

'Non-victim' crime

Costly fight with low benefits

(EDITOR'S NOTE: This is the eighth of 15 articles on crime in America. The series was written for Courses by Newspaper, a program of the University of California, San Diego. The articles provide the text for an Oakland University course taught by Prof. Jesse Pitts.)



John Kaplan, now a professor in Stanford University's law school, was a special attorney for the U.S. Justice Department and an assistant U.S. attorney for northern California. Among his books are "Marijuana—the New Prohibition."

By JOHN KAPLAN
The drug pusher lurks by school yards and tempts our youth.

The big time gambler bribes our police and corrupts our judges.

The gaudily dressed prostitute is an affront to our morality as well as a spreader of disease.

These images of so-called "non-victim" crime cause great apprehension in America.

Yet the economic and social costs of enforcing laws against these crimes are also great—perhaps too great in relation to their benefits. In 1975, for example, 38 per cent of all arrests were for non-victim crimes, putting an enormous strain on our criminal justice system.

"NON-VICTIM" crime is really a misnomer. The major non-victim crimes—drug offenses, gambling and prostitution—often do have victims: the participants themselves, their families and often the whole society.

It would be more accurate to call these crimes "consensual," to emphasize that those participating in them do so willingly.

The consensual crimes that trouble us most are those in which human weakness, economic incentives toward criminality and often a basic ambivalence toward the activity among a sizable number of people all interact.

Since those involved rarely, if ever, complain to the police, attempts to suppress these activities have been notoriously ineffective and expensive, causing a substantial drain on the criminal justice system and increasing the social cost of the prohibited activities.

THE STRONG moral and emotional overtones of these laws perhaps account for the great reluctance of our

legislatures to withdraw the sanctions of the criminal law in these areas. Yet there are reasons to be hopeful that decriminalization will occur.

Fifty years ago, the most important non-victim crime was the violation of Prohibition. While alcoholism and drunkenness are still with us, the corruption and strains on our criminal justice system caused by this crime disappeared after repeal of the 18th Amendment.

Ten years ago, one of the leading non-victim crimes was abortion. Now, although abortion is still a subject of great political and moral concern, the diversion of resources to prosecute "abortion rings" has ended, and the number of pregnant women killed in abortions has dropped sharply.

DRUG OFFENSES, primarily against the marijuana and heroin laws, may be regarded as the prototypes of non-victim crimes today.

The private nature of the sale and use of these drugs has led police to resort to methods of detection and surveillance that intrude upon our privacy, including illegal search, eavesdropping and entrapment.

Indeed the successful prosecution of such cases often requires police infringement on the constitutional protections that safeguard the privacy of individuals.

The major charge against marijuana laws is that their enforcement accomplishes little, and at a considerable cost.

First, although no drug is completely safe, marijuana is simply not very dangerous, at least compared with alcohol.

the law a real threat, although we do catch enough to seriously overburden our legal system. In the United States in 1975, there were more than 400,000 marijuana arrests—most of which were for small-scale possession.

Moreover, criminal prosecution for the use of marijuana inflicts a sizable injury on many otherwise law-abiding youths and engenders hostility toward the police.

In addition, since many users see no harm in marijuana, they have become skeptical of educational programs designed to lower the use of "hard" drugs.

The laws prohibiting the sale of marijuana prevent both a users' tax on sales, which could net government at least \$500 million at present rates of consumption, and the exercise of con-

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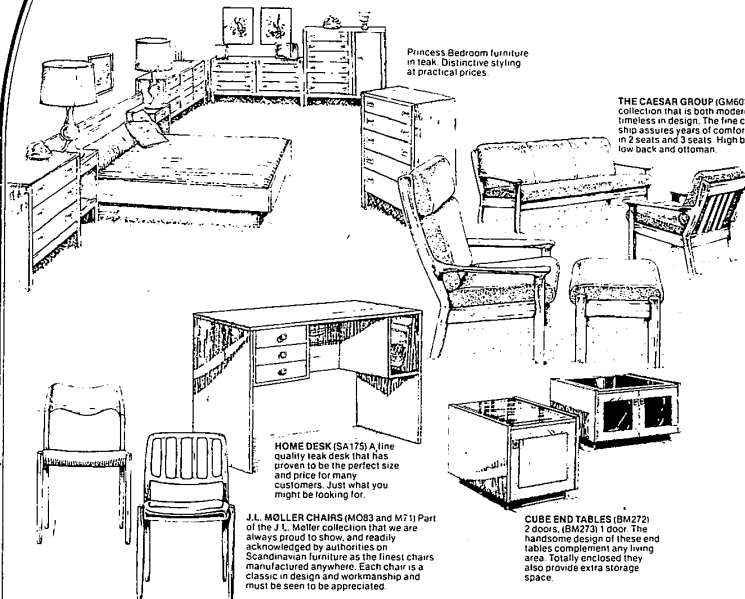
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