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ILLEGAL DRUGS: ECONOMIC IMPACT, SOCIETAL COSTS, POLICY RESPONSES

HEARING

BEFORE THE

JOINT ECONOMIC COMMITTEE
CONGRESS OF THE UNITED STATES

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

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ILLEGAL DRUGS: ECONOMIC IMPACT, SOCIETAL COSTS, POLICY RESPONSES

THURSDAY, JUNE 19, 2008

CONGRESS OF THE UNITED STATES,
JOINT ECONOMIC COMMITTEE,
Washington, DC.

The Committee met at 10 a.m. in room SD–106 of the Dirksen Senate Office Building, the Honorable Jim Webb, presiding.

Senators present. Klobuchar and Webb.

Representatives present. Hill, Hinchey, and Scott.

Staff present. Christina Baumgardner, Gordon Brady, Nate Brustein, Jared Craft, Chris Dodge, Stephanie Dreyer, Chris Frenze, Tamara Fucile, Rachel Greszler, Colleen Healy, Doug Ierley, Tyler Kurtz, and Jeff Schlagenhauf.

OPENING STATEMENT OF HON. JIM WEBB, A U.S. SENATOR FROM VIRGINIA

Senator Webb [presiding]. The Committee will come to order.

I would first like to express my appreciation to Chairman Schumer for allowing us to hold this hearing and for allowing me the opportunity to chair it.

I'd also like to express my appreciation to our witnesses for arranging their schedules to be with us today. Following my opening statement, we will call on other Members who are present to make opening remarks.

We are gratified we have Congressman Bobby Scott of Virginia with us today, and I know he is looking forward to making some comments, and there will be other Members of this Committee in and out as the hearing progresses.

This hearing follows a JEC hearing that I chaired last fall regarding the larger issue of incarceration in this country, and one of the issues that we were focusing on then was the incredible growth in the numbers of people in this country who are incarcerated and who are otherwise a part of the criminal justice system.

I mentioned then that we have 5 percent of the world's population and 25 percent of the world's known prison population, and this is a conundrum, I think, that affects our country in many, many ways. Most of us—all of us, I think—want to get our arms around violent crime; we want to do something about criminal gang activity.

But at the same time, when you have that percentage of the world's known prison population, you have to come to one of two conclusions: Either we have the most evil people in the world, or

we are doing something wrong with the way that we handle our criminal justice system, and I choose to believe the latter.

The central role of drug policy in filling our Nation's prisons makes it clear that our approach in curbing illegal drug use is not, and has not been an effective way of dealing with it.

This is a poignant day in history to hold this hearing. On this day in 1986, the University of Maryland college basketball star, Len Bias, died from a cocaine overdose.

The enormous media coverage surrounding his death firmly placed the issue of drugs at the center of our political stage. The Anti Drug Abuse Act, which established mandatory minimum sentences for drug offenses, was signed only 4 months later.

We often talk about the issue of unintended consequences when it comes to beginning wars, but certainly I cannot imagine that the tragic death of someone like Len Bias and the situations that we have seen so visibly in our media among top film stars, athletes, that represent the tip of the iceberg with what has happened in this country, are the direction that many people in our country thought these policies would go when the criminal drug policies began to change 22 years ago.

Understanding how illegal drugs affect our society involves a complex matrix of issues. We begin with the fact that the illegal drug market is enormous, and it is lucrative. In economic terms, I believe you would probably call it a demand-pull problem, that the rest of the world looks at drug use in this country and provides a supply to meet the demand that's here.

The United Nations Office on Drugs and Crime estimates that the United States, Canada, and Mexico account for 44 percent of global retail drug sales, totaling tens of billions of dollars, and I would venture that that's a conservative estimate.

The total economic costs of all of the factors associated with drug abuse in the United States have been estimated at $182 billion a year. To offer a context for understanding the enormity of the drug trade, global exports of wine and beer are equivalent to only one-quarter of illegal drug flows.

To meet our enormously profitable and insatiable demand for drugs, there are innumerable ready suppliers in this country and outside our borders. The *Economist Magazine* report several months ago, that marijuana is now California's most valuable agricultural crop.

As the article mentioned—I will read a quote directly: "Marijuana is now by far California's most valuable agricultural crop, worth even more than the State's famous wine industry."

The article also went on to point out that four-fifths of the outdoor marijuana plantations in California are now run by Mexican criminal gangs.

There's an article in the Washington Post this morning addressing the issue of coca cultivation in Colombia and other countries in Latin America. In fact, one of our witnesses is quoted in this article, but they point out that Colombian farmers planted 245,000 acres of coca last year, 27 percent more than in 2006. Coca cultivation in the world's three top producers—Colombia, Peru, and Bolivia—increased by 16 percent between 2006 and 2007, to 448,743

acres, which is a piece of land slightly smaller than the State of Delaware.

They also pointed out in this article that these findings follow almost 8 years of heavy aerial fumigation of drug crops in Colombia, an American designed strategy that has cost more than $5 billion.

Strategy Forecasting, Incorporated estimates that at least half of the $65 billion worth of illegal narcotics purchased in the United States each year comes through Mexico.

Efforts to half the flow of drugs into our country have done little to limit supplies. Instead, we are witnessing a war on our border. Some would call it a classic counterinsurgency, insurgency and counterinsurgency.

Since President Calderon launched an offensive against drug gangs and cartels over a year ago, approximately 4,100 people have died, including 450 Mexican police officers and soldiers. President Calderon has declared that his government sees it as a war, and the United States State Department issued a warning last May, that the engagements on the Mexican streets are, quote, "equivalent to military small unit combat."

While we are spending enormous amounts of money to intercept drug shipments at the border and inside the country, supplies remain consistent. We have a chart we're going to put up here from 2006.

[The chart entitled, "High School Seniors Have Easy Access to Illegal Drugs" appears in the Submissions for the Record on page 36.]

I look at this chart as someone who came of age as a Baby Boomer. When I was in high school, nobody even knew what these drugs were. They simply were nonexistent. Of course, 5 years later, we had Woodstock and the Drug Generation move forward.

This was a transitional period, but we've gone, in the space of my young adult to adult lifetime, from a situation where kids in high school didn't even know what these drugs were, to now in 2006, despite all of these efforts that we've made, that 86 percent of high school students in America report that it is very easy or fairly easy to obtain marijuana; 47 percent report the same for cocaine; 39 for percent for crack; and 27 percent for heroin.

Success in curbing drug imports should be accompanied by an increase in price. Cocaine prices, instead, have fallen by approximately 80 percent since the 1980s.

There is some indication that there might have been an increase in that price in 2007, but still these prices are well below the levels of the 1990s. Simultaneously, efforts to curb illegal drug use in our country have relied heavily on enforcement.

The number of drug arrests tells a story of the growth in our prison population. This chart shows the number of people in custody on drug charges, indicating that they have increased 13 times in the last 25 years, and despite the number of people we have arrested, the illegal drug industry and the flow of drugs to our citizens remains undiminished.

[The chart entitled, "Half a Million in Custody on Drug Charges, Up Thirteen Times in 25 Years" appears in the Submissions for the Record on page 37.]

The arrest numbers also tell another story. Convictions and collateral punishments are devastating our minority communities.

When it comes to incarceration for drug offenses, the racial disparities are truly alarming. Although African Americans constitute 14 percent of regular drug users, statistics indicate that they are 37 percent of those arrested for drug offenses, and 56 percent of those in State prisons for drug crimes.

The last piece of the drug puzzle in this matrix, is the need to clean up drug-dependent Americans, some of whom are inside our prisons and some who are not. Alternatives to enforcement have shown that a variety of approaches can successfully reduce incarceration, improve public safety, and produce social benefits in excess of their costs.

Diversion programs and drug courts are two of the promising examples that offer better outcomes. Our current combination of enforcement, diversion, interdiction, treatment, and prevention is not working the way that we want it to or that we need it to, and despite the overwhelming facts—the ease with which drugs can be obtained, the price of drugs, the number of people in prison, the violence along our border—there's been little effort to take a comprehensive look at the relationship among the many interlocking pieces of this policy.

We need to rethink our responses to the health effects, to the economic and social impacts, the violence, and to the crime associated with illegal drug use. And we also need to reconsider our approach to the supply of and the demand for drugs.

The central challenges for our witnesses today—we are grateful to have people with a broad variety of experiences in this issue who can help us examine it from different viewpoints—is to assist us in pointing our way toward effective solutions.

We are grateful for all of you to be here today, and with that, I would recognize Congressman Scott.

[The prepared statement of Senator Webb appears in the Submissions for the Record on page 34.]

OPENING STATEMENT OF HON. ROBERT C. SCOTT, A U.S. REPRESENTATIVE FROM VIRGINIA

Representative Scott. Thank you, Mr. Chairman. I want to thank you and Members of the Committee for holding today's hearing on the cost of the United States Drug Policy and for allowing me to participate in it.

It is fitting that this Committee has scheduled a hearing to discuss the impact on our society of the War on Drugs and our continued emphasis on incarceration, and the obvious Committee jurisdiction intent is measuring that impact from an economic perspective.

So, Senator, thank you very much for holding the hearing, and thank you for permitting me to participate.

I serve as Chairman of the House Judiciary Committee's Subcommittee on Crime and from that perspective, I have frequently observed that when it comes to crime policy, we have to make a choice. We can do what we know will reduce crime, or we can play politics.

Unfortunately, you can't do both. We can do what has been proven to reduce crime, utilizing cost-effective programs that prevent crime, or we can play Washington politics and pursue the emotional approach of mandatory minimum sentences, three strikes and you're out, life without parole, more death penalties and cut out the appeals, and if it rhymes, it's even better: If you do the adult crime, you do the adult time.

These are policies that make it sound like we're doing something on crime—like cracking down on crime, but in actuality, we're doing nothing about the crime rate, wasting money, or even worse, actually increasing crime in many circumstances.

For the past 25 years, we've continued to place our crime policy emphasis on the soundbite approaches, and this is where it's gotten us, in terms of incarceration rates.

This chart shows that most countries—the green bars, lock up between 50 and 200 per 100,000 population. Second place, Russia locks up a little more than 600, but the United States is number one, the blue bar, at over 700 per 100,000.

[The chart entitled, "U.S. Incarceration Rate Highest in the World" appears in the Submissions for the Record on page 70.]

The Pugh study recently pointed out that only one country, the United States, locks up more than 1 percent of its population. We are at the point where 1 out of 99 Americans today can be found behind bars.

We also crack down on children. Of 2,200 children in jail on life without parole sentences—2,200 around the world—only 12 are outside of the United States.

The minority community, where the War on Drugs has been most acute, the crack/powder disparity, the economic choices that we're making, we see the purple bar, the first purple bar at 2,200, which is the average incarceration rate for African Americans in this country; the second bar, almost 4,000 per 100,000, the top 10 States, compared to the rest of the world, 50 to 200, 2,200 to 4,000 per 100,000 locked up today.

It's so bad that the Children's Defense Fund calls it the "Cradle-to-Prison Pipeline." Some communities call it the "Rail-to-Jail." And while these draconian incarceration rates have been the strategy, we have found that they have done little to actually reduce crime, when we know what will actually work.

We know that a continuum of services to young people will reduce violent crime, starting with teen pregnancy prevention to reduce the number of babies born into dysfunctional families; prenatal care, which will reduce learning disabilities and mental retardation; nurse visits, which will reduce child abuse and prepare children for school; early childhood education, to make sure that the children can read by the third grade; after-school programs; summer jobs and summer programs; dropout prevention; and access to college, essentially creating not the cradle-to-prison pipeline, but the cradle-to-college pipeline.

We know that that strategy will significantly reduce crime in a cost-effective manner. But while we have been focused on incarceration, we know that this choice is not free.

We now spend about $65 billion in America locking people up. In my district, we did an informal study and showed that cities were

spending tens of millions of dollars in locking people up, and it worked out to be about $250 to $500 per citizen or about $1,00 to $2,000 per child, or if you target the money to at-risk children, as much as $5,000 per at-risk child that we spend—budgeted today—locking people up.

Now, if you look at somewhere like Los Angeles, they spend in the same pattern, over $2 billion a year locking people up.

So we make choices. You can have—as Senator Webb mentioned—drug courts where we spend around $1,600 a year per participant and have about less than a 20 percent recidivism rate.

Or we can have mandatory minimums and lock people up at about $15,000 to $25,000 per year, and have a two-third recidivism rate. We can spend more for incarceration, and in fact, get more crime.

I think the Joint Economic Committee has an interest in that. Nurse/family partnerships where nurses come to visit pregnant women and work with the family through infancy reduces child abuse, prepares the child for school, saves more money in the long run by reducing problems, particularly incarceration—long-term good economic policy.

Head Start. Reducing remedial education, welfare, and crime is a good long-term policy because it reduces long-term costs.

Dropout prevention. If a child drops out, look where you're headed. In the minority community, studies have shown that for 26 to 30-year-old African American men who have dropped out of school, they are more likely to be in jail when they're 26 to 30, than actually working.

Now, if you've got areas where you've got a 50-percent dropout rate, and for every 10 males that drop out, we're on the hook today for $250,000, approximately, just how much would it cost to have an effective dropout prevention program?

That's what the Joint Economic Committee needs to be looking at. So, Senator Webb, I want to thank you and the Members of the Joint Economic Committee for holding this hearing, so that more Members of Congress will understand the enormous societal and fiscal cost of continuing the failed drug policies of this country that we have been designated as the so-called War on Drugs, and maybe we can use the findings from these hearings to develop a more enlightened drug policy. Thank you very much, Senator Webb.

Senator Webb. Thank you, Congressman Scott.

I'd like now to introduce today's witnesses. Professor Peter Reuter is a professor at the School of Public Policy in the Department of Criminology at the University of Maryland. He founded and directed Rand's Drug Policy Research Center.

He has written extensively on the economies of drug issues. In 2001, he co-authored "Drug War Heresies: Learning From Other Places, Times, and Vices," and "Chasing Dirty Money: The Fight Against Money Laundering."

He is a director of the university's Program on the Economics of Crime and Justice Policy. Dr. Reuter received his Ph.D. in economics from Yale.

John Walsh is the senior research associate for the Andes and Drug Policy at the Washington Office on Latin America. He writes on international drug control efforts and U.S. drug policy.

