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An Assessment of Drug Incarceration and Foreign Interventions

The new Director of ONDCP starts his tenure facing familiar challenges. Little has changed in the last eight years in either America's drug problems or in its drug policies. The problems have probably declined moderately, as the result of the working out of epidemiological factors. The number of persons incarcerated for drug selling has continued to rise, with no sign that this has reduced availability or increased prices.

It has become increasingly hard to justify the highly punitive nature of current U.S. policies, which contrast so sharply with other Western nations. A major accomplishment for the new administration would be to bring more rationality and humanity to sentencing policies and

enforcement. Though most of the incarceration is at the state level, the federal government plays a uniquely important role in the imprisonment of drug offenders, who account for approximately 60% of the 160,000 locked up in federal prisons. ONDCP should thus focus initially on ensuring that federal prisons are used more effectively for crime control. It can also attempt to educate state governments to move in the same direction and to develop ways of punishing drug sellers that are more effective, less expensive and more humane.

The United States also continues to invest in efforts to control production of cocaine and heroin. Though the sums are small as a share of the federal drug budget, they are large compared to other foreign aid efforts. Moreover, these interventions have minimal promise of helping reduce the availability of cocaine and heroin in the United States and risk considerable damage to other nations.

We address three issues in this testimony. First we point to the importance of distinguishing among broad classes of drugs in making policy decisions. Much confusion results from treating all illegal drugs as a single policy target. Second, we present the evidence and arguments for the claim that large reductions in the number of incarcerations for drug offenses would have minimal effect on the price and availability of drugs. Finally, we address the reasons for skepticism that efforts in producer countries will reduce the availability of cocaine and heroin in the United States and argue for doing much less overseas.

I. Different drugs present different challenges

To understand almost anything about the effectiveness of US drug policy it is first essential to distinguish between four categories of illegal drugs: (1) diverted pharmaceuticals, (2) all the minor illegal drugs (PCP, GHB, LSD, etc.): (3) the major “expensive” illegal drugs (cocaine/crack, heroin, and meth(amphetamine), and (4) cannabis.

Diverted pharmaceuticals are an increasingly important topic because they account for an astonishing share of drug-related overdoses, use by youth, and prevalence in the general population¹. However, their ill-effects are largely confined to the users e.g., there is little black market violence or property crime. They deserve their own separate analysis, because the options for interventions are so different than those relevant for the purely illicit drugs. We say nothing more about them here.

¹ See e.g. Compton, W.M. and Volkow, N.D. (2006). “Major Increases in Opioid Analgesic Abuse in the United States: Concerns and Strategies.” *Drug and Alcohol Dependence*, 81(2): 103-107.

The minor illegal drugs represent no great challenge to policy. They are minor because of some combination of their intrinsically limited appeal and/or the success of current policies. Use and use-related harms are low. The markets are largely social rather than commercial, thus generating few problems. Enforcing the prohibition imposes few costs. The only serious critics of the status quo are those who believe that certain hallucinogens can yield benefits to users that are foregone because of the prohibition. That is almost certainly a political non-starter, and we do not in any event believe the putative benefits are yet sufficiently documented to warrant the risk inherent in any change in policy.

The drugs that matter most are the “majors”, but it is essential to distinguish between cannabis on the one hand, and the “expensive” illegal drugs on the other. Little one can learn or say about cannabis applies to the other drugs, and vice versa. A substantial proportion of the misinformation surrounding drug policy comes from not respecting those differences.

The differences are in part “medical”. Marijuana is by no means harmless.² Multiple millions of Americans are dependent on marijuana and no other illegal drug, and that dependence harms health and impairs adolescent development, job performance and social interactions.³ However, not all types of dependence are the same. To make the point with an extreme example, it is possible to define such a thing as caffeine dependence, but caffeine dependence has minimal adverse effect on one’s ability to function. We are not equating marijuana dependence with caffeine dependence. Marijuana dependence is clearly much more debilitating. But it is also important not to equate marijuana dependence with crack dependence. Crack dependence is clearly much more debilitating.⁴

The differences between marijuana and the expensive illegal drugs go far beyond the medical. Notably, cannabis is so inexpensive, indeed competitive with alcohol in terms of the cost of an hour of an altered state of mind, that the associated black market generates far fewer problems. There are few drive-by shootings associated with marijuana. There is some evidence that marijuana use can stimulate “economic-compulsive” crime as users seek to finance their

² For a recent review of the effects of marijuana on health, see Chapter 2 of Room, Fischer, Hall, Lenton and Reuter (2008) Cannabis Policy: Moving beyond the Stalemate http://www.beckleyfoundation.org/pdf/BF_Cannabis_Commission_Report.pdf [accessed December 11, 2008]

³ NSDUH Report on Daily Marijuana Users <http://www.oas.samhsa.gov/2k4/dailyMJ/dailyMJ.pdf>

⁴ For a study of differences in the consequences of dependent use see Nutt, D., King, L.A., Saulsbury, W. & Blakemore, C. (2007). Development of a rational scale to assess the harm of drugs of potential misuse. *Lancet*, 369: 1047-1053.

marijuana habit, but the amount of such crime – particularly on a per user basis – is smaller by orders of magnitude than the corresponding problem with the expensive illegal drugs.

It is also not possible to ignore the simple fact that cannabis is widely used, whereas only a few percent of Americans use any of the expensive major illegal drugs beyond some experimentation. It is worth noting that this statement is true of most Western nations.

