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## The Illicit Drug Anti-Proliferation Act and Other Anti-Rave Legislation

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On April 30, 2003, the 108th Congress of the United States passed the Illicit Drug Anti-Proliferation Act of 2003[1]. The bill changed the language of the so-called Crack House law of 1986. The Crack House law was a new section added to Controlled Substances Act which dealt with buildings or other structures used to make, distribute, or use illicit substances. The Illicit Drug Anti-Proliferation Act changed the language to incorporate single-night events and outdoor as well as indoor venues[2]. Though it seems that the changes were relatively minor, the implications were not.

In 2002, the Senators Joseph Biden and Charles Grassley introduced the "Reducing Americans Vulnerability to Ecstasy Act" or the RAVE Act of 2002[3]. This act was almost identical to the Illicit Drug Anti-Proliferation Act. Many people saw this act as an attack on civil liberties because it could potentially hold innocent promoters and venue owners responsible for the acts of their patrons. Around the country, thousands of people sent emails, wrote letters, and made phone calls to their senators to voice their opposition to this bill. It did not pass.

In 2003, Biden and Grassley added the renamed version of the RAVE Act to the "Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003" or the PROTECT Act[4]. The PROTECT Act looked at issues of kidnapping, child pornography, and child molestation and changed the procedures and sentencing for dealing with these cases. By adding the Illicit Drug Anti-Proliferation Act to the PROTECT Act, its sponsors did more than ensure that it would pass on the coattails of the far less controversial legislation. They also implied that drug use and trafficking were on a par and somehow related to dangers to children such as child molestation.

In 1970, the Controlled Substances Act (CSA) became federal law. The Act laid down much of the drug policy that remains today. It classified both legal and illegal drugs within the scheduling system, created a set of regulations for the manufacture and dispensing of legal controlled substances (like pharmaceuticals), and set the standards for penalties and civil and criminal forfeitures[5]. In the introduction to the 1994 version of the Controlled Substances Act, a brief history is given, including the fact that several changes have been made to the federal act, "particularly in 1984, 1986, and 1988,"[6] since 1970. In 1986, the act was modified and the "Crack House laws" were added. The "Crack House

Laws” were a new section added to the end of Part D of the Controlled Substances Act. The addition made it illegal to:

- (1) knowingly open or maintain any place for the purpose of manufacturing, distributing, or using any controlled substance;
- (2) manage or control any building, room, or enclosure, either as owner, lessee, agent, employee, or mortgagee, and knowingly and intentionally rent, lease or make available for use, with or without compensation, the building, room, or enclosure for the purpose of unlawfully manufacturing, storing distributing, or using a controlled substance.[7]

The changes followed a national scare over the “crack epidemic”:

The crack epidemic dramatically increased the numbers of Americans addicted to cocaine. In 1985, the number of people who admitted using cocaine on a routine basis increased from 4.2 million to 5.8 million, according to the Department of Health and Human Service's National Household Survey. Likewise, cocaine-related hospital emergencies continued to increase nationwide during 1985 and 1986. According to DAWN statistics, in 1985, cocaine-related hospital emergencies rose by 12 percent, from 23,500 to 26,300; and in 1986, they increased 110 percent, from 26,300 to 55,200. Between 1984 and 1987, cocaine incidents increased fourfold.[8]

The media pushed the ideas represented above and created a national fear over the great dangers crack cocaine presented to American society.

Throughout the 1980s and 1990s it became relatively standard fare for psychiatric hospital advertisements, tabloid television programs, television talk shows and even the nightly news for the media to showcase alleged cocaine addicts discussing in graphic details the anguish of their cocaine “addiction” and the horrifying consequences for their lives that have ensued from cocaine dependence.[9]

Stories of the epidemic of crack babies appeared in newspapers across the country making the problem seem very close and threatening. The validity of these statistics and their implications has since been questioned. Gary W. Potter writes of the physically addictive properties of cocaine, “The preponderance of the evidence shows that cocaine, no matter what the mode of administration (snorted, smoked, or injected) is not especially addictive in human beings”[10]. Regarding crack or cocaine babies, “researchers from the Boston University School of Medicine say that children prenatally exposed to cocaine are developmentally similar to those exposed to tobacco, alcohol and marijuana”[11]. Despite these findings, the changes in the law remained.

Oriented Policing Services, 2002.

[52] 24, “Rave Parties,” Problem-Oriented Guides for Police Series No. 14, Michael S. Scott, U.S. Department of Justice, Office of Community Oriented Policing Services, 2002.

[53] New York’s “Cabaret Law,” which requires a license to permit dancing at any venue, along with a strict police policy against raves has effectively ended all legal parties in the city. A legal scene has been replaced by underground parties, like the one I am describing, and large commercial clubs.