Previously, Mr. Walsh served as the director of research at Drug Strategies, a policy research group that builds support for more pragmatic and effective approaches to U.S. drug problems.

Anne Swern is the first assistant district attorney of King's County, New York. She current supervises more than 1,000 employees in the D.A.'s office, and oversees three substance abuse treatment courts.

She is also in charge of the nationally acclaimed Drug Treat Alternative to Prison Program, the first prosecution-run program in the country to divert prison bound felony offenders into residential drug treatment.

Ms. Swern was awarded the Thomas E. Dewey Medal from the New York City Bar Association for her work as an outstanding prosecutor and for her contributions to public service. She has been a prosecutor for 28 years.

Norma Fernandes is the community coordinator of the King's County district attorney's ComALERT Program which assists formerly incarcerated individuals in making a successful transition from prison to home, by providing drug treatment and counseling, mental health treatment, GED courses, and transitional housing and employment assistance.

Ms. Fernandes develops and establishes relationships with various agencies that provide vocational training and employment services to program participants.

She has provided social services to the formerly incarcerated in a variety of capacities for the past 15 years. She is also a distinguished alumnus of the King's County district attorney's Drug Alternative to Prison Program.

We welcome all of you. We had previously said that you should summarize your remarks in 5 minutes. It's very important for me to hear what your views are, and I would suggest that we could do that in 7 minutes, rather than 5.

Dr. Reuter, it's good to have you, and you may go ahead and proceed.

STATEMENT OF DR. PETER REUTER, PROFESSOR, SCHOOL OF PUBLIC POLICY AND DEPARTMENT OF CRIMINOLOGY, UNIVERSITY OF MARYLAND, COLLEGE PARK, MARYLAND

Dr. Reuter. Thank you very much. I appreciate the opportunity to testify here and ask that my full testimony submitted on Tuesday be entered into the record.

Senator Webb. Without objection, it will be entered into the record.

Dr. Reuter. I will focus less on the past, which you and Congressman Scott have summarized well, and more about talking about the future. But let me say a bit about the past.

America's drug problem—at least as it involves cocaine, heroin, methamphetamine, and marijuana—seems to be declining. You can see that in terms of the aging of the populations involved with both cocaine and heroin, and just the beginnings of that aging with methamphetamine.

The drug problem is certainly less prominent in the public eye than it was 20 years ago. The declines are probably mostly the nat-

ural working out of old drug epidemics rather than the result of tough enforcement.

Nonetheless, these drugs—cocaine, heroin, and methamphetamine—continue to cause great harm to the Nation, particularly to vulnerable minority communities in the major cities. The United States still has a substantially larger drug problem than any other western nation, whether measured in terms of the prevalence of problematic drug use, or the adverse consequences of drugs, including crime and disease, particularly HIV.

U.S. drug policy is comprehensive, but unbalanced. Compared to other wealthy nations, it spends more money on drug control—about $35 billion, if you add State, local, to Federal—and a large share of that, perhaps as much as 75 percent goes toward enforcement.

As already mentioned, about 500,000 persons at any one time are locked up for drug offenses, mostly low-level drug dealing. Treatment is provided to a very modest fraction of those who need it. Probably less than one out of five heroin addicts is in methadone maintenance. The mechanisms for linking treatment and enforcement, which have been a very important part of progress in other countries, remain weak.

Policy measures have met with little success, as already noted; prices have fallen, and drugs remain as available as ever.

There are three important effects that are particularly hard to measure: Firstly, many children suffer abuse or neglect because of their parents' addiction and/or absence because of drug-related incarceration.

Second, inner city neighborhoods have become crime-ridden, disorderly, and unsightly, as a consequence of open-air drug sales. This has further made miserable the lives of residents and driven out investment.

Third, the possibility of earning large sums of money as a successful drug dealer may have led many youth in the same communities to abandon education early and enter the drug trade, even though in fact, most of them will earn less than minimum wages during the first few years of their career and have a high risk of being imprisoned.

Though the UNODC suggests $180 billion for U.S. drug sales, I think the best estimate of total revenues from drug selling, done in the year 2000, was that it generated about $60 billion—still a large sum; about 60 percent of that from cocaine sales.

Though great fortunes are made high up in the drug distribution chain, most of the money goes to those near the bottom, reflecting simply the fact that there are probably 100 retailers for every high-level dealer that's in this business.

There have been modest changes in policy that suggest a tiring with the War on Drugs approach. Most significant is the passage of Prop 36 in California in 2000. Under Prop 36, first or second-time arrestees for drug possession were to be evaluated for treatment and were not at risk of being sent to jail or prison. This has been a major intervention.

Drug courts, of which there are more than 1,500, also represent an effort to deal with drug offenders less harshly and more sensitively. However, Arizona is the only other State to institute a Prop-

36-like system, and though there are 1,500 drug courts, they deal with only 55,000 clients.

They constitute a minuscule contribution to the criminal justice system, and that largely reflects the very restrictive terms of eligibility for entry into that. Most people with long heroin and cocaine careers would not be eligible for drug court.

What's most prominent to someone like me about the drug policy field is simply the lack of any serious interest in analysis of programs and policies.

Congress has not pressed any administration to justify its policy choices in a systematic fashion, but has been content to accept the standard rhetoric and argue about details.

One sign of this neglect of the foundations of policy is the absence of Congressional reaction to the failure of the Office of National Drug Control Policy to continue to estimate the scale of the Nation's drug problem.

In the 1990s, ONDCP published a series of studies entitled "What America's Users Spend on Illicit Drugs." The most recent report covers 1988 to 2000 and presented for every year, estimates of the number of frequent users of cocaine, heroin, and methamphetamine, the total quantity they consumed, and the money they spent.

The findings received little attention, but were striking. They showed a substantial decline in the number of frequent users of both cocaine and heroin, between 1988 and 2000.

In the 2005 National Drug Control Strategy, there was brief reference to an updated report, probably taking the estimates through 2003. That report has never been published, nor has any other updating appeared.

It is hardly a secret that ONDCP has refused to publish the completed 2005 report, yet Congress has never, to my knowledge, publicly questioned ONDCP on its many appearances before various Committees.

These figures are not merely of academic interest; they represent the most basic measures of the scale of this Nation's drug problem.

But as important as it is to measure and monitor drug problems, even more emphasis needs to be given to providing an analytic base for Congress to make its decisions about policies and programs.

Do longer prison sentences for crack cocaine have any effect on the share of American cocaine consumption accounted for by crack? How much can increased funding for drug interdiction efforts by the Coast Guard and Customs Service, reduce use of cocaine and heroin? Let me focus on this one.

The share of cocaine seized by interdiction agencies in the last decade, has been high, perhaps as much as 40 percent. That good news is countered by the fact that at least until 2007 a high seizure rate did not prevent the continued decline of cocaine prices and stable availability.

My interpretation of this comes from simple economic models in which there are two inherent limits to the effectiveness of interdiction: First, seized cocaine is cheap to replace. The import price may be only 15 percent of the retail price.

Second, there are many routes and modalities available to cocaine smugglers; smugglers adapt and limit the effectiveness of increased interdiction.

I think my interpretation is a reasonable one, but it's certainly arguable that it has built into it, some economic assumptions that can be challenged and have been challenged by a long-time collaborator of mine.

To my knowledge, no government grant has ever been given to explore this matter, yet this analysis is essential to any serious assessment of the drug interdiction program. Would increasing the program by a third have any noticeable difference?

Of course, decisions have to be made in the next few years and they will be made with whatever information and analysis is available. As should be clear from my assessment submitted to this Committee, my own view is that the United Sates imprisons more people for drug offenses than it ought, provides too little treatment services, and fails to find sensible ways of linking criminal justice and treatment.

I hope that Congress will undertake a more systematic approach to drug policy in the future, and examine more than marginal changes. Thank you.

[The prepared statement of Dr. Peter Reuter appears in the Submissions for the Record on page 38.]

Senator Webb. Thank you, Dr. Reuter.

Mr. Walsh.

STATEMENT OF JOHN WALSH, SENIOR ASSOCIATE FOR DRUG POLICY; WASHINGTON OFFICE ON LATIN AMERICA, WASHINGTON, DC

Mr. Walsh. Thank you, Chairman Webb, Congressman Scott, Congressman Hinchey. I'm honored to testify before the Committee today about U.S. drug policy.

My organization, the Washington Office on Latin America, has for years done research and advocacy in support of drug policies that respect human rights and reduce drug-related harm. We're also part of an international network called The International Drug Policy Consortium that promotes open debate and evidence-based drug policies.

Within a matter of months, we all know that there will be a new U.S. administration in place. Some of us may not know that the United Nations will be issuing a new political declaration about the next 10 years' course for global drug control, so this is an opportune time for the United States to look seriously and debate seriously the direction of our drug policies.

Let me begin on a personal note, reflecting on the fact that today is by sheer coincidence, 22 years to the day after Len Bias's death. I happened to be a contemporary at Georgetown, an undergrad, while he was a University of Maryland basketball star, and so it hit me then because I followed his career.

But it was even in a more peculiar way that it hit me. I had just begun a year-long volunteer program with the Jesuits in Peru, which at the time was the world's largest producer of coca leaves, the raw material for cocaine.

It became immediately clear to me that despite the headlines and the aggressive rhetoric, a campaign to forcibly eradicate coca was not going to be the way to solve this problem, that there were too many people involved, and without viable alternatives, people would return to planting the crop.

Indeed, if we fast-forward more than 20 years later, we can see—and as Chairman Webb referred—coca cultivation and cocaine production in the Andean region continues apace. I refer you to the chart to my left.*

These numbers are the U.S. estimates, which will be updated soon. The numbers released yesterday were from the United Nations, that indicate a 16-percent increase last year in coca cultivation.

So why do I mention what happened so long ago? The point is that U.S. drug policies have been in place for quite some time, without much change at all, other than intensification.

I think we need a stiff dose of this historical reality, as we contemplate what to do now. Policies are not only not new, but they have never been resource-starved.

By my own conservative calculations, since 1981, all levels of government in the United States have spent at least $800 billion on drug control; the lion's share, $600 billion of that, devoted to supply control, including domestic enforcement, but also interdiction and international programs.

So, since the basic elements have been in place for so long, I think we can safely draw some lessons, whether positive or negative, about what's worked and what hasn't.

There are three lessons from looking at the supply side over the years: First, what is commonly known as the "balloon effect;" second, what has already been acknowledged, the strong availability and falling prices of drugs like cocaine and heroin; and third, what I call the needle in a haystack. I'll briefly review these.

The "balloon effect" is essentially where enforcement pressure squeezes the market in one place at one time. Like the air in a balloon, it moves to another part.

We've seen this time and time again, not just in terms of pressure against coca crops, but also pressure against enforcement routes. And if we look at the situation of drug trafficking in Mexico today, realize that the Colombian traffickers shifted from their Caribbean and South Florida routes into the United States, to Mexico, and partnered with already-existing Mexican criminal organizations, giving rise to the fearsome Mexican cartels that we know today.

This is the "balloon effect." It's fully relevant today. Some U.S. officials have said that it's dead, it's gone; unfortunately, the air is still very much in the balloon, and we can't wish it away; we need to deal with it.

For instance, if we're talking about reducing illicit crops and we know that forced eradication is going to generate replanting, then we need to understand that alternatives need to be in place before pressure or any eradication takes place.

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* *See* "Andean Coca Cultivation, 1987–2006," page 48.

The second point is falling prices. It's been a perennial goal to drive up those prices, and, therefore, reduce consumption. The evidence has shown, however, over the years, that prices have not only not been driven up, they have fallen rather sharply, as you referred to, Chairman Webb.

The evidence for disruptions in 2007 seemed certain enough, given everything that was taking place in Mexico. The cartel infighting, more aggressive operations on the part of the Mexican Government, and the likelihood of more cocaine being shipped to Europe probably added up to some disruption.

Whether that will be durable is still an open question, but it is doubtful, given the historical record. There have been numerous price fluctuations, always followed sooner or later by resumed declines in price as the market adjusts.

An important corollary to this is that if we've never really successfully driven up prices for any length of time, and therefore reduced availability, any changes in the prevalence of drug use that we've experienced over the years aren't due to supply control success. That has to be clear.

The needle in a haystack: Basically, our legal commerce with Mexico, in particular, is so huge that it's like finding not just a needle in a haystack, but many moving needles in many moving haystacks. To imagine that in trade on the order of $200 billion a year, with more than a million people and 300,000 cars and trucks crossing the border every day, we're going to be able to seal the borders, I think is delusional.

At this point, those are the three, I think, hard and fast lessons.

Moving to the trade in Mexico today, obviously, it's extremely violent, and we all know that the Merida Initiative, which the Mexican and U.S. Governments announced last year is under debate for funding. I think what U.S. policymakers need to keep clearly in mind is that even if with U.S. assistance Mexico is able to grapple better with the extreme violence surrounding the drug trade in that country, the idea that there is going to be a reduction in the flow of drugs to the United States as a result is different and extremely unlikely for the reasons I mentioned before.

To conclude, bearing in mind the persistence of the balloon effect, the resilience of the drug markets, the impossibility of sealing the borders suggests that U.S. supply control objectives and expectations need to be brought in line with these realities.

There are no quick fixes. We need to think about long-term and sustained efforts in the source countries to create alternative livelihoods and strengthen their justice institutions, which would hold promise, over time, for reducing the scope and the depredations of the drug industry.

But that requires patience and a departure from our quick-fix, results-now mentality that hasn't fixed anything. So, even if we focus on treatment at home, focus on enforcement at the high level of the trafficking organizations, and promote alternative livelihoods, we can't expect any sudden improvements. We have to think longer term.

There's no silver bullet, and I suggest that rather than adopt sterile and ineffective approaches, we need to switch to what we call a harm reduction approach.

It recognizes that drugs and drug use are perennial problems that won't be eliminated, but we can manage them much better than we have thus far. Harm reduction, broadly speaking, seeks to minimize the harms associated with illicit drug production, distribution, and use, but also minimizes the harms generated by policies meant to control illicit drugs.

Just to conclude, I applaud you, Chairman Webb, and the Members of the Committee for holding what should be the beginning at this opportune moment, of a more constructive, fruitful discussion about the direction of U.S. drug policy, both at home and internationally.

