Symposium Proceedings: Roundtable Discussion
there is a crisis which needs a comprehensive long term approach. There have been successes as well as failures in this effort. However, I believe that a combination of efforts outlined in the National Strategy can diminish our drug problem.

Symposium Proceedings: Roundtable Discussion

On April 18, 1986, the authors of the preceding papers assembled in Fort Lauderdale for a day-long symposium on the War on Drugs. The transcript of the discussion has been minimally edited to preserve the conversational format of the symposium.

Professor Kaplan moderated the morning session, and was succeeded by Dr. Grinspoon in the afternoon.

A short biography of each participant precedes the edited remarks.

Lester Grinspoon, M.D., Associate Professor of Psychiatry at Harvard Medical School, serves on the Advisory Boards of the Center for the Study of Non-Medical Drug Use and the National Organization for the Reform of Marijuana Laws (NORML) and the Editorial Boards of the Journal of Psychiatric Research and Social Pharmacology. He has testified before the National Commission on Marihuana and Drug Abuse; the House Select Committee on Narcotics and Drug Abuse; the Controlled Substances Advisory Committee; the Drug Abuse Research Advisory Committee; and the Senate Judiciary Committee.

John Kaplan, Jackson Eli Reynolds Professor of Law at Stanford University, is a past member of the National Research Council of the National Academy of Science Committee on Substance Abuse and Habitual Behavior and a current member of the National Council, National Institute of Alcohol Abuse and Alcoholism, Panel on Criminal Careers and the Committee on Problems of Drug Dependence. He also serves on editorial boards of the Journal of Drug Issues and the Journal of Marijuana and Health. Professor Kaplan testified before the President’s Commission on Organized Crime.

Leon B. Kellner has been United States Attorney for the Southern District of Florida since 1985. He supervises the prosecution of thousands of drug-related criminal and civil cases filed every year by the United States Government in South Florida, the most active venue for drug cases in the United States.

Mark A.R. Kleiman, Research Fellow in Criminal Justice Policy and Management at the John F. Kennedy School of Government at Harvard, is a policy analyst and microeconomist specializing in studies of the impact of law enforcement policy on the structure of illicit industries. As Director of the Office of Policy and Management Analysis for the Criminal Division of the United States Department of Justice, he was the division’s chief drug pol-
The presence at this symposium of so many public officials — federal law enforcement agents, members of the judiciary, members of the executive branch, members of the legislature — along with legal and medical professionals, substance abuse counselors, teachers, students, and lawyers, suggests a widespread perception that something is very wrong with the War on Drugs.

My own view, of course, is the same. My research has brought me to the conclusion that the War on Drugs is a serious mistake of social policy. It has produced the worst of the two worlds of drug abuse and drug trafficking: a rapidly rising flood tide of cocaine imports, compounded by the destructive effects of black market pathologies that we all know too well in this community: cocaine-cowboy killings, street crime by addicts, corrupt public officials, and narcoterrorist alliances of drug traffickers and guerrillas in South America that threaten the national security of the country. Indeed, the more enforcement we have had, the worst things seem to have gotten. And I think that under these circumstances it's only reasonable to ask the question whether the cure may not be worse than the disease.

Yet, there is very little real discussion of this fundamental issue. Sometimes there's a parade of debate in which crude calls for a crackdown such as a full-scale militarization of the War on Drugs are countered with somewhat simplistic rejoinders to decriminalize drugs and be done with it. There is little, if any, critical thought in this domain. We are thus immobilized from constructive reforms. Certainly we are not making any headway in controlling drug abuse or drug trafficking.

Perhaps one way to produce some movement in this situation is to ask how we came to this present state of affairs? How did we reach an impasse in the War on Drugs?

Well, some years ago the president of the United States, in response to spreading fears about drug abuse, sent a message to Congress. In that message he said that drug abuse had reached the dimensions of a "national emergency," that drugs were "public enemy number one," and that we must wage "a total offensive" on drugs. Accordingly, he reorganized the federal drug enforcement agencies and added hundreds of agents to the drug enforcement program. He prevailed upon Congress for one-half billion dollars in funding, ten times that of the previous year. The war was on. The year was 1971. The president was Richard Nixon.

So, the War on Drugs is an old story. And we all know what happened during the 1970's. First marijuana, and not too many years later, cocaine, spread from the hippie culture or avant-garde fringes into the
icy analyst. His recent work includes a study of the effects of intensified retail-level heroin enforcement on the level of heroin consumption and property crime.

David A.J. Richards, Professor of Law at New York University School of Law, was Vice-President of the American Society for Political and Legal Philosophy in 1984. He won the prize for Best Book in Criminal Justice Ethics for 1982. Professor Richards is a prolific author of books and articles in the field of moral philosophy.

Thomas Szasz, M.D., Professor of Psychiatry at the State University of New York, Upstate Medical Center at Syracuse, serves on the editorial boards of the International Journal of Addictions, Journal of Law and Human Behavior and several others. Dr. Szasz's work has earned many honors, prizes and lectureships, and he has written prolifically in the fields of law, psychiatry and ethics. He is most well known for his iconoclastic advocacy of a theory of individual rights that opposes “benign” governmental “treatment” or other coercion of those thought by society to be mentally ill or addicted to drugs.

Steven Wisotsky, Professor of Law at Nova University Law Center, teaches criminal law and the law of drug regulation. He conceived and organized this symposium. His research on the effects of the War on Drugs has attracted wide attention.

Norman E. Zinberg, M.D., Clinical Professor of Psychiatry at Harvard Medical School, has served as Special Consultant to the President for the Drug Abuse Council, Inc. and as Coordinator to the Task Panel on Psychoactive Drug Use/Misuse for the President's Commission on Mental Health. He has also served on the Committee for the Study of Drug Dependency for the American Psychoanalytic Association and on the National Advisory Council on Drug Abuse for the Department of Health and Human Services. He currently serves on the Advisory Board of the Center for the Study of Nonmedical Drug Use and the editorial boards of many professional publications including Contemporary Drug Problems, International Yearbook, Journal of Psychoactive Drugs, and Society Journal of Psychoactive Drugs. Dr. Zinberg is a prolific author in the field of drug abuse and is well known for his thought-provoking research on long-term, non-addictive opiate use.

Prof. Wisotsky: Distinguished visitors, ladies and gentlemen, on behalf of the Nova Law Center, let me welcome you to this symposium through? The very presence at this symposium of so many public officials — federal law enforcement agents, members of the judiciary, members of the executive branch, members of the legislature — along with legal and medical professionals, substance abuse counselors, teachers, students, and lawyers, suggests a widespread perception that something is very wrong with the War on Drugs.

My own view, of course, is the same. My research has brought me to the conclusion that the War on Drugs is a serious mistake in social policy. It has produced the worst of the two worlds of drug abuse and drug trafficking: a rapidly rising flood tide of cocaine imports, compounded by the destructive effects of black market pathologies that we all know too well in this community: cocaine cowboy killings, street crime by addicts, corrupt public officials, and narcoterrorist alliances of drug traffickers and guerrillas in South America that threaten the national security of the country. Indeed, the more enforcement we have had, the worst things seem to have gotten. And I think that under these circumstances it's only reasonable to ask the question whether the cure may not be worse than the disease.

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So, the War on Drugs is an old story. And we all know what happened during the 1970's. First marijuana, and not too many years later, cocaine, spread from the hippie culture or avant-garde fringes into the
very mainstream of society.

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Given this social context, by the time President Reagan made his pledge "to cripple the power of the Mob in America" and to "do what is necessary to end the drug menace," it was utterly predictable that even a very aggressive program of law enforcement would prove powerless to change the private behavior of so many millions of American citizens who make up the mass market for illegal drugs.

Indeed, illegal drug use is no longer aberrational or deviant. Statistically speaking, it comes close to being the norm. About half of all people under age fifty and about two-thirds of all high school students have some experience with illegal drugs.

Nevertheless, the Administration was fully committed to a counterattack on the drug supply. As the President said, "the mood toward drugs is changing in this country and the momentum is with us. We are making no excuses for drugs, hard, soft or otherwise. Drugs are bad. And we are going after them." And the administration did just that, mobilizing an impressive array of federal agencies in a coordinated effort against drugs and drug suppliers both in the United States and in foreign countries.

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The results of this mobilization were tangible. The Administration racked up record statistics in every category of measurement: drug seizures, drug arrests, drug convictions, asset forfeitures and so on. The drug agencies effectively utilized their expanded resources and powers and improved their operations significantly. But the acid test of the administration's impact on the supply of illegal drugs is its ability to control the drug supply. The Government Accounting Office asserted, must be managed with the collapse of the supply of illegal drugs. To use a business analogy, enues if they do not produce net revenues. Profitability remains the arrests, seizures, forfeitures, etc. have risen to record levels, so has the drug supply.

In 1976 an estimated fourteen to nineteen metric tons of cocaine were smuggled into the United States. By 1980, just before the Administration doubled again, exceeding 100 metric tons. And by 1987, the same expansion was true of marijuana, with record supplies cropping up, not from Colombia and Jamaica, but now from California, Florida, many other states in the Union. Worse, high-potency "designer drugs," such as China white, a heroin analog, made not in foreign fields but in the clandestine labs of creative chemists at home entered the market. LSD made a comeback, while highly pure "black tar" heroin came on the scene.

So, if one looks at the war in terms of its actual results, one must conclude that the War on Drugs has had very little impact in controlling the drug supply. What it has accomplished, however, is to impose a crime tariff for risk premium, inflating the price of drugs in the black market. Prohibition is a kind of alchemist's tool: Take a $60 ounce of pharmaceutical cocaine, make it illegal to distribute outside medical channels, and you transform it into something more valuable than gold, $2,000 or perhaps $3,000 per ounce in the black market.

* * *

Because of the high (although unproven) probability that demand for black market drugs is highly inelastic, i.e., not price sensitive, the social benefit in public health and safety of the crime tariff is dubious. But its social cost is not. The paramilitary pounding away at the supply of drugs inflates their prices in the black market and creates a vast pool of underground drug money. The government estimates the total at eighty to one hundred billion dollars a year, thirty billion of that from cocaine alone.

That money is the source of a lot of human misery. Black market megabillions feed the growth of powerful crime syndicates willing to commit murder in order to protect their business operations. Bribery of public officials is so pervasive and the amounts of money so great that, according to former Attorney General William French Smith, "corruption threatens the very foundations of law enforcement in this country."

The national security interests of the United States are also damaged by drug enforcement. The governments of friendly nations, in particular Bolivia and the Bahamas, have been taken over or subverted by drug syndicates. The survival of democratic governments elsewhere in Latin America is also jeopardized. The black market finances international terrorism and subversion by forging unholy alliances between drug traffickers and guerrillas, who protect drug operations in return for money to buy weapons to overthrow the government of the coun-
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In 1976 an estimated fourteen to nineteen metric tons of cocaine were smuggled into the United States. By 1980, just before the Administration doubled again, exceeding 100 metric tons — 100,000,000 grams of cocaine before cutting, 300 or 400 million street grams. And the same expansion was true of marijuana, with record supplies cropping up, not from Colombia and Jamaica, but now from California, Florida, many other states in the Union. Worse, high-potency “designer drugs,” such as china white, a heroin analog, made not in foreign fields but in the clandestine labs of creative chemists at home entered the market. LSD made a comeback, while highly pure “black tar” heroin came on the scene.

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tries they operate in. Narco-terrorism thus undermines the stability of friendly governments in Colombia, Peru and elsewhere.

Within the United States, frustrated reaction to the defiant growth and prosperity of the black market leads to increasingly successful demands for unfettered police powers. The effect has been a gradual gobbling up of the civil rights of both criminal defendants and ordinary citizens. As Justice Hugo Black (whose attitude about drugs was as strongly negative as any justice of the Supreme Court) warned, "the narcotics traffic can too easily cause threats to our basic liberties by making attractive the adoption of constitutionally forbidden short cuts. . . . Our Constitution was not written in the sands to be washed away by each wave of new judges blown in by each successive political wind."

But the political winds have already blown in especially punitive antidrug laws, pretrial detention, longer or mandatory prison sentences, property forfeitures, expanded powers of search and seizure, good faith exception to the exclusionary rule, highway check-points, drug detector dogs, a sixty percent rise in the number of federal wire taps, extradition treaties, computer data banks, currency controls, pervasive use of informants and undercover agents, and most recently the call for mandatory urinalysis tests of employees. The list of these anti-drug initiatives grows and grows ad infinitum.

And you know what? It's never enough to win the War on Drugs. Accordingly, some politicians now call for capital punishment for drug dealers, or a Gulag Archipelago.

Yet, as we have already seen, the more we intensify drug enforcement, the more we crack down, the worse the situation becomes. Both black market pathologies and the level of drug abuse increase, seemingly unaffected by the aggressive enforcement program. Many people agree with this analysis, but see no viable alternative. Is there a better way to mitigate the twin problems of drug abuse and drug trafficking?

If the Government were really interested in doing something constructive about what it calls "the drug problem," it would begin with the obvious first step—a serious, scholarly cost-benefit study of a full range of alternatives to the present approach to "drug control." Instead, the Government refuses even to consider any alternative. If I can return to a business analogy, the situation is as though corporate management, consisting of the President, the Attorney General, the Direc-

tor of the FBI, etc., reported to its board of directors record losses for 15 consecutive years, with each year producing larger losses than the year before. And when the board asks management about its plans to turn the situation around, management replies that it will continue (more of) the same failed policies. There's got to be a better way.

And that's the purpose of this symposium, to look for a better way. I have no illusions, by the way, about the political climate in this country or the prospects for policy change in the near future. At the same time, I feel that the American public has relatively little tolerance for inconclusive wars. I doubt very much whether we will be fighting the War on Drugs in the year 2000. The strong American tradition of pragmatism will sooner or later demand a more effective approach.

In addition, the War on Drugs makes no cultural sense for the generation that will come to power in future years. The generation under 40 is not only more familiar with drugs, but less moralistic about them, more willing to tolerate diversity and individual choice. Adhering to an ethic of self-discipline, achievement and personal responsibility for fitness and health, I think drug laws will become increasingly irrelevant to their lives. They will stay away from drugs if they choose to do so, and law enforcement will not make much difference in that decision.

So, I view this symposium as the beginning of a beginning—of a long term process of creating a new context of understanding in which a more principled and effective system for the regulation of drugs can emerge.

To that end, we are privileged to have with us today a distinguished panel of experts, brilliant scholars, and experienced professionals in the field of law enforcement. . . . Moderating this morning's discussion will be Professor John Kaplan . . .

We will begin by having each panelist make an opening statement . . .

Prof. Kaplan: I would like to begin by directing attention to our questions for this morning: What accounts for the failure of the War on Drugs to stop the influx of drugs and the free wheeling operations of drug traffickers, and do the benefits of the War on Drugs nonetheless outweigh its costs or is the cure worse than the disease?

I think the sensible thing to do is to begin with the person who is actually fighting the War on Drugs here, the only one of us, as it were, in the trenches and that's the United States Attorney for the Southern District of Florida, Leon Kellner . . .

Mr. Kellner: Thank you, Professor. In the past few weeks when the
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**Mr. Kellner:** Thank you, Professor. In the past few weeks when the
brochure was handed out and I gave it out to all my assistants, quite a number of them came to me and questioned my sanity. They compared me to Daniel going into the lions' den, and why was I letting myself in for seven or eight hours of attack by a group of people who are better qualified than I am to discuss this issue.

Well, my answer to that question was, at least I want to show the panelists here that I'm not a puppet being pulled by some unnamed, unseen policymakers in Washington, who are directing what I do . . . .

I represent the people in my office and law enforcement people that are here thankfully to give me their support . . . .

But we are people that are deeply committed to attempting to solve a problem, one that I believe is the most serious facing this country, and that's drug abuse . . . .

As the chief federal law enforcement officer in this area, I spend a good portion of my day directing the enforcement of our laws against drug abuse, drug trafficking. As a result, I think about the problem quite a bit. I think about it not only in terms of whether I am doing something, but I think about it in terms of my own life.

I have committed a substantial portion of my life to this effort. And I have to think about, when I look back on this period of my life in 20 years, if I live that long, have I done anything good? Have I done anything worthwhile?

We all recognize that law enforcement alone can't solve the problem that we are faced with. We only deal with the supply side of the equation. That's just not enough. We must also deal with the demand side. I'm not going to describe to you in detail what the national drug strategy is. I'm not sure I could give it to you in the succinct manner that Professor Wisotsky did in any event. But enough has been written about it. Enough has been said about it. And my fellow panelists are here to criticize it.

The only thing I really want to say in opening remarks is that it is a comprehensive plan. It attempts to deal with the supply side and trafficking in the streets, the source countries, the transshipment countries, the movement of money, the attempt to take the profit out of it, but it also has an outline of how to deal with the demand side, research and education.

I truly believe, and I say this sincerely, that I wouldn't be doing this job if I didn't believe this, that over the long term I think the problem is solvable. I think that there is a strategy that has been developed that has a chance of working. I am not going to sit here and tell you people that we are winning this war and I see the light at the end of the tunnel.

I can't say that. I am hopeful that this strategy will work. I think the key to this effort is at the community level. And I saw before I came up here Admiral Van Edsall, who is the executive director of Miami Citizens Against Crime . . . . [If there's] any one community group that you can identify as having caused the increase in law enforcement resources in South Florida, it is that group.

It is groups like that. It is community level. It's the public. It's parents. It is local governments, local organizations that have an equal responsibility of dealing with the problem on the demand side. I recently attended a Conference of United States Attorneys in Tampa, Florida . . . . [T]he purpose of that conference was not to discuss law enforcement. It was not to discuss how do we better prosecute people, how do we put more people in jail.

The purpose of the conference was to discuss the fact that we were only doing half our job, the law enforcement side. The ninety-four of us had gotten together . . . . to discuss what was really our failure as community leaders to participate, to offer our services, to act as a catalyst on the demand side.

What impressed me most about the three-day conference was the number of national representatives — [of] parent groups, of teacher groups, of community leaders — who are extraordinarily concerned about what the increase in drug use is doing to our youth, is doing to our next generation who are going to lead this country.

. . . . I am greatly concerned about the extraordinary explosion in drug use . . . . I personalize it. I have a 19 year old daughter. I don't want her to use drugs. I don't want her life at this young stage to be irretrievably lost because of what society has done or has failed to do.

I think there's a difference. Professor Wisotsky talked at some length about the seventy year [drug enforcement] effort. Well, I haven't been around for seventy years. I have been doing this thing for four. But I'm part of the generation that grew up in the '60s. I was in law school or just graduated when President Nixon reorganized the drug effort. And at least from my perspective, I see a difference between what is going on today and what was going on in the '60s and 70's. And the difference is this meeting. I don't recollect this level of involvement of community groups, of judges (and I see two federal court judges in the audience) . . . . so deeply interested in this problem in
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. . . I am greatly concerned about the extraordinary explosion in drug use . . . . I personalize it. I have a 19 year old daughter. I don’t want her to use drugs. I don’t want her life at this young stage to be irrevocably lost because of what society has done or has failed to do.

I think there’s a difference. Professor Wisotsky talked at some length about the seventy year [drug enforcement] effort. Well, I haven’t been around for seventy years. I have been doing this thing for four. But I’m part of the generation that grew up in the ’60’s. I was in law school or just graduated when President Nixon reorganized the drug effort. And at least from my perspective, I see a difference between what is going on today and what was going on in the ’60’s and 70’s. And the difference is this meeting. I don’t recollect this level of involvement of community groups, of judges (and I see two federal court judges in the audience) . . . so deeply interested in this problem in
the 1970's as we have today. I think that with this kind of involvement we have a chance at solving the problem . . . .

The last reason, most important reason, that I came here, that I wanted to participate in this seminar is that . . . in all the time that I have read and been interested in this problem, I have not heard of another alternative to what we are doing.

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I look forward to today's discussion. I look forward to trying to hear and listen to a rational alternative to what we are doing because I think that we all, as Professor Wisotsky has said, we all recognize that there is a problem. The issue is how to deal with it.

Prof. Kaplan: Thank you. The next person that I would like to call on is Mark Kleiman.

Mr. Kleiman: Thank you, John. Let me start by raising what seems to be the fundamental question, which is whether the question as presented to us about the War on Drugs is well-stated. I think it isn't. I think the first mistake we make in thinking about drug policy is imagining that we can talk in the abstract as if heroin and cocaine and marijuana and PCP all presented the same problem or the same kind of problem or are likely to yield equivalent benefits to the same kind of policies. I think that's wrong.

I think those drugs differ among themselves more than they are alike. And I think that as a group they resemble the licit substances of abuse, most prominently alcohol and nicotine, more than they differ from them.

One keeps reading (is) the newspaper about drugs and alcohol as if somehow alcohol were a different problem. It's not. It's in the same family of problems of intoxicants or addictive substances that people get in trouble with, that people do damage to themselves with and which cause people — pardon me, Professor Szasz — to do damage to other people.

So, I think the first step we ought to take is to consider the legal and illegal substances of abuse together and we ought to then differentiate among them according to their characteristics.

Now, the only recent experience we have with the legalization of a substance of abuse is alcohol. It's not, I submit, a happy experience. Since the end of Prohibition, American alcohol consumption per capita cirrhosis of the liver, have followed right along.

Alcohol appears to be responsible for about a third of all our highway deaths, for about a half of all our violent crimes. That's based on survey work among state felony prisoners. They were asked, were you drinking at the time you did whatever you're now in for? And more than half said, yes. More than half of that had had more than eight ounces of absolute alcohol in the 24 hours before they did whatever they were currently in for. So, the notion that, well, we legalized alcohol and that worked, let's try it again with something else, strikes me as not a powerful argument: in fact, a powerful argument on the other side. It doesn't prove that we would be better off keeping all substances illegal, but it does demonstrate that no matter how bad the picture is, it can always get worse. We found that with the end of Prohibition.

How do we differentiate among drugs? It seems to me there are two obvious ways for the purpose of making policy. One is that some drugs, either because of their pharmacology or because of the way that they are actually used are more harmful, both to their users and other people, than other drugs.

I would put alcohol very high on the harm side. It appears to me from all the evidence that it's a much more dangerous drug than, for example, marijuana.

Given its current use, but not its pharmacology, I would put heroin very high on the harm side, and PCP as well. So, if we have a finite amount of resources to devote to drug policy, we ought to devote more of those resources to the most dangerous drugs. But if we are going to talk about enforcement, which I take to be our basic topic here today, there's another equally important principle: We ought to devote our enforcement resources to those drugs where enforcement will have a major impact.

The larger the market for a drug is, the more people there are who want to use it, and the more money they are willing to spend to get it, the harder it is for law enforcement to make a difference. Two thousand DEA agents cannot get between twenty-four million marijuana users and their chosen drug. And I submit that the same is now true of cocaine.

If Americans are, in fact, spending twenty billion dollars a year on cocaine, which seems awfully high, but may be right, then the ability of federal law enforcement to add enough to the cost of being in the cocaine business to drive cocaine off the market is virtually nil.

There are some things which would be nice to do, but which are not, in fact, do-able. And once an intoxicant gets to be a mass market...
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Prof. Kaplan: Thank you. The next person that I would like to call on is Mark Kleiman.

