

An Evaluative Analysis of the Controlled Substances Act

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Abstract

The Controlled Substances Act (CSA) has defined U.S. drug policy for more than 50 years, determining what substances are outlawed, restricted, and egregiously punished with sentences up to life in prison. Yet, the recent motions by Congress proposing federally decriminalize the use of marijuana, a Schedule 1 substance, has brought a crucial question to light: what is the true purpose and effectual impact of drug legislation? How do the intentions of our legislators to safeguard the nation from drug-related crime and chaos correlate with the environmental changes and inequitable outcomes that are not always reflected in law? According to the present data provided federally and independently by journals alike, the ripple that the CSA and its branching drug policies have caused in spheres of civil justice and healthcare is proven to be expansive (Lampe, 2021). The reputational stain placed against substances associated with high health risks (I.e., Schedule 1 and 2 drugs) is arguably reversible but has also been an immediate barrier to access in cases where the substance's physiological and mental benefits could be useful for stabilizing one's wellbeing instead of endangering it (Strohman, 2020). The disproportionate enforcement of drug arrests in communities of color and low-income areas threatens both racial and class equity within the United States, due to the unjust targeting for criminalization without solutions or resources for the vulnerable (Taifa, 2021). Nonetheless, the benefits contribute to upholding an acceptable level of public safety, producing responsible standards for medicinal classification, and involving the interests of large pharmaceutical companies and their accompanying research (Lampe, 2021). As spotlighted in the following explorations of congressional efforts and scholastic studies, the complexities of life under recent drug policy cannot be understated, which opens many considerable avenues for necessary revisions.

Keywords: drug, policy, distributive justice, opioid, criminalization, United States

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Consistent in many approaches to substance use is the need to define, regulate, or limit certain substance use as a means for social control and perceived harm prevention. Historians trace the most significant substance use legislation back to the criminalization and anti-Asian racialization of opium use, prompting the passing of 1914 Harrison Narcotics Act. At the turn of the 20th century, products laced with addictive narcotics remained unregulated, producing a misunderstood phenomenon of addiction that began to rear its head globally and alarm congressional leaders. Prior to the act's proposal, the cultural habits of Chinese immigrants in the United States were regularly associated with opium smoking due to their preferred use of opium smoking dens and how widely publicized the Opium Wars between China and the United Kingdom were in the mid-19th century (Mccaffrey, 2019). These practices differed from American users, who mostly accessed opium through over-the-counter products available for pain relief, making immigrants a vulnerable anomaly and perceived threat to the cohesion of American culture (Mccaffrey, 2019). Coincidentally, Chinese migration to the West and opium addiction in the United States proliferated alongside each other, further painting immigrants as convenient targets to blame for the onset, despite other factors such opium's role on common pharmaceuticals or its usage as a wartime casualty treatment during the U.S. Civil War (Mccaffrey, 2019). Still, anti-Chinese prejudice was common for this period as Chinese laborers were already the target for racial animus due to their portrayals as competing laborers presenting an employment risk for the California labor force during the 1850s Gold Rush (Mccaffrey, 2019).

These tensions combined brewed negative commentary and even violence towards Chinese immigrants throughout the country and by the federal government, which culminated in the persistent efforts to suppress the influence of Chinese immigrants. Limitations on recreational use were passed as a measure of social control that disproportionately criminalized Chinese Americans, as ordinances placed restrictions solely against opium smoking and smoking dens in western U.S. cities during the

1870s (Mccaffrey, 2019). Other measures were more explicit, such as Chinese Exclusion Act of 1882 and the federal ban of opium smoking (but not opium use) in the Opium Exclusion Act of 1909 (Mccaffrey, 2019). Resultantly, legislators followed a similar political trend of treating Chinese involvement as causation, framing the emergence, and spread of the opium crisis as a “Far East” issue related to China’s role in opium trade (Lesser, 2014). This opened the door for the United States to advocate for harsher international and domestic regulation of opium and assert moral authority over Chinese political and cultural influences. Simultaneously, the U.S. representatives supported invoking the involvement of police enforcement to sever and punish the relationship between medical providers and substance users (Mccaffrey, 2019). The passage of the Harrison Narcotics Act of 1914 would then signify the end of a short-lived support system for opium and other narcotic addicts in healthcare and a new beginning in criminalizing drug addicts through assertions of moral superiority, fearmongering in the U.S. media and public sphere, and substance use politicizations that maintain a federal and cultural agenda.