[54] [http://www.drugpolicy.org/docUploads/The\\_CLEAN\\_UP\\_Act\\_HR\\_834.pdf](http://www.drugpolicy.org/docUploads/The_CLEAN_UP_Act_HR_834.pdf)

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- [51] 23, "Rave Parties," Problem-Oriented Guides for Police Series No. 14, Michael S. Scott, U.S. Department of Justice, Office of Community

The actual title of this section of the Crack House law was "Manufacturing Operations." It was a response to the "Crack Epidemic" of the 1980s but has since been used to attempt to shut down operations of certain licensed clubs and concert venues.

In December 2001, Senators Biden and Grassley held a hearing at the Senate Caucus on International Narcotics Control[12], of which they are both co-chairmen[13]. The focus, according to Senator Biden, was "on the proliferation of Ecstasy and other club drugs generally, and the role of some promoters of all-night dance parties, known as 'raves', in distributing Ecstasy to young people"[14]. A few months later, Senator Biden presented his proposed changes to the Controlled Substances Act, the RAVE Act.

In his initial speech before the Senate, Biden cited statistics much like those from the scare of the "Crack Epidemic" of the 1980s. At the beginning of his speech he said:

All across the country, thousands of teenagers are treated for overdoses and Ecstasy-related health problems in emergency rooms each year. And recent statistics from the Partnership for a Drug Free America show that teen use of Ecstasy has increased 71 percent since 1999. Unless we mount a major education campaign across schools and campuses nationwide, we may not be able to counter the widespread misconception that Ecstasy is harmless, fashionable and hip.[15]

These statistics and the emphasis on the widespread nature of the problem give the impression of a national crisis that threatens every corner of America. In fact, it is likely that Ecstasy use will follow the same trend as the "Crack Epidemic," or any other drug trend. That is, as a new drug reaches the market, there is a steep increase in the number of people using it at first. These numbers will eventually level out and have small spikes and dips as various societal circumstances change. This may be supported by a statistic Senator Biden quoted when introducing the Illicit Drug Anti-Proliferation Act to Senate. "Just last month we got some encouraging news: after years of steady increase, Ecstasy use is finally beginning to decrease among teens"[16].

The original RAVE Act was presented as an attack on all-night dance parties that take place at either raves or clubs. Senator Biden described raves in these terms:

...the promoters get rich as they exploit and endanger kids. Many supplement their profits from the \$10 to \$50 cover charge to enter the club by selling popular Ecstasy paraphernalia such as baby pacifiers, glow sticks, or mentholated inhalers. And party organizers know that Ecstasy raises the core body temperature and makes the user extremely thirsty, so they sell bottles of water for \$5 or \$10 apiece. Some even shut off the water faucets so club goers will be forced to buy water or pay admission to enter an air-conditioned cool down room. [17]

I will discuss the validity of these statements later in this paper. At this point, it is helpful to consider the origin of this attack on raves and clubs. To do this, we will return to the Controlled Substances Act of 1970.

It is no coincidence that the CSA was passed in the middle of the Cultural Revolution of the 1960s and '70s. The Cultural Revolution threatened the puritanical values on which this country was founded. The Puritans believed pleasure, whether through sexual encounters, dancing, or the use of alcohol, was a distraction from God and therefore should not be indulged in[18]. Sex was, and is, necessary for the propagation of the species, but should not be indulged in for other reasons. The Revolution was driven by a youth counterculture rebelling both against the war in Vietnam and the physical standards of this society, including sexuality and the use of mind altering substances. Though the movement did make some lasting changes to many of the standards of American culture, most of the people that actively participated in the Revolution grew up and moved back into mainstream society. The result has been that the next generation has been raised by people who have at least somewhat returned to these puritanical values and yet have a “been there” attitude. That is, those who participated in the Cultural Revolution, largely, have not forgotten their experiences even if they no longer hold the values that drove them.

This group of people has a unique perspective in terms of the next generation of youth. Unlike their parents, much of this new group of parents has experienced a drug culture. The return to puritanical values made the possibility of a new drug culture seem all the more threatening for their children. The dangers of drugs to youth became a hot issue on which politicians could build entire campaigns. This new group of parents was a portion of the Baby Boomers, who, in sheer numbers, outweighed any other block of possible voters. If this block of voters was concerned about drugs and their availability or use by their children, addressing these concerns was a way for a politician to get into office.