We will lay out a framework for thinking about what constitutes effective drug policy for the major expensive illegal drugs because they collectively account for close to 90% of the social costs associated with the purely illegal drugs; cannabis though more widely used is simply not where the big problems are, and it too merits a separate analysis.

The Expensive Illegal Drugs

There are four important things to recognize about cocaine/crack, heroin, and the amphetamines, particularly methamphetamine, which we abbreviate collectively as meth(amphetamine). First, prohibition has made them vastly more expensive than they would be if they were legal. Second, those high prices, along with the absence of promotion and uncertainty about quality, reduce use. Third, the markets for and use of these drugs are sufficiently established that they should be viewed as endemic, offering little practical prospect of elimination. Fourth, although prohibition plus high prices greatly reduce the number of users, including the number of dependent users, they increase the harm suffered by those who do become dependent and the amount of damage each of them causes the rest of society.

The first two points collectively constitute the practical argument for prohibiting these drugs. The difficulty is to balance them against the fourth point, namely the unintended, though often predictable, harms caused by tough efforts to enforce prohibition.⁵

Given that these drugs, or any particular drug, are going to be prohibited, the question becomes what form should that prohibition take? Ideally the prohibition would leave only a tiny market, such as what we have with GHB or PCP. So, one option is to pursue a prohibition so aggressive as to drive the market for one or more of these expensive major drugs down to de minimus levels. Arguably that has been the central theme of US drug policy for the last 25 years, and the results are not encouraging. At least in a free society, it does not appear feasible to

⁵ For a recent essay on the sources of unintended consequences see Reuter, P. (2009) “The Unintended Consequences of Drug Policy” http://www.rand.org/pubs/technical_reports/2009/RAND_TR706.pdf

put the genie back in the bottle. Borders are too porous. The drugs themselves are too easy to produce, and they are too potent (meaning the quantities involved are too easy to conceal).

The policy analytic jargon for this is that it is prohibitively expensive to “tip” the markets from the current equilibrium down to an equilibrium in which their market’s size (measured in, say, doses consumed in the US per year) is similar to that of GHB. That is why we say that we must view cocaine/crack, heroin, and meth(amphetamines) as endemic.

That these drugs are endemic, however, does not mean that they need be prevalent, the way marijuana is. Slightly more than half of recent birth cohorts in the US have or will at some point try marijuana. Arguably, trying marijuana at least once (as opposed to using it on an ongoing basis) has become normative, and lifetime abstinence is actually slightly less common. In California, marijuana is sold openly in medical marijuana shops to people with the flimsiest of documentations of medical need.⁶ Throughout the country, marijuana users are arrested at startling high rates, but very few are convicted and incarcerated.⁷ Marijuana use has entered a grey area of stigmatization. It is not OK, but it’s also not so bad in the eyes of many.

A very important goal for drug policy is not to have use of any of the major expensive illegal drugs become comparably normalized. They are all potent substances that kill and create dependence from which people often never fully recover. Long-term follow studies of people in heroin treatment show that after 33 years, the most common way of becoming abstinent is to die.⁸

The essential policy questions then become, (1) How much “toughness” is enough to keep an endemic drug from becoming quasi-normalized and (2) How does one make endemic use under prohibition as minimally destructive as possible. The short answers to these questions are that we only need perhaps one-half of the current level of toughness and that at the broad ends of the drug distribution system’s double funnel, one should balance drug *control* objectives with the control of other drug-related problems.

⁶ For a description of the current state of the marijuana situation in California see Samuels, D. (2008). Dr. Kush: How medical marijuana is transforming the pot industry. New Yorker, July 28.

http://www.newyorker.com/reporting/2008/07/28/080728fa_fact_samuels

⁷ The only study that we are aware of concerning the sentences of marijuana possession cases in the U.S. covers three large counties in Maryland in the late 1990s. Of those arrested for marijuana possession almost none received a sentence of jail, let alone state prison, but one third spent at least one night in jail in pretrial detention. Reuter, P., Hirschfield, P. & Davies, K. (2001). Assessing the Crackdown on Marijuana in Maryland. unpublished paper, U. of Maryland. http://www.drugpolicy.org/docUploads/md_mj_crackdown.pdf

⁸ Hser, Yi-Ing, V. Hoffman, C. E. Grella, and M. Douglas Anglin. 2001. “A 33 year follow-up of narcotics addicts.” Archives of General Psychiatry 58 (5): 503–508.

II. Excessive Drug Incarceration⁹

The United States may have surpassed the half-million mark for drug prisoners, which is more than 10 times as many as in 1980.¹⁰ It is an extraordinary number, more than Western Europe locks up for all criminal offenses combined. How effective is this level of imprisonment in controlling drug problems? Could we get by with, say, just a quarter million locked up for drug violations?

Tough enforcement is supposed to drive up prices and make it more difficult to obtain drugs, and thus reduce overall drug use and the problems that it causes.¹¹ Yet the evidence indicates that quite limited success at reducing the supply of established mass-market drugs. Thus, even assuming that tough enforcement was an appropriate response at an earlier time, today's situation justifies considering different policy options.

