, been delayed for several years.

### Meta-Systems Analysis

If *Against Excess* represents policy analysis, then *The Search for Rational Drug Control* by Franklin E. Zimring and Gordon Hawkins (Cambridge University Press, 1992) represents an analysis of the policy formulation process. This "meta" analysis concludes with a "Memorandum to a New Drug Czar" in which the authors observe that:

- the official National Drug Control Strategy allows as its only indices of social harm the number of illicit drug takers and the quantities of drugs they ingest. This is as absurd, they say, as a National Transportation Safety Board that would concern itself only with the numbers of automobiles and the demand for automobile travel—rath-

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## MARIJUANA: HOW USEFUL? HOW HARMFUL?

From a political point of view, the current issue posed by marijuana is whether or not doctors should be permitted to prescribe it. Currently a "Schedule I" drug, it can only be used for research; a compassionate use option, never significantly implemented, has been completely dropped.

Even NORML, an organization devoted to marijuana legalization, concedes that "medical marijuana" is the main front on which some progress might be made at this time. As one official of the policy group put it, "If we can't get society to give it to the dying, we certainly can't persuade society to permit it to the living."

The strong interest of the Gay Community in the medical use of marijuana for an estimated 250,000 AIDS sufferers provides a built-in lobby. Indeed, a recent annual meeting of the Drug Policy Foundation, a forum for new approaches to drug policy, was electrified by word that President-elect Clinton had been told by Congressman Henry Waxman, Chairman of House Subcommittee on Health and the Environment, that the two things he could do for AIDS were needle exchange and medical marijuana.

According to a forthcoming book by Lester Grinspoon and James B. Bakalar, *Marijuana, the Forbidden Medicine* (Yale University Press, 1993), there is at least anecdotal evidence (and sometimes more) that marijuana can be useful in a large number of medical issues including: cancer chemotherapy (to prevent profound nausea and vomiting); glaucoma (to reduce intraocular pressures for that substantial percentage of patients that cannot tolerate the side-effects of currently used drugs); epilepsy (controlled only about 75 percent of the time by the usual anticonvulsant drugs); multiple sclerosis (for which no effective treatment is known and whose sufferers often cannot tolerate the side effects of the standard drugs); paraplegia and quadriplegia; AIDS (reducing nausea, diarrhea, and fatigue induced by antiviral drugs, and stimulating the appetite); chronic pain; migraine; pruritis (preventing skin lesions and terrible itching); insomnia; other causes of severe nausea; anti-

microbial effects (e.g. preventing infection in burn victims); antitumoral effects and diseases resulting from prolonged spasms or muscle contractions.

The utility of marijuana is supported by the December 1981 report "Marijuana and Health" from the Institute of Medicine (IOM) of the National Academy of Sciences (NAS). Introducing a chapter on therapeutic potential and medical uses of marijuana, it said:

"Perhaps more encouraging than the therapeutic effects observed thus far is that cannabis seems to exert its beneficial effects through mechanisms that differ from those of other available drugs. This raises the possibility that some patients who would not be helped by conventional therapies could be treated effectively with cannabis."

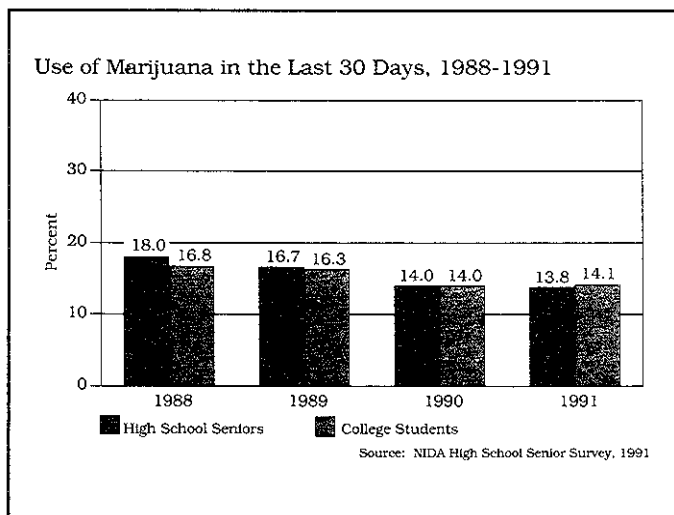
Public opinion polls suggest that there is little or no resistance to the notion that doctors ought to be able to prescribe medical marijuana. Cocaine, a drug far more feared by the public at large, can be prescribed by doctors. And it is an embarrassment to the law enforcement program to arrest persons who want marijuana for medical purposes.

