

Mean Green Workshops Demonstration
Affirmative Case for
*Resolved: The abuse of illegal drugs ought
to be treated as a matter of public health,
not of criminal justice.*

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1 Introduction

If the United States is to reduce the adverse health consequences of ... drug use, we will probably need an explicit *public health* perspective on it... [G]roups have been developing just such a perspective, using the terms “harm reduction” and “harm minimization”...

[Des Jarlais, Don C. 1995. Director, International Research Core, Center for Drug Use and HIV Research – Beth Israel Medical Center. “Harm Reduction – A Framework for Incorporating Science into Drug Policy.” *American Journal of Public Health*. 85 (1): 10-12.]

It is because I believe these words of Dr. Des Jarlais of the Beth Israel

Medical Center that I stand resolved that:the abuse of illegal drugs ought to be treated as a matter of public health, not of criminal justice.

The resolution is a very general proposition. It asks us to consider how our entire society treats the problem of drug abuse. I endorse a public health orientation that is quite distinct from the conventional orientation that focuses on law enforcement, criminal justice, and incarceration. This orientation, as Des Jarlais stated, is known as harm reduction.

Harm reduction is a term used to describe policies... aimed at reducing the health-related, social and economic damage caused by drug use without insisting on... abstinence. Harm reduction refers both to concrete practical measures such as setting up injection rooms, establishing low threshold services, giving instruction in good injection techniques, exchanging syringes and so on, and more generally to an approach and a way of thinking that focuses on reducing harm to the drug user him/herself and to the people in his/her immediate environment, rather than on abstinence.
(235)

[Anderson, D. and M. Jarvinen. 2007. Research Assistant, University of Copenhagen; Professor, Danish National Institute of Social Research. "Harm Reduction: Ideals and Paradoxes." *Nordic Studies on Alcohol and Drugs*. 24. 235-252]

My thesis is that the harm reduction approach is superior to the abstinence-only, zero-tolerance approach associated with a criminal justice oriented drug policy.

2 Standard

The resolution asks us to compare two orientations towards drug abuse. For this comparison, we need a standard by which to evaluate competing approaches to drug abuse. John Stuart Mill recommends a method for distinguishing justifiable from unjustifiable uses of coercive political authority. The authority of society is responsible to two maxims. He states:

[F]irst, .. the individual is not accountable to society for his actions, in so far as these concern the interests of no person but

himself. Advice, instruction, persuasion, and avoidance by other people... are the only measures by which society can justifiably express its dislike... of his conduct. Second.. for such actions as are prejudicial to... others, the individual is accountable, and may be subjected either to social or to legal punishment, if society is of opinion that the one or the other is requisite for its protection.

Mill, John Stuart. 1869. *On Liberty*

This protection of autonomy for self-regarding actions along with the protection of individuals from harm caused by other individuals allows individuals the maximum possible autonomy in their own lives. The result is a flourishing society of autonomous individuals. Mill continues:

The worth of a State, in the long run, is the worth of the individuals composing it; and a State which postpones the interests of their mental expansion and elevation, to a little more of administrative skill... in the details of business; a State which dwarfs its men, in order that they may be more docile instruments... even for beneficial purposes will find that with small men no great thing can really be accomplished; and that the perfection of machinery to which it has sacrificed everything, will in the end avail it nothing...

Mill, John Stuart. 1869. *On Liberty*

My two contentions will illustrate that the delicate balance between the autonomy of the individual and the reduction of harms to other individuals in society is better protected from a public health/harm reduction approach to drug use than a criminal justice approach.

3 Contention # 1: Harm reduction strategies are consistent with the autonomy of drug using individuals.

Harm reduction strategies focus on user health through drug maintenance programs and user education. At its heart, harm reduction accepts the drug user as a responsible decision maker. Anderson and Jarvinen continue

...[H]arm reduction... assumes rational behaviour on the part of individuals who are willing and able to take responsibility for their actions.... In public-health-oriented policies, the drug user is perceived as a health conscious citizen capable of taking rational decisions based on public recommendations concerning risk minimization. While formerly, the disease model of drug addiction created a picture of the drug user as a slave to his/her dependence, incapable of taking rational decisions, today, the harm reduction paradigm has inaugurated a very marked shift. Rhodes speaks of an individualisation of risk behaviour and risk minimization. Individuals who are informed about different kinds of risks and about how to avoid them are also expected to act on this information...(243)

[Anderson, D. and M. Jarvinen. 2007. Research Assistant, University of Copenhagen; Professor, Danish National Institute of Social Research. "Harm Reduction: Ideals and Paradoxes." *Nordic Studies on Alcohol and Drugs*. 24. 235-252]

The emphasis on maintenance, choice, and education is clearly more consistent with moral autonomy than the zero-tolerance, abstinence-only approaches associated with criminal justice models or the disease model that assumes the actors are incompetent. Basically, the harm reduction approach respects the autonomy of the drug user. For this reason, we ought to treat drug abuse from a public health / risk minimization perspective.

