

**GOAL NUMBER TWO:
REDUCE THE HARM
CAUSED BY THE “WAR ON DRUGS”**

OBJECTIVE: REDUCE CRIME AND VIOLENCE ASSOCIATED WITH THE DRUG WAR.

Rationale: Violence itself can be successfully dealt with as a public health problem. It is important to consider the fact that most “drug-related” violence is actually *drug trade* related. In an analysis of New York City’s homicides in 1988, Paul Goldstein and his colleagues concluded that 74 percent of drug-related homicides were related to the black market drug trade and not drug use. For instance, the leading crack-related homicide cause was shown to be territorial disputes between rival dealers, and not crack-induced violence or violence (predatory thieving) to obtain money for crack purchases.ⁱ

As reported in the *Journal of the American Medical Association*, the nationwide emphasis on arresting drug dealers may have produced a labor shortage, which contributed to the high mortality rate of the 1980s. “Every time you jail a drug dealer, you open up a new opportunity for an enterprising young man. What does he do to compete for this job? He kills for it.”ⁱⁱ The chart shown above illustrates the homicide rate in the United States for the 20th Century. Note that this century’s two most violent episodes are concurrent with stringent prohibition policies.

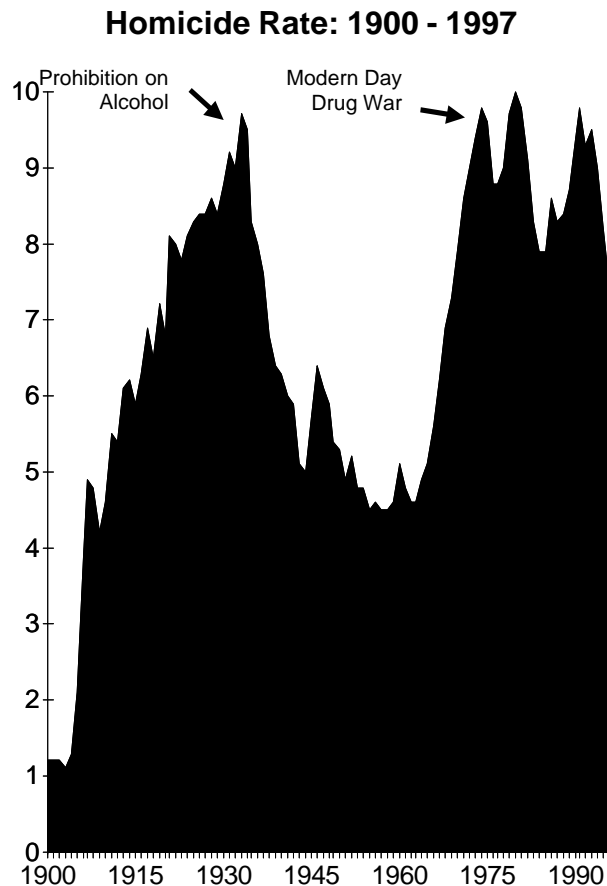


Figure 13 Source: FBI, Uniform Crime Reports, US Census Bureau

In a 1998 study on the social costs of alcohol and illegal drugs produced by the National Institute on Drug Abuse (NIDA), researchers estimated that illegal drugs cost our society \$98 billion in 1992 (the most recent year that statistics were available).

Approximately 60% of societal drug costs were due to drug-related crime and the black market. These included police, legal and incarceration costs, lost productivity of incarcerated criminals and victims of crimes, as well as the lost productivity due to drug-related crime careers. In fact, the researchers said that the rising societal costs of drug use “can be explained by the emergence of the cocaine and HIV epidemics, an eight-fold increase in State and Federal incarcerations for drug arrests and about a three-fold increase in crimes attributed to drugs.” Less than 30% of the costs were due to the actual biological effects of drug use – that is, drug-related illness or death. Moreover, this number probably includes a number of prohibition-related costs as well, since the prohibition on needle possession is a leading factor in the spread of HIV and Hepatitis C. This contrasts sharply with alcohol, where 2/3 of the costs were directly due to alcohol related illness and death. Overall, this study and figure illustrated below show that *our failing War on Drugs actually creates the majority of costs our communities pay when considering illegal drugs.*

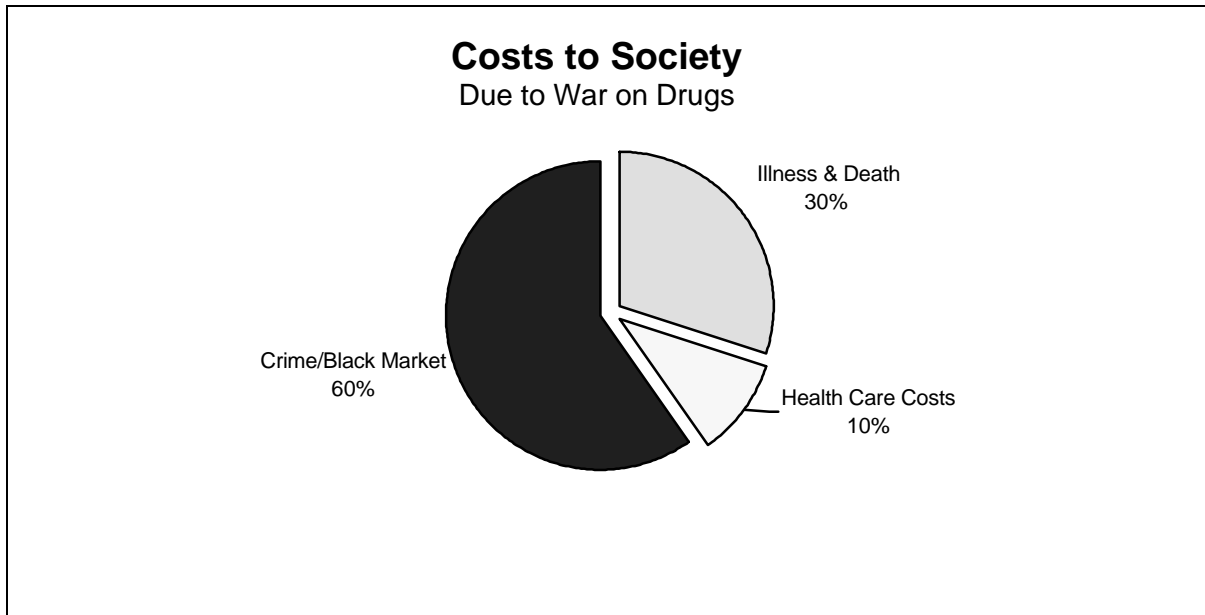


Figure 14 Source: National Institute on Drug Abuse. (1998). *Economic Costs of Alcohol and Drug Abuse in the United States, 1992*. Washington, DC: National Institutes of Health.

In light of these facts, the researchers did not call for a new offensive in the War on Drugs, new resources for the police, or new laws to put people in jail for longer sentences. Instead, NIDA director Dr. Alan Leshner said, “The rising costs from these and other drug-related public health issues warrant a strong, consistent and continuous investment in research on prevention and treatment.”ⁱⁱⁱ From these facts, we know that the War on Drugs has created violence, addiction, and crime where once there was only addiction. Today, the cost of drug-related crime and violence actually exceeds the cost of drug use itself. This cycle could be broken by providing sufficient resources for treatment. Simply put, the policy of waging war on the sick and addicted has failed, while treatment and prevention are still waiting to be implemented in any meaningful way.

Recommendation 1: Commission a study on the relationship between drugs, alcohol and violence.

A recent study by the National Center on Addiction and Substance Abuse at Columbia University (CASA), entitled *Behind Bars: Substance Abuse and America’s Prison Population*, indicates that only 3% of violent criminals in state prisons were under the influence of crack or powder cocaine at the time their crime was committed, and only 1% were under the influence of heroin. In jails, *none* of the violent criminals was under the influence of heroin at the time their crime was committed. These facts indicate that our policy makers need to become more sophisticated in their approach to crime and violence, if we are ever to see a meaningful reduction in these social ills.

FACT: *Twenty-one percent of state inmates incarcerated for violent crime were under the influence of alcohol alone at the time they committed their crime. Only 3% of violent criminals were under the influence of powder or crack cocaine alone, and only 1% were under the influence of heroin alone. The number of those under the influence of marijuana alone was too small to be recorded statistically.*

SOURCE: National Center on Addiction and Substance Abuse at Columbia University (CASA). (1998, January). *Behind Bars: Substance Abuse and America’s Prison Population*. NY: Columbia University.

Currently, many policy makers operate under the assumption that drug use causes violence. If this is the case, it needs to be documented and understood, and not just assumed. On the other hand, many public health and criminal justice experts feel that most “drug-related” violence is actually a by-product of a black market and the types of people who engage in narcotics trafficking. According to members of the Panel on the Understanding and Control of Violent Behavior for the National Academy of Sciences, “Most of the violence associated with cocaine and narcotic drugs results from the business of supplying, dealing and acquiring these substances, not from the direct neurobiologic actions of these drugs.”^{iv} Policy makers must focus their efforts on reducing the violence associated with the drug trade, not simply locking up non-violent offenders to increase arrest statistics.

OBJECTIVE: MAKE CRIMINAL PENALTIES FIT THE SEVERITY OF THE CRIME

Rationale: The Sentencing Reform Act of 1984^v radically changed sentencing in drug cases. The new law required judges to sentence individuals based on mandatory guidelines, eliminating most judicial discretion. Congress enacted mandatory sentencing statutes as part of the Omnibus Drug Control Act of 1986.^{vi} Federal judges have strongly opposed mandatory sentencing as have many other law enforcement experts. In fact, every judicial circuit, as well as the Criminal Law Committee of the Judicial Conference and the Federal Courts Study Commission have opposed mandatory minimum sentencing.

Offense	Months
Drug Trafficking	82.3
Sexual Abuse	73.3
Assault	38.8
Manslaughter	34.2
Bribery	22.9

Figure 15 Source: United States Sentencing Commission. *1997 Sourcebook of Federal Sentencing Statistics*. Table 14, pg. 30.

The combination of stringent guidelines and mandatory sentencing along with similar harsh sentencing penalties adopted by most states has produced a burgeoning rate of incarceration in the United States. Prisons should be a solution of last resort. Addiction is a disease, and no disease, whether it is cancer or addiction, is effectively treated by incarceration. Moreover, our nation’s addiction to prison building has contributed to declines in education spending in many states and undermines the global competitiveness of our country.