Racialization tactics and criminalizing rhetoric expanded to include other substances during Nixon’s “War on Drugs” campaign in the early 1970s, which succeeded in vilifying substance use and users by labeling use as indication of illegal, countercultural behavior rather than a societal failure or environmental outcome (Taifa et al., 2021). The moralization and essentialist attitude implying “individual pathologies” in drug users often justified stigmas and no-tolerance punitive approaches found in even the softer campaigns (i.e., D.A.R.E or “Just Say No” by Nancy Reagan), rejecting as little as harm reduction methadone treatments (Roberts, 2021). Still, it is true that holistic dangers of drug use are supported by reputable scientific consensus and the Drug Enforcement Administration (Drug Enforcement Administration, n.d.). About 165 million American adults, or 60% of the adult population, have used substances at least once over a month-long period, indicating a high prevalence of use. Around a fifth of adults in the United States have used illicit drugs within the last year, a fraction much greater than those using alcohol in the same period (NCDAS, 2022).

Additionally, a quarter of illicit drug users have a drug disorder. For context, according to Merikangas & McClair (2012), illicit drug disorders present a 2-3% prevalence rate compared to the rate of alcohol use disorder at 17.8%. Opioid disorders comprise a quarter of these drug disorder cases (NCDAS, 2022).

Throughout the nation's history, the United States has shown legitimate efforts to confront the reality of substance use and their accompanying detriments, a reality that ripples into the welfare and quality of American life. To maximize the effectiveness of the substance use policies, key legislation like Controlled Substances Act, Anti-Drug Abuse Act of 1986, and other relevant provisions deserve to be evaluated for their effect on the treatment of substance users and the punitive consequences for use, possession, and distribution.

Current Policy Provisions

Current drug policy regarding public use and individual crimes of possession and distribution is meant to address substance use through decreasing the footprint of harmful substances and the presence of drug offenders domestically, often through imprisonment, penalties, and rehabilitative efforts. Since the topic of this analysis is through a criminal justice lens, this paper will not analyze drug policy related to rehabilitation since it is rooted in the lens of public health, which prioritizes concerns for physical and mental health over legality. Apart from this fresher perspective, there are two main policy perspectives to be found in U.S. contemporary drug policy: the first policy by the U.S. government that drug users and offenders should be criminalized based on their interactions with certain substances as participants in prohibited activity, adapting our laws and enforcements to match this belief; the second policy is to disincentivize substance abuse through loss of civil privileges.

The first policy perspective operates primarily on the idea that the classification of substances determines their legalities and purposes, and, in the case of illicit drugs, can result in criminal consequences for offenders according to their use, possession, distribution, manufacturing, and trade.

This U.S. federal policy is heavily driven by the guidance of the Controlled Substances Act of 1970, also known as Title II under the Comprehensive Drug Abuse Prevention and Control Act of 1970 enacted by President Nixon. The Controlled Substances Act (CSA) is responsible for the classification, or scheduling, of certain controlled substances and relevant chemicals identified administratively by Congress for their deemed risk for abuse, dependence, or bodily harm (Lampe, 2021). With these schedules, lawmakers consider the severity of drugs and respond accordingly to the specific violations of controls and protections against the given substances (Drug Enforcement Administration, 2020). For example, violations involving substances with a high scheduling, such as heroin or marijuana in Schedule 1, will be treated with heavier fines or more severe risks of imprisonment in comparison to a lower-scheduled substance, such as prescribed medications or common cough medicines in Schedules 4 and 5. The intended recipients of these consequences would be any entities interacting with higher scheduled substances.