4 Contention # 2: Harm reduction strategies best reduce harm to non-drug using individuals.

Harm reduction also protects the interests of non-drug users better than criminal justice approaches. First, one should note that causing harm to others through such activities as battery, manslaughter, and the like are illegal under a public health or a criminal justice system. To say that we should adopt a harm reduction approach to drug use is not to say that any of the other components of the legal system go away or that drug users in treatment are exempt from these laws.

However, in a harm reduction approach, more people will actually be brought into treatment programs because these program do not require abstinence and reduce the stigma associated with treatment - as has been demonstrated in the Netherlands. G. A. Marlatt explains:

A second component of low-threshold approaches involves reducing the stigma associated with problems of... substance abuse... [A] recent review of the literature on determinants of help-seeking by individuals with substance use problems, ... found that the primary factor that motivates people to seek treatment or other help is their experience of the problematic consequences or harmful effects of using drugs... rather than identifying substance abuse itself as the problem. By switching the focus to reducing the harm associated with drug use or high-risk sex and away from labeling the problem as one of addiction... prospective help-seekers are more likely to come out of the shadow and seek assistance. On this basis, a higher proportion of the population at risk will become registered in some kind of harm reduction program, as is currently the case in the Netherlands. (787)

[Marlatt, G. Alan. 1996. University of Washington. "Harm Reduction: Come As You Are." *Addictive Behaviors*. 21 (6) 779-788.]

Getting drug users into the treatment programs is the best way to reduce the impact of their drug use on other people. Marlatt concludes:

The third aspect of a... harm reduction to embrace... a variety of high-risk behaviors that span substance use and other high-risk behaviors. Drug use is rarely independent of other high-risk behaviors such as unsafe sexual practices, driving under the influence, aggression and violence, attempted suicide, etc. With a common focus on the harm such behaviors cause, rather than on... condemning the person who engaged in these same behaviors, doors can be opened that are currently padlocked by stigma.... Harm reduction defines much drug use, and perhaps certain high-risk sexual activities..., as maladaptive coping responses rather

than as indicators of either physical illness or personal immorality. As defined by the Harm Reduction Coalition, Harm reduction does not remove a persons primary coping mechanisms until others are in place . A comprehensive, low-threshold approach is designed to promote the development of more adaptive coping mechanisms and mechanisms of social support. Peoples' problems are best conceptualized within an integrative, holistic perspective that views drug use and/or high-risk sexual behaviors as interdependent and reciprocally interactive components of ones lifestyle. By adopting a comprehensive response to lifestyle problems that includes substance use, sexual practices, exercise, nutrition, and other personal and interpersonal habits (both helpful and harmful), harm reduction can offer an attractive, low-threshold gateway to welcome anyone who is willing to come as they are. (787-8)

[Marlatt, G. Alan. 1996. University of Washington. "Harm Reduction: Come As You Are." *Addictive Behaviors*. 21 (6) 779-788.]

Only by accepting people "as they are" can we hope to treat them and reduce the impact they have on other people. In this way, public health / harm reduction programs are more likely to reduce harm to non-drug users than abstinence-based, zero-tolerance criminal justice approaches.

5 Conclusion

We have a choice in designing a drug abuse policy. We can adopt an abstinence only approach that focuses on drug use as inherently bad and drug users as morally bankrupt and mentally incompetent or we can adopt a nuanced harm reduction approach that seeks to persuade and embrace drug users as a means to minimize the harms drug abuse cause in society. Because the harm reduction approach better respects the autonomy of drug users and better minimizes the harms of drug use on all people, I affirm today's resolution.

6 Unedited Paragraphs for All Quoted Material

The point is not to identify the scientific mistakes in our present system for regulating psychoactive drug use, but to develop a new system that is consistent with present scientific knowledge and able to incorporate new scientific findings. If the United States is to reduce the adverse health consequences of such drug use, we will probably need an explicit *public health* perspective on it. Spurred by the urgency of the HIV epidemic among injection drug users, groups in Europe and Australia have been developing just such a perspective, using the terms "harm reduction" and "harm minimization" to describe it.(10)

[Des Jarlais, Don C. 1995. Director, International Research Core, Center for Drug Use and HIV Research – Beth Israel Medical Center. "Harm Reduction – A Framework for Incorporating Science into Drug Policy." *American Journal of Public Health*. 85 (1): 10-12.]

