

The Concentration of Power in a Single Hand: Administrative Centralization and State and Local Drug Enforcement Policy in the United States, 1995–2016

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Abstract

This paper explores the relationship between the federal prohibition of illicit substances in the United States, the growth of administrative centralization, and the effects of this governing structure on drug prohibition's success. Within a framework of Tocqueville's conception of administrative centralization, it examines US drug enforcement policy from 1995 to the present and the results of drug prohibition on increased arrests and illicit drug use. It also examines trends of social trust and discusses the crowding-out effect, police centralization, and the relationship of both to democratic despotism.

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I. Introduction

Concentration of power in the federal government and expansive federal power over state and local affairs are two dangers Alexis de Tocqueville predicted administrative centralization would pose if allowed to grow in the United States. Further, he noted, this concentration of power within a federal government would fail to solve any policy problems at the state and local levels because the federal government lacks the prerequisite local knowledge that civil society has.

The federal government has grown exponentially since Tocqueville's *Democracy in America* was published two hundred years ago. How much of this growth can be considered administrative centralization? This paper explores the growth in administrative centralization, specifically, in relationship to the federal prohibition of illicit substances. It also examines the effects of this governing structure on the successes and failures of drug prohibition.

Section 2 outlines Tocqueville's description of administrative centralization; section 3 discusses the growth of administrative centralization in the United States and its relationship to law enforcement. Section 4 observes administrative centralization in drug policy enforcement from 1995 to the present, and section 5 observes the results of drug prohibition on increased law enforcement activity with regard to arrests and their effects on illicit drug use. Section 6 examines trends of social trust and discusses the crowding-out effect, police centralization, and their relationship to democratic despotism. Section 7 discusses the findings and concludes.

II. Tocqueville and Administrative Centralization

In *Democracy in America*, Tocqueville distinguishes two types of centralization: governmental and administrative. Governmental centralization “is the concentration in a single hand or in the same place of the great social powers. The power to *make* the general *laws* and the *strength* to force obedience to them. The direction of the foreign affairs of the state and the means to succeed in them” (Tocqueville [1835] 2012, vol. 1, p. 144, italics original). Administrative centralization is “the concentration in a single hand or in the same place of the power to regulate the ordinary affairs of society, to rule the diverse parts of the State in the direction of their special affairs and to be in charge of the daily details of their existence” (p. 144).

Administrative centralization involves a larger government dealing with all matters of everyday life. A key indicator would be specifically making policies that would normally either be handled by municipal government (e.g., the provision of local public goods) or by members of civil society (e.g., social norms, matters of religion, or distribution of private goods). Administrative centralization can be damaging because it attempts to control so many facets of life. Tocqueville writes, “Administrative centralization, it is true, succeeds in gathering at a given time and in a certain place all the available forces of a nation, but it is harmful to the multiplication of those forces” (vol. 1, p. 147). Ultimately, when the federal government attempts to control every aspect of local life, it fails. Tocqueville continues:

A central power, as enlightened, as skillful as can be imagined, cannot by itself encompass all the details of the life of a great people. It cannot, because such a task exceeds human power. When, on its own, it wants to create and put into operation so many different mechanisms, it either contents itself with a very incomplete result or exhausts itself in useless efforts.

(vol. 1, p. 154)

Administrative centralization was also present in France both before and after the French Revolution. Tocqueville noted in *L'Ancien Régime et la Révolution* (*The Old Regime and the Revolution*) that administrative centralization began with the Royal Council under Louis XIV. The Royal Council held jurisdiction over affairs such as policing, infrastructure, and providing financial assistance to the poor. It was able to reject regulations from lower courts and enact its own regulations that applied to all of France (Tocqueville 1856, book I, p. 59).

This expansive administration survived the revolution. Conflicts between the parliaments and central government before the revolution revolved around legislative power, not administrative power (book I, p. 81). Tocqueville writes, “Time, while it extends and exercises the power of the government, imparts to it new skill and regularity” (book I, p. 82). Administrative centralization grew even more as central government replaced the aristocracy overthrown during the revolution (book I, p. 82).

Even if a government were able to concentrate power at the federal level, those in power would be unable to make effective decisions for local issues. Concentrating political power can never substitute for knowledge specific to a time and place. Those at the federal level can only view and make decisions on a local issue from an outsider’s perspective. Attempts at boilerplate solutions by federal policymakers are likely to fail.