[The prepared statement of Mr. John Walsh appears in the Submissions for the Record on page 47.]

Senator Webb. Thank you, Mr. Walsh.

Ms. Swern.

STATEMENT OF ANNE SWERN, FIRST ASSISTANT DISTRICT ATTORNEY, KING'S COUNTY; BROOKLYN, NY

Ms. Swern. Mr. Chairman, Members of the Committee, good morning and thank you for the invitation to testify today about two innovative prosecution-run programs that seek to reduce drug abuse, improve public safety, and save money.

I'd ask that my submitted testimony be entered into the record.

Senator Webb. Without objection, it will be entered into the record.

Ms. Swern. Thanks.

My name is Anne Swern, and I'm the first assistant district attorney to Charles "Joe" Hynes, Brooklyn's longest-serving district attorney.

I'll be focusing today on two programs that District Attorney Hynes created to combat substance abuse and drug-related crime. The first program, the Drug Treatment Alternative to Prison, called DTAP, diverts addicted chronic offenders into long-term, community-based substance abuse treatment in lieu of incarceration.

The second program, ComALERT, focuses on recidivism reduction through effective reentry for prison inmates returning to their Brooklyn communities.

With me today is Norma Fernandes, a graduate of DTAP, and the community resource coordinator of ComALERT. These prosecution-run programs make sound fiscal sense.

Monies are invested in changing lives and nurturing a strong economic base for communities, rather than just poured into prisons to house a revolving-door population of addicted offenders.

There are two aspects of these programs that I want to emphasize: First, these programs are run by the DA's office. Prosecutors should be involved in programs that go beyond the reactive approach to crime.

By spearheading these programs, prosecutors enhance public safety and gain the support of those whom they serve. Furthermore, because the community knows that the district attorney's foremost concern is public safety, the community trusts prosecutors to run these programs in a responsible manner and minimize any danger.

Second, these programs, while prosecution-run, are nevertheless based upon collaboration with entities normally outside the criminal justice sphere.

Prosecutors are not clinicians. They do not have the experience to evaluate or treat the disease of drug addiction, however, by joining forces with treatment providers, prosecutors can successfully address the root causes of an addict's criminal behavior.

DTAP: In 1990, DA Hynes launched DTAP, which targets nonviolent repeat felony offenders with serious drug addictions, a population almost entirely overlooked for diversion in 1990, and one which even today, is still considered by many as too high risk or difficult to divert from incarceration.

DTAP had reduced drug abuse and criminal recidivism and offers a cost-efficient option for tackling the twin scourges of drug addiction and addiction-motivated crime in the communities.

There are seven core elements of DTAP which are detailed in my written testimony.

CASA, the National Center on Addiction and Substance Abuse at Columbia University, conducted a 5-year evaluation of DTAP. Researchers concluded that DTAP reduced recidivism. Graduates had re-arrest rates that were 33 percent lower, reconviction rates that were 45 percent lower, and were 87 percent less likely to return to prison 2 years after completing the program, than the matched comparison group, 2 years after leaving prison.

Graduates were 3½ times more likely to be employed after completing the program than they were prior to the arrest that caused them to enter the program.

DTAP's results were achieved at half the cost of incarceration. CASA calculated that the average cost for a DTAP participant was $32,975, compared to $64,338 if that same person had been sent to prison.

Our own analysis of the savings realized on correction, healthcare, public assistance, and recidivism costs, combined with the tax revenues generated by the graduates, indicates that diversion to DTAP resulted in economic benefits of about $44 million, thus far.

DTAP has been replicated throughout New York City and in various counties throughout New York State. Federal legislation enacted as part of Second Chance will enable more prosecutors to follow suit.

ComALERT: Just as diverting addicted offenders from prison into treatment can be an effective means or reducing recidivism, promoting public safety, and reducing costs, so too, can making sure that ex-offenders receive treatment, transitional employment, and other social services, once they return to the community.

DA Hynes created—in close collaboration with community-based organizations and governmental agencies—ComALERT, Community and Law Enforcement Resources Together, a reentry program for Brooklyn residents who are on parole and who have been mandated to substance abuse treatment.

At ComALERT's downtown Brooklyn location, clients receive outpatient substance abuse treatment from licensed counselors and attend individual counseling and group sessions. They are regularly tested for drug and alcohol abuse.

One-third of ComALERT's clients receive a referral to and preferential placement in the Ready, Willing, and Able Program, which provides transitional employment and other services.

ComALERT's counseling and periodic drug testing help clients maintain sobriety and their enrollment in RWA. Ms. Fernandes, ComALERT's Resource Coordinator, links participants to a wide range of social services, such as transitional housing, vocational training, GED test preparation, family counseling, and job readiness programs.

Service referrals are tailored to meet the needs of the individual clients. Professor Bruce Western of Harvard, recently completed research evaluating ComALERT.

Professor Western analyzed recidivism rates of ComALERT graduates. Outcome percentages for the graduates was substantially better in all categories, when compared to those of a matched control group who did not have the benefit of ComALERT.

One year after release from prison, parolees in the matched control group were over twice as likely to have been rearrested, re-convicted, or re-incarcerated, as the ComALERT graduates.

Even 2 years out of prison, ComALERT graduates showed far less recidivism than the parolees of the matched control group.

As to employment, ComALERT graduates were nearly four times as likely to be employed as the parolees in the matched group, and also had much higher earnings.

New York taxpayers pay over $2.5 billion a year to maintain prisons. In New York City, it costs $67,000 per year, or $183 a day to house an inmate in jail.

By contrast, ComALERT's drug treatment and case management services cost $10 a day, and transitional employment costs $44 a day, thus saving a significant amount of money.

Both ComALERT and DTAP offer models that are cost-effective means for reducing drug-related crime, one of our Nation's most pernicious social problems. Despite decades of well-meaning State and Federal efforts to tackle the problem, our country is still facing a drug abuse crisis.

While community-based treatment and other social services carry a price tag, their cost is much less than that of incarceration in prison, especially when one considers the effectiveness of diversion and reentry programs at reducing recidivism.

Many States throughout the country are confronting the crippling costs of an exploding prison population.

DTAP and ComALERT transform lives, improve communities, and save money. These programs deserve to be replicated in jurisdictions around the country, and Congress should ensure that adequate funding is appropriated for that goal.

[he prepared statement of Ms. Anne Swern appears in the Submissions for the Record on page 54.]

Senator Webb. Thank you, Ms. Swern.

Ms. Fernandes, welcome.

STATEMENT OF NORMA FERNANDES, COMMUNITY COORDINATOR, KINGS COUNTY DISTRICT ATTORNEY'S OFFICE, BROOKLYN, NY

Ms. Fernandes. Good morning, Chairman Webb and the Committee. I ask that my testimony be entered.

Senator Webb. It will be entered into the record.

Ms. Fernandes. Thank you.

The youngest of three, I grew up in a dysfunctional environment. When I was 11, my mother passed away from cirrhosis of the liver. At the age of 15, I dropped out of high school because I was addicted to heroin.

The foundation of my teenage years revolved around jail and the street corners of Brooklyn, either selling drugs or, at a more desperate time, robbery. Because of my addiction, I didn't care who I hurt.

After many attempts to get sober through a 30-day detoxification, as well as time in jail, these experiences did nothing to keep me off drugs. Although the time in jail prevented me from committing crimes while I was there, it gave me only the opportunity to clean out my system, rest, and time to think how I would become a better criminal when I would eventually be released.

This was the cycle of my life, up until at the age of 22, I decided to enroll into a methadone program. At the time of my final arrest, I was on 90 milligrams of methadone and still engaging with heroin and charged with the felony-level crime—sale of a controlled substance.

I knew I had effectively outgrown my status with the New York City Department of Corrections, and would soon find myself in an upstate prison. Fortunately for me, Brooklyn DA Charles J. Hynes believed in substance abuse treatment alternatives instead of prison, and for this, I will always be grateful to him.

I never thought I would ever be able to live my life without getting high and committing crimes, however, I was given the opportunity to participate in DTAP. I was diverted into a program of long-term residential drug treatment instead of going upstate to prison.

Detoxifying off the methadone at Riker's Island, New York City's jail, was a nightmare. I lost 45 pounds in less than 2 months, and I felt like I was going to die. I had no appetite, nor was I able to sleep, and my body reacted violently and painfully to the awful withdrawal from the methadone.

It was an agonizing process that included many fights with fellow suffers, undoubtedly because I was still sick, suffering, and a very angry person during this period. I was later mandated to Samaritan Village, a therapeutic community located in upstate New York.

My time spent there will never be forgotten. It wasn't easy adjusting to the structured environment and sitting in groups. When I arrived to Samaritan Village, I was scared, angry, and lonely.

As time went on, however, I began to learn more about myself, the real me, and I can proudly say that Samaritan helped me to grow up. I obtained my GED while there, learned how to live life soberly and responsibly, and learned how to set short- and long-term goals.

These experiences empowered me and encouraged me to strive hard, so I can accomplish anything I want to achieve in life.

Today, I'm a college graduate and the owner and landlord of a four-family building in Brooklyn. I am also a proud single parent with a very intelligent, levelheaded daughter.

I love the person I am today. I have no doubt that had I not been offered the chance to enter long-term residential treatment, I would not have set any positive goals, nor accomplished them, and definitely would not be here today sharing this story.

The only choices guaranteed me in the future that I would have faced back then were pretty grim, either becoming a recidivism statistic in prison with an even higher sentence, or a death statistic, buried in the cemetery somewhere.

Instead, I have accomplished every goal I've set for myself and will continue to be prosperous in everything I do.

I am now employed by the King's County district attorney's office as a resource coordinator for the ComALERT reentry program, assisting individuals paroled to Brooklyn in obtaining vital supportive services.

The services include outpatient drug treatment, job placement, vocational training, free GED courses, health benefits, and VESID entitlements. VESID is Vocational Educational Services for Individuals with Disabilities.

The fact that ComALERT is sponsored by the King's County district attorney's office, plays an essential role and has a positive impact on each agency providing supportive services to our ComALERT clients.

Even though there are clients who walk into the ComALERT initially resistant because the program is sponsored by the DA's office, once they become engaged by the reentry program and involved in different services provided by ComALERT, they are anxious to come back.

I know how imperative it is for a formerly incarcerated individual to have these essential supportive services in order to successfully reintegrate back into the community. Supportive services are particularly important for a population that is high at risk to recidivate because they don't have access to effective substance abuse treatment, or have any marketable skills to secure employment.

As a former client, and now a productive community member and a social service professional, my personal experiences have shown me in a number of ways that programs like ComALERT and DTAP are not only effective at restoring lives. Thanks to the enlightened thinking of civic leaders like Brooklyn DA Charles Hynes, I now also have seen how these programs have solid economic and public safety benefits that each and every one of us can all enjoy today. Thank you.

[The prepared statement of Ms. Norma Fernandes appears in the Submissions for the Record on page 60.]

Senator Webb. Thank you very much. We appreciate the testimony of all the witnesses from a wide variety of perspectives.

I'm going to propose that we have 7-minute question periods. I think that with the types of questions that people would like to ask

and the interaction that they desire, 5 minutes probably wouldn't suffice.

I will begin first by saying that I think it I would agree with what Mr. Walsh was talking about, about how important it is to be able to discuss the realities of this situation.

It isn't always a comfortable thing to be able to talk about in the American political process, but it needs to be addressed.

From my perspective, this is very much a demand-pull problem. I've been skeptical about drug eradication programs. I saw some of this in Afghanistan when I was a journalist in 04, where they were announcing they were going to go try to eradicate these different poppy fields.

It doesn't work, when you are supplying such an enormous thirst on this end. On the one hand, we have to do what Ms. Swern and Ms. Fernandes were talking about, and that's find ways to address the demand situation in a different way, other than locking people up because they have substance abuse issues.

But the other is to be able to focus in a constructive and honest way, about how the demand is being fed. I think it is correct to say that despite the problems on the border, this isn't simply a border problem.

The statistic that I gave at the beginning of this hearing—about 80 percent of the outdoor marijuana plantations in California are now being run by Mexican gangs—shows that the border has been breached.

This is a very sophisticated apparatus that is in place. If I had to analogize, I would say it's similar to what you see in the forces of international terrorism in that it is essentially stateless. It works around governmental entities, whether it's in Central or South America, or in North America.

It works in tandem with other activities inside this country, which is something that I'm going to ask for your thoughts on in a minute. And it has created an incredible underground economic apparatus, a very lucrative economic apparatus that causes us to have to think really hard about how to address it.

So I think that the first question that I would like to ask is for the perspectives of people here on gang activities that operate to distribute illegal drugs and how those activities also play into other areas such as extortion, smuggling, et cetera. This question is for people who have any perspectives on that.

Dr. Reuter. If I might tackle just part of that question, a lot of drug distribution is really quite specialized; that is, Colombian drug importers seem to be Colombian drug importers, not much involved in other activities.

They are involved in some other activities in their own country, but in the United States, they have tended to be quite specialized. Drug dealing is high volume in terms of revenues, and there's not much incentive to get into anything else, and anything else puts this at risk.

So whereas at the street level, gangs involved in drug distribution, certainly in some places, are heavily involved in extortion and other activities at the higher levels; I think it's quite specialized. In that respect, differs from the Mafia of 40 years ago when the

Mafia was involved in heroin distribution, along with many other things.

Senator Webb. Mr. Walsh, do you have any thoughts on that?

Mr. Walsh. Yes. We have done a lot of research with partner groups in Central America and Mexico about the youth gang phenomena, and it is obviously a high profile issue here as well.

I agree very much with what Peter said about their role, which is low level as a mule and at the street level in the United States. Don't think of the youth gangs in Latin America, Central America that have links to the United States as super powerful drug trafficking cartels. They are certainly involved in some aspects of the trade, but they tend to be lower down.

One of the implications of that is if you look at how street level enforcement is done, focusing on real nuisance areas and street-level open-air dealing, you are going to get—you can arrest as many people as you want on any given day, but they are going to be the lowest level of the market.

And you can warehouse them, but they will be replaced easily. So focusing on the drug distribution attributes of youth gangs to the extent that they are there is only one very small part of it. The gang issue has to be much more one of prevention in all of its facets.