Recommendation 1: End mandatory minimum sentencing (statutory and guideline).^{vii}

Although few anticipated the outcome when these laws were being drafted, mandatory minimum sentencing has had an extremely negative impact on American society and has failed to meet its objectives. It is time to restore the traditional authority of judges to determine sentences on a case-by-case basis, so that punishments fit the crime. Consider the following facts:

- The United States is now the operator of the largest prison system on the planet.^{viii}
- The Federal Bureau of Prisons budget has had to increase by 1,400% from 1983 to 1997.^{ix}
- It costs nearly \$9 billion per year to keep drug law violators behind bars,^x yet 55% of all Federal drug defendants are classified as low-level offenders, such as mules or street dealers. Only 11% are classified as high-level dealers.^{xi}

Combined, these facts tell us that mandatory minimum sentencing has forced us to build many new prisons to house low-level and non-violent offenders for extremely long periods of time. According to the Federal Bureau of Prisons, the

sentence for the average drug offender is 2.5 times that of the average assault sentence. Ironically, even building new prisons to hold drug offenders for an average of 82.3 months does not provide enough prison space because new prisons are being built all the time. Considering the fact that 24 million Americans used illegal drugs in the past year, it is hard to see how increased incarceration has done anything to stop drug use in America.^{xii} Moreover, the Department of Justice has acknowledged that, “the amount of time inmates serve in prison does not increase or decrease the likelihood of recidivism.”^{xiii}

Unfortunately, mandatory minimum sentencing has been largely a failure at apprehending and holding high-level drug dealers.^{xiv} By removing a judge’s discretion from considering the actions of a drug defendant during the sentencing phase of a case, prosecutors have been handed incredible power. By deciding how much of a drug to charge to a particular defendant, prosecutors can essentially determine what their sentence will be.^{xv} Since prosecutors are empowered to reduce sentences for “cooperation,” high level dealers with information to trade receive reduced sentences, while low-level participants with no information to trade often receive the harshest penalties. Another problem with the prosecutors power to force witnesses to cooperate is the expansion of false testimony^{xvi} in drug cases and the abuse of conspiracy laws – which allow lengthy mandatory sentences based on the testimony of one witness who claims the defendant was part of a drug conspiracy.^{xvii} Clearly such a system which gives leniency to major drug dealers and gives low level offenders longer terms than more culpable parties must be eliminated immediately. Some senior Federal judges have refused to take drug cases because they do not want to be

<p>PARTIAL LIST OF GROUPS OPPOSED TO MANDATORY MINIMUM SENTENCING:</p> <p>National Association of Veteran Police Officers Federal Courts Study Commission The American Bar Association 1st Judiciary Circuit Court of Appeals 2nd Judiciary Circuit Court of Appeals 3rd Judiciary Circuit Court of Appeals 4th Judiciary Circuit Court of Appeals 5th Judiciary Circuit Court of Appeals 6th Judiciary Circuit Court of Appeals 7th Judiciary Circuit Court of Appeals 8th Judiciary Circuit Court of Appeals 9th Judiciary Circuit Court of Appeals 10th Judiciary Circuit Court of Appeals 11th Judiciary Circuit Court of Appeals DC Judiciary Circuit Court of Appeals American Civil Liberties Union National Association of Criminal Defense Lawyers Human Rights Watch The Cato Institute The Sentencing Project National Center on Addiction and Substance Abuse National Council on Crime and Delinquency National Center on Institutions and Alternatives</p>
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Figure 16

<p>FACT: “A black male in the United States today has a greater than 1 in 4 chance of going to prison during his lifetime, while a Hispanic male has a 1 in 6 chance of going to prison during his lifetime, and a white male has a 1 in 23 chance of serving time.”</p> <p>SOURCE: US Department of Justice, Bureau of Justice Statistics. <i>Lifetime Likelihood of Going to State or Federal Prison</i>. (1997, March). Washington, DC: Government Printing Office.</p>
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part of a process which they feel is unjust. Restoring the power to punish to judges will restore integrity to the system.

Recommendation 2: Alter sentencing guidelines so judges have more room to maneuver within Guideline boxes and make the Guidelines advisory, rather than mandatory. Guidelines should also encourage greater reliance on role in the offense as a factor that mitigates or aggravates a sentence.

As a result of mandatory sentencing guidelines, judges have too little discretion. By implementing the above recommendation, judges will benefit from the guidance of knowing what is expected in an ordinary case, but they will not be confined too tightly in unusual cases. Reducing the stakes of the calculation will also relieve other problems like ‘charge bargaining’ and congested appeals because more appropriate sentences will be passed. If our legal system can distinguish between different types of homicide defendants, then at the very least, drug defendants should be accorded the same consideration.

Recommendation 3: Allow judges to determine whether a drug prosecution is handled more appropriately by state, local or federal courts.

The federal government has developed a national criminal code that results in many cases being handled by federal courts which should be handled by local courts. With regard to drug prosecution, the power of federal prosecutors has been so greatly increased that prosecutors play a larger role in administering justice than judges in drug cases.^{xviii} Federal judges can be given some control over justice in drug cases by giving them the authority to issue a pretrial ruling that allows them to remand a case to the local courts. Judges can weigh whether the offenses charged are more locally based, whether local courts are better able to evaluate the circumstances of an individual defendant or whether a local drug court (which do not exist in the federal courts) would more appropriate for the offender. As an alternative, the Department of Justice could develop guidelines which reduce the number of inappropriate prosecutions they undertake.

QUOTE: “The trend to federalize crimes that traditionally have been handled in state courts... threatens to change entirely the nature of our federal system.”

SOURCE: Chief Justice of the US Supreme Court, William H. Rehnquist. “Rehnquist: Too Many Offenses are Becoming Federal Crimes.” *The Washington Post*. (1999, January 1).

Recommendation 4: Cease the costly and ineffective targeting of marijuana possession cases.

The most recent FBI Uniform Crime Reports indicate that there were 695,201 marijuana arrests in 1997, which is about a 100% increase since 1991. Eighty-seven percent (87%) of these arrests were simply for possession of marijuana. Since the vast majority of arrests are for possession, there is clear evidence that these cases consume a disproportionate share of law enforcement resources that could otherwise be devoted to fighting property and violent crimes. *According to the same FBI data, nearly as many people were arrested for marijuana offenses as were arrested for murder, rape, robbery, and aggravated assault combined.*

In the November 1998 elections, Arizona and Oregon voters registered their support for

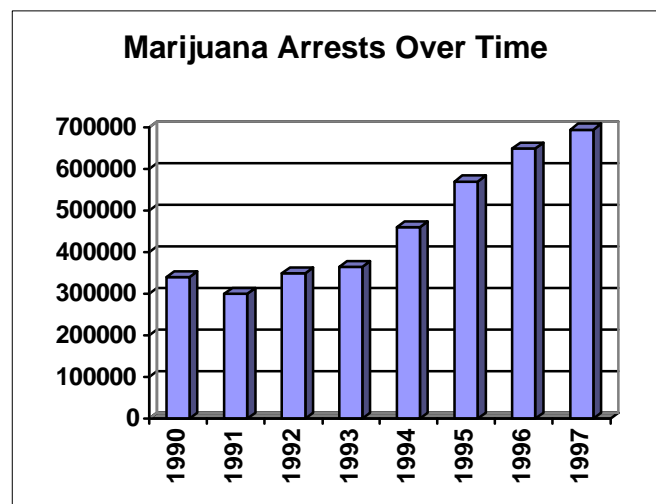


Figure 17 Source: FBI, *Uniform Crime Reports*, 1990-1997. Washington, DC.

fundamental change in our approach to drug policy by: 1) rejecting a measure to recriminalize marijuana possession (67% of voters in Oregon opposed making marijuana possession a criminal offense); 2) enacting a ballot initiative that removes criminal penalties for possession of any drug and substituting treatment in its place (51.7% of voters in Arizona opposed using incarceration even for repeat offenders of any drug offense). The FBI data indicate that small possession cases receive too much law enforcement resources and there is growing evidence of voter disenchantment with those policies. Therefore, law enforcement agencies should cease the costly and ineffective practice of targeting possession cases and local governments ought to develop alternatives to arrest, prosecution and incarceration of people who possess small quantities of drugs.

OBJECTIVE: END THE RACIAL BIAS IN DRUG LAWS

Rationale: Current laws regarding mandatory minimum sentencing contain documented biases against minority groups at each stage in the criminal justice process – arrest, prosecution and sentencing. The negative impacts of these laws have had a devastating effect on black and Latino populations and must be changed.^{xix} Figure 18 shows how the racial bias in drug laws has affected the black and Latino populations.

Recommendation 1: End the disparity between crack and powder cocaine sentencing.^{xx}

The sentencing disparity between crack and powder cocaine has wreaked havoc on minority communities. First, the powder form of cocaine that is preferred by wealthier, usually white consumers, requires 100 times as much weight to trigger the same penalty as the crack form. These stiff penalties apply to the mere possession of crack, unlike any other drug which requires an intent to distribute.^{xxi} As an initial step to address this blatant inequity, the penalties for these two forms of the same drug should be harmonized at the current levels for powder cocaine.

In 1986, before mandatory minimums instituted the crack/powder sentencing disparity, the average sentence for blacks was 6% longer than the average sentence for whites. Four years later following the implementation of this law, the average sentence was 93% higher for blacks.^{xxii} Furthermore, this overly harsh approach

FACT: Only 11% of the nation's drug users are black, however African-Americans constitute almost 37% of those arrested for drug violations, over 42% of those in federal prisons for drug violations, and almost 60% of those in state prisons for drug felonies.

SOURCE: SAMHSA. (1997). *National Household Survey on Drug Abuse: Population Estimates 1996*, p. 19, Table 2D; Bureau of Justice Statistics, (1997). *Sourcebook of Criminal Justice Statistics 1996*. Tables 4.10, and 6.36; BJS. (1997). *Prisoners in 1996*. Table 13.

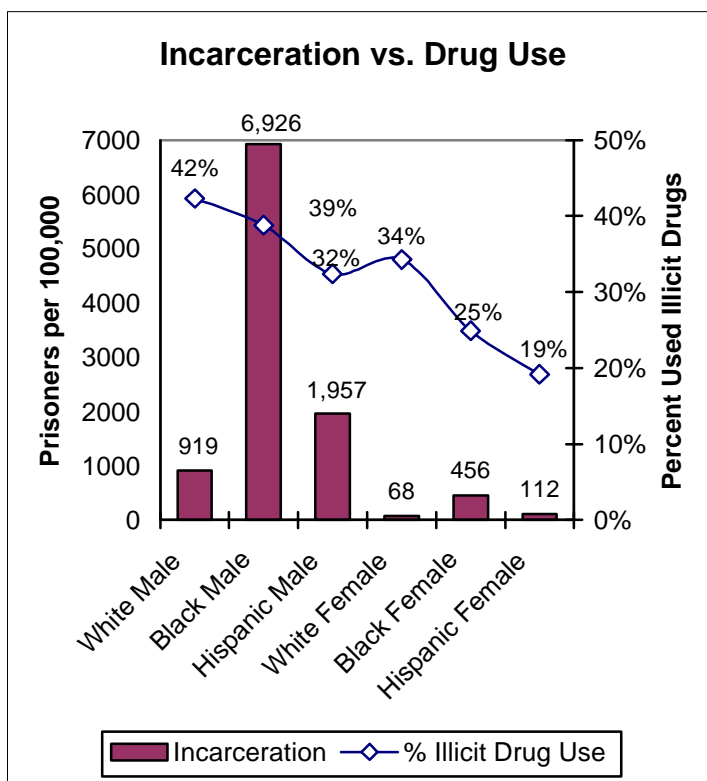


Figure 18 The figure shown above illustrates that Blacks and Hispanics use less drugs, yet have significantly higher rates of incarceration than whites.

Sources: SAMHSA: *National Household Survey on Drug Abuse: Population Estimates 1997*; Bureau of Justice Statistics. (1998). *Sourcebook of Criminal Justice Statistics 1997*; *Estimates for Hispanics do not include the number of Hispanic men and women in local jails. Data on Hispanic incarceration provided by Bureau of Justice Statistics. (1997 March). *Lifetime Likelihood Going to State or Federal Prison*. 7

encourages drug dealers to enlist young children in their trade in an effort to escape prosecution. The chart above illustrates how blacks and Latinos have been imprisoned disproportionately when compared to other racial groups.

Today, one in four black men can expect to be incarcerated in his lifetime.^{xxiii} This widespread incarceration of black males has increased the burdens on the African-American family unit and the entire community. Our drug laws should not fall disproportionately on one ethnic group. This disparity undermines efforts to stabilize communities and reduce the impact of drug use and abuse.

Recommendation 2: Stop targeting black and Latino communities for needle possession arrests.

The policy of denying sterile needles to persons who inject drugs arose a number of years ago, in the pre-HIV/AIDS era. No research has ever shown that making needle possession illegal was effective in reducing drug consumption. But it was effective at making sterile needles scarce and in encouraging persons who injected drugs to share their needles and thus their blood-borne diseases.

With the arrival of HIV/AIDS, we had an ineffective policy of drug control (criminalization of sterile needle possession) become a major factor in the spread of a deadly epidemic. In states where mere possession of a syringe is a crime, the person who carries his or her own safe needles risks arrest at all times.