Mr. Kleiman: Thank you, John. Let me start by raising what seems to be the fundamental question, which is whether the question as presented to us about the War on Drugs is well-stated. I think it isn't. I think the first mistake we make in thinking about drug policy is imagining that we can talk in the abstract as if heroin and cocaine and marijuana and PCP all presented the same problem or the same kind of problem or are likely to yield equivalent benefits to the same kind of policies. I think that's wrong.

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There are some things which would be nice to do, but which are not, in fact, doable. And once an intoxicant gets to be a mass market
two candy bars will spend more on the candy bars than he did on the marijuana.

That is not an attractive target for price increase as a way of reducing the quantity consumed. But what's the other effect of increasing federal marijuana enforcement? It is, I suggest, to make the market more lucrative. That is, total revenues will increase because consumption goes down less proportionately than price goes up, so there's more money on the table for criminals.

Worse, as enforcement goes up, it is the more dangerous drug dealers, those more willing and more able to use violence and corruption to protect their activities from enforcement, who will be advantaged, who will become the low cost suppliers of the drug. So, not only do we put more money on the table for criminals, we make it available to the more dangerous criminals and we encourage drug dealers to make themselves more enforcement resistant.

On the other hand, if you look at street level heroin enforcement, I suggest the effects on consumption and the effects on drug-related crime are all to the good. To answer Professor Wisotsky's two questions: What accounts for the failure of the War on Drugs? The failure to target our resources well. Do the benefits of the War on Drugs nevertheless outweigh its costs? For high-level marijuana and cocaine efforts, no. For street-level heroin enforcement, yes.

Should we end the War on Drugs by legalizing everything? I submit to you the answer is again, no.

Prof. Kaplan: Thank you, Mark Kleiman.

The next person I would like to call on is Lester Grinspoon, who will also go into the issue of what our War on Drugs costs and what it is doing . . . .

Dr. Grinspoon: Well, I will address the title of this conference, "In Search of a Breakthrough." I would like to present a somewhat utopian notion . . . .

Now, H. L. Mencken said of the alcohol problem during the 1920's that between the distillers and the saloon keepers on one side and the prohibitionists on the other, no intelligent man thought there was any solution at all. The same may be true of the illicit drug problem, with traffickers on one side and moralists and the police on the other. Only the problem is worse because the acceptable range of solutions seems to be so narrow.

The report of the President's Commission on Organized Crime suggests, the way things are going now, there is no effective opposition to prohibition.
substance, the ability of law enforcement to restrict access to it is very limited. No conceivable enforcement program behind the Volstead Act would have abolished alcohol use during the period of the 1920's.

I think the wrong lesson was drawn from that: the lesson that Prohibition wasn't doing any good, and we ought to repeal it. The increase in alcohol consumption after Repeal showed how mistaken that view is. There is danger of learning the same wrong lesson today about marijuana and cocaine.

I don't think that, just because increasing enforcement resources won't lead to a proportionate decrease in consumption, legalization has no effect. Think for a moment about the difference between legal and illegal substances in terms of users' ability to get their hands on them. If a substance is legal, you can walk down to the corner store and buy it. You buy it in a package that tells you what's in it. You know it's not adulterated. You're not afraid of being ripped off. You're not breaking the law.

The sheer difference in the time required to buy a pack of cigarettes as opposed to a gram of cocaine, perhaps only the difference between five minutes and half an hour, can make a noticeable impact on how frequently people decide to use a drug.

Thus the difference between legal and illegal may be much more important than the difference between high enforcement and low enforcement. Professor Wisotsky suggested that the War on Drugs, by which I take it he means the increase in drug enforcement resources over the first five years of the Reagan administration, has not been successful. I take that to be true. But it is invalid to draw from that premise the conclusion that the policy of keeping some drugs illegal is without effect. That conclusion is unsupported by either logic or fact.

Where does that leave us? I think it leaves us looking at the resources we put into drug enforcement, drug by drug, and saying, what happens if we do more? What happens if we do less?

With respect to marijuana, which is the drug I know most about, I submit that enforcement has primarily bad effects. It increases price, but not very much. I calculate that federal drug enforcement is responsible for about 20 percent of the price of marijuana. That increase in price necessarily decreases consumption; if something costs more, people buy less of it. But marijuana is so cheap that it seems unlikely that a ten or twenty percent increase in price will decrease consumption very much. It costs fifty to seventy-five cents to get stoned. A ten percent increase in price is not going to lead many users to get stoned less often. Somebody who smokes a joint, gets the "munchies," and eats two candy bars will spend more on the candy bars than he did on the marijuana.

That is not an attractive target for price increase as a way of reducing the quantity consumed. But what's the other effect of increasing federal marijuana enforcement? It is, I suggest, to make the market more lucrative. That is, total revenues will increase because consumption goes down less proportionately than price goes up, so there's more money on the table for criminals.

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amount of drugs consumed, especially by heavy users?

Evidence on all this is very uncertain, even in the cases of alcohol and tobacco, where the most research has been done. There is a large literature of the distribution curve of alcohol consumption among individuals in society, most of which concludes that any policy designed to cut total consumption will at least proportionately reduce alcohol use among problem drinkers and, therefore, the medical and social causes of alcohol abuse.

That is, the demand is elastic enough, even among alcohol users who create problems by their use, to be affected by a rise in price. In fact, there is some evidence that... where the price of alcohol is relatively higher, there are fewer alcohol problems....

And there also is some evidence of elasticity of demand for heroin by addicts. Several studies suggest that addicts adjust the size of their habits to the price of heroin. One authority on heroin control has said that the criminal law would be effective in cutting down heroin use if it raised the time needed to get a dose of heroin from five minutes to two hours....

The criminal law makes it risky to manufacture and distribute the drug. This raises its cost to the consumer, who therefore needs more time to earn or steal enough money to obtain it. It also restricts accessibility so that the consumer has to spend more time finding out where to get it. The question is whether through taxation we could impose a limitation similar to the crime tariff, but more efficiently and with fewer monstrous side effects. Inelasticity of demand is greater in the case of tobacco because nicotine is one of the most highly addicting substances. Nevertheless, it is clear that even here raising the price by taxes has considerable effect on consumption.

Research suggests that for every ten percent increase in cigarette prices, consumption will decrease about four percent. Some studies suggest that the price affects mainly the decision to start smoking regularly, rather than the quantity smoked by an already addicted smoker. Thus, the short run impact of extra taxation would be small and it would reduce cigarette smoking only in the long run. Other studies find that as the average cost of tobacco is raised, the income elasticity of demand increases. That is, poorer people are more deterred from cigarette consumption than richer ones.

Now, it has been estimated that the direct health care costs plus the indirect losses in productivity and earnings due to cigarettes amount to a total of slightly over two dollars a pack: twenty-two billion
I would like to propose a utopian exercise that would take us in an entirely different direction. The idea is not new and it would be foolhardy to suggest that it is currently a feasible policy. But I offer it to the conference tentatively for discussion.

The suggestion is that the currently controlled substances be legalized and taxed. The taxes would be used for drug education and for paying the medical and social costs of drug abuse. A commission would be established to decide how much each drug would be taxed on the basis of its cost to society. The rate of taxation would be adjusted annually for each drug in accordance with the most recent data on those costs.

Data may not now be available, but with modern data collecting and processing techniques, it certainly could be. In this way the government would acknowledge that inevitably some people are going to use drugs and would try to shift them towards the use of safer drugs by means of taxing policy and education. In this system the currently legal drugs, alcohol and tobacco, would not be distinguished from the others.

The advantage, obvious to most of us here, is that we would no longer have the expense, corruption, chaos and terror of the war between drug traffickers and narcotic agents. One of the byproducts of the drug war is, as most of the participants in this conference would recognize, a threat to civil liberties. As Steven Wisotsky has pointed out, it is possible that a self-reinforcing cycle is beginning to develop, as drug enforcement operations begin to pay for themselves by funds confiscated from the drug traffickers, whose operations they make enormously profitable.

The taxing system here suggested would establish a different kind of revenue cycle in which society would pay for the costs of drug abuse by extracting them from the drug users in proportion to the amount they contribute to the problem.

The commission that supervised this taxing system would also serve as an educator and guide to society, an educator not constrained by the present totally unrealistic assumption built into the criminal law that any use of certain drugs must be evil or dangerous, while other use have a range of benign and harmful uses. Honest drug education would become possible.

Is it plausible to think that this arrangement would work? Would it be possible to tax drugs enough to pay for their costs? Even if it were possible, would drug abuse increase so much that we would be paying too high a price in personal and social misery? Is the elasticity of demand great enough so that taxing would substantially influence the amount of drugs consumed, especially by heavy users?

Evidence on all this is very uncertain, even in the cases of alcohol and tobacco, where the most research has been done. There is a large literature of the distribution curve of alcohol consumption among individuals in society, most of which concludes that any policy designed to cut total consumption will at least proportionately reduce alcohol use among problem drinkers and, therefore, the medical and social causes of alcohol abuse.

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Now, it has been estimated that the direct health care costs plus the indirect losses in productivity and earnings due to cigarettes amount to a total of slightly over two dollars a pack: twenty-two billion
dollars in health care for smoking-related diseases and forty-three billion dollars in productivity losses.

This is only an illustration of the kind of calculation that would be involved in trying to set a taxing policy. Such a taxing policy might be regarded as a way of making people buy insurance for the risks to themselves and others in their use of drugs. Life insurance companies already offer substantial discounts in their premiums for non-smokers, and this insurance preference is slowly being extended to fire and other insurance policies.

A problem raised by any system of authorized sales is the black market. The tax would have to be set low enough so that a black market would not be profitable. It is possible to do this and still reduce demand for the drug considerably, as the case of alcohol seems to show.

On the other hand, it is not clear whether any tax low enough to prevent a substantial black market would be high enough to pay for the social and medical costs of drug use. Certainly, present taxes on alcohol are far from doing that. It might prove impossible to create a system that would make the abusers of a drug, or even its users, pay for the full costs of abuse. Maybe this problem is practically insoluble. Certainly, the criminal law approach offers no solution at all.

We simply don't know the amount of drug use and the seriousness of drug problems that would exist under this kind of system, whether a legal taxation system would have the same effect as the crime tariff in this respect.

Even if drug use increased with legalization, the Oregon and Alaska experiences with decriminalization of marijuana suggest that the increase might not be nearly as much as anticipated. And in order of deprivation of freedom and the damage wrought by Prohibition is less than the damage attendant on the increment of drug use, much as it did in the decision to repeal the Volstead Act.

Prof. Kaplan: Thank you very much, Lester.

Next, I would like to call on Norman Zinberg to continue the discussion.

Dr. Zinberg: Well, I would like to approach this from a slightly different perspective and take up the issue of whether there is such a thing as the drug problem.

Certainly, some people have terrible experiences with chemicals. Drug problem. And I'm not so sure that's true. . . .

I want to approach it just a little bit differently.
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Even if drug use increased with legalization, the Oregon and Alaska experiences with decriminalization of marijuana suggest that to undertake such a bold move, society would have to decide that the deprivation of freedom and the damage wrought by Prohibition is less than the damage attendant on the increment of drug use, much as it did in the decision to repeal the Volstead Act.

Prof. Kaplan: Thank you very much, Lester.

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Dr. Zinberg: Well, I would like to approach this from a slightly different perspective and take up the issue of whether there is such a thing as the drug problem.

Certainly, some people have terrible experiences with chemicals drug problem. And I'm not so sure that's true . . . .

But it seems to me the underlying assumption here is that there is a I want to approach it just a little bit differently.
including alcohol, is rising. Heroin use is down. Alcohol use, while up in quantity, in fact is better than it’s ever been.

By the end of Prohibition, use was way, way up and climbing . . . . [For the last three years there has been more beer and white wine sold in the country than hard liquor. The proof of hard liquor is down. More people are drinking less and in a more controlled way. I think we are attempting to be more controlled in a number of ways, including fitness. I think there is a shift.

I think this has not been true of cocaine, but I think that has begun to happen, too. I suspect after cocaine there’s going to be something else. And I think we are trying to sort out, as a culture, how we can deal with certain substances.

I think it’s true that some we can’t deal with. Cocaine, I happen to think, is an extremely dangerous drug. And maybe we are going to have to deal with the drugs that are dangerous. I don’t know yet. I don’t think anybody does. I do think that creating the war climate, a total law enforcement climate . . . will upset that [positive] trend and start things off once more in a bad direction. I think what we need is disengagement. I think it has to be slow. I think we have lived through an enormous period of time where people have actually believed that they were going to stamp out drug use; they could have a war and win it.

I have been through a number of wars now and it’s not a winnable war. The genie is out of the bottle. We are now, as a culture, playing around with how we can use these substances. I think that disengagement should be gentle. I think decriminalization of marijuana would not be a bad place to start. It’s a legal fiction. It’s complicated, but it gives us a chance to see how it works . . . . [So far the states that have law it . . . I think we should begin to use heroin for terminal illness. It doesn’t condone illicit heroin use, but it begins to bring things into a more rational context . . . .

And this is what I consider disengagement, rational learning, thinking through how these things work, what works and what does not work . . . . I do think the most important thing is the philosophical shift — this is with us and it’s a question of how we live with it, not our stamping it out. Thank you.

Prof. Kaplan: Thank you, again, Norman . . . . Next, I would like to call on David Richards.

Prof. Richards: [Professor Richards read his paper. See p. 9094]
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And this is what I consider disengagement, rational learning, thinking through how these things work, what works and what doesn't — this is with us and it's a question of how we live with it, not our Prof. Kaplan: Thank you, again, Norman... Next, I would like to call on David Richards.

Prof. Richards: [Professor Richards read his paper. See p. 909.]

Prof. Kaplan: Our final speaker in the first round is Thomas Szasz.

Dr. Szasz: Thank you. At this point I would like to offer a few informal comments to amplify my written statement [See p. 915].

First of all, I would like to re-emphasize that there is no War on Drugs. There can be no such thing. Drugs, so long as they remain outside our bodies, are inert substances. The War on Drugs is simply another of those self-legitimizing slogans that George Orwell satirized so well.

Secondly, the term drug, in our context, is largely a political concept. That is to say, the distinction between what counts, and what does not count, as a drug is primarily political. For example, until a few years ago, alcohol and tobacco were not considered to be drugs; now they are. Of course, in the American colonies, tobacco was the single most important product. It was our first export. It was like cocaine is now to the Bolivians. But how many Americans look at cocaine that way?

That is why I see the War on Drugs as a modern version of the old religious wars. We worship the only true God; they worship false idols. We promote therapeutic agents; they traffic in dangerous drugs. This hypocrisy is, for me, the crux of the whole so-called drug problem. May I say something a little more personal here. As I look around, it occurs to me that I am probably the only person on this panel who was not born in this country — and who, therefore, perhaps appreciate this country the most keenly. I mean to give no offense, of course. I believe, however, that when the Founders envisioned the government of the United States, it never occurred to them that the government would have the right — would possess the legitimacy — to tell its citizens what substances they may or may not put into their own mouths!

Which brings to mind again Randolph Bourne's statement that "war is the health of the state." That's pretty obvious if we think of Napoleon or Hitler. It's just as obvious concerning the War on Drugs. So the assertion that the War on Drugs is failing, or is not working, is — in a fundamental sense — false. It is terribly misleading. The War on Drugs is working just fine, thank you. It's primary purpose is to elect politicians. Hasn't it done wonders for Governor Nelson Rockefeller and many others? When confronted with social policy, we must always ask: "Cui bono?" The War on Drugs is not supposed to help the addicts, or the people who get mugged by criminals on the street, or the patients who get AIDS from contaminated blood because selling clean syringes is illegal in America. It is supposed to help professional ex-
plo ters — whether political or psychiatric. The American Psychiatric Association is very happy with the War on Drugs — with the view that taking illegal drugs is an illness. It is the story of masturbatory insanity all over again — the imagery of drug abuse replacing the imagery of self-abuse. Let me read to you something I brought along because I thought it might come in handy. It is from the Confessions of Saint Augustine, written in the fifth century:

I was bound down by this disease of the flesh, its deadly pleasures, with a chain that dragged along with me, yet I was afraid to be freed from it. . . . I was a prisoner of habit suffering cruel torments trying to satisfy a lust that could never be satisfied. . . . I had prayed to you for chastity and said, “Give me chastity and continence, but not yet.” For I was afraid that you would answer my prayer at once and cure me too soon of the disease of lust, which I wanted satisfied not quelled.

Countless articles and books are written on drugs, but self-discipline is rarely if ever mentioned. Instead, we hear about “kids” — that’s the code word of the lobby whooping up the drug hysteria. They say we shouldn’t give drugs to kids. Big deal. We shouldn’t give lots of things to kids — from stocks and bonds to automobiles.

Of course drugs cause problems. Everything causes problems. And solves problems. Remember that religion was thought to be a solution. Then came Marx, and he said it was a problem, it was the opiate of the people. And then came Freud, and he said it was a mental illness, a mass psychosis. So which is it? Is religion a problem or a solution? Are drugs problems or solutions?

The fact of the matter is that you can only wage wars on people. You can’t wage them on inert substances. Therefore, the War on Drugs is a war of the American government on its own people — which may now be the best thing possible. After all, we have gone for 45 years without a major world war. Maybe the idiotic drug war is worth it. We can’t really pick on Blacks anymore or Jews or women; but we seem to need to pick on someone.

Prof. Kaplan: Thank you, very much. It’s traditional at this point to throw open the meeting to the panel first and then to the floor. So let’s try first and ask, Mark Kleiman, do you have any comments?

Mr. Kleiman: I have comments. They are not well organized so let me just sort of tick them off. I want to applaud Dr. Grinspoon for the appropriate level of taxation for these substances.

But I want to suggest that the answer for many of them will turn out to be that the appropriate level of taxation is higher rather than lower than the current black market price. I wouldn’t like to see the price of heroin fall and that means that a taxation system requires as much enforcement on it as the current black market requires. So, though I think the appropriate level of taxation is the right thought experiment to do, I’m not sure it leads to the policy that Doctor Grinspoon may intend it to lead to.

After all, since prohibition can be thought of as just one extreme on the continuum of regulation, saying we ought to have a regulatory policy rather than a prohibitory policy may not have much content. One strong point I would like to make about the taxation idea with respect to heroin, the one drug, after all, we are having a lot of success with at the moment, is that increasing the price in dollars is not the same as increasing the price in search time. It is one thing to say to a heroin user, all right, it will now cost you $15 instead of $10 to get your fix, it’s another thing to say, you also have to spend half a day searching for a dealer who knows you and is willing to sell to you.

It may be the case that increasing search time, which only prohibition does — the tax system merely increases the dollar price — is more powerful. And it has an additional advantage: if what users are up against is a high search-time price rather than a high dollar price, mugging you will not solve their problem. So, those are really my only comments on the question of taxation.

On the question of education, there’s real evidence now with respect to tobacco that drug education — or to be honest, anti-drug propaganda — can work, but it can work only if it’s done right. I agree with Dr. Zinberg that the scare tactic appears to be very unsuccessful. In fact, there’s some evidence that drug education of the here-a-green-pill-and-it-makes-your-head-grow-bigger type turns out to be consumer education for drug use.

The key question for 14-year-olds is, how can I turn down a pressured cigarette or beer or joint without committing a social gaffe. After all, 14-year-olds are very unwilling to offend their friends or appear different, so the task of drug education is to extend to them a social skill that they now lack of gracefully declining a cigarette or a joint or a drink. It’s not just kids who need help with this. As a non-drinker, I have some problems at parties where people are offended if I turn down a drink; saying “no” gracefully is a skill I would like to know more
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about.

...Dr. Grinspoon: [W]ith respect to Mr. Kleiman’s comments about heroin, it’s a point well-taken. As I offer this proposal, I do it with all humility that there are many problems with it. It seems to me that inasmuch as most of us will agree the War on Drugs is a failure, we are compelled to look at other possibilities. We ultimately are going to have to do some grand social experiments...

Now, with respect to the question of heroin, that is one of the problems. When you look at the proposal that I have made, you have to look at what are the positive aspects of it and what are the liabilities...

Even if we look at the question of heroin, it’s true that heroin use in Harlem, for example, is diminishing; but as a researcher...

Dr. Szasz: Well, I certainly do not want to be identified with the view that has been articulated that drugs are not so bad and it’s okay to take them.

My view is that anyone who takes anything he doesn’t need is stupid. But I also believe in the old caveat emptor principle; if you want to poison yourself with tobacco and heroin, by all means, the faster, the better, and the rest of us can live in peace and quiet. And I also believe that there are two different types of bad things in the world — namely, the stupid things that people do to themselves and the even more stupid things that politicians and law enforcement people do to us.
Dr. Grinspoon: With respect to Mr. Kleiman's comments about heroin, it's a point well-taken. As I offer this proposal, I do it with all humility that there are many problems with it. It seems to me that inasmuch as most of us will agree the War on Drugs is a failure, we are compelled to look at other possibilities. We ultimately are going to have to do some grand social experiments.

Now, with respect to the question of heroin, that is one of the problems. When you look at the proposal that I have made, you have to look at what are the positive aspects of it and what are the liabilities... Even if we look at the question of heroin, it's true that heroin use in Harlem, for example, is diminishing; but as a researcher... has demonstrated, it isn't because of the Draconian Rockefeller laws. It has probably more to do with youngsters observing what difficulties their older brothers and sisters got into with heroin. This kind of learning process appears to be going on now with PCP.

The other thing about heroin is that... and this may seem somewhat shocking — when it comes to the opiates, if you take away the social costs of using opiates, there are very few biological costs.

Take, for example, William Halstead, the father of American surgery who in 1884 got stuck on cocaine after he invented nerve block anesthesia with cocaine... He was taken to the Windward Islands by his friends on a cruise. He was hospitalized. He had all sorts of difficulties, and then was observed suddenly to have given up cocaine... The price of his giving up cocaine was 200 milligrams of morphine every day, but he functioned perfectly all right. Not only did he function all right, but he went about doing his work and continuing to be a leader in American surgery.

Now, as to what Mark says about drug education... I think it's crucial that we... do honest drug education. We are not educating youngsters honestly about drugs in this country. For example, if you take marijuana, the kind of things that we are saying about marijuana when they go on and discover... it isn't as terrible as they have been told. In fact, maybe even some aspects of it are useful. They then conclude that everything else that has been taught about drugs is untrue and they have no confidence in what they have been told by the authorities about these drugs. They then disbelieve what we say about cocaine, amphetamines, PCP, and so forth.

Prof. Kaplan: Thank you, very much. Yes, Mr. Kellner.

Mr. Kellner: I thought I was here to be a target and I listened to some of the panelists and I'm the wrong target. I'm the wrong person to be up here... [U]p here in my place [should be] a majority of people in this country as well as all the politicians who have passed the drug laws which I enforce.

What I am hearing is not that drugs are bad; that, hey, sit back and enjoy it. Well, I don't agree with that as a citizen and as a parent, and it's something different than what I thought we were discussing.

I really thought that most of the people, if not all of the people on this panel, recognized there was a problem with the use of drugs. I do. I firmly believe that. And I thought we were here to discuss how to resolve that problem. And one person, Mark Kleiman, said, what we are here to discuss is law enforcement. Well, I didn't see that either.

Law enforcement is one component of an overall effort.