Senator Webb. Ms. Swern.

Ms. Swern. Our experience in Brooklyn, at least, is that much of the street-level activity is gang related, but it is not always the organized kinds of gangs that people think of. It can be a group of people that have a street name, or hang out at a particular location in public housing, and they loosely will refer to them as a gang, but it is not a gang in an organized structured sense.

For example, we get community complaints a lot about drug dealing in public housing and other places, and there are a lot of different types of ways you can address that as an elected district attorney.

One of the things we have done is long-term investigations in some of these public housing developments in Brooklyn. What we try to do is—even if at the end of the day there are 50 or 75 people implicated—we will try to make sure that the people at the low level who are addicts get the treatment and get diverted, but the people ultimately at the high end of what we are seeing get appropriate sentences of incarceration, because the community does not want those people coming back to live and disturb life in public housing.

It is a complex problem, but there are gangs related and there are gang involvement for sure, but it is not in that organized way.

Senator Webb. What about the more centralized and organized larger scale gangs like MS–13?

Ms. Swern. We see evidence of that of course in Brooklyn. We do try to work with our U.S. Attorneys in our more heavily resourced agencies that can do long-term investigations to try to eradicate them, and of course it transcends our borders of, for example, Nassau County, Suffolk County, the other counties of New York State and New York City, and that is why we have a special narcotics prosecutor in the cty that covers the jurisdiction of all five burroughs.

We do see that, no question about it, the organized gangs as well as these loosely formed gangs.

Senator Webb. Well, I mean—my time is about to run out, but let me just ask about that particular aspect, which was where I was trying to go at the beginning. Perhaps Mr. Walsh, since you have a lot of experience in that region, you've got something like a MS–13 which is centrally organized and very active in California, but also in Northern Virginia and apparently pretty well connected back to a central organization and involved not only in drug activity, but reputedly in a lot of other activity.

Mr. Walsh. Right. I think the first point is recognizing how entrenched the drug industry is and in particular, how Mexican drug trafficking organizations have built on preexisting networks within the United States.

So divide the issues. How are we going to effectively address the violence and disorder caused by gangs and help people get their lives back on track, and focus enforcement on the worst and most vicious and violent in terms of predatory crimes and have a realistic appraisal of how much we are going to be able to affect the drug trade in terms of market availability through those measures.

I think there is little likelihood of the latter. And I think focusing, as has been done for instance in well known Operation Cease Fire in Boston, all levels of Federal enforcement where the real violence is being done to make it clear to the kids—it is mostly kids involved—that the penalties are going to be severe unless you stop.

And then integrate that kind of enforcement-led program with the community services that are going to be necessary to help keep the calm.

So it is enormously complex, but those are where the debates and those are where the resources need to go, and move away from this idea that we are going to somehow shut down the trafficking by going after these youth gangs. That is not going to happen.

Senator Webb. My question really was not about local youth gangs, just to say it for the third time. My time has run out. I may come back to it in a second round.

Congressman Hinchey.

Representative Hinchey. Well thank you very much, Mr. Chairman. I appreciate your calling this hearing. I think it is a very interesting subject.

I want to express my appreciation to all four of you for being here with us. I very much enjoyed listening to what you had to say. I thought you are really looking at this in a very appropriate and constructive way.

This is an issue that has been with us for a long time. I think that there is a direct relationship to the way in which anti-drug enforcement began, just as the amendment to the Constitution was put into place which abolished the previous period when alcohol production and use was forbidden as a Constitutional Amendment.

I think that the way in which attention has been focused on this from the perspective of whether it should be supply or demand has been very much wrong. I think if I listened to you correctly, that is the essence of what most of you are saying; that the focus of attention on supply really does not do anything of any value. The real issue here is demand.

How can you focus on the issue of demand? How can you cut back the demand? How can you deal with people who are interested in drugs? Because that is the only effective way to do it. I think also, as was pointed out, that if you do that—and Ms. Swern I very much appreciate the experience that you talked about; I admire Brooklyn. All the great ideas that I know of in the world come from Brooklyn.

[Laughter.]

Representative Hinchey. I was particularly interested that Ms. Fernandes has had such a great experience in Ellenville, which is coincidentally part of the congressional district that I represent.

Ms. Fernandes. Oh, wow.

Representative Hinchey. And it is a place that I am very fond of. So I appreciate the good experience that you had there. But my sense is that what you were saying, Ms. Swern, the two approaches that you were taking, preventing demand first and then dealing with the people—preventing people from having to go to prison, and then when people get out of prison, dealing with them to make sure that they do not have to go back in that situation.

So I think that what you are saying is exactly the right way in which we should approach this. I just would be interested in any additional comments that you would like to make, and Mr. Reuter, and Mr. Walsh, and Ms. Fernandes, on that aspect of this issue.

Ms. Swern. Well, I would only invite you and anybody who is here; we have graduation on July 23. We have it every year—about 150 people who are graduating the program are celebrated by their families and supporters, and the programs are represented, and the programs are discussed, and it is—you know, we do not do a lot of happy work in the DA's office, so it is a really wonderful celebration. So please feel free to come to Brooklyn. We have great food there and you can come on the 23rd of July if you would like.

Representative Hinchey. OK.

Dr. Reuter

Dr. Reuter. It is really striking that President Bush, in meeting with President Fox in 2001, in Crawford, stood on the front steps of his ranch and said something that liberals had said for a long time. It was of course much more important coming from the President: the main reason that drugs are shipped through Mexico to the United States is because the United States citizens use drugs.

That was an important statement. And at least in terms of the certification process, it ended a lot of useless debate about decertifying Mexico. Mexicans could quite reasonably say: Let's certify your demand control programs rather than our supply control programs.

The Brooklyn DA's office represents the cutting edge of an effort to cut demand. Demand is quite concentrated in a few groups, if we focus on cocaine, heroin, and methamphetamine. These are user populations that are frequently in touch with the criminal justice system. That is the point at which you can do something to persuade people to get into treatment.

Very few people go into treatment because they want to be there. Someone more expert on this than I said there is always the imprint of somebody's boot on the addict's back as he goes through

that door, and sometimes that boot has to be the criminal justice boot.

So, finding effective and humane ways of inducing treatment entry is absolutely central for cutting the demand for cocaine, heroin, and methamphetamine, and programs like that of the Brooklyn DA are absolutely the right ones.

Representative Hinchey. Most of the people in prison in this country—I do not know what the percentage is, but my guess is at least two-thirds, and maybe even three-quarters of the record number of people we have in prison—are there in association with drug use in some way.

The cost of that is enormous, and growing. It just shows the ineffectiveness of the Federal policies that we have in attempts to deal with this issue.

So I would be very interested in hearing what you might have to suggest, what the Federal Government can do to try to focus more attention on this particular problem, but do it in a much more effective way than we have been doing over the course of many decades.

In fact, the problem has gotten worse, and I think in large measure as a result of Federal activities over that period of time.

Dr. Reuter. If I could speak, I am enthusiastic about a program with a rather odd name of "Coerced Abstinence." It comes from Mark Kleiman at UCLA. The notion is that there are very large numbers of people in the criminal justice system who can be motivated to quit drugs by providing them with modest, graduated sanctions that are provided promptly and certainly.

The current probation system, whether it is Federal or local—the parole system also—is one in which you test positive and the probation officer says nothing. The third time, the probation officer says you know you tested positive. The fifth time, maybe he says you really should not test positive. And sometime about 10, he sends you back to prison for 5 years.

That, by any standard of developing a sanctions system, makes no sense. What Kleiman has been trying to do for 20 years is persuade legislators, both in Congress and in State Legislatures, to take this issue seriously.

A small number of programs have tried to take the notion that what you have to do is test frequently, provide modest sanctions immediately and certainly. In these programs you can see a real decline in drug taking and criminal activity.

It is simple. Kleiman has been monomaniacal about it for 20 years. Any time an audience listens they are persuaded, and yet somehow, the system does not carry it through except in very, very few cases.

Ms. Swern. Can I add something to that? When we began our program we had what was called a deferred prosecution model. It was thought that you do not want to penalize a drug addict for being a drug addict, so we are going to hold the prosecution in abeyance, let them try treatment, and if the treatment does not succeed we are going to continue the prosecution.

The program existed in that model until 1998. What happened was there were very few people in the program. The reason why was that for a prosecutor to hold a case in abeyance you have to

be certain that the case is going to be viable when and if the person fails.

So the kinds of cases that we had to select for that deferred prosecution model were undercover sales of drugs where buy-money and stash were recovered. That was a very specific kind of case.

So we went to the defense bar and said: What do you want from us? You know, we have many more drug addicts than we are treating here in this program, and for DTAP—remember it is a predicate felon. It is the second or third or fourth felony conviction.

And they said: We want more of our clients in treatment. We do not care if you take a plea. Take more kinds of cases. Meaning like an observation sale, and possibly some larceny cases where victims are involved, where you cannot be sure that that victim is going to be around a year, a year-and-a-half later if treatment fails.

So we changed the model to what we called a "Deferred Sentencing Model," where the defendant takes a plea up front and is told by the judge, by counsel, if you fail you will get 2 years in State prison, but if you succeed, the case is going to be dismissed against you.

This was what the defense bar wanted. So more of their clients got it. But clinically I have to echo what Dr. Reuter said. Our retention rate, which is the predictor for success in drug treatment, how long you stay in treatment is the best predictor of not reoffending and not going back to drugs. The 1-year retention rate in our program leaped 12 percentage points when we went from a Deferred Prosecution Model to a Deferred Sentencing Model, because that certainty of punishment, even when you are arrested and even when you are told, oh, you are tried with a Class B Felony Offense, and it is mandatory minimums, and you are going to go 4½ to 9, was not as certain as taking that plea and being told by that Judge you are going to prison if you fail.

The beauty of that program also allows us to give a defendant many chances. So if the person is not violent and they fail in treatment the first time but are willing to keep working and there is a treatment provider willing to take them back, we will replace them in treatment to try to give them an opportunity for success.

We researched that as well, where people who fail the first time as compared to people who are readmitted and have a second and third opportunity; they succeed at the exact same rate as the people who fail the first time. So there is no reason not to selectively readmit, and in fact, there is every reason to bring them to graduation because they are least likely to reoffend and least likely to go back to drugs.

The Chairman. Thank you, Congressman Hinchey.

Senator Klobuchar.

Senator Klobuchar. Well thank you much, Mr. Chairman. Thank you for having the courage to hold this hearing, something that needs to be discussed.

I come at this from being a former elected prosecutor in Hennepin County. In fact, Ms. Swern, I worked with your boss before and used some of the models from Brooklyn, not only with the Drug Court but also with community prosecution.

I was reminded of this the other day when we had a group of 50 high school students outside from Minnesota. I went and met

with them, and we were questioning, rather strenuously, a government official about gas prices. As I was walking in one of the high school students said: Amy, is that a murder case you have going on in there? And I said, Kind of.

[Laughter.]

Senator Klobuchar. But I wanted to talk with you about the Drug Court model and how this works. We have had some success with this. I have to tell you, when I first came in, there was a lot of political pushback on Drug Courts for the obvious reasons, and that changed. I saw that change over 8 years.

A part of it was the costs that we are talking about, and part of it was that the Drug Courts, as you have described, changed so that they got better results. But there were clearly some issues with police about some of them that they did not like them.

Our model is a little different than yours in Hennepin, but some of the questions I had were about, do you have gun cases in your model, which we had, and we eventually started to try to push some of them out.

Then also how do you distinguish between the people that are just in there to make a buck and the people that are addicted, which was another criticism of our Drug Court.

Ms. Swern. Let me just say that we do have three Drug Courts in Brooklyn. But what I was speaking about here today was the Prosecution Diversion Program, which is DTAP. The reason that I distinguish that is because those defendants are the people facing mandatory minimums because they previously have been convicted of more than one felony offense.

We do take non-drug cases. We selectively admit. About 20 percent of the people in DTAP are non-drug cases. We know how they do in treatment. The best people in treatment are the people who actually have a drug case, either a drug sale or a drug possession.

The next best category of people in treatment are the burglars. I just want to make a point here. We are the DA's office. If there is a victim involved in your case, if it's a larceny, if it's a burglary, we always speak to the victim before we allow a person to get diverted from incarceration to treatment.

But I have never had a victim say, no, I do not want to do that. If you call as a prosecutor and say this is a better way to go, it will keep the community safer, it is more humane for the defendant, there has never been a victim that said, no, I do not agree with that.

And especially because it is a DA's office. They know that we are not doing it to feel good. We are doing it because it is good crime policy and good social policy.

But there is that difference. We do do diversion for gun cases occasionally—you know, New York just raised its minimum on a possession of a loaded weapon, and our State Legislature is very serious about that.

We will divert selectively children under the ages of 22 years old who have not used the gun, just possessed the gun, if they are smoking a lot of marijuana and they are drinking. We do have programs that are very tailored for the juveniles who engage in that.

We also have a program that we run in our office called Youth in Congregation and Partnership where we have volunteer con-

gregations throughout Brooklyn—Muslim, Christian, Jewish—that select three of their members to train under us to become mentors. And for a year the youth is directed to that mentor committee trained by us to work with them in order to stay in school, help them get jobs, help them with social skills, to divert them on those cases. That is what we do with the gun cases.

But there are other—robbery cases——

Senator Klobuchar. How about the dealers who are not really addicts and are just making money versus—we had some cases where they got through where they should not have probably been in the treatment system.

Ms. Swern. There is a psycho-social assessment by clinicians who are licensed by New York State first to decide whether or not there is an addiction.

The other thing that DA Hines did, because he felt that if you are an addict you deserve treatment; if you are a predator and a trafficker, you deserve prison. But there is a group of people in the middle that do not necessarily fall into either of those categories.

So we, with no money, created something called EVAP, Employment and Vocational Alternative To Prison. We started to screen those people, thinking that they did not have employment opportunities, and they did not have vocational opportunities, and that is why they were dealing drugs, and we found out that most of them did have one and two jobs. They just wanted a better way to augment their money.

Then the question for the DA is what do you do with that person? Sending them to prison does not necessarily deter them. Sending them to treatment when they are not addicts is the worst possible thing. They hamper the treatment for the people addicted.