Race is a factor in the problem of inadequate access to clean needles because black and Latino communities have been particularly targeted for drug enforcement efforts. In 1994, there were 166,000 arrests for possession of heroin and cocaine among whites and 153,000 arrests for possession of heroin and cocaine among blacks. Among people who inject drugs, African-Americans are four times as likely as whites to be arrested for possession of heroin and cocaine.^{xxiv}

Since possession arrests for blacks and Latinos are higher, this means that police are more likely to confiscate the personal needles of non-whites. And because the non-white users know (correctly) that they are vulnerable to arrest, the black and Latino drug users are likely to “voluntarily” get rid of their own clean needles to avoid arrest. The end result of these types of policies, is that black and Latino people are nearly five times as likely to contract injection-related HIV, than to die from a drug overdose. Making needles scarce does not stop drug use; it simply spreads AIDS. The black and Latino communities are suffering greatly from this counter-productive policy.^{xxv}

OBJECTIVE: DO NOT UNDERMINE EDUCATION IN THE NAME OF THE “WAR ON DRUGS”

Rationale: Our nation’s continued reliance on increasing penalties for non-violent crimes has led to a prison building expansion so costly that it has forced states to curtail important investments in other areas. Most notably, the education of our youth has been significantly cut, in order to pay for prison building and incarcerating citizens. The figure shown at right graphically illustrates the dramatic changes in spending that have taken place at the state level from 1987 to 1995, showing that the United States has chosen to build prisons by cutting investments in education at all levels.

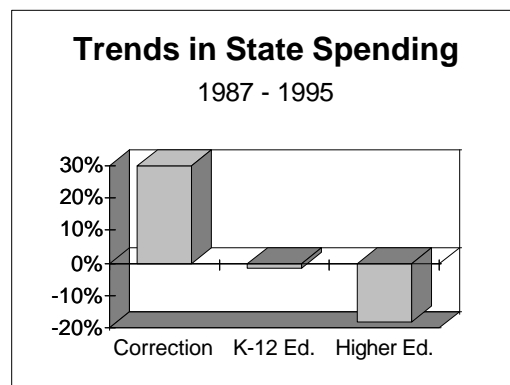


Figure 19 Source: National Association of State Budget Offices. (April 1996). *1995 State Expenditures Report*. Washington, DC.

Recommendation 1: State governments should not spend more on prisons than on education.

Our national investment in prisons has placed a great obstacle on our ability to educate our children. Throughout the 1990's, college tuition continues to rise faster than inflation.^{xxvi} States continue to favor investments in prisons over colleges.^{xxvii} From 1982 to 1993, employment of instructors at public colleges has risen 28.5%, while the number of correctional officers has increased by 129.33%.^{xxviii} Today, 50% of federal drug trafficking prisoners have not even graduated from high school, and only 3% have graduated from college.^{xxix} It is becoming increasingly clear that poorly educated and un-employable citizens are those who fill the prison beds.^{xxx}

Recommendation 2: Eliminate the ban on student loan guarantees to persons with a drug conviction.

In one of the most egregious and counter-productive moves yet, Congress wrote a law into the Higher Education Act of 1998 that denies student loan eligibility to those students who have been convicted of a drug offense. Even a first-time charge of simple possession of marijuana is enough to trigger a penalty. Penalties range from losing loans for a single year to a complete lifetime ban of federally guaranteed student loans for a person with 3 or more drug *possession* convictions. Considering the crucial role that education plays in the well being of our society, it is hard to understand how denying a college education to someone because of a past drug offense serves either the purpose of rehabilitation or producing well adjusted young adults. No other class of offender, including those convicted of rape or other violent offenses, faces similar restrictions on student loan eligibility.

According to the National Council of Higher Education, student loans continue to be the largest source of student aid, with approximately \$29 billion for the 1995-96 federal fiscal year provided to students to meet their post-secondary educational costs. The lion's share of this funding is devoted to low and middle income students.

Recent government statistics show that while African-Americans comprise only 13% of the nation's illicit drug users, they make up almost 37% of those arrested for drug violations, over 42% of those in federal prisons for drug violations, and almost 60% of those in state prisons for drug felonies.^{xxxi} The fact that minority groups are convicted for drug offenses at a much higher rate than whites, suggests that they will lose a disproportionate share of the student loans as well. This is especially troublesome at a time when affirmative action is being rolled back in many states.

Considering the fact that 54% of high school seniors admit to having used illicit drugs,^{xxxii} over time this law could have serious ramifications for the next generation of college seekers and the nation as whole. Denying a young person, or any person, the opportunity to get an education is irrational and should not be a part of our nation's drug control strategy.

OBJECTIVE: ALLOW DOCTORS & PATIENTS GREATER FREEDOM IN HEALTH DECISION MAKING TO MEET INDIVIDUAL NEEDS

Rationale: No policy to control drug use should be implemented at the expense of the sick, elderly and dying, and no person should be denied access to a potentially beneficial medication because someone else might use it improperly. Pain management and disease control should be based on respect for individual rights and science, not politics.

Recommendation 1: Transfer scheduling authority to the Department of Health and Human Services.

The Controlled Substance Act of 1970 created five schedules (or categories) for various drugs. The authority to schedule a drug resides with

the Drug Enforcement Administration. As a result, scheduling decisions are dominated by law enforcement interests rather than public health concerns. In order to give public health issues the proper role in the scheduling of drugs, this authority should be transferred to the Department of Health and Human Services, the only agency whose mandate is to manage public health issues.

Recommendation 2: Begin clinical trials of medically supervised drug maintenance therapy.

In one of the most dramatic success stories in modern addiction treatment, doctors in Switzerland have discovered that the provision of medically determined doses of heroin to heroin addicts significantly improves their health, lifestyle and reduces the amount of crime associated with drug use when they are permitted to leave the black market environment. The Swiss researchers concluded that:

- Both the number of criminal offenders and the number of offenses decreased by about 60% in the first six months of the program.
- Most illicit drug use, including cocaine, rapidly and markedly declined.
- The number of participants on unemployment benefits fell by more than half (from 44% to 20%).
- Participants' housing situation rapidly improved, ending homelessness among the patients.
- The physical health of participants improved.
- More than half of the patients who dropped out of the program did so in order to switch to another form of treatment, including abstinence.^{xxxiii}

The success of this program illustrates how deeply our current policies are failing to reduce most of the consequences of drug use in this country. In light of that failure, our country must be able to learn from the successes of other nations and experiment with techniques that might improve living conditions for everyone.

Recommendation 3: Allow doctors greater freedom in prescribing medications for pain control.^{xxxiv}

Partial List of Organizations Supporting Physicians Right to Recommend or Discuss Marijuana Therapy With Patients

American Medical Association (1997)
American Society of Addiction Medicine (1997)
Bay Area Physicians for Human Rights (1997)
Being Alive: People With HIV/AIDS Action Committee (1997)
California Academy of Family Physicians (1997)
California Medical Association (1997)
Gay and Lesbian Medical Association (1997)
Marin Medical Association (1997)
Multiple Sclerosis California Action Network (1996)
San Francisco Medical Society (1997)

Figure 20

As stated by ONDCP Director Barry McCaffrey, we are not doing enough to help the millions of Americans who suffer from chronic pain. The restrictions for prescribing Schedule 2 drugs like morphine are so strong, and the penalties so great, that doctors consistently under-prescribe pain medication to those who need it most. In 1998, Rep. Henry Hyde introduced the Lethal Drug Abuse Act of 1998, which would have given the Drug Enforcement Administration the power to revoke the prescription license of any doctor who intentionally prescribes a lethal dose of pain medication to a patient. Such a law can only have a chilling effect on the type of pain alleviation doctors will be willing to provide. Giving greater freedom to doctors will allow them to prescribe drugs that work to those in need.

QUOTE: *"The biggest issue here is pain management. You know: do we do an adequate job in American medicine? The answer is probably 'no.'"*
- Drug Czar Barry McCaffrey

SOURCE: Interview with Gen. Barry McCaffrey, *Talk of the Nation*, National Public Radio, Feb. 25, 1998.

Recommendation 4: Allow a broader distribution of opiate agonist chemotherapy (e.g. methadone, LAAM) and move oversight of such programs to the Center for Substance Abuse and Treatment.

Methadone is the safest, most effective and least costly method to treat heroin addiction, yet it remains a strictly controlled method of treatment. For every 10 heroin addicts in America, there are only one or two methadone treatment slots. We must expand opiate agonist treatment facilities so that every heroin addict can obtain treatment on demand.

Quote: *"Heroin addiction is a medical disorder that can be effectively treated in methadone treatment programs. The consensus panel strongly recommended expanding access to methadone treatment by eliminating excessive Federal and State regulations and increasing funding for methadone treatment."*

SOURCE: Mathias, Robert. (1997 November/December). "NIH Panel Calls for Expanded Methadone Treatment for Heroin Addiction." *NIDA Notes*. Vol. 12, No. 6.

Opiate agonist treatment and particularly methadone maintenance has many additional benefits, such as the reduction of criminal behavior. Studies show that arrests decline as patients no longer need to finance a costly heroin addiction. Methadone is a medication that stabilizes a dysfunctional neurological condition and produces no euphoric effects.^{xxxv} Methadone allows patients to stabilize their lives, restore relationships with their families, return to legitimate employment and contribute to their community as any other individual. In order to meet the need for opiate agonist treatment, doctors must be permitted to prescribe methadone and other pharmacotherapies like any other prescription drug. Opiate agonist treatment should also be administered in the prison systems and through a variety of delivery systems to give opiate addicts easy access to treatment. Opiate agonist treatment should be a valid medical procedure for public and private insurance and not limited to one treatment experience. Opiate addiction is a chronic relapsing medical condition and coverage for treatment should reflect this. Incarcerated opiate addicts and methadone patients who need to be withdrawn should receive adequate medical care; the only approved medication for opiate withdrawal is methadone.

However, since the medical condition of addiction is misunderstood, we recommend that some form of oversight be undertaken to protect patients from physicians who may decide they no longer want to treat them. Pain patients can also face a similar situation for a variety of reasons, such as when a clinician is afraid of DEA interference.

The oversight of methadone maintenance programs should be transferred from the Food and Drug Administration to the Center for Substance Abuse and Treatment (CSAT). CSAT's oversight should include the concepts of a new accreditation system that will be based on reduced regulations, treatment outcome and quality treatment. We urge that state regulatory agencies and programs review their policies which have been based on the dysfunctional patient rather than the stable patient to reflect this new accreditation system.

The oversight of methadone maintenance programs should be transferred from the Food and Drug Administration to the Center for Substance Abuse and Treatment (CSAT). CSAT's oversight should include the concepts of a new accreditation system that will be based on reduced regulations, treatment outcome and quality treatment. We urge that state regulatory agencies and programs review their policies which have been based on the dysfunctional patient rather than the stable patient to reflect this new accreditation system.

It is imperative that methadone patients and others participating in opiate agonist treatment be included in all levels of policy making with regard to treatment. Methadone patients have been excluded from policy decisions for too long. Finally the government should undertake a public relations campaign to destigmatize the users of illicit drugs and create a more caring environment for those desiring recovery.

Recommendation 5: Recognize the rights of states, doctors and patients to make their own decisions regarding the usefulness of medical marijuana.^{xxxvi}

Cancer and AIDS are horrific diseases that require inordinate amounts of strength and energy to overcome. In many cases, the harsh treatments required to combat the diseases kill patients long before the diseases ever do. A pervasive side-effect of treatment is intense nausea which prevents patients from obtaining the nourishment they need to fight the disease and endure treatment.

The medical efficacy of marijuana in combating this particular type of nausea has been so well documented that the federal government and pharmaceutical companies have developed a synthetic form of marijuana’s active ingredient, THC. However, the manufactured drug is not as effective in many cases because marijuana contains many other useful compounds that are not provided by synthetic THC, and nausea makes it difficult for patients to ingest pills.