People living within a community have a clearer understanding of community history, everyday life, and how community members interact with one another: knowledge that is integral to understanding and solving problems within the community. In addition, administrative centralization can “work admirably toward the passing greatness of a man, not toward the lasting prosperity of a people,” Tocqueville writes, and, in pencil in his manuscripts, he notes, “I see there an element of despotism, but not of lasting national strength that would be” (Tocqueville [1835] 2012, vol. 1, p. 147, footnote k).

Administrative centralization fails to meet its goals and creates new problems. While the government attempts to solve society's challenges, people become disengaged and civic participation (whether in the political realm or in civil society) declines. In the final chapter of *Democracy in America*, Tocqueville describes how administrative centralization and the subsequent civic disengagement lead to democratic despotism. People become so disengaged from civil society that they're only concerned about their own children, family, and close friends while the administrative state attempts to manage all other affairs. Tocqueville writes, "It would resemble paternal power if, like it, it had as a goal to prepare men for manhood; but on the contrary it seeks only to fix them irrevocably in childhood; it likes the citizens to enjoy themselves, provided that they think only about enjoying themselves" (vol. 2, p. 1250). Tocqueville was apprehensive about the long-lasting harms of administrative centralization on both policy making and the citizens at large.

III. Administrative Centralization in the United States and Its Relationship to Law Enforcement

Many scholars have noted the United States' growth of administrative centralization and its similarity to France's *ancien régime*. As Boettke (2007) notes, the period from 1945 to 1975 was one of "galloping socialism," where government intervention was viewed as the means of solving problems caused by market failure. The period from 1975 to 2005 was noted as one of "creeping liberalism," where the "galloping socialism" of the previous period was disproven in the realm of ideas, but this "creeping liberalism" failed to take hold in the realm of policy and government (Boettke 2007, p. 22).

"Gallopig socialism" allowed federal bureaucracies to increase in size and authority. With it came administrative centralization and a leviathan of bureaucracy. Boettke (2007) also discusses how many in government saw the success of voluntary, civil society organizations and entrepreneurs and attempted to replicate their success through government programs. These attempts to copy only turned "the voluntary sector into the coercive sector of the state" and undermined the growth of inquiry, innovation, and the profit-seeking components of natural entrepreneurship (Boettke 2007, p. 28). After the terrorist attacks of September 11, 2001, the federal government

continued to grow in size and authority, creating a massive hierarchal bureaucracy.¹

Administrative centralization also dictated the changing federal drug-control policies throughout the twentieth century. As noted by McNamara (2011) and Redford and Powell (2016), the Harrison Act of 1914 became a major cornerstone of federal drug-control policy, outlawing opium, morphine, and cocaine after minor regulations and tariffs gave the federal government authority to enter the drug trade. Congress justified the act's authorization by arguing that the act dealt with matters of federal revenue and interstate commerce (McNamara 2011, p. 99). With the Harrison Act and future drug-control legislation, law enforcement powers and strategies that were originally delegated to the states and local communities came under the federal government's authority.

Increasingly centralized drug laws translated into centralized law enforcement policy. While doing field research, Elinor Ostrom noticed that the policing strategies of large metropolitan areas (e.g., New York, Chicago, and Los Angeles) differed from the policing strategies of smaller municipalities because of numerous factors (e.g. population size, demographic makeup, and levels of social trust). These differences showed that there could not be a “one size fits all” policing strategy for the United States (Ostrom, Parks, and Whitaker 1978; Boettke, Palagashvili, and Lemke 2013). In addition, as local police departments aided federal law enforcement efforts, the federal government would subsidize local law enforcement departments and, more recently, it has provided local law enforcement with military equipment and technology (Coyne and Hall 2013).² With these changes in policy, law enforcement (including drug policy) became increasingly shaped by administrative centralization.

In addition, changes in federal policy encouraged local police to follow federal protocol. An example is the Comprehensive Crime Act of 1984, where local police cooperating with federal drug investigations were allowed to receive a share of asset forfeitures that resulted from such investigations (Boettke, Lemke, and Palagashvili 2016, p. 315). With the added subsidies to local law enforcement, federal policy gained more control over all levels of drug enforcement.

¹ For a full exposition of the growth of the federal government in all its forms, see Robert Higgs's *Crisis and Leviathan* (1987).