Senator Klobuchar. Yes.

Ms. Swern. And so that is a constant challenge for us, and especially when we are not funded to do it; it is even more of a challenge.

Senator Klobuchar. Well what I really appreciated, too, was your emphasis on the consequences of the carrot and the stick. Because one of the bad raps these programs can get is that they are just kind of nothing happens.

I think that has changed over time, and you are not being compassionate if you do not have some consequences hanging over people's head. And I loved the statistics that you had of the difference it made.

Because one of the things we have been trying in our State is some bifurcated sentencing, even with drunk drivers, where they do serve some time but then the rest is hung over their head, and that is what you are describing where you actually prosecute the case, but the time is hanging over their head. So I appreciated that that was an element of the Drug Court.

The last thing I just wanted to ask about was results' driven treatment, and measuring of treatment programs. One of the things—and then I got elected to the Senate, so I could not keep focusing on it—was looking at these different treatment programs, because they are not all alike.

Our State is—our license plate says "Land of 10,000 Lakes," but the joke is that it is the land of 10,000 treatment programs. But

we have some amazing treatment programs in Minnesota, and one of the lowest incarceration rates in the country. We use probation more.

We have looked at national studies on this, because as we look as trying to roll this out more on the Federal level as alternatives to longer sentences, we need to have models that work.

Ms. Swern. Well we do study our treatment providers. More importantly, we work with them. They are not criminal justice experts. They do not really understand the criminal justice consequences of certain things.

I will give an example. Say a person has committed domestic violence in their past and they are there for treatment and the clinicians are working with them, but they are calling the victim in violation of an order of protection. That violates the mandate of the court.

A service provider only worries about whether or not they are taking drugs or not. They are not worrying about the criminal justice implications.

It is for us to educate and work with them, and then they usually rise to the occasion. They are really good at their clinical stuff. They may not be great at the criminal justice stuff. And that is the collaboration piece that I talked about that your Drug Courts and all the people in your State do so well.

I think that treatment providers can be brought up to the level that criminal justice experts want them to be with close cooperation.

Senator Klobuchar. All right. Thank you. I am out of time, but I just wanted to thank you as well, Ms. Fernandes, for sharing your story. I know how hard that can be——

Ms. Fernandes. Thank you.

Senator Klobuchar [continuing.] And it makes a big difference when you hear actual stories like yours.

Ms. Fernandes. Thank you.

Senator Webb. Thank you, Senator Klobuchar.

Congressman Scott.

Representative Scott. Thank you, Mr. Chairman, and thank you for holding this hearing. We have gotten a lot of real good information.

Ms. Swern, you indicated that you discuss diversion with victims. Is part of that discussion the fact that the victim is more likely to get restitution if the person is diverted than sent to jail?

Ms. Swern. When it is appropriate for the case, in a larceny case, absolutely we discuss that. But we are very careful about that, because as was touched upon here in your remarks, the collateral consequences of conviction—people who have a felony record sometimes have impediments to employment.

And we certainly would not want to create a great impediment to employment by requiring a person to pay money that they could not afford.

So what we have done in experimental cases is take a fraction of the amount of money that they are making—maybe not full restitution to the victim—but a certain amount to enable the victim to be compensated, but also for the defendant to be able to truly get on their feet so they do not reoffend.

Our number one goal is that they do not reoffend.

Representative Scott. Thank you.

Mr. Hinchey mentioned the fact that most of the problem is on the demand side, that there is relatively less success on the supply side.

Mr. Walsh, you indicated that for dealers enhanced sentencing might have an impact, but it occurred to me that if you look at the difference between powder and crack cocaine, powder you can distribute and get probation; with the same amount of crack you can get 5 years mandatory minimum.

Do dealers make the rational choice to deal powder rather than crack because of the relatively draconian sentence? Or do they deal with people want to buy?

Mr. Walsh. If I did, I did not mean to imply that stiff sentencing is going to make a difference in availability. I think the record is on the contrary. Indeed, the studies that have been done—particularly on the mandatory minimums—have shown that higher sentences lead to higher costs because of longer time in prison without early release for relatively low-level crimes, because most of the people who do get caught up are not the people who can plead down.

So I think on the drug-control effectiveness issue, it is lacking greatly, enormously. And I think on the fairness and justice side, it is also very much lacking, because by and large, the people who are hit with those are people at the very low end. And the people with any information to give do not face those long, stiff sentences.

So if I said anything to the contrary, I want to correct that.

Representative Scott. Dr. Reuter.

Dr. Reuter. Steve Levitt, the author of Freakonomics, is also coauthor of probably the only serious study of the effects of intensive criminal enforcement on the price of drugs, in particular of cocaine.

The paper on this topic suggests that a tripling of the number of people in prison between, I think 1986 and 1996, may have raised the price of cocaine by 5 to 15 percent, a fairly expensive way of accomplishing that. Moreover, I actually have technical reasons to think that it is an over-estimate of the effect.

If you compare the price of crack and the price of powder cocaine, you would expect that the longer sentences would make—crack would be more expensive; after all, the crack dealers would have to be compensated for taking the risk of a longer sentence.

The best paper I know on that by Jonathan Caulkins a few years ago found there was no difference in the price per pure milligram of cocaine in the two forms. So that again suggests that sentencing does not have the expected effect.

Representative Scott. Thank you.

And Ms. Swern, you indicated a $44 million generating—$44 million economic benefit from your DTAP program. How much money did it cost you? What did you have to invest to generate that kind of positive result?

Ms. Swern. Well basically the way we calculated it is mostly—it is the corrections' cost savings, and it is also the other savings that I referred to.

The cost for a person going through DTAP is about $32,000 a year. The cost for that person to go to State prison is about $64,000. So it is double.

Representative Scott. You reduced recidivism. So if the costs were the same, you would still be saving money. But it is even more expensive to have the incarceration strategy. I mean, you save money and reduce crime. It is kind of hard to believe that people would not be for that.

Ms. Swern. I agree.

Representative Scott. Thank you.

And, Mr. Walsh, you indicated harm reduction. What does that mean? The Harm Reduction Strategy?

Mr. Walsh. Harm Reduction starts with what it means as a framework for viewing drug control and the drug problem. It means that you acknowledge and you try to reduce and minimize the harms that attend to the production, trafficking, and use of illicit drugs, which are all real and severe; but at the same time, keep in mind and try to minimize the costs and harms caused by policies meant to control illicit drugs.

A case in point is over-use, over-reliance on incarceration. We have used incarceration far beyond the point of diminishing returns in terms of getting a handle on the drug markets. Incarceration, by detaining people, just opens up new entry, including for younger people.

So the costs of incarceration as a central approach are part of the harm of policy, and that is what we want to minimize; at the same time, we do not forget about the harms that drug use itself causes.

Representative Scott. Thank you.

Dr. Reuter. Harm reduction is a red flag in international discussions about drug policy. It is the way that many Europeans think about drug policy, they are less concerned about the number of people who use drugs and more concerned about the total adverse consequences of their drug use.

So they might even be willing to tradeoff a little increase in drug use if you see a reduction in the total adverse consequences that come from that use.

Needle exchanges are the primary battleground for harm reduction programs, though there are other interventions related to reducing the adverse consequences of injecting drug use. However the notion of harm reduction is a much broader one as John suggested, and you can apply it to thinking about incarceration.

Let's for the moment accept what I think is not true, which is that higher incarceration actually raises drug prices and reduces drug use. You might still say that the small decline in drug use achieved was not worth the human suffering that you caused by the increased incarceration, not just to the people who were incarcerated, but also to their families and communities.

Senator Webb. Excuse me, Dr. Reuter, I note that the House has called a vote, and I would yield to Congressman Hinchey if he had anything else he would like to say, if you are going to make the vote?

Representative Hinchey. I do not think we have time, but thank you very much, Mr. Chairman.

Senator Webb. OK. Well if so——

Representative Hinchey. I would like, once again, to express my appreciation to you. It has been a very interesting hearing. This is a very, very important subject and it is one that is costing us a lot in this country, not just in dollars—although it is costing us a lot that way—it is costing us a lot socially as well.

It is something that we just have not had the ability to deal with in one way or another. I think that all of the testimony that you have given and the response to the questions that have been asked have been very positive, and I think very very helpful.

I particularly want to thank you for that, and I want to thank you, Ms. Fernandes, for the experience that you had and in conveying that very positive experience to us and the way in which it has made a difference in your life and consequently can make a big difference on a whole lot of other people's lives as well.

Ms. Fernandes. Thank you.

Senator Webb. We appreciate very much Congressman Scott and Congressman Hinchey for making the trek over to this side, and for being with us today.

I have another question I am going to ask before we close the hearing, but Congressman Scott, did you want to say something?

Representative Scott. Thank you for your leadership on this issue. Thank you, very much.

Senator Webb. Good to be with both of you.

I would like to pursue one other question here while we have the panel. Justice statistics show that of all drug arrests in 2005, 40.6 percent were for marijuana offenses. I am curious about what this panel thinks about that; first of all, in terms of the amount of energy and the legal apparatus that is going toward marijuana, how it impacts the ability—it may impact positively, it may impact negatively, but I am curious about your perceptions on how this impacts the ability to get our arms around the other areas that we are trying to deal with.

Dr. Reuter. I have done some work on this, particularly in the State of Maryland where I tried to see what happened to people who were arrested for simple marijuana possession, which is the vast majority of those marijuana arrests. They are arrested not for dealing, but for simple possession.

What is really interesting is that in Maryland, which is not a decriminalized State so that possession is subject to criminal penalties, essentially nobody was sentenced to jail as a result of marijuana possession arrests.

However, about one-third of those who were arrested spent time in jail pre-trial. If I remember correctly, about one-sixth spent more than five nights in jail.

So there is sort of an odd way in which there is this random punishment that is handed out really outside of the criminal justice system—certainly outside of the court system.

There is this very large number of arrests. I think that in fairness——

Senator Webb. Part of it, if I may——

Dr. Reuter. Yes.

Senator Webb. Part of it is the arrests. Part of it is that a significant percentage of people who are incarcerated are incarcerated for possession of one type of drug or another, rather than sales, and

part of it is the energy that is expended in the criminal justice system that ends up resulting in marijuana arrests. This is what I am asking you to react to.

Dr. Reuter. OK. I mean, the term "arrest" is a pretty broad one. In California, which is a decrim State, there are very large numbers of arrests. It is not clear how much of that is taking people down to the station and actually booking them, as opposed to issuing something not much more than a——

Senator Webb. So would you say this is benign, or not benign? Does it impact the other side?

Dr. Reuter. "Benign" is too strong, but it is not as bad as it looks. Just let me say something about the incarceration for possession.

There are a large number, something like a third of those serving time in State prison, who are serving time on a possession conviction. But if you do a survey of the inmates themselves, most of those report that in fact they were involved in the distribution, and it is clear that this was in fact a plea and they simply pled to a lower possession charge and took some prison time.

Senator Webb. But still nonetheless nonviolent?

Dr. Reuter. A large number of them nonviolent, that's correct.

Senator Webb. OK. Thank you.

Mr. Walsh.

Mr. Walsh. I think your question also goes to setting priorities. I think one of the principles to carry forward as we rethink and try to improve drug policies is discriminating among types of drugs, illicit drugs, and which do the most harm, and which are the most harmful overall, and which therefore deserve the most emphasis.

Also, if you look at the sheer number of users, at least by the household surveys and the school surveys, marijuana is far and **away** the most widely used illicit drug.

What kind of dent are you going to make even if you have many, many more arrests for marijuana possession is not very clear. So I would suggest that in considering what are the most effective types of policy, we also have to consider differences among drugs and not suggest that, while they are all illicit, therefore they are all equally harmful in the same ways.

Senator Webb. Ms. Swern.

Ms. Swern. Our experience in Brooklyn is that simple possession of marijuana or of a small amount of sale of marijuana is generally not—nobody goes to jail, really, for that.

The other things, though, about marijuana, the two interesting things that we did see is that children who were arrested—"children," people under say the ages of 22 that are arrested for other kinds of drugs, sale of cocaine, sale of heroin—frequently are heavy marijuana users. Every day they use marijuana. Every day they drink.

And those people we will divert to treatment, even though we wouldn't if the person was 35 or 40 years old, because treatment does seem to work for that population somewhat. The structure of treatment, the principles of treatment, does seem to work. And frequently they are selling other drugs, but they are using marijuana every day.

And finally I will say that when we look at spates of violence in public housing and other places in Brooklyn, we look to the causes of it. You know, is it a social club? Is it localized?

And we have seen recently that spates of violence are around the marijuana trafficking areas. So that we do—we do not want to divorce ourselves with the kinds of drug that we are talking about, and the kind of violence that it might bring because it is so lucrative and because there are turf wars and because there are other things, and criminal activity——

Senator Webb. You would attribute that violence to competition in the trafficking of marijuana? Is that correct?

Ms. Swern. Yes.

Senator Webb. My question is basically the energy that is expended in arresting people for possession of marijuana, as opposed to drug trafficking, writ large.

Ms. Swern. Well I can only say what we do with the cases when they bring them to us.

Senator Webb. Ms. Fernandes, you may have a unique perspective on this. I would be happy to hear it.

Ms. Fernandes. In dealing with ComALERT, I think it is because whether the age range, they engage with marijuana at a early age, and I think it's not such a big deal to them to be arrested for a possession charge, so maybe that's why there have been that many arrests that was just stated.

And also there's a lot of adolescents that are now engaged at a very, very early age with the use of marijuana in Brooklyn.

Senator Webb. Well I thank you. I thank all of you for your answers to those questions.

Senator Schumer was planning to be here, but apparently he has not been able to make it. The hearing record will remain open for Members of the Committee who wish to submit a statement for the record. I know Senator Schumer had said he wanted to do so, Vice Chair Mahoney, Senator Brownback, all would like to have the opportunity to comment.

I thank all of you for your participation today, and we will continue this discussion.

The hearing is now closed. Thank you.

[Whereupon, at 11:37 a.m., Thursday, June 19, 2008, the hearing was adjourned.]

Submissions for the Record

PREPARED STATEMENT OF SENATOR JIM WEBB

I would like to thank Chairman Schumer for agreeing to hold this hearing and allowing me the opportunity to chair it. I would also like to thank our witnesses for appearing today. Following my remarks, I would encourage members to make opening statements.

