

## Unhappy 40th Anniversary, War on Drugs!

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On June 17, 1971, President Richard Nixon started his so-called "War on Drugs." "This nation faces a major crisis in terms of the increasing use of drugs, particularly among our young people," Nixon said. "Public enemy No. 1 in the United States is drug abuse. In order to fight and defeat this enemy, it is necessary to wage a new, all-out offensive."

As we mark the unhappy 40th anniversary of the Comprehensive Drug Abuse Prevention and Control Act (CDAPCA), a war that has lasted longer than the Revolutionary War, the Civil War, the War of 1812, both World Wars, the Korean War, the Viet Nam War, the Gulf War and the current "War on Terror" combined, it is important to examine who is actually "winning" and "losing" this war.

Winner No. 1 – government contractors

Since the enactment of the CDAPCA, the federal government has spent over a trillion taxpayer dollars fighting this war. Who received the money? A report for the contracting oversight subcommittee that is part of the Senate Homeland Security and Governmental Affairs Committee disclosed that five companies – DynCorp, Lockheed Martin, Raytheon, ITT and ARINC – receive the majority of the counter-narcotics contracts

awarded by the government. From 2005 to 2009, counter-narcotics contract spending increased 32% from \$482 million to \$635 million in 2009 with DynCorp (a company based just outside Washington, D.C.) receiving the largest total of \$1.1 billion. The U.S. Government Accountability Office, the investigative arm of Congress, recently reported that State Department "does not have a centralized inventory of counter-narcotics contracts" nor does it even evaluate whether its counter-narcotics program is successful.

During that same period, our Department of Defense spent \$6.1 billion on surveillance and other intelligence operations, primarily detecting planes and boats headed to the U.S. supposedly with drug payloads. With admittedly "error prone" systems for tracking expenses some Senate staff members describe as "difficult to characterize," the Defense Department has no reliable data to determine whether their efforts have had any effect at all.

According to Sen. Claire McCaskill (D-Mo.), "[w]e are wasting tax dollars and throwing money at a problem without even knowing what we are getting in return." U.S. drug czar Gil Kerlikowske admitted to the Associated Press "[i]n the grand scheme, [the War on Drugs] has not been successful ... Forty years

later, the concern about drugs and drug problem is, if anything, magnified, intensified.”

We are spending more and more money on these contractors without any result. Who else can continue to do a job without any tangible or recognizable result and get more and more money every year? Very few readers have such a luxury. Yet, these companies continue to drain our tax dollars without the need to show any degree of accomplishment.

Winner No. 2 – law enforcement and the prison system

The money not being spent on counter-narcotics is being spent on the prison system and the criminal enforcement of the narcotics laws. Statistics show that there are 2.3 million people currently incarcerated in America. That is triple the amount we had in 1987, and a quantum leap over those incarcerated in 1971. An estimated twenty-five percent of those incarcerated are locked up for drug offenses. Americans spend nearly \$70 billion a year dealing with these prisoners. The U.S. has the highest incarceration rate of any country. In 2006, 7 million people were incarcerated (2.2 million), on probation or on parole. China is second with 1.5 million. Thus, we have 5% of the global population, but 25% of the global incarcerated population. (Report: 7 million Americans in justice system [includes persons on probation and parole].)

Fifty seven percent of federal prisoners were sentenced for drug-related crimes. But, please understand the federal prison system is not nearly as vast as the state (prison) and local (jail) systems. As of 2006, nearly 1 million people were

incarcerated for non-violent offenses. (“America's One-Million Nonviolent Prisoners”. Center on Juvenile and Criminal Justice, June 8, 2006.)

The war on drugs has been a war on communities of color. According to numerous studies, the racial disparities are staggering. Despite the fact that whites engage in drug offenses at a higher rate than African-Americans, African-Americans are incarcerated for drug offenses at a rate that is 10 times greater than that of whites. Hispanics are incarcerated at a rate that is approximately 7 times that of whites.

The war on drugs has sent millions of people to prison for low-level offenses, and seriously eroded our civil liberties and civil rights while costing taxpayers billions of dollars a year, with nothing to show for it except our status as the world’s largest incarcerator. Indeed, not long ago, in *Brown v. Plata*, the U.S. Supreme Court acknowledged that our policies of over-incarceration have produced a crisis in California prisons, where extreme overcrowding has resulted in unconstitutional conditions. Indeed, Justice Anthony Kennedy called California prisons “incompatible with the concept of human dignity.” It has now been estimated that 33,000 prisoners will have to be released or relocated. California is relying on inflated taxes and a shift to local jails – a solution destined for failure before it even begins.

Despite the trillions of tax dollars spent, the drug “problem” is not getting any better.