Most U.S. drug efforts go to enforcing drug laws, predominantly against sellers; oddly enough, that is also true for other less punitive nations, including the Netherlands.¹² Although eradication and crop substitution programs overseas in the source countries, primarily in the Andes, get a lot of press coverage, they account for a small share of even the federal enforcement budget, about \$1 billion. More money—about \$2.5 billion in 2004—is spent on interdiction: trying to seize drugs and couriers on their way into the country. The bulk of U.S. expenditures go toward the apprehension, prosecution and incarceration of drug dealers within our borders.

The great majority of those locked up are involved in drug distribution. Although a sizable minority were convicted of a drug possession charge, in confidential interviews most of them report playing some (perhaps minor) role in drug distribution; for example, they were couriers transporting (and hence possessing) large quantities or they pled down to a simple possession charge to avoid a trial.¹³

⁹ This section is adapted from Caulkins, J. and Reuter (2006) "Re-orienting Drug Policy" *Issues in Science and Technology* 23(1)

¹⁰ Caulkins, J. P. and S.Chandler (2006) Long-Run Trends in Incarceration of Drug Offenders in the US. *Crime and Delinquency*. Vol 52, No. 4, pp.619-641

¹¹ Reuter, P. & M. Kleiman (1986) "Risks and Prices: An Economic Analysis of Drug Enforcement," *Crime and Justice: An Annual Review* 9, pp.128-179.

¹² Rigter, H. (2006) What drug policies cost. Drug policy expenditures in the Netherlands, 2003. *Addiction* 101, 323–329.

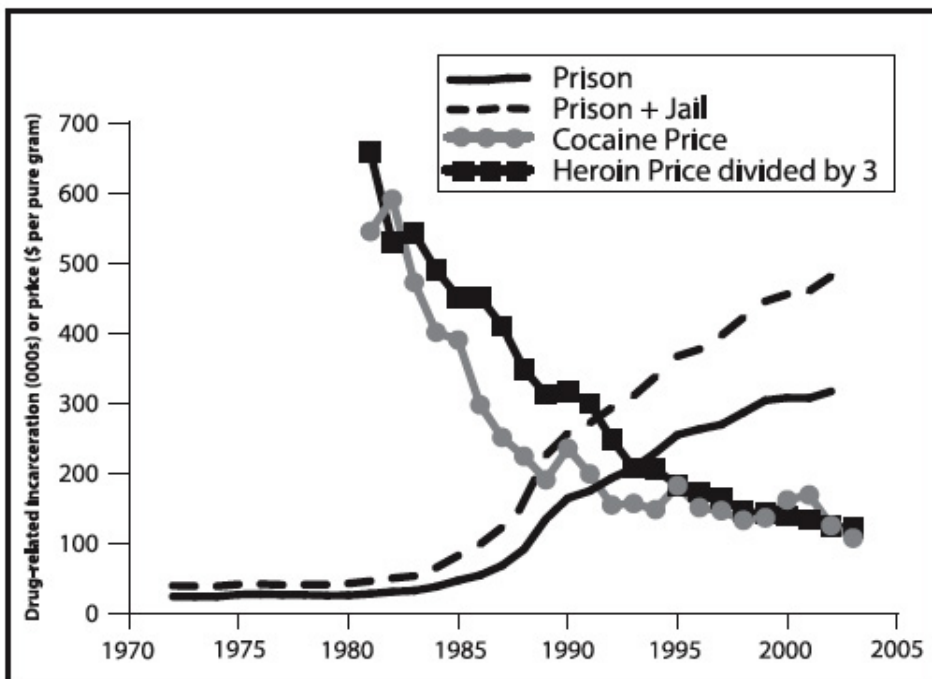
¹³ Sevigny, Eric and Jonathan P. Caulkins. 2004. "Kingpins or Mules? An Analysis of Drug Offenders Incarcerated in Federal and State Prisons." *Criminology and Public Policy*, Vol. 3, No. 3, pp.401-434.

Society locks up drug suppliers for multiple reasons. Drug sellers cause great harm because of the addiction they facilitate and the crime and disorder that their markets cause. Thus there is a retributive purpose for the imprisonment. Still, sentences can exceed what mere retribution might require. Perhaps the most infamous example was when the possession of 5 grams of crack cocaine generated a five-year mandatory minimum sentence, compared with a national average time served for homicide of about five years and four months, even though that \$400 worth of crack is just one fifty-millionth of U.S. annual cocaine consumption, or about two weeks' supply for one regular user.

Does tough enforcement work?

An important justification for aggressive punishment is the claim that high rates of incarceration will reduce drug use and related problems. The theory is that tough enforcement will raise the risk of drug selling. Some dealers will drop out of the business, and the remainder will require higher compensation for taking greater risks. Hence the price of drugs should rise. It should also make drug dealers more cautious and thus make it harder for customers to find them. So the central question is whether the huge increase in incarceration over the past 25 years has made drugs more expensive and/or less available.