The issue I was hoping to discuss is whether the law enforcement effort is too emphasized as opposed to others. But apparently there's a more fundamental disagreement among the panelists, and that is whether or not we should have any law or any prohibition or do anything in terms of drug education to instruct people on the dangers of drug use. That's a very different question to me. I am prepared to discuss it, not as a law enforcement person and not as an expert, but as a citizen, as a working member of the society, and as a parent.

Prof. Kaplan: Dr. Szasz.

Dr. Szasz: Well, I certainly do not want to be identified with the view that has been articulated that drugs are not so bad and it's okay to take them.

My view is that anyone who takes anything he doesn't need is stupid. But I also believe in the old caveat emptor principle; if you want to poison yourself with tobacco and heroin, by all means, the faster, the better, and the rest of us can live in peace and quiet. And I also believe that there are two different types of bad things in the world — namely, the stupid things that people do to themselves and the even more stupid things that politicians and law enforcement people do to us.

Doctor Grinspoon talks about education. Well, forgive me for quoting Thomas Jefferson, but he said something like, I firmly believe that the truth can stand by itself; it's only error that needs the protection of government. I think he should have said lies. Lying is the name...
of the game.

Drug education in the United States is the same sort of thing as political education is in Russia. It is the systematic spreading of lies. When I first became interested in writing about this and I saw how many millions have been spent on so-called drug education, it occurred to me that, after all, students are supposed to know how to read, why not xerox Goodman and Gilman [The Pharmacological Basis of Therapeutics] — the old edition, of course — and give it to children. Why not? Because it doesn’t say what the government wants to hear. Have you looked at it, Mr. Kellner? It says, alcohol and cigarettes are worse than opiates. That’s not what Jesse Helms wants to hear.

Then we keep hearing how the War on Drugs is failing. But it’s not failing. It is succeeding — let me show you how. This little piece is from the Fort Lauderdale News. Now I happen to —

Prof. Kaplan: Be a regular subscriber?

Dr. Szasz: No — a regular notice of such seemingly unrelated items. I quote: “Tel Aviv, Israel. [No offense to any Jews.] Observant Jews in major Israeli cities may not have traditional Sabbath chicken this week. . . . Jews alert to non-kosher chicken scams.” The Orthodox Jews are afraid of non-kosher chicken. If they are afraid of it, they don’t have to eat it. This is the old symbolism, the old religion. The new one is about kosher and non-kosher drugs.

Prof. Kaplan: Norman.

Dr. Zinberg: I will try to be very brief because I figure the War on Drugs should not extend to depriving people of coffee.

Mr. Kleinman: Are you sure? It’s a very addictive drug.

Dr. Zinberg: I do feel that Mr. Kellner raised a red herring. Nobody is condoning free and easy drug use. . . . I personally know that second place.

It’s not even much fun. For most people that smoke, they just can’t stop. And over 95 percent of the users are addicted, as compared to almost any other drug, including heroin, a higher percentage is addicted. I’m against them all. I’m particularly against cigarettes. But I think that’s not what we are talking about.

I think the issue about education . . . [requires] change in the social climate . . . . You could do a different kind of education for a marijuana decriminalization bill; and you could actually talk about use it in ways that are more likely to promote controlled use than abuse, occasional use, and eventually give it up.

And, as I said before, that was Professor Kaplan’s point 15 years ago; and it’s just as true of everything else, even the dangerous drugs, which is the point I’m making in my book [about heroin].

I think if you try to shift drug education to “decision resolution,” and all these fancy words, it comes out the same way: “If you were smart, you would say ‘no.’” You’ve got to be taught to say no. It comes out the same hardline stuff, so it’s a change in the social climate that seems to me to be crucial to any effective educational methods. Other than that, you will get the same kind of business that we are getting now.

Prof. Kaplan: Okay, David.

Prof. Richards: I would just like to address briefly Leon Kellner’s remarks that he felt that we are more concerned with an issue that doesn’t concern him. I think it is true that in America there’s a tremendous gap between medical opinion about the harms of drugs and public opinion. It’s an extraordinary gap . . . .

I think part of the problem in the area is that American drug policy has been very uninformed by medical knowledge and has been very much motored by a prosecutorial perspective, historically. Not to say that prosecutors don’t have an enormous knowledge in this area, but it’s only one perspective. There are a number of others that have to be brought to bear on this sort of question.

. . . Second, . . . prosecutors in America have enormous discretion to choose what they will and will not target. And when Leon says, as he did to us, that the drug question is for him one of the central political evils of our society and that he targets his resources in that way, that’s a choice he as a prosecutor makes. And it seems to me that that’s a choice that is up for discussion. Is that the best use of prosecutorial resources? . . . It should be open to political debate. It should be informed by a range of perspectives, including those of the panelists here. . . . That is as much a matter for political debate in American society as any else. After all, there are many areas in this country where we overcriminalize, where prosecutors no longer are prosecuting, in the sexual area and the like, because in their view these laws are pointless . . . .

Prosecutors make choices in this area. They have to ask themselves, are they making the right choices . . . . And you can’t slough it off to the legislature . . . .

Mr. Kellner: That was an interesting point you made about prosecutorial discretion and you’re right. Out of all the laws on the
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Dr. Zinberg: I do feel that Mr. Kellner raised a red herring. No one is condoning free and easy drug use. . . . I personally know that cigarettes are by far the most dangerous drug. . . . Really, there's no second place.

It's not even much fun. For most people that smoke, they just can't stop. And over 95 percent of the users are addicted, as compared with heroin. I'm against them all. I'm particularly against cigarettes. But I think the issue about education . . . [requires] change in the social climate. . . . You could do a different kind of education for a marijuana decriminalization bill. And you could actually talk about. . . . use it in ways that are more likely to promote controlled use than abuse, occasional use, and eventually give it up.

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Mr. Kellner: That was an interesting point you made about prosecutorial discretion and you're right. Out of all the laws on the
books in the United States Code, prosecutors can pick and choose the statutes that they want to emphasize. They can also pick and choose the types of crimes they want to apply those statutes to.

... In the area of drug enforcement, much of that discretion has been taken away from them. That discretion has been taken away by the political process, by Congress. Professor Wisotsky mentioned the Organized Crime Drug Enforcement Task Force. Also he mentioned the increase in appropriations for the Drug Enforcement Administration and a variety of other tools utilized in the drug war.

That is a political statement that we are designated and directed to apply substantial resources for... the purpose of enforcing the drug laws. Therefore, while in many areas prosecutors do have a great deal of discretion, which I exercise in this district, in the area of drug efforts, there is a unified decision made by the executive branch as well as the legislative branch of government. It is a little bit different in terms of my prosecutorial discretion.

[The proceedings continued after a short recess:]

Prof. Kaplan: Very shortly we will be calling for questions from the audience, preferably fairly short and direct questions... Some people asked me to say a couple of words just on the ground that so far today I could easily have been replaced by an alarm clock.

A couple of things I would like to point out... The first question I would ask is, is this a question of legal philosophy, or is this a practical question we are dealing with? And different people can have different results. Personally, I regard it as an intensely practical question. Although I do not in any way discount notions of human freedom, I do believe that certain restraints may be necessary even if they compromise our ideas of freedom. In that case, I obviously have to part from Tom Szasz, though I enormously respect his position.

The second thing is, I see a distinction between two questions: whether somebody should use a drug or whether you want your children to use it, and whether the government people move very quickly from one to the other.

The next question I would ask is whether there is something different, qualitatively different about the illegal drugs as opposed to the legal ones? Well, that's a very tough question... All of these drugs are social effect, when one is legal or not... I can't answer it in terms of pharmacology. And I guess the easiest way to do it is to say that there are five or six pharmacological grounds. Anybody who doesn't understand that alcohol is a drug or doesn't understand that tobacco is a drug doesn't know where to begin here...

The way I look at it, with respect to every drug, legal or illegal, you have two choices. You can have either a public health problem, or a criminal problem.

And when I say criminal problem, I mean civil liberties violations, corruption, violence, high prices which cause other kinds of crimes. That's the criminal problem. Or you can have a public health problem, cirrhosis of the liver, drunken driving. In some cases, of course, you get a little of both.

During Prohibition we still had a public health problem, but we had a much greater criminal problem. Now, we have still a criminal problem... (a lot of times liquor dealers cheat)... but we have a much greater public health problem.

With respect to each of these drugs, when you prohibit it, you get a criminal problem, and when you don't, you get a public health problem. The Lord did not put these substances on this earth to make life easier for man. And we have to make a decision; to my mind the decision has to be a fairly specific one with respect to knowing a great deal about each drug. And we will talk more about that this afternoon. But this is where you have to know something in order to make sensible judgment.

Now, I would like to throw the microphone open first.

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Questioner: How many of the panel think narcotic addiction or alcoholism is a disease?

Prof. Kaplan: Okay. An eminently sensible question, or at least one that's often asked...

Dr. Szasz: Don't leave because I can't answer it until you define what you mean by disease.

Questioner: The traditional definition of a disease, the dysfunctionality, physical, biological changes, on and on...

Dr. Szasz: The most authoritative pathology text used today in the United States is by Robins and two co-authors, according to which alcoholism is not a disease. Alcoholism, manic depression, mental illness are not listed in the index and are not discussed.

Drugs can cause diseases, of course. So can knives, guns, war, famine, so on. Alcoholism is simply a particular habit [of drinking].
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The way I look at it, with respect to every drug, legal or illegal, you have two choices. You can have either a public health problem, or a criminal problem.

And when I say criminal problem, I mean civil liberties violations, corruption, violence, high prices which cause other kinds of crimes. That's the criminal problem. Or you can have a public health problem, cirrhosis of the liver, drunken driving. In some cases, of course, you get a little of both.

During Prohibition we still had a public health problem, but we had a much greater criminal problem. Now, we have still a criminal problem ... (a lot of times liquor dealers cheat), ... [but] we have a much greater public health problem.

With respect to each of these drugs, when you prohibit ... a criminal problem, and when you don't, you get a public health problem. The Lord did not put these substances on earth to make life easier for man. And we have to make a decision; to my mind the decision has to be a fairly specific one with respect to knowing a great deal about each drug. And we will talk more about that afternoon. But this is where you have to know something in order to make sensible judgment.

Now, I would like to throw the microphone open first.

* * *

Questioner: How many of the panel think narcotic addiction or alcoholism is a disease?

Prof. Kaplan: Okay. An eminently sensible question, or at least one that's often asked ... .

Dr. Szasz: ... Don't leave because I can't answer it until you define what you mean by disease.

Questioner: The traditional definition of a disease, the dysfunctionality, physical, biological changes, on and on ...

Dr. Szasz: The most authoritative pathology text used today in the United States is by Robins and two co-authors, according to which alcoholism is not a disease. Alcoholism, manic depression, mental illness are not listed in the index and are not discussed.

Drugs can cause diseases, of course. So can knives, guns, war, famine, so on. Alcoholism is simply a particular habit [of drinking].
except it happens to be ethyl alcohol instead of coffee or water that the person ingests.

Prof. Kaplan: Now, let me ask Norman Zinberg.

Dr. Zinberg: I find myself preferring not to be as strict as Professor Szasz is in this area. I think the important confusion is whether people have a disease that leads them to become alcoholics or narcotics addicts; or once you have serious alcoholism or narcotic addiction, are you then "sick," for want of a better word.

And I think the idea that it was a disease that caused alcoholism or addiction has created a lot of problems for psychiatry. An awful lot of psychiatrists for many years tried to indicate that these "diseases" developed because you had a bad relationship with your awful mother.

As a result of that "disease" (whatever the hell that is, and I agree with Professor Szasz entirely that that's a crazy notion), you then drank too much, stuck yourself with needles, and what have you. I think that that's nonsense.

Once you're a serious alcoholic, once you're really a narcotics addict, in a serious way, are you in some sense sick? Most people who have it are, and most people then require whatever God knows we call "treatment." . . .

Questioner: I am interested in the substances or the things that can become addictive. And I think a good Swedish doctor by the name of Doctor Goldman has said that the opiates, the barbiturates, ethyl alcohol, nicotine, food, water, work, television and reading are [addictive] . . . .

Prof. Kaplan: Mark, you want to respond?

Mr. Kleiman: Let me try to respond to the first question, as someone who is not a physician, therefore, not a medical expert and not a lawyer, not a legal expert. I must be a general expert.

There are certainly people with addictions to various substances. There are people with a clinical addiction to alcohol who suffer withdrawal symptoms if they are cut off. That's true. That's true of barbiturates. That's true of some other things.

I think the mistake is in thinking that most of the damage that these substances do to users and to others are done with respect to Most of the damage that's done in this country by alcohol is not done themselves.

And it is the genius of the booze industry in this country to have convinced the rest of us it's only the five or ten percent of the clinical alcoholics, among our seventy to a hundred million alcohol users, who have an alcohol problem. A kid who drinks a six pack on a Friday night, who is not a clinical alcoholic, has an alcohol problem.

And so, I think the answer to your question, with due respect to my medical friends up here, is that, yes, there are diseases associated with drug use. There are addiction syndromes, but those are not the fundamental problems. The fundamental problem is that people voluntarily take these things and mess themselves up or mess the rest of us up.

Prof. Kaplan: Next.

Questioner: The panel has successfully addressed the problem of law enforcement. Has the panel considered addressing the demand side of narcotics, the people that actually go out and buy the drugs? What do you suggest we do about that — education? What is the answer there?

Prof. Kaplan: Thank you. A perfectly fine question. Anyone want to take a try on it? Yes, Mr. Kellner.

Mr. Kellner: One of the things I stated at the outset was the recognition in our work that there are two components to any effort to reduce the use of drugs in this country. That is dealing with the supply side, the law enforcement side, and equally, if not more important, is dealing with the demand side.

We recognize that the only reason there is an increase in the amount of cocaine entering this country [and that] . . . amount of acreage under cultivation for coca leaves in the source countries, is extraordinary demand . . . . The only way I believe that you can deal with this problem is to deal with that demand side through education. And as Mark said, it has to be a particular type of education. It can't be scare tactics. It has to be truthful. It has to be geared to the peer group or to the audience that you are teaching, and only through a long-term effort can there be any kind of demonstrable success in the reduction of the utilization of drugs.

Prof. Kaplan: Okay. Let me add three things . . . . One, this area is complicated a great deal by the fact that the demand and supply are not two completely unrelated sides of the problem. To a considerable extent, supply creates demand . . . .

Second, demand is very hard to change deliberately. I think we should devote a great deal of thought to what extent that you're going to have to exaggerate the dangers of some drugs that are illegal, [and how this] will compromise your education with respect to other drugs.

In other words, when we stop and think what kind of education
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In other words, when we stop and think what kind of education.
would we use to get people to stop drinking beer, we have a very serious problem and, frankly, marijuana is more similar to alcohol in this respect than it is to any of the other drugs. This is not to say that demand is not subject to tremendous changes over time; but the changes involve things like religious revivals, changes in the consciousness of the country, a feeling that it is going to be a hard fight, and you need every bit of energy and brains you’ve got, rather than the feeling of the ’60s that the world was handed to us on a platter. And being quite honest, I think the major input on demand right now is the health movement, which, of course, is not a creature of law or law enforcement, but has come along for reasons that we barely understand . . .

Dr. Zinberg: I think you’re right. Once supply has reached a certain point, then it interacts with demand. I think you’re absolutely right about the health movement being the chief change of social climate. It made an impact on a lot of substances, including licit drugs, but you have to recognize that the initial demand did have nothing to do with supply. Supply came to meet the demand.

Having lived through the ’60s when Leary started the fuss about L.S.D., it was shocking how quickly and how great the demand was, and the supply came along. The same happened when marijuana got popular, and heroin, and now with cocaine. It’s astonishing. There was no cocaine in this country. I testified for the Shaffer Commission and the idea of cocaine, you could hardly find it.

Prof. Kaplan: On the other hand, we do know that the addiction rate among physicians who have a supply of narcotics is a great deal higher than the rest of the population, as was the addiction rate in Vietnam where opiates were available.

Dr. Zinberg: There, too, I was in Vietnam and there were very few opiates around and so heroin when the marijuana thing was marijuana — in one month they made over 10,000 marijuana arrests in Vietnam — that heroin appeared like magic.

Prof. Richards: There was a shift from marijuana to heroin?

Dr. Zinberg: There was a shift from marijuana to heroin. It appeared like magic. And I went into it very carefully there. It didn’t just land around the same time when suddenly there was a demand for another drug.

Mr. Kelner: You raised an interesting question. Hopefully, some of the medical people on the panel can answer. You say that there was States in the ’70s there was very little cocaine, and all of a sudden, we now have a substantial increase in use. Why? Can any of the panelists say why there has been this shift?

Prof. Kaplan: Let Lester try that . . .

Dr. Grinspoon: I think that the history of cocaine is inextricably involved with the history of amphetamines. There was much use of cocaine towards the turn of the century in this country. After cocaine was first synthesized in 1880, that is to say, isolated, it began to increase in use in Europe and in the United States. It was quite freely available.

Park Davis detail people would go knocking door to door selling cocaine. The bartender, if you asked him to put some cocaine in your whiskey, he would, and, of course, the Coca Cola Company was built on a coca extract. (It took cocaine out of Coca Cola before 1906 with the Pure Food and Drug Act. But, in fact, that was the real Classic Coca Cola.)

But cocaine began to get into trouble in the first decade of this century and it was lumped in with narcotics in the Harris Narcotic Act of 1914. It continued to be used into the 1930’s.

Now, in 1928, Gordon Oils . . . took the compound phenothiazine propanamine from the shelf, discovered its stimulant properties, and called it amphetamine. The Smith, Kline and French Company bought the patent rights, and the cocaine rate fell off.

By 1971, it’s estimated that there was illicitly produced in this country eleven to twelve billion amphetamine pills. That’s not to speak of the illicit production which was coming across the Mexican border in the form of “black beauties.” And, you see, this was fueled by physicians who prescribed amphetamines as a kind of panacea . . . When the disaffection with amphetamines began to set in in the 1970’s, cocaine began to grow and has continued to grow, as though the need for a stimulant has been unimportant. It’s just that the actors have changed.

Prof. Kaplan: Tom Szasz.

Dr. Szasz: I have been very interested in the question of the demand because it’s really more important than the supply. And, again, I found it necessary to get away from the ordinary prejudicial terminology of dangerous drugs, pushers, and so on.

So, let’s shift gears back into ordinary English. There are only three ways in which a drug can get into the human body. One is that it gets into your body involuntarily. You can’t help it because either the government puts it there or some industry puts it there, stuff from oil refineries, PCP, chlorine in the water. The second way is that you go to
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a doctor and he prescribes it for you. The third way, for which there is a very nice English word which nobody uses anymore, is self-medication. There has been a war on self-medication. At the same time, there’s a deeply felt sense in this country that a person’s body belongs to him or her. What’s wrong with self-medication? For the past 30 years the tendency in this country has been to take more and more drugs away from people and give them back something else through prescription. For example, methadone. Well, that to me means that a heroin addict has rights which I do not have. A heroin addict can get methadone and I can’t.

Why can’t I?

Prof. Kaplan: Because you’re not a methadone addict.

Dr. Szasz: But why should be have more rights? You see, we have completely disjointed two very important legal-philosophical concepts — rights and responsibilities. We are giving people all kinds of rights and responsibilities, and are taking away all kinds of rights and responsibilities from them. Think of somebody like John Hinckley. He’s not guilty of shooting President Reagan. Yet he is locked up for life. But he can vote in the next election. And he is crazy?

Prof. Kaplan: Now that we have handled that question to perfection, next question?

Questioner: I’m a judge in the County Court which deals with the lesser offenses, but, of course, one of the things that we are very much concerned about is what happens on the streets as a result of intoxication of various types.

Prof. Kaplan: We know all about the streets of Miami. I mean, we know everything we see on television.

Questioner: Well, the streets of Broward County are more our immediate concern for those of us that live here. I want to, first of all, without seeming to endorse the premise, congratulate Professor Wisotsky and Nova Law Center for bringing this up as a topic for discussion . . .

Let’s assume the legalization of all drugs. In other words, not only a decriminalization, but now suddenly all drugs are legal, and what social setting? What would happen in places like bars and lounges, coffee in terms of advertising, television in the newspapers, media, so forth? merely because something is legalized doesn’t mean that it has to be something is legalized doesn’t mean it has to be advertised, and it seems to me personally that our methods of advertising dangerous drugs, the legal ones, now is insane. That people should be permitted to push dangerous drugs on the population through advertising makes very little sense to me.

Prof. Richards: You mean nicotine, John?

Prof. Kaplan: Nicotine, of course, and alcohol. That’s the first thing. The second thing is, what would happen? I think — I have written on this. With respect to marijuana, I think very little would happen because the people who are most likely to be injured by marijuana are the ones who already have the most access to it. High school kids. That’s the place where you can get it most easily. In fact, I know people who have to depend on their high-school age children to get marijuana and it’s humiliating for them. So, with respect to marijuana, I think no.

Now, with respect to cocaine and heroin, legaliized with the kinds of reasonable taxes, . . . my guess is that for two generations we would have chaos with cocaine and heroin; they are both simply too socially destructive to release on a society which isn’t used to them . . . We’d have equivalents of what alcohol did to Indian populations in the United States and what was called the gin epidemic in England, where for over a generation there was drunken pandemonium until the society learned how to live in some kind of peace.

If we legalize cocaine and heroin today, if we managed to get through it, we would have a much healthier situation. In the meantime, I think there would be social chaos on even worse a scale than we have today being caught in the middle of a War on Drugs. That’s only my opinion and we happen to have a lot of people here who know something about this, so let’s start. Norman, why don’t you take your scenario?

Dr. Zinberg: First of all, in this country, what we would have is a civil war. It would make the abortion controversy look like two bits.

Prof. Kaplan: Well, that’s just a political judgment. Leave that part, just a pharmacological judgment.

Dr. Zinberg: We are beginning to develop a little evidence. For example, in the Netherlands, for all intents and purposes, all drugs are available and there’s very little effort made at law enforcement. Marijuana, hashish, in various forms are sold openly across the counter in a variety of places. Other drugs are sold not quite so openly but there’s little effort at law enforcement . . .

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Prof. Richards: Including heroin?
Dr. Zinberg: Including heroin; heroin, cocaine. You can buy anything at all in the Netherlands today.

Dr. Szasz: That is not legal?

Prof. Kaplan: No, it's not legal. In fact, you can do that in Miami probably, too, with a little more effort.

Dr. Zinberg: It's different. There's no effort, very little effort made at law enforcement . . . . I recently had a visitor, a professor from Amsterdam, who spent a couple of days with me and he went over the figures that they had . . . . His contention is that the rate has risen very little, if at all.

Now, that's interesting. I don't know if it's true or not. I think the Netherlands is a very different society. As he points out, they have had a history for quite a long time of having almost full availability, so this change in the last two or three years is not such a vast change.

The answer is that I don't know, but I think we have to begin to find out. I don't think we can start there and say, tomorrow we are going to legalize everything. I think we can take incremental steps . . . .

No one has more admiration for Professor Szasz' work, but I think that we do need regulatory aspects. I happen to put a lot of faith in the development of norms of social controls for handling things, even very dangerous substances, alcohol being the best example of that, with enormous casualties . . . .

And I would like to see what would happen, and in order for effective social norms to develop, there has to be a relationship between the regulatory apparatus, the legal structure, institutional structures, and the development of social controls. To illustrate social controls, the norm is it's unseemly to be drunk. It's okay to have a few beers on the way home from work, but you don't drink on the job; a variety of standards regulate how the drug is used.