The rave scene is a relatively new subculture. In the Problem-Oriented Guides for Police Series, Michael S. Scott describes the culture of raves:

Rave parties-or, more simply, raves-are dance parties that feature fast-paced, repetitive electronic music and accompanying light shows. Raves are the focus of rave culture, a youth-oriented subculture that blends music, art and social ideals (e.g., peace, love, unity, respect, tolerance, happiness). Rave culture also entails the use of a range of licit and illicit drugs. Drug use is intended to enhance ravers' sensations and boost their energy so they can dance for long periods.[19]

Through this description we can see that, in many respects, rave culture is similar to the Cultural Revolution of the 1960s and 70s. The values of the Revolution included those listed by Scott: peace, love, unity, respect, happiness and tolerance[20]. Both the Revolution and rave culture include a drug culture, though this is not the central focus of either. One similarity between rave culture and the Revolution that Scott does not mention is an emphasis on freedom of

- [22] 5-6, “Rave Parties,” Problem-Oriented Guides for Police Series No. 14, Michael S. Scott, U.S. Department of Justice, Office of Community Oriented Policing Services, 2002.
- [23] Congressional Record-Senate, June 18, 2002, 148 Cong Rec S 5674, Vol. 148, No. 81.
- [24] DanceSafe, [www.dancesafe.org](http://www.dancesafe.org)
- [25] Congressional Record-Senate, June 18, 2002, 148 Cong Rec S 5674, Vol. 148, No. 81.
- [26] Congressional Record-Senate, June 18, 2002, 148 Cong Rec S 5674, Vol. 148, No. 81.
- [27] Congressional Record-Senate, June 18, 2002, 148 Cong Rec S 5674, Vol. 148, No. 81.
- [28] 5, “Rave Parties,” Problem-Oriented Guides for Police Series No. 14, Michael S. Scott, U.S. Department of Justice, Office of Community Oriented Policing Services, 2002.
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- [33] Congressional Record-Senate, October 9, 2002, 148 Cong Rec S 10218, Vol. 148, No. 132.
- [34] Congressional Record-Senate, October 9, 2002, 148 Cong Rec S 10218, Vol. 148, No. 132.
- [35] Congressional Record-Senate, October 9, 2002, 148 Cong Rec S 10218, Vol. 148, No. 132.
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- [12] Congressional Record-Senate, Jan. 28, 2003, 149 Cong Rec S 1669, Vol. 149, No. 15.
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- [14] Congressional Record-Senate, Jan. 28, 2003, 149 Cong Rec S 1669, Vol. 149, No. 15.
- [15] Congressional Record-Senate, June 18, 2002, 148 Cong Rec S 5674, Vol. 148, No. 81.
- [16] Congressional Record-Senate, January 28, 2003, 149 Cong Rec S 1669, Vol. 149, No. 15.
- [17] Congressional Record-Senate, June 18, 2002, 148 Cong Rec S 5674, Vol. 148, No. 81.
- [18] Del Banco, Andrew. *The Puritan Ordeal*. Harvard University Press, Cambridge, MA. 1989.
- [19] 4, "Rave Parties," *Problem-Oriented Guides for Police Series No. 14*, Michael S. Scott, U.S. Department of Justice, Office of Community Oriented Policing Services, 2002.
- [20] 4, "Rave Parties," *Problem-Oriented Guides for Police Series No. 14*, Michael S. Scott, U.S. Department of Justice, Office of Community Oriented Policing Services, 2002.
- [21] With the rise of Ecstasy in rave culture, this emphasis on physical contact has become even more pronounced. Ravers who have taken the drug will sometimes form "cuddle puddles," a non-sexual group snuggle session that can involve hugging or backrubs. It is very common to see straight people snuggled up with members of the same sex.

expression, especially in sexuality. This was embodied in the Revolution in "free love." In rave culture, this ideal offers a level of receptivity to gay, bisexual, and transgender youth that is rarely seen in other youth cultures. Many rave scenes include a solid population of drag queens and, among several stylistic "looks" seen at raves, the gay raver is certainly present. Add to this a strong emphasis on physical contact, for example ravers of all sexes hug rather than shake hands, and it seems homophobia is unusually low[21].

These elements of both rave culture and the Cultural Revolution are in clear opposition to the puritanical ideals upon which this country was built. Use of mind-altering substances and engagement in non-marital sexual activity, especially with a person of the same sex, are unacceptable within a puritanical moral structure. Further, raves are dance parties. Dancing is one of the many activities Puritans considered immoral.

Raves are very much about producing pleasure. Even without drugs, raves are designed to create an environment, through the use of loud music, lights, and decorations, which produces a complete sensory experience. This can be overwhelming, but it is very pleasurable as well. Scott writes, "Regular ravers appear to derive great pleasure from their involvement in the rave scene, and are committed to it in spite of the risks and the costs"[22]. In a puritanical value system, pleasures of this sort are considered an indulgence and frowned upon.

I do not mean imply that parents of youth involved in rave culture consciously think that their children are in danger of losing their puritanical values. Instead, I would suggest that the great fear of the effects of raves on youth has its roots in this history. There is an idea that rave culture, and the drug culture that is associated with it, will corrupt innocent youth and endanger them. In his speech to introduce the RAVE Act, Senator Grassley said of Ecstasy use at raves, "Our future rests with the young people of this great nation and America is at risk"[23]. It is this fear that has fueled the push for new legislation to protect this country's youth.

