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# CRIMINOLOGY

## LINDESMITH v. ANSLINGER: AN EARLY GOVERNMENT VICTORY IN THE FAILED WAR ON DRUGS\*

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### I. INTRODUCTION

The late Alfred Lindesmith was an Indiana University sociology professor who was a long-time advocate of medical treatment of addiction. We demonstrate below how the Federal Bureau of Narcotics (FBN) attempted to intimidate Lindesmith, stifle his research, and interfere with his publication of articles counter to FBN policies. In addition, we argue that the American banning of the 1946 Canadian film on drug addiction, *Drug Addict*, may have been a pivotal event in a pattern of censorship and disinformation carried on by the Federal Bureau of Narcotics (FBN) under the leadership of its long-time Director, Harry

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Anslinger. The FBN's campaign to suppress information played a significant role in the emerging public ideology and mythology regarding drug addicts and drug addiction in the United States. Lindesmith's unsuccessful efforts against the ban, as illustrated by his personal papers, his FBN file recently released to the National Archives, Anslinger's papers in the National Archives, and those recently released under the Freedom of Information Act, demonstrate the nearly absolute control of information exercised by the FBN.

We attempt to put in historical context the FBN campaign to develop a prohibitive national drug control policy. As Howard Becker, who began unhindered public criticism of FBN-inspired drug policies as early as 1963 with his famous monograph, *Outsiders*,<sup>1</sup> recently observed: "I never actually understood why Anslinger bothered with Lindesmith, who could have published whatever he wanted without having the slightest effect on policy. You can see that now when everyone under the sun is publishing whatever they want . . . and it doesn't change a thing."<sup>2</sup>

We will attempt to answer Becker's question by demonstrating how the political and cultural context from the 1930s through the early 1950s presented a vastly different situation for critics of American drug control policies compared to later periods after a national drug policy was institutionalized.

## II. LINDESMITH, THE SELF AND THE ADDICT

Lindesmith was a University of Chicago trained social psychologist who received a Ph.D. in 1937. His training provided him with a grounding in interactionist theory and concepts, a method of analysis, a specific orientation toward data collection, and a key contact to begin collection of dissertation data. Lindesmith's five years at Chicago brought him into contact with Herbert Blumer, whose research emphasized the role of the self concept in human interaction.<sup>3</sup> Lindesmith also took courses

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<sup>1</sup> HOWARD BECKER, *OUTSIDERS: STUDIES IN THE SOCIOLOGY OF DEVIANCE* (1963).

<sup>2</sup> E-mail message from Howard Becker to John F. Galliher (Aug. 28, 1995) (on file with John F. Galliher).

<sup>3</sup> See HERBERT BLUMER, *SYMBOLIC INTERACTION* 79 (1969).

from Chicago sociologists Ernest Burgess and Louis Wirth, whose research emphasized the critical role of fieldwork and the in-depth treatment of qualitative data.<sup>4</sup> During the early and mid-1930s, the reputation of *The Polish Peasant In Europe and America* by W.I. Thomas and Florian Znaniecki<sup>5</sup> was at its zenith at the University of Chicago.<sup>6</sup> The book's emphasis on life history and Znaniecki's subsequent development of inductive methods<sup>7</sup> made an indelible mark on Lindesmith's career. Lindesmith was also close to criminologist Edwin Sutherland during Sutherland's brief stay at Chicago (1932-35).<sup>8</sup> As a result of this association, Lindesmith became acquainted with drug addicts and addiction through Broadway Jones, the subject for Sutherland's *The Professional Thief*.<sup>9</sup> Consequently, at Chicago, Lindesmith mastered a theoretical orientation, was prevailed upon to collect qualitative data in the field, became dedicated to inductive methods, and was accorded valuable personal contacts which set his career on a long-term path.

Lindesmith drew on the individual's self concept in his dissertation and later in his *Social Psychology* textbook.<sup>10</sup> This concept in turn made possible Lindesmith's distinction between physical and psychological addiction. For physical addiction to develop into psychological addiction, "the person's interpretation of his own withdrawal distress is a crucial event . . . made possible by the existence of language behavior and conceptual thought."<sup>11</sup> In other words, a defining characteristic of all human beings is that

<sup>4</sup> See LOUIS WIRTH, *THE GHETTO* (1928); ROBERT E. PARK & ERNEST BURGESS, *THE CITY* (1925).

<sup>5</sup> W.I. THOMAS & FLORIAN ZNANIECKI, *THE POLISH PEASANT IN EUROPE AND AMERICA* (1919). Inductive methods involve reasoning from patterns in empirical observations rather than an initial theoretical position.

<sup>6</sup> HERBERT BLUMER, *AN APPRAISAL OF THOMAS AND ZNANIECKI'S: THE POLISH PEASANT IN EUROPE AND AMERICA* (1949).

<sup>7</sup> See generally FLORIAN ZNANIECKI, *THE METHOD OF SOCIOLOGY* (1934).

<sup>8</sup> MARK GAYLORD & JOHN F. GALLIHER, *THE CRIMINOLOGY OF EDWIN SUTHERLAND* 104-20 (1966).

<sup>9</sup> EDWIN H. SUTHERLAND, *THE PROFESSIONAL THIEF* (1937). Broadway Jones was both a career thief and a long-time drug addict.

<sup>10</sup> ALFRED R. LINDESMITH & ANSELM STRAUSS, *SOCIAL PSYCHOLOGY* (rev. ed. 1966). The concept of self is the image or picture individuals have of themselves. See generally *id.*

<sup>11</sup> *Id.* at 355.

they have the capacity to see themselves as objects.<sup>12</sup> When the intellectual connection between discontinuing drug use and withdrawal occurs, any initial euphoria from drug use “vanishes and is replaced by the negative effect of relieving withdrawal distress.”<sup>13</sup> Therefore, “the theory that only abnormal persons become drug addicts is untenable.”<sup>14</sup> The proposition that addicts are in all ways normal human beings made punitive drug prohibitions seem less reasonable.<sup>15</sup> These ideas propelled Lindesmith’s intense, lifelong, and narrowly focused intellectual and political position.