I think that cocaine is closer to cigarettes than it is to anything else. My personal feeling is that that would be an extremely difficult drug to control. I personally think heroin would not be such a difficult drug to control. But that's another thing.

As I said earlier, I would like to see various things tried. As it is now in the present climate, we can't find out very much. We can't do clinic, using heroin for terminal illness, things like that, and really try to begin to develop . . . .

We have to begin to slowly investigate how things can work.

This is impossible in a climate where the president's wife is speaking to social policy of the administration and the attorney general says that any use of any substance at any time, so to speak, will lead to the most intense destruction. That is our current position.

Prof. Kaplan: Now, Norman, there's one thing I would like a clarification on. When you analogize cocaine to cigarettes, you were not making the point that in total destructiveness . . . . they would be similar, but rather in their ability to be used all the time when you are doing a lot of other things.

Dr. Zinberg: Yes. That you can use those drugs and function, at least, with cigarettes, until you begin to develop such a hacking cough that it interferes with your function, which occurs very late. Cocaine happens much more swiftly, but during the initial phase of use of cocaine, the idea that it enhances your functioning, that you can have a snort in the morning and get over the eleven, have another snort after lunch, and so on, is really how people begin. They have a snort if they have a tough deposition to do that afternoon or what have you.

Prof. Kaplan: Or it's a tough patient.

Dr. Zinberg: Each to his own. That is how people get in trouble with the drug, building it into an automatized behavior pattern because it doesn't get you high in the same way that heroin, marijuana, alcohol, and the other drugs do.

Prof. Kaplan: Yes, David.

Prof. Richards: I just would like to ask Lester how should one think in an empirical way about the effects of sudden legalization? . . .

I take it, the main example in our cultural history would, of course, be the ending of Prohibition. That would be the main cultural experiment that we have had, and from what people have told me, that was a disaster. Is that true or not?

Prof. Kaplan: No.

Prof. Richards: Or is that appropriate to think? I take it there are several parameters. One is, would use levels increase?

Prof. Kaplan: Absolutely.

Prof. Richards: Second, would the quality of the use change in some harmful or non-harmful way, and third, would there be other benefits that we could look to?

I think Lester mentioned these three features that we would have to look at. Now, how in an empirical manner would you develop any confidence in predicting what would happen in this country, given that
Dr. Zinberg: Including heroin; heroin, cocaine. You can buy anything at all in the Netherlands today.
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The answer is that I don't know, but I think we have to begin to find out. I don't think we can start there and say, tomorrow we are going to legalize everything. I think we can take incremental steps . . . .

No one has more admiration for Professor Szasz' work, but I think that we do need regulatory aspects. I happen to put a lot of faith in the development of norms of social controls for handling things, even very dangerous substances, alcohol being the best example of that, with enormous casualties . . . .

And I would like to see what would happen, and in order for effective social norms to develop, there has to be a relationship between the regulatory apparatus, the legal structure, institutional structures, and the development of social controls. To illustrate social controls, the norm is it's unseemly to be drunk. It's okay to have a few beers on the way home from work, but you don't drink on the job; a variety of standards regulate how the drug is used.

I think that cocaine is closer to cigarettes than it is to anything drug to control. I personally think heroin would not be such a difficult drug to control. But that's another thing.

As I said earlier, I would like to see various things tried. As it is the simplest kind of experiments of a fifty-patient heroin maintenance what kind of regulatory structure, what kind of social structure, has begun to develop . . . .

[W]e have to begin to slowly investigate how things can work. This is impossible in a climate where the president's wife is speaking to

Social policy of the administration and the attorney general says that any use of any substance at any time, so to speak, will lead to the most intense destruction. That is our current position.

* * *

Prof. Kaplan: Now, Norman, there's one thing I would like a clarification on. When you analogize cocaine to cigarettes, you were not making the point that in total destructiveness . . . . they would be similar, but rather in their ability to be used all the time when you are doing a lot of other things.

Dr. Zinberg: Yes. That you can use those drugs and function, at least, with cigarettes, until you begin to develop such a hacking cough that it interferes with your function, which occurs very late. Cocaine happens much more swiftly, but during the initial phase of use of cocaine, the idea that it enhances your functioning, that you can have a snort in the morning and get over the elevens, have another snort after lunch, and so on, is really how people begin. They have a snort if they have a tough deposition to do that afternoon or what have you.

Prof. Kaplan: Or it's a tough patient.

Dr. Zinberg: Each to his own. That is how people get in trouble with the drug, building it into an automatized behavior pattern because it doesn't get you high in the same way that heroin, marijuana, alcohol, and the other drugs do.

Prof. Kaplan: Yes, David.

Prof. Richards: I just would like to ask Lester how should one think in an empirical way about the effects of sudden legalization? . . .

I take it, the main example in our cultural history would, of course, be the ending of Prohibition. That would be the main cultural experiment that we have had, and from what people have told me, that was a disaster. Is that true or not?

Prof. Kaplan: No.

Prof. Richards: Or is that appropriate to think? I take it there are several parameters. One is, would use levels increase?

Prof. Kaplan: Absolutely.

Prof. Richards: Second, would the quality of the use change in some harmful or non-harmful way, and third, would there be other benefits that we could look to?

I think Lester mentioned these three features that we would have to look at. Now, how in an empirical manner would you develop any confidence in predicting what would happen in this country, given that

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our culture is profoundly prohibitionist and does not have a cultural
tradition of toleration?

Prof. Kaplan: There's a good book I can recommend to you on this
very issue. First thing you have to say is, you have to think about it
hard. In other words, you have to look at it very carefully and ask a lot
of much more minute questions which vary from drug to drug, and
that's very hard and it takes a long time. It takes a lot of work. Then
when you really get down to it a lot of guesses have to be made, but at
least they are intelligent guesses.

The second thing is, did we make a mistake in repealing Prohibi-
tion? Of course not. We had to, because, although the public health
problems have been getting much more serious since Prohibition ended,
the criminal problems were destroying our society.

And Lester, I think, was speaking primarily rhetorically. He
doesn't want to go back to Prohibition. He might go for an increase in
taxes on alcohol. I think we have really screwed up there by basically
cutting the social cost of alcoholism.

But there comes a point when you can't do that because of boot-
legging and the like and it's a difficult situation; but my guess is that
alcohol. We learned our lesson with respect to that and maybe we
knows?

Dr. Zinberg: Before Prohibition, we were very much improving in
our relationship to alcohol. From 1890 to 1910 was the period of . . .
the least alcoholism . . . .

It's very interesting that in a period of relative moderation in this
country — the use of alcohol may be the most moderate in the whole
My feeling about what's happening with alcohol today in these last few
years is that it's taken us sixty-five years to recover from Prohibition.
And I think that that's the kind of historical perspective that people
rarely think about when they think about Prohibition.

Prof. Kaplan: Though be it said, you can't go automatically from
with alcohol before we had Prohibition and Prohibition was a relatively
it's true of alcohol does not ipso facto mean it's true of cocaine or

Questioner: I would like to direct this to Mr. Kellner. Please com-
ment on the apparent historical unwillingness of the United States
Government to fully apply its influence and resources to reduce drug
trafficking from source countries, and possible trade-off for political
alliances against Marxist-Leninist governments and movements.

Mr. Kellner: Could you repeat that question, please? I got the first
part, not the second part.

Questioner: Well, very simply, it seems as though when a country
goes Communist, the influx of drugs from that country tends to cease.
Witness what may have happened in Southeast Asia with the heroin
boom in the late '60s and early '70s; following the fall of Saigon,
things rather changed. I'm commenting that it seems as though the
United States tends to permit or condone drug trafficking from coun-
tries because it has a greater imperative.

Mr. Kellner: On the contrary. And I can only address that from
the perspective of what my office has done over the past four years. In
the past four years we have indicted people from source countries
across the political spectrum. If one thing can be said about law
enforcement in south Florida, it is wholly non-political when we come to
the Marxist-communist/capitalist debate.

We really have taken a non-discriminatory view of it. We have in-
dicted officials from the Bahamas. We have indicted officials from Bo-

We have indicted what we believe to be an official from Nicara-
gua. We have indicted a number of officials from Cuba. [Also] . . . the
chief minister of the Turks and Caicos Islands, . . . a British Colony.
On the contrary, there has not been . . . a utilization of the drug laws
for geopolitical reasons . . . .

I have never been told, nor was my predecessor ever told, to direct
our efforts against a particular political organization. On the contrary,
they have simply stated to all of us that drug trafficking is a priority,
and that [we] should interdict and indict and convict people that are
doing it irrespective of their political views. That is the policy that is
followed in this office.

Mr. Kleiman: I think it's a natural misunderstanding for anyone
who reads the press releases from the White House on this subject to
imagine that the United States Government is spending all its time
worrying about drug trafficking activities by unfriendly governments
and movements. That's not true on the law enforcement side.

What is true is that on the publicity or propaganda side, informa-
tion developed about drug trafficking activities by friendly govern-
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taxes on alcohol. I think he has really screwed up there by basically
not taxing alcohol nearly as much as we should for the purpose of re-
stricting the social cost of alcoholism.

But there comes a point when you can't do that because of boot-
legging and the like and it's a difficult situation; but my guess is that
virtually nobody in the United States wants to go back to Prohibition
are going to learn a lesson with respect to other drugs sometime. Who

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classified for the perfectly good reason that it would, in fact, damage the foreign policy of the United States to have us making rude remarks about our friends and their drug dealing activities. Therefore, it’s the case that drug trafficking activities by the Cuban government are the subject of press releases in Washington and drug trafficking activities by, for example, Omega 7, are not. But that is a propagandistic use of intelligence developed in the drug war.

Prof. Kaplan: I think the Omega 7 business is not generally considered as a foreign government. In other words, the question was about foreign governments. What you managed to do is to provoke the United States Attorney into a reply. But I think the principle is quite different.

Mr. Kleinman: The principle is that when the Bolivian government was heavily in the dope-dealing business, we were investigating them hard. In fact, the United States Attorney’s office . . . has wound up indicting a couple of ministers of that [former] government. But we weren’t making a big fuss about it in the press. So, you got the impression that all we were worried about was the Cubans. That’s true on the propaganda side, not true on the enforcement side.

Prof. Kaplan: Mr. Kleinman.

Mr. Kleinman: I have to categorically disagree. I read the newspapers also. I participate in congressional hearings. I also listen to what certain people in government say at those hearings about the involvement of officials of so-called friendly governments in narcotics trafficking. We have discussed openly in front of media people, not classified, the involvement of Bahamian officials. We have discussed openly the Mexican problem and Mexican corruption.

Last heard, these were so-called friendly governments. And we in narcotics enforcement. I don’t think that who we are going to go

Prof. Kaplan: Next question.

Questioner: I’m involved in a business that addresses the economic impact of drug abuse, particularly in the private sector. I spent law enforcement mentality shows a bit. I would like a comment on an issue that perhaps you just touched upon and maybe this afternoon we will spend a little more time upon.

At this moment, on this Friday morning, on this day in April, now, I wonder what the philosophical consensus is on the panel about the movement, notwithstanding your views on drug testing as it relates to legalities, but your general feeling about the role of the private sector, not for social or moral reasons, but for selfish, self-serving capitalistic reasons to look at those 90 percent of the drug abusers in the United States and offer to them the following choice: drug abuse or the job.

Is that reasonable? Is that in conflict with the kinds of solutions that you have advocated so far?

Prof. Kaplan: Now, I would like to ask one question about what you mean by drug abuse. In other words, if somebody doing a job which doesn’t require a high level of manual dexterity, et cetera, has a beer before he goes to work, so it’s testable in him, but it doesn’t affect his performance, would that be drug abuse?

Questioner: Well, drug abuse would be the kinds of chemical dependency problems that result in margin reduction. That could apply to a Chief Executive Officer and probably could apply to the man who cleans up the Chief Executive Officer’s office, if he doesn’t show up one day.

Prof. Kaplan: But the point is, you’re not really concerned so much with the drug use as you are with the decrement in performance? That’s the important part?

Questioner: That’s correct.

Prof. Kaplan: If there’s drug use without a decrement in performance, providing you’re convinced it really is no decrement, you’re not really interested in it?

You try this, Tom.

Dr. Szasz: Built into this question is a presumption that if you take a chemical, it’s going to impair your performance. Clearly, that’s not true, or have we forgotten about Sigmund Freud, who couldn’t work without smoking? Or about the athletes who take steroids so they can perform better? Drugs are politically and morally neutral. They can make you work better or worse at a particular task.

Prof. Kaplan: Lester, you give it a try.

Dr. Grinspoon: More importantly, Freud felt that taking cocaine was helpful to him and —

Prof. Kaplan: During part of his life he did.

Dr. Grinspoon: Well, it’s debated how long it was, but it certainly began before 1884, when he wrote his first paper, and certainly through his self-analysis in 1895.

I think [that] when you say drug abuse, that’s the key to the thing. I think it’s an important distinction, drug use and drug abuse. If
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Questioner: I'm involved in a business that addresses the economic impact of drug abuse, particularly in the private sector. I spent 13 years with the Drug Enforcement Administration. Forgive me if my some dialogue on an issue that perhaps you just touched upon and maybe this afternoon we will spend a little more time upon.

At this moment, on this Friday morning, on this day in April, probably 90 percent of the drug abusing population is at work right now. I wonder what the philosophical consensus is on the panel about the movement, notwithstanding your views on drug testing as it relates to legalities, but your general feeling about the role of the private sector, not for social or moral reasons, but for selfish, self-serving capitalistic reasons to look at those 90 percent of the drug abusers in the United States and offer to them the following choice: drug abuse or the job.

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indeed the use of a drug is compromising a person's performance at work . . . then the person has to be judged in terms of what he's doing at work, not whether or not he uses a drug. He may have a drink the night before or he may smoke a joint the night before, but if it has no effect on his work, why should that make a difference?

Mr. Kellner: Is it converse? Are you suggesting then that what private industry should do is forget about whether or not you use drugs; forget about whether or not they should provide some sort of treatment; if the job performance is impacted, don't worry about it, just fire the man? Is that what you're suggesting?

Prof. Kaplan: Not necessarily.

Mr. Kellner: Don't worry about whether the person is using drugs; you get rid of them if it is affecting his performance? What do you do with that person? Isn't that the question? . . . Private industry now has an increasing problem with drug abuse that is directly impacting the work place.

Dr. Grispoon: What do you do with a person who has some compromise in his performance for a whole variety of reasons? Do you get rid of them or try to help them with it?

Prof. Kaplan: There are many companies that tell employees, we don't know what's wrong with you (I might add, usually they do, and usually it's alcohol), . . . but you're not doing well, go down to our employee assistance program. There they tell you, "either you've got to shape up or you're going to get fired. It's my guess you're drinking too much."

Now, if the fellow says, it really isn't that; I don't really drink much at all, but I stay up most of the night because I love TV or I do something else; I don't get enough sleep. Then they say, well, look, get more sleep or you lose your job.

And strangely enough, this has happened to people and a lot of people have shaped up. Now, in other words, the argument is really that if you're worried about performance, maybe you should monitor performance more carefully. On the other hand, that may be a little too simplistic.

My guess is that if you find residues of heroin in your employees, if there is some kind of testing, or it comes to your attention that he's using heroin, I would worry a great deal. I would watch him a lot more carefully at the very least.

Dr. Szasz: I feel very strongly that it's intellectually dishonest to discuss this without noting how taking drugs can enhance performance.

We know, for example, that amphetamines were introduced into the modern world by the Nazis, so their troops could go for days and days in the tanks and have a blitzkrieg. They got better soldiers. Whether you like blitzkriegs is not the question.

Are we going to deny or forget all this? The fact is, drugs can do things for you which you would like to have happen. We are all human. We all want to do something. If we don't consider the issue of drugs enhancing performance, then we are simply not discussing the subject before us.

Prof. Kaplan: Okay. Next question.

Dr. Zinberg: I think it's a very important issue. Essentially, I think it's sophistry because I do not believe that urine testing is really being used chiefly to check for performance decrement . . . . By all means, performance decrements have to be picked up. Every Employee Assistance Program, every alcohol program that I know of, is spending a fair amount of time before the urinalysis in helping supervisors to be sensitive to performance decrement indicated by people coming late on Mondays, more accidents and so on. They can do something about that. Nobody is against that.

But, remember that urinalysis really doesn't pick up intoxication. With marijuana, it will show up as long as 45 days afterwards. And people who were in the room with people who smoked marijuana can have positive marijuana tests . . . . Cocaine will show up for 72 hours, heroin for 48, and so on, so that you're not testing decrement that way. And I think it's sophistry. I think it is an effort at a different level of control . . . .

Prof. Kaplan: Next question.

Questioner: I'm a psychiatrist. I would like to comment on the previous discussion of drug abuse and alcohol in the work system. When I was in Wisconsin, I worked in a large drug and substance abuse program in Kenosha whose primary contractor was American Motors. And the attitude of the employers in this particular setting was that they were willing to accept the fact that most people could not work on those assembly lines without using both alcohol and marijuana. And they provided this program for those people who got into trouble without a great deal of hoopla over the fact that it was pretty universal . . . .

Prof. Kaplan: That was more a comment than a question . . . . One thing I can say is that the history of the American automobile industry may indicate that this was not the best behavior we could have gotten out of our work force.
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Mr. Kleinman: I have heard now from people who are running court-associated urine testing programs on convicted criminals that they have "succeeded" in shifting people from marijuana to cocaine because marijuana is detectable for thirty days and cocaine only for forty-eight or seventy-two hours.

It's a real problem. It just happens that the sensitivity of these things on urinalysis does not at all correspond with the seriousness of the problem. And we may wind up setting up an incentive for people to shift from relatively harmless drugs like marijuana to much more serious drugs like alcohol and cocaine. And that would be a disaster from a performance viewpoint.

Prof. Kaplan: Well, this is not unheard of. If you smoke a drug like marijuana, you're much easier to catch than if you snort one. Therefore, cracking down in the army situation on people who smoke marijuana (where you can smell it and find out about them) will cause some of them to stop. But some of them will just drink more and more and will snort heroin.

Dr. Grinspoon: Since the notion of urine testing has been brought up, I would like to just say that while I think it's pretty much an absurd idea for at least three reasons. First of all, to the extent that we care about the fourth amendment, this is surely a travesty.

Second, the accuracy of these tests is so poor. As many of you know, the Air Force had to write to me that it was over 6,000 people to the effect that the less-than-honorable-discharge that they got because of urine tests may have been based on false urine tests.

Third, it just plain won't work. We can't even get George Schultz to take a lie detector test. How in the world are we going to get him to take a urine test?

Prof. Kaplan: Tom Szasz and that will end it.

Dr. Szasz: I agree with all three. There's also a fourth point. It is that there's patent dishonesty in the policy of routine urine testing — ask for a routine urine test. They would ask only that those who are performing poorly to be tested.

Prof. Wisotsky: I would like to thank the panel for a very stimulating discussion. We will reconvene after lunch.

[Recess for lunch]

Prof. Wisotsky: I think we are just about ready to go forward with the afternoon session. I would like to start the proceedings with a ques-

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tion that was asked during the lunch break. The question was really an argument that the panel had not taken seriously enough the physical impact, the emotional impact, or the addictive potential of drugs such as cocaine. One specific example used were the claims made by Dr. Mark Gold, the founder of the cocaine hotline, 1-800-COCAINEL. He opened that hotline in 1983 or '84 and began receiving 1,000 telephone calls a day. Most of the callers regarded themselves as being addicted to cocaine. They could not stop the habit. They thought they were having problems. Many of them stole. I think twenty-three or twenty-five percent reported stealing from one source or another to support the habit.

In addition, there are animal experiments in which rhesus monkeys are held captive in a cage and catheters are inserted in their veins to deliver an assortment of drugs which the monkey can obtain by pressing a lever. In a variety of experiments, the rhesus monkeys seemed to prefer cocaine to all other drugs, including heroin, amphetamines, food and sex. And not only that, a certain percentage of these monkeys, if given unlimited access to cocaine, will press the lever and dose themselves to the point of respiratory collapse and death.

So, looking at the animal experiments, and then looking at the evidence of his clinic's experience, people like Dr. Gold claim that cocaine is the most addictive of all substances and that it would be extremely dangerous if it were to become more generally available to the public.

This question needs to be addressed by the panel. How do you view this evidence, including those who take a libertarian position, that the drug may be dangerous, but it's simply a question of individual self-restraint? I'm wondering if that kind of evidence, if you accepted it, would change your position. So I would like to put that question first to Professor Richards and then to Dr. Szasz and then to Dr. Grinspoon, who will then take over moderating the program.

Prof. Richards: I think these questions are factual and ethical. They are mixed questions. And we therefore need, before we can make an ethical evaluation, to ask about the quality, the reliability, the independence of the factual evidence here adduced. I can't make an assessment until I would hear something about that . . . .

Dr. Grinspoon: Well, about Mark Gold's studies, it's true, since the hotline was opened, there are about a thousand calls a day now, and a recent study involved 500 randomly selected telephone calls. However, one has to keep in mind that this is a self-selected group. It's certainly not a random sample of cocaine users. It's clearly people who have gotten into difficulty with it. Those people who call the line, about
Mr. Kleiman: I have heard now from people who are running court-associated urine testing programs on convicted criminals that they have "succeeded" in shifting people from marijuana to cocaine because marijuana is detectable for thirty days and cocaine only for forty-eight or seventy-two hours.

It's a real problem. It just happens that the sensitivity of those things on urinalysis does not at all correspond with the seriousness of the problem. And we may wind up setting up an incentive for people to shift from relatively harmless drugs like marijuana to much more serious drugs like alcohol and cocaine. And that would be a disaster from a performance viewpoint.

Prof. Kaplan: Well, this is not unheard of. If you smoke a drug like marijuana, you're much easier to catch than if you snort one. Therefore, cracking down in the army situation on people who smoke marijuana (where you can smell it and find out about them) will cause some of them to stop. But some of them will just drink more and more and will snort heroin.

Dr. Grinspoon: Since the notion of urine testing has been brought up, I would like to just say that I think it's pretty much an absurd idea for at least three reasons. First of all, to the extent that we care about the fourth amendment, this is surely a travesty. Second, the accuracy of these tests is so poor. As many of you know, the Air Force had to write to us that it was over 6,000 people to the effect that the less-than-honorable-discharge that they got because of urine tests may have been based on false urine tests.

Third, it just plain won't work. We can't even get George Schultz to take a lie detector test. We can't even get George Schultz to take a urine test.

Prof. Kaplan: Tom Szasz and that will end it.

Prof. Szasz: I agree with all three. There's also a fourth point. It is that there's patent dishonesty in the policy of routine urine testing — ask for a routine urine test. They would ask only that those who are performing poorly be tested.

Prof. Wisotsky: I would like to thank the panel for a very stimulating discussion. We will reconvene after lunch.

[Recess for lunch]

Prof. Wisotsky: I think we are just about ready to go forward with the afternoon session. I would like to start the proceedings with a ques-

tion that was asked during the lunch break. The question was really an argument that the panel had not taken seriously enough the physical impact, the emotional impact, or the addictive potential of drugs such as cocaine. One specific example used were the claims made by Dr. Mark Gold, the founder of the cocaine hotline, 1-800-COCAIN. He opened that hotline in 1983 or '84 and began receiving 1,000 telephone calls a day. Most of the callers regarded themselves as being addicted to cocaine. They could not stop the habit. They thought they were having problems. Many of them stole. I think twenty-three or twenty-five percent reported stealing from one source or another to support the habit.