Over 90 published reports have documented that marijuana has medical value in controlling nausea, stimulating appetite, controlling muscle spasms and preventing blindness from glaucoma. In recognition of the efficacy of medical marijuana, the *New England Journal of Medicine*, the American Bar Association, and the American Public Health Association (among dozens of others) have all endorsed medical access to marijuana. The DEA’s Chief Administrative Law Judge, Francis L. Young has ruled: “Marijuana, in its natural form, is one of the safest therapeutically active substances known. [The] provisions of the [Controlled Substances] Act permit and require the transfer of marijuana from Schedule I to Schedule II. It would be unreasonable, arbitrary and capricious for the DEA to continue to stand between those sufferers and the benefits of this substance.”^{xxxvii} In America today, patients face penalties of up to one year in prison for the possession of a single

- A Partial List of Organizations Supporting Access to Medical Marijuana**
- AIDS Action Council (1996)
 - AIDS Treatment News (1995)
 - Alaska Nurses Association (1998)
 - American Academy of Family Physicians (1995)
 - American Medical Student Association (1994)
 - American Public Health Association (1994)
 - American Society of Addiction Medicine (1997)
 - Being Alive: People with HIV/AIDS Action Committee (1996)
 - California Academy of Family Physicians (1994)
 - California Legislative Council for Older Americans (1993)
 - California Pharmacists Association (1997)
 - Colorado Nurses Association (1995)
 - Florida Medical Association (1997)
 - Kaiser Permanente (1997)
 - Life Extension Foundation (1997)
 - Lymphoma Foundation of America (1997)
 - National Nurses Society on Addictions (1995)
 - New England Journal of Medicine (1997)
 - New York State Nurses Association (1995)
 - North Carolina Nurses Association (1996)
 - Oakland City Council (1998)
 - San Francisco Mayor’s Summit on AIDS and HIV (1998)
 - Virginia Nurses Association (1994)
- Figure 21**

- A Partial List of Organizations Supporting “Legal Access to Marijuana Under a Physician’s Recommendation”**
- California Academy of Family Physicians (1996)
 - California Nurses Association (1995)
 - Los Angeles County AIDS Commission (1996)
 - Maine AIDS Alliance (1997)
 - National Association of People With AIDS (1992)
 - New Mexico Nurses Association (1997)
 - New York State Nurses Association (1995)
 - San Francisco Medical Society (1996)
- Figure 22**

dose of this medication.^{xxxviii} This approach to medical marijuana must be changed immediately, and seriously ill patients should never be punished for obtaining or using any drug with the earnest intent of treating their illness, provided that their activities are not directly threatening the safety or well-being of others.

Recommendation 6: End the *de facto* moratorium on medical marijuana research.

Now that voters in states representing one-fifth the US population have voted for medical marijuana, the federal government needs to take urgent action to resolve the medical marijuana debate. The votes in the states, as well as other state laws, provide the Food and Drug Administration with an opportunity to research medical marijuana on a large number of people. When research stopped FDA research on the drug was in the final phase before market approval. Funding should be provided to take the final research steps necessary to make marijuana available by prescription. Many organizations, such as the American Medical Association, the American Cancer Society, and the National Academy of Sciences support unimpeded research of medical marijuana. When it comes to medicine, we should be doing everything we can to help those who suffer from a serious illness, not outlawing important areas of research.

A Partial List of Organizations Supporting Medical Marijuana Research	
American Cancer Society (1997)	
American Medical Association (1997)	
American Public Health Association (1994)	
American Psychiatric Association (1997)	
American Society of Addiction Medicine (1997)	
California Medical Association (1997)	
California Society of Addiction Medicine (1997)	
Congress on Nursing Practice (1996)	
Federation of American Scientists (1994)	
Florida Medical Association (1997)	
Gay and Lesbian Medical Association (1995)	
Kaiser Permanente (1997)	
Lymphoma Foundation of America (1997)	
NIH Workshop on the Medical Utility of Marijuana (1997)	
NIH Ad Hoc Group of Experts Studying the Medical Utility	
National Nurses Society on Addictions (1996)	
San Francisco Medical Society (1996)	

Figure 23

Recommendation 7: Develop a distribution system for medical marijuana.

The current total ban on the use and distribution of medical marijuana forces thousands of critically ill patients to purchase their medication in dangerous black markets, where they are at risk of abuse by drug dealers. In order to prevent further harm to medical patients, and in light of the overwhelming public support for medical marijuana in every state that has had a vote on the issue, the federal government should develop a system of distribution for medical marijuana so that this medicine reaches patients in a safe and effective manner. Until the government can develop specific guidelines and regulations, it should allow states and local communities to work with medical marijuana providers, such as patient cooperatives, in order to ensure a safe and effective distribution system.

Approved Medical Marijuana Initiatives	
Alaska	58%
Arizona	57%
Colorado	60%*
California	56%
Nevada	59%
Oregon	55%
Washington	59%
Washington DC	69%*

* Based on exit poll data only. Medical marijuana has not become law in these two jurisdictions.

Figure 24

OBJECTIVE: PROMOTE HEALTH SERVICES FOR ALL WOMEN, NOT PROSECUTION OF PREGNANT WOMEN

Rationale: Concern about exposure of fetuses to drugs, particularly cocaine, has led to the prosecution of pregnant women for their drug use rather than the provision of treatment and health care services to women.^{xxxix} This punitive reaction does more harm than good. First, this policy incorrectly assumes that women have access to drug treatment services and control of their reproductive choices. A 1998 survey by the Child Welfare League of America found that although child welfare agencies report that parental substance abuse and poverty are the two top problems faced by their clients, less than one-third of agencies link women to drug treatment services, and only one in five link pregnant women to services.^{xi} The prevalence of domestic violence as well as economic and emotional dependence make it difficult or impossible for many women to negotiate the terms of their sexual lives.^{xli}

Second, the long-term impact of in-utero drug exposure on a child's physical and mental development is not established. It is clear that the drug effects cannot be separated from the negative outcomes from other risk factors, such as lack of prenatal care and poor nutrition. Research paid for by the National Institute on Drug Abuse (NIDA) and the Albert Einstein Medical Center in Philadelphia states, "Although numerous animal experiments and some human data show potent effects of cocaine on the central nervous system, we were unable to detect any difference in Performance, Verbal or Full Scale IQ scores between cocaine-exposed and control children at age 4 years."^{xlii} Moreover, we do know that research shows that the provision of quality prenatal care to heavy cocaine users has been shown to significantly improve fetal health and development.^{xliii} Criminalizing substance abuse during pregnancy discourages substance-using women from seeking prenatal care, drug treatment, and other social services that would ensure the health of both the woman and her fetus.

Third, poor women and women of color are more likely to be reported for drug use (even though the estimated number of white women abusing drugs is substantially greater than the number in other race/ethnicity groups), because of their more frequent reliance on public health clinics and because of stereotypes held by some health care professionals.^{xliv}

Legislators should promote a public health approach to substance abuse among women, including pregnant women. Doctors and other health professionals should be seen as allies of women. They should not be forced to betray a patient's trust by informing prosecutors and police of patient drug use.

Recommendation: Address the problem of drug abuse by women as a women's health issue not a criminal matter.

A public health approach requires universal availability of drug treatment for *all* women. This requires funding for treatment programs designed for women - including pregnant women and women with children. It requires an expansion of Medicaid coverage of drug treatment, including residential treatment, and other publicly-funded drug abuse prevention and treatment programs for low income women.^{xlv}

A public health approach also requires an expansion of drug treatment for incarcerated women. Between 1985 and 1996, female drug arrests increased by 95 percent. More than two-thirds of women in federal prisons are incarcerated for drug offenses and today approximately 130,000 women are behind bars in the U.S.^{xlvi} Mandatory minimum sentencing has increased the number of incarcerated women, most of whom leave children behind.

Proposals for mandatory universal testing for drugs and alcohol in pregnant and postpartum women and newborns should be rejected. Testing should be a medical decision between a doctor and patient, not

something mandated by law enforcement authorities. Testing of women and newborns should require a woman's voluntary and informed consent. Laws should provide that no pregnant woman or a parent of a newborn who tests positive for drugs will be subjected to criminal investigation or detention, nor should they be threatened with having their child taken away from them, solely on the basis of a drug test. Rather, testing should be part of a public health process of prenatal and parental counseling and linkages to health care and drug treatment services for women.

OBJECTIVE: ENCOURAGE “FAMILY VALUE-FRIENDLY” POLICIES AND FAMILY UNITY THROUGH TREATMENT AND SUPPORT SERVICES, NOT PUNITIVE RESPONSES

Rationale: According the U.S. Department of Health and Human Services, studies have found that 10-20 percent of welfare recipients have a substance abuse problem.^{xlvii} Experts acknowledge that substance abuse is widely under-reported.^{xlviii}

The 1996 federal welfare reform law (Temporary Assistance to Needy Families - TANF) denies welfare benefits to women convicted of a drug felony since August, 1996 and give states broad authority to drug test women on welfare. Ironically, women on welfare receive their health care through state Medicaid programs that provide little or no coverage of drug treatment services. At the same time, women on welfare must meet strict work requirements and time limits. Many women will not achieve the transition from welfare to work until the welfare system provides access to drug abuse treatment.

The GAO estimates that substance abuse is a key factor in at least three quarters of the foster care cases in the U.S.^{xlix} Women with alcohol and drug abuse problems should not be presumed to be unfit parents. Rather, public policy should help women keep their families together while accessing drug treatment. In fact, treatment outcome studies suggest that women who are allowed to have their children with them in residential programs are more successful than women who are separated from their children.¹

Recommendation 1: Repeal section 115 of the TANF and Food Stamps benefit programs, and reform welfare to help rather than penalize women struggling with drug abuse problems.

Congress should pass welfare reform that allows states to help women with felony records move toward healthy and productive lives through the TANF program. Currently, section 115 of the Welfare Reform Bill (also known as the Gramm Amendment) places a lifetime ban on TANF (Temporary Assistance for Needy Families) and Food Stamps benefits for convicted drug felons. Recently, the Justice Policy Institute issued an analysis^{li} of the impact of this provision. It concluded that this provision will:

- **Disproportionately impact women and minorities**, since women are the overwhelming majority of adult TANF recipients, and minorities systematically receive greater arrests and convictions for drug crimes. In California, the disparate impact is even more striking because single male drug felons can currently receive state General Assistance benefits, while mothers convicted of a drug felony cannot.^{lii}
- **Increase costs of state foster care**, since mothers with criminal records have difficulty in obtaining work and will be less likely to be able to provide children with a stable income and housing, many more children will wind up in foster care.
- **Increase costs to the criminal justice system**, because “without any support services for ex-drug offenders immediately after their release from prison, we can expect recidivism to sky rocket. That means more and more taxpayers dollars for law enforcement, the legal system and prisons, more property loss, and more victims.”^{liiii}

- **Decrease treatment opportunities**, since many residential treatment programs depend on welfare programs to help defray the cost of room and board.^{liv}
- **Increase harm to children**, since in addition to the financial loss of placing children in foster care, there is the huge emotional loss the children face by being separated from their mother and dropped in an overburdened foster care system.

In essence, states should not be allowed to tie welfare benefits (cash assistance, Medicaid, food stamps, or other aid) to drug convictions or involuntary submission to drug screening. Rather, Congress should fund welfare-to-work programs that provide drug treatment and services to women.

Furthermore, congress should pass a *specific* exemption to TANF work and time requirements for women with drug abuse problems, similar to the one granted female victims of domestic violence.

QUOTE: *“Denying welfare benefits to drug offenders will... take a disproportionate impact on African-Americans and Hispanics. Not only are members of these groups already over-represented among the ranks of the poor, but the government officials responsible for enforcing drug laws focus disproportionate attention on African-American and Hispanic communities... The combination of racial bias in law enforcement and poverty virtually guarantees that the weight of the Gramm Amendment will fall most heavily on African-Americans and Hispanics.”*

SOURCE: “Welfare Reform – Punishment of Drug Offenders – Congress Denies Assistance and Food Stamps to Drug Felons – Personal Responsibility Act of 1996.” *Harvard Law Review*. (1997). 983, 988.

