Several weeks ago, during an interview, I told a reporter from the *Detroit News* that I favored the decriminalization of the private use of drugs. My statement became headline news -- mostly because, as I understand it, I am the first Member of Congress to publicly advocate decriminalization. If I am the first, so be it. I hope I'm not the last.

Don't get me wrong. I'm talking about the private use and possession of drugs, not the sale or transfer or possession of drugs with the intent to transfer. In short, I was anticipating the Mayor Marion Barry situation.

When I was a judge of the Recorder's Court in Detroit for twelve years (1966-78), I saw hundreds of men and women come before me, charged with using drugs. The "drug of choice" at that time was heroin. The "criminals" were mostly poor, mostly Black and mostly shut out of the "American dream." In most cases their privacy had been invaded by an illegal search and seizure. The system mostly put them in jail.

I said then I didn't think the system could handle the burgeoning caseload of drug-related crimes...and that bigger, better prisons and longer, stiffer prison sentences were not the answer.

Today, other judges (and lawyers, doctors, law enforcement officials and politicians) are saying the same thing -- that our system of justice is on the verge of collapse from the pressure of drug-related prosecutions -- and we are making no headway in reducing the problem. The "drug of choice" has changed -- it's mostly crack cocaine. The users are still mostly disadvantaged; and they still mostly get sent to jail. The only things that have changed are the numbers...and the cost to our society.

If we look at the historical overview of the last few years, we get a picture of where we've come and how we got there. Our policy has involved a massive shifting of consciousness and effort away from a "helping hand" focus, and towards a "lock them up and throw away the key" focus.

The Justice Department says that in 1968, arrests for drug abuse violations in the United States were 162,777 -- or about 112 for each

100,000 population. In 1988, arrests for drug-related crimes were 850,034 -- up to 450 per 100,000 population.

Since 1981, our total Federal expenditures on the drug control effort exceed $21 billion. State and local jurisdictions' costs have been equally staggering.

Government expenditures on law enforcement of drug-related crimes more than tripled between 1981 and 1987. The FY 1990 effort is estimated to be 94 percent higher than the amount set aside for FY 1988. And the drug-related expenditures for criminal justice have risen four times faster than for education, and two times faster than for health.

According to the *New York Times*, narcotics prosecutions in the Federal Courts have gone up by 229 percent in the last decade. The Bureau of Justice Statistics reports that convictions for federal drug offenses rose by 161 percent from 1980 to 1987; jail sentences were up 177 percent. Today, narcotics prosecutions make up 44 percent of all Federal criminal trials.

In Detroit, 69 percent of men arrested for serious offenses between October and December, 1988 tested positive for the use of illicit drugs. a study of 14 major U.S. cities for the same period showed that between 54

and 82 percent of those arrested tested positive.

The Courts are overwhelmed with these cases. And more judges and courts are not the answer.

In 1966, when I took my seat on Detroit' Recorders Court, there were a total of 13 judges, to handle all criminal cases -- felony and misdeamenor -- in the City of Detroit. The City's population was about 2 million.

In 1978, when I left the court, the number of judges had been raised to 19 -- a rise of 46%. The increase was necessary because of the greater number of drug-related cases; even though the population had falled to about 1.5 million.

Today, Recorders Court has 28 judges; they only handle felonies; and the population of Detroit is only about 1 million.

So President Bush's proposal to add another 75 Federal judgeships (plus attendent courrooms, staffs, and prisons to accommodate those convicted) seems yet another step down this unworkable path.

The prison situation is becoming intolerable. Forty-six states have record-high inmate populations, and courts are having to turn criminals loose because of overcrowding and inhumane conditions in the prisons.

The Department of Justice's Bureau of Justice Statistics estimated that 44 percent of the 49,925 Federal prisoners incarcerated in 1989 were charged with drug violations. More than 10% of the more than 550,000 persons in state facilities are there for drug-related crimes.

According to a publication *D.A.W.N.*, put out by the inmates of Michigan's women's prison,

> "By the end of Ronald Reagan's presidency, there were two-thirds of a million Americans behind bars -- plus nearly half a million workers paid to keep them there...This is about 1 percent of our total work force....Only two industrialized nations exceed our proportion in the clink: the Soviet Union and South Africa."

If present trends in criminal justice prosecution continue, the article says, "the inmate population (in 1992) will be larger than the populations of Alaska, Wyoming, Vermont, Delaware, Montana or Nevada."

If we follow the Bush Administration's FY 1991 budget, we're going to waste more than $10 billion following the bankrupt course we're on; and the drug cartel will continue to siphon off tens of billions in our productivity, and destroy thousands of lives in their quest for illicit profits.

Drug "czar" William Bennett thinks any questioning of our policies is dangerous and defeats his grand scheme to control drug usage and abuse in America.