#### A. ENTER HARRY ANSLINGER

Lindesmith’s views of human addiction and drug addicts were diametrically opposed by those of Harry Anslinger and the FBN.<sup>16</sup> Around the same time that Lindesmith began his graduate training, a new American drug control policy began to take shape through Anslinger’s efforts. As a young man during World War I and the 1920s, Anslinger worked in the foreign service and served for several years in the ill-fated Prohibition division of the Department of the Treasury.<sup>17</sup> After scandal rocked the narcotics sector of the Prohibition division in the late 1920s, Anslinger was appointed head of the newly-created Federal Bureau of Narcotics in 1930.<sup>18</sup> The FBN was a division of the Treasury Department designated to enforce drug control statutes drafted as tax measures. Anslinger remained at this post until his apparently forced retirement in 1962.<sup>19</sup> For decades writers have marveled at the irrational direction of American drug policy after the creation of

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<sup>12</sup> *Id.* at 423-28.

<sup>13</sup> *Id.* at 352-53.

<sup>14</sup> *Id.* at 356.

<sup>15</sup> ALFRED R. LINDESMITH, *THE ADDICT AND THE LAW* (1965).

<sup>16</sup> *Id.*

<sup>17</sup> JOHN McWILLIAMS, *THE PROTECTORS: HARRY J. ANSLINGER AND THE FEDERAL BUREAU OF NARCOTICS (1938-1962)*, 32 (1990).

<sup>18</sup> *Id.* at 42.

<sup>19</sup> *Id.* at 180. There is some evidence to suggest that President Kennedy forced Anslinger to retire in 1962.

the FNB and the success of Anslinger in using law enforcement to control public opinion regarding drug use and addiction.<sup>20</sup>

The great migration of African-Americans to urban centers in the North, coupled with the emergence of an illicit narcotics market after the enactment of the Harrison Act of 1914, changed the face of addiction in cities like Chicago, Detroit, and New York.<sup>21</sup> Beginning after World War I and through the 1940s, there were wholesale demographic changes in the United States which created public anxiety and suspicion directed at African-Americans, immigrants, and Communists.<sup>22</sup> During the Great Depression of the 1930s, the expanding role of the federal government created an opportunity for Harry Anslinger to successfully exploit these fears by linking drugs to minorities. Anslinger had great political power because he maintained the support of both Democrats and Republicans, the Women's Christian Temperance Union (WCTU), and many churches. Because the FBN controlled the licenses for the importation of opiates, Anslinger also received the support of drug companies.<sup>23</sup> While exploiting these fears and cultivating special interest groups, Anslinger also utilized the demographic changes in the addict population, from rural whites to urban dwellers, including a growing number of minorities.<sup>24</sup>

Activities such as Anslinger's have been characterized as a moral crusade.<sup>25</sup> Anslinger was also a savvy bureaucrat during the Great Depression of the 1930s who excelled at protecting his organization from budget cuts by locating new legislative man-

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<sup>20</sup> See, e.g., DAVID F. MUSTO, *THE AMERICAN DISEASE: ORIGINS OF NARCOTIC CONTROL* (1973); RUFUS KING, *THE DRUG HANG-UP: AMERICA'S FIFTY-YEAR FOLLY* (1972); see also MICHAEL STARKS, *COCAINE FIENDS AND REEFER MADNESS: AN ILLUSTRATED HISTORY OF DRUGS IN THE MOVIES* 61-62 (1982) (observing that Anslinger controlled the film industry's depiction of addiction).

<sup>21</sup> HAROLD FINESTONE, *EPIDEMIOLOGY OF ADULT ADDICTION* 142-45 (1962) (proceedings of the White House Conference on Narcotics and Drug Abuse).

<sup>22</sup> NICHOLAS LEMANN, *THE PROMISED LAND: THE GREAT BLACK MIGRATION AND HOW IT CHANGED AMERICA* 323, 343-53 (1991).

<sup>23</sup> See generally MCWILLIAMS, *supra* note 17, at 106.

<sup>24</sup> *Id.* at 48-49, 52-53.

<sup>25</sup> See BECKER, *supra* note 1, at 145.

dates.<sup>26</sup> Above all Anslinger was a government operative, with experience in the intelligence community, who through political harassment, adeptly controlled the flow of information on drug addiction. According to Sloman, “[t]he thing that Anslinger concerned himself with a lot was the dissemination of information. He completely disagreed with the free exchange of ideas on the subject.”<sup>27</sup> Allen Ginsberg recalled that, even as late as the 1950s, it was difficult to publish books which referred to drugs or drug use:

There was at the time [an] assumption: that if you talked about [drugs] on the bus or the subway, you might be arrested—even if you were only discussing a change in the law. . . . A decade later you still couldn’t get away with a national public TV discussion of the laws without the Narcotics Bureau and the FCC intruding. . . . [T]he fear and terror . . . was so real that it had been internalized in the . . . publishing industry, and so, before the book could be published, all sorts of disclaimers had to be interleaved with the text—lest the publisher be implicated criminally with the author.<sup>28</sup>

Foucault has described activities such as Anslinger’s as “regimes of truth.”<sup>29</sup> In such instances, truth becomes a function of power rather than factual accuracy. Accordingly, we will demonstrate that Anslinger and the FBN not only attempted to use their legal authority to censor scientific inquiry they considered antithetical to their interests, but sponsored “research” projects that had preordained results more to their liking. Controlling the drug discourse in this way allowed Anslinger and the Bureau to be taken seriously—even while trading in patent untruths—and in Foucault’s terms “marginalized, derided, excluded and even prohibited” any competing ideas.<sup>30</sup> Thus, “[t]ruth is not separated from power, rather it is one of the important vehicles and expressions of power; power is exercised through the production and dissemination of truth.”<sup>31</sup>

<sup>26</sup> See Donald T. Dickson, *Bureaucracy and Morality: An Organizational Perspective on a Moral Crusade*, 16 SOC. PROBS. 143 (1968).