Loser No. 1 - the American taxpayer and drug addicts

The Drug War has not resulted in less drug addicts, which was Nixon's stated intent. In a 2005 report made at the annual conference of the Association for Research in Nervous and Mental Disease, James Anthony, Ph.D., reported that the number of teenagers who experiment with recreational drugs is nearly the same as it was during its peak years in the early 1970's. According to DEA statistics, the rate of addiction in the U.S. has remained constant at 1.3% of the population. This is in direct contrast with the Substance Abuse and Mental Health Services Administration's (SAMHSA) numbers, which are 6.7% using the DSM-IV criterion (used by actual health care professionals, not law enforcement). The Centers for Disease Control and Prevention says drug overdoses have "risen steadily" since the early 1970's to more than 20,000 last year.

Interestingly, according to the U. S. Government National Institute on Drug Abuse, Bureau of Mortality Statistics, every year tobacco (400,000), alcohol (100,000), caffeine (2,000), and "legal" drugs (20,000), including aspirin (500) kill over 34 times the number of Americans whose deaths are caused by "illegal drugs" (15,000), including marijuana (0).

#### Loser No. 2 - Civil Rights

From an ACLU report released this month: "Future generations will look back on the 'war on drugs' as a crude, barbaric and inhumane response to the social and public health problem of drug abuse. And they'll look back with dismay at how our primitive 'drug war' had ugly repercussions in so many areas.

One of those areas is the growth of government surveillance. The 'war on terror' has been the primary driver of expanded surveillance in the past decade - but the 'war on drugs' is sometimes overlooked as also having played a key role in eroding our privacy rights. It is a 'war' that takes place not on some foreign battlefield, but in the lives of Americans - their homes, cars, phones, purses and bodies - and in fighting this war the authorities have found justification for extending their power into all such realms."

Long before the "War on Terror" and the Patriot Act, U.S. Courts used the war on drugs to expand the power of police to search and seize citizens with greater frequency and with less constraint by the 4th Amendment to the United States Constitution. The war on drugs has been an assault on America's right to privacy in many areas. Still, the problem of drug use has not abated. We are not safer from the problems that drugs have caused, nor are we free of drug abuse in our society. We are, however, systematically relieved of our rights to be free from intrusions into our liberties.

#### A Paradigm Shift Is Needed

Accordingly, after 40 years and nearly a trillion dollars, we have seen no success in the war on drugs. Indeed, we have seen nothing but failure. Across the board, law enforcement admits that drugs today are cheaper, of higher quality and more readily accessible, even to children. Casual use has either increased or remained level for 40 years, despite law enforcement's efforts to stop drug use altogether.

Even so, the purpose of this article is not to say that drugs are good, or that they should be legalized wholesale, or that the criminal conduct of drug users should be excused. The purpose of this article is to state that we need a renewed debate about the wisdom of continuing the war on drugs as it is presently prosecuted. It is our belief that a paradigm shift is needed. It is time to look at the drug policies of such nations as Switzerland and Portugal and take some lessons from them. It is time to listen to the rest of the world and understand that some small quantities of drugs should be decriminalized, and that addicts should be treated as a health and social problem, and not a criminal justice problem.

Earlier this month, the Global Commission on Drug Policy called for the legalization of some drugs and an end to the criminalization of drug users. Its panel includes former U.S. officials George P. Schultz and Paul Volcker, former U.N. Secretary General Kofi Annan, the former leaders of Mexico, Colombia and Brazil, Greece's prime minister, writers Carlos Fuentes and Mario Vargas Llosa, and British billionaire Richard Branson.

If certain drugs were decriminalized, and the money instead spent on treatment and rehabilitation, the officials stated, many fewer people would be incarcerated and would instead be contributing to society. Instead, more and more money is spent on enforcing the drug laws and punishing Americans who are truly suffering from a disease.

Bill Piper of the Drug Policy Alliance has been quoted as stating that "President Obama's newly released drug

war budget is essentially the same as [George W.] Bush's, with roughly twice as much money going to the criminal justice system as to treatment and prevention. This despite Obama's statements on the campaign trail that drug use should be treated as a health issue, not a criminal justice issue."

To be sure, this is no easy solution. It will require a change in hearts and minds. It will be opposed by a system of law enforcement that has been trained to believe that incarceration is the only answer. However, in an age of limited budgets and in the face of 40 years of failed policy, a new look at the problem seems like the plainest form of common sense that we as Americans can exercise.

Together, Americans have not only solved every problem that the country has encountered, but we have done so with a revolutionary flair and in a manner that preserves us as the world leader in so many areas. Our ability to overcome problems as a nation, working together, is a large part of what makes us proud to be Americans. While the road ahead will be difficult, and the change will not be easy at first, in the long run, our nation will be richer for it.

Nixon's plan to eradicate drug abuse has not worked. Mr. President, Mr. Governor, it's been forty years...please end the Drug War. America is not winning.