Recommendation 2: Fund alcohol and drug abuse treatment programs that work with women and their children.

Maintaining family unity and social support networks are often key aspects of a person’s recovery from addiction, and this “family value-friendly” factor should be at the forefront of substance abuse programs. This means treatment programs should be easily accessible, preferably located in the community. Child care services should be provided so women who are the primary care giver are able to attend treatment programs without having to find child care.

While a person with a substance abuse problem may be unfit to have custody of children, that is not always the case and should not be presumed. Programs like foster care and child protective services should work in concert with alcohol and drug abuse treatment programs to enable women to obtain treatment without losing custody of their children. Furthermore if separation is absolutely necessary, efforts should be made to reunite women with their children once treatment is complete.

OBJECTIVE: PROTECT CIVIL LIBERTIES AND THE AMERICAN CONSTITUTION

Rationale: Over the past 30 years, in the name of “winning the Drug War,” citizens have been subjected to a dramatic erosion of such constitutional rights as: protection against illegal search and seizure, excessive fines, double jeopardy, and cruel and unusual punishment; the right to due process before being punished with property forfeitures and economic penalties; and the presumption of innocence.

Recommendation 1: Stop the misuse of forfeiture laws.^{lv}

In 1997, the DEA seized \$552 million in assets, and the US Customs Service seized \$1.65 billion in assets.^{lvi} Since the Supreme Court has ruled that being an innocent owner is not a constitutional defense against forfeiture and that double jeopardy doesn’t apply to forfeiture,^{lvii} a person can lose property even if he or she had no knowledge of its illegal use,^{lviii} or if the owner is acquitted of the crime.^{lix}

When forfeiture is employed as a civil penalty, the owner has no presumption of innocence, no right to an attorney, and unfounded hearsay may be used at trial by the government but not by the property owner.^{lx} This means that when there is insufficient evidence to make a criminal case against a defendant, the government can seize property and force the individual to challenge the civil-seizure in a costly and unpromising hearing.^{lxi} Since the burden of proof in these cases is reversed, it is up to the citizen to prove by a preponderance of the evidence that the property does not belong to the government.^{lxii}

FACT: *During a 10 month national survey, it was discovered that 80% of people who had property forfeited were never charged with a crime.*

SOURCE: Schneider, Andrew and Mary Pat Flaherty. (1991 August 11). "Presumed Guilty: The Law's Victims in the War on Drugs." *The Pittsburgh Press*.

Compounding the difficulties innocent property owners have in reclaiming their property is that when people are stripped of all their assets prior to trial, it is sometimes impossible to obtain legal counsel. There is no right to court-appointed counsel at the government's expense in forfeiture cases, and in "small" civil forfeitures – those where the property is worth less than \$500,000 – the property owner must post a bond worth 10% of the value of the property in order to have the right to a court hearing.^{lxiii}

Forfeiture laws have changed the nature of law enforcement itself. Both crime prevention and due process goals of our criminal justice system are compromised when salaries, continued tenure, equipment, modernization and budget depend on how much money can be generated by forfeitures.^{lxiv} The Department of Justice occasionally places a higher priority on forfeiture than the prosecution of violent and property crimes. For instance, in 1989 all U.S. Attorneys were directed to divert resources to forfeiture efforts to meet their commitment "to increase forfeiture production," suggesting they "divert personnel from other activities or ...seek assistance from other U.S. Attorney's offices, the Criminal Division, and the Executive Office for United States Attorneys."^{lxv}

In an effort to prevent this type of conflict of interest, Missouri state law requires that all seized assets be used to improve public education in the state. This removes the temptation to abuse forfeiture powers and relieves taxpayers of the burden of education costs. Unfortunately, police in that state have consistently thwarted attempts to implement the law by giving seized assets to the DEA, which then returns the money to the police agencies after retaining a 20% "processing fee." In a 1999 five-part series, the *Kansas City Star* investigated 14 cases of asset forfeiture where law enforcement agencies seized \$1.4 million and sent it to federal agencies, for return after paying processing fees. In a 1998 ruling on such a case, the judge stated "By summoning the DEA agent and then pretending DEA made the seizure, the DEA and Missouri Highway Patrol successfully conspired to violate the Missouri Constitution,... the Missouri Revised Codes, and a Missouri Supreme Court decision."^{lxvi} This type of behavior indicates the lengths to which law enforcement agencies will go to pocket forfeited assets, and illustrates the corrupting influence of forfeiture laws. Crime-fighting should not be a profit-making venture for the government, nor should the seizure of property undermine our efforts to reduce drug abuse and violent crimes in America.

QUOTE: *"I am not so concerned where the money goes as I am concerned where the money doesn't go. I don't want to create a situation where police have an incentive to stop people for the benefit of getting stuff for their own departmental use."*

SOURCE: Missouri State Senator Francis Flotron (Republican). (1999 Jan. 2). "Police Keep Cash Intended for Education." *Kansas City Star*.

Recommendation 2: Restore voting rights to non-violent drug offenders and allow unhindered public referenda and initiatives.

An unanticipated side-effect of the War on Drugs has been the loss of voting rights on a massive scale, particularly among African-American men. According to a recent report by the Sentencing Project, 1.4 million or 13% of black men have lost the right to vote, which is seven times the national average (nationally about 2% of the population has lost the right to vote due to felony convictions). In seven states, 1 in 4 black men is permanently disenfranchised. The authors note, “In the late twentieth century, the [felony disenfranchisement laws] have no discernible legitimate purpose. Deprivation of the right to vote is not an inherent or necessary aspect of criminal punishment nor does it promote the reintegration of offenders into lawful society.”^{lxvii} The authors also note that, “An offender who receives probation for a single sale of drugs can face a lifetime of disenfranchisement. Restrictions on the franchise in the United States seem to be singularly unreasonable as well as racially discriminatory, in violation of democratic principles and international human rights law.”^{lxviii}

Even those of us who have not been convicted of a crime, can find our constitutional right to vote curtailed because of the drug war. As citizens throughout the country are presented with ballot initiatives to allow medical access to marijuana, opponents of the concepts have sought to block citizens from even holding the vote. In Washington, DC, Congress barred the District government from expending any funds which would certify a law that reduces penalties for marijuana. District residents may vote, however, to *increase* penalties for marijuana. This means that for the first time in history, Congress has decided to control what types of elections can be held outside of the federal process and outlawed those votes which do not match the prevailing ideology of the Congress. At the time this document is being written, a lawsuit is pending in federal court on this very issue. Voters in Colorado and Arizona have faced similar obstacles, but Arizona voters have voted a second time in favor of medical marijuana and voters in Colorado have used the courts to force the election board to allow their initiative to proceed in 2000. The right of citizens to vote on any issue is the heart and soul of a democracy; any effort to derail that process subverts the will of the people and the spirit of our Constitution.

Recommendation 3: Restore civil liberties undermined by current drug policies.

Throughout the last two decades of the drug war, Congress and the courts have allowed a massive erosion of long-term, fundamental civil liberties. The warning of Justices William Brennan and Thurgood Marshall has come true: “...the first and worst casualty of the War on Drugs will be the precious liberties of our citizens.”^{lxix}

As the United States moves to a public health-based drug control strategy it should restore constitutional protection for individual rights. Among the drug war decisions that need to be reconsidered by the courts or for which legislation is needed are those which:

- Allow police to stop and detain travelers in airports merely because they fit a ‘drug courier profile’ without a search warrant or any evidence that the individual committed a crime. Currently, a person can be legally detained if he or she is carrying heavy luggage, is young, is casually dressed, is nervous, pays cash for a ticket, and leaves his or her address off of luggage.^{lxx}
- Allow dogs to sniff travelers’ luggage without probable cause.^{lxxi}
- Allow schools to drug test students without probable cause or warrant.^{lxxii}
- Allow police to search automobiles and containers in glove compartments (e.g., brief cases, trunks) without a search warrant.^{lxxiii}
- Allow electronic surveillance of vehicles without a search warrant.^{lxxiv}
- Allow police to search homes based on an anonymous tip from an unnamed informant.^{lxxv}

- Allow police to ignore “no trespassing” signs to search private property without a warrant or any probable cause that a crime has been committed.^{lxxvi}
- Allow police to search barns and other buildings adjacent to a residence without a warrant or any probable cause that a crime has been committed.^{lxxvii}
- Allow police to search private property through aerial surveillance without a search warrant or any probable cause that a crime has been committed.^{lxxviii}
- Allow police to search bank records without the consent of the customer.^{lxxix}
- Allow police to record telephone numbers dialed from one’s home without the consent of the subscriber.^{lxxx}
- Allow police to tape record telephone or face-to-face communications without the consent of the party being recorded and without a search warrant.^{lxxxi}
- Allow police to search materials in a person’s trash bag without a warrant or probable cause that a crime has been committed.^{lxxxii}
- Allow police to instruct the U.S. Postal Service to record the return address and other information on the outside of a person’s incoming mail without a warrant or even probable cause.^{lxxxiii}

These rights can be restored by legislation or court decisions which recognize that the Fourth Amendment^{lxxxiv} prohibits unreasonable searches – this means that searches of people or their property require either a search warrant or probable cause to believe a crime has been committed. If we develop a policy based on public health strategies there will no longer be a need for the intrusive police powers permitted in the last two decades of aggressive drug enforcement, nor the adversarial relationship between police and citizens.

OBJECTIVE: REDUCE GOVERNMENT AND LAW ENFORCEMENT CORRUPTION

Rationale: Drug-related corruption has plagued federal, state and local law enforcement in many ways. While the United States draws attention to corruption outside our borders,^{lxxxv} we do not focus enough attention on corruption at home. Across the United States, our local communities have felt the burden of law enforcement officials involved in drug corruption scandals. Consider these examples culled from recent news articles:

- In Illinois, three Austin District police officers were caught on camera pocketing \$25,000 in cash during a drug raid. Their 1998 trial showed a video with police stuffing cash into their pockets.^{lxxxvi}
 - In Cleveland the FBI arrested 44 police officers in 1998 who were involved in drug-related corruption including taking payoffs to protect dealers involved in drug trafficking. Each of the officers took part in at least one of 16 staged deals by the FBI.^{lxxxvii}
 - In Philadelphia, more than 100 drug convictions were dismissed, up to 2,000 cases tainted and the city was forced to pay millions of dollars to settle civil law suits as a result of a police corruption scandal. Six officers pled guilty to fabricating evidence and stealing from drug suspects.^{lxxxviii} One of the convicted officers testified in a civil deposition that as many as 600 Philadelphia police lied under oath and justified their actions because “there was a War on Drugs” and “drug dealers do not have any rights.”^{lxxxix}
 - In May of 1998, four former and suspended Chicago police officers were convicted of shaking down undercover agents posing as drug pushers. One of the officers convicted of racketeering, conspiracy and extortion was accused of being a high-ranking leader of the Conservative Vice Lords street gang; he is facing about 120 years behind bars. The other officers face sentences ranging from 11 years to 106 years for similar crimes.^{xc}
 - In Zapata County, Texas most of the county’s leaders, including the county sheriff, judge and clerk pled guilty to drug charges.^{xcii}
1. Along the U.S.-Mexican border 46 local, state and federal law enforcement officials have been indicted or convicted of drug charges in the last three years.^{xcii}

- In May of 1998, an investigator for the Shawnee, Oklahoma District Attorney’s office pled guilty to submitting false receipts for drug informant funds and keeping the funds for himself. Two other investigators were charged, one pled guilty and the other is facing a retrial after a hung jury.^{xciii}

This is just a sampling of cases reported in cities and small towns across the United States. The Public Integrity Section of the U.S. Department of Justice reports federal convictions of public officials have gone from 44 in 1970^{xciv} to 1,067 by 1988.^{xcv} Drug offenses are the driving force behind this increase. Corruption is not limited to state and local officials. It has also involved federal officials from many agencies.^{xcvi} In some cases, such as the CIA-Contra-Crack controversy, government complicity in drug trafficking became de facto official policy. In 1982, during the early days of the Contra war, William Casey (Director of the CIA) and William French Smith (Ronald Reagan's Attorney General) drafted a “Memorandum of Understanding” whereby the CIA would not have to report allegations of drug trafficking involving its “agents, assets and non-staff employees” but would have to report allegations of assault, homicide, kidnapping, bribery, wiretapping, visa violations, perjury, etc.^{xcvii} By its own admission, the CIA simply ignored or overlooked reports of drug trafficking by the Contras and their supporters.^{xcviii} As the Washington Post reported, “Nearly a decade after the end of the Nicaraguan war – and after years of suspicions and scattered evidence of contra involvement in drug trafficking – the CIA report discloses for the first time that the agency did little or nothing to respond to hundreds of drug allegations about contra officials, their contractors and individual supporters contained in nearly 1,000 cables sent from the field to the agency's Langley headquarters.”^{xcix} According to *The New York Times*, internal government reports indicate that corruption is a prevalent and incessant problem. A memorandum from the El Paso Intelligence Center “to top drug officials in Washington, warns of ‘increased and constant receipt’ of reports from informants, government employees and ordinary citizens about ‘the use of corrupt and compromised U.S. customs and immigration inspectors’ to insure that drug shipments cross the border.”^c Other documents indicate that “scores of these reports have been passed on to drug agency administrators or federal prosecutors over the last few years.”^{ci}

Recommendation: Recognizing the inherent corruption in drug enforcement, it is critical to establish checks and balances to oversee drug enforcement activities and to establish strict hiring standards for drug enforcement officials.