U.S. Drug-Related Incarceration and Retail Heroin and Cocaine Prices



The science of tracking trends in illicit drug prices is not for purists; there are no random samples of drug sellers or transactions. However, the broad trends apparent in the largest data sets (those stemming from law enforcement's undercover drug buys¹⁴) are confirmed by other sources, including ethnographic studies, interviews with or wire taps of dealers, and forensic analysis of the quantity of pure drug contained in packages that sell for standardized retail amounts (for example, \$10 "dime bags" of heroin). During the past 25 years, the general price trends have gone more or less in the opposite direction from what would be expected (see figure). Incarceration for drug law violations (primarily pertaining to cocaine and heroin) increased 11-fold between 1980 and 2002, yet purity-adjusted cocaine and heroin prices fell by 80%. Methamphetamine prices also fell by more than 50%, although the decline was interrupted by some notable spikes. Marijuana prices unadjusted for purity rose during the 1980s and 2000s but fell during the 1990s. Declining prices in the face of higher incarceration rates does not per se contradict the presumption that tougher enforcement can reduce use by driving up prices. Other factors may have driven the price declines. Drug distributors might have been making supernormal profits in the early 1980s that were driven out over time by competition, or "learning by doing" might have improved distribution efficiency within the supply chain. Hence, it is possible that prices would have fallen still farther had it not been for the great expansion in drug law enforcement.

One study of this question found that cocaine prices in 1995 were 5 to 15% higher as a result of the increases in drug punishment since 1985.¹⁵ That result helps save the economic logic that supply control ought to drive retail prices up, not down, but the estimated slope of the price-versus-incarceration curve is so flat that expanded incarceration appears not to have been a cost-effective tool for controlling drug use.

During that 10-year period, incarceration for drug law violations increased from 82,000 to 376,000, about two-thirds of which were cocaine offenders (roughly 200,000). Thus, to achieve the modest increase in cocaine prices, it cost an extra \$6 billion a year just for incarceration (assuming a cost of \$30,000 per year to house an inmate). Annual cocaine

¹⁴ For a discussion of the STRIDE (System To Retrieve Information from Drug Evidence) see Manski, C., Pepper, J. and C. Petrie (eds.) (2001) *Informing America's Policy on Illegal Drugs: What We Don't Know can Hurt us*. Washington, National Academy Press

¹⁵ Kuziemko, I. and Levitt, S. (2004). "An Empirical Analysis of Imprisoning Drug Offenders." *Journal of Public Economics*. 88(9-10):2043-2066.

consumption then was about 300 metric tons. So even assuming an elasticity of demand as large, in absolute value, as -1 , a 10% increase in price would avert only about 30 metric tons of consumption, or less than 5 kilograms per million taxpayer dollars spent on incarceration. That cost-effectiveness ratio compares very unfavorably with those RAND's Drug Policy Research Center has estimated for demand-side interventions.¹⁶

Nor is there any evidence that tougher enforcement has made cocaine or other drugs harder to get. The fraction of high-school seniors reporting that cocaine is available or readily available has been about 50% for 25 years; for 85% of respondents, the same statement remains true for marijuana.¹⁷

Changing times, changing policies

With a few exceptions (notably oxycontin and methamphetamine), the drug problem in the United States has been slowly improving during the past 15 years. The number of people dependent on expensive drugs (cocaine, heroin, and methamphetamine) has declined from roughly 5.1 million in 1988 to perhaps 3.8 million in 2000, the most recent year for which figures have been released. The residual drug-dependent populations are getting older; more than 50% of cocaine-related emergency department admissions are now of people over 35, compared to 20% 20 years ago.¹⁸ The share of those treated for heroin, cocaine, and amphetamine dependence who were over 40 rose from 13% in 1992 to 31% in 2004. Kids who started using marijuana in the late 1990s are less likely to go on to use hard drugs than were kids who started in the 1970s.

What we face now is not the problem of an explosive drug epidemic, the kind that scared the country in the 1980s when crack emerged and street markets proliferated, but rather “endemic” drug use, with stable numbers of new users each year. The substantial number of aging drug abusers cause great damage to society and to themselves, but the problem is not

¹⁶ Rydell, C. Peter, Jonathan P. Caulkins, and Susan Everingham. 1996. “Enforcement or Treatment: Modeling the Relative Efficacy of Alternatives for Controlling Cocaine,” *Operations Research*, Vol. 44, No. 5, pp.687-695.

¹⁷ See the annual reports of Monitoring the Future Johnston, Lloyd D., Patrick M. O'Malley, and Jerald G. Bachman. (2008). *Monitoring the Future national survey results on drug use, 1975-2002. Volume I: Secondary school students* Bethesda, MD: National Institute on Drug Abuse.

¹⁸ Trunzo, D, Henderson L, (2007) *Older Adult Admissions to Substance Abuse Treatment: Findings from Treatment Episode Data System 1992-2005* Presentation to American Public Health Association annual meetings, November 6

rapidly growing. Rather, it is slowly ebbing down to a steady state that, depending on the measure one prefers (quantity, expenditure, number of frequent users), may be on the order of half its peak.

Rising imprisonment probably made some contribution to these trends. Some of the most aggressive dealers are now behind bars; their replacements are no angels but may be both less violent and less skilled at the business. However, the discussion above raises doubts about whether incarceration accounts for much of the decline. If prices have not risen and if the drugs are just as available as before, then it is hard to see how tough enforcement against suppliers can be what explains the ends of the epidemics and the gradual but important declines in the number of people dependent on expensive drugs.

Moreover there is an opportunity learn from the experience of other countries. For example both the Netherlands and Switzerland, which have much less punitive policies with respect to heroin, have also seen long-term slow declines in the size of their heroin dependent populations.¹⁹ For cocaine, no other country has a large problem from long ago to allow comparison.

The declines provide an opportunity. Changed circumstances justify changed policies, but U.S. drug policies have changed only marginally as the problem has transformed. The inertia can be seen by examining why the number of prisoners keeps rising even as drug markets get smaller. Drug arrests have been almost flat at 1.6 million a year for 10 years, and more and more of them are for marijuana possession (almost half in 2007), which produces very few prison sentences.