For the past three years, I have been a volunteer for DanceSafe[24], a group that works within the harm-reduction model to keep raves safe and combat any problems, drug related or otherwise, that threaten the scene. The harm reduction model recognizes that prohibition does not work. Young people will make their own decisions and it offers them the tools and information to make these decisions intelligently. I have also been an active participant in rave culture since 1998 and have volunteered and engaged in the culture in three states and three major cities, including New York, Columbus, and Cleveland. Through my work with DanceSafe I have had the opportunity to speak with many promoters about their concerns regarding the safety both of themselves in a legal sense and of their patrons. For these reasons, I feel I have some authority to speak from my own experience in response to the statements of Senator Biden in his introduction and defense of the RAVE ACT and the Illicit Drug Anti-Proliferation Act.

The RAVE Act and subsequent Illicit Drug Anti-Proliferation Act are two attempts at implementing legislation that will calm the fears of parents around

the country. Through following the history of these two bills, however, we will see that the focus has not remained consistent. The information presented to support the bills was of questionable validity and the purpose of the bill was changed as it moved through the legal process.

In his initial speech before the Senate, Senator Biden worked to link Ecstasy use to raves. “Much of the abuse of Ecstasy and other club drugs happens at all-night dance parties known as raves”[25]. In making this statement and others like it, Biden shifted the focus off the drug itself and attacked rave culture as a whole. Biden’s speech demonized rave culture and belittled any of the attempts of promoters to make raves a safer environment. He states,

It is common for rave organizers to go to great lengths to portray their events as safe so that parents will allow their kids to attend. They advertise them as alcohol-free parties and some even hire off-duty police officers to patrol outside the venue. But the truth is that many of these raves are drug dens where use of Ecstasy and other club drugs...is widespread.[26]

This statement implies that these steps are not valid ways to create a safe environment for youth.

The fact that raves are alcohol-free means that they provide a valuable place for youth to congregate, where the focus is music and dancing. In many rural areas of this country, a rave scene means an alternative to spending weekends engaging in underage drinking. Most promoters are aware of the legal risk they take on when throwing a rave. For this reason, they will usually either hire private security from an established company (i.e. Akal) or hire off-duty police officers. Some promoters prefer hiring off-duty police officers because they feel it also helps to build healthy relationships between rave culture and law enforcement. This is a relationship that is also a focus of DanceSafe’s efforts.

Biden goes on to talk about the sale of “Ecstasy paraphernalia such as baby pacifiers, glow sticks, or mentholated inhalers”[27]. The use of raves as a venue for selling items, other than food and beverages, is a relatively new phenomenon and not the case in all parts of the country. Regardless, it is true that these items are often found at raves. What the Senator does not seem to understand is that raves are not just events, they also represent an outlet for the stylistic expression of a specific group of young people. The items cited by Biden are not drug paraphernalia. They are icons of the image of those committed to rave culture. As Scott states, “Younger ravers are sometimes called ‘candy ravers’: they are more likely to wear costumes”[28]. The term “candy raver” originally comes from the candy necklaces and bracelets that these people would wear. Now, young ravers spend a great deal of time outside of the actual raves making necklaces and bracelets from plastic beads, reminiscent of the old candy ones, which they trade at raves. Raving is just as much a style as an activity and, as is the case with any stylistic subset of youth culture, ravers are very committed to it.

The demonization of raves and promoters continues throughout the Senator’s

ating those involved in the culture.

In a culture that offered “Just Say No” as a solution to drug use for its youth, a harm reduction model is not a popular concept. When medical marijuana was on the ballot in California, a flood of articles discussed the implications of its passage. It meant that there had to be a dialogue. This country is not very receptive to dialogue. “Just Say No” is a much easier solution, though not very effective.

So rather than implementing a nationwide harm reduction policy, it never even made it into the debate. Instead, the Illicit Drug Anti Proliferation Act passed and opened the door for new legislation that will be the equivalent to “Just Say No”. If they pass, the rave scene will move further underground and be less safe. It is likely that any previous efforts of promoters to build healthy relations with law enforcement will be shut down. It will just no longer be in the best interests of a promoter to have any relations with law enforcement.

## Notes and References

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capitalized on by politicians. Senators Biden and Grassley introduced the RAVE Act of 2002 in response to a growing public fear surrounding raves and rave culture.

This fear has its roots in the puritanical ethics upon which this country was founded. At the most basic level, raves are dance parties and dancing has always been frowned upon within a puritanical moral code. In a broader sense, raves are all about pleasure. The environment of a rave is one filled with bright lights, loud music, and decorations. Often there is a “chill room” filled with pillows and other soft things where participants can go cool off after dancing and relax. The environment is designed to be a complete sensory experience that produces pleasure whether the participant is intoxicated or not. This type of experience is not acceptable within a puritanical value system, as it can be seen as an indulgence.