As to the harmfulness of marijuana, all sides to the debate concede that, like all drugs, it has some harmful aspects and all concerned agree that it should be prohibited to those under the age of 18.

Pro-marijuana advocates (like Grinspoon and Bakalar) normally compare illicit marijuana, in this regard, to legal tobacco and alcohol and stress the anomaly that the prohibited is far less harmful than the permitted. (Tobacco is far more addictive than marijuana and, because many more cigarettes are usually smoked, it is normally more dangerous to the health of the individual. Alcohol, because it stimulates many users to aggressive behavior and induces crime and violent behavior, is more dangerous to society.)

Opponents, such as Dr. Robert DuPont, who are against wide-scale use of marijuana, however, stress a number of possible threats to health from regular use (damage to the lungs, brain and reproductive systems, as well as impairment of personal motivation). There appears to be no recent forum in which the various particular charges have been examined, perhaps because legalizing the recreational use of marijuana is not currently a leading issue.

For a splendid policy analysis of marijuana, readers are referred to their libraries for the out-of-print *Marijuana—The New Prohibition* by John Kaplan (The Crowell Company, 1970,75). He suggests, among many other things, that "the effect of the drug may well be to diminish initiative and impair the performance of the habitual excessive user—though, as long as such persons are self-selected, this effect may be extremely difficult to separate out from any psychological predispositions." [Kaplan preferred licensing marijuana use to criminalizing it, although he recognized that such a prospect was politically inconceivable at the time he wrote—and probably today as well.] □



(continued from page 6)

er than with the wider ambit of important safety issues. In the case of drug abuse the important issues are overdose deaths, drug-related AIDS infection, damaged and addicted newborns and drug-related homicides.

and that:

- priorities are left out of the National Drug Control Strategy, an absence that would leave us thinking that all efforts should be applied to marijuana because it is so widely used.

Zimring and Hawkins want the "Drug Czar" to have a policy-planning ground that he or she can rely upon. They want cost-benefit calculations made to each and every program under review, *i.e.*, marginal cost decision making. They want the national drug strategy to learn from the past, to include the needs of the drug users, such as treatment and rehabilitation programs. They want the planning to recognize that drug abuse is a "chronic-disease" problem not the first step toward a "drug free America." □

## HEROIN

What must be one of the finest examples of sophisticated and subtle policy analysis, of drugs or anything else, can be found in the late John Kaplan's 1983 work, *The Hardest Drug: Heroin and Public Policy* (University of Chicago Press).

Kaplan, who was a law professor at Stanford University before his untimely death in 1989, discussed, but rejected, avoiding the costs of prohibition through free availability of heroin, mainly because "we do not know enough to make even a rough estimate" of how many would use heroin if it were legalized. The medical profession, with its easier access to drugs had, he noted, an addiction rate 20 times greater than that of the general population.

*The Hardest Drug* drew heavily from historical examples in which societies met new drugs and were overcome by them (the "gin epidemic" of eighteenth-century England induced by Dutch gin and the experience of American Indians and Eskimos with whiskey) and on animal experiments in which animals continued to use heroin until they became addicted.

Kaplan considered making heroin legally available to addicts at very low cost. Deciding that prescription systems risked wholesale embezzlement of heroin, and on-the-premises systems required too many visits by the addict, he concluded that heroin maintenance was like euthanasia—a good idea if all the details could be worked out but one in which they probably could not. However, methadone maintenance, useful in perhaps 40 percent of the cases, became for him the most cost-effective treatment available for heroin addiction.