The public health model provides a conceptual basis for understanding the misdirection of current illegal drug policy. As shown in Section III above, current policy focuses predominantly on the agent (the illegal drug) and the host (individual drug users). Environmental factors are largely ignored, and illegal drug problems are viewed as a single entity use itself. The "systems" - or interactions of environment, agent and host factors - are neither understood nor considered in policy development. The current focus on the host is accentuated by the War on Drug's moralistic view of drug use and its heavy reliance on criminal justice strategies. Illegal drug problems are reduced to moral failings of individuals, who must be persuaded, cajoled or forced to desist from their illegal drug use. This conceptualization is a classic example of victim blaming, where complex social problems are presented as the sole responsibility of those suffering the problem (304).

[Mosher, James F. and Karen L. Yanagisako. 1991. Program Director - Marin Institute for the Prevention of Alcohol and

Other Drug Problems, Yanagisako - unknown. "Public Health, Not Social Warfare: A Public Health Approach to Illegal Drug Policy." *Journal of Public Health Policy*. 12 (3): 278-323.]

Harm reduction is a term used to describe policies and programmes aimed at reducing the health-related, social and economic damage caused by drug use without insisting on total abstinence (cf. Riley et al. 1999). Harm reduction refers both to concrete practical measures such as setting up injection rooms, establishing low threshold services, giving instruction in good injection techniques, exchanging syringes and so on, and more generally to an approach and a way of thinking that focuses on reducing harm to the drug user him/herself and to the people in his/her immediate environment, rather than on abstinence. (235)

[Anderson, D. and M. Jarvinen. 2007. Research Assistant, University of Copenhagen; Professor, Danish National Institute of Social Research. "Harm Reduction: Ideals and Paradoxes." *Nordic Studies on Alcohol and Drugs*. 24. 235-252]

The maxims are, first, that the individual is not accountable to society for his actions, in so far as these concern the interests of no person but himself. Advice, instruction, persuasion, and avoidance by other people if thought necessary by them for their own good, are the only measures by which society can justifiably express its dislike or disapprobation of his conduct. Secondly, that for such actions as are prejudicial to the interests of others, the individual is accountable, and may be subjected either to social or to legal punishment, if society is of opinion that the one or the other is requisite for its protection.

Mill, John Stuart. 1869. *On Liberty*

To determine the point at which evils, so formidable to human freedom and advancement, begin, or rather at which they begin to predominate over the benefits attending the collective application of the force of society, under its recognised chiefs, for the removal of the obstacles which stand in the way of its well-being; to secure as much of the advantages of centralized

power and intelligence, as can be had without turning into governmental channels too great a proportion of the general activity is one of the most difficult and complicated questions in the art of government. It is, in a great measure, a question of detail, in which many and various considerations must be kept in view, and no absolute rule can be laid down. But I believe that the practical principle in which safety resides, the ideal to be kept in view, the standard by which to test all arrangements intended for overcoming the difficulty, may be conveyed in these words: the greatest dissemination of power consistent with efficiency; but the greatest possible centralization of information, and diffusion of it from the centre. Thus, in municipal administration, there would be, as in the New England States, a very minute division among separate officers, chosen by the localities, of all business which is not better left to the persons directly interested; but besides this, there would be, in each department of local affairs, a central superintendence, forming a branch of the general government. The organ of this superintendence would concentrate, as in a focus, the variety of information and experience derived from the conduct of that branch of public business in all the localities, from everything analogous which is done in foreign countries, and from the general principles of political science. This central organ should have a right to know all that is done, and its special duty should be that of making the knowledge acquired in one place available for others. Emancipated from the petty prejudices and narrow views of a locality by its elevated position and comprehensive sphere of observation, its advice would naturally carry much authority; but its actual power, as a permanent institution, should, I conceive, be limited to compelling the local officers to obey the laws laid down for their guidance. In all things not provided for by general rules, those officers should be left to their own judgment, under responsibility to their constituents. For the violation of rules, they should be responsible to law, and the rules themselves should be laid down by the legislature; the central administrative authority only watching over their execution, and if they were not properly carried into effect, appealing, according to the nature of the case, to the tribunals to enforce the law, or to the constituencies to dismiss the functionaries who

had not executed it according to its spirit. Such, in its general conception, is the central superintendence which the Poor Law Board is intended to exercise over the administrators of the Poor Rate throughout the country. Whatever powers the Board exercises beyond this limit, were right and necessary in that peculiar case, for the cure of rooted habits of maladministration in matters deeply affecting not the localities merely, but the whole community; since no locality has a moral right to make itself by mismanagement a nest of pauperism, necessarily overflowing into other localities, and impairing the moral and physical condition of the whole labouring community. The powers of administrative coercion and subordinate legislation possessed by the Poor Law Board (but which, owing to the state of opinion on the subject, are very scantily exercised by them), though perfectly justifiable in a case of first-rate national interest, would be wholly out of place in the superintendence of interests purely local. But a central organ of information and instruction for all the localities, would be equally valuable in all departments of administration. A government cannot have too much of the kind of activity which does not impede, but aids and stimulates, individual exertion and development. The mischief begins when, instead of calling forth the activity and powers of individuals and bodies, it substitutes its own activity for theirs; when, instead of informing, advising, and, upon occasion, denouncing, it makes them work in fetters, or bids them stand aside and does their work instead of them. The worth of a State, in the long run, is the worth of the individuals composing it; and a State which postpones the interests of their mental expansion and elevation, to a little more of administrative skill, or that semblance of it which practice gives, in the details of business; a State which dwarfs its men, in order that they may be more docile instruments in its hands even for beneficial purposes will find that with small men no great thing can really be accomplished; and that the perfection of machinery to which it has sacrificed everything, will in the end avail it nothing, for want of the vital power which, in order that the machine might work more smoothly, it has preferred to banish.