<sup>27</sup> LARRY SLOMAN, *REEFER MADNESS: HISTORY OF MARIJUANA IN THE UNITED STATES* 199-200 (1983).

<sup>28</sup> WILLIAM BURROUGHS, *JUNKY* vii-viii (1977) (quoting introduction by Allen Ginsberg).

<sup>29</sup> ALAN HUNT & GARY WICKHAM, *FOUCAULT AND THE LAW: TOWARDS A SOCIOLOGY OF LAW AND GOVERNANCE* 11 (1994) (quoting Foucault).

<sup>30</sup> *Id.* at 8-9.

<sup>31</sup> *Id.* at 11.

In the final analysis, Anslinger was not only a "moral entrepreneur" or a "rule creator," but a "moral enforcer" as well.<sup>32</sup> This allowed Anslinger to play a significant and unique role in creating an American "drug crisis." And in response to this drug crisis, Anslinger was ideally placed to provide a law enforcement response. In this fashion, he was able to guarantee himself, and the FBN, an enormous amount of political influence and legal power. Thus, Anslinger used his position in the FBN to define and legitimize his interpretation of the drug problem, to mobilize legislative initiatives, and to implement an official law enforcement plan of action, all of which Blumer argues is essential in the creation of social problems.<sup>33</sup>

#### B. ANSLINGER'S ATTEMPTED CENSORSHIP AND NEUTRALIZATION OF LINDESMITH'S EARLY RESEARCH

From the late 1930s to the early 1950s, the FBN concentrated on the intimidation of Lindesmith. The targeting of Lindesmith was possible because Lindesmith acted virtually alone in standing up against federal drug control policies. Anslinger took his first action against Lindesmith in 1939, not long after Lindesmith had completed his Ph.D. dissertation. Anslinger asked the FBN Chicago District Supervisor to inform Indiana University, Lindesmith's employer, that a drug addict and a "collection of racketeers" were among the sponsors of a drug research organization (the World Narcotics Research Foundation), an organization which Lindesmith publicly supported.<sup>34</sup> Thus, in response, the FBN began a campaign of intimidation and guilt-by-association against Lindesmith that would eventually span four decades.

The FBN's campaign against Lindesmith gained momentum in 1940 after Lindesmith published the *Dope Fiend Mythology* in *The Journal of Criminal Law and Criminology*. In this article,

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<sup>32</sup> BECKER, *supra* note 1, at 147-62.

<sup>33</sup> See Herbert Blumer, *Social Problems as Collective Behavior*, 18 SOC. PROBS. 298 (1971).

<sup>34</sup> Letter from Harry J. Anslinger to James J. Biggins (Oct. 9, 1939) (on file with John F. Galliher). Anslinger chose to attack Lindesmith for the first time at this point because the World Narcotics Research Foundation publicly supported medical treatment of addicts.

Lindesmith criticized "stereotyped misinformation about drug addicts" such as news stories "of the 'dope-crazed killer' or the dope fiend rapist."<sup>35</sup> This article so angered Harry Anslinger that he arranged to have San Francisco Circuit Judge Twain Michelson write an attack in response,<sup>36</sup> later published in this same journal.<sup>37</sup>

Recently released FBN records, made public under the Freedom of Information Act (FOIA), reveal that Anslinger consulted with the Assistant Secretary of the Treasury, Herbert E. Gaston:

It is unfortunate that an article containing such misinformation and half-truths should be carried in a magazine devoted to the education of law enforcement officers, [but] I do not wish to place the bureau on the level of having to answer Lindesmith, and would like to have your suggestions as to counteracting this vicious propaganda.<sup>38</sup>

Mr. Gaston replied that Lindesmith's piece was nothing more than an "apology for addiction written from the standpoint of an addict. We might look for a college professor, a district attorney or other lawyer, or a law professor to answer him."<sup>39</sup> Accordingly, Anslinger recruited Judge Twain Michelson. Michelson's essay associated the spread of addiction with Japanese imperialism as well as a variety of crimes including "burglary, robbery, forgery, rape and murder."<sup>40</sup> As if all this were not enough to attempt to discredit medical treatment of addicts, even nudism was associated with drug addiction. Judge Michelson concluded that Lindesmith was a "pseudo-scientist."<sup>41</sup>

<sup>35</sup> Alfred R. Lindesmith, *Dope Fiend Mythology*, 31 J. CRIM. L. & CRIMINOLOGY 199, 199 (1940).

<sup>36</sup> Letter from Harry J. Anslinger to Judge Twain Michelson (Sept. 7, 1940) (on file with John F. Galliher).

<sup>37</sup> Twain Michelson, *Lindesmith's Mythology*, 31 J. CRIM. L. & CRIMINOLOGY 375 (1940).

<sup>38</sup> Memorandum from Harry Anslinger, Director, Federal Bureau of Narcotics, to Herbert Gaston, Assistant Secretary, U.S. Treasury Dep't (Sept. 17, 1940) (on file with John F. Galliher). Anslinger also noted that the journal editor, Robert Gault, Professor of Psychology at Northwestern University, "collaborate[d]" with Lindesmith, as reflected in the fact that Lindesmith served as an advisory editor of the journal. *Id.*

<sup>39</sup> Memorandum from Henry Gaston, Assistant Secretary, U.S. Treasury Dep't, to Harry Anslinger, Director, Federal Bureau of Narcotics (no date) (on file with John F. Galliher).

<sup>40</sup> Michelson, *supra* note 37, at 383.

<sup>41</sup> *Id.* at 400.

In 1948, Lindesmith published an article in *Federal Probation*<sup>42</sup> describing a case where the FBN allowed two affluent addicts to receive opiates for over twenty years, in contravention of the Bureau's avowed organizational mandate. This so outraged the FBN that they demanded a "correction" by that journal.<sup>43</sup>

It was also believed by Lindesmith and others that the FBN intended to plant narcotics in Lindesmith's house or automobile to set him up for arrest.<sup>44</sup> In addition, an internal FBN memo suggests that a secret tap may have been placed on Lindesmith's phone by the Bureau.<sup>45</sup> However, efforts to compromise Lindesmith were probably made more difficult because there is no record that he ever advocated, possessed, or used illegal drugs.