Three factors drive the rise in incarceration. First, today's drug offenders are not just older; they also have longer criminal records, exposing them to harsher sentences. Second, legal changes have made it more likely that someone arrested for drug selling will get a jail or prison sentence. Third, the declining use of parole has meant longer stays in prison for a given sentence length. On average, drug offenders who received prison sentences in state courts in 2002 were given terms of four years, of which they served about half. Is it a good thing that those being convicted are now spending more time behind bars?

¹⁹ For Switzerland see Nordt, C., and R.Stohler. 2006. "Incidence of Heroin Use in Zurich, Switzerland: A Treatment Case Register Analysis." *The Lancet* 367(9525): 1830–1834.

Any case for cutting drug imprisonment should not pretend that prisons are bulging with first-time, nonviolent drug offenders. Most were involved in distributing drugs, and few got into prison on their first conviction; they had to work their way in. The system mostly locks up people who have caused a good deal of harm to society. Most will, when released, revert to drug use and crime. They do not tug the heart strings as innocent victims of a repressive state.

Still, would the United States really be worse off if it contented itself with 250,000 rather than 500,000 drug prisoners? This would hardly be going soft on drugs. It would still be a lot tougher than the Reagan administration ever was. It would ensure that the United States still maintained a comfortable lead over any other Western nation in its toughness toward drug dealers. Furthermore, incarcerating fewer total prisoners need not mean that they all get out earlier. The minority who are very violent or unusually dangerous in other ways may be getting appropriate sentences, and with less pressure on prison space, they might serve more of their sentences. Deemphasizing sheer quantity of drug incarceration could usefully be complemented by greater efforts to target that incarceration more effectively.

There is no magic formula behind this suggestion to halve drug incarceration as opposed to cutting it by one-third or two-thirds. The point is simply that dramatic reductions in incarceration are possible without entering uncharted waters of permissiveness, and the expansion to today's unprecedented levels of incarceration seems to have made little contribution to the reduction in U.S. drug problems.

Drug treatment as an alternative to incarceration has become a standard response, more talked about than implemented. Drug courts that use judges to cajole and compel offenders to enter and remain in treatment are one tool, but they account for a very small fraction of drug-involved offenders because the screening criteria are restrictive, excluding those with long records.²⁰ Proposition 36 in California, which ensured that most of those arrested for drug possession for the first time were not incarcerated, seems to have been reasonably successful in at least cutting the number jailed without raising crime rates or any other indicator one worries

²⁰ Bhati, A., Roman, J. and A. Chalfin (2008) To Treat or Not to Treat: Evidence on the Prospects of Expanding Treatment to Drug-Involved Offenders The Urban Institute <http://www.urban.org/publications/411645.html> [accessed November 15, 2008]

about.²¹ These, though, are interventions that deal with less serious offenders, most of whom will only go to local jail rather than to prison.

A more important change would be to impose shorter sentences and then use University of California at Los Angeles Professor Mark Kleiman's innovation of coerced abstinence as a way of keeping them reasonably clean while on parole.²² Coerced abstinence simply means that the criminal justice system does what the citizens assume it is doing already, namely detecting drug use early via frequent drug testing and providing short and immediate sanctions when the probationer or parolee tests positive. The small amount of research on this kind of program suggests that it works as designed, but it is hard to implement and needs to be tested in tougher populations, such as released parolees.

A democracy should be reluctant to deprive its citizens of liberty, a reluctance reinforced by the facts that imprisonment falls disproportionately on poor minority communities and that many U.S. prisons are nasty and brutalizing institutions. Further, there is growing evidence that the high incarceration rates have serious consequences for communities. A recent study suggests that differences in black and white incarceration rates may explain most of the sevenfold higher rate of HIV among black males as compared to white males.²³ If locking up typical dealers for two years rather than one has minimal effect on the availability and use of dangerous drugs, then a freedom-loving society should be reluctant to do it.

Yet we are left with an enforcement system that runs on automatic, locking up increasing numbers on a faded rationale despite the high economic and social costs of incarceration and its apparently quite modest effects on drug use. The continuing rise in numbers is particularly striking because it is likely that the number of offenses and offenders has actually declined. Truly "solving" the nation's drug problem, with its multiple causes, is beyond the reach of any existing intervention or strategy. But that should not prevent decisionmakers from realizing that money can be saved and justice improved by simply cutting in half the number of people locked up for drug offenses.

²¹ Fratello, D. (2006). Proposition 36: Improving Lives, Delivering Results - A review of the first four years of California's Substance Abuse and Crime Prevention Act of 2000. San Francisco: Drug Policy Alliance.

²² Kleiman, M. 1997. "Coerced abstinence: A neopaternalist drug policy initiative," In *The New Paternalism: Supervisory Approaches to Poverty*, ed. Lawrence M. Mead, 182–219. Washington, DC: Brookings Institution.

²³ Johnson, R. and Raphael S. (2006). "The Effects of Male Incarceration Dynamics on AIDS Infection Rates among African-American Women and Men" http://www.law.berkeley.edu/files/johnson_raphael_prison-AIDSpaper6-06.pdf

III. Foreign Ventures²⁴

Both history and argument show that U.S. international efforts to control drug production and trafficking cannot do much more than affect where and how coca and opium poppies are grown. The quantity produced is minimally affected, since suppression of production in one country almost invariably leads to expansion in another.