But free speech on this subject can only serve to open a much-needed discussion of where we are, and where we want to go, in addressing the use of drugs in our society.

The way I see it, our present drug policy -- relying heavily on the criminal justice system to punish drug use by individuals -- is wrong on four fundamental fronts:

First, it seeks to legislate and regulate personal behavior, in direct violation of Constitutional freedoms.

Second, it fails to recognize drug abuse as a health problem and focuses most of its efforts on punishing rather than rehabilitating those who are addicted to drugs and devising a national education program to dissuade would-be users.

Third, it has spawned the most powerful and richest criminal cartel in history -- a force that we have seen murdering, kidnapping, extorting and subverting the legal systems in countries around the world and

contributing to the terrorist threat in our urban centers here at home.

Fourth, it deters our attention and resources form the real problems that lead to drug use in many instances: racism entwined with inadequate education, housing, and lack of opportunities for jobs.

On the first point -- the Constitutional question -- the Fourth Amendment guaranteeing privacy was intended to keep the government out of the personal behavior of individuals -- even when the majority of people might think such intrusion "justified" in the "public interest". It's supposed to keep our government out of our private lives.

Instead, the Federal government is increasing efforts in surveillance, mandatory testing, and tracking of possible drug users.

The hypocrisy of the government's position on drug usage is clear when we contrast our position on the use of cigarettes, alcohol, and other substances which we know to be addictive and dangerous to individual health and vitality -- and which pose a much greater danger to American health. The Federal Government doesn't make their use criminal -- indeed, until recently the Congress gave enormous price supports to tobacco producers so that they could continue to produce and sell this

addictive, potentially lethal substance. We're moving towards a more enlightened approach slowly, by cutting back on subsidies, regulating the advertising of tobacco products and seeking to inhibit young people from beginning smoking. But no one is talking about making it illegal to grow, sell or use cigarettes -- even though 60 million Americans use tobacco and 390,000 Americans die each year from cigarette-related illnesses -- a rate of 650 per 100,000 users..

Similarly, alcohol claims an enormous toll in suffering and death. The Fifth Special Report of the U.S. Congress on Alcoholism and Health from the Secretary of Health and Human Services puts the death toll from alcohol at 200,000, out of a total population of 100 million Americans using alcohol products. The death rate from alcohol is 150 per 100,000 -- or one in every ten deaths in the United States, according to the study.

Contrast this with the death rates from heroin (400 per year out of a total population of 500,000 users nationwide, or 80 out of 100,000) and cocaine (200 deaths in a population of 5 million cocaine users or 4 per 100,000).

This leads to a discussion of the second argument I have with our drug policy. We're not really serious about helping those addicted to drugs. If we were, the U.S. government would not be spending more than 72% of its total "anti-drug" effort on law enforcement -- including $1 billion for new prison construction -- and less than 30% on drug treatment, prevention and education. This apportionment of Federal funding contrasts starkly with a decade ago (1979) when the Federal government allocated 56 percent of its drug-control budget to treatment, education and prevention programs.

In the FY 1991 Bush Budget, the President asks for $10.6 billion for its anti-drug effort. Of that, $7.6 billion would go for more DEA agents, more prosecutors, more judges and more prisons. Drug treatment programs would receive $1.7 billion; and $1.4 billion for drug prevention and education.

We're not treating drug use or abuse as a health problem. Our present policy doesn't -- can't -- control the composition of street drugs, or the cleanliness of needles. We can't control the crippling drug abscesses, bone infections, and frequently lethal infections of the heart and brain that

drug users suffer. The Administration's budget allocation doesn't have anywhere near enough money available to offer treatment facilities to those who want to get clean of drugs. Indeed, in many areas, addicts who want to get off drugs are placed on waiting lists for months before they can get help.

If drug use were mostly a white, middle-class problem, addicts would be in treatment centers and hospitals instead of jails.

My third argument with our present drug policy has to do with the enormous power and money of the international drug cartel which has sprung from the dual forces of demand and illegality in the U.S.

Just as in Prohibition times, our policy has created a massive, powerful criminal organization that operates in every community, and corrupts every entity it touches, from agents "on the take" to multi-billion dollar banks that launder its profits.

Finally, I can't help but think what this nation could do if we spent the money we now do on drug enforcement and prosecution on the other needs of our society. What if, for example, that money were spent to give

our young people a reason not to use drugs? What if we spent the money on rebuilding our inner cities, so people would have a decent place to live and not need the escape that drugs provide? How about making a full employment economy, so that men and women could build a sense of self-worth? How about spending it on quality education, so that young people will have the intellectual and judgment skills to make intelligent choices for themselves?

I know there are many people who aren't going to want to listen to the arguments for decriminalization of drug use. It's tough to face the fact that our energies may be misdirected.

But I am confident that, if we allow ourselves to see all alternatives, we can make better decisions on this issue -- and help to find a solution.