In addition, there are animal experiments in which rhesus monkeys are held captive in a cage and catheters are inserted in their veins to deliver an assortment of drugs which the monkey can obtain by pressing a lever. In a variety of experiments, the rhesus monkeys seemed to prefer cocaine to all other drugs, including heroin, amphetamines, food and sex. And not only that, a certain percentage of these monkeys, given unlimited access to cocaine, will press the lever and dose themselves to the point of respiratory collapse and death.

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Dr. Grinspoon: Well, about Mark Gold's studies, it's true, since the hotline was opened, there are about a thousand calls a day now, and a recent study involved 500 randomly selected telephone calls. However, one has to keep in mind that this is a self-selected group. It's certainly not a random sample of cocaine users. It's clearly people who have gotten into difficulty with it. Those people who call the line, about
eighty-eight percent of these people are male. They spend ... an average of over $600 a week on cocaine. About twenty-five percent of them report having convulsions. A very large number of them report the destruction of home lives, economic status, and so forth and so on.

If I can just go back to a couple things that Steve said, I have a little problem with the notion of using the word “addiction” with respect to cocaine. It’s maybe just a little obsession on my part, but “addiction” is a messy word. It’s not a good word to use. [1] In the 19th Century Gladstone could speak of his addiction to agricultural pursuits. Nowadays, addiction implies that with the withdrawal of a substance, there are physiological symptoms, abstinence symptoms, and this is for the most part not true with cocaine. It’s more appropriate to say that cocaine is among the most re-enforcing of the drugs we know of, that, in fact, between five and ten percent ... of people who use cocaine get into serious difficulty. Now, what are the difficulties they get into? One thing, as I mentioned, they lose control over cocaine. They find they have an inability to stop using it, and they go to all sorts of lengths to get cocaine.

I saw a patient not too long ago who free-based cocaine. In a period of seventy-two hours, he used almost 150 grams of cocaine. Now, if you look at that just from the point of view of cost, let alone what it did to his body and mind, that’s absolutely extraordinary.

As for the study of monkeys and other animals on cocaine, it isn’t just that some monkeys will die. When given injections of as little as 0.05 milligrams per kilogram for twenty-three out of the twenty-four hours of a day, all of them will die and they will die within five days.

So, surely, there are real risks to cocaine. It’s impossible for us to predict in advance who will get into difficulty with cocaine. There are people who suffer from the adult version of attention deficit disorder activity in children ...

The second group of people who are thought to be particularly vulnerable to cocaine are people who suffer from major affective disorders like depression or bipolar illness. And, of course, each of these justifies a therapeutic approach to the problem. And then, of course, people who actually suffer from manic-depressive disorder are also vulnerable to cocaine use.

The fact is that about five to thirty percent of people get into difficulty with it, and most people can use alcohol without difficuity, but, as I say, it’s almost impossible to predict who will get into difficulty.

Does that answer your question, David?

Prof. Richards: Yes.

Dr. Zinberg: Brief comment. I’m a consultant to a group in Boston called Addiction Research Corporation. And they receive all of the hotline cocaine calls from Massachusetts ... so I have had the opportunity to study the calls as they come in. And it’s ... very complicated.

The people that call are a self-selected group and they don’t call accidentally. They call because they are feeling terrible ... and they are looking for a recourse. Certainly, probably no more than about sixty-five or seventy percent of them are actually using cocaine, let alone being in trouble with cocaine. You get calls from heroin addicts, people with alcohol problems. You get all sorts of calls. I mean, it’s a very odd situation and it’s hard to really feel that it’s a legitimate sample of users. It’s a very important operation in the sense that I think it has helped many people get treatment ...

It’s my impression so far that people get off the drug more easily than many other addictions, and I do think that it’s an addiction. I disagree with Lester there. I think there is a withdrawal syndrome. I think Gold is right about that. And I think there is a psychological response which is fairly clear cut, not terribly severe, but I think it’s there.

Then I would like to talk about the animal experiments briefly. I don’t know how many of you know about the Simon Fraser University in Vancouver and their rat park. It’s quite a remarkable place to look at. They have a huge area in which they have a colony of rats. And what they have done is to repeat a lot of these animal experiments in the rat park. And it turns out that rats have a social life, and that when they have a social life, they do not respond as they do in cages.

They have done the experiments with heroin and with cocaine. In fact, they can take addicted rats out of all of the cages and put them in the rat park, and over 80 percent of them get unaddicted. It’s very hard to addict a rat in a rat park, [but] not impossible. A small percentage do get addicted, but only a small percentage. They have not done the experiments yet with primates, but they plan to, so that it is very important I think to make the distinction between a caged animal and an animal or a person who is in a complex social situation. Just how these things apply to humans, I don’t have any idea. The other thing I think you have to keep in mind is that cocaine is a very complex drug ...

You’ve got cocaine as a pure powder that people sniff. You’ve got free
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And then, of course, each of these justifies a therapeutic approach to the problem. And then, of course, people who actually suffer from manic-depressive disorder are also vulnerable to cocaine use. The fact is that about five to thirty percent of people get into difficulty with it, just as five to ten percent of the people who use alcohol get into difficulty with it, and most people can use alcohol without difficulty, but, as I say, it’s almost impossible to predict who will get into difficulty.

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You’ve got cocaine as a pure powder that people sniff. You’ve got free
base, which is a very different experience, a very rapid, short-acting experience which can be smoked. You’ve got injected cocaine. I mean, you’ve got really a variety of situations. Drugs can be used in a lot of different ways, and I think it has very different effects in these different ways.

So, it’s not an easy question to answer if you don’t really think through what you’re talking about.

Dr. Grinspoon: Yes, please.

Mr. Kleiman: It seems to me that the evidence that’s in on cocaine now is such that if you had a choice between legal, free availability of cocaine and no availability of cocaine, you would decide — unless you were really quite profoundly libertarian about these things — this is really a drug that we could do without. However, we do not have a choice between the free availability of cocaine and no cocaine. We have laws against cocaine. And despite that, we have a substantial cocaine problem. Now, one possibly correct policy would be to increase the enforcement of those laws. Seems like a perfectly reasonable idea to try. And, in fact, we have tried it. Cocaine enforcement over the last five years has intensified very substantially. The total federal drug enforcement budget has more than doubled, and the allocation of that budget to cocaine has itself increased, so cocaine has gotten a lot more pressure than it did at one time had.

Nonetheless, the price of cocaine has fallen and its availability has increased. There may have been other factors at work, but we have done the experiment of increased cocaine enforcement, and gotten very, very little in the way of benefit out of it.

So, the fact that cocaine is a terrible drug doesn’t tell us what we ought to do about it. I think it almost certainly tells us that we ought not to legalize it, but the appropriate enforcement approach depends both on how serious the drug is and on our ability to do something about it.

There are two possible bad effects of enforcement, other than spending the money. One is increasing revenues to organized criminals, not just in the upper case, but just large criminal organizations. That’s one problem you get with more enforcement.

The other problem you may get with more enforcement is that if you succeed in increasing the price, but don’t succeed in depressing consumption very much, you increase the total dollars spent on the economic. A lot of people used to have a trust fund and now have...
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The other problem you may get with more enforcement is that if you succeed in increasing the price, but don’t succeed in depressing consumption very much, you increase the total dollars spent on the drug. Much of the damage that cocaine does is not physiological, but economic. A lot of people used to have a trust fund and now have a punctured septum. And the septum may be easier to replace than the trust fund.

To sum up: Now we have learned that cocaine is a terrible problem for rats and human beings, that still doesn’t tell us what we ought to do about it.

Dr. Grinspoon: . . . I would like to ask the panelists to address, if they will, the main theme of this conference, namely, in search of a breakthrough.

That is to say, I made a proposal for a kind of breakthrough. I would like to hear what the other panelists suggest with regard to how they would address this question, not just cocaine. We shouldn’t limit the discussion to cocaine. And then hopefully the audience will participate in this search for a breakthrough.

Dr. Zinberg: Just take one instance. A natural alternative was proposed by a friend of mine. I’m not suggesting it, but if it’s true that in the form of coca it is not addictive or dangerous, . . . what he wants to do (and it’s feasible) is to make a coca chewing gum so that you would make it available in a form that did not have the consequences of the more refined, harder, sharper aspects of it.

Dr. Grinspoon: Yes. And, in fact, the research which has been done among the coqueros, the people of South America who chew coca leaves, studies by Murphy and McGrath, have demonstrated very little, if any, of the kinds of pathology we see with pure cocaine. [It’s clearly useful to these people. They say it helps them with hunger. It helps them with soroche, the altitude sickness. It helps them with fatigue.

Professor Richard Schulte, Professor of Botany at Harvard, who spent eight years in South America, tells us the following story: He and his assistant used a canoe along various rivers to gather their botanical specimens. On two different occasions they capsized. We don’t speak to their capacity as canoers. But in any event, on one occasion, they lost all of their food and coca and they were without food and coca for three days. On another occasion they lost all their food, but they didn’t lose their coca, for four days.

He said it was much easier to deal with the four days without food with coca leaf than it was for the three days without coca leaf. He believes that the use of coca leaf is something that is quite beneficial to the coqueros and does not have the liabilities that the pure cocaine does for our citizens.

Mr. Kellner: I think sometimes we forget that we are dealing in this country with pure cocaine and other, in my view, more dangerous forms. I want to address for a moment the premise that, well, we have tried law enforcement for five years; we have spent a couple of billion
targets that I pick, the people that I arrest, and the people that I indict. I exercise that discretion by determining that with my limited resources, I will go after [major] traffickers. I go after the people who, I believe, if I indict and arrest and take off the streets will have the greatest impact. That's my job.

Dr. Grinspoon: Well, first of all, about people's attitudes toward drugs, I would suggest that twenty-four million people are voting with their lungs, so to speak, as they smoke marijuana, and more and more of them are doing so. But do I understand you to say that your sense of the way to approach this, the breakthrough, is to do more of what we are doing now?

Mr. Kellner: No. I am suggesting that if it is accepted on the panel — and I'm not sure that it is, that utilizing narcotics, utilizing cocaine is something that should be discouraged and that it does have a deleterious effect on society and individuals. I'm not sure that that is the position of most of the panel.

The issue is, how do we stop the demand? I am not sitting up here and stating that by doing more law enforcement, by continuing to try — and I think we should continue to try to double and triple the effort against supply — that by doing so, we will alleviate the problem.

What I am suggesting is that we are only at the incipient stages of dealing with the demand side. And, apparently, the members of this panel believe that the medical evidence doesn't indicate that we should deal with the demand side. I am listening to statements saying, well, you can take cocaine and it won't affect the way you do your daily business. I'm not a doctor, but I have read a number of studies. I have listened to a number of experts as well.

Prof. Kaplan: Who said that? Was that you? Did Norman say that?

Mr. Kellner: Norman. Norman said —

Prof. Kaplan: Norman, shame, if that's true.

Mr. Kleiman: There are two propositions. One is that no one is damaged by cocaine, and the second is that some manage to use cocaine and not be in any measurable way damaged by it.

Mr. Kellner: And there is —

Mr. Kleiman: The second is true.

Mr. Kellner: And there is another view that most of the people who utilize cocaine are damaged.

Dr. Grinspoon: Well, that —

Mr. Kellner: Let me finish.

Dr. Grinspoon: Sure.
dollars on it or more, and we are a failure. Well, I'm not prepared to accept that proposition yet.

The drug problem in this country — and by that, I don't mean what some of the panelists call a WPA project for government employees — the social effects, the societal effects and the family effects that drug use has been causing, have been around and been allowed to fester for quite some time.

Five years ago we began, I believe, a coordinated effort for the first time to deal with this problem. It is not a problem of law enforcement. It is a problem that goes across the spectrum. I think the returns still have to come in on that issue. I believe that, as I stated at the outset, there is a substantial portion of this community. . . . who are violently opposed to drug use.

[State Senator Jack Gordon, the luncheon speaker] and a number of the panelists here suggested that the reason why we don't legalize or decriminalize drugs is because of this great conspiracy from on top where government, because of its own need to continue itself, or government employees need to continue themselves, have foisted these laws on an unsuspecting American public.

I don't believe that. I don't agree with it. The laws that are in place and have recently been strengthened — on the federal level as well as the state level — with respect to the use of illegal drugs, were brought about in large part because of a deep sense of fear in the community, a deep sense that this is a problem that is impacting very severely on society. It seems to me that when the body politic, when the voters, when the majority of the people believe so strongly in something, in order to change that, it is not something that you go to the legislators to do. The job is to go to the people who make the decisions, ultimately the voters.

There are many people in this country who have accepted medical opinion other than what has been stated on the panel today and have made their independent conclusion that drug use is wrong. My job is to implement that. Professor Kaplan mentioned to me at one of the breaks that when I was asked about prosecutorial discretion that I was really being a little bit —

Prof. Kaplan: Disingenuous.

Mr. Kellner: — disingenuous, thank you, in saying that in the area of drug law I don't exercise prosecutorial discretion.

I said that in certain areas, that with respect to the Organized Crime Drug Enforcement Task Forces, with respect to certain appropriations, I do not have discretion. However, I do have discretion in the targets that I pick, the people that I arrest, and the people that I indict. I exercise that discretion by determining that with my limited resources, I will go after major traffickers. I go after the people who, I believe, if I indict and arrest and take off the streets will have the greatest impact. That's my job.

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Mr. Kellner: And there is another view that most of the people who utilize cocaine are damaged.

Dr. Grinspoon: Well, that —

Mr. Kellner: Let me finish.

Dr. Grinspoon: Sure.
Mr. Kellner: Now, I am not a medical expert. However, that is, in my view, a debate that should be conducted. But if it is accepted that we must deal with demand, the issue that I see is, how do we deal with that demand? And I haven't heard any discussion of that. I am interested in that subject. I deal with it on a daily basis. I understand that there are a great number of people who dedicate their lives to dealing with the destructive effects by trying to deal with the demand.

Now, I haven't heard any discussion of how you deal with it. If you make it legal, decriminalize it, regulate it, what are you going to do with the children who have this? And I heard some funny comments, "oh, that's ridiculous." I have children. And I have also seen other children who have been impacted, impacted permanently. It is not something that you just wave off because it can't happen. Hell, there are studies that it does happen.

If you can conclusively show that it doesn't happen, I'll believe that. I am open-minded, then I'll say, "I'm wrong." But I haven't heard that. And I think that's where the debate goes. As long as there is a substantial body that says that people are permanently impacted by this, I would like to hear that debate.

Prof. Kaplan: Well, it seems to me we have had two different kinds of arguments here from the United States Attorney. The first is this: The public has made a decision. This is a democracy and we have to do what the people say. I think that's true. But this is a democracy. We don't have to think what the people think, and the real issue is, are the people right or wrong in terms of the long-run benefit of the country in what they think.

Now, to my mind, that is the question we are talking about. It does no good to say that people have decided and they are the boss. Of course, they are the boss. But the people have by and large marched us over a cliff and marched themselves over a cliff on previous occasions. It will not be the first time that something is done with great popularity that has turned out to be a disaster.... The fact that the American people have decided one way or the other, I think, is irrelevant if the issue is what we are as free and sensible thinking people want to do.

The second confusion I think that we have heard is the distinction between whether somebody should use a drug — whether it's harmful to them — and whether it should be legal and how it should be legally regulated.

Now, the interesting thing to me is, I have children, too. My children went to a high school where, of course, it was against the law to sell marijuana and to smoke it at the time, as a matter of fact. That was not my problem. They could get it with no trouble at all. My problem was to make sure they didn't injure themselves with it. It's a problem that a parent has... It is a very sophisticated and difficult one. Some of their friends ruined their lives with marijuana. That's a very bad thing to happen to people, but they ruined their lives in a situation where marijuana was strongly illegal. This was before decriminalization in California. And these people still ruined their lives with the drug.

Now the question is, will there be more or fewer such cases depending on legal issues? I know some who had their lives ruined, not because of the damage that the drug did, but the damage that the law did to them when it caught them with the drug. Now, these are tough and complicated questions. They require thought. They require a kind of balancing. The answers will be different depending on which drug you talk about.

Even when we decide that we are going to use the criminal law as the major method of drug education, which is basically what it is in the United States, there still is the issue about whether a drug should be legalized or decriminalized. Now, you may believe that the drug should be legalized — marijuana particularly is the one — or that it shouldn't. In either case, I think you can make a very good argument that the user of the drug should not himself be punished. In other words, even if you regard legalization as a good idea — and decriminalization is not much of a step because it still leaves all of the profit and you still have all of the problems of suppressing trafficking — nonetheless, any public policy which saves about 400,000 annual drug arrests in the country without increase in drug use is something that reasonable people may want to look at very carefully.

We do know, and it's interesting why we know, that decriminalizing a drug — i.e., no penalty for the user — makes sense. We know that some states have done it, and have monitored very carefully drug use in those states. They went up when the nearby states went up and they went down when the nearby states went down. As far as we can tell, with the most careful social science research we have on the issue, there is no change in drug use when you simply say, no penalty for possession.

And then if you stop and think about it, if you ask people who don't use marijuana, why don't you use it, you get answers like: "It's bad for you, it causes health problems, I'm not interested in it, I'm a Mormon and I don't use any drugs of any kind." You get a large number of answers, and the illegality of use in those states where it's illegal
Mr. Kellner: Now, I am not a medical expert. However, that is, in my view, a debate that should be conducted. But if it is accepted that we must deal with demand, the issue that I see is, how do we deal with that demand? And I haven't heard any discussion of that. I am interested in that subject. I deal with it on a daily basis. I understand that there are a great number of people who dedicate their lives to dealing with the destructive effects by trying to deal with the demand.

Now, I haven't heard any discussion of how you deal with it. If you make it legal, decriminalize it, regulate it, what are we going to do with the children who have this? And I heard some funny comments, "oh, that's ridiculous." I have children. And I have also seen other children who have been impacted, impacted permanently. It is not something that you just wave off because it can't happen. Hell, there are studies that it does happen.

If you can conclusively show that it doesn't happen, I'll believe that. I am open-minded, then I'll say, "I'm wrong." But I haven't heard that. And I think that's where the debate goes. As long as there is a substantial body that says that people are permanently impacted by this, I would like to hear that debate.

Prof. Kaplan: Well, it seems to me we have had two different kinds of arguments here from the United States Attorney. The first is this: The public has made a decision. This is a democracy and we have to do what the people say. I think that's true. But this is a democracy. We don't have to think what the people think, and the real issue is, are the people right or wrong in terms of the long-run benefit of the country in what they think.

Now, to my mind, that is the question we are talking about. It does no good to say that people have decided and they are the boss. Of course, they are the boss. But the people have by and large marched us over a cliff and marched themselves over a cliff on previous occasions. It will not be the first time that something is done with great popularity that has turned out to be a disaster . . . . The fact that the American people have decided one way or the other, I think, is irrelevant if the issue is what we as free and sensible thinking people want to do.

The second confusion I think that we have heard is the distinction between whether somebody should use a drug — whether it's harmful to them — and whether it should be legal and how it should be legally regulated.

Now, the interesting thing to me is, I have children, too. My children went to a high school where, of course, it was against the law to sell marijuana and to smoke it at the time, as a matter of fact. That was not my problem. They could get it with no trouble at all. My problem was to make sure they didn't injure themselves with it. It's a problem that a parent has . . . . It is a very sophisticated and difficult one. Some of their friends ruined their lives with marijuana. That's a very bad thing to happen to people, but they ruined their lives in a situation where marijuana was strongly illegal. This was before decriminalization in California. And these people still ruined their lives with the drug.

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ranks about number nine among the reasons for not using it.

In other words, basically the law is marginal. So, you would expect decriminalization to have no real effect on use. On the other hand, there are more people arrested for simple possession of marijuana in the United States than for all other drug crimes combined. And the problem, of course, is that if you stop to think about it, the police have a lot of other things to do, like going after traffickers, if that's what you want them to do, or to go after robbers and rapists. It is a very difficult, expensive, and untherapeutic distraction for them to be involved in the processing of simple marijuana users.

Now, I do have to add one thing. I can make a counter argument that people will understand if you decriminalize marijuana and they will think that that's a statement that the drug is all right and they should use more. Being quite honest, that's . . . a great slander on the intelligence of the American people to . . . assert that they can't tell the difference between saying, "Look, you shouldn't use it, but we are not going to throw you in jail for it," and saying, "We are not going to throw you in jail for it, therefore, it's terrific."

My guess is that this is a minimal argument. I think also you can make the argument that until we come to terms with marijuana, which is the drug against which the health argument is weakest . . . (you can get very few health experts to say that, on balance, though there are some differences in effect, marijuana is more dangerous to the user than alcohol), that the problem will be that as long as you have criminalization, a prohibition of marijuana, drug education is going to have to defend it. And as long as it defends it, it is going to have to misrepresent things about marijuana. As long as it misrepresents things about marijuana, it will lose credibility as to cocaine, where I am convinced they are telling the God's truth and then some.

Dr. Grinspoon: Well, I'm glad John brought that up. It is not only that we have arrested more than 400,000 people this year, but for the last twelve years we have arrested on an annual average of about 440,000 people on marijuana charges, most of them on possession. When I first went up to Texas in 1972 to testify on this issue, there were 990 odd people in Texas jails with a mean sentence of 9.7 years. Now, I can tell you there is no inherent psycho-what our society, what the law does to these people. And so, when we other side of the coin. David.

Prof. Richards: Lester, when this got started, Steve Wisotsky asked me a simple question. And I think I'm now ready to address it. That is to say, he gave a scenario of certain facts about the addictive effects of cocaine, and then asked me to comment. And I asked a number of people whose judgment I trust on the factual issues, people of enormous integrity, what they think. That, in fact, emerges . . . is a striking example of how argument moves in this area. My own view is that harm is, of course, relevant on whether you prohibit or regulate. I mean, I'm not to that extent a libertarian. But it appears that the factual evidence about cocaine as we've now learned is that it's clearly harmful to some and not harmful at all to others. The analogy was drawn to alcohol, in which respect it appears to me . . . that regulatory schemes of the kind we use with alcohol would be a much better way of dealing with the harms incident to this use than the general prohibition.

Lastly, it was indicated by several people that, in fact, our laws with respect to cocaine have worsened the situation. I repeat, have worsened the situation. More Americans are using cocaine since these prohibitionist laws took effect. Therefore, it would seem to me, a prohibitionist policy in the cocaine area doesn't correspond to any theory of harm and in fact, may have worsened the social situation in this country. And that alternative regulatory schemes might be worth thinking about, . . . including sound public education . . . about what the real harms and liabilities of the use of this stuff is or may be. I think the question was also asked of Tom Szasz.

Dr. Grinspoon: Yes. We are going to get to Tom Szasz. But, again, I emphasize that honest drug education is a keystone of this whole thing. Tom.

Dr. Szasz: First, the empirical evidence about rats is irrelevant. Human beings are not rats. We are human beings who know things, who are supposed to think, who can reflect on our condition and behavior.