Additionally, the registration and trafficking provisions set by Drug Enforcement Administration (DEA) enforce the schedules under the CSA, utilizing the administration's temporary control powers in the case of rapid-changing contexts or substances needing immediate attention (Lampe, 2021). The agency also regulates, authorizes, and keeps record of distribution and usage operations in pharmaceutical companies who are necessary mediums between drug policy and medical application of substances, which further necessitates special provisions addressing illegal operations that can result in fines or prison sentences (Lampe, 2021). In the judicial sphere, the Anti-Drug Abuse Act of 1986 has since reinforced the significance of drug scheduling in determining consequence severity and established the CSA's precedent for penalties that are staggered according to scheduling through mandatory minimum sentences (Taifa, 2021). The bill also expands upon the procedures provided by the CSA by adding drug analogues into scheduling and increasing resources for the Department of Justice to enforce these changes ("Subtitle J" of the bill). Altogether, the 1986

act widens their scope of power for distinguishing between substance types and applying nuanced penalties (Anti-Drug Abuse Act, 1986).

As demonstrated through the contributions of each governmental branch to the CSA's procedures, the first drug policy perspective requires extensive faith in Congress, its government agencies, the judiciary, and pharmaceutical companies to properly handle and assess substances for distribution and use. However, this relationship alone provides little avenue to prevent political and business interests from translating into legislation, affording all the power in constructing reputations and narratives of each substance to political players and leading pharmaceutical companies. Moreover, while pharmaceutical companies are subject to the same judgments for scheduled drugs, few would doubt that the negotiating power of these distributors is similar to the negotiating power of citizens or their advocates over the same drugs. An argument can be made that this inherently breeds inequity between the stakeholders in drug policy since the interests and experiences of public citizens, specifically struggling addicts or the chronically ill, may be neglected when deciding the criminality of drug activities. The neglect of these interests could contribute to dividing society between the stakeholders with the privilege to impact drug policy and the stakeholders subject to it without representation.

The second drug policy perspective is that drug use needs to be disincentivized in the civil sphere to dispel drug use. This can be achieved through the guise of a moral agenda to persuade others into supporting massive funding for anti-drug initiatives and harsher penalties, such as the implications made by the elimination of parole and special provisions for drugs addicts in Comprehensive Crime Control and Safe Streets Act of 1984 (Taifa, 2021). One of the most severe instances regarding drug sentencing guidelines was found in the Violent Crime Control and Safe Streets Act of 1994, which expanded the death penalty to include narcotic offenses, targeted gangs and gang-affiliated communities with increased police presence to scope out drug crimes and introduced a "three strikes" rule for offenders in addition to other revocations of privileges (Taifa,

2021). Although the attitude behind the bill has now been walked back, the \$12.5 billion dollars in funding that was originally allotted for the bill is still responsible for expanding prison capacities and constructing more correctional facilities to speed up incarceration, leading to a 43% increase in the number of total prisons (Eisen, 2019). According to journalist Lauren-Brooke Eisen with the Brennan Center for Justice (2019), grant programs that were authorized by the 1994 act, such as the Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants Program, served to encourage states to cut parole provisions and implement harsher sentencing laws, increasing their incarceration capacity and adding an incentive for increasing arrest. As mass incarceration continues to trouble the 21st century, it is difficult to separate this phenomenon from the lasting penalties, stigmas, and loss of freedoms introduced against drug users as result of these notable acts.

In addition to the introduction of lengthy sentences under this policy approach, the introduction of penalties for smaller violations also functions tactically to discourage the public from harboring any associations with the target substances due to the fear of criminal violation. According to the DEA, sections of the Anti-Drug Abuse Act of 1986 titled “User Accountability” and “Personal Use” reflect their goal for making drug use civilly disadvantageous. The sections include multiple provisions for holding users accountable for their activities, including invoking anti-drug statements in the courts and in public as well as adding civil penalties for “personal use” possession charges (Drug Enforcement Administration, 2020). For communities, the sections encourage instruction in grade levels as low as kindergarten about drug abuse to shift general opinion and allow the eviction of residents whose units are used for drug activity without any restoration of federal benefit privileges (Drug Enforcement Administration, 2020); businesses also became liable for drug-free workplaces. Moreover, penal codes, such as U.S. Code 862, legalize a loss of benefits such as contracts, licenses, and scholarships for up to a year because of a federal drug conviction, a decision that was also present in the Violent Crime bill of 1994 with the loss of Pell grant access (Boston University, n.d.). Due to the association created between substance use behavior and criminality, the