More important, control efforts often cause damage. Not only are such programs as spraying poppy and coca fields themselves harmful but forcing the drug trade to move from one country to another may hurt the new producer country more than it helps the old one. Hence, the U.S. government should no longer push for “global containment”, as the policy has been defined. Rather, it should focus attention and resources on supporting the few states both willing and able to do something about production or trafficking in their countries. Unfortunately, Afghanistan, the center of attention right now, is not one of those countries.

The United States has been the principal driver of international drug control efforts since 1909, when it convened a meeting of the International Opium Commission (primarily aimed at helping China cut its opium consumption). The U.S. pushed the creation of the web of prohibitionist international treaties under the auspices first of the League of Nations and then the United Nations. It is the dominant voice at the annual meetings of the Commission on Narcotic Drugs, the UN forum for discussing drugs. In that forum it has stood firm against any softening of existing policies. Most prominently, the United States has denounced in recent years “harm reduction” interventions such as needle-distribution programs aimed at reducing the spread of HIV. The Obama administration changed this policy at the 2009 Commission on Narcotic Drugs meeting in Vienna in March.

Though not a lot of money (by the standards of the U.S. drug budget) is spent on overseas drug control, Plan Colombia (\$5 billion since 2001) is by far the largest U.S. foreign assistance program in Latin America, making Colombia the fourth largest recipient of U.S. aid.

What these policies and programs seem not to have done is to reduce either the American or the global drug problems. That is not the consequence of badly designed programs or administrative incompetence, though both are frequently found. Rather, it’s a result of the fact that international programs like eradication or interdiction simply cannot make much of a

²⁴ This section is adapted from Reuter (2009) “Do no harm: sensible goals for international drug policy” *The American Interest* IV(4) 46-52

difference because they aim at the wrong part of the drug problem: production and trafficking in source countries. The right part of the problem to aim at is demand in importing countries, including our own. But, of course, that is difficult and uncertain task, and even successful programs take a long time to have much effect.

It would not be wise to close up shop altogether. After all, there are some connections between the illicit drug trade and terrorist financing which Americans would be foolish to ignore and there may occasionally be promising opportunities to help specific countries. But we should adopt more limited, common sense goals for U.S. international drug policy, and when other U.S. interests conflict with drug control objectives in source countries, we should be more willing to defer to those other interests. Since heroin and cocaine dominate global concerns, let's focus of those drugs, and not drugs like marijuana, which are primarily domestic.²⁵

Cutting Drug Exports

The United States has pushed three types of programs to cut source country production: eradication, alternative development and in-country enforcement. Eradication, usually involving aerial spraying, aims literally to limit the quantity of the drug available in the United States, raise the costs of those drugs, or otherwise discourage farmers from producing them. Alternative development is the soft version of the same basic idea. It encourages farmers growing coca or poppies to switch to legitimate crops by increasing earnings from these other products—for example, by introducing new and more productive strains of traditional crops, better transportation to get the crops to market or some form of marketing scheme. Finally, the United States pushes other countries to pursue traffickers and refiners more vigorously. None of the three has worked all that well.

Few countries are willing to allow aerial eradication, which may cause environmental damage. It is also politically unattractive because it targets peasant farmers, who are among the poorest citizens even when growing coca or poppy. Colombia and Mexico, neither one traditional producers of drugs, have been the producer countries most willing to allow spraying. Most others allow only manual eradication, a slow and cumbersome method.

²⁵ This analysis draws heavily on Paoli, L., Greenfield, V. and P. Reuter (2009) *The World Heroin Market: Can Supply be Cut?* Oxford University Press

The fundamental problem of source-country interventions aimed at producers of coca and poppy is easily described. These programs have always had a peculiar glamour and occupy a large share of the headlines about drug policy. But the fact that the actual production costs of coca or opium account for a trivial share of the retail price of cocaine or heroin dooms source-country intervenes as ways of controlling the problem.

It costs approximately \$300 to purchase enough coca leaves needed to produce a kilogram of cocaine, which retails for about \$100,000 in the United States when sold in one-gram, two-thirds pure units for \$70 per unit. The modest share of the agricultural costs associated with cocaine production is easily explained: Production involves cheap land and labor in poor countries, and it requires no expensive specialized inputs. (Even Bolivia, the smallest of the three producer countries, has more than 500,000 square miles of territory—much of it opaque to surveillance.) Assume that eradication efforts lead to a doubling of the price of coca leaf, so that cocaine refiners now must pay \$600 for enough leaf to produce one kilogram of cocaine. Assuming the doubled cost is passed along, the change in retail price will still be negligible. Indeed, leaf prices have varied enormously over the past decade, while the retail price of cocaine has fallen almost throughout the same period. If retail prices do not rise, then total consumption in the United States will not decline as a consequence of eradication. In this scenario, there will be no reduction in total production—just more land torn up in more places to plant an environmentally damaging crop.

There is, of course, a less harsh option for policy in the source country: alternative development. Offer the farmers the opportunity to earn more money growing pineapples than coca, and they will move to the legal crop, the argument goes.