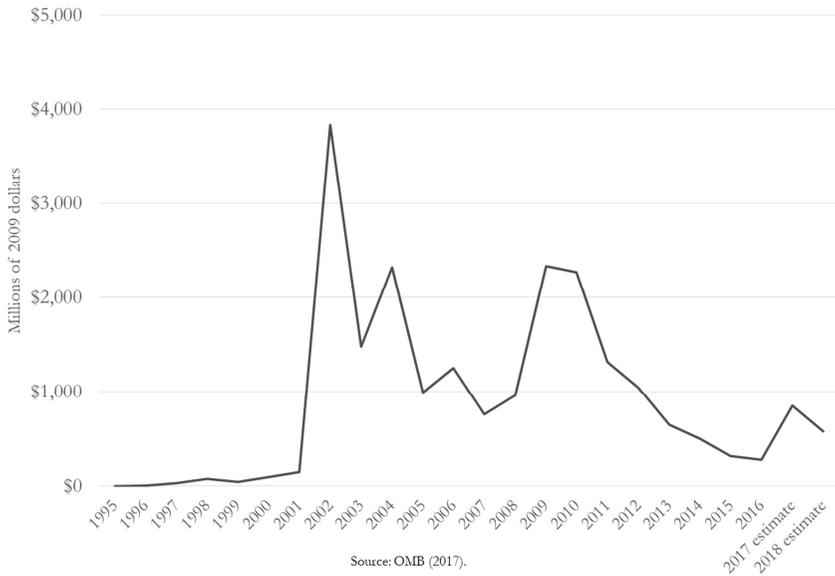
² For further analysis of police militarization, see Christopher Coyne and Abigail Hall's *Tyranny Comes Home* (2018).

IV. Administrative Centralization and Drug Policy Enforcement: 1995–Present

After World War II, the federal government greatly increased its spending on state and local affairs. Starting in 1995, a federal grant, the State and Local Law Enforcement Assistance Program, provided additional funding for state and local police departments. This funding allows the federal government to provide leadership and guidance to state and local law enforcement. It also provides state and local law enforcement with access to federal agencies and databases such as the National Institute of Justice, the Evaluation Clearinghouse (What Works), and the Bureau of Justice Statistics (Department of Justice 2017). In addition, this program provides millions of dollars in funding for arrestee drug abuse monitoring, “Stopping Crime Block-by-Block” field experiments, and inmate reentry evaluation (DOJ 2017).

Figure 1 shows funding from 1995 through 2018 (expected) (OMB 2017).

Figure 1. Amounts paid to State and Local Law Enforcement Assistance Program



In 1995, the program provided \$150,000 to state and local law enforcement (for all fifty states combined), not including other federal justice programs. This government assistance continued to steadily climb in funding into the millions of dollars as the program

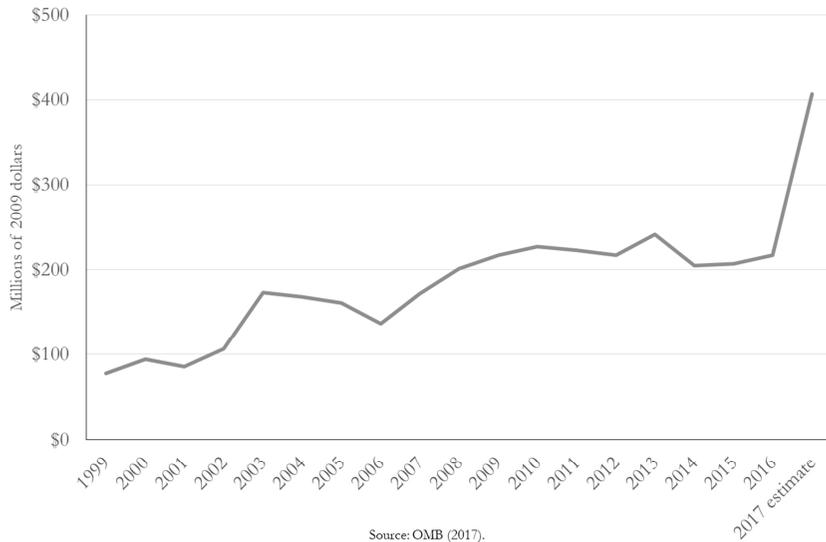
gained popularity. After the terrorist attacks of September 11, 2001, these grants spiked, going from \$146 million in 2001 to \$3.8 billion in 2002. That number dropped to \$1.4 billion in 2003 but rose to \$2.3 billion in 2004. Grant spending reached a low for the 2000s at \$755 million in 2007 (the start of the recession), which is still far above 1990s spending levels. Funding briefly spiked from 2009 through 2010 after the Obama administration took office; grants reached \$2.2 billion and then declined to \$1.3 billion in 2011. Spending steadily declined until hitting its lowest this century at \$276 million in 2016. While data were unavailable for 2017–2018 at the time of writing, grant spending was expected to rise in 2017 and slightly drop in 2018 after the Trump administration took office.