When a substance is prohibited it creates tremendous, untraceable profits, and when these large sums of money are involved, corruption of officials should be expected. In 1926, in the midst of alcohol prohibition, one out of every 12 prohibition agents had been dismissed for such offenses as bribery, extortion, conspiracy and submission of false reports. Between 1920 and 1928, 1,300 officials were removed for improper activities.^{cii} During the Johnson Administration the Justice Department noted “evidence of significant corruption” in the Bureau of Narcotics including illegal selling and buying of drugs, perjury, tampering with evidence and even murder.^{ciii} These scandals were one reason why the federal drug enforcement was reorganized and the DEA created. Within a year of their creation the DEA was under investigation and the number two man in the agency was forced to resign due to his association with gamblers, felons and drug dealers.^{civ}

It is impossible to know the extent of corruption among public officials. Many of the corruption-related crimes merely involve looking the other way at the border or taking a portion of cash seized from alleged drug dealers, but other corruption cases involve working closely with violent drug traffickers. According to the Government Accounting Office (GAO), on average, half of all police officers convicted as a result of FBI-led corruption cases between 1993 and 1997 were convicted for drug-related offenses.^{cv} Although uncomfortable, it is crucial to accept the fact that the drug war has created corruption. Once the problem is acknowledged, the next step is to realistically accept the difficulties in solving it. There is vast wealth in the drug market, and corruption will be inherent in drug enforcement as long as we rely on criminalization as our primary method of control. Law enforcement agencies must hire slowly and carefully, because

corruption has consistently followed rapid expansions of police forces. Agencies need to put in place a series of checks and balances so that no individual official makes critical decisions or handles investigations without close supervision. Finally, the activities of police officials must be closely supervised by citizen review boards or some other mechanism that includes citizen participation.

While widespread corruption does not necessarily translate into a high percentage of corrupt law enforcement officials, it does suggest that corruption exists at some levels in every agency. Wherever there are drugs, there is an opportunity for corruption; as a result, no law enforcement official should be above suspicion, as corruption has been documented at the lowest and highest levels.

OBJECTIVE: REDUCE WASTEFUL SPENDING AND DAMAGE CAUSED BY INTERNATIONAL DRUG CONTROL EFFORTS

Rationale: Our international drug control strategy is ineffective and continues to follow seriously flawed approaches. The worldwide illicit drug business generates as much as \$400 billion in trade annually according to the United Nations International Drug Control Program. That amounts to 8% of all international trade.^{cv} The primary response of the White House's drug control strategy is for more interdiction and eradication which, according to the RAND Corporation, is the least cost-effective alternative available.^{cvi} Gains such as eradication of coca fields or destruction of laboratories tend to be temporary, as drug producers and traffickers adapt quickly to enforcement strategies. But the U.S. spends increasingly more money on these failed strategies: according to General Barry McCaffrey, "The Administration has submitted a FY 1999 drug control budget that includes 1.8 billion dollars for interdiction efforts – an increase of more than 36 percent since FY 1996."^{cvi}

Even as these strategies continue to fail, the response has been to pursue more dangerous approaches and set even more unreachable goals. At home and abroad we are employing dangerous herbicides to eliminate drug crops, which threaten the environment and public health. We are also expanding the role of militaries – both U.S. and Latin American – in drug enforcement activities, which threatens human rights and democratic development. In June 1998 the UN's International Drug Control Program set a goal of eradicating poppy and coca cultivation from the face of the earth within the next ten years. Trying to achieve such an impossible goal will create even more environmental damage and human rights abuses – as have already been seen in countries like Colombia, Bolivia and Peru.

Rather than escalate unworkable strategies in an effort to achieve the unrealistic goal of a "drug-free world," it is time for a review of international drug control policy. As hundreds of signatories to a letter to UN General Secretary Kofi Annan said this June: it is time for a drug policy based on "common sense, science, public health and human rights." Signatories to this letter included political leaders, academics, business leaders, and Nobel Laureates who correctly noted that "the global war on drugs is now causing more harm than drug abuse itself." [See figure 25, pg. 52]

Recommendation 1: Place less emphasis on drug interdiction and source country eradication strategies and greater emphasis on domestic drug prevention and treatment programs as well as alternative economic development.

Due to the massive flow of goods and people across our borders, and the small quantities of drugs that are needed to make enormous profits, interdiction efforts are truly like searching for a needle in a haystack. One of the major problems with supply reduction efforts (source control, interdiction, and domestic enforcement) is that “suppliers simply produce for the market what they would have produced anyway, plus enough extra to cover anticipated government seizures.”^{cix}

FACT: “A year’s heroin supply for U.S. users can be made from poppies grown on just 20 square miles of farmland. A year’s supply of cocaine can be stashed in 13 truck trailers.”

SOURCE: Frankel, Glenn. (1997, June 8). “U.S. War on Drugs Yields Few Victories.” *The Washington Post*. A1.

In order to develop a sensible international drug policy, the United States must recognize that drug control begins at home. The focus of our policy then shifts to its root cause – consumer demand for prohibited substances. Rather than escalating funds for eradication and interdiction, and blaming countries for producing and transporting drugs, the United States should focus its international drug control efforts on economic development in partnership with source countries and developing alternative economic activities for the impoverished farmers who grow drug crops.

Recommendation 2: End the drug certification process.

Every year, the U.S. government must decide whether or not to ‘certify’ foreign governments as partners in the War on Drugs. If a country is decertified, it loses foreign aid (other than counter-narcotics funding) and faces trade sanctions. The policy, enacted in 1986, was supposed to foster anti-drug cooperation. But, many poverty-stricken nations are struggling to overcome the violence and corruption caused by the drug trade, and resent the annual U.S. judgment of their efforts.

According to a recent article by Bill Spencer, the Deputy Director of the Washington Office on Latin America, “Policymakers would do better to abandon the annual exercise of sounding tough and casting blame beyond our borders, and work instead to create more effective multilateral mechanisms for combating the violence and corruption of the drug trade.” Spencer explains that “Certification is bad drug policy because it sends mixed signals to other countries; it fosters conflict; and it reinforces the focus on the failed source-country control strategy. Certification is bad foreign policy because it holds other priorities such as human rights hostage to the single issue of drug control. Certification distorts our national conversation on foreign policy by focusing media attention and political debate on drugs, obscuring the search for common interests.”^{cx} Instead, we need to enact a new policy that promotes real partnerships with other countries, stems the corrosive effects of the drug trade on democratic institutions, and embraces the principle that US drug control begins at home.

Recommendation 3: Stop encouraging a role for the military in counternarcotics activities properly performed by civilian law enforcement agencies, both at home and abroad.

The frustration over failed eradication and interdiction efforts has resulted in greater reliance on the Department of Defense (DOD) to enforce the “War on Drugs.” Since the National Defense Authorization Act of 1989, the DOD has been designated the “single lead agency” for drug interdiction under federal law. As a result the US military has become entrenched in the drug war and has enlisted Latin America’s militaries as key partners in U.S. drug control strategy. This approach leads the United States into increasingly close alliances with military agencies with poor human rights records or which are involved in ongoing counterinsurgency campaigns. Counter-narcotics training provided by the United States differs

little from counterinsurgency training, thus potentially involving the United States in these civil conflicts. Increased military involvement in civilian law enforcement has proven to be inconsistent with its traditional role in the United States and counterproductive to democratization in Latin America.

The policy of certifying foreign governments on the basis of their success in curtailing illegal drug production and shipment has been an ineffective tool for drug control and has undermined other important U.S. interests in the Western Hemisphere. Crucial human rights objectives have been particularly affected by counter-narcotics funding, as the U.S. has funded numerous military units in Latin America with documented human rights abuses.^{cxix} Moreover, the steady flow of hundreds of millions of dollars each year into South American military forces^{cxii} reinforces the militaries' dominant role in domestic politics, which is contrary to the needs of nascent democracies.

Colombia has emerged as the largest recipient of U.S. military aid in the Western Hemisphere. Increased aid began in 1990, with the Bush administration's "Andean strategy," a five-year, \$2.2 billion plan to try to eradicate cocaine at its source in Colombia, Bolivia and Peru. In March 1996, the Clinton administration reacted to evidence that President Ernesto Samper had taken money from Cali traffickers by cutting off almost all U.S. aid to Colombia except aid to fight drugs. Overall, U.S. anti-drug aid granted to the Colombian military and police rose from \$28.8 million in 1995 to at least \$95.9 million in 1997, according to State Department figures. Military sales to Colombia jumped from \$21.9 million to \$75 million over the same period. The most recent aid package, agreed to after the election of President Andres Pastrana, will total \$289 million, nearly triple the recent annual American contributions to Colombia's anti-drug efforts.

Our aid to Colombia and other Latin American countries has involved US military in human rights abuses and undermines trends toward civilian democracy in the region. In addition, the line between drug enforcement and other military activity is vague. By 1994, both the General Accounting Office and the Defense Department had found that the light-infantry skills taught in anti-drug training in Colombia were easily adapted to fighting rebels. When the U.S. Embassy in Bogota reviewed the matter in 1994, officials said they discovered that anti-drug aid had gone to seven Colombian brigades and seven battalions that had been implicated in abuses or linked to right-wing paramilitary groups that had killed civilians.^{cxiii}

In addition to working outside the United States, the military is being used for civilian law enforcement within the country as well. Active duty military troops have been involved in drug enforcement along the US border with Mexico. In addition, the National Guard currently has more counter-narcotics officers than the DEA has special agents on duty. Each day it is involved in 1,300 counter-drug operations and has 4,000 troops on duty.^{cxiv} This has led to unacceptable conflicts between the military and US civilians. On May 20, 1997 four Marines on patrol fatally shot an American high school student, Esequiel Hernandez, Jr., while he was herding goats near his home. This incident resulted in greater restrictions in the use of the military domestically. While this is a positive step we should return to the traditional prohibition against the use of the military in domestic law enforcement.

Encourage the trend toward democratization in Latin America; empower civilian leaders; and reduce the role of the armed forces in Latin America. Any drug enforcement aid to the region should be closely monitored to ensure it is used solely for anti-drug operations and does not contribute to human rights abuses.