In the end, he leaned toward a system in which heroin use was decriminalized and addicts, who committed crimes to support their habit, were coerced into treatment.

A more recent book, and one which looks at the real lives of heroin users, is Charles E. Faupen's *Shooting Dope: Career Patterns of Hard-Core Heroin Users*, (University of Florida Press, 1991). □

## COCAINE

Between chewing coca and smoking crack lies a universe of difference, notwithstanding the fact that cocaine is produced from the former and used for the latter.

A useful book for background is *Cocaine: A Drug and Its Social Evolution* by Lester Grinspoon and James B. Bakalar (Basic Books 1985.) Produced before the crack epidemic, the book's main flaw is its underestimation of the addictive power of cocaine.

Indeed, the authors define drug "addiction" as something associated with "central nervous system depressants"—which excludes stimulants like cocaine—and would leave cocaine as only "habituating." We now know that cocaine, smoked as crack cocaine, can be so overwhelmingly addicting as to give new meaning to the term! Otherwise, the book is quite informative.

Another, and most useful, book for understanding the way in which cocaine is bought, sold and distributed, from the user's perspective is *Cocaine Changes: The Experience of Using and Quitting* by Dan Waldorf, Craig Reinerman and Sheigla Murphy (Templeton University Press, Philadelphia, 1991).

The authors, who did their study in the 1985-87 period when crack or rock cocaine came into vogue, admit that "users' current problems with cocaine have forced us to take a less sanguine view" of cocaine than the analysts had taken in the 1970s, when their research suggested that cocaine was not an especially dangerous drug for most recreational users.

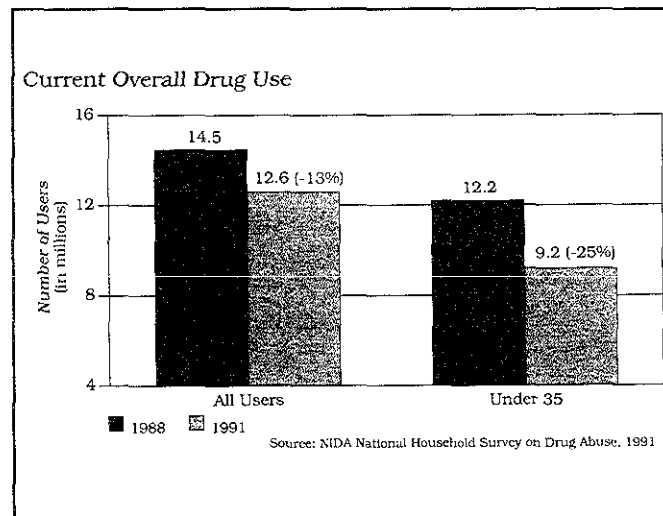
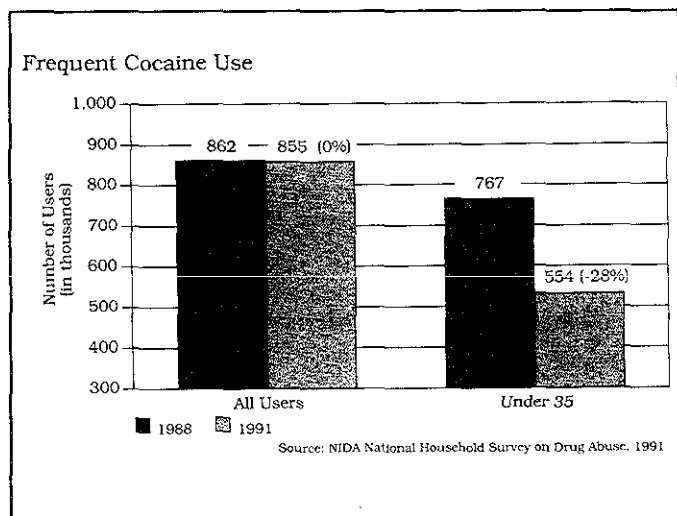
The drug, they say, "can no longer be considered innocuous," and many more cocaine users have developed difficulties than "we would have imagined" in the earlier period. In this they have mirrored the changed view of many researchers who thought cocaine's reputation from the turn of the century to have been exaggerated and "relatively innocuous" as drugs go, much as marijuana is often viewed.