regulations give the public good reason to feel paranoid about substance use and harbor strong negative feelings about users that they may not have considered so strongly before these civil penalties. The propagation of fear related to substance use also acts as a barrier to recognizing the complex risks and benefits of certain drugs. As the moral standards associated with these regulations are rooted in their enforcement, efforts to host a national conversation about drugs is bound to evoke resistance as it draws criticism to this moralistic agenda that is strongly internalized by the American public and intertwined with anti-drug culture.

When exploring the implicit content in both policy perspectives, the implied benefits and beneficiaries must also be examined, as they provide insight into the intentional and unintentional costs and outcomes that these policies may be creating. A helpful framework for identifying these conditions has been best outlined by Neil Gilbert and Paul Terrell, two social policy experts and authors from University of California in Berkeley; they theorized there are four main aspects through which to examine the impact of benefits, including who the beneficiaries, what benefits they receive, how they receive the benefits, and how benefits are funded (Gilbert & Terrell, 2010). Beginning with who the beneficiaries are in both policy perspectives, each branch of the federal government benefits directly from the regulatory processes within these policies. The fines and processing fees paid by offenders go toward governmental revenue with varying percentages for where it ends up (the judicial budget, law construction, schools, community projects, debts, etc.) (Menendez & Eisen, 2019). According to the Brennan Center for Justice, these inputs are insufficient sources of revenue on the state and local level anyways even after circling through the system (Menendez & Eisen, 2019). Federally, solely the U.S. Treasury received funds from legal proceedings, according to NBC News (Chmura, 2017). Exceptions to this would be cases in cases with invested victims or plaintiffs looking for settlement. In a different light, each level of government benefits politically from the federal government being the primary source of power over drug policy. Legislators determine government responsibility and involvement in public crises; enforcers manipulate who they enforce

the law on; the judicial system can dole out arbitrarily merciful sentences when allowed outside of sentencing minimums. Once an individual is sent to prison, for-profit prisons benefit from housing inmates, receiving money from the government through grants to do so while prioritizing the lowest possible cost choices to maximize profit overall (Wagner & Rabuy, 2017). Yet, a loss of funding for these facilities does not significantly favor anyone since the money saved is also indirectly spent back on housing inmates.

Considering how these drug policies are funded, the decision to invest a sizable chunk of the nation's budget into drug law enforcement must be made valuable through the arrests and seizures that are made, which is then paid back as revenue through penalties, fees, and any seizures of assets that can be made through incarceration tactics. Nonetheless, as stated before, this cycle is not the most beneficial since estimated trillions of dollars were invested in the War on Drugs over the past four decades and yet the problem persists. Instead, a new burden has been created as there is larger need to finance the housing for the growing incarcerated population, a burden that could have been predicted by past legislations which produced mass incarceration. The funds left are then divided up into an amount of revenue on state and local levels. Regardless of any commentary on the current system's state, the short answer is that enforcement is funded by federal, state, and local budgets. depending on the issue at hand and the context.

However, not all entities considered in drug policy directly benefit from the current structure of drug policy. There is also the assumed, indirect benefit to the public that results from removing certain drugs and drug traffickers from the street. The primary purpose of scheduling under the CSA has been establish a straightforward key for controlling drugs at substantial risk for abuse, dependence, and harm. Therefore, it is logical to deduce that, with harsher registration provisions for trafficking and distributing the potent substances of Schedule 1 and 2, it is thus harder for these substances to get in the hands of vulnerable populations like children or individuals without knowledge of a drug's potential. The resulting benefit would be the reduction or elimination of the