In addition to the State and Local Law Enforcement Assistance Grant, the federal government also issues grants through the High Intensity Drug Trafficking Areas program. This program is organized by the Drug Enforcement Administration (DEA) and “provides assistance to Federal, state, local, and tribal law enforcement agencies operating in areas determined to be critical drug trafficking regions of the United States” (DEA 2016). The stated goals of this program are as follows (DEA 2016):

- Facilitating cooperation between all levels of government for information sharing.
- Enhancing law enforcement intelligence sharing among all levels of government.
- Providing reliable intelligence to law enforcement agencies to facilitate the design of effective enforcement strategies and operations.
- Supporting coordinated efforts between levels of government to prevent the flow of illegal drugs into the United States.

This program is another effort at drug control with a federal agency managing from the top down.

The Office of Management and Budget began tracking the outlays specific to state and local law enforcement in 1999 (OMB 2017). Figure 2 shows spending from 1999 to the present.

Figure 2. Spending on High Intensity Drug Trafficking Areas Program

Adjusted for inflation, spending has steadily risen for this program over time. The first major spike, from \$106 million to \$173 million, appears from 2002 to 2003. After a steady decline until hitting a low of \$136 million in 2006, spending climbed again. Even with the economic recession in 2008, spending steadily increased and briefly spiked at \$241 million in 2013, followed by a drop to \$205 million in 2014. The amounts continued to climb, and, with the Trump administration's expected stance on drug use, at the time of writing the 2017 spending level is expected to boom to \$406 million (although the 2017 data were not released yet at the time of writing).

Like the State and Local Law Enforcement Assistance Program, the High Intensity Drug Trafficking Areas program demonstrates greater federal involvement in state and local law enforcement efforts to reduce illegal drug use, specifically from a top-down approach. Conversely, efforts in favor of and funding for community policing strategies have taken a distinctive turn. Community Oriented Policing Services (COPS) were implemented in 1994 and came to action in 1995 to develop partnerships between local law enforcement and the communities they worked in to stop crime. Community policing is described as follows:

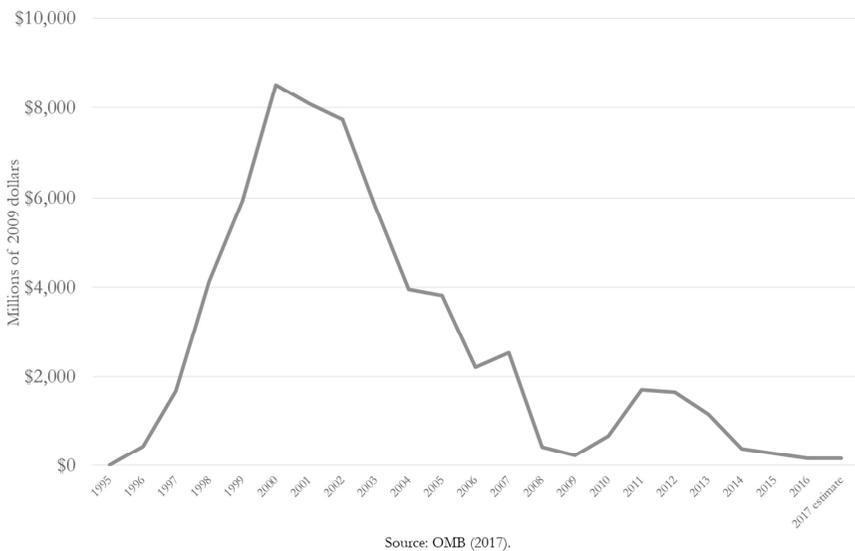
a philosophy that promotes organizational strategies that support the systematic use of partnerships and problem-solving techniques, in order to proactively address the

immediate conditions that give rise to public safety issues such as crime, social disorder, fear of crime, and satisfaction with police services. (Department of Justice 2017)

Community oriented policing relies on community partnerships, organizational transformation, and problem-solving between law enforcement and community members. While federal funding exists for this program, it takes a more decentralized approach to law enforcement than the previous strategies described in this section.