Working with addicts whose habits cost \$200 per week in 1986, the authors conclude that "what keeps many heavy users from falling into the abyss of abuse, and what helps pull back those who do fall is precisely this *stake in conventional life*." (italics in original).

They report that "a clear majority of our freebasers offered compelling testimony on the extraordinary hold this form of cocaine use can have over those who indulge in it more than a few times. ". . . many relationships were ruined, families neglected, jobs lost, savings accounts emptied, and health imperiled because they found freebasing simply overpowering."

Waldorf, Reinerman and Murphy conclude that "while snorting cocaine often can be kept under control, rare is the baser or crackhead who is a controlled user." They note that "Almost anyone who uses cocaine with any regularity becomes involved in sales or distribution to some degree"—an important observation for those who would like to decriminalize possession while enforcing prohibitions against sales. Conversely, "Users and sellers tended to agree that if you sell cocaine you will use it."—precisely because it is so attractive. □





## POLITICAL OBSTACLES TO LEGALIZING DRUGS

In America today, some drugs are legal (e.g., alcohol) and some are not (e.g., marijuana, cocaine and heroin). Why not make more of them legal? Or, for that matter, why not make more of them illegal? How does one decide?

Of the many factors that obviously enter into the societal calculation, one is demand. If many people want the drug—as in the case of alcohol where approximately 120,000,000 use it—prohibition becomes essentially unworkable. And if only about 10 percent use the drug to excess (as may be the case with alcohol), society may, as ours has so far, tolerate the costs of this abuse.

If only 6,000,000 use the drug, as may be the case with cocaine, and if the percentage of those who cannot handle the drug without a debilitating addiction is much higher, 25 percent or more—especially in the case of “crack”—prohibitionists may be able to hold the line against legalizers. This is despite the costs of enforcing the prohibition.

Legalization is a rich subject and cannot be adequately summarized here. But the first impression of anyone looking into the subject is amazement at how little has been done to work out the details of various legalization regimes. (The only person doing this seriously appears to be Professor Nadelmann). The main reason why so little is being done with the possible exception of legalizing marijuana, especially for medical uses, is that the political obstacles to are so enormous that the subject becomes theoretical.

Compared to alcohol, some of the political obstacles to legalizing other drugs are:

**No Models:** A world-wide consensus exists against legalizing currently illicit drugs. This was not the case with doing away with alcohol prohibition in the U.S., since nations that were living models for legalizing alcoholic beverages could then be found.

**Strength of Consensus Much Greater:** The consensus against drug legalization is almost a century old and includes international conventions—the latest as recent as

1988—to which the U.S. is required as a signatory to make possession a crime.

**Number of Addicts Too Small:** The number of people devoted to using hard drugs is too small to generate the level of opposition to alcohol prohibition that was seen decades ago. And too, many drug-devotees are ever more clearly based in the politically less potent inner city populations.

**Greater Fear of Drugs:** The popular fear of current illicit drugs, with the possible exception of marijuana, is much greater than was the case with alcohol.

**Difficulty of Mounting Campaign In A Shifting Scene:** Because the drugs at issue (e.g., cocaine and heroin) change rapidly, and the ways of using them do also (e.g., snorting cocaine is eclipsed by smoking crack), it is difficult to mount a campaign to assuage the public's fears of what legalization might do to society. After all, even with a fixed target, such as tobacco smoking, those who want to contain or eliminate it face not only long-term educational and legal struggles but also user shifts to chewing tobacco and snuff.

**Epidemic Quality of Use Favors Prohibition:** When a drug epidemic strikes, a fearful public naturally favors enforcement over legalization. And when the epidemic subsides, the public naturally attributes the decline to a success in prohibition. In fact, some or even most of the success may have been attributable to what is known as the “natural” decline—a function of user experience. In early stages of an epidemic, potential users are drawn to the drug by the positive “hype” of a new “high.” But in later stages, potential users are turned off by the bad experiences, even deaths, of earlier users.