prospective harm that these substances' exposure would have caused to the community. Furthermore, the funding dedicated to enforcement of regulation and trafficking provisions would correspond to how much prospective harm may be reduced. Still, it is difficult to attribute this benefit directly to the work of CSA when other confounding variables may have an equal or greater role in protecting vulnerable groups, such as contributions of community welfare projects in drug education and safety. The effects of negative experiences with drug enforcement and excessive policing may also counteract the benefit through the creation of a distrustful or chaotic environment. However, it is certain that the procedures of the CSA help to contain substances in correct medical circles, authorizing deliveries of drugs through hospitals and pharmacies. In this way, citizens who receive quality medical care with the permitted use of highly scheduled substances benefit through the supply of necessary medications and pain relief, giving substances an opportunity to sedate or promote healing in safe settings.

Strengths of Policy Approach

One of the primary strengths of these policies and their supporting legislation is that there are constant opportunities for laws to be updated to reflect the values of the public, new drug information, and cultural impacts on classifications. A great context to demonstrate this would be recent changes related to marijuana as research recognizes the potential medical benefits of marijuana against chronic pain relief without any indication of extreme withdrawal or adverse effects (Hill, 2015). Furthermore, states in the United States are beginning to see the recreational and medicinal benefits and have begun the process of legalizing marijuana. As of August 2022, 19 states have legalized marijuana with an additional 19 states legalizing only medical marijuana (Zhang, 2022). While legalization eliminates the criminality of the substance and allows its regulation and taxation as a product, decriminalization only reduces the penalties and the level of enforcement over the possession of marijuana under a specific quantity. For example, in states like Ohio, Louisiana, and North Carolina where marijuana is still illegal, possession under half an ounce does not

constitute jail time but does require offenders to pay a fine (The NORML Foundation, 2022).

According to data posted by the NORML Foundation (2022), possession amounts close to this limit also constitute fines and reduced potential jail times, but there is opportunity for probation or a conditional discharge in these areas.

Furthermore, there is demonstrated interest by U.S. lawmakers to introduce legislation to decriminalize marijuana. Some bills proposed in the past few years include the Ending Federal Marijuana Prohibition Act of 2017, the Marijuana Justice Act of 2017, Cannabis Administration and Opportunity Act of 2022, and Marijuana Opportunity Reinvestment and Expungement (MORE) Act of 2022; both the Marijuana Justice Act and MORE Act include a pathway for legalization, while the MORE Act goes a step further to propose expunging records of offenders with previous marijuana convictions and dedicating funding to social equity programs for communities disrupted by the War on Drugs. In the public sphere, polling statistics show a trend of increased support toward legalization, according to research by Vera writer Kristi DiLallo in their recent article about marijuana “wins” (DiLallo, 2016). Regardless of which legislative avenue the public prefers, the increase in proposals by both the House and Senate points to a potential removal of marijuana from its high scheduling, a decision that could also lift the limitations on researchers who wish to conduct public studies on the health benefits and risks of marijuana.

Another strength of the current drug policies is that they have increased attention to the struggles of drug addicts, despite the original stigmas presented. With the national discourse around drugs developing over the past few decades, addiction has been more readily recognized in the United States as a physical and psychological condition instead of a personal failure. This is reflected in the Comprehensive Addiction and Recovery Act of 2016, which allocated funds to increase naloxone availability and opioid overdose treatment, to expand rehabilitation, treatment, and education programs, and to allocate more grant support for residential rehabilitation services (Comprehensive Addiction and Recovery Act, 2016). There is also credit to be given to the

Affordable Care Act, which provides coverage for the uninsured, including covered access to substance use disorder and opioid treatments (Abraham et al., 2017). As reflected in this contrast from drug policy 30 years ago, our nation is amid a change from a criminal justice policy approach to a public health policy approach to substance use, but this would have never been possible without initial efforts to address substance use at all.