Figure 3 shows the outlays for state and local Community-Oriented Policing Services (OMB 2017).

Figure 3. Outlays for state and local Community-Oriented Policing Services



Funding steadily increased from 1995 through 1999 until it peaked in 2000 at \$8.5 billion. After the George W. Bush administration took office, funding for COPS steadily declined, seeing a brief increase in 2007 at \$2.5 billion. It then plunged to \$423 million in 2008 during the recession. Under President Obama, funding briefly increased from 2010 through 2012 but then declined for the rest of his administration. At the time of writing, estimates for 2017 under the Trump administration show a continuing decline in COPS funding.

The COPS program's failure was largely due to centralization rather than failures of community policing. As Boettke, Lemke, and Palagashvili (2016) note, local police officers under COPS were

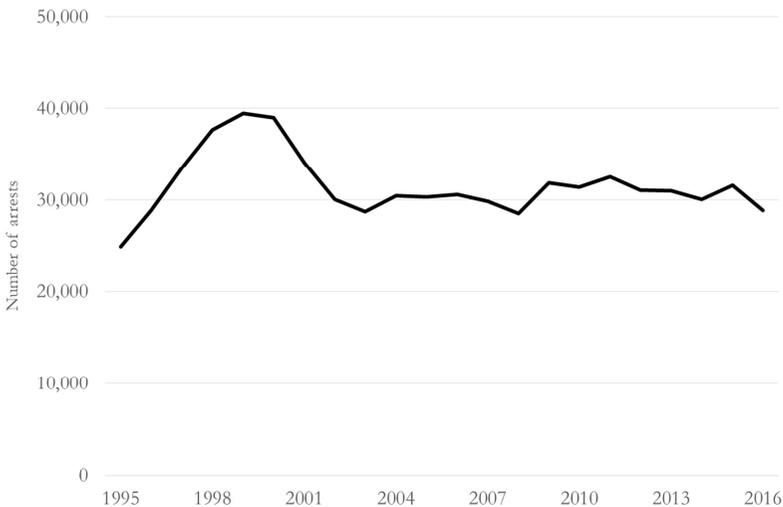
servicing federal policymakers, not community members. With subsidies from COPS, local law enforcement saw implementing federal policy tied to the COPS program as less costly than finding community-based solutions. As described previously, incentives were already in place for local governments to cater to federal policy.

Ultimately, this glimpse into federal funding for state and local governments shows law enforcement policies that focus on centralizing state and local enforcement and allowing the federal government to take charge of more drug enforcement activities. This process closely resembles Tocqueville's description of administrative centralization.

V. Observing Trends in Drug Arrests and Self-Reported Drug Use from 1995 to the Present

While funding was declining for community policing and increasing for the State and Local Law Enforcement Assistance and High Impact Drug Trafficking Area programs, what was happening with drug arrests and self-reported drug use? Figure 4 shows total annual drug abuse violation arrests by federal, state, and local law enforcement from 1995 through 2016.

Figure 4. DEA Arrests, United States



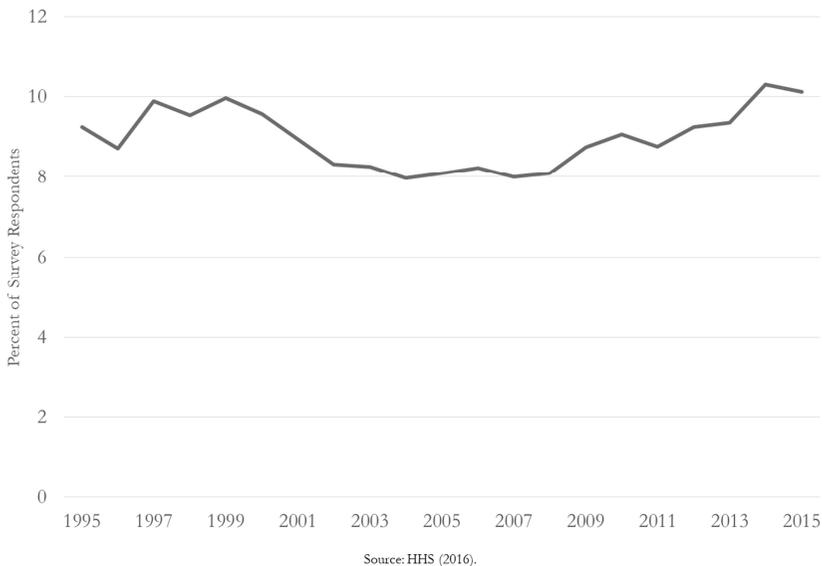
Source: DEA (2017).