Lindesmith did not have wide support in the academic community for his antagonistic approach to the federal government's drug policy. For over two decades most prominent academicians either ignored Lindesmith's work or criticized it methodologically or substantively.<sup>46</sup> For example, Lindesmith's theory of addiction was criticized for ignoring statistical information and thereby failing to recognize that "addict criminality does not result primarily from a desperate need to relieve withdrawal sickness . . . but rather from the desire for euphoria."<sup>47</sup> But the fact that others in the academic community did not join Lindesmith during the 1940s and 1950s is also attributable to the political caution of his colleagues. Even more than his sociological

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<sup>42</sup> Alfred R. Lindesmith, *Handling the Opiate Problem*, FED. PROBATION, Dec. 1948, at 23.

<sup>43</sup> Letter from M.L. Harney to Harry J. Anslinger (Apr. 29, 1949) (on file with John F. Galliher).

<sup>44</sup> Letter from Alfred R. Lindesmith to John W. Ashton, Arts and Science Dean, Indiana University (Feb. 24, 1949) (on file with John F. Galliher); see also Anselm Strauss, *Obituary for Alfred R. Lindesmith*, ASA FOOTNOTES 13 (May 1991); Charles Winick, *Social Behavior, Public Policy, and Nonharmful Drug Use*, 69 MILBANK Q. 437 (1991).

<sup>45</sup> Memorandum from George H. White to Harry J. Anslinger (Nov. 22, 1954) (on file with John F. Galliher).

<sup>46</sup> See William E. McAuliffe & Robert A. Gordon, *A Test of Lindesmith's Theory of Addiction: The Frequency of Euphoria Among Long-Term Addicts*, 79 AM. J. SOC. 795 (1974); Ralph Turner, *The Quest for Universals in Sociological Research*, 18 AM. SOC. REV. 604 (1953); W.S. Robinson, *The Logical Structure of Analytic Induction*, 16 AM. SOC. REV. 812 (1951).

<sup>47</sup> McAuliffe & Gordon, *supra* note 46, at 820.

research, Lindesmith's challenge to government policy may have served to isolate him from the mainstream of the profession. Lindesmith's writing however, was not the only target of censorship by Anslinger and the FBN, nor the only instance for conflict between these two men.

### III. ANSLINGER'S BANNING OF *DRUG ADDICT*

In addition to FBN efforts to censor Lindesmith himself, the Bureau targeted a film that embraced his theories.<sup>48</sup> The film, *Drug Addict*, is a 1946 documentary made by the Canadian Film Board, with the assistance of the narcotics specialists in the Royal Canadian Mounted Police.<sup>49</sup> The film was intended to assist in the training of law enforcement and medical professionals. The film deals with the nature of drug addicts, addictive drugs, and drug trafficking. It also advocates modest reform and reconciliation of drug policy commensurate with the facts surrounding addiction.

*Drug Addict* won a Canadian Film Award and was cited as a "bold, honest record of the drug traffic and its toll in human misery. It is as honest as it is stark. The film treats drug addiction as an illness and thus has run afoul of some who would condemn as criminals all who use drugs."<sup>50</sup> As a documentary, "the film objects to the use of the term 'dope fiend' in describing addicts, most of whom are presented as sick and bewildered people."<sup>51</sup> According to McWilliams, Anslinger banned *Drug Addict* because the scenes of drug use and sales were "totally unacceptable" to him.<sup>52</sup>

#### A. MAJOR THEMES OF THE FILM

This section provides an overview of the major themes and claims of *The Drug Addict*: (1) that addicts and traffickers are re-

<sup>48</sup> Note that the FBN was not predisposed to censor all films about drug use and drug trafficking. For example, after checking the scripts of *To the Ends of the Earth* (1948), and *Johnny Stool Pigeon* (1949), the agency gave them its approval. STARKS, *supra* note 20, at 61-62.

<sup>49</sup> DRUG ADDICT (Canadian Film Board 1946).

<sup>50</sup> Canadian Ministry of Information, Canadian Film Awards (Apr. 22, 1949).

<sup>51</sup> *U.S. Protest on Dope Film Stirs Canada*, CHI. TRIB., *circa* Feb. 10, 1949 (on file with John F. Galliher). A typed copy of this article was found in Lindesmith's files.

<sup>52</sup> MCWILLIAMS, *supra* note 17, at 102.

cruited from all races and classes; (2) that high-level drug traffickers are white; (3) that law enforcement only targets low-level dealers; (4) that addiction is a sickness; (5) that addiction to legal and illegal drugs are essentially the same; (6) that cocaine is not necessarily addictive; and (7) that law enforcement control of drugs is in the final analysis impossible.

### 1. *Addicts are Recruited From All Races and Classes*

"Contrary to popular belief, the traffic in drugs and the use of drugs is fostered by no one race. Drugs affect all races and classes of people."<sup>53</sup> Possibly to emphasize this perspective, *Drug Addict* depicts affluent whites injecting drugs, appearing in police lineups, and congregating on the street. The narrator says: "Addiction is by no means confined to the criminal class who are best known because of the exposed lives they lead. But there are many who do not need to buy from peddlers, who have found a means of diverting legal drugs to their own use."<sup>54</sup> At this point, a well-groomed man in a darkened room is shown holding a hypodermic needle.

Given Lindesmith's charges of bureau accommodation to affluent addicts in the *Federal Probation* article,<sup>55</sup> this scene undoubtedly made the FBN uncomfortable, and encouraged and contributed to the censoring.

### 2. *High-Level Drug Traffickers are White*

"The source of each city's supply of drugs is the man with the connection. His position is remote from the sale of drugs to the addict. He is in business and he is concerned with profits."<sup>56</sup> This is illustrated by a rotund white man, puffing on a cigar. This image of a high level drug trafficker contradicted Anslinger's efforts to associate drug trafficking with minorities.<sup>57</sup>

<sup>53</sup> DRUG ADDICT, *supra* note 49.