**Public Confused and Experts Lack Unity:** Polls show that the public does not differentiate between illicit drugs even when their character is carefully explained. And the experts—even the experts seeking some form of relaxation of drug controls—are spread “all over the map.”

**Legalization Regimes Are Unpredictable:** The legalization regimes have not yet been thought through; nor have their implications been worked out. In particular, it is impossible to predict with certainty the degree of increased use that might result from any specific legalization regime.

**Libertarian Regimes Unacceptable to the Public:** The one legalization regime that is easy to think through in its ramifications is that of libertarianism, which holds that citizens should be free to ingest what they want. But this position flies in the face of settled convictions that, in some case, society has a responsibility to protect people from themselves. For example, in the case of medication, the public does not believe it is wrong to legislate, by democratic methods, a requirement that certain medicines be available only by prescription, or even outlawed altogether, which is in effect an anti-drug law.

**Crime Is the One Motivator, but Other Societal Responses Will Precede Legalization:** Crime that is the corollary to keeping drugs illegal is left as the main public-

wide motivator for legalization. But this crime and turmoil results in large part from the way in which the War on Drugs has been run and, in particular, there are ways short of legalization (such as decriminalization) that would diminish sharply these perceived costs. Accordingly, this motivation is likely to be self-limiting more through changes in the War on Drugs than in abandoning it for legalization.

The main possible exception to this series of daunting political reasons why legalization, were it desirable, might be impossible, arises with marijuana. Here there is a much larger constituency of users (18,000,000) than those associated with either cocaine or heroin. Marijuana is less habit-forming, less frightening to the public, and its ill effects to the individual much less serious than other illicit drugs. It is a lesser danger to public health than either alcohol or tobacco, both of which are legal. And many people enjoy it. But, to observe that marijuana is now illegal, even for the dying, tends to confirm the political obstacles to the legalization of drugs. □

## THE WAR ON DRUGS & CIVIL LIBERTIES

Especially for those who are more concerned with the effects of the War on Drugs than the drugs themselves, there are complaints about the war's effects on civil liberties and how it tends to distort law enforcement and promote inappropriate punishment.

The rhetoric surrounding the War on Drugs, popular opinion against drugs, and, no doubt, the personal opinions of judges themselves, have put pressure on the courts to acquiesce to invasive procedures, mandatory sentences and situations it might not otherwise have accepted.

An excellent survey of this situation appeared in CATO's Policy Analysis of October 2, 1992, "A Society of Suspects: The War On Drugs and Civil Liberties" by Steven Wisotsky of Nova University in Florida. Some of his complaints are:

- While drug testing by a private employer does not implicate the Fourth Amendment, the 1988 Anti-Drug Abuse Act prohibits federal grants or contracts to employers who do not take specified steps to provide a drug-free workplace and thus subjects tens of millions of job applicants and employees to the "indignities of urinating into a bottle, sometimes under the eyes of a monitor watching to ensure that clean urine is not surreptitiously smuggled into the toilet."

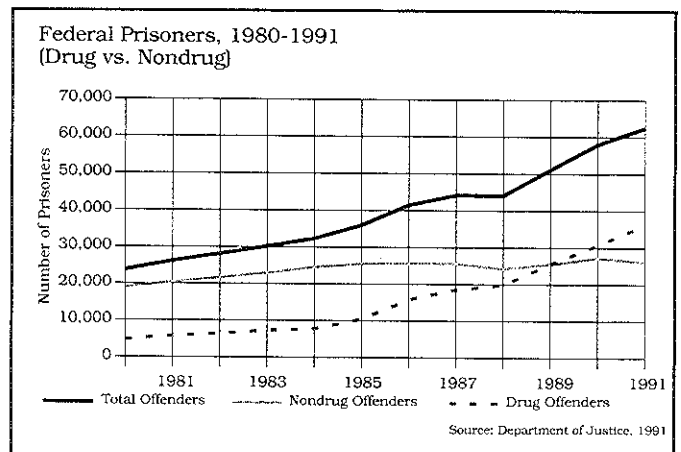
- The Supreme Court held that such testing of applicants and employees inside the Government was "reasonable" even without probable cause or individualized suspicion against any particular person for persons directly involved in the interdiction of illegal drugs or required to carry firearms.