The figure uses data from the FBI's Crime in The United States report that measures various US crime statistics, including arrest

records. The report’s “Drug Abuse Violations” category includes both drug possession and drug sales together and does not provide separate counts for each (FBI 2016). Annual drug abuse violation arrests hovered around 1.5 million from 1995 through 2000, began to climb in 2001, and peaked in 2006 at 1.8 million. Arrests continued to decline until returning to 1.5 million in 2011 and remaining roughly around that level through 2016. Despite the drastic changes in spending described earlier.

The National Survey on Drug Use and Health (formerly the National Household Survey on Drug Abuse) covers self-reported drug use among survey members and indicates drug use among the wider American population. Adjusting for changes in methodology, figure 5 shows survey respondents age twelve and older who self-reported using an illegal drug within a month of taking the survey (Department of Health and Human Services 2017).³

Figure 5. Illicit drug use in the past month



After a brief drop in 1996 to 8.71 percent of survey respondents, drug use steadily increased and hovered just under 10 percent of

³ Normally, the survey creates a weighted total for an estimate on the total population of illicit drug users. However, methodology reports were unavailable for 1995 through 2002 and weighted totals were unavailable for those years. To report the most accurate data, percentage of survey respondents was used instead of weighted population estimates for the entire nation during this period.

respondents (approximately 7,000 respondents). The George W. Bush administration saw a drop in self-reported drug use among survey respondents, but the number of respondents reporting having used an illegal drug never fell below 8 percent (approximately 5,600 respondents). Self-reported drug use began to climb again during the Obama administration, starting in 2009 at 8.75 percent of respondents and climbing to 9.06 percent in 2010. In 2014, 10.3 percent of respondents reported using an illegal drug within a month of being surveyed, and that figure decreased to 10.11 percent in 2015.

Self-reported drug use remained fairly constant as spending steadily increased on the State and Local Law Enforcement Assistance Program. As spending on this program jumps in 2001 and then steadily decreases, self-reported drug use declines in 2001 but then hovers just above 8 percent of respondents. Then, as spending on this program increases in 2008, there is a slight increase in self-reported drug use. As spending on this program drops, self-reported illegal drug use continues to increase.

As for the High Intensity Drug Trafficking Areas program, even as spending increased, there were no dramatic changes to self-reported illegal drug use from 1999 through 2017. No observable relationship exists between self-reported drug use and federal outlays to state and local governments for the High Intensity Drug Trafficking Areas program.

Observing the community policing data, no observable relationship exists between community policing and self-reported drug use. As community policing funding dropped in 2002, self-reported drug use hovered just above 8 percent of respondents for the remainder of the time there.

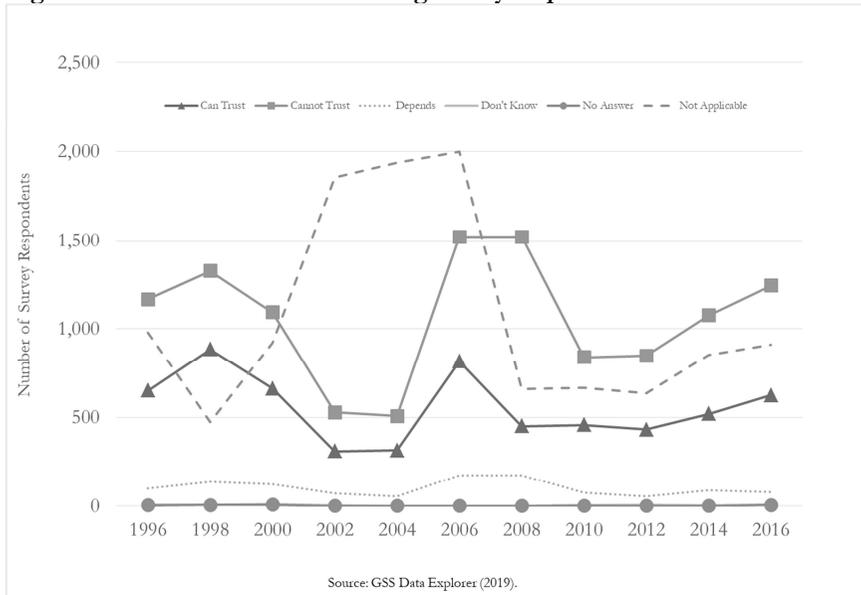
VI. Evidence of Creeping Despotism: Decline of Social Trust and Crowding Out