This hearing today follows a Joint Economic Committee hearing I chaired last fall regarding incarceration. The central role of drug policy in filling our nation's prisons makes clear that our approach to curbing illegal drug use is broken.

It is a poignant day in history to hold this hearing. On this day in 1986, University of Maryland college basketball star Len Bias died from a cocaine overdose. The enormous media coverage surrounding his death firmly placed the issue of drugs at the center of our political stage. The Anti-Drug Abuse Act, which established mandatory minimum sentences for drug offenses, was signed only 4 months later.

Today is also Juneteenth, marking the date in 1865 when slaves in Texas were told of the abolition of slavery. It is painful to note that as people gather today to celebrate the end of slavery, Human Rights Watch reports that while "ostensibly color-blind, the U.S. drug war has been and continues to be waged overwhelmingly against black Americans."

Understanding how illegal drugs affect our society involves a complex matrix of issues. We start with the fact that the illegal drug market is enormous and lucrative. The United Nations Office on Drugs and Crime estimates that the United States, Canada, and Mexico account for 44 percent of global retail drug sales, totaling tens of billions of dollars. The total economic costs of all the factors associated with drug abuse in the United States have been estimated at $182 billion per year. To offer a context for understanding the value of the drug trade, global exports of wine and beer are equivalent to only one-quarter of illegal drug flows.

To meet our enormously profitable and insatiable demand for drugs, there are innumerable ready suppliers in this country and outside our borders. As the Economist reported, marijuana is California's most valuable cash crop, with four-fifths of the outdoor plantations in the state run by Mexican gangs. Strategy Forecasting, Inc. estimates that "at least half of the $65 billion worth of illegal narcotics purchased in the U.S. each year comes through Mexico."

Efforts to halt the flow of drugs into the country, however, have done little to limit supplies. Instead, we are witnessing a war on our border. Since President Calderon launched an offensive against drug gangs and cartels over a year ago, about 4,100 people have died, including 450 Mexican police officers and soldiers. President Calderon has declared that his government sees it as a war, and the U.S. State Department issued a warning this May that the engagements in Mexican streets are "equivalent to military small-unit combat."

While spending enormous amounts of money to intercept drug shipments at the border and inside the country, supplies remain consistent. As this chart shows, 86 percent of high school students report that it is "very easy" or "fairly easy" to obtain marijuana. 47 percent report the same for cocaine, 39 percent for crack, and 27 percent for heroin. Success in curbing drug imports would be accompanied by an increase in price. Cocaine prices, however, have fallen by approximately 80 percent since the 1980s. An indication that there may be an increase in price in 2007 still places prices well below the levels of the 1990s.

Simultaneously, efforts to curb illegal drug use in the United States have relied heavily on enforcement. The number of drug arrests tells the story of the growth in the prison population. As this chart shows, the number of persons in custody on drug charges increased thirteen times in the past 25 years. Despite the number of people we have arrested, the illegal drug industry and the flow of drugs to our citizens remain undiminished.

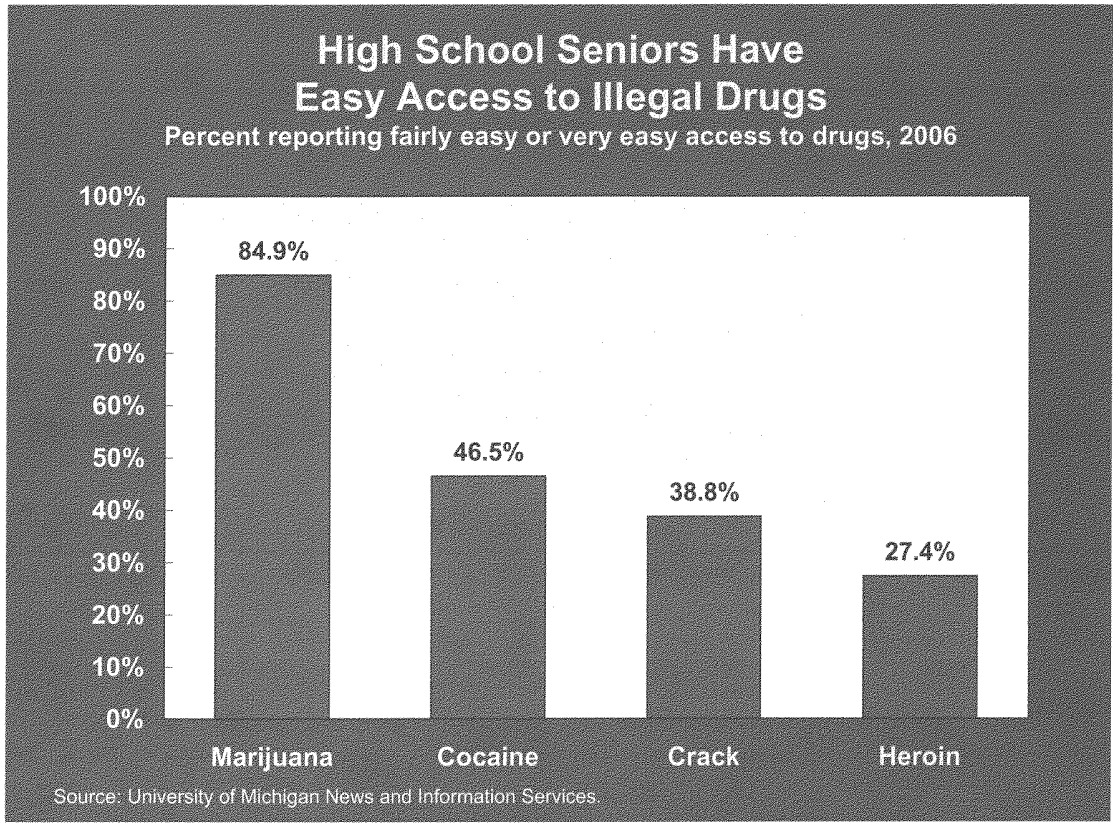
The arrest numbers also tell another story. Convictions and collateral punishments are devastating our minority communities. When it comes to incarceration for drug offenses, the racial disparities are alarming. Although African Americans constitute 14 percent of regular drug users, they are 37 percent of those arrested for drug offenses, and 56 percent of persons in state prisons for drug crimes.

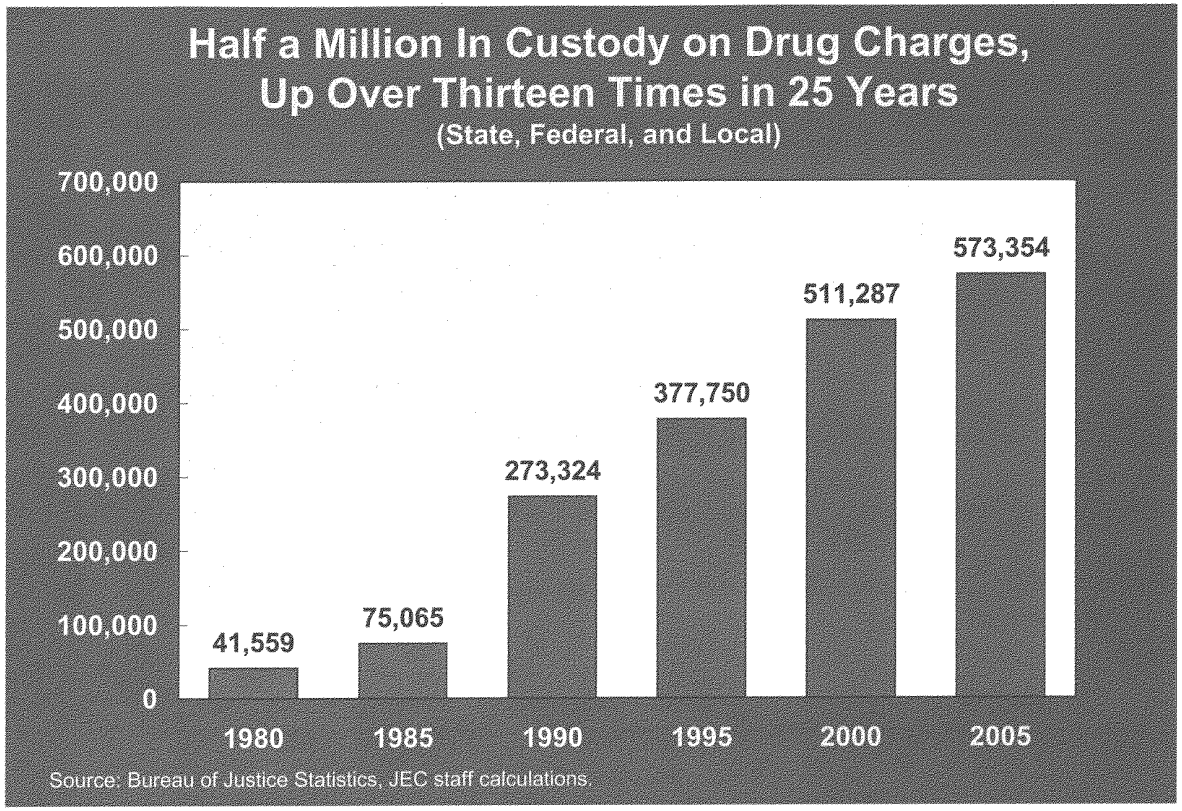
The last piece of the drug puzzle is the need to clean up drug dependent Americans inside our prisons and our homes. Alternatives to enforcement have shown that that a variety of approaches can successfully reduce incarceration, improve public safety, and produce social benefits in excess of their costs. Diversion programs and drug courts are two of the promising examples that offer better outcomes.

Our current combination of enforcement, diversion, interdiction, treatment, and prevention is not working the way we need it to. And, despite overwhelming facts—the ease with which drugs can be obtained, the price of drugs, the number of people in prison, the violence at the border—there has been little effort to take a com-

prehensive look at the relationship between the- many interlocking pieces of drug policy.

We need to rethink our responses to the health effects, economic and social impact, violence, and crime associated with illegal drug use. We also need to reconsider our approach to the supply of and demand for drugs. The central challenge for our witnesses is to help us, and all Americans, to understand the full dynamics of this problem, and to assist us in pointing the way toward effective solutions. I welcome your thoughts today.


High School Seniors Have
Easy Access to Illegal Drugs
Percent reporting fairly easy or very easy access to drugs, 2006
100%
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
84.9%
46.5%
38.8%
27.4%
Marijuana
Cocaine
Crack
Heroin
Source: University of Michigan News and Information Services.


Half a Million In Custody on Drug Charges,
Up Over Thirteen Times in 25 Years
(State, Federal, and Local)
700,000
600,000
500,000
400,000
300,000
200,000
100,000
0
41,559
75,065
273,324
377,750
511,287
573,354
1980
1985
1990
1995
2000
2005
Source: Bureau of Justice Statistics, JEC staff calculations.

PREPARED STATEMENT OF DR. PETER REUTER,* SCHOOL OF PUBLIC POLICY AND DEPARTMENT OF CRIMINOLOGY, UNIVERSITY OF MARYLAND

SUMMARY

America's drug problem seems to be declining and is certainly less prominent in the public eye than it was twenty years ago. The declines are probably mostly the natural working out of old epidemics rather than the result of tough enforcement. Nonetheless, cocaine, heroin and methamphetamine continue to cause great harm to the nation, particularly to vulnerable minority communities in the major cities. The United States has a larger drug problem than any other western nation, whether measured in terms of the prevalence of problematic drug use or the adverse consequences of drugs, including crime and disease (particularly HIV).

U.S. drug policy is comprehensive but unbalanced. Compared to other wealthy nations it spends more money on drug control and a large share of that, perhaps as much as 75 percent, goes toward enforcement, particularly arresting, prosecuting and imprisoning low level drug dealers. About 500,000 persons are locked up for drug offenses on any 1 day. Treatment is provided to a modest fraction of those who need it, the quality of services is low and the mechanisms for linking treatment and enforcement remain weak. Policy measures, whether they involve prevention, treatment or enforcement have met with little success. Prices have fallen and the drugs remain as available as ever.

The forces for major change in drug policy seem weak. Moreover, even if Congress did want to make major revisions, it would have difficulty finding credible evidence to guide it. Not only is there weak monitoring of the nation's drug problems, there is also minimal evaluation of the enforcement programs that dominate expenditures. Without it policy debates will be little more than the exchange of impressions.

AMERICA'S DRUG PROBLEM

Drugs have been part of the landscape of U.S. social problems for at least forty years, from the time of the heroin epidemic of the late 1960s. The principal costs have been the high crime rates and the neighborhood consequences of that, particularly in low income minority, urban communities; the incarceration of large numbers of young males, particularly in those same neighborhoods; and HIV associated with injecting drug use, primarily heroin.

Use

Since 1965, the U.S. has experienced four major epidemics of drugs other than marijuana, in which there have been abrupt increases in new use followed later by sharp declines in new use. After each epidemic there has been a relatively large, but slowly declining, population of dependent users. Each drug has had a distinctive social, geographic and ethnic pattern and each has been strongly associated with crime.

Heroin. The heroin epidemic's surge in initiation began around 1967 and was over by 1974, in the sense that few new addicts started each year after that. The problem was concentrated in a few cities and particularly among African-American and Hispanic males. Many heroin addicts have survived for over thirty years with recurring periods of addiction, treatment, imprisonment and occasional abstinence.

Powder cocaine Initiation in this epidemic peaked in the late 1970s and extended over perhaps a decade. The drug was used by a much broader population, in terms of income, ethnicity and education; it was also less concentrated among males.

Crack cocaine The epidemic began in Los Angeles and New York around 1982 and spread to other cities over the next 5 years. By 1988 rates of new use had declined everywhere. In each city the surge in initiation was brief, lasting about 2 years, and was concentrated among young people in poor minority communities.