Weaknesses of Policy Approach

When classifying substances with multiple uses and harms, there comes a risk of placing the substance in an undeserving box or a category that underestimates its potential benefits. Unfortunately, this rationale can be applied to the Controlled Substances Act's scheduling, especially to the more restrictive categories of Schedule 1 and 2. In the opinion of data analyst Andrew Strohman from the American Action Forum, Schedule 1 classification, such as the current scheduling of synthetic opiate analogues, makes it difficult to conduct clinical research to develop productive alternatives based off the substance's power, such as new avenues for pain relief treatment (Strohman, 2020). Strohman further references the existence of a substance called Epidiolex, a drug including a cannabidiol analogue, that presents curing effects for epilepsy, but is still limited by its scheduling. The drawbacks of cutting corners with quick bans and scheduling may not be evident initially, but, to Strohman's point, it begs the questions of what the Controlled Substance Act and legislators may ignore in its scheduling, which introduces doubt about their comprehensiveness in evaluating drugs of interest and developing appropriate legal frameworks to address drug users and their environments.

Strohman's insights about the limitation of substance generalizations parallel the critiques presented by addiction advocates about generalizations of drug users or traffickers. Using self-reported questionnaires to field White and Black demographics, drug issue research determined that there were significant differences between socioeconomic status and employment background for each racial group, and that Black participants were more likely than White participants to be charged

with drug possession (27% vs. 4%) and sales violations (20% vs. 16%) (Rosenberg et al., 2017). This highlights the relevance of contexts on the development of drug interactions, including the likelihood that, in communities with varying socioeconomic and health struggles, reasons for drug involvement may not hold the same intentions or moral weights as other communities. Because of the quick and general nature of both policies, underrepresented communities are immediately susceptible to neglect by our justice system, which decreases the efficacy of these policies to address the root of drug prevalence and offenses in diverse areas.

Finally, considering the severity of the current opioid crisis post-War-on-Drugs, the public must wonder if either policy perspective had the proper effect on the topic of substance use when one of the well-known addictive drug classification, narcotics, still plagues American communities. Today, about 1.6 million American suffer from opiate addiction (NCDAS, 2022), all while incidence of exposure and overdose deaths from prescription opioids, heroin, and synthetic opiates like fentanyl both significantly rise each year by 93% (NCDAS, 2022) and 5% respectively (Centers for Disease Control and Prevention, 2022). This demonstrates the urgent need for an effective and efficient substance use response. While the first policy addresses the punitive calls against traffickers providing these dependence-prone substances, it fully ignores the other key aspect of substance use, which is the humanistic impact. According to research by Vera, only 11% of incarcerated people in need of addiction treatment receive it, despite making up 65% of the prison population (Cloud et al., 2018) Both policies lack attention to aspects of life satisfaction and mental health on drug use, which will reduce its overall generalizability.

Elements of Distributive Justice

The primary aim of this analysis has been to assess the CSA and the drug policies that build on it on whether their framing of drug use concerns translates to just guidance for handling drug interactions and crimes. The previously outlined policy perspectives, strengths, and weaknesses present reasons to both criticize and credit the scheduling, regulatory processes, and enforcements of

the CSA for its effect on drug use and acceptance in the United States. Still, there is a concept that may further aid this exploration in the sphere of criminal justice, which would be assessing these policies against the elements of distributive justice. According to the Markkula Center for Applied Ethics, distributive justice can be defined as the degree to which societal institutions ensure an equitable and fair distribution of benefits and harms among societal players (Velasquez et al., 2014). In relation to drug policy, distributive justice would mean that institutions such as the federal government and their governmental agencies try to check the impacts of their drug policies and policy-related enforcements using measures of equity and fairness. To develop our understanding of the distributive justice of the CSA, this exploration will be broken down using conditions developed by social policy experts Neil Gilbert and Paul Terrell, conditions based on three core values: adequacy, equality, and equity (Gilbert & Terrell, 2010).