<sup>54</sup> *Id.*

<sup>55</sup> See LINDESMITH, *supra* note 42.

<sup>56</sup> DRUG ADDICT, *supra* note 49.

<sup>57</sup> See HARRY J. ANSLINGER & WILLIAM F. TOMPKINS, *THE TRAFFIC IN NARCOTICS* (1953); MUSTO, *supra* note 20, at 221; MCWILLIAMS, *supra* note 17, at 52.

### 3. *Law Enforcement Only Attempts to Control Low-Level Street Dealers*

The peddler is the chief target of enforcement officers. He operates more or less in the open trusting his wits to keep him from being caught with drugs on his person. At the other end of such a remote network behind him are the men who supply the entire country with drugs.<sup>58</sup>

Even the street dealers shown are white. Since the major drug traffickers are the source of the drug problem, Anslinger would have taken exception to the claim that the FBN ignored their activities.

### 4. *Drug Addiction is a Sickness*

Drugs will bring the addict] little real pleasure, but he will need them just to feel normal. . . . But a cure by oneself is seldom if ever possible. . . . An addict must have his drug several times a day or he becomes very sick. It is a habit he must satisfy. He has no choice [and] an average habit with drugs bought from peddlers cost an addict as much as ten thousand dollars a year [in 1946]. Not many jobs can support an addiction. Those who buy illegal drugs steal to get the money . . . [while] very seldom does an addict commit a crime of violence. To the man addicted to opiates the term dope fiend just does not apply.<sup>59</sup>

*Dope Fiend Mythology* was the title of Lindesmith's 1940 article that so infuriated Anslinger.<sup>60</sup>

### 5. *Illegal Drugs Cannot be Distinguished from the Problem of Addiction to Other drugs*

"Drugs are just one form of addiction," like "[i]ntemperate use of alcohol, [and] barbiturates."<sup>61</sup> Anslinger likely despised any linkage of drug laws to the failed alcohol prohibition. Anslinger had worked in the much maligned Prohibition division of the Treasury Department during the 1920s.<sup>62</sup>

### 6. *Cocaine is Not Necessarily Addictive*

"[C]ocaine [is] also a forbidden drug differing greatly from opium. Lack of it does not cause sickness and in that sense it is not habit-forming. Addicts who sometimes use it say it is just like

<sup>58</sup> DRUG ADDICT, *supra* note 49.

<sup>59</sup> *Id.*

<sup>60</sup> See Lindesmith, *supra* note 35.

<sup>61</sup> DRUG ADDICT, *supra* note 49.

<sup>62</sup> MCWILLIAMS, *supra* note 17; see also *supra* text accompanying notes 17-18.

ice cream. Nice if you can have it, but you can do without it."<sup>63</sup> Although Lindesmith argued that cocaine is not as addictive as opiates,<sup>64</sup> Anslinger never acknowledged the varying qualities of illegal narcotics—relying instead on the simple message that all illegal drugs were equally dangerous and equally addictive.<sup>65</sup>

### 7. Law Enforcement Control is Impossible

"Complete control of the traffic in drugs is impossible . . . [and] despite strict surveillance of customs officers and the closest international cooperation of enforcement agencies, the illicit traffic is heavier than that for legal use."<sup>66</sup> Anslinger clearly rejected the notion that stopping the flow of illegal drugs was impossible.<sup>67</sup> If Anslinger accepted the impossibility of completely stopping the flow of drugs into the United States, he would have admitted a weakness of his Bureau.

Anslinger knew of the potential political hazards which *Drug Addict* could engender if the public was presented with such a rebuttal—particularly one produced with the assistance of a government as credible as Canada and its national police force. Indeed, Anslinger wrote that he would "strongly urge" the Canadian government not to allow the film to be sent to the United States.<sup>68</sup> Showing this film, Anslinger claimed, "would do incalculable damage in the way of spreading drug addiction."<sup>69</sup>

Furthermore, he specifically refused to consider the possibility that any modifications in the film might make it more acceptable.<sup>70</sup> One of Anslinger's assistants complained that the film minimized the significance of law enforcement and left the impression that a "hospital cure" was the only effective response to

<sup>63</sup> DRUG ADDICT, *supra* note 49.

<sup>64</sup> ALFRED R. LINDESMITH, OPIATE ADDICTION 74 (1947).

<sup>65</sup> DRUG ADDICT, *supra* note 49.

<sup>66</sup> *Id.*

<sup>67</sup> ANSLINGER & TOMPKINS, *supra* note 57.

<sup>68</sup> FBN Memorandum from Harry J. Anslinger (Oct. 19, 1948) (on file with National Archives).

<sup>69</sup> Letter from Harry J. Anslinger to Eric Johnston, President, Motion Picture Ass'n of America, Inc. (Feb. 28, 1950) (on file with National Archives).

<sup>70</sup> Letter from Harry J. Anslinger to Dr. Victor H. Vogel (Mar. 21, 1950) (on file with National Archives).

addiction.<sup>71</sup> Another FBN agent complained that the person who has

no medical need for narcotics and who secure[s] their drugs from underworld sources or in an illegal manner, is presented as a person muchly wronged by society and unjustly denied free and easy access to such unlimited supply of dangerous drugs as his own carnal craving demands . . . . The addicts shown in the picture are so presented as to excite the sympathy of the uninformed public.<sup>72</sup>

For Anslinger the ultimate proof that the film was "on the wrong side" was Lindesmith's support for it.<sup>73</sup>

In February of 1949, a Canadian government representative indicated to Lindesmith that Harry Anslinger had requested that the Canadian government not distribute *Drug Addict* in the United States.<sup>74</sup> Furthermore, Anslinger had the temerity to request that the Canadian government censor its film even within its own borders. The Canadian government rejected his request.<sup>75</sup> Short of a total ban, Anslinger demanded that Lindesmith be prohibited from viewing the film in Canada.<sup>76</sup> The Canadian government rejected this request as well, noting that: "we [can]not bind ourselves to any agreement that no United States citizen should ever see the film in Canada."<sup>77</sup>

#### IV. LINDESMITH'S RESPONSE

Lindesmith recognized the importance of the film not only for its intended purpose and audience, but also for its specific and damning rebuttal of the misinformation campaign carried out by Anslinger and the FBN. This was particularly appealing to

<sup>71</sup> Letter from M.L. Harney to Harry J. Anslinger (Oct. 18, 1948) (on file with National Archives).