Recommendation 4: Stop the use of herbicides and biological agents in efforts to eradicate illegal drugs outside of the United States as well as within the US.

Aerial spraying of herbicides in Latin America reinforces the role of the army and police as an occupying force in the countryside. Aerial spraying has a destructive environmental impact. For instance, when

dispersed by aircraft, the herbicide Glyphosate can drift for up to approximately one-half mile. In Colombia, where the herbicide Glyphosate is sprayed from airplanes, children have lost hair and suffered diarrhea as a result of its application.^{cxv} Colombia uses aerial spraying to drop herbicides on illicit crops in order to comply with US demands to stop coca production. In its attempts to control peasant production of illicit crops, the Colombian government dumps chemical herbicides on over 100,000 acres every year.^{cxvi}

The environmentally risky strategy of herbicide spraying does not work. Despite a record year of aerial coca fumigation, Colombia's chief anti-narcotics officer, Ruben Olarte, labeled the program a failure, noting that coca production had increased from 111,000 acres in 1994 to over 195,000 acres by the start of 1998.^{cxvii} Since these crops are the peasants' only source of income, once fields are fumigated the farmers move deeper into the Amazon rain forest and farm on steep hillsides. This constant push on peasants has led to the clearing of over 1.75 million acres of rain forest.^{cxviii} Deforestation of Colombia is a risk to Colombia and the world: "Colombia's forests account for 10% of the entire world's biodiversity, making it the second most biodiverse country in the world in terms of species per land unit." Drug war induced deforestation in Colombia has led experts to theorize that Colombia could become another Somalia or Ethiopia within 50 years, "i.e. a fast growing population that is larger than the food production can support due to poor agricultural soils or techniques."^{cxix}

The US Drug Enforcement Administration has proposed the use of herbicides in marijuana eradication programs in the US.^{cxx} The herbicides being proposed for use are toxic materials with serious adverse effects. They include: Trichlopyr,^{cxxi} Glyphosate^{cxii} and 2,4-D.^{cxiii} Marijuana is often intermingled with other crops or forest land so it is hidden from view. Aerial spraying of these plants increases the risk to the surrounding environment due to drift of the herbicides. For these reasons herbicide spraying as part of marijuana eradication should be rejected.

PUBLIC LETTER TO KOFI ANNAN

June 1, 1998

Mr. Kofi Annan Secretary General United Nations New York, New York United States

Dear Secretary General,

On the occasion of the United Nations General Assembly Special Session on Drugs in New York on June 8-10, 1998, we seek your leadership in stimulating a frank and honest evaluation of global drug control efforts.

We are all deeply concerned about the threat that drugs pose to our children, our fellow citizens and our societies. There is no choice but to work together, both within our countries and across borders, to reduce the harms associated with drugs. The United Nations has a legitimate and important role to play in this regard -- but only if it is willing to ask and address tough questions about the success or failure of its efforts.

We believe that the global war on drugs is now causing more harm than drug abuse itself.

Every decade the United Nations adopts new international conventions, focused largely on criminalization and punishment, that restrict the ability of individual nations to devise effective solutions to local drug problems. Every year governments enact more punitive and costly drug control measures. Every day politicians endorse harsher new drug war strategies.

What is the result? UN agencies estimate the annual revenue generated by the illegal drug industry at \$400 billion, or the equivalent of roughly eight per cent of total international trade. This industry has empowered organized criminals, corrupted governments at all levels, eroded internal security, stimulated violence, and distorted both economic markets and moral values. These are the consequences not of drug use per se, but of decades of failed and futile drug war policies.

In many parts of the world, drug war politics impede public health efforts to stem the spread of HIV, hepatitis and other infectious diseases. Human rights are violated, environmental assaults perpetrated and prisons inundated with hundreds of thousands of drug law violators. Scarce resources better expended on health, education and economic development are squandered on ever more expensive interdiction efforts. Realistic proposals to reduce drug-related crime, disease and death are abandoned in favor of rhetorical proposals to create drug-free societies.

Persisting in our current policies will only result in more drug abuse, more empowerment of drug markets and criminals, and more disease and suffering. Too often those who call for open debate, rigorous analysis of current policies, and serious consideration of alternatives are accused of "surrendering." But the true surrender is when fear and inertia combine to shut off debate, suppress critical analysis, and dismiss all alternatives to current policies. Mr. Secretary General, we appeal to you to initiate a truly open and honest dialogue regarding the future of global drug control policies - one in which fear, prejudice and punitive prohibitions yield to common sense, science, public health and human rights.

Figure 25 Open Letter to UN Secretary General Kofi Annan, June 1, 1998.

SELECTED SIGNATORIES OF LETTER TO UN SECRETARY GENERAL KOFI ANNAN

ARGENTINA

Domingo Cavallo, Member of Congress
Graciela Fernandez Mejjide, Member of Congress
Congresswoman Irma Fidela Parentella
Adolfo Perez Esquivel, Nobel Laureate (Peace, 1980)

AUSTRALIA

Rep. Dick Adams, National Parliament
Senator Lyn Allison, National Parliament
Ald. Pru Bonham, Deputy Lord Mayor, Hobart
Kate Carnell, Chief Minister, Australian Capital Territory
Senator Barney Cooney
Ivor Deverson, Lord Mayor, Melbourne
Rep. Harry Jenkins, National Parliament
Michael Kirby, AC CMG, President, International
Commission of Jurists
Michael Moore, Minister for Health and Community Care,
Australian Capital Territory
Richard Smallwood, Fmr. President, Royal Australasian
College of Physicians

BELGIUM

Vincent Decroly, Member of Parliament, Brussels
Patrick Moriau, Member of Parliament

BOLIVIA

Antonio Aranibar Quiroga, Fmr. Foreign Minister
Edgar Camacho Omiste, Fmr. Ambassador to the OAS
Roger Cortez-Hurtado, Fmr. Member of Congress
Juan del Granado, Member of Congress
Alfonso Ferrufino Valderrama, Fmr. Vice-President,
Bolivian House of Rep.
Lidya Gueiler Tejada, Fmr. President of Bolivia
Roberto Moscoso Valderrama, Member of Congress
Ricardo Paz Ballivian, Fmr. Member of Congress
Carlos Julio Quiroga Blanco, Member of Congress
Guillermo Richter A., Fmr. Senator
Gonzalo Ruiz, Member of Congress
Manuel Suarez Avila, Member of Congress
Felix Vasquez Mamani, Member of Congress

CANADA

Chris Axworthy, Member of Parliament, Saskatoon
Senator Sharon Carstairs
Libby Davies, Member of Parliament, Vancouver-East
Bev Desjarlais, Member of Parliament, Manitoba
Yvon Godin, Member of Parliament, Bathurst, NB
Rick Laliberte, Member of Parliament, Churchill River,
Beauval
Wendy Lill, Member of Parliament, Dartmouth
Peter Mancini, Member of Parliament
Patrick Martin, Member of Parliament, Winnipeg
Alexa McDonough, Member of Parliament, Ottawa
Lorne Nystrom, Member of Parliament, N.D.P., Qu'Appelle,
Regina
John C. Polanyi, Nobel Laureate (Chemistry, 1986)
Svend Robinson, Member of Parliament, Burnaby-Douglas
Gordon S. Earle, Member of Parliament, Halifax
Peter Stoffer, Member of Parliament
Judy Wasylcia-Leis, Member of Parliament, Winnipeg

COLOMBIA

Belisario Betancur, Fmr. President
Augusto Ramirez Ocampo, Fmr. Foreign Minister

COSTA RICA

Oscar Arias, Fmr. President of Costa Rica; Nobel Laureate
(Peace, 1987)

DENMARK

Hans Henrik Brydensholt, High Court Judge
Bjørn Elmquist, Fmr. Member of Parliament
Erik Merlung, District Attorney, Copenhagen
Erling Olsen, Fmr. Minister of Justice
Villy Søvndal, Member of Parliament

ECUADOR

Washington Herrera, Fmr. Presidential Minister

FINLAND

Inkeri Anttila, Fmr. Minister of Justice
K.J. Laang, Fmr. General Director of the Prison Service

FRANCE

Michèle Barzach, Fmr. Minister of Health
Catherine Lalumiere, Member of the European Parliament
Jacky Mamou, President, Médecins de Monde

GERMANY

Daniel Cohn-Bendit, Member, European Parliament
Peter Frerichs, Vice President, Frankfurt Police
Dr. Hans Harald Koerner, Public Prosecutor, Frankfurt
Leutheuser-Schnarrenberger, Fmr. Federal Minister of
Justice
Sabine Leutheusser-Schnarrenberger, Fmr. Federal
Minister of Justice

Hartmut Schneider, District Court Judge, Lübeck
Dierk-Henning Schnitzler, Police President, City of Bonn

GREECE

Franginos Papadellis, Fmr. Minister of Health, Member of
Parliament
George Papandreou, Alternate Foreign Minister of Greece
Michaelis Papayannakis, Member European Parliament

GUATEMALA

Ramiro De Leon Carpio, Fmr. President of Guatemala

ISRAEL

Yossi Beilin, Fmr. Minister, Member of Knesset, Tel Aviv
Haim Cohn, Fmr. Deputy President of the Israel Supreme
Court
Menachem Horovitz, Fmr. Director of Correctional Services

ITALY

Monica Bettoni-Brandani, Undersecretary of State for
Health
Emma Bonino, European Commissioner for Humanitarian
Affairs
Francesco Carella, President Health Commission of the
Senate
Dario Fo, Nobel Laureate (Literature, 1997)
Luigi Manconi, Senator, President of the Green Party,
Rome
Giuliano Pisapia, President, Justice Commission, Italian
Parliament, Rome
Ersilia Salvato, Vice-President, Senate, Rome
Grazia Zuffa, President, Forum Droghe; Former Member of
Parliament, Florence

LUXEMBURG

Renée Wagner, Member of Parliament, Luxemburg

MEXICO

Senator Maria del Carmen Bolado del Real
Carlos Heredia Zubieta, Member of Congress
Gilberto Lopez y Rivas, Member of Congress
Jesus Silva Herzog, Fmr. Mexican Ambassador to the
United States

NETHERLANDS

Andreas van Agt, Fmr. Netherlands Prime Minister; Fmr. Minister of Justice
Hedy d'Ancona, Fmr. Dutch Minister of Welfare, Health, and Culture; Member of the European Parliament
Jan F. Glastra van Loon, Senator, Fmr. State Secretary of Justice
Sylvia van 't Hul, Public Prosecutor, Rotterdam
Free le Poole, Member of the First Chamber of Parliament (Senate)
E.H. Schuyer, Senator; Chairman of Democrats
Jan G. van der Tas, Fmr. Netherlands Ambassador to Germany
Ed. van Thijn, Fmr. Mayor of Amsterdam; Professor
J.M. vander Vaart, Judge, District Court of Amsterdam

NEW ZEALAND

Tim Barnett, Member of Parliament

NICARAGUA

Violeta Barrios de Chamorro, Fmr. President of Nicaragua
Miguel d'Escoto Brockman, Fmr. Foreign Minister

NORWAY

Jo Benkow, Fmr. President of Parliament
Gunnar Garbo, Ambassador; Fmr. Member of Parliament

PERU

Javier Alva Orlandini, Member of Congress
Rolando Ames, Fmr. Senator
Arturo Castillo Chirinos, Member of Congress
Javier Diez Canseco, Member of Congress
Antero Flores Araoz Esparza, Member of Congress
Lourdes Flores Nano, Member of Congress
Ernesto Gamarra Olivares, Member of Congress
Diego Garcia-Sayan, Executive Director, Andean Commission of Jurists
Alfonso Grados Bertorini, Member of Congress
Manuel Lajo Lazo, Member of Congress
Javier Perez de Cuellar, Fmr. Secretary General of the United Nations
Alejandro Santa Maria, Member of Congress
Annel Townsend Diez Canseco, Member of Congress
Allan Wagner, Fmr. Minister of Foreign Affairs