Many parents of the generation of ravers broke away from puritan morals in the Cultural Revolution of the 1960s. As they grew older, however, they returned to this value system but did not lose their memories. The idea of their children breaking out of these social codes and being involved in something so wild as a rave is doubtless quite uncomfortable for many of them. These parents, the Baby Boomers, constitute enough of a voting block as to have a huge influence on public policy.

Still, it seems that policy must be sold to voters. The issue of raves was one of public concern before Senators Biden and Grassley brought them into the legislative circle, but one that was largely dealt with locally, i.e. local law enforcement, or within individual families. In order to get their bill passed, the Senators had to use questionable information, like the sale of ten-dollar bottles of water, to demonize rave culture and the promoters largely responsible for it. Even after several riling speeches, the RAVE Act of 2002 did not pass. Instead, Senators experienced a flood of concerned emails, phone calls, and letters from citizens who felt the RAVE Act endangered their rights. When it finally did pass, as the Illicit Drug Anti-Proliferation Act, it was on the coattails of the PROTECT Act, which was almost guaranteed an easy way into law.

The actual ramifications of the Illicit Drug Anti-Proliferation Act seem hardly worth the effort Senators Biden and Grassley put into its passage. It affects a tiny number of cases, for, as the Senators pointed out so many times, the standards of proof are very high. In fact, so far as I could find, it has not yet been used in a single case. Still, it looked good to concerned parents, especially because it was sold to the public (even those fighting to keep it from passing) as a tough law that could put an end to raves.

If raves really are to be viewed as a serious problem, it seems that such legislation as the Illicit Drug Anti-Proliferation Act does not offer a real solution. Even if the new legislation did have far reaching effects, former police chief Michael Scott would argue that this would just push raves further underground. They would not stop. Instead they would become less safe. The alternatives he offers are not easily marketable as reasons for reelecting a politician. Scott offers up a harm reduction model as a way to help reduce the risks of raves without alien-

speech. Biden describes party organizers selling “bottles of water for \$5 or \$10 apiece. Some even shut off the water faucets so club goers will be forced to buy water or pay admission to enter an air-conditioned cool down room”[29]. As I stated before, most promoters are concerned about the safety of their patrons and avoiding any legal liability they can. I have never seen promoters shut off water or charge admission to any other sections of a party with the exception of VIP rooms, which is not the same thing. VIP rooms are generally only found at raves held in large clubs or electronic music conferences. They can be private, in that only DJs and their friends are admitted, or they can just be another section of a party that requires a higher admission price. The prices cited above for water are equally unheard of, although they would not seem at all out of place at many concerts or sports stadiums.

Towards the end of Senator Biden’s speech he briefly touched on the legal history of cases against raves.

...at the Federal level, there have been four cases in which Federal prosecutors have used the so called crack house statute or other federal charges to go after rave promoters. These cases...have had mixed results, culminating in two wins, a loss and a draw, suggesting that there may be a need to tailor this Federal statute more precisely to the problems at hand.[30]

Biden’s statement raises the question, what is the purpose of the proposed legislation? His speech, as a whole, attacks raves as “drug dens”[31] and attempts to blur any lines between drug use and rave culture. The last statement cited above implies an assumption that any case brought to court against rave promoters deserves a guilty verdict. By suggesting that the loss and draw of two of these cases mean stronger legislation is necessary, Biden ignores the possibility that rave promoters may actually be innocent of committing any crime.

It seemed clear from Senator Biden’s introduction of the RAVE Act in June of 2002 that the act was a response to raves in general and the drug culture associated with them. The result was a flood of public response, through email, letters and phone calls, urging senators in every state to speak out against this new legislation. The ACLU got involved, as well as people from every level of participation in rave culture. Many promoters and DJs spoke out against the bill. Ravers circulated petitions asking their senators to fight it and many worked to get their parents involved. The Drug Policy Alliance started an email campaign that drew the support of people involved in other aspects of drug policy reform, like the legalization of medical marijuana, who might not have otherwise be interested. As a result, Senator Biden said that there had been “a great deal of misinformation circulating about this legislation”[32] and gave another speech in October in order to “correct the record”[33]. In this speech, Biden limited his references to Ecstasy and introduced a new term, “rogue promoters”[34]. This term distinguishes legitimate promoters from those who hold events for the purpose of selling drugs. In discussing rogue promoters, the Senator moved the focus away from raves and placed it on drug culture within the rave scene. He stated, “I am confident that the overwhelming majority of promoters are decent,

law-abiding people who are going to discourage drug use, or any other illegal activity, at their venues”[35]. This was not a sentiment that was apparent in his initial speech before the Senate.