<sup>72</sup> Letter from Garland H. Williams to Harry J. Anslinger (Oct. 18, 1948) (on file with National Archives).

<sup>73</sup> FBN Memorandum from Harry J. Anslinger (May 11, 1949) (on file with National Archives).

<sup>74</sup> Letter from K.C. Hossick to Alfred R. Lindesmith (Feb. 22, 1949) (on file with John F. Galliher).

<sup>75</sup> Letter from Hume Wrong, Canadian Ambassador, to Harry J. Anslinger (Mar. 27, 1950) (on file with National Archives).

<sup>76</sup> Letter from Harry J. Anslinger to Col. C.H.L. Sharman (Jan. 18, 1951) (on file with National Archives).

<sup>77</sup> Letter from G.D.M. Cameron, Deputy Minister of National Health, to Harry J. Anslinger (Jan. 12, 1951) (on file with National Archives).

Lindesmith, since he was nearly the sole opposition to Anslinger at that time and correctly identified the potential vulnerability of the FBN position on narcotics control if *Drug Addict* were to be distributed in the United States. Indeed, Lindesmith took a sabbatical leave in order to view the film in Ottawa and to orchestrate opposition to the ban,<sup>78</sup> with the support of Raymond Spottiswoode, the film editor of the *Saturday Review of Literature*.<sup>79</sup>

Lindesmith attempted to alert others to the impending censorship, but he failed to secure wide support. Many of the people Lindesmith contacted were either intimidated or complacent. For example, Victor H. Evjen, the managing editor of *Federal Probation*, expressed little interest in providing a public forum for discussion of the censorship or the banning of the film. He stated, "I have been told that the Canadian Government is not satisfied with certain phases of the film and at present is making some changes."<sup>80</sup>

However, Lindesmith was able to garner the support of the American Civil Liberties Union (ACLU) in this dispute. The ACLU demanded that Anslinger explain his actions.<sup>81</sup> Similarly, Lindesmith's congressional representative, Andrew Jacobs, was also supportive, but had no power to reverse the ban. Nonetheless, in a 1949 letter to Anslinger, Congressman Jacobs questioned the FBN's authority to censor film:

The truth of the matter is there is no idea that is dangerous. . . . There has been entirely too much spoken and written in recent years about dangerous ideas . . . you cannot progress by trying to put ideas in jail. . . . One of the greatest dangers of government is that the hierarchy of government shall determine that certain questions are no longer debatable . . . and employ an illegal power which is expressly denied them.<sup>82</sup>

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<sup>78</sup> Letter from Alfred R. Lindesmith to Paul Martin (May 17, 1949) (on file with John F. Galliher).

<sup>79</sup> Letter from Raymond Spottiswoode to Alfred R. Lindesmith (Feb. 16, 1949) (on file with John F. Galliher); Raymond Spottiswoode, *The Film Forum*, SAT. REV. LITERATURE, Mar. 26, 1949, at 41.

<sup>80</sup> Letter from Victor Evjen to Alfred R. Lindesmith (Mar. 8, 1949) (on file with John F. Galliher).

<sup>81</sup> Letter from Herbert M. Levy, ACLU Staff Counsel, to G.W. Cunningham, FBN Acting Director (Mar. 27, 1950) (on file with National Archives).

<sup>82</sup> Letter from Rep. Andrew Jacobs to Harry J. Anslinger (June 27, 1949) (on file with John F. Galliher).

In his reply to Representative Jacobs, Anslinger falsely claimed that the film had been banned under the code of the motion picture producers and directors.<sup>83</sup> The Motion Picture Association of America denied taking such action on the film.<sup>84</sup> Lindesmith further incurred the wrath of the FBN by publishing a rebuttal in the *New York Times*, which revealed that Anslinger had lied when he said that the *Drug Addict* could not be shown in the United States because it violated the Code of the Motion Picture Industry.<sup>85</sup>

Additionally, noting that, contrary to the FBN's claim, the Motion Picture Association had not banned the film, Lindesmith wrote to Secretary of State Dean Acheson, and implored him to lift the ban single-handedly imposed by Anslinger.<sup>86</sup> The Department of State replied through Otis Mulliken, the Acting Division Chief to the United Nations for Economic and Social Affairs, who said:

At Mr. Anslinger's request, the Department informed the Canadian Department of External Affairs that the Commissioner of Narcotics objected strongly to the showing of the film anywhere in the United States because the position it takes concerning the handling of the problem of drug addiction is contrary to the long-established policy of the United States. . . . The Public Health Service concurred in the attitude of the Commissioner of Narcotics.<sup>87</sup>

Lindesmith, however, wanted to know who was specifically responsible for imposing the ban,<sup>88</sup> but the State Department refused to identify the person at the Public Health Service who had agreed with Anslinger.<sup>89</sup>

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<sup>83</sup> Letter from Harry J. Anslinger to Rep. Andrew Jacobs (Mar. 3, 1949) (on file with John F. Galliher).

<sup>84</sup> Letter from Joseph I. Breen, Vice President and Director, Motion Picture Ass'n of America, to Alfred R. Lindesmith (Aug. 9, 1949) (on file with John F. Galliher).

<sup>85</sup> Alfred R. Lindesmith, *Letter to the Editor*, N.Y. TIMES, Jan. 22, 1950, at 12.

<sup>86</sup> Letter from Alfred R. Lindesmith to Secretary of State Dean Acheson (June 2, 1949) (on file with John F. Galliher).