This section provides observations of social trust from 1994 through 2016 as well as various studies of how government action crowds out local policing solutions and furthers tensions between the police and the local community. It also explores how these factors reflect the concerns of democratic despotism that Tocqueville expressed.

The General Social Survey asks respondents, “Generally speaking, would you say that most people can be trusted or that you can’t be too careful when dealing with people?” The possible answers are “can trust,” “cannot trust,” “depends,” “don’t know,” “no

answer,” and “not applicable.” Figure 6 shows the observations of social trust.

Figure 6. Levels of social trust among survey respondents



The majority of responses are “not applicable” from 2002 through 2006. “Not applicable” makes up a large portion of responses due to the survey’s design.⁴ The steep declines in both “can trust” and “cannot trust” are due to a sharp increase in the number of “not applicable” responses during the 2002 and 2004 surveys (GSS Data Explorer 2018).

It is crucial to note that the largest percentage of respondents believe that people generally cannot be trusted. Nearly 40 percent (excluding 2002 and 2004) of all respondents answered “cannot

⁴ Since 1994, the GSS has been administered to two samples in even-numbered years, with three possible ballots (A, B, and C) being issued to respondents. In addition, a question could be labeled “not applicable” for certain survey respondents. However, 2006 added a fourth ballot (D) to its samples that had 1,518 respondents, and the majority of respondents were issued this ballot (GSS 2019). In this particular case, this question on social trust was only asked on ballots B and C (with the exception of 1998 and 2006, when the question was asked on ballots A, B, and C). Thus, the samples that were administered ballot A were not asked this question and would fall under “not applicable.” Asking this question on all three ballots in 1998 explains the drop in “not applicable” respondents that year. The omission of this question on ballot D (the ballot administered to the majority of respondents) explains why the majority of respondents fell under “not applicable.”

trust,” beating out those who responded “can trust” in every year observed. While a causal relationship between the centralization of law enforcement policies and the lack of social trust is unproven, the lack of social trust leaves little room for community-based alternatives to centralized policy. For local solutions to be implemented, community members must be willing to trust one another. When trust breaks down and community members are only invested in their own desires (to rephrase Tocqueville), the likelihood of community-based solutions drops significantly.

Evidence exists that public policy solutions do crowd out private contributions to public goods. An analysis of various economic models by Nyborg and Rege (2003) found that government intervention can have a wide possibility of effects. Depending on the model, government action may completely crowd out private contributions to public goods, partially crowd them out, have no effect at all, or “crowd in” private contributions (pp. 413–14). However, as discussed earlier, law enforcement policy has become highly centralized through various federal policies. These policies have incentivized local law enforcement to act in accordance with federal policies instead of focusing on co-produced solutions with local residents.

Furthermore, the federal subsidies that pay public service providers drive a wedge between local residents (people who receive the public service of police protection) and the local police (those who provide the public service). With the promise of federal funds, local police are more incentivized to respond to federal demands than to local residents (Boettke, Palagashvili, and Piano 2017).

Recall Tocqueville’s concerns that democratic despotism arises when federal policy extends to control local issues and civil society shrinks because citizens no longer trust their neighbors. While the United States is not fully immersed in democratic despotism yet, these conditions allow it to grow. This division between police and community, coupled with the lack of social trust, will cause civil society to dissolve as centralization and despotism grow.

VII. Conclusion

With thousands of arrests per year and increases in spending, it appears that centralized drug enforcement policies are winning the day. However, when the trends in drug use do not change over time, those results become less impressive.