Without doing a single experiment I can prove that the statement of a cocaine addict, "I can't stop," is a lie. Now, may I try it? I have been hearing now for decades about how many millions or billions of being heard now for decades about how many millions or billions of dollars addicts steal to buy more drugs. I have never heard of an addict stealing money to use to go to a wonderful drug clinic to be cured.

Addicts may indeed want two things — to use drugs and to stop using drugs. But if they really want to stop, there's nothing to prevent them from stealing to pay for "treatment" — from going to a clinic and saying, stop me, I can't stop myself.

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Concerning the dangers of drugs and drug education, I will not repeat myself, but I believe very strongly that all too often the business of government is to lie. That is why we have a free press and why we think it important to have one. That’s why we don’t have Pravda. That’s why the State Department doesn’t print the morning news. My initial premise is that there is no reason to believe the government ever tells the truth. The only answer to this problem of information is a pluralism of sources, a pluralism of choices.

Another relevant argument about the dangers of drugs is to note that we have a free market in, for example, Drano. How much harm can Drano do to little kiddies? So, why pick on cocaine? Nobody has to take it.

One final comment: We are afraid of some drugs because we are skittish about suicide. The fact is, a lot of people are ambivalent about living. Now, when barbiturates were first stigmatized and substituted for by valium, I remember Peter Bourne said that — how many? — 200, 300, or 3,000 persons a year commit suicide with it. What’s the difference? Don’t you have a right to commit suicide in America? Is that illegal?

Prof. Richards: You mean in Florida?

Mr. Kellner: Well, you don’t get put in jail.

Dr. Szasz: You don’t get put in a prison-jail for it. You get put into a prison-hospital. I simply want to call attention to the argument against drugs that people may harm themselves with them. But it seems to me that in a modern, sophisticated society our only hope lies in encouraging people to exercise more and more self-control and rely less and less on inherently deceptive governments and government agents.

I don’t mean you, of course! I mean professors of psychiatry, professors of medicine, lawyers. If your money comes from the United States Government or the State of New York or the State of Florida, then you are not working for hypothetical patients. You are working for a bureaucracy. He who pays the piper calls the tune. It’s a very old English proverb. We disregard it at our own peril.

Dr. Grinspoon: Steve, would you please be sure that Tom does not get a check for a stipend for this symposium?

Mark.

Mr. Kleiman: If cocaine were made legal, under any regulatory scheme you want to propose short of requiring a prescription for it, I would predict that, over the next thirty years, the level of cocaine use would rise toward the level of alcohol use. After all, in many ways, cocaine is a more attractive drug unless you know about its dangers. With our legal regulated intoxicant, alcohol, we have twice as many people in bad trouble as we have total cocaine users. So I don’t believe that criminalization, illegalization has been a failure in that sense. I just think that increases in enforcement probably aren’t going to help very much.

Dr. Grinspoon: Well, first of all, there are fewer people in trouble with alcohol now than there have been in previous times in this country. I think as a culture gets experience with a substance, it domesticates it. It comes to learn to use it sensibly, not by everybody, but by most people, and it becomes, in general, less of a problem over time. I would agree with you that if the price of cocaine were diminished, there would be much more use of cocaine. However, in my scheme, I make it clear that the taxation certainly would equal (it can’t exceed) what the black market people do. . . . Insofar as price is an inibitant, that’s the whole point, to keep that price up there. But to use the money not to pay cops and robbers, but for education, for rehabilitation, for treatment, and so forth and so on.

Now, it strikes me that we are hearing ourselves talk an awful lot. We are not involving the audience in this.

Dr. Zinberg: I was misunderstood. I would just like to clarify.

Dr. Grinspoon: All right. And then we will get to the audience, Norman.

Dr. Zinberg: I just want to clear up a misunderstanding that Mr. Kellner apparently had, two misunderstandings actually. One is, I did not say that cocaine didn’t do anything. I said that it didn’t get you high if snorted in the same way that the other drugs did. In fact, to go back to one of Professor Szasz’ earlier points, in early cocaine use, it can be advantageous as far as performance goes. . . . People may be emotionally at sea about a lot of things, but they are not stupid.

[The Hastings Institute put together a study of the impact of these drugs, whether they were advantageous and improved performance. And there was a growing body of evidence that cocaine on a short-term basis with minimal dosing does improve performance. All the athletes that are taking it are not fools. And many of them, if
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Second, I would say that at least in my remarks, and I think in several other people's, we did address the demand issue. I certainly tried to address the demand issue, and if I was obscure, I'll try to clarify it a little bit. . . . It depends on what you think is the demand issue. If your goal is to stamp out all drug use, then indeed I did not approach the demand issue. If you think you can do that, I'm reminded of the comment . . . [that] "to attempt something which is inherently impossible is a denigrating task."

If you think about the demand issue in the sense that you would like to really pay attention and do something serious about the kind of terrible troubles people get into, which requires a certain amount of differentiation between use and misuse, then I think we indeed addressed the demand issue. I think cocaine is an extremely dangerous drug, probably — with the possible exception of cigarettes — the most dangerous drug. But I still think it has to be approached from the point of view of really thinking about how people get into trouble, which people get into trouble, and how to do something important (and quickly) about it.

Dr. Grinspoon: Incidentally, in the only true experimental work Freud ever did, he developed a crude dynamosmeter and demonstrated that cocaine improved his muscle strength, particularly when he was fatigued. He also developed a reflex measuring mechanism and demonstrated that it shortened reflexes when he was fatigued.

Now, the whole question of drugs which improve performance isn't nearly as much with us now as it's going to be in the future. They are that this is the debate which we are going to confront five or ten years from now.

Hopefully, by then we will have made more progress with the drugs we have to deal with now, but I can tell you that the drugs we have to deal with now are in a certain sense child's play as compared to what will be coming out of the laboratory in the not too distant future.

Now, unless there's some compelling — yes, Tom.

Dr. Szasz: I would like to add to what Norm said. There is empirical evidence on the demand issue. After all, it's an old observation that empirically valid. I think it is. Why should authorities prohibit something — an ordinary person might think — unless it's good for you? Surely, if it was simply bad, a warning would suffice.

Dr. Grinspoon: All right. Now, with that, we will entertain questions from the audience, please.

Questioner: The money from marijuana and cocaine relative to the moral fiber of this community . . ., because of the money generated by that — the bribery, the amount of social fiber being destroyed, has not been addressed.

Dr. Grinspoon: Well, I did address it in my statement. I see that as an important reason to try and develop another way of approaching this. It's the erosion of civil liberties. It's the erosion of moral values. It's all these things that are so terribly crucial and compel us to think of different ways of approaching this.

Dr. Szasz: I think the question begs the answer. If there were a free trade in drugs, Miami would not be the drug capital. It would be Minneapolis or God knows where. The problem the question addresses is due to the drug laws, not to the drugs.

Dr. Grinspoon: Well, I think he meant a larger community than Miami . . .

Prof. Kaplan: I see the corruption and the example we set for young people that you can make lots of money and drive around in a Rolls Royce or a Porsche if you're willing to violate the law. These are very bad. They are the costs of prohibition . . . . We have to think about the other side, too. What is the kind of public health problem you will get if you give up the prohibition?

And what I'm saying, and as I've said over and over again, this requires hard work and hard thought . . . You've got to look very carefully, and in the cocaine area, you're going to want to know how many people would use it if it were available in different regulatory schemes, what harms they would do to themselves and to other people, what would be the social dislocation. Then having done this, you have to figure out what will happen a generation down the pike . . . . Then you have to ask yourself on the whole, which is worse? Neither of them will be good. In other words, there will be no solution to the problem of drugs any more than there will be a solution to the problem of poverty or evil. You know, these unfortunately are with us. We have to reach the best kind of method of handling them that we can.

Now, one reason for the political arena . . . having an incapacity here is, as Tom Szasz pointed out to me in a whisper, and I will save him the trouble of repeating a brilliant point, that there is a kind of
you've interviewed any of them, will tell you that indeed it is very effective, until they begin to get into heavier dosing. Then it becomes disorganizing and interferes with performance. So that the people who begin to use it are not wrong when they use it to do a deposition in the late afternoon. In fact, it perks up their cars . . . .

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If you think about the demand issue in the sense that you would like to really pay attention and do something serious about the kind of terrible troubles people get into, which requires a certain amount of differentiation between use and misuse, then I think we indeed addressed the demand issue. I think cocaine is an extremely dangerous drug, probably — with the possible exception of cigarettes — the most dangerous drug. But I still think it has to be approached from the point of view of really thinking about how people get into trouble, which people get into trouble, and how to do something important (and quickly) about it.

Dr. Grinspoon: Incidentally, in the only true experimental work Freud ever did, he developed a crude dynamoscope and demonstrated that cocaine improved his muscle strength, particularly when he was fatigued. He also developed a reflex measuring mechanism and demonstrated that it shortened reflexes when he was fatigued.

Now, the whole question of drugs which improve performance isn't nearly as much with us now as it's going to be in the future. They are in the laboratory now. There are being developed; and it seems to me that this is the debate which we are going to confront five or ten years from now.

Hopefully, by then we will have made more progress with the drugs we have to deal with now, but I can tell you that the drugs we have to deal with now are in a certain sense child's play as compared to what will be coming out of the laboratory in the not too distant future.

Now, unless there's some compelling — yes, Tom.

Dr. Szasz: I would like to add to what Norm said. There is empirical evidence on the demand issue. After all, it's an old observation that forbidden fruit tastes sweeter. Now, maybe you don't believe that that's empirically valid. I think it is. Why should authorities prohibit something — an ordinary person might think — unless it's good for you? Surely, if it was simply bad, a warning would suffice.

Dr. Grinspoon: All right. Now, with that, we will entertain questions from the audience, please.

Questioner: The money from marijuana and cocaine relative to the moral fiber of this community . . . . because of the money generated by that — the bribery, the amount of social fiber being destroyed, has not been addressed.

Dr. Grinspoon: Well, I did address it in my statement. I see that as an important reason to try and develop another way of approaching this. It's the erosion of civil liberties. It's the erosion of moral values. It's all these things that are so terribly crucial and compel us to think of different ways of approaching this.

Dr. Szasz: I think the question begs the answer. If there were a free trade in drugs, Miami would not be the drug capital. It would be Minneapolis or God knows where. The problem the question addresses is due to the drug laws, not to the drugs.

Dr. Grinspoon: Well, I think he meant a larger community than Miami . . . .

Prof. Kaplan: I see the corruption and the example we set for young people that you can make lots of money and drive around in a Rolls Royce or a Porsche if you're willing to violate the law. These are very bad. They are the costs of prohibition . . . . We have to think about the other side, too. What is the kind of public health problem you will get if you give up the prohibition?

And what I'm saying, and as I've said over and over again, this requires hard work and hard thought . . . . You've got to look very carefully, and in the cocaine area, you're going to want to know how many people would use it if it were available in different regulatory schemes, what harms they would do to themselves and to other people, what would be the social dislocation. Then having done this, you have to figure out what will happen a generation down the pike . . . . Then you have to ask yourself on the whole, which is worse? Neither of them will be good. In other words, there will be no solution to the problem of drugs any more than there will be a solution to the problem of poverty or evil. You know, these unfortunately are with us. We have to reach the best kind of method of handling them that we can.

Now, one reason for the political arena . . . having an incapacity here is, as Tom Szasz pointed out to me in a whisper, and I will save him the trouble of repeating a brilliant point, that there is a kind of
escalation going on in the political arena. If somebody says he will reach an accommodation with drugs, the next person will say, well, I'll do better; I will make sure that there are no drugs. And the person who wants to prohibit will always be able to promise more than the person who wants to regulate. Sooner or later, we will learn that that's too simple.

Dr. Grinspoon: Other questions?

Questioner: I wonder if I may ask two questions, and then have a seat. Number one, ... my sense is that the panel does not believe the pharmacological impact of marijuana is severe. The most recent information that I had heard, and this was just a week ago, was that there are about 150 carcinogens of the 450 odd chemicals in marijuana, which happens to be twice as many as in tobacco. And I wonder if the panel is relying on the 1982 information ... or information that is more recent. And, number two, totally unrelated, we all pay about a dollar and-a-half to support DEA. That's their budget.

Dr. Grinspoon: Dollar and-a-half over what period of time?

Questioner: Per year. We pay $370 just to pay for the health consequences of drug abuse, legal and illegal. Is it the panel's consensus that if we take back that dollar and-a-half, that there would be a reduction, a straight line, or increase in the health care costs to the society?

Dr. Grinspoon: Well, let me take a first crack at the marijuana thing. Now, it's not new information that there are carcinogens in cannabis. It's been known for a long time that there are some that contain carcinogens. Nobody is trying to make the point that cannabis is harmless. That's not true. Like any other drug, it has a potential for harm.

The important point is putting the harmfulness into perspective. One perspective is, given the inherent harmfulness of carcinogens, do they add up to the kind of harmfulness which is done to the 440,000 people a year who are arrested? ... Or what it does to law enforcement in other areas? In the early 1970's it was estimated independently arrest. Now, I don't know what that is in 1986 dollars, but it's clearly enormous. It is not harmless. But where does the balance come out?

Now, also, with respect to carcinogens in cannabis, they do not have nearly the importance of the carcinogens in cigarettes because it's that allows for the development of cancer of the lung. That means, what have you. No marijuana smoker ... smokes the equivalent of a pack a day . . .

Do you want to speak to the second question, Mark?

Mr. Kleiman: Well, I don't think anybody regards the three hundred million dollar DEA budget or even the $1 billion to $1.5 billion total federal drug law enforcement budget as a strong reason to cut back on drug enforcement. (Though I would point out that it's a multiple of what the federal government is now spending on the AIDS problem, which is what we are going to be having a seminar on ten years from now.) It seems to me that the billion and-a-half dollars is relatively small change for this problem.

On the other hand, there are other problems for which we don't appear to be willing to spend that kind of small change. This is one of the few areas in which the Reagan administration has been prolific with federal money. I would not want to cut down on the total drug budget. I would want to redirect towards heroin and PCP and some of the diverted drugs which I think we can do something about.

The argument against drug enforcement is not what the federal government spends, but the side effects. It does seem to me that the side effects of marijuana and cocaine enforcement — increasing the wealth of criminals, by increasing the total revenues taken out of these black markets, and the side effects of violence and corruption and so on — are the things to be concerned about.

I wouldn't want to cut back on federal cocaine enforcement in order to save a couple of bucks. I want to cut back on federal cocaine enforcement because I think that the contribution of increased enforcement to preventing people from damaging themselves with cocaine are slight, and the consequences of increased enforcement in increasing the crime problem associated with cocaine may be more substantial than that. That would be the kind of argument I would make both about marijuana and about cocaine. Not that we want to save the bucks. We want to avoid the side effects.

Dr. Grinspoon: Also, one has to keep in mind that the drugs which cost the most money in terms of health care and loss of productivity and so forth are cigarettes and alcohol. Tom.

Dr. Szasz: This last question about hidden costs reveals a tremendous selectivity, which is why I call the drug problem a scapegoat problem. If you look around, what do you see people do that really creates health care costs? Well, let's go outside this hotel. People lie in the sun. That causes basal cell carcinoma and it depresses the immune system. Now, that's just from sunbathing. How about diving into the
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water? How about the hang-gliding? Skiing? How much do insurance companies, the government — directly or indirectly — pay for ankle injuries, for back injuries? Where does this chain stop? Why pick on cocaine? Human beings are engaged consistently in trying to overcome boredom and the best way to overcome boredom is by endangering yourself or other people. That's part of human nature.

Dr. Grinspoon: John.

Prof. Kaplan: Although on philosophical grounds I agree with what Tom says, the real problem is that . . . and these are questions of degree . . . . drugs are different. What I mean to say is that . . . virtually no activity I can think of that is legal causes us as much trouble as alcohol use in terms of health care. Similarly, virtually no activity I know will cost us as much as illegal cocaine or illegal heroin, at least as I project it . . .

If you take the number of people that we see at risk for . . . socially destructive kinds of things, it looks to me as if the kinds of drugs we are talking about are different . . . . Drano is something you can injure yourself with, but experience shows that by and large it doesn't really grip the public imagination. Cocaine is, I think, . . . different. So, although in principle I associate myself with Tom Szasz, when it comes down to the hard questions, I'm on the other side. I'm prepared to do something provided that its . . . benefits are not out of proportion to its costs . . . .

Dr. Grinspoon: Another question, please.

Questioner: Maybe I'm suggesting that we can talk for a moment about some good news. It was suggested this morning by several speakers that there's less problem with the opiates, heroin in particular, than there was some time ago. I remember in the '60's that the number one crime concern in the country was the pressing need to commit crimes to pay for heroin by addicts. Also the PCP thing was going on. I would like to hear a little more discussion about why the speakers think that may be and whether it is true and whether we can look for that to improve.

Dr. Grinspoon: Norman, do you want to address that?

Dr. Zinberg: . . . . [As] John Kaplan was just saying, I agree with Tom Szasz philosophically. I often feel a little different operationally . . . I hate to keep repeating myself, but people are never fools.

PCP was, I think, a made up problem. It had a blip, a very small blip, much less than the publicity would have you believe; it's really not anybody's favorite drug. PCP is cheap. It can be eaten. It can be smoked. Anything can be done with it. So that when you couldn't get anything else, you got PCP. For years it was sold as THC. It was sold as something else, because people really didn't like it very well. There are people, particularly young people, who just want to get high and get high on damn near anything, and then they would use PCP. But I think that the drugs that get general use and stay popular are popular for a reason: people do like them, often too much in a painful way, but they do provide something.

As far as the opiates go, it's a complicated, interesting question. Certainly, the treatment demand is down. There . . . is some evidence that the actual amount of opium in various forms, of heroin, being imported to this country is down . . . . [The] Drug Abuse Warning Network reports about accidents, emergency room visits, and so on are down. Just how much use is actually down is the question. My own studies have been on controlled use. I have been studying so-called [heroin] chippers, people who use it occasionally. If I had to take a guess, I would guess that addiction is considerably down, but controlled use is probably not down. And that there are a significant number of chippers of opiates in this country . . . .

Dr. Grinspoon: Do you want to define chippers, please?

Dr. Zinberg: Chippers are occasional users. Chippers are people who use it once in a while without becoming addicted. In my study, I tried to answer the question whether all chippers are simply at an . . . early stage of addiction where people play around and eventually become addicted. This is the question, of course, everyone has asked. So, our study actually covered seven years following the people, and they had been using it two years before that. I think that's long enough to answer the question that chipping can be a stable form of use and is not simply a step on the road to addiction.

And I think as with most of the drugs in this country, marijuana, alcohol and so on, that there has been over the last six, seven years a greater move toward controlled use; that is, use within certain rules of use, use for a special occasion and so on, and not runaway compulsive use. And that's what I think has happened with the opiates.

Dr. Grinspoon: Just let me go back to PCP for a moment. You know, as Norman says, people are not fools. They learn. Now, PCP was first introduced as a drug on the streets in the summer of love in 1967 in Haight Ashbury, as a pill.

The results were so devastating — I mean, all these people were becoming psychotic — that the drug-using community immediately abandoned it completely until they learned that you could sprinkle it on parsley and marijuana and more or less control the dose.
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Mr. Kleiman: I would like to follow up on that. I wish I were as sanguine as you and Norman are about PCP. In fact, the most recent numbers I have seen on people showing up in hospital emergency rooms with bad PCP experiences doubled from 1980 to 1984. So, I don't see any evidence it's tailing off. They doubled to a fairly high level. There are 4,500 emergency room reports every year for PCP. It's not an enormous number compared to other drugs, but remember how bad a PCP experience is likely to be. Of those 4,500 reports, 250 are deaths.

So, I'm not at all sanguine about the future of PCP. It's true that sophisticated drug users, if you will, know better. But 16-year-olds frequently aren't sophisticated drug users. And it looks like every new crop of sixteen year-olds can be relied on to make the same mistake.

Dr. Grinspoon: Well, I think that's 1984 data. The fact of the matter is that right now PCP users are definitely on a decline and that's true of — pardon?

Dr. Zinberg: I was agreeing with you.

Dr. Grinspoon: Yes. There's no question about that.

Mr. Kleiman: You mean, back to '80 levels or still above?

Dr. Grinspoon: Well, I don't know exactly what level, but clearly the curve is coming down and it's coming down quite rapidly.

Mr. Kleiman: Okay. On the opiate issue, things are a lot more complicated. A lot of what happened I think was simply on the demand side, that is, the younger brothers of the 1969-71 generation of heroin users said, "not me." And, in fact, the age of heroin users has been steadily increasing by almost one year per year since, so where a typical heroin addict in 1971 was 19, he's now 29.

Basically, you're dealing with the same cohort moving through the system. Increased availability over the last couple of years, partly having to do with world conditions, partly having to do with a shift of federal enforcement resources away from heroin toward marijuana and cocaine, seems to be both bringing some old addicts back, and for the first time over the last couple of years you have seen younger people getting back into the heroin system. And that's worrisome. It's not by any means epidemic yet. The 400,000 or so chronic intensive heroin users, the junkies that we have left in the country, are still a massive social headache.

I've been involved in a couple of studies of the effect of street-level heroin law enforcement on property crime in two cities of Massachusetts, and the answer is that burglary and robbery went down about 40 percent as a result of street level heroin enforcement. So, I think it's the case that our residual heroin problem is still a massive headache in the cities where it occurs. But I think probably the best solution to that is intensive street level, that is retail level, law enforcement.

Dr. Grinspoon: Yes.

Questioner: . . . I'm a substance abuse counselor. If illicit substance abuse is a public health problem, rather than say a case of moral or spiritual or character deficiency in individuals, then why aren't more of the proceeds of seizure and forfeiture channeled toward treatment and education? Shouldn't those who profit from illicit drugs underwrite societal causes of treating those individuals and families who are damaged by drug abuse?

Dr. Grinspoon: Well, that's exactly what I put in my proposal. I agree. Other people. Leon.

Mr. Kellner: I agree, also. It is being done somewhat. The law that Congress passed did not provide for it. There is pending in Congress amendments to change the law to allow the use of forfeited assets to be used for drug abuse education, research and treatment. I agree one hundred percent. And it has been done already in New York.

Dr. Grinspoon: Yes.

Questioner: I'm with Upfront Drug Information in Miami, Florida. And my question is a multiple choice one, to make it a bit easier. During the past few years, one of the few real debates among politicians in Washington about what we should do about drug policy is whether we should have a drug czar or not. . . . [U]sing that concept, I would raise the question, if there were to be one person in the federal government, in the administrative, in the executive branch of government, to be charged with finding a breakthrough in this society's drug abuse problem, would you as members of the panel select the attorney general or the surgeon general?

Dr. Grinspoon: Like all multiple choice questions, how about "other"?

Mr. Kleiman: Can I have a third choice? I want to add Lowell Jensen, the deputy attorney general, who is one of the most sensible people in the country on this subject.
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Dr. Grinspoon: Other answers? John.

Prof. Kaplan: It's sort of like asking which leg of the three-legged stool is most important. The fact is that this problem has some facets which urgently require a health approach and a treatment approach and others which require law enforcement, and yet others which require just staying out and not making things worse.

Dr. Grinspoon: Yes.

Questioner: One of the bases of drug policy is that the government is concerned with people taking drugs because of the risk to health, yet the government puts paraquat on pot and people end up smoking poison.

Dr. Grinspoon: It's a good question. Who would like to answer it?

Prof. Kaplan: I will try.