<sup>87</sup> Letter from Otis E. Mulliken to Alfred R. Lindesmith (June 30, 1949) (on file with John F. Galliher).

<sup>88</sup> Letter from Alfred R. Lindesmith to Otis E. Mulliken (July 7, 1949) (on file with John F. Galliher).

<sup>89</sup> Letter from Otis E. Mulliken to Alfred R. Lindesmith (Aug. 3, 1949) (on file with John F. Galliher).

Another government official, John L. Thurston, Acting Administrator of the Federal Security Agency of the Public Health Service, unintentionally revealed the source of the effort to stifle the film's distribution, when he advised Lindesmith that "as far as we are able to discover the [Public Health] Service took no part in arriving at the decision to ban the film."<sup>90</sup> This exchange of letters convinced Lindesmith that the FBN was solely responsible for the ban of the *Drug Addict*. It also affirmed the inability or unwillingness of other government officials to intervene.

The resistance that Lindesmith encountered during his campaign to air *Drug Addict* reveals that his perception of the addicted person, and his theory of addiction were under fire. The President of the Women's Christian Temperance Union (in Indiana), an organization which had a long association with Anslinger, personally cautioned Lindesmith:

Information has come to me that you are advocating the use of the Canadian film *The Drug Addict* in this country. While I am not familiar with the whole text of the film, it is my understanding that the drug addict is depicted as a sick person rather than a criminal. Surely, we would want nothing which would break down the legislation bearing on this subject . . . . We trust you will discontinue your effort to have this film shown in the United States.<sup>91</sup>

This letter, perhaps inadvertently, outlined exactly the course that Anslinger had charted for national drug policy from the beginning of his appointment in 1930. Anslinger deemed the addict a criminal and viewed opposition, such as the film, as a threat to the FBN policy of encouraging legislative efforts to stiffen drug penalties. At the time, the suppression of *Drug Addict* was considered by Anslinger and Lindesmith to be a key act in the drama surrounding the national drug control strategy. It was potentially a public relations obstacle for Anslinger's legislative agenda, while a rare opportunity for Lindesmith to halt the advancement of prohibitionist policies.

Such an important threat merited every possible precaution by Anslinger. It was predictable that his future attacks on

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<sup>90</sup> Letter from John L. Thurston to Alfred R. Lindesmith (Aug. 22, 1949) (on file with John F. Galliher).

<sup>91</sup> Letter from Mrs. Herman Stanley to Alfred R. Lindesmith (July 1, 1949) (on file with John F. Galliher).

Lindesmith were neither superficial nor timid. For example, in official correspondence, Anslinger referred to Lindesmith as a "crackpot."<sup>92</sup> Similarly, in a complaint to the Indiana Board of Regents, Mrs. Hamilton Wright, the wife of a long-time government narcotics official who replaced her husband as a narcotics representative to international missions, condemned Lindesmith's January 22, 1950, letter to the *New York Times*.<sup>93</sup> In his letter to the *New York Times*, Lindesmith focused on the hypocrisy of the FBN's policy in suppressing the film:

This incident suggests that the public is informed and misinformed in this field because of the control exercised over the mass media of communication by the policemen-bureaucrats of the Federal Bureau of Narcotics. The same men who automatically deny to professional people in the United States the right to see a sober, unsensational, and honest educational film on drug addiction promote cheap radio thrillers and sensational and inaccurate Hollywood productions on the same subject.<sup>94</sup>

Another woman wrote to the Indiana University President and to the Chair of the Indiana House and Senate Appropriations Committees:

It is quite likely that this professor, who so flagrantly and vehemently attacks the United States Government for its narcotic law enforcement in the public prints, would also take the opportunity to spread his dangerous views in the classroom—thus corrupting future generations and hiding behind the cloak of academic freedom.<sup>95</sup>

Lindesmith was obviously energized by this issue for he, like Anslinger, concluded that the film presented an opportunity to rebut the claims of the American government with information endorsed and supported by an organization with an impeccable and irreproachable reputation—the Royal Canadian Mounted Police. In response, Anslinger was so alarmed that he formally

<sup>92</sup> Letter from Harry J. Anslinger to Hume Wrong, Canadian Ambassador (Jan. 24, 1950) (on file with National Archives). Even prior to the conflicts over the film, Anslinger had called Lindesmith's work "trash," based as it was on "[t]he self-serving statements of the addicts—including a good proportion of 'leg pulling.'" See Letter from Harry J. Anslinger to Pablo Wolff (Aug. 28, 1941) (on file with National Archives); Letter from Harry J. Anslinger to Major William Coles, Home Office, London (Nov. 23, 1948) (on file with National Archives).

<sup>93</sup> Letter from Mrs. Hamilton Wright to Indiana University Board of Regents (Jan. 31, 1950) (on file with John F. Galliher). See *supra* note 85 and accompanying text.

<sup>94</sup> Lindesmith, *supra* note 85, at 12.

<sup>95</sup> Letter from Mrs. L.E. Goetzke to Herman Wells, Indiana University President (Feb. 25, 1950) (on file with National Archives).

requested information from J. Edgar Hoover regarding the possibility that Lindesmith was a "member of any Communist-Front organizations," since two members of the Canadian Film Board, which had produced the film, had been identified as Soviet spies.<sup>96</sup> The answer, if slow in coming, was positive. After Lindesmith arranged a visit by controversial poet Allen Ginsberg to the Indiana University campus, an FBN agent officially identified Lindesmith as a member of the "W.E.B. DuBois Club [which] has been declared a Communist organization."<sup>97</sup>

By the mid-to-late 1950s, due to the long-time harassment of medical professionals, many physicians and lawyers gathered behind Lindesmith and helped him form a commission to investigate the drug problem. This effort produced a joint report authored by a committee composed of representatives of both the American Bar Association (ABA) and the American Medical Association (AMA), which Lindesmith edited and arranged to have published by the Indiana University Press.<sup>98</sup> The Committee's findings were critical of the FBN policies and concurred with much of what Lindesmith had been saying about addiction since 1937.<sup>99</sup> Anslinger attempted to suppress the publication of the report by the Indiana University Press. Apparently, FBN agents made inquiries into the reasons for publication, whether public monies were being used, the number of copies to be printed, and how the distribution was to be financed.<sup>100</sup> These were the type of tactics which had been previously used to intimidate the Russell Sage Foundation and dissuade that organization from its original plan to publish the ABA-AMA report.<sup>101</sup> There is even evidence that Anslinger threatened to annul the

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<sup>96</sup> Letter from Harry J. Anslinger to J. Edgar Hoover, FBI Director (Feb. 28, 1950) (on file with National Archives).