What is clear in federal drug-control efforts is greater administrative centralization—federal agencies directing state and local efforts to control inflows of illicit drugs and prevent drug use. Also clear is a decrease in decentralized law enforcement tactics. Much as Tocqueville described, administrative centralization is not bringing about the desired policy goals and is furthering the dissolution of civil society. This development is a cause for concern, as a robust civil society and minimal government intervention allow for prosperity.

Observing the increases in federal spending on state and local law enforcement with the moderate level of arrests and the unchanging level of self-reported drug use leaves little optimism that continuing the same policies will create positive change. While this paper was being written, survey data on drug use are only as recent as 2015, historical data indicate that the projected spending increases on programs such as the High Intensity Drug Trafficking Area program are not likely to cause major commensurate decreases in drug use. In future discussions on drug policy, policy makers must consider the effects of centralization. Although centralization is increasing over time for US drug enforcement policy, policy makers must be concerned with illicit drug use remaining virtually stagnant regardless of spending levels.

References

- Boettke, Peter J. 2007. "Liberty vs. Power in Economic Policy in the 20th and 21st Centuries." *Journal of Private Enterprise*, 22(2): 7–36.
- Boettke, Peter J., Jayme Lemke, and Liya Palagashvili. 2016. "Re-evaluating Community Policing in a Polycentric System." *Journal of Institutional Economics*, 12(2): 305–25.
- Boettke, Peter J., Liya Palagashvili, and Ennio E. Piano. 2017. "Federalism and the Police: An Applied Theory of 'Fiscal Attention.'" *Arizona State Law Journal*, 49: 907–33.
- Boettke, Peter J., Liya Palagashvili, and Jayme Lemke. 2013. "Riding in Cars with Boys: Elinor Ostrom's Adventures with the Police." *Journal of Institutional Economics*, 9(4): 407–25.
- Coyne, Christopher, and Abigail R. Hall. 2013. "The Militarization of US Domestic Policing." *Independent Review: A Journal of Political Economy*, 17(4): 485–504.
- Coyne, Christopher, and Abigail R. Hall. 2018. *Tyranny Comes Home: The Domestic Fate of US Militarism*. Stanford, CA: Stanford University Press.
- Department of Health and Human Services (HHS). 2016. "National Survey on Drug Use and Health: Surveys from 1995–2015." Substance Abuse and Mental Health Services Administration.
- Department of Justice (DOJ). 2017. "Office of Community Oriented Policing Services: FY 2018 Congressional Justification."

- Drug Enforcement Administration (DEA). 2016. “High Intensity Drug Trafficking Areas Program: About HIDTA.”
- Drug Enforcement Administration (DEA). 2017. “Domestic Arrests 1995–2016.” Resource Center: Statistics.
- FBI. 2016. “Crime in the United States.”
- GSS Data Explorer. 2019. “Can People Be Trusted?” General Social Survey (via NORC [National Opinion Research Center]).
- Higgs, Robert. 1987. *Crisis and Leviathan: Critical Episodes in the Growth of American Government (25th Anniversary Edition)*. Oakland, CA: Independent Institute.
- McNamara, Joseph D. 2011. “The Hidden Costs of America’s War on Drugs.” *Journal of Private Enterprise*, 26(2): 97–115.
- Nyborg, Karine, and Mari Rege. 2003. “Does Public Policy Crowd Out Private Contributions to Public Goods?” *Public Choice*, 115(3–4): 397–415.
- Office of Management and Budget (OMB). 2017. “Historical Tables: Table 12.2- Total Outlays for Grants to State and Local Governments, by Function and Fund Group: 1940–2024.”
- Ostrom, Elinor, Roger B. Parks, and Gordon P. Whitaker. 1978. *Patterns of Metropolitan Policing*. Pensacola, FL: Ballinger.
- Redford, Audrey, and Benjamin Powell. 2016. “Dynamics of Intervention in the War on Drugs: The Buildup to the Harrison Act of 1914.” *Independent Review*, 20(4): 509–30.
- Tocqueville, Alexis de. (1835) 2012. *Democracy in America: In Two Volumes*, ed. Eduardo Nolla, trans. James T. Schleifer. Indianapolis: Liberty Fund.
- Tocqueville, Alexis de. 1856. *The Old Regime and the Revolution*, trans. John Bonner. New York: Harper & Brothers.