Originally, Biden spoke before the Senate and described raves in strong and ominous terms. His speech was reminiscent of the public fear about the “Crack Epidemic,” but it did not bring the Senate, or the American people, together behind his proposed legislation. Instead, various groups mobilized to fight against it and raised enough concerns to be acknowledged. In his October speech, the Senator recognized some of the fears raised by the public and promised to make slight changes the purposed bill:

Critics of the Bill have also claimed that it would provide a disincentive for promoters to take steps to protect the public health of their patrons including providing water or air-conditioned rooms, making sure that there is an ambulance on the premises, et cetera. That is not my intention. And to underscore that fact, I plan to remove the findings which is the only place in the bill where these items are mentioned, from the bill. Certainly there are legitimate reasons for selling water, having a room where people can cool down after dancing, or having an ambulance on hand. Clearly, the presence of any of these things is not enough to signify that an event is ‘for the purpose of’ drug use.[36]

In his closing statement, the Senator stated that the purpose of “the RAVE Act was not to ban dancing, kill the ‘rave scene’ or silence electronic music...”[37]. Despite these statements, the bill did not pass.

In January of 2003, Senators Biden and Grassley introduced the new bill to the Senate, the Illicit Drug Anti-Proliferation Act of 2003[38]. The bill was nearly identical to the RAVE Act of 2002. The only difference between the two was the name. The change seemed to be the Senator’s one gesture in acknowledgment of the previous public protest. This is indicated in his speech introducing the new legislation:

Last year people criticized the bill’s title, the “RAVE Act,” because they thought it was unfairly targeting raves. Although I do not believe that I was unfairly targeting anybody, I have changed the title to the “Illicit Drug-Anti Proliferation Act of 2003.”[39]

The rest of Biden’s speech was, to a large degree, comprised of excerpts from his previous two speeches regarding the RAVE Act. Despite the name change, he had returned to his hard line on raves and repeatedly made statements linking raves to Ecstasy and other drug use.

In Senator Grassley’s introductory speech, he emphasized the importance of not allowing the law to impinge on legitimate businesses and events.

promoters were to ensure the legitimacy and safety of the party (i.e. by securing proper permits, hiring security, having an EMT on duty, etc.). Regardless of how legitimate these perceptions may be, they will undoubtedly lead to biased implementation of the CLEAN-UP Act, should it pass.

The Ecstasy Awareness Act of 2003 is also still pending. The act has three applications. Section 3 of the Ecstasy Awareness Act appropriates \$10,000,000 “to make grants to provide training to State and local prosecutors and law enforcement agents for prosecution of ecstasy offenses”[59]. Section 4 makes some minor changes to the language of the Elementary and Secondary Education Act of 1965. Neither of these sections are particularly controversial. The reason that the act has still not passed is section 2, entitled “Profiting from Raves”[60]. Again, this section would be added to the end of section 416 of the Controlled Substances Act.

‘Whoever profits monetarily from a rave or similar electronic dance event, knowing or **having reason to know** that the unlawful use or distribution of a controlled substance occurs at the rave or similar event, shall be fined not more than \$500,000 or imprisoned not more than 20 years, or both. If the defendant is an organization, the fine imposable for the offense is not more than \$2,000,000.’[61] (bold added)

This is even more clearly targeted at raves than either the Illicit Drug Anti-Proliferation Act or the section of the CLEAN-UP Act discussed above. It is arguable that the language “having reason to know” is less ambiguous than “reasonably ought to know,” but both have the potential to make innocent people responsible for the actions of others. The title of this section of the act, “Profiting from Raves,” suggests that this is a direct attempt to implement legislation that would impose a strict prohibition policy on raves. As previously discussed, this policy would not end raves. It would simply push them farther “underground” and make them less safe and harder to regulate.

Though the Illicit Drug Anti-Proliferation Act is unlikely to put an end to raves, it is equally unlikely that new legislation, like the Ecstasy Awareness Act and the CLEAN-UP of Methamphetamines Act, will stop being introduced. The Illicit Drug Anti-Proliferation Act was preceded by the RAVE Act of 2002 and, as we see from the pending legislation, certainly did not put an end to the legal attack on raves. The drug war has long been a favorite of politicians trying to get reelected.

In the 1980s, stories of the “Crack Epidemic,” fueled by a media craze, terrified Americans into believing that crack was a grave danger present in every corner of the country. The tragic stories of crack babies electrified America and a call for action drove politicians to institute Crack House Law.