- The Court has upheld the power of drug agents to use airport drug courier profiles to stop, detain and question people without warrant or probable cause; to subject a traveler's luggage to a sniffing examination by a drug-detector dog without warrant or probable cause; to search

without warrant or probable cause the backpack or locker of a public school student; to search at will ships in inland waterways; to search homes based on the tips of anonymous informants; to engage in warrantless aerial surveillance over certain heights; to search at fixed checkpoints or roadblocks without suspicion or warrant and so on.

- Punishments have become excessive and mandatory leading the judicial conferences of the District of Columbia, Second, Third, Seventh, Eighth, Ninth and Tenth Circuits to adopt resolutions opposing mandatory minimums. One can receive today a life sentence, without any possibility of parole or probation, despite no previous record, for being apprehended with two pounds of cocaine.

Congress enacted in 1988 a system of civil fines of up to \$10,000 to be imposed administratively under the authority of the attorney general without the necessity of a trial—leaving it to the individual to retain counsel and secure judicial review. In effect, one can be found "guilty" until proving oneself innocent under this procedure of civil forfeiture.



●Since it costs about \$30,000 a year to keep a person in prison, the long sentences, and the large number of persons in prison on drug charges (about 36% of the prison population and rising), the costs exceed \$10 billion for drug offenders alone. And the large number of police devoted to this crime detract certainly from the pursuit of other crimes. Since many drug offenders have mandatory prison sentences, overflowing prisons are causing prison authorities to accelerate release of violent felons serving non-mandatory prison terms. □

### A POSSIBLE CLINTON APPROACH?

By the time this *Public Interest Report* is circulated, Mathea Falco may be the new Administration's new "Drug Czar," as some newspapers have speculated she might. If so, her book, *The Making Of A Drug-Free America: Programs That Work* (Times Books, 1992) may indicate Clinton's approach.

This book grew out of a Carnegie Commission "Substance Abuse Advisory Committee" composed of public health, education, treatment and prevention experts. It is about demand reduction rather than supply reduction. In the author's view, recent declines in marijuana and cocaine use show that reducing drug demand is "much more promising" than efforts to cut off supplies.

Falco notes, plausibly, "The problem will never go away." But she concludes that a drug-free America is "within our grasp." She views both Draconian criminal sentences on the one hand and outright legalization on the other as "extreme solutions" that are "counsels of despair." The book is aimed at countering this despair by showing that "there are programs that do work and that we ought not to give up."

The programs, according to the author, are "still isolated examples of success" but show, she argues, that we have developed over the last ten years "the tools to build a strategy that will have a lasting impact". These are prevention programs in schools, treatment and rehabilitation programs within prisons, "speedy diversion programs" that move drug offenders into treatment and court supervision rather than prisons, therapeutic resident communities with encounter groups, and so on.

Falco would have us learn from European countries where incarceration is a last resort, even within a web of prohibitionist laws, for those addicts or dealers who repeatedly reject treatment. It is her argument that the current legal framework "provides sufficient latitude" to move toward a public health, harm reduction, approach. □

*Editor's Note:* Except for the top graph on page 5, graphs used in this issue come from *A Nation Responds to Drug Use*, a report from the Fourth National Drug Control Strategy and released by The White House in January 1992. The document (GPO ISBN 0-16-036053-6) may be obtained from the Superintendent of Documents, Mail Stop: SSOP, Washington, DC 20402-9238. The newsletter itself was written by Jeremy J. Stone.