Regarding the adequacy of the CSA in contributing to distributive justice, it is best to view these policy perspectives according to their separate goals and the outcomes of those goals. Regarding the first policy, the goal was to adapt the laws and enforcement to match the known scientific data presented about drugs as well as the unknown, differentiating between substances with complex purposes and criminalizing interactions with illicit substances. This was achieved through the general guidelines and restrictions placed on specific substances through scheduling. Through the implementation of the Controlled Substances Act of 1970, this policy goal has been successful in creating a uniform space for medically useful drugs to be administered via prescription or medical personnel, while also monitoring for potential misuse or abuse. Scheduling under the CSA also allows us to make relative comparisons between substances within the same class, which can aid in cost-benefit analyses regarding substance potency when determining drug interventions or public health policies. In this aspect, this policy utilizes accepted knowledge about some controlled substances and has adapted their registration provisions to reflect that.

Contrarily, for substances that are criminalized within the first policy and by the second policy, limitations on exposure with these substances come with benefits and costs, especially those in Schedule 1. While this may be intentional to avoid exposing volatile substances and risking future abuse for the public, this does severely limit the ability to further research new substances and understand their benefits, instead discarding them for initial detriments. In this way, criminalization of substances and affairs related to their use opens the door for misguidance due to overlooking and overgeneralizing the characteristics of a drug. The process of criminalization also acts so absolutely that it is difficult to adapt upon emergent drug research and revelations if its presence is already heavily stigmatized in the public. In this way, scheduling drugs for this policy is counterproductive, and, with the given impacts of incarceration, the cons may outweigh the pros depending on one's point-of-view.

Assessments of equality, according to the explicit parameters of these policies, can be misleading, which is why this assessment will be paired closely with the assessment of equity. Technically, scheduling of drugs is standardized for all jurisdictions under the federal government, meaning the identity of the drugs should determine minimum sentencing and penalties. This implies that, without any provisions differentiating perpetrators of these offenses, it can be assumed that this policy will be implemented equally against all individuals and groups under the law. Since the second policy is dependent on the moral agenda being pushed, there is more potential for discriminatory tactics to result from biased attitudes and dog whistling, such as with the Harrison Narcotics Act of 1914 that semi-explicitly targeted Chinese immigrants; as a result, I would not consider this policy to be inherently equal since many could argue the rhetoric around the War on Drugs used dog whistles against communities of color through references to urban settings and gangs in addition to the use of Black and Brown individuals for propaganda against crime.

However, both policies produce issues in equity. Referring to the Anti-Drug Abuse Act of 1986, a notable provision included a large disparity in minimum sentencing for crack in comparison

to powder cocaine, a decision that is widely seen as racially driven and discriminatory against lower classes due to severe penalties placed on low quantities of cheaper crack cocaine in combination with increased police presence during to the Violent Crime Bill of 1994 (Taifa, 2021). Considering how crack cocaine circled predominantly in communities of color while powder cocaine circled in predominantly White communities, this subtle distinction perpetuated inequitable outcomes, such as lengthier sentences, for communities of color over the possession and distribution of the same substances found in White communities. In the second policy, the inequitable outcomes are rooted in the implicit biases that affect the writing of legislation and who it is enforced against based on the enforcer's idea of the law's intentions. Overall, the variation in drug use and the context surrounding community exposure and dependence on certain substances leads inevitably to inequitable outcomes when intersections of culture, race, socioeconomics, and other identities are not considered, which is the case for both policy perspectives.

Policy Recommendations

My first policy recommendation is that Congress consider carefully reassessing all data and research available about Schedule 1 and 2 substances while also considering changing the level of limitations placed on these substances within the realm of research. As stated earlier, these classifications halt the tracks of clinical research to discover new ways to heal and help our ever-developing nation. The future depends on current advancement, so providing an exception for researchers to work with Schedule 1 drugs using ethical methods would be something to consider.

My second policy recommendation would be that the Controlled Substances Act includes exception policies or reduced penalties for offenders demonstrating symptoms of substance use disorders or having significant survivalist or environmental justifications for their involvement. Examples of environmental justifications would be the need for employment in areas with significantly low opportunities or when one has had significant and undue exposure to drugs and violence in their upbringing and environment. The policy approach in this act is meant to penalize

criminal behavior, but addiction behaviors, efforts to reduce chronic or severe pain, and cases where environmental determinants present severe disadvantages should be provided leniency as a matter of public health, in the same way we adapt our treatment towards other disabling and debilitating conditions.

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