POLAND

Marek Balicki, Psychiatrist, Fmr. Deputy, Ministry of Health
Mikolaj Kozakiewicz, Fmr. Speaker of Parliament
Marek Nowicki, President, Helsinki Foundation for Human Rights

SOUTH AFRICA

Helen Suzman, Fmr. Opposition Member of Parliament, Johannesburg

SPAIN

Perfecto Andrés Ibañez, Judge, Presidente de la Secc. 15, Madrid
Heriberto Asencio Castillan, Judge, Sevilla
Emilio Berlanga Ribelles, Judge, Cataluña
Ricardo Bodas Martín, Judge, Madrid
Ascension Sole Puig, Judge, Barcelona
Luis Yañez-Barnuevo, Member of Parliament

SWEDEN

Ingegmar Rexed, Judge, Svea Court of Appeal, Stockholm

SWITZERLAND

Peter Albrecht, Judge, Court of Bâle-Ville
Christian Brunier, Member of Parliament, Geneva
Jacqueline Cogne, Member of Parliament, Geneva
Herve Dessimoz, Member of Congress
Dr. Dominique Hausser, Member of Parliament, Geneva
Albert Rodrik, Member of Parliament, Geneva
Francoise Schenk-Gottret, Member of Parliament, Geneva

UNITED STATES

Morton Abramowitz, Fmr. Assistant Sec'y of State; Fmr. Ambassador to Turkey
Dr. Jeremiah A Barondess, Pres., New York Academy of Medicine
Nicolaus Bloembergen, Nobel Laureate (Physics, 1981)
Willie Brown, Mayor of San Francisco
Alan Cranston, Fmr. U.S. Senator
Walter Cronkite, Broadcast Journalist
John Curtin, Federal Judge, Buffalo, NY
Lloyd N. Cutler, Fmr. Counsel to the President, 1979-1981, 1994
Joycelyn Elders, Fmr. U.S. Surgeon General
Val L. Fitch, Nobel Laureate (Physics, 1980)
Milton Friedman, Nobel Laureate (Economics)
Terrence Hallinan, District Attorney, San Francisco
Morton H. Halperin, Fmr. Dpt. of Defense and Na'l Security Council Official
Susan Hammer, Mayor of San Jose
John Kane, Federal Judge, Denver, CO
Nicholas Katzenbach, Fmr. Attorney General
Whitman Knapp, Federal Judge, Southern District of New York
Robert E. Lucas, Jr., Nobel Laureate (Economics, 1995)
Kweisi Mfume, President and CEO of the NAACP
Claiborne Pell, Former U.S. Senator
Martin L. Perl, Nobel Laureate (Physics, 1995)
Elliot Richardson, Fmr. US Attorney General
Kurt Schmoke, Mayor of Baltimore
George Shultz, Fmr. Secretary of State
Richard E. Smalley, Nobel Laureate (Chemistry, 1996)
George Soros, Chairman, Open Society Institute
Robert Sweet, Federal Judge, New York, NY
Paul Volcker, Fmr. Chairman, Federal Reserve Board

UNITED KINGDOM

Austin N.E. Amis, Judge, London
Edward Ellison, Operational Head of Scotland Yard Drug Squad
Paul Flynn, Member of Parliament, House of Commons
Dr. Brian Iddon, Member of Parliament
Austin Mitchell, Member of Parliament
Lord Rae, MD, House of Lords
Anthony Tibber, Judge, London
Carole Tongue, Member of European Parliament

VENEZUELA

Simon Alberto Consalvi, Fmr. Minister of Foreign Affairs
Diego Arria, Ambassador

GOAL NUMBER TWO: CHAPTER SUMMARY

Reducing the harm caused by the War on Drugs is a big task. Years of rhetoric, political grandstanding and adherence to failed policies have led to bureaucratic inertia. Fortunately, researchers and scientists have clearly outlined a number of public policy areas that require attention.

The primary objective in reducing the harm from the drug war is reducing the crime, violence and disease it spawns. According to the National Institute on Drug Abuse, 58.5% of the costs of illegal drug use are directly related to crime and the black market, and these costs can be greatly curtailed. There are a number of steps to take toward this end. A good first step would be to study the relationship between drugs, alcohol and violence to see if there is a pharmacological relationship, or if it is mostly a product of the black market trade. Next, we should begin clinical trials of drug maintenance therapy. Doctors in Switzerland have achieved great success in these programs and their nation has received the benefit of reduced crime and drug use. Since heavy users of cocaine, for instance, consume 8 times as much cocaine as light users, removing them from the black market would remove the bulk of the profit from street level sales, protecting everyone from street violence associated with the black market.^{cxxiv} Lastly, violence prevention programs should be taught to school aged kids to help them learn non-violent conflict resolution.

Ending the racial bias within drug enforcement is crucial to restoring the legitimacy of the criminal justice system. Today, one in four African-American men will be incarcerated in their lifetime, largely due to drug convictions and other black market effects. As an initial step, the 100 to 1 disparity in cocaine sentencing must be eliminated. Next, non-white communities should not be targeted for needle possession charges and paraphernalia laws which block successful needle exchange programs should be eliminated.

Mandatory minimum laws must be repealed and other existing laws reformed. Federal judges must have the authority to impose appropriate punishments, instead of being required to impose unnecessarily high jail terms for non-violent offenders. Women should not be criminalized for drug use during pregnancy, and family value-friendly policies should be required in addiction treatment and rehabilitation to maintain family units.

Finally, drug abuse must be seen as the public health problem that it is, and doctor and public health officials need to have greater freedom and power to participate in solving this health problem. As a first step, the Department of Health and Human Services (not the Department of Justice) should be given the authority to schedule drugs. Local authorities need to be empowered to deal with addiction at their own level, methadone should be made widely available and doctors need to have greater freedom in prescribing pain medication. States, doctors and patients should also be allowed to make their own decisions on the usefulness of medical marijuana. The federal government still provides 8 patients with marijuana to treat pain and glaucoma, yet it is denying this right to other seriously ill patients. Along with this, plans for the safe distribution of this medicine along with scientific studies of its potentials should be pursued.

Once drugs are dealt with as a public health problem, instead of a law enforcement problem, our nation can begin to restore civil liberties that were lost due to the need to “search and seize” drugs on people, and in houses, cars, planes and buses. We can end the misuse of forfeiture laws and greatly reduce the government corruption that drug prohibition has spawned. We can also re-prioritize our foreign policies so that we do not wage wars or ignore human rights violations in foreign countries due to a misguided attempt to control a drug supply problem that only flourishes in response an existing domestic demand.

CONCLUDING REMARKS

Realistic Goals are Achievable, Unrealistic Ones Are Counterproductive

This report does not claim to have all the answers. We have attempted to review the best available science in the field of drug policy and put forward strategies that have been proven effective. We have also attempted to highlight some of the questions that need to be faced about the costs and benefits of the “War on Drugs.”

Even though we know that making addiction illegal does not make it go away, for most of this century the United States has attempted to do just that, by prohibiting the possession, cultivation and sale of certain drugs. This effort has translated into unattainable goals like a “drug-free America”^{cxv} based on strategies of “zero tolerance” for illegal drugs. This political rhetoric is intended to give voters the impression that politicians are controlling drugs when in fact the policies that follow from the rhetoric result in an abdication of control. Simplistic drug war rhetoric masks the inability of our political leaders to face up to the complex social and health issues that surround drug use. Such political posturing is a rejection of responsibility for controlling the drug market and reducing drug-related harm, and leaves the real control in the hands of narco-traffickers and drug dealers.

The unattainable goal of a drug-free America prevents us from moving toward realistic goals like minimizing adolescent drug use, reducing the spread of HIV, and reducing homicides. This results in a policy which ignores proven strategies like needle exchange, methadone maintenance, treatment on demand and after-school programs for youth. Policies that have been tried and shown effective both in the US and abroad are ignored even when they could improve the lives of many Americans by reducing drug abuse, preventing disease, decreasing racism and improving the lives of children.

Government-backed drug policy experts claim their purpose is to protect America’s youth. Yet by ignoring common sense and scientific evidence we have really abandoned our youth. We sacrifice their education to build more prisons, we pursue drug education programs that research shows does not work, we underfund programs that do work like Big Brother/Big Sister, and then we express outrage and call for new punishments when drug selling becomes an enticing employment opportunity for urban youth. Throughout the history of the modern drug war, nearly 90% of high school seniors have said it was very easy or fairly easy to get marijuana – easier to get than alcohol, which is regulated and controlled by the state. No matter how much is spent, how many are arrested or how many are imprisoned, easy access remains the standard for our youth. Claims of protecting our youth no longer pass the straight face test – they are laughable.

Rather than facing the failure of the drug war, the U.S. government expands the failed strategy. *The National Drug Control Strategy* issued by General Barry McCaffrey, promises more of the same – a policy dominated by law enforcement, some funding for abstinence-based treatment programs and police-dominated drug education. Recently the United Nations has taken up the call moving toward a “World War on Drugs.” In announcing a special session on drugs the UN states on its web site: “On the eve of the new millennium, we face an unprecedented opportunity to build a drug-free world. . . .”

We do not have to continue down this path. There are alternatives, many with widespread public and professional support. This strategy embraces the same goals as most Americans – safe communities, healthy kids and freedom from drug dependency for as many citizens as possible. We agree with Retired General Barry McCaffrey when he says we can’t arrest our way out of this problem. In light of this we ask you to consider: how can our nation do better? We believe this document shows the way.

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- ^{lxxxiv} The Fourth Amendment to the U.S. Constitution states:
[T]he right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched or things to be seized.
- ^{lxxxv} While corruption has been reported in many countries, the country that has received most of the attention on this issue recently has been Mexico. In March, 1998 the former anti-drug czar of Mexico, General Jesus Gutierrez Rebollo, was sentenced to almost 14 years in prison. His arrest came in early 1997 (just after he had been briefed by the DEA on drug control issues and just after U.S. drug czar, General Barry McCaffrey, praised his leadership) when he was accused of protecting a Mexican drug lord. Five Mexican generals have been jailed since the beginning of 1997 on drug corruption charges. Michael Christie, “Mexico’s Former Anti-Drug Czar Sentenced to Prison,” Reuters, March 3, 1998.
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- ^{lxxxvii} John Affleck, “FBI Arrests 44 Cleveland Cops,” Associated Press, January 22, 1998.
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^{cxxi} Trichlopyr should not be used near ditches used to transport irrigation water or where runoff or irrigation may flow onto agricultural land. Nor should it be used near dairy animals or livestock and may be toxic to fish. There are also concerns that this herbicide has adverse effects on growth, development, sexual traits and other functions.

^{cxxii} Glyphosate exposure in humans has caused respiratory effects and skin and eye irritation. It is the leading cause of pesticide-related illness in California agricultural workers. Glyphosate has the potential to contaminate surface waters, killing oxygen producing plants and leading to fish kills.

^{cxxiii} 2,4-D is associated with a long list of chronic adverse health effects from neurological effects to liver and kidney function changes to reproductive effects to cancer. 2,4-D risks endocrine disruption and because of this probably should not be used in any weed control program. It has been linked to non-Hodgkin's lymphoma in farmers and under certain conditions can persist in soil for several months.

^{cxxiv} Rydel, Peter and Susan Everingham. *Controlling Cocaine: Supply Versus Demand Programs*, p. xi. Santa Monica, CA: Drug Policy Research Center, RAND

^{cxxv} The Republicans recently committed to a drug free America again, this time promising to make America drug free by 2002, see "House Republican Vow to Make US Drug-Free," Reuters, May 2, 1998. The last time a promise like this was made was in the Anti-Drug Abuse Act of 1988, Public Law 100-690, signed by President Reagan on Nov. 18, 1988 which stated: in Title V, subtitle F -- Drug Free America Policy section 5251(b) "DECLARATION.-- It is the declared policy of the United States Government to create a Drug-Free America by 1995."