That's one of the costs of criminalizing. There's no doubt about that. One of the costs of Prohibition was that you more often got jilted Prohibition, you got Schenley making liquor and they didn't put up a very substantial increase in the cirrhosis of the liver, which was also bad.

So, the answer is, yes, I think we could pyramid the number of health issues. One of the things I find most worrisome is the fact that has two disadvantages. They are the same people who are much more marijuana becomes more of a gateway than it would be otherwise.

One consequence of all of this people use less marijuana than they would because they don't want to be poisoned. They don't want to take a chance.

Dr. Szasz: I interpret this question, as I think it's fair to interpret it, in the framework of political philosophy. The question was very elegantly framed to show the inconsistency of the government: If it is so concerned for our health, how can it put poison into something?

This points to the classic question: Do we view the state as a necessary evil, the less the better — or as a protective therapeutic agent, the more the better. Reagan keeps talking about getting the government off our backs. But that's pure rhetoric. He doesn't mean getting the government off our backs when it comes to drugs. Virtually everyone talks about having less government, but, in fact, wants more government of his own kind.

The history of the world shows that the major thing from which people have died — more than from plagues, than from drugs — is from the actions of their own government. Think of the great religious wars; now it's the War on Drugs.

Dr. Grinspoon: Well, another question. Yes, please.

Questioner: The use of opium products is, I think, increasing worldwide; is it not? Britain is having an epidemic, France and even Italy for the first time; is this correct?

Dr. Zinberg: Yes.

Prof. Kaplan: I'm not sure about the first time for Italy.

Questioner: [Regarding addiction] the medical model was taken up and the disease concept. I think you said, Doctor Szasz, that it's a mental illness; is that correct? No? It's a psychiatric problem?

Dr. Szasz: [Shakes head in the negative.] It's not a problem. It's a phenomenon. It's not a problem until somebody calls it a problem. Obviously, addiction is not a problem to the user. If it was, he would do something about it. If somebody would think it's a problem, then they would try to fix it. The fact that they don't fix it means to me that for them it's not a problem, it's a solution.

Questioner: What Dr. Szasz says is, "no problem."

Dr. Szasz: I didn't say that, either. I said that when you talk about the problem, you have to identify the moral agent who defines the problem. A classic problem used to be a religious problem. Jones would say that Smith has the wrong religion. Smith wouldn't think he had a problem, but Jones would insist that Smith had a problem. Okay, so, what is the problem?

Questioner: I don't understand.

Dr. Szasz: Problems don't float around in nature. Problems are defined by human beings, and that is the beginning of our trouble: We
Dr. Grinspoon: Other answers? John.

Prof. Kaplan: It's sort of like asking which leg of the three legged stool is most important. The fact is that this problem has some facets which urgently require a health approach and a treatment approach and others which require law enforcement, and yet others which require just staying out and not making things worse . . . .

Dr. Grinspoon: Yes.

Questioner: One of the bases of drug policy is that the government is concerned with people taking drugs because of the risk to health, . . . yet the government puts paraquat on pot and people end up smoking poison . . . .

Also, without ether or acetone, the manufacturers are putting more poisons in the cocaine. And, also, without methaqualone people are making it with valium and PCP. Designer drug people keep on manipulating the molecular structure of drugs, so that these chemicals are outside the law. With all these restrictions that are put on the manufacturing of drugs, it seems like it's putting people in more jeopardy . . . .

How can the government justify these measures?

Dr. Grinspoon: It's a good question. Would who like to answer it?

Prof. Kaplan: I will try . . . .

That's one of the costs of criminalizing. There's no doubt about methyl alcohol in the alcohol and that blinded people. When you re-methyl alcohol in it and it didn't blind people. On the other hand, you also bad.

So, the answer is, yes, I think we could pyramid the number of health issues. One of the things I find most worrisome is the fact that so long as marijuana is illegal, it will be sold by drug pushers. And this likely to sell other more dangerous drugs, and, therefore, smoking. Secondly, when you put PCP on the stuff to make it taste better, you and then you have involuntary PCP intoxication.

One consequence of all of this is use less marijuana than take a chance . . . .

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**Questioner:** I’m a psychiatrist. If the methadone clinics have helped to decrease the problem of heroin, could that be an alternative to the problem of cocaine or marijuana?

**Prof. Richards:** You mean, maintenance of some form?

**Questioner:** Yes.

**Dr. Grinspoon:** Does anybody want to answer this question? The question was, if methadone clinics have helped with the problem of heroin, could there be some equivalent help with cocaine and marijuana?

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**Dr. Szasz:** I answered that question about 25 years ago when I said that curing heroin with methadone is like curing addiction to scotch with bourbon.

**Prof. Kaplan:** I have to know where to start. First of all, I think Tom is just dead wrong. It is not like curing addiction to scotch with bourbon because methadone is different from heroin. It has two differences: It’s slower acting and, therefore, you don’t disable one. . . . Nodding off at the beginning and going into withdrawal every six hours. Second of all, it can be taken orally, so that you can have less violent mood swings.

In other words, I think methadone is a very good drug for those maintenance for scotch . . . as a liver. Heroin . . . and the opiates happen to be relatively benign drugs . . . acting and, of course, most of all, I regret to say, because it’s illegal, but —

**Dr. Szasz:** John, how can you do this to me? I thought you had a sense of humor? An aphorism has been defined as a half-truth or a truth and-a-half.

**Prof. Kaplan:** Well, the trouble is that this is closer to ten percent. You know, this isn’t half. If it were half, I would have laughed.

**Dr. Szasz:** It’s better than half. It’s one-and-a-half.

**Prof. Kaplan:** No, it isn’t one-and-a-half.

**Dr. Szasz:** It is one-and-a-half in one particular way, which you are slighting. Heroin is anathematized by our government, whereas methadone is blessed. So there is a parallel: Scotch is foreign, alien, ergo no good; bourbon is domestic, familiar, ergo good.

**Prof. Kaplan:** Oh, I should never have underestimated the subtlety of the Hungarian mind.

**Dr. Szasz:** That’s more like it.

**Prof. Kaplan:** Yes. Forgive me. It’s still dead wrong, but there’s a very interesting point to it. No, the problem though is that we don’t know any drug that will, as it were, replace cocaine without being as destructive as cocaine or replace alcohol without being as destructive as alcohol . . . .

**Dr. Grinspoon:** There’s another problem here, that is to say, a heroin addict who gets into a methadone maintenance or methadone detoxification clinic has to decide he wants that . . . well, with marijuana, there are very few people who say, this is so destructive to me, I want to be able to do something about it . . . .

**Yes, David.**

**Prof. Richards:** I do regard maintenance as one of the regulatory alternatives worth thinking about. It obviously doesn’t work in all fields, but it could work in some and, of course, we have, aside from methadone, no permissible maintenance in this country, which I think is very ill-advised.

There are lots of debates in the country over the English experience with heroin maintenance as to whether it would apply here, but it seems to be one of the range of regulatory alternatives which should be debated in this area . . . to move on with the prohibitionism rhetoric, which I think is so self-destructive, self-defeating in this country . . . .

**Dr. Grinspoon:** Well, there was heroin maintenance in this country in 1924.

**Prof. Richards:** Sure.

**Dr. Grinspoon:** It worked so well, for example, in Shreveport, Mississippi, that the police chief who was very much opposed to it at first was very distraught when the government said we have to close that down.

Well, we have time for one more.

**Dr. Zinberg:** One more thing. I think one of the things that should be kept in mind is that detoxifying people from cocaine has so far been fairly easy as opposed to detoxifying them from heroin. While there are
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relapses, all in all, efforts have been pretty successful. It doesn’t feel so far like there’s really the need for a maintenance drug for cocaine as there seems to be (correctly or incorrectly) with heroin addiction.

Dr. Grinspoon: Mark, briefly.

Mr. Kleiman: Let me make myself unpopular by speaking of antabuse. For those who aren’t familiar with it, antabuse is a fairly old drug which reacts with alcohol on the blood stream to release formaldehyde. It is a sort of Clockwork Orange solution to the alcohol abuse problem. It just makes somebody who drinks feel very bad about drinking. I would never recommend it for someone merely who has a drinking problem. On the other hand, it seems to me that for those whose drinking is a problem to others — particularly people who get drunk and beat up somebody or drive their car around at a hundred miles per hour — it could be an alternative, for example, to imprisonment for driving under the influence of alcohol. Requiring someone to take the antabuse, that is in effect sentencing him. Not being able to take a drink for the next three years may be a good solution to protect the rest of us. If it’s somewhat punitive for the drinker, that seems to me not a bad thing.

Prof. Wisotsky: I just want to set the agenda for when we return. It seems to me we have canvassed a pretty broad range of alternatives and more intensified law enforcement to decriminalization, to legalization, and to medical (prescription) dispensation and to... to the status quo. They include everything from a regime of stricter taxation, to medical (prescription) dispensation and... to

And what I think we need to do when we come back... what is to get down to the hard work of talking about movement. How do you pro-

Dr. Grinspoon: We would like to begin now the final session of the symposium. And, as a way of beginning, we would ask... of the prescription for what should be done about this situation. And we are start with Mark Kleiman.

Mr. Kleiman: Recipe with no analysis. Increase spending on an-

drug propaganda in the schools, concentrate on the two gateway...
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Prof. Wisotsky: I just want to set the agenda for when we return. It seems to me we have canvassed a broad range of alternatives to the status quo. They include everything from a regime of stricter and more intensified law enforcement to decriminalization, to legalization and taxation, to medical (prescription) dispensation and to addiction maintenance.

And what I think we need to do when we come back... is to get down to the hard work of talking about movement. How do you proposesocial or political movement away from the status quo if, as either unprincipled or ineffective or both. So, the question is, where is the path for the breakthrough?

And we will come back at 4:00 o'clock.

[Continuing after a short recess]

Dr. Grispoon: We would like to begin now the session of the symposium. And, as a way of beginning, we would ask... each of the panelists to give us, as someone said, his Betty Crocker recipe or his going to start at one end of the table and just move across. So, let's start with Mark Kleiman.

Mr. Kleiman: Recipe with no analysis. Increase spending on antidrug propaganda in the schools, concentrate on the two gateway drugs, nicotine and alcohol, with a lesser emphasis on marijuana. Cut back very substantially on Coast Guard interdiction activities; switch Customs drug activities from trying to interdict dedicated smuggling airplanes and vessels (usually loaded with marijuana and cocaine), back into the ports and airports, where they may pick up some heroin. Worry about passenger body carriers and about shipments in freight. Cut back in other ways on high level marijuana and cocaine enforcement. Put the resources into street level heroin enforcement, into worrying about PCP labs, and cracking down on abuse by physicians and pharmacists.

Dr. Grispoon: Did you mean propaganda in school, or education?

Mr. Kleiman: Well, propaganda. That is to say, regarding cigarettes I would hit some on the informational side with respect to effects on athletic performance and on appearance. No point telling a 14 year old about lung cancer; it's just not effective. And I would hit fairly hard on emotional things, essentially playing on their sexual insecurities; tell them they are never going to get laid if they smoke.

Dr. Grispoon: Even though that is against the common wisdom and perhaps even the truth.

Mr. Kleiman: I would remind you of what Oscar Wilde said after the Boer War. He said, you will never eliminate war by telling people it's wicked, you will only eliminate war when you convince them it's vulgar.

Dr. Grispoon: I think that we will just... sweep through the whole panel with prescriptions and then open it to discussion. Norman.

Mr. Zinberg: I would like to put the greatest emphasis on the demand side in the sense of finding ways to reduce demand for abuse... I would like to see the excessive use of any substance be made unseemly; that rules for use be propagated; that we try disengagement from the war by trying to see what works in this direction and try to minimize the effort of law enforcement to be destructive; to try to bolster the attempts of people to find reasonable ways to use intoxicants; and to do away with those intoxicants which are very difficult to be used reasonably, such as cocaine.

A long time ago I wrote that a good law is a law that deters as many as possible and punishes as few as possible. A bad law is a law that deters few and punishes many. I think that's still true.

Dr. Grispoon: Leon.

Mr. Kelner: First, I would increase our diplomatic efforts, especially with source countries in order to reduce the supply that is coming to this country. I would maintain our law enforcement efforts, both in
an effort to reduce the supply and... as an educational tool. And most importantly, I would employ every possible method... to educate and teach people about the harms of drugs. I am not as pessimistic as some. I believe that use can be reduced, rather than simply abuse.

Dr. Grinspoon: As for myself, I have already presented my prescription this morning and it's published in the little book... [A]s something which could be done immediately to alleviate the situation... I would legalize the use of marijuana for people over the age of twenty-one tomorrow.

Tom.

Dr. Szasz: Well, I very much welcome this chance to answer this particular question because, from what I have said, it may not be so easy to infer what I had in mind.

I have two related recommendations. One, long range, and the other, short range, that is, what can be done tomorrow. I think what can be done tomorrow has to be highly practical. The long-range goal is ideological; it has to do with the kind of society we want or want to move toward. I think it would be desirable to move toward a society in which we have citizens who exercise a maximum amount of self-control with respect to what they ingest, inhale, and inject, and who are placed under a minimum amount of external coercion. This seems to me the original American ideal of the kind of society we should have. Accordingly, long-range, I would like to see virtually all drugs treated the same way we now treat food — which does not preclude certain kinds of regulation. But the regulation would not be ad hoc; and it would be minimal. It would be enforceable. There would be nothing sensational about it, nothing hysterical. It could not be used by anyone seeking political office. It would be something quite uninteresting and relatively technological, like prohibiting putting some obvious carcinogens in bacon or something like that. That's the long range goal.

Now, what could be done tomorrow? This is a very interesting question because this country is, for better or worse, a democracy, prejudices and stupidity, at least in some areas. Now, the fact is that we have to start there. All right. If they really want prohibition, then let the government out of this business of "drugs." If the American people pay for drug education themselves, just as they pay now for illegal

for what you value.

If people would not voluntarily pay for whatever it is that they call drug education, that would prove to me that they don't want it. We cannot know what education people really want until we get the government out of it. The government is a monopoly on coercion. It's not an instrument for education.

So, my immediate goal would be to get the government, however gradually, out of the drug business — which is exactly the opposite of what the gentleman on my left suggested. The more government we put in, the more we de-power, weaken the individual. I would seek to empower the individual.

Dr. Grinspoon: Thank you, John.

Prof. Kaplan: Okay. I have my prescriptions. First, unlike Lester, I would decriminalize marijuana yesterday — have no penalty for the user of the drug, no fear of arrest. To his tomorrow, I would license the sale of marijuana, simply because the harm that the law is doing is worse than the harm that the drug would be doing.

Dr. Grinspoon: How is that unlike what I said?

Prof. Kaplan: Well, you wanted to decriminalize marijuana tomorrow.

Dr. Grinspoon: No. I wanted to legalize it.

Prof. Kaplan: Yes. You were talking about a penalty for the user.

Dr. Grinspoon: No. No.

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Prof. Kaplan: The record show I'm correct.

Dr. Grinspoon: Well, that's legaliz—

Prof. Kaplan: Would the reporter record the transcript, please?

[Recommend] decriminalizing marijuana yesterday in the sense of no penalty for possession and legalizing it tomorrow. I would agree with Mark; there should be more street-level enforcement for the heroin laws.

I would allocate... far more money for treatment of what drug abuse we can, mostly for the drug that we are best at treating, heroin, even though it's not very good. For cocaine, well, we are better than we were. I would invest a good deal more, and more intelligently, rather than just spending more money, in education... about all drugs.

Alcohol and tobacco are clearly the places to begin because if you don't, your credibility on marijuana is destroyed, which in turn destroys the credibility of all drug education.

I would flatly forbid all advertising of habit-forming drugs in the mass media. Habit-forming drugs are, of course, the illegal ones, but if
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marijuana were legalized, I would forbid advertising of it in the mass media. And I would also forbid advertising of cigarettes and alcohol.

Finally, there's an awful lot we don't know about this. And, therefore, the research component, finding out just what the laws are costing us and trying to make predictions as to which methods will in the long run be most effective against the more serious drug problems like cocaine and heroin, PCP and the like.

We have a lot more studying and thinking to do about these drugs before we really, with any confidence, can make changes. And though I think changes eventually will be made, I want to know what I'm doing before I try to do it. Finally, of course, there's an entirely different level of how we are going to talk the American people into doing it, you know, once you understand what the smart thing to do is, and the answer, it beats me.

Dr. Grinspoon: David.

Prof. Richards: I think my long-term goal would be to separate the question... of the use of drugs from the question of the proper use of the criminal law. It seems to me as regards the latter question the proper use of the criminal law... [would be] a neutral theory of secular harms of a sort of health-based kind.

It is, I think, just hypocrisy to justify American drug policy today on health grounds. It cannot be justified on such grounds... I don't believe the criminal law has any proper place in this area when the health arguments are dubious, speculative, overdrawn and completely ad hoc and impressionistic, without resting on any neutrally applicable theory of harms.

On the other hand, the question of whether one should use drugs, how one should use them, in what circumstances, strikes me as a question which has to absorb everyone's interest in the value of living, and and frank and not hypocritical dialogue on these questions; and obviously, drug use is not an answer to finding the meaning of life. I dare drugs. That's my own view in general.

And I think a society should make available to people a sufficiently rich conception of finding value and meaning so that drug use would not be an absorbing matter to most Americans... An appropriate attitude to education, an appropriate attitude to the use of culture, an rich and various experience so that children would not find it plausible to take drugs. They would have alternative ways of engaging their im-

agitation and their sense of meaning in life.

To me, it's the sign of an impoverishment of a society when it believes it can justify prohibitory drug laws on the basis that it is the only way to stop their children from using drugs. That shows a certain ethereal bankruptcy, it seems to me, in family life and in the capacity of the educational system to do their jobs in giving a plausible, rich conception of value in living to children. From that point of view, the invocation of this argument strikes me as tragic, empty and stupid...

...This seems to me to be a long term goal. I think my own view as a short-term matter would be to try experiments in decriminalization. Obviously, it seems to me marijuana would be one experiment worth trying to see what it would do in terms of other kinds of decriminalization, and I would support that.

I would also think that experiments with heroin maintenance or the use of heroin for terminally ill patients, which Norman Zinberg has mentioned, is also something we should begin experimenting with to move the nation beyond this obsession with... prohibitionist drug policy, just to try to suggest to the American imagination that there are alternatives which may lower the level of harms, increase the level of goods, and not get us engaged in what I really believe to be... wars of religion, a highly controversial dispute over how you find value in living.

...In this, I agree completely with Tom Szasz: I don't believe the state has any proper role in adjudicating these disputes when there is no sound theory of secular harms on which it is grounded. This is essentially a kind of ideological dispute between different values, different generations, different visions of living. That is something that I think in a liberal society we cannot allow our society to impose on citizens. It is not a legitimate use of state power.

Dr. Grinspoon: Thank you, David. Steve.

Prof. Wisotsky: My primary interest is in achieving some kind of breakthrough...

Any student of the martial arts knows that the way to deal with force coming at you is not to push back, but to go with it, to ride the horse in the direction it's going.

And so, what I suggest then is to take the rhetoric of the War on Drugs at its face value and have an outraged citizenry demand of their congressmen, [former] Senator Hawkins, and the others, that if we are at war, then why the hell aren't we fighting this war in a serious and systematic way?

Do you know the entire federal drug enforcement budget is only
marijuana were legalized, I would forbid advertising of it in the mass media. And I would also forbid advertising of cigarettes and alcohol.

Finally, there's an awful lot we don't know about this. And, therefore, the research component, finding out just what the laws are costing us and trying to make predictions as to which methods will in the long run be most effective against the more serious drug problems like cocaine and heroin, PCP and the like.

We have a lot more studying and thinking to do about these drugs before we really, with any confidence, can make changes. And though I think changes eventually will be made, I want to know what I'm doing before I try to do it. Finally, of course, there's an entirely different level of how we are going to talk to the American people into doing it, you know, once you understand what the smart thing to do is, and the answer, it beats me.

**Dr. Grinspoon:** David.

**Prof. Richards:** I think my long-term goal would be to separate the question of the use of drugs from the question of the proper use of the criminal law. It seems to me as regards the latter question the proper use of the criminal law . . . [would be] a neutral theory of secular harms of a sort of health-based kind.

It is, I think, just hypocrisy to justify American drug policy today on health grounds. It cannot be justified on such grounds . . . I don't believe the criminal law has any proper place in this area when the health arguments are dubious, speculative, overdramatic and completely ad hoc and impressionistic, without resting on any neutrally applicable theory of harms.

On the other hand, the question of whether one should use drugs, how one should use them, in what circumstances, strikes me as a question which has to absorb everyone's interest in the value of living, and we all need the best information, the most honest information, a free and frank and not hypocritical debate on these questions, and obviously, drug use is not an answer to finding the meaning of life. I dare say it would be better to read Shakespeare than to get high on a lot of drugs. That's my own view in general.

And I think a society should make available to people a sufficiently rich conception of finding value and meaning so that drug use would attain to education, an appropriate attitude to education, an appropriate attitude to the use of culture, an rich and various experience so that children would not find it plausible to take drugs. They would have alternative ways of engaging their imagination and their sense of meaning in life.

To me, it's the sign of an impoverishment of a society when it believes it can justify prohibitory drug laws on the basis that it is the only way to stop their children from using drugs. That shows a certain ethical bankruptcy, it seems to me, in family life and in the capacity of the educational system to do their jobs in giving a plausible, rich conception of value in living to children. From that point of view, the invocation of this argument strikes me as tragic, empty and stupid . . .

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Do you know the entire federal drug enforcement budget is only
$1.5 billion? That is a sum supposed to police an entire drug industry of one hundred billion dollars. And think about our trillion dollar budget. What are we dealing with? One tenth of one percent of the total federal budget? It's not even close in terms of the order of magnitude that would be required to address a problem of that size.

So, for the outraged citizens, for the parents who are concerned about the protection of their children, and for everyone else who wants to do something about the drug supply, clearly the way to go is to have more enforcement — more of it and have it quick, have a quick acceleration that will parallel the rapid decline of a cocaine addict who will suddenly crash and then seek some sort of treatment.

Part of this intensification I think has to include a full court press against the users of drugs. The quickest way to drive home the unpopularity of a law to enforce it fully against the citizenry. As Dr. Szasz pointed out, the War on Drugs is not a war on drugs; it is a war on the American people by their Government.

Drugs are simply inanimate objects. It's the people that take them. You've got twenty-four or so million marijuana smokers, ten to twelve million cocaine users. I don't know how many heroin users and how many pill users. And when you put them all together, you've got a very substantial segment of the population. And not only that, it's a large percentage of the population under middle age, a large percentage of the youth.

I think nothing would quicker turn the War on Drugs around than to have our jails filled with eighteen, twenty-five, and thirty-five year-olds who are using illegal drugs. And we have had these drug sweeps recently in this community. In a single day, police can go and make hundreds of arrests for possession. It's very easy to do.

So, I think we ought to take all the police off all the burglary details, all the robbery details, all the murder details, and put them into very aggressive, very intensive enforcement against the drug "crisis" so that we can work the thing out to its logical conclusion.

Dr. Grinspoon: All right. Now that you have heard the array of solutions, what are your thoughts about it? Do we have some other thoughts and questions about it?

Questioner: As I listened today, I was really quite impressed by the amount of feeling that all of you have about this subject and how common this feeling is . . .