Quite aside from the time and money it takes to implement a successful market-alternative crop program, the argument, alas, is subject to the same economic illogic as that for eradication. It assumes that the price of coca leaf will not increase enough to tempt the peasants back to coca growing. But as long as the price of leaf is so small compared to the street price of cocaine in Chicago, refiners will offer a high enough price to get back the land and labor needed to meet the needs of the cocaine market. Indeed, the prospects for alternative development are even bleaker because development takes time, time that allows other source regions to come on line. There has never been a documented case in which alternative development in source countries has had a demonstrated effect on drug use in downstream consumer countries such as

the U.S. To be sure, peasants will be better off than before the alternative development, but only because they will make more money growing coca. Mexican peasants are substantially better off than those in Bolivia, but that has not kept them out of the drug production business. Indeed, the same can be said for some Appalachian farmers, who play a role in the marijuana trade in the United States.

Three Countries, Three Problems

For the United States the international drug problem is dominated by three countries: Afghanistan, Colombia and Mexico. Each presents a different problem, both to the United States and to the producing country. But all three show why the elimination/interdiction approach to source country supply doesn't work.

Afghanistan is a special case because it is an important source country, but not for the U.S. The international heroin market is currently hemispheric, not global. The vast majority of heroin consumed now in the U.S. comes from Western Hemispheric sources. The U.S. is interested in Afghan drug production only because the U.S. has taken an interest in drug issues throughout the world, even if they have minor effects on U.S. drug use, and because drug trafficking in Afghanistan is intimately intertwined with terrorism. Most drug traffickers around the world are best thought of as ideologically neutral businessmen. However, the much invoked specter of narco-terrorism really does apply in Afghanistan.

The United States is trying to create an effective democratic state in Afghanistan. Despite the presence of 60,000 NATO and U.S. troops, Afghanistan's output of opium has increased massively over the seven years since the Taliban fell.²⁶ That has provided important funding for both the Taliban and al-Qaeda and for warlords independent of the central government. It has also worsened the country's deep-seated corruption. As revealed in a surprising *New York Times* magazine article by the former coordinator of U.S. counter-narcotics efforts in Afghanistan²⁷, there was much conflict within the Bush Administration about pursuing aggressive counter-narcotics efforts. Insiders argued over whether these efforts were needed to establish a strong state or, on the contrary, whether they would threaten the very existence of the Karzai government.

²⁶ Estimates of opium production in 1996 and 2007 showed extremely large increases from 2002-2005 levels. These are implausible. See Reuter, P. and F. Trautmann (2009) Assessing the Operations of the Global Illicit Drug Markets European Commission

²⁷ Thomas Schweich, "Is Afghanistan a Narco-State?" *New York Times Magazine*, July 27, 2008.

The drug hawks have usually won the rhetorical battles, but they have lost the programmatic wars. In October 2008, Defense Secretary Gates declared that the U.S. military will go after traffickers and warlords, but will not eradicate poppy fields. Given the relative invisibility of trafficking, this is effectively a truce. But better a truce than a “war” against poppies that cannot be won and would be counterproductive politically if it were won.

The recent announcement that U.S. troops will pursue opium growers if their activity is supporting the Taliban represents a major change in approach.²⁸ While not claiming great expertise about the ground realities, such as the availability of accurate intelligence on the relationship between a particular grower and the Taliban, we are skeptical that this can be effectively implemented. It is likely to be yet another in the string of announcements of tough policies that have led to minimal intervention. However, if the effect is to displace production and trafficking from parts of Afghanistan where it generates revenues for the Taliban and moves it to other places not controlled by opponents of the Afghanistan government, it may be a sensible move – one with no appreciable effect on drug-related outcomes in the U.S. but with collateral benefits for other U.S. interests.

Colombia, unlike Afghanistan, is a principal producer of drugs for the United States, most prominently cocaine but also heroin. The United States has tried to strengthen a Colombian government long beleaguered by guerilla conflict, and in this it has succeeded reasonably well.²⁹ To the extent that the primary goal of assistance has been to reduce the flow of Colombian-produced cocaine into the United States, the policy has largely failed. To the extent that the real objective is to help a friend that has been harmed by U.S. demand for drugs, there are grounds for greater optimism.

Mexico, occasionally described as a natural smuggling platform, has been the principal drug transshipment country into the United States for almost two decades. The bulk of America’s imports of cocaine, heroin, marijuana and methamphetamine all come through Mexico. Mexico’s domestic drug consumption, while growing, has traditionally been far below that of many other producer and transshipment countries.

²⁸ Filkins, Dexter. “Poppies a Target in Fight Against Taliban.” New York Times, April 29, 2009
http://www.nytimes.com/2009/04/29/world/asia/29afghan.html?_r=1

²⁹ For a balanced assessment see GAO Plan Colombia Drug Reduction Goals Were Not Fully Met, but Security Has Improved; U.S. Agencies(2008) s Need More Detailed Plans for Reducing Assistance[GAO-09-71]

In the past two years the level of violence associated with the U.S.-destined drug trade has skyrocketed. Over 5,000 people were killed in drug-related violence in 2008; that included systematic terror killings of innocent individuals, honest police and reporters. This has happened partly because of changes in the trade itself and partly as a consequence of government efforts to control the violence. The new U.S. program to help Mexico—\$400 million for training police and military—may ostensibly be aimed at cutting down the flow of drugs to the United States, but such low levels of funding are not likely to achieve much. The money is more properly viewed as reparations: Mexico is suffering from the consequences of our continued appetite for illegal drugs, so the United States has an obligation to help ameliorate those problems regardless of whether it cuts U.S. drug imports.