A similar fear has arisen around raves. As Scott says, “To be sure, raves can pose genuine risks, but those risks are frequently exaggerated in the public’s mind”[62]. The perception of the risks posed by raves was something easily



In February 2003, while the Illicit Drug Anti-Proliferation Act was still a pending legislation, a new bill was introduced, the Clean, Learn, Educate, Abolish, Neutralize and Undermine Production (CLEAN-UP) of Methamphetamines Act of 2003[54]. It was shortly followed, in July, by the Ecstasy Awareness Act of 2003[55]. Neither bill has yet made their way through the Congressional process. That is, they have neither passed nor been defeated, at least partly because of the public objection, much like that around the RAVE Act and the Illicit Drug Anti-Proliferation Act, which made these highly controversial. While these may draw the votes of Baby Boomers with children, they also greatly upset groups such as the ACLU concerned about public rights. Still, the CLEAN-UP Act has drawn 126 cosponsors, the most recent, Rep. Mark Kennedy of Minnesota, in July of 2004[56], so it has definitely not been forgotten.

The CLEAN-UP of Methamphetamines Act is similar to the PROTECT Act in that most of the legislation has nothing to do with raves at all. Instead, the CLEAN-UP Act mainly deals with new funding for combating the wave of methamphetamine labs springing up around the country. It also authorizes grants to fund a variety of studies on the environmental impact of methamphetamine labs[57]. Towards the end of the act, however, is a small section that relates directly to raves. Section 305, "Liability of Promoters of Commercial Drug-Oriented Entertainment," inserts a new section after section 416 of the Controlled Substances Act.

'Whoever, for a commercial purpose, knowingly promotes any rave, dance, music, or other entertainment event, that takes place under circumstances where the promoter **knows or reasonably ought to know** that a controlled substance will be used or distributed in violation of Federal law or the law of the place where the event is held, shall be fined under title 18, United States Code, or imprisoned for not more than 9 years, or both.'[58] (bold added).

The language here is clearly far more open ended than that of the Illicit Drug Anti-Proliferation Act. The phrase "reasonably ought to know" is a far cry from the high standard of proof the Senators Biden and Grassley spoke so much about. It is questionable how this act would be applied, but it certainly has the potential to make legitimate event promoters criminals in the eyes of the law.

This presents us with another problem. It is highly unlikely that the CLEAN-UP Act would be applied to all entertainment events where the promoter "reasonably ought to know" that drugs will be used and/or distributed. For example, large venues that hold rock concerts are far less likely to be targeted than raves or underground hip-hop shows, though it is just as likely that drug will be used at any of these types of events. The difference is that there is a perception of larger, more mainstream venues being legitimate, that the drug use at these events is entirely incidental and not connected in anyway to the event itself. Raves are seen as a public hazard. Therefore, any drug use that takes place at a rave is perceived as being inherent to the event, regardless of how careful the

I realize that drugs are not widely available at all raves or other events open to the public. And I know that my colleagues [sic] Senator Biden is just as aware as I am that drug use occurs at events without the knowledge or endorsement of legitimate event promoters. In no way is our bill aimed at stifling any type of music or public expression, it is only trying to deter illicit drug use and protect kids.[40]

Even saying this, he goes on to continue linking rave culture to drug culture. In introducing his discussion of Ecstasy he calls it "an especially popular club drug that is all too often being sold at all-night dance parties, or raves"[41].

Following the introduction of the Illicit Drug Anti-Proliferation Act, there was a renewed public protest against the legislation. Several groups, including the Drug Policy Alliance and the ACLU, called for mass petitions and email campaigns to speak out against the legislation. The argument was that the changes proposed to the Crack House law were too broad and could be used against any group that law enforcement or government chose to target (i.e. raves, gay circuit scene, hip hop shows). This time, however, the voice of the public went unheard.

On April 30, 2003, the Illicit Drug Anti-Proliferation Act was signed into law. It seemed that the debate, both for and against the bill, had become irrelevant because, in order to ensure its passage, it was slipped into the PROTECT Act. The PROTECT Act was not controversial, but it was something that any senator, hoping for reelection, would vote for. It changed the sentencing and procedure for dealing with cases of a sexual nature involving children, including child pornography and child molestation, as well as kidnapping. It would not look good on any senator's record to have voted against it. By adding the Illicit Drug Anti-Proliferation Act to the PROTECT Act, its sponsors almost guaranteed that it would be passed.

This had a second effect, however. It equated the drug use at raves and clubs with violence against children. So far as I could ascertain, it is also the only section of the PROTECT Act that is applicable even when children are not involved in a case at all. All other sections directly applied to violence against children, with subjects ranging from kidnapping and murder to child molestation and child pornography. The Illicit Drug Anti-Proliferation Act dealt with raves and clubs, many of which require patrons to be over either 18 or 21.