### Thaler Succumbs To Cancer

On December 19, Martin Thaler, who had served as legal counsel to FAS since 1978, died of cancer after a year's illness. He was 60 years old. Expert in bankruptcy law and knowledgeable in many other areas, Thaler provided *pro bono* assistance during the demise of the New Directions organization, a tenant of FAS. Over the next fifteen years, he gave us much more advice and helped us through two law suits. His son Paul, now also a lawyer, worked in our offices.

Thaler was enormously popular in many circles, as the overflow crowd at his funeral showed. A vibrant individual of many talents, FAS summarized its feelings toward him by presenting this wife Mary with a plaque reading:

Admired, Loved and Respected  
Vigorous and Entrepreneurial  
He Lived and Died  
As He Practiced Law  
Tennis and Chess  
With Brilliance and Tenacity

### Robert Marshak Dies At 76

Physicist Robert Marshak, who served as the second Chairman of FAS in 1947, died just before Christmas at the age of 76. The recipient of a PhD at age 23, he spent three decades at the University of Rochester, rising from instructor to department chairman, served for nine years as President of City College of New York and in 1979 joined the faculty of Virginia Polytechnic Institute.

Marshak was a member of the Manhattan project and from 1944-46 worked at Los Alamos as Deputy Group Leader in theoretical physics. With wide interests in science and society, he attended Pugwash conferences, worked for five years with the Stockholm International Foundation for Science and served as Chairman of the National Academy of Sciences on scientific exchange with the former Soviet Union in the mid-1960s. He received many awards throughout his long and distinguished career and will posthumously be honored with the first AAAS prize for contributions to international scientific cooperation.

In 1986, Marshak attended FAS's 40th Anniversary Retreat and provided us with characteristically sage advice. □

### HERBERT YORK GETS PUBLIC SERVICE AWARD

The 26th FAS Public Service Award was presented to Herbert F. York by Council Chairman Robert M. Solow at the annual meeting of the FAS Council on December 5.



Basically, FAS gave York an "A," citing him as an "Academician, Administrator, Adviser, Author, Agitator and Ambassador on the Ultimate Absurdities of the World's Greatest Arms Race," York is Director Emeritus of the Institute on Global Conflict and Cooperation at the University of California at San Diego.

#### Text of the Citation

"No arms race in the history of the world went on longer than the great US-Soviet arms race of 1949-89. And no American scientist saw it all from as many highly placed vantage points as Herbert F. York. For half a century, Herbert F. York has been an anchor of sanity in a world gone mad with visions of apocalyptic war.

Recruited before he was 21 for the Manhattan Project, he rose to direct one of America's two weapons laboratories, to become the chief scientist and engineer in the Department of Defense, and to be Ambassador to the Comprehensive Test Ban negotiations in Geneva. Within the community of scientists who sought alternatives to the arms race, he has been a leading statesman.

His lucid book, *Race to Oblivion*, showed his skill also as a polemicist and phrase-maker, fashioning such compelling concepts as the "ultimate absurdity" of computerized nuclear war, and the "fallacies of the last move" in which politicians blandly assumed their measures would produce no countermeasures. And in his work, *The Advisors*, he showed his capacity for empathetic history.

But none of this really captures the extent of his wisdom or the amount of work he has produced to control the atomic weapons whose creation he had assisted.

Last, but not least, Herbert York served (1970-71) as the first Council Chairman in an era of FAS rejuvenation. His election was announced modestly under a bold FAS Newsletter headline: 'New Improved Federation Management.' "

Dr. York, who was in Hong Kong at the time, accepted the award by letter:

"I am, of course, both honored and pleased by the award you have decided to give. As most of you know, I wasn't one of the original group that founded the FAS; way back then I was at Berkeley, and my seniors advised me to get on with becoming a physicist and to not let political matters divert me from that goal. Later, . . . I learned that things are not that simple, that those of us who were in on the 'creation,' so to speak, did in fact have special obligations. . . . Therefore, when the twin opportunities of helping Jeremy revitalize FAS and participating in the first struggle against the false hopes raised by the strategic defense (ABM) plans of that day arose, I joined in with enthusiasm. The personal and professional relationships that formed out of those events were then and remain today extremely important to me." □

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