Methamphetamine By the early 1980s a small number of cities (most notably San Diego) on the West Coast had substantial methamphetamine dependent communities, primarily in working class neighborhoods, both Hispanic and white. Ten years later the drug spread eastwards to mid-America and it was the first in which there were substantial problems in rural communities. The spread is spotty, penetrating most deeply where crack was least common; it is widely prevalent in Houston and relatively rare in Dallas, as revealed by drug testing among arrestees in the early part of this decade. As of 2008 methamphetamine remains almost un-

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*A fully documented version of this testimony will be posted on my website shortly: *http://www.puaf.umd.edu/faculty/reuter/working%2OPapers/Publications.htm*

Jopnathan Caulkins and Harold Pollack provided valuable comments on an earlier draft. The opinions expressed here are solely my responsibility.

known in some major east coast cities such as New York and Washington. Though the number of users dependent on the drug may still be rising, use in the general population is already well below its late 1990s peak.

Marijuana is by far the most widely used drug in the population. About half of every birth cohort since 1960 has tried the drug by age 21. Since the mid-1970s there has been considerable variation in how many teenagers use it. For example, around 1980 about one in four 18–24 year olds reported in a survey that they had used marijuana in the previous thirty days. The figure fell to one in eight 10 years later and since then has risen back to one in six. However past-year marijuana use in the population 12 and over has hardly changed at all since 1988.

In 2000 the Federal Government estimated that there were about 1 million chronic heroin users, 2.7 million chronic cocaine users and 600,000 chronic methamphetamine users. Much larger numbers, perhaps as many as 5 million, were dependent marijuana users, but this was associated with much more modest problems, both for the users (on average) and on communities.

Drug-related Problems

The most conspicuous consequence of drug use in the U.S. has been the crime associated both with its marketing and with the need to obtain money to purchase the substances, which are very expensive. A cocaine or heroin habit in the mid-1990s cost about $15,000 per annum, far more than an alcoholic had to spend for his source of intoxication. Given that regular use of cocaine or heroin made employment difficult, it was hardly surprising that crime was a principal source of earnings to pay for the drugs. Of those arrested in American cities early in this decade, a large fraction were regular users of expensive drugs, though the drugs varied a great deal by city. See Table 1

Table 1 Percentage of Adult Male Arrestees Testing Positive for Drugs in Five Major Cities, 2002

Primary City	Any NIDA–5 Drug*	Marijuana	Cocaine/ Crack	Opiates	Meth-amphet-amine
Chicago, IL	85.2%	49.4%	47.9%	26.0%	0.3%
Dallas, TX	58.0%	35.3%	30.7%	6.1%	4.0%
Los Angeles, CA	62.3%	36.4%	32.1%	5.8%	14.8%
New York, NY	81.0%	44.3%	49.0%	15.0%	0.5%
Phoenix, AZ	71.1%	41.5%	27.1%	5.0%	31.2%
Median (36 cities)	63.9%	41.5%	30.4%	5.9%	5.3%

*The NIDA–5 drugs are cocaine, opiates, marijuana, methamphetamine, and PCP.

In the early stages of the crack epidemic there was enormous violence associated with that market. As the users and sellers of crack aged, that violence fell sharply. Evidence for the aging of the crack using population can be found in data on treatment admissions. Whereas in 1992 less than 10 percent of those seeking treatment with smoked cocaine as their principal problem were over 45 years old, in 2005, that figure had risen to about 40 percent.

Injecting drug use has been a major vector for the spread of HIV, accounting for about one third of the deaths that have occurred from that disease, about 200,000 by 2007. Overdose deaths amount to more than 10,000 per annum; this number measures only those who die of acute drug-related causes, not those whose death might result from chronic effects, such as liver failure due to Hepatitis B. It also does not include homicides that might be drug-related; since there were about 15,000 homicides each year in the early part of this decade, it is plausible that a few thousand were related directly to drug selling and more indirectly via selling's effect on gun ownership among criminally inclined youth.

There are three important effects that are subtler and even harder to measure. Many children suffer abuse or neglect because of their parents' addiction and/or absence because of drug-related incarceration. Inner city neighborhoods have become crime ridden, disorderly and unsightly as a consequence of open-air drug sales. This has immiserated the lives of the residents and driven out investment. Similarly, the possibility of earning large sums of money as a successful drug dealer may have led many youth in these same communities to abandon education early and enter the drug trade, even though most of them will earn less than minimum wages during the first few years of their career and have a high risk of being imprisoned. The best estimate of total revenues from drug selling, done in 2000, was that it generated about $60 billion, about 60 percent from cocaine sales. Though the great for-

tunes are made high up the distribution chain, most of the money goes to those near the bottom, reflecting the very pyramided nature of drug distribution; retailers are at least one hundred times more numerous than high level dealers.

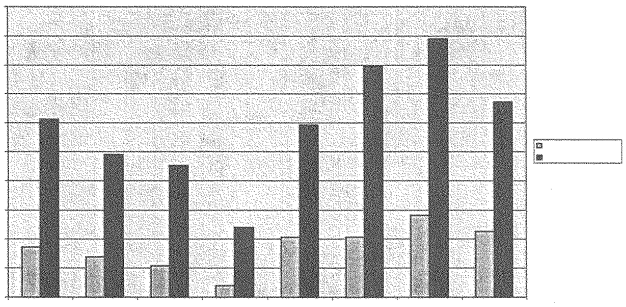
Comparisons with other western nations

Comparisons between the drug problems of the U.S. and other similarly rich nations is complicated by differences in how the data are collected and analyzed. For example, figures on death rates associated with drug use in other nations may use the term "drug-related" more narrowly (France) or more broadly (Germany) than does the U.S. The U.S. household surveys, conducted face-to-face rather than through telephone, are likely to generate reports of use from a higher percentage of users. Thus the Figures in this section should be treated as indicative rather than precise.

The United States, shows a very high prevalence of cannabis use but not more so than some other nations (Figure 1). It has a much higher rate of dependence on expensive illicit drugs, captured below in the measure "problematic drug use"[1] (Figure 2). There are other countries that have heroin and marijuana prevalence rates comparable to the U.S. but none that then adds such a large problem with cocaine and stimulants. Nor does any other Western country experience such a variety and severity of drug-related problems. Only data on drug-related deaths can be presented in a roughly systematic way (Figure 3) but reports of, for example, violence in drug markets, are exceptionally high in the U.S.

This is not to imply that the U.S. problems are worse because of policy; indeed I believe there are much more fundamental social cultural and economic influences that account for the differences. But these data do make it hard to argue that U.S. drug policy has been successful.

Figure 1 Last Year Marijuana Use in the U.S. and 7 Other Nations



[1] For the United States I used estimates of the number of chronic users of cocaine, heroin and methamphetamine, with an adjustment for overlap among the populations. The drug-specific estimates were take from *What America's Users Spend on Illicit Drugs 1988-2000* (ONDCP, 2001)

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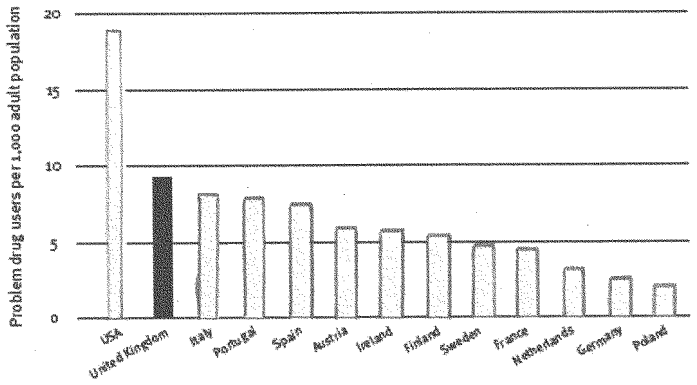
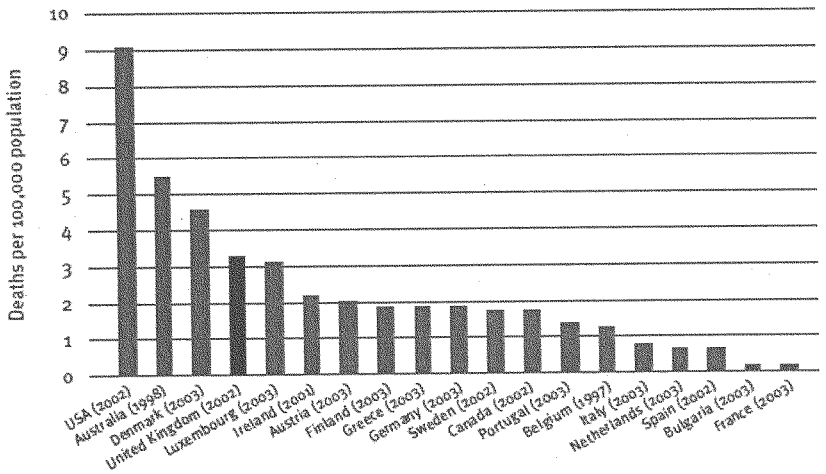
Figure 2 Problem Drug Use in the U.S. and 11 Other Nations



Note: Estimates from various years, 1999-2004

Figure 3: Acute Drug-Related Deaths in the U.S. and 17 Other Nations

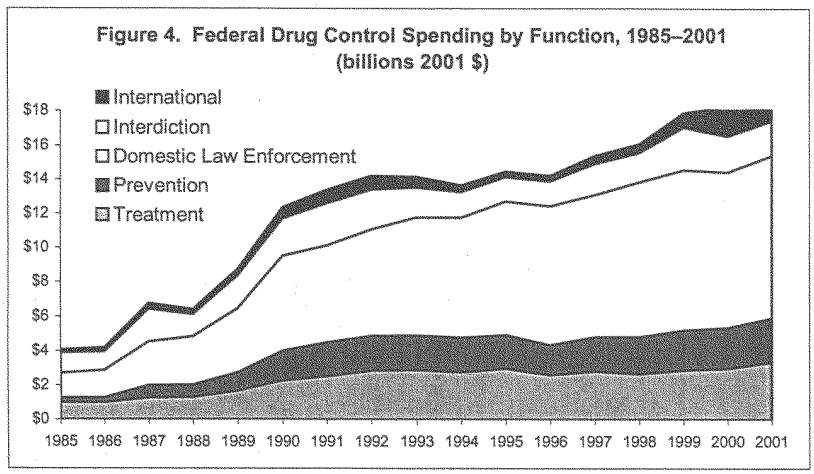


THE POLICY RESPONSE

Though President Richard Nixon was the first president to declare a "war on drugs" in the 1970s, the Federal Government, under presidents Nixon, Ford and Carter, gave considerable emphasis to treatment, particularly to provision of methadone maintenance for heroin addicts, as a way of combating crime problems. President Carter was notably more liberal on drug policy than any later president, even expressing a view that the punishment for marijuana possession should be no more severe than the consequences of the drug itself.

Since 1981, when Ronald Reagan became president, the response to drug problems has consistently emphasized enforcement, particularly against sellers of cocaine. This emphasis is bipartisan: the Clinton administration was just as tough on drugs as the administrations of Presidents George H.W. Bush or George W. Bush.

The Federal Government has allocated about two thirds of its drug control funds to enforcement since 1985; see Figure 4. However this is not a full description of the national drug control budget, since it represents only about half of all drug control expenditures. State and local governments also spend large amounts, perhaps as much as the Federal Government, and their expenditures are even more tilted toward enforcement.



As a result of changes in Federal budget procedures, it is impossible to show post 2002 changes consistently but there is good reason to believe that the budget has continued to grow and to show increased emphasis on enforcement. It is likely that total expenditures for drug control, at all levels of government, totaled close to $40 billion in 2007; 70–75 percent of that went to enforcement. Incarcerating 500,000 inmates for drug offenses alone would cost about $12–15 billion.

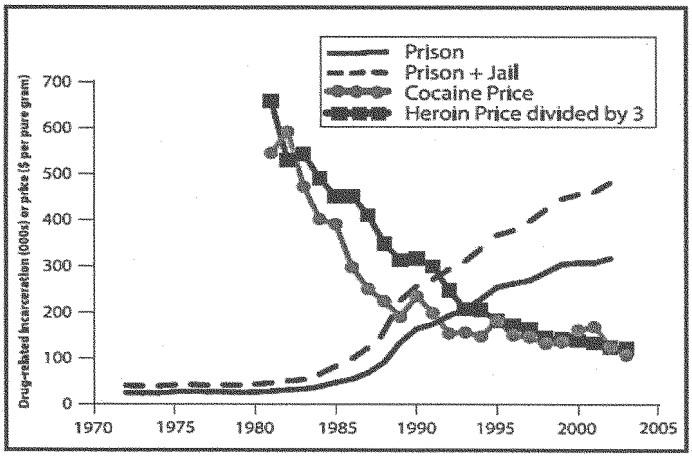
Enforcement The most striking consequence of this emphasis on enforcement is the huge number of individuals being incarcerated for drug offenses. Whereas in 1980 fewer than 50,000 individuals were incarcerated, that figure had risen to 500,000 by 2007. The estimated half million (which includes those in local jails as well as Federal and state prisons) consists only of those who have been convicted of drug selling or possession, not those whose property or violent crime may have been related to their drug dependence. What is particularly astonishing is that the number has kept on rising even though there is good reason to believe that the scale of drug dealing has been declining modestly for the last fifteen years. Though many are formally in jail or prison for drug possession offenses, most of those are in fact dealers who were convicted of possession with intent to distribute or who pled guilty to possession charges in order to avoid a longer sentence.

A major concern has been the racial and ethnic composition of the incarcerated drug dealer population. The probability of going to state prison for a drug offense is about 14 times higher for an African-American male than for a white non-Hispanic male. The ratio for Hispanic males is also high. Some of this reflects the greater lengths of statutory sentences for crack cocaine vs powder cocaine; crack cocaine offenses are much more likely to involve black offenders. The growth in the number of prisoners serving time for drug offenses may reflect the same aging of the user and seller populations mentioned earlier. Each time the same offender comes back into court he has accumulated a longer criminal history and is likely to receive a more serious sanction.

In theory tough enforcement should lead to higher prices. As show in Figure 5 that has not happened. Prices for cocaine and heroin have fallen substantially over a long period of time; as compared to the early 1980s prices have fallen by about 80 percent. There is some indication of a price increase in 2007 for cocaine but even that leaves the price well below its 1990s levels. Moreover the price increase might well be short-lived, probably being related to the current conflict around drug markets in Mexico, just as there was a price spike when the Colombian government

tackled the Medellin cartel in 1989–1990. Figure 2 makes the point about the failure by contrasting the decline in prices with the rise in drug prisoners.