<sup>97</sup> Letter from F.M. Rankin, Jr. to Charles G. Ward, FBN District Supervisor (Mar. 7, 1966) (on file with National Archives). The W.E.B. DuBois Club was named for a black sociologist accused of being a member of the Communist Party during the McCarthy era. Ginsberg's visit to Indiana University was in 1966.

<sup>98</sup> See *DRUG ADDICTION: CRIME OR DISEASE?* (Alfred R. Lindesmith ed., 1961).

<sup>99</sup> *Id.* at 163, 170.

<sup>100</sup> LINDESMITH, *supra* note 15, at 246; MCWILLIAMS, *supra* note 17, at 118.

<sup>101</sup> LINDESMITH, *supra* note 15, at 246; KING, *supra* note 20, at 173-74; MCWILLIAMS, *supra* note 17, at 118.

Sage Foundation's tax-free status if they published the account of the joint committee's findings.<sup>102</sup>

In response to the publication of the ABA-AMA report, the FBN produced a rebuttal report.<sup>103</sup> The FBN used the same name, format, and layout as the ABA-AMA report to create confusion and minimize the impact of the joint report on the public.<sup>104</sup> Indeed, the genuine ABA-AMA report ultimately had little impact on the public or lawmakers. By the late 1950s, even the highly prestigious joint committee could not garner any significant political support for rethinking the criminal prohibition of addictive drugs, both because by this time the American public was angry and frightened by the specter of addicts and traffickers, and because Congress had already set its future course by dramatically augmenting the penalties for narcotic offenses in 1951, and again in 1956 following the suppression of the *Drug Addict*.

#### V. SUMMARY AND CONCLUSIONS

The potential impact of the film *Drug Addict*, which is still technically banned, is now only a matter of conjecture. All that is clear is that Anslinger and Lindesmith felt that the film could be a significant influence on American perceptions of drug use and drug addiction. As a documentary film, almost naive in tone and unsophisticated in its articulation of narcotics addiction, it is a relic. Yet striking themes continue to emanate from the film, particularly its challenge to the racial bias that bolstered FBN rhetoric and to that organization's assertion of the criminal status of the addict. *Drug Addict* depicts all the addicts as white, well-dressed urbanites. At no time do any of the addicts commit violent crimes or otherwise behave viciously. Instead, the addicts are portrayed as desperate, pathetic, and sick individuals, suffering from guilt and withdrawal distress. Furthermore, the film questions enforcement of tough drug laws. The *Drug Addict* jeopard-

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<sup>102</sup> See Arts and Science: Indiana University College of Arts and Science-Graduate School Alumni Association Newsletter 3 (1980); Letter from William Chambliss to John F. Galliher (Dec. 3, 1994) (on file with John F. Galliher).

<sup>103</sup> COMMENTS ON NARCOTIC DRUGS: INTERIM REPORT OF THE JOINT COMMITTEE OF THE ABA AND THE AMA ON NARCOTIC DRUGS (1959).

<sup>104</sup> SLOMAN, *supra* note 27.

ized the very existence of the FBN, the control of the public discourse, and the flow of ideas that were essential to government victories in the American war on drugs.

For his perspective on drugs, Lindesmith endured three decades of harassment by Anslinger and the FBN, while he was largely ignored in reputable academic circles. By the 1960s, the academic community had finally caught up with Lindesmith's ideas. Unfortunately, by this time draconian drug control policies had become institutionalized. Since the 1960s, few criminologists or criminal law professors have supported government drug policies. To this day, those setting American drug policy continue to ignore expert legal, academic, and medical advice.<sup>105</sup> In the academic community there is now a clear recognition of long-standing patterns of both the ineffectiveness of, and racism inherent in, American drug law enforcement.<sup>106</sup> Indeed, opposition to contemporary American drug control policy has become normative in the academic community. For example, Zimring and Hawkins demonstrate that while drug policy researchers may disagree on the best method of dealing with drug abuse, they nearly all agree that the current policy is an abject failure.<sup>107</sup>

The 1946 film, *Drug Addict*, in hindsight, appeared to be the last and best chance to create a rational and humane policy on narcotics. Following the banning of the film, Anslinger and the FBN were twice able to convince Congress to stiffen drug penalties and thus set the nation on a course that has led to its current failed drug policy. Only Lindesmith initially recognized the urgency of the situation and was willing to distinguish the possible policy alternatives that were available and necessary. Had Lindesmith been more successful in opposing the ban, it is con-

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<sup>105</sup> See MARC MAUER & TRACY HULING, *YOUNG BLACK AMERICANS AND THE CRIMINAL JUSTICE SYSTEM: FIVE YEARS LATER* (1995); CHRISTINA J. JOHNS, *POWER, IDEOLOGY, AND THE WAR ON DRUGS: NOTHING SUCCEEDS LIKE FAILURE* (1992); FRANKLIN E. ZIMRING & GORDON HAWKINS, *THE SEARCH FOR RATIONAL DRUG CONTROL* (1992). All these scholars agree that American prison populations are growing rapidly, primarily as to black offenders, and in disproportion to involvement with illegal drugs by blacks.

<sup>106</sup> See, e.g., MAUER & HULING, *supra* note 105; JOHNS, *supra* note 105; ZIMRING & HAWKINS, *supra* note 105.

<sup>107</sup> ZIMRING & HAWKINS, *supra* note 104.

ceivable that punitive drug policies would not have become firmly entrenched in our nation's laws.