Still, despite all the public concern over the Illicit Drug Anti-Proliferation Act and the troubling implications of adding it to the PROTECT Act, after actually researching the bill I must wonder just how effective or relevant these changes to the Crack House Law really are. Both Senators Biden and Grassley repeatedly cited how high the standards of proof were. The tiny number of cases that had been brought to trial against a club or rave promoter (four, according to Senator Grassley[42]), with any outcome, under the previous Crack House law brings to question the importance of the changes. It seems unlikely that the bill could have the far-reaching effects, including a severe erosion of rights, which

were cited as reasons to keep it from passing.

Throughout Senator Grassley's and Senator Biden's speeches on both the RAVE Act and the Illicit Drug Anti-Proliferation Act, there was an emphasis on the "high standard that should protect event promoters from casual application of this statute"[43]. To quote Senator Biden:

The purpose of my legislation is not to prosecute law-abiding managers of stadiums, arenas, performing arts centers, licensed beverage facilities, and other venues because of incidental drug use at their events. In fact, when crafting this legislation, I took steps to ensure that it did not capture such cases. My bill would help in the prosecution of rogue promoters who not only know that there is drug use at their event but also hold the event for the purpose of illegal drug use or distribution. That is quite a high bar.[44]

This brings to light the question of why this legislation was so important. The Senators worked for two years to pass a bill that seems to have a very limited application. The high standard of proof and the tiny number of cases being brought to trial can lead to two conclusions. The Senators could either be using this legislation as a stepping stone for future, more meaningful legislation or as a tool for reelection. As it turns out, both cases may be true. I will discuss pending legislation later in this paper.

The passage of the Illicit Drug Anti-Proliferation Act allowed Senator Grassley and Biden to appear tough on drugs and concerned about youth. In actuality, research has shown that actions such as this legislation would allow do little to combat drug use among young people. This is illustrated by the research of Michael S. Scott.

Michael S. Scott is a former police chief who now works as an independent police consultant[45]. His handbook on "Rave Parties" provides problem oriented solutions for "how police can reduce harm"[46] caused by raves. The handbook looks at some of the exact same issues, including drugs, presented by Senators Biden and Grassley but comes up with very different solutions to them. The handbook also follows a harm reduction model and provides reasons to support this model.

Scott takes a stance on dealing with raves that stands in stark contrast with the prohibition-like attitude represented in some of the comments made by the Senators.

Dealing appropriately with raves is difficult for police. On the one hand, police often face substantial pressure from mainstream society to put an end to raves, usually through aggressive law enforcement. On the other hand, raves are enormously popular among a significant minority of teenagers and young adults, most of whom are generally law abiding and responsi-

ble. Strict enforcement efforts can alienate a key segment of this population from government in general, and the police in particular.[47]

It is arguable that the Senators' main concern is with the mainstream society that Scott mentions; this is the likely voting block. Teenagers cannot vote and most young adults do not. Pressure exerted on police by the mainstream, i.e. parents, is likely to be felt by Senators as well. While we shall see that a strict prohibition imposition is ineffective, the implementation of such of such legislation could be quite popular.

Scott advocates the use of a harm reduction model in dealing with raves, rather than prohibition. He describes the harm reduction model as "acknowledging that some illegal drug use and raves are inevitable, and trying to minimize the harms that can occur to drug users and ravers"[48]. This is not a popular public view, especially when presented to parents who certainly do not want to acknowledge that any drug use by their children is inevitable. Yet under the section listed as "Responses with limited effectiveness," Scott has listed "Banning all raves."

...the most likely effect of a total ban is that raves will move to unlicensed, clandestine locations where it is more difficult to implement harm reduction strategies.[49]

As an alternative, Scott lists such strategies as "Regulating rave venues to ensure basic health and safety measures,"[50] "Prohibiting juveniles and adults from being admitted to the same raves,"[51] and "Educating ravers about the risks of drug use and overexertion"[52].

Scott makes it clear that a prohibition model will not work as a solution to any danger raves can pose to young people. In fact, he argues that prohibition will actually aggravate the potential risks because the scene will simply go "underground". One of my experiences in New York City supports this. I attended a rave in the Spring of 2004 in New York. A young man who had clearly taken Ecstasy was showing signs of a bad reaction. He was overheated and acting erratically. The party was illegal[53], so the promoters did not have an EMT on duty for fear of being reported. At almost all of the legal parties I have attended there has been an EMT on hand in case of emergencies. The promoters were terrified to let the man leave because they did not want any possible legal ramifications. Though he eventually cooled off and was calmed down, the situation was a clear testament of the problems of prohibition. Whether it be a bad reaction to drugs or an accident on the dance floor, having medical help available is essential in a large crowd of people.

Unfortunately, public pressure has all but obliterated the possibility for harm reduction strategies in most parts of the country. Though the Illicit Drug Anti-Proliferation Act may be very effective in prosecuting cases, promoters are very aware of it and the scene has already begun to move into less legal, and less safe, environments. Promoters are less willing to work with law enforcement to secure safe and permitted venues. There are two pending legislations which could make the situation much worse.