Strategic Consequences of the Balloon Effect

There is almost universal skepticism that international efforts by rich countries can reduce global production of cocaine and heroin. But efforts to curb production in specific places have had some effect. We noted that targeting Bolivian and Peruvian smuggling into Colombia helped make Colombia the dominant producer of coca. The Chinese government since about 1998 has pushed the United States Army to successfully (and brutally) cut Burma's production of heroin.³⁰ Spraying in Mexico in the 1970s shifted opium production from a five-state region in the north to a much more dispersed set of states around the country.

Interdiction can also affect the routing of the trade. In the early 1980s then-Vice President George H.W. Bush led the South Florida Task Force that successfully reduced smuggling through the Caribbean. The traffic then shifted to Mexico but the effort did help several Caribbean governments. Similarly, more heroin may now be flowing through Pakistan because the Iranian government has intensified its border control.

In recent years this kind of interaction has been most conspicuous with respect to cocaine trafficking. The Netherlands Antilles is conveniently located for Colombian traffickers shipping to Europe, as there are many direct flights from Curaçao to Amsterdam's Schiphol airport, one of the busiest in Europe. In response to evidence of growing cocaine trafficking to Amsterdam, the Dutch government implemented a 100 percent search policy for airline passengers in Curaçao in

³⁰ Fuller, Thomas. "Notorious Golden Triangle Loses Sway in the Opium Trade." Transnational Institute. http://www.tni.org/detail_page.phtml?act_id=17315

March 2004.³¹ Whereas cocaine seizures in the Netherlands Antilles had not exceeded 1.3 tons before 2003, in 2004 they reached nine tons, a remarkable figure for a jurisdiction with fewer than 200,000 inhabitants. (The United States seizes only about 150 tons per year.) Shipments through Schiphol airport have since fallen sharply.

As a consequence, new trafficking routes have probably opened up from South America to Europe via West Africa. For example, Guinea-Bissau is impoverished and small, it has no military or police capacity to deal with smugglers, and its government is easily corrupted. Smugglers have begun using landing strips there for large shipments. In 2007, there was one seizure of three quarters of a ton, and it is believed that an even larger quantity from that shipment made it out of the country.³²

Ghana, a larger nation but one with fragile institutions, has also seen a sudden influx of cocaine traffickers. In 2005, flights from Accra accounted for more seized cocaine at London's Heathrow airport than flights from any other city. There are now regular reports of multi-kilo seizures of the drug either in Ghana itself or at airports receiving flights from Ghana.

Assuming that Ghana and Guinea-Bissau are serving as trafficking nations at least in part because of the effective crackdown on an existing route through Curaçao, is the world better off? Certainly the Netherlands has helped itself. One can hardly be critical of a country making a strong effort to minimize its involvement in the drug trade. However, one can reasonably ask whether, in making these decisions, the Netherlands should take into account the likely effects of their actions on other, more vulnerable countries.

Awkward Choices

International drug policy will not be high on the Obama Administration's list of priorities, given that the U.S. drug problem itself is gradually declining. It has indeed not been a major issue for the Bush Administration. Congress was fairly passive on the issue during the Bush Administration, but those members who have been vocal have all been drug hawks, passionately arguing that this nation has a moral obligation to fight one of the great scourges of modern times on a worldwide scale. The public is apparently indifferent, seeing the drug problem as one for which every measure (tough enforcement, prevention or more treatment slots)

³¹ United Nations Office on Drugs and Crime and World Bank, *Crime, Violence, and Development: Trends, Costs, and Policy Options in the Caribbean* (2007).

³² Kevin Sullivan, "Route of Evil: How a Tiny West African Nation Became a Key Smuggling Hub For Colombian Cocaine, and the Price It Is Paying", *Washington Post*, May 25, 2008.

is fairly hopeless. This, in turn, has not encouraged liberal members of Congress to take on the issue.

Drug policy is one of many areas of international policy in which the Obama Administration would benefit from adopting a more humble attitude. The arrogance with which United States delegations at the annual Commission on Narcotic Drugs lecture the rest of the world would be laughable if it weren't for the fact that many nations are still cowed by the sheer scale of U.S. efforts. There is no evidence that the United States knows how to help reduce the world's drug problems or the ease with which cocaine, heroin and methamphetamine are procured and trafficked. Moreover, the harm that some of our interventions cause is more apparent than their benefits. For example, spraying coca fields in Colombia clearly has adverse environmental consequences if only because it spreads production further, and it also probably sharpens conflict between the Colombian government and its citizens. Pressing the Karzai government to spray poppy fields increases tensions with our allies. Our attack on drug policy initiatives in other countries exacerbates the U.S. reputation for bullying and disinterestedness in true multilateral collaboration. A less aggressive and more collaborative approach will help the U.S. foreign policy in many respects.

Concluding Comments

This testimony only covers some of the major issues facing the incoming Director of ONDCP. On the demand side raising both the availability and quality of treatment for drug dependence is clearly a first order priority. Finding better ways of funding effective prevention programs so that less is spent on programs that are known to be ineffective is also important. These are long-term priorities.

In the shorter run, cutting unnecessary incarceration and ensuring that US efforts overseas are more sensibly focused are both well worth the Director's attention. Helping push federal policy in these areas would benefit not only the nation but also the standing of the Office of National Drug Control Policy.