Prof. Kaplan: You happen to have here people who have spent a very sizable percentage of their adult lives working on a problem of considerable public importance and one where at least many of them

believe that public policy is misguided . . .

Dr. Grinspoon: David.

Prof. Richards: I think there's a deeper question involved that we really haven't discussed all day, and that is the social history of American attitudes to drug use, about which a number on this panel have written, although we didn't discuss it today.

It's not an accident that the drug issue is a potent political symbol in the United States and that politicians are absolutely enthralled with and can't really disengage themselves. It's impossible to take a responsible position on drugs as a politician in American today. That's part of our tragedy, I think that our culture is full of hypocrisy and deceit and we know it . . .

Why does this issue have such extraordinarily potent symbolism, why are politicians currently able to use it in the way they do? I think that's a very deep question which goes very, very far back in American cultural history.

I think right from the beginning you find people like Rush, a signer of the Declaration of Independence, taking a profound view opposed to intoxicants. It's long been held in American Protestant culture that all intoxicants are bad and immoral because they violate a certain highly religious conception of the proper use of our bodies.

And that has been a recurrent theme in American religious culture. I think it led to prohibitionism, which was essentially motored by religious ideals of a certain very specific kind in this country. I think that view can still command a great consensus. By contrast, this is a country which has contracted the use of the criminal law in many controversial areas involving sexuality, involving the right to die, etc. . . .

It appears to cut against the very deep set of commitments that Americans have and that politicians can call upon involving questions about how you should live your life. If you are a good American, you may perhaps drink, but you don't take any of these other drugs which are illegal. The fact that that cultural history has such a potent hold on America is an important issue . . .

And the theory of harms is completely hostage to our own patterns of drug use, . . . just one set of class attitudes dominating other attitudes. There is no neutral theory of harms underlying them. I think . . .

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Dr. Grinspoon: Steve.

Prof. Wisotsky: Yes. I wanted to comment about the feelings. A lot of what I just said, I said tongue in cheek, and it's animated by my frustration at what I see as really a terribly misguided force in the
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direction of governmental policy for many, many years, and it continues to get worse and worse.

And the thing that bothers me most is that there's just no intelligence in it, nor any willingness to have any intelligence about the issue. You know, we are doing here today in this little symposium what the federal government should be doing... [D]espite the fact that we have the leading thinkers in the drug control field in this room, still we don't have the resources of the government at our command. And there was such a tremendous opportunity for the President's Commission on Organized Crime to take a critical look at what could be done to reform drug control in a constructive fashion. And instead of doing that, they have these ridiculous dog-and-pony shows with hooded witnesses and you learned that so many pounds of $20 bills equals a million dollars... [I] just really bothers me that there's such a blindness to the consequences of drug enforcement and an unwillingness to ask whether we can't do better than this.

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Dr. Zinberg: I think Freud was right when he said that the two most important things were to work and to love, sex and the development of some functional capacity. If you go beyond that, particularly with the decline of religion, what we ingest is really the thing that spends most of our emotional energy. What we take in, with whom, under what conditions, how much and so on — an amazing amount of our time is really given over to that... So, it's an emotional issue for everyone which remains hidden. I don't think we acknowledge how intense an emotional issue it is.

Dr. Grinspoon: Yes. Your question.

Questioner: What is the disease concept of this particular problem been highly overlooked... I think that this is a medically proven, scientifically established fact that the disease concept [applies].... Insurance companies, doctors, and other people wouldn't be expending the funds they are if this wasn't validly established as a disease.... I think this deserves the highest consideration this nation can give it in order to get to the core of the problem, and I would like to hear what the panel has to say about that.

Thank you, very much.

Dr. Grinspoon: Okay. Does anybody want to comment on the concentration of the disease or other models?

http://prof-kaplan.com/clearchapter.html?...[K]now a disease is a very complicated business. The question you really want to ask is, will it advance your thinking? And will it advance your public policy if you call something a disease? When you really get down to it, the Lord didn't make diseases and he didn't make categories in the world. Categories are made by human beings.

For our purposes, it makes sense sometimes to call something a disease and doesn't make sense for others. One very good reason for calling something a disease is that you can get health funds if you do. Another reason for calling something a disease is because, if you do, you can talk people into coming in for some kind of help. We call it treatment, but that's part of the same analogy.

Another advantage of calling it a disease is that people who have a disease don't have to feel they are responsible for the harm that they did while they were diseased... These can be advantages of calling something a disease, but there also can be disadvantages. There may be reasons why you want people to say, "No, this wasn't a disease, this was my doing, I did it, and I am responsible for it."

The disease concept, most particularly with alcoholism, certainly commands the public ascendency today. [B]ut a very substantial number of people, still fairly quietly, are saying that alcoholism is no more a disease than bad driving or a lot of other things that cause a lot of problems to people.

Now, Tom, why don't you take over here because you're Mr. "Not a Disease."

Dr. Szasz: Well... you have answered this brilliantly... I agree.

Prof. Kaplan: Make sure we get that down on the tape, please.

Dr. Grinspoon: Yes.

Questioner: [Y]ou've said nothing about such drugs as MDMA [known as "ecstasy"], which some persons have used to explore, not necessarily for recreation, but to learn something... [G]rinspoon: Well, let me comment on that. MDMA... was first synthesized in 1914 by the Merck Company and patented by the Merck Company as an anorectic drug. And, indeed, one of its consequences is anorexia for a period of about twenty-four hours. However, when the Merck Company discovered the other effects of this drug, they immediately abandoned their interest in it... Now... the kind of interest that we have now actually began in the 1950's when the Department of Defense, in its never ending search for better ways of destroying people, looked at [it]... [S]ome of these people taking it themselves discovered the quite unusual effects of
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Prof. Kaplan: Gee, if nobody else will, I will. What is a disease is a very complicated business. The question you really want to ask is, will it advance your thinking? And will it advance your public policy if you call something a disease? When you really get down to it, the Lord didn't make diseases and he didn't make categories in the world. Categories are made by human beings.

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Now, . . . the kind of interest that we have now actually began in the 1950's when the Department of Defense, in its never ending search for better ways of destroying people, looked at [it]. . . . Some of these people taking it themselves discovered the quite unusual effects of
MDMA.

And over the course of the '70's and into the '80's, a number of therapists began to use this drug as an adjunct to insight-oriented psychotherapy and believed that it had a utility there. At the same time, mostly young people . . . have begun to use it on the streets. The DEA became interested in this drug last . . . year, and . . . in June of last year, on an emergency basis, put it in Schedule I [no legitimate medical use].

Now . . . when the DEA announced its intention to put it in Schedule I, four of us, believing that there may be . . . some utility to this drug and in any event believing that it ought to be researched (and a Schedule I drug is very difficult to research), challenged the government. That challenge is now [pending] . . . . If the DEA prevails, it will remain permanently in Schedule I. If we win this case, then its fate is uncertain. The DEA does not have to follow the ruling of the administrative law judge, but if they do not, then they risk having us take it to a court of appeals . . . .

You see, it's curious because really the DEA and we have exactly the same kinds of concerns as far as young people using this drug before we know very much about it. Where we differ is how to get that information. We are interested not only in whether it does have a therapeutic utility, but, indeed, what are the deleterious effects. It's hard to imagine a drug which is as interesting as this absolutely free of charge. However, . . . if it remains in Schedule I, we will not be able to do it in the laboratory. The data will come from the streets and street data is not very good data. Ultimately, it's a cost-benefit analysis and we believe the best way to do this is in the laboratory.

Mr. Kleiman: Can I follow up on that?

Dr. Grinspoon: Yes.

Mr. Kleiman: Given a decision not to place MDMA on Schedule I, what would that leave as a residual control regime? The problem is that it's not an FDA approved drug. There's no prescription regime for it. If it's not scheduled, then you can get back to the situation where people are selling distributorships in ecstasy [MDMA]. So, it seems to me, it's not entirely fair to say that DEA is not interested in research. It may be true, but it's not the only interpretation of their view.

Dr. Grinspoon: No. We never took the position that it should not be scheduled. My position was, it should be scheduled at the level of people who peddle it, and who use it, . . . but does not impede research into this drug. It certainly should be scheduled.
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Mr. Kleiman: The legal problem with that is, how can there be an accepted medical use for a drug that's not, in fact, FDA registered?

Dr. Grinspoon: Well, then you get into the kind of tautology which I don't think we should get into to define accepted medical use...

Questioner: I'm a public defender and I guess in a negative sense I make my living out of the drug laws, although I suspect if we eliminate it, I would have to be an honest lawyer and make a living out of whiplashes.

This is directed towards Mr. Kellner, but it also follows up on what Steve Wisotsky said: Drug laws essentially are malum prohibitum. They are not in and of themselves acts, such as theft or murder that are malum in se,... bad per se. They are elective laws. And, therefore, we have to balance whether we want those laws based on... the price of trying to enforce the law.

I take issue with the fact that we are winning the war, other than using Vietnam kind of body count standards. If you got twice as much at half the price, it certainly sounds like you're losing the war. The question I ask you is, how much in resources would you want? What do you want before you will finally conclude that you either won this war or it can't be won?...

Mr. Kellner: I never said we were winning the war. I said we had a strategy that hopefully would reduce drug use. When you said, how much money do I want, you are, I assume, referring to how much I would want for law enforcement purposes.

... I stated that the most important thing that... must be done in order to successfully reduce drug use in this country is on the demand side. It is money to be used for research. It's education, not only at the federal level... but throughout the governmental spectrum and the social spectrum, that assets have to be used to educate to insure that drug use is reduced.

Now, how much money is necessary for that, I can't answer. I'm not a policy maker. I'm not in Washington. I don't have to weigh... the balances between a variety of competing goals that must go into the federal budget. If you ask me how much, in a utopian world, [I would say] as much as needed. But there has to be a balance. [T]here are other pressing needs at all levels of government that have to be taken into account. I would want every penny possible.

Questioner: Well, how about a hundred billion dollars a year? Would you like a hundred billion dollars if that's what you needed?

Mr. Kellner: That's silly.
Questioner: I am trying to understand how much you need. ... I mean, what if we just simply had a constitutional amendment that repealed the fourth amendment? Would you want that? Is it worth it to repeal the fourth amendment officially, so as to achieve your goal? You're shaking your head.

There are many police that think it would be important to repeal the fourth amendment as a way of stopping that, and if you don't believe that, you don't talk to the police in this state. I know many police who think that the fourth amendment is a joke; if we could only repeal it, we could stop drugs.

Mr. Kellner: Well, I am one lawyer and federal prosecutor who doesn't believe that.

Questioner: Thank God.

Mr. Kellner: And I believe ... that the Constitution is probably the most important tool that I have to use. I believe that the laws that we enforce obviously stand up to that standard. I believe, however, that drug abuse is a problem and I believe that as much money as possible should be accorded to that problem.

Questioner: And no amount of money would ever convince you that this is a losing proposition? Nothing the government could do could ever convince you it's a losing proposition?

Mr. Kellner: At this point, I'm not prepared to say that we have lost. I'm more optimistic. I believe in the general good and the general intelligence of people and ultimately through education I believe that we will reduce it.

Dr. Grinspoon: Steve.

Prof. Winotsky: I ... think the problem is really a philosophical one. When you say, Leon, that the answer really lies on the demand side and we are going to do something about it, we mean the government.

Mr. Kellner: No. When I said we ... I didn't mean the government. I said we, as a society, have to do something about it, the demand side.

Prof. Winotsky: ... An individual takes drugs or does not take drugs. And it seems to me there's a real fundamental conflict between an ethic that focuses on individual responsibility, individual accountability, self-restraint, and all of that, and one which says, the police, going to make sure that you do what you're supposed to do.

Mr. Kellner: It seems to me it's a little oversimplistic to say that individuals take drugs as if they weren't influenced by their society.

After all, individuals choose the clothes they wear, but you could have reasonable confidence this morning that I wasn't going to come in wearing a kilt or a toga because I would look out of place. In fact, you could have guessed relatively accurately what I was going to wear to this occasion, without knowing anything about my preferences. And it seems to me that just as what we wear is largely socially determined, what we do in terms of intoxication is largely socially determined.

Prof. Richards: Which way does this cut? I mean, I hesitate to mention this when Norman Zinberg is at the table, since it's one of the central points of his work. ... Attitudes to drug use are heavily shaped by cultural attitudes. There's a big confusion of the pharmacological and medical evidence with cultural attitudes ... [If] different social attitudes to drug use would substantially ameliorate the harms of such use, ... that would suggest you should change the laws in such a way that would change social attitudes or lead to the formation of cultural attitudes, whereby the forms of drug use would be shaped in ways which are less harmful and more beneficial.

Mr. Kleiman: Conversely, it's not strictly speaking the case that an individual's drug consumption, even if it has only subjective consequences rather than behavioral consequences, only damages that individual. Twenty years ago, 14-year-old girls didn't smoke. Today 14-year-old girls do smoke. Some of the damage today's fourteen year-olds do to themselves should be charged to previous cohorts of fifteen and sixteen year olds who, collectively, lowered the age of female initiation to smoking. There's a social process of learning to use drugs. I think it's much too simple to say, oh, well, individuals choose to use drugs, that must mean that is what they want to choose to use. Those choices are made in a social setting. One of the functions of prohibition is to cut down on the environmental level of drug use to make it easier for individuals to make a choice not to use. I don't claim that every act of prohibition is therefore valid. But it seems to me, you can't ignore that as a major benefit.

Prof. Richards: But if the social setting is not tuned to harms I think everyone on this panel has said that, more or less, the prohibitionist laws don't correspond to any acceptable theory of harms. You, yourself, conceded that.

Mr. Kleiman: I conceded no such thing.

Prof. Richards: In your opening remarks.

Mr. Kleiman: No. No. Hang on. What I said was that increasing the level of enforcement did not have a demonstrated effect on consumption. Therefore I thought that an increase in the level of enforce-
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Questioner: I am trying to understand how much you need... I mean, what if we just simply had a constitutional amendment that repealed the fourth amendment? Would you want that? Is it worth it to repeal the fourth amendment officially, so as to achieve your goal? You're shaking your head.

There are many police that think it would be important to repeal the fourth amendment as a way of stopping that, and if you don't believe that, you don't talk to the police in this state. I know many police who think that the fourth amendment is a joke; if we could only repeal it, we could stop drugs.

Mr. Kellner: Well, I am one lawyer and federal prosecutor who doesn't believe that.

Questioner: Thank God.

Mr. Kellner: And I believe... that the Constitution is probably the most important tool that I have to use. I believe that the laws that we enforce obviously stand up to that standard. I believe, however, that drug abuse is a problem and I believe that as much money as possible should be accorded to that problem.

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Mr. Kellner: No. When I said we... I didn't mean the government. I said we, as a society, have to do something about it, the demand side.

Prof. Wisotsky: An individual takes drugs or does not take drugs. And it seems to me there's a real fundamental conflict between an ethic that focuses on individual responsibility, individual account-... state government, local government, federal government, whatever, is going to make sure that you do what you're supposed to do.

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Mr. Kleiman: I conceded no such thing.

Prof. Richards: In your opening remarks.

Mr. Kleiman: No. No. Hang on. What I said was that increasing the level of enforcement did not have a demonstrated effect on consumption. Therefore I thought that an increase in the level of enforce-
ment was unlikely to be a good policy. I don't for a moment think that we lack evidence about the harms of cocaine or alcohol adequate to support any level of prohibition we think we can, in fact, enforce.

Now, with respect to alcohol, that turns out not to be making it illegal. We tried that. It didn't work either. On the other hand, if I can get back to my Betty Crocker recipe, the one thing I left out was tripling alcohol taxes and getting the beer tax up to the booze level. Now, I think anything we can practically do to discourage alcohol use is fully justified both by the effect of alcohol or alcohol users, and the effect of alcohol users' behavior on other people. With cocaine, the behavioral effects are less severe, but the health effects appear to be more severe, and I think there's a perfectly adequate theory of harms to justify that prohibition.

Dr. Szasz: Well, I have just a brief comment. This may not be a very nice thing to say about America, but I'll say it anyway. It's not such a bad country, especially if you compare it to Russia or some banana republic. But if you don't, then it's not all that great. It seems to me that for far too long, the people as well as politicians in this country followed the rule that if you feel helpless about a social problem, then you might as well pass a law against it. Even Jefferson did it. He felt helpless about slavery; so he proposed, and brought into being, a law prohibiting the importation of slaves. That was around 1800. It was easier than abolishing slavery. It also left open an easy way to manufacture more slaves, right at home. That's what I call ambivalence. Now we, as a nation, display the same ambivalence about drugs. Everybody screams about how bad drugs are and how they should be prohibited. But then why are so many people taking drugs? The fact that so many do means that that's what they want. People from East Germany try to go to West Germany, not the other way. Similarly, Americans want marijuana and cocaine, not lithium and thorazine. Doesn't that fact count for something?

Mr. Kleinman: That's the same argument as saying that everybody in a football stadium prefers watching the game standing up to watching it sitting down because at the moment of the big play, everybody stands up to see better.

Dr. Grinspoon: Yes.

Questioner: I practice law in West Palm Beach and I have a couple of observations. Number one, I want to thank the panel in humorous and kind terms for waking me from my dogmatic slumber because I hadn't really considered an alternative to criminal sanctions. A couple of observations though. The general tone of the physicians on

the panel seemed to be that the recreational use of drugs is okay . . . . The chipper, that's the specific thing I had in mind. This seems to me to conflict with . . . . [the idea] that the first stage of alcoholism, and I think this applies to any other addiction, is use for relief. I don't know anybody who uses cocaine or anything else . . . who does not use it for relief to feel better.

Dr. Grinspoon: Thank you. About your comment that the physicians think recreational drugs are okay, I think that that's not quite, if I may speak for the other physicians, not quite the way we feel. I think it's a question of what drug, under what circumstances, by whom. One can't make a general statement like that. Does anybody else want to respond?

Dr. Szasz: I had hoped that my position on recreational drug-taking was clear. Self-discipline means that self-damaging recreational drug use is no more okay than is any other kind of self-damaging behavior — such as pouring too much salt on your food or eating too much ice cream. Let me say, in this connection, that I am amazed how much the average American seems to have assimilated and made his own the awful joke about totalitarianism — namely, that a totalitarian government is one in which everything that is bad for you is prohibited, and everything that is good for you is prescribed. Think about it. How many Americans now seem to believe that if the government does not prohibit a drug, then it's "safe" to take it? For me, being in favor of getting the government out of the drug-prohibition business is like getting the government out of the religion-prohibition business was for Jefferson. He was not in favor of Americans becoming Mohammedans or Buddhists . . . .

Prof. Richards: Freedom isn't worth much if you don't have a choice between different patterns, some of which aren't very good for you and some of which are.

Dr. Zinberg: I certainly didn't mean to say that recreational drug use was or was not good. . . . I wanted to indicate the complexity of the issue of stamping it out. For example, let's take occasional recreational use of cigarettes. I think the evidence is very high that if somebody has smoked 14 cigarettes within a certain amount of time, their chances of becoming addicted are something like eighty percent. I'm not sure what that range is with cocaine at this point. I guess the fifty to thirty percent that Lester mentioned [is] . . . . a fair percentage of those who use it recreationally. The issue is to learn something about how people sustain occasional recreational use, what are the factors involved.

Certainly, we have evidence that with alcohol, people are able to
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maintain a sustained pattern of use as chipping, in most instances (ninety-five percent of it) without too much difficulty. That may be less true of other substances. But above all, I wouldn’t want to oversimplify it, either to say that it’s okay or that it’s not okay, ... and therefore we have to clamp down . . .

Mr. Kleiman: Can I make a comment about recreational alcohol use? It does seem to be the case that only five or ten percent of American alcohol users are compulsive alcohol users. Either they have a clinical addiction — they get withdrawal when they stop — or they have psychological compulsions that lead them to drink more than they report that they want to drink. But I don’t think that exhausts the problem population with alcohol.

What I understand from my undergraduate students is that they regard a six pack on a Friday night as a social level of alcohol use. Well, there’s enough evidence to suggest that downing a six pack every Friday night reduces your IQ a couple of points. This suggests to me that they don’t understand what controlled alcohol use would look like.

And I think we have a much larger fraction of our hundred million drinkers — particularly the teenagers — in problem use patterns than the sheer clinical data would lead you to believe.

Dr. Grinspoon: All right. Yes. This may be our last question.

Make it a good one.

Questioner: I’m a student at Nova Law School and I would like to direct this question to Mr. Kleiman. I would like to know where the prohibition based on harm stops. It seems to me that if the justification for the War on Drugs is to protect the American health and well-being, the government in its paternalistic wisdom will put me on a diet and mandate exercise for me to wipe out heart attack and stroke, or outlaw dangerous activities like motorcycle riding and the like to protect the health and well-being of the citizenship.

Mr. Kleiman: It seems to me to some extent you answered your own question. Think about the regulatory problems of putting everybody on a good solid 2,000 calorie diet and requiring a half hour of exercise every morning. It’s probably easier to restrict access to a relatively limited number of mind-affecting substances than to do other health-related things. With respect to banning motorcycle riding, it seems to be pretty extreme. I don’t have an objection in principle, and I don’t know whether you do or not, to requiring helmets.

It seems to me that’s a fairly similar case. The harms are obvious. The choice is also obvious. There are a lot of people who prefer to ride their motorcycles without helmets. And there are two arguments for requiring helmets: one is that people just don’t know how bad the harms are likely to be; and the other is that it costs a lot of money to support the vegetables. The answer to your question is that the time to stop prohibiting is when the costs get to exceed the benefits.

It’s perfectly reasonable to conclude, as John Kaplan has concluded, that costs exceed benefits in the prohibition of marijuana. I would expect a bigger increase in marijuana use from legalization than John would, but he makes a perfectly reasonable argument. You can make the argument about cocaine, but I think the costs are just enormously higher. So, I think the answer is like all practical lines, it’s drawn on practical grounds. It’s obviously easier to say, look, there’s a bright line, we are not going to restrict any private behavior, but I think that turns out not to work.

Dr. Grinspoon: Well, John.

Prof. Kaplan: . . . I regard freedom as a value, too. But regrettable in a complex society it’s not the only value. . . . [I]t’s not a purely practical issue of what you prohibit . . . but it is in great part a practical one. And when you consider human freedom a practical value, which I do, then it is an entirely practical issue, but with a somewhat more expanded definition of practicality, I think, than Mark wants to use.

Dr. Grinspoon: All right. This will be our last question.

Questioner: . . . I’m a lawyer in Fort Lauderdale here. . . . I think that a lot of people in this country want very much to have their government involved in helping them be free from what they perceive as the terror of drug use around them. Their children are exposed to drugs and they are afraid of the crime that results from drugs and associated activities . . . . I think that they feel that they have a right to have the government help them fight these battles . . . .

I think that’s documented by the fact that people are very much in favor of some of the inroads that have been made into fourth amendment protections. I would like to ask the panel their view [about people who are] probably in the majority today at this time.

Dr. Grinspoon: John.

Prof. Kaplan: You are right that people want the government to help them. My only view is that if the government could help them, it should do it. The fact is, in my view on balance, the government is harming them, and when they understand this, maybe they will change their minds. If not, frankly, they deserve a certain amount of what they are getting. The government basically is the people, and the people in the long run deserve the kind of government that they are getting.

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