Mill, John Stuart. 1869. *On Liberty*

As several researchers have mentioned, harm reduction rests on a paradigm that assumes rational behaviour on the part of individuals who are willing and able to take responsibility for their actions. The public health researcher Tim Rhodes(2002) uses the British harm reduction programme for needle exchange as an illustration. In public-health-oriented policies, the drug user is perceived as a health conscious citizen capable of taking rational decisions based on public recommendations concerning risk minimization. While formerly, the disease model of drug addiction created a picture of the drug user as a slave to his/her dependence, incapable of taking rational decisions, today, the harm reduction paradigm has inaugurated a very marked shift. Rhodes speaks of an individualisation of risk behaviour and risk minimization. Individuals who are informed about different kinds of risks and about how to avoid them are also expected to act on this information (Rhodes 2002). The Australian criminologist OMalley(1999, 198) describes the shift in thinking in these words: In the new discourse, in place of the drug-slave, we have the drug-using subject who becomes a consumer choosing from a range of drugs, the risks of which are clearly outlined and known [] freedom of choice becomes a dominant theme in descriptions of drug users, who, in effect, become choice-makers. (243)

[Anderson, D. and M. Jarvinen. 2007. Research Assistant, University of Copenhagen; Professor, Danish National Institute of Social Research. "Harm Reduction: Ideals and Paradoxes." *Nordic Studies on Alcohol and Drugs*. 24. 235-252]

A second component of low-threshold approaches involves reducing the stigma associated with problems of addiction, substance abuse, and high-risk sexual practices. How can this stigma be reduced? In a recent review of the literature on determinants of help-seeking by individuals with substance use problems, it was found that the primary factor that motivates people to seek treatment or other help is their experience of the problematic consequences or harmful effects of using drugs (e.g., problems in personal health, family and relationship difficulties, financial problems, etc.), rather than identifying substance abuse itself as

the problem (Marlatt, Tucker, Donovan, & Vuchinich, 1996). By switching the focus to reducing the harm associated with drug use or high-risk sex and away from labeling the problem as one of addiction or deviance, prospective help-seekers are more likely to come out of the shadow and seek assistance. On this basis, a higher proportion of the population at risk will become registered in some kind of harm reduction program, as is currently the case in the Netherlands.

[Marlatt, G. Alan. 1996. University of Washington. "Harm Reduction: Come As You Are." *Addictive Behaviors*. 21 (6) 779-788.]

The third aspect of a low-threshold approach is the capacity for harm reduction to embrace and consolidate a variety of high-risk behaviors that span substance use and other high-risk behaviors. Drug use is rarely independent of other high-risk behaviors such as unsafe sexual practices, driving under the influence, aggression and violence, attempted suicide, etc. With a common focus on the harm such behaviors cause, rather than on pathologizing or condemning the person who engaged in these same behaviors, doors can be opened that are currently padlocked by stigma and shame. Harm reduction normalizes these high-risk behaviors by placing them in the context of acquired habits, learned behaviors that are strengthened by the influence of powerful reinforcers. Harm reduction defines much drug use, and perhaps certain high-risk sexual activities as well, as maladaptive coping responses rather than as indicators of either physical illness or personal immorality. As defined by the Harm Reduction Coalition, Harm reduction does not remove a persons primary coping mechanisms until others are in place (Harm Reduction Coalition, 1995). A comprehensive, low-threshold approach is designed to promote the development of more adaptive coping mechanisms and mechanisms of social support. Peoples problems are best conceptualized within an integrative, holistic perspective that views drug use and/or high-risk sexual behaviors as interdependent and reciprocally interactive components of ones lifestyle. By adopting a comprehensive response to lifestyle problems that includes

substance use, sexual practices, exercise, nutrition, and other personal and interpersonal habits (both helpful and harmful), harm reduction can offer an attractive, low-threshold gateway to welcome anyone who is willing to come as they are. (787-8)

[Marlatt, G. Alan. 1996. University of Washington. "Harm Reduction: Come As You Are." *Addictive Behaviors*. 21 (6) 779-788.]