Figure 5: U.S. Drug-Related Incarceration and Retail Heroin and Cocaine Prices



Note: prices are adjusted for inflation

Evidence from Monitoring the Future, the annual survey of high school students, shows little change in the perceived availability of cocaine or marijuana over the period since 1980. For example, in 1991 51 percent of high school seniors reported that cocaine was available or readily available. By 2003 that figure had only fallen to 43 percent.

Treatment Each year about 1 million persons are treated for substance abuse (not including alcohol alone). Large as that number seems, it is small in comparison with estimates of the total number of persons in need of treatment, particularly when one takes account of the growing number of marijuana admissions that are probably seeking help with a legal rather than a health problem.[2] Not including those in prison or jail, there may be as many as 4 million persons who have abuse problems with cocaine, heroin and methamphetamine. Need for treatment rarely leads an addict to seek treatment; pressure from family, friends, employers or the criminal justice system is frequently required to get the addict into treatment. So it might not just be lack of expenditures that lead to a large "treatment gap". However the low share of addicts in treatment in the U.S. contrasts with other rich Western nations. For example in the Netherlands, Switzerland the United Kingdom, about half of those with heroin problems are in treatment programs; in the U.S. the fraction may be as little as one sixth.

Treatment is not only inadequate in terms of the number of available slots, it is also of low average quality. Drug treatment, particularly the provision of methadone maintenance, is separated from the mainstream of health care. Wages are very low, many of the workers are not well trained and the turn-over of the workforce is high. Despite this, there is abundant evidence that treatment, even not very good treatment, is both effective and cost-effective. Over 80 percent of those who enter treatment for the first time will either drop out or relapse, so that treatment is itself a career, like drug use. Nonetheless, the reductions in drug use generate large declines in crime and various health risk behaviors; these in turn yield large benefits both to the user and to society.

[2] Marijuana dependence is not rare and is treatable. However a very high share of those entering treatment programs with marijuana as the primary drug of abuse do so as the result of referrals from the criminal justice system. Given the process by which marijuana possession arrests are generated, this suggests that many of those admissions are motivated by the desire for a reduced penalty from the court rather than help in dealing with marijuana abuse or dependence.

Prevention There is universal enthusiasm for prevention programs in concept. By international standards the U.S. spends large amounts on prevention per capita and as a share of the drug control budget. Unfortunately much of that money is wasted on ineffective programs. Partly that is the result of a deeply flawed disbursement mechanism, the Safe and Drug Free Schools Act, which amounts to little more than revenue sharing under the rubric of supporting prevention activities. The Bush administration has tried to cut funding but Congress has resisted restrictions on such a politically attractive program.

On the other hand, in recent years the Office of National Drug Control Policy has funded a mass media campaign that repeated evaluations have found to have no effect on youthful drug use. The most popular program in schools, Drug Abuse Resistance Education (DARE) has been evaluated a number of times and found ineffective; in face of negative findings the DARE program has agreed to redesign its efforts, though still using police officers as the messengers. Other prevention expenditures have gone to programs that have no plausible basis for belief they might make a difference and the opportunity cost of diverting classroom time from other subjects is often overlooked.

INTERNATIONAL PROGRAMS

Expenditures on source country programs (eradication, alternative development, police training, equipment etc.) constitute a tiny share of U.S. drug control expenditures. Even with Plan Colombia at its height, the U.S. was spending no more than $1.5 billion on these programs, less than 10 percent of Federal drug control expenditures and less than 5 percent of total governmental drug control expenditures. The vast majority of that money was spent in the Andean region. Though Afghanistan dominates world heroin production, the United States imports most of its heroin from Colombia and Mexico. Indeed, these two countries account for the vast majority of the U.S. imports of all illicit drugs, with Mexico serving as the transit point for most cocaine and also producing much of the imported marijuana and methamphetamine. The Bush Administration has pushed for aggressive eradication in Afghanstan but with little success and probably has not pushed very hard given the political risks that such a program would bring to the already fragile Karzai government.

Interdiction programs, which aim to seize drugs and couriers on their way into the United States, account for more money, roughly $3 billion annually. Though most interdiction money is spent inside the U.S. waters, a substantial fraction does go to maintaining ships and planes in the Caribbean and Central American waters, so it has an international component.

There is good reason to doubt the effectiveness of moneys spent against the growers of coca leaf, the source country refiners and even to a lesser extent the smugglers. The basic argument is reflected by the numbers in Table 2. These figures show that the vast majority of the retail price of cocaine is accounted for by transactions in the United States, almost all of that in the form of compensation to U.S. resident dealers for incurring the risks of being imprisoned or injured in the course of the business.

Table 2.—Cocaine Prices Through the Distribution System

Product	Market Level	Effective Price/kg.
Coca leaves	Farmgate/Colombia	$300
Coca base	Farmgate/Colombia	$900
Cocaine hydrochloride	Export/Colombia	$1,500
Cocaine hydrochloride	Import/U.S	$15,000
Cocaine (67% pure)	Dealer/U.S	$40,000
Cocaine (67% pure)	Retail/U.S	$150,000

The 1985 torture and murder of DEA agent Enrique Camarena in Mexico by drug traffickers tied to Mexican police agencies led to a strong reaction from Congress. Starting in 1986 the president was required each year to certify which nations were "co-operating fully" with the United States in suppressing drugs. This certification procedure became the source of great tension between the U.S. and various Latin American governments in the 1980s and 1990s, even though in all these years the U.S. has failed to certify the major producing and trafficking countries only a handful of times. Since President Bush in 2001 stated that "the main reason why drugs are shipped through Mexico to the United States is because United States citizens use drugs", there has been a great deal less interest in the certification process ei-

ther in the U.S. or Latin America, though the annual International Narcotics Control Strategy Report continues to be published each year, with its assessment of each country's efforts at drug control.

The United States government has also been very aggressive in its dealings with the United Nations, whether it be in the Commission on Narcotic Drugs (CND), International Narcotics Control Board (INCB) or United Nations Office on Drugs and Crime (UNODC). Harm reduction, the claim that it might be possible to reduce the total damage that prohibited drugs do to society by lowering the harmfulness of drug use, has become widely accepted in Europe (with Sweden as an important exception). However the U.S. has consistently pressed for stands by the U.N. agencies against harm reduction, in particular against the iconic program of syringe exchange, in face of a strong scientific consensus that such programs do no harm and sometimes do substantial good. The United States is committed to the view that only by reducing the number of users can drug problems be reduced and has been highly critical of other approaches, aided by a number of Asian and African countries that share these broad views. The INCB critique of drug consumption rooms, heroin maintenance programs and decriminalization of marijuana use are believed to reflect U.S. pressure.

POLITICS AND PUBLIC OPINION

From about 1985 to 1995 drug policy was a major issue in U.S. politics, frequently mentioned in campaign speeches and the subject of a great deal of legislation. Since the late 1990s the topic has become invisible, except in the context of international affairs. For example, there has been almost no discussion of drug policy in any Presidential election post-1996. The most sophisticated recent study of public opinion on the matter done in 2001 showed a general pessimism both about the problem (seen to be getting worse) and about the effectiveness of different programs. Though support for tough sentencing, particularly of drug users, was not strong, there was also little support for any major changes in policy, even including the removal of criminal penalties for possession of small amounts of marijuana.

There have been some modest changes that suggest a tiring with the "war on drugs" approach. The most significant is the passage (by referendum) of Proposition 36 in California in 2000. Under Prop 36 first or second time arrestees for drug possession were to be evaluated for treatment and were not at risk of being sent to jail or prison. This has been a major intervention affecting tens of thousands of drug users arrested each years. Drug courts, of which there were more than 1,500 by 2007, also represent an effort to deal with drug offenders less harshly by offering treatment rather than incarceration, typically to non-violent offenders. However Arizona is the only other state to adopt a Prop 36 type regime and drug courts, though large in number, still account for less than 5 percent of drug-involved criminal offenders because they have tight restrictions on who is eligible for the program. An experienced heroin addict with numerous convictions for violent offenses would be excluded in most jurisdictions.

MAKING POLICY CHOICES

The next 10 years of U.S. drug policy is likely to be very similar to the recent past. Even if the extent of drug dependence and related harms continues to moderate, there is little effective pressure for relaxation of the intense enforcement of the last two decades. Drug treatment may receive more support than in the past but that, of itself, will make only a moderate difference. Major legal change is extremely unlikely.

For someone such as myself who has been involved in drug policy analysis for twenty 5 years what is most prominent about the field is simply the lack of any serious interest in analysis of programs and policies. Congress has not pressed any Administration to justify its policy choices in a systematic fashion but has been content to accept the standard rhetoric and argue about details.

One sign of this neglect of the foundations of policy is the absence of Congressional reaction to the failure of ONDCP to continue to estimate the scale of the nation's drug problem. In the 1990s ONCP published a series of studies entitled *What America's User Spend on Illicit Drugs* carried out by its research contractor, Abt Associates. The most recent report covers the period 1988 to 2000. It presented for every year from 1988 onward, estimates of the number of frequent users of cocaine, heroin and methamphetamine, as well as the total quantity that they consumed and the money they spent acquiring those drugs, as well as marijuana. The findings, which received little attention at the time, were striking. For example, it showed a decline of nearly one third in the number of frequent users of both cocaine and heroin from 1988 to 2000.

In the 2005 *National Drug Control Strategy,* there was a brief reference to an updated report, probably taking the estimates through 2003. That report has never been published, nor has any other updating appeared. It is hardly a secret that ONDCP has refused to publish the completed 2005 report, yet Congress has never, to my knowledge, publicly questioned ONDCP in its many appearances before various Committees.

These figures are not of merely academic interest. The scale of the drug problem, as experienced in the cities of this country is more closely approximated by a measure of the size of drug revenues and estimates of the profits accruing to dealers than it is by the prevalence of marijuana use in the annual survey of high school students, which is the principal outcome measure used by ONDCP. For health purposes the quantity consumed and the number of chronic users are both important inputs; the number of chronic users is a rough measure of how many people are at risk of serious harms and the amount they consume is a further measure of the severity of their risks.

As important as it is to ensure adequate measurement and monitoring of drug problems, even more emphasis has to be given to providing the analytic base for Congress and state legislatures to make their decisions about policies and programs. For example, do longer prison sentences for crack cocaine have any effect on the share of American cocaine consumption accounted for by crack? How much can increased funding for drug interdiction efforts by the Coast Guard and Customs Service reduce use of cocaine and heroin? How should treatment funding expansions balance access for criminal justice clients and improvements in treatment quality? For none of these questions is there a base of studies that would allow for more than an exchange of impressions among contesting groups.

Consider the interdiction issue. The share of cocaine seized by interdiction agencies in the last decade has been high, perhaps as much as 40 percent. That good news is countered by the fact that, at least until 2007, a high seizure rate did not prevent the continued decline of cocaine prices and stable availability. My interpretation of this comes from a simple economic model in which there are two inherent limits to interdiction as a drug control program.

(1) Seized cocaine is cheap to replace. The import price may be only 15 percent of retail price. If (as suggested by the 40 percent seizure rate) it is necessary to ship 1.6 kilograms from Colombia in order to sell 1 kilogram to U.S. users, and the retail price is $100,000, then the replacement cost of the seizures is only $9,000, less than 10 percent of total revenues. Raising the fraction seized from 40 percent to 50 percent, an impressive achievement, would add only about 3 percent to the retail price.

(2) There are many routes and modalities available to cocaine smugglers. It is difficult to provide persistent and high levels of coverage against all of them simultaneously. Thus smugglers adapt and limit the effectiveness of increased interdiction against any specific mode or route.

My interpretation seems a reasonable one but it is arguable. For example, the underlying model of price formation in drug markets can be contested. Perhaps markups by successive sellers along the distribution chain are done on a proportional rather than an additive basis as my model assumes, consistent with economic research on legal markets. My long-term collaborator Jonathan Caulkins indeed proposed and provided a theoretical argument for just such a model in 1990. Efforts at empirical testing have been slight and the matter remains unresolved. There probably are no more than five papers that make any effort to test the propositions. To my knowledge no government grant has ever been given to explore this matter. Yet this analysis is central to any serious assessment of the drug interdiction program, roughly a $3 billion budget item. Would increasing the program by one third have a substantial effect on the price and availability of cocaine? There is no basis for answering that question beyond the kind of very primitive exercise that I have suggested.

In 2001 the National Academy of Sciences published a report which reached the same pressimistic conclusion about the state of drug policy decisionmaking, namely that the data and research base was extraordinarily slight. In the 7 years since then nothing much has changed. Indeed, for a variety of reasons a number of major indicator systems have been eliminated or made less useful. For example, the Arrestee Drug Abuse Monitoring system, which provided invaluable data on drug use by arrestees, has been eliminated thus removing the basis for estimating the number of chronic users, has been eliminated. The survey consumed too large a share of the resources of the National Institute of Justice and nonone of the other agencies that benefit from these data was willing to provide financial support. Revisions in the Drug Abuse Warning Network have limited its ability to trace patterns of change nationally. The National Institute on Drug Abuse has begun to fund more research

on drug markets and indirectly on enforcement but this is still a very modest effort and not driven by policy issues.

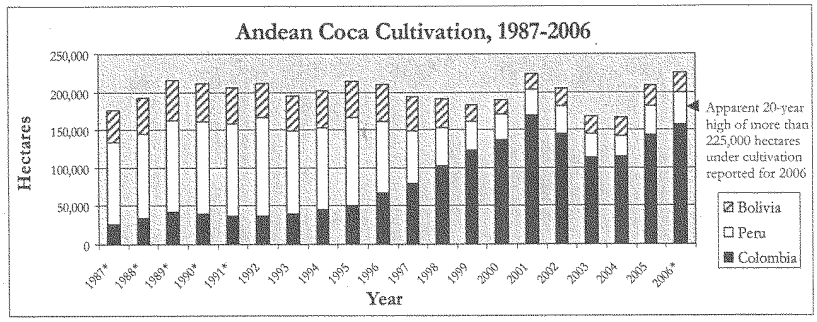
Of course decisions have to be made in the next few years and they will be made with whatever information and analysis is available. As should be clear from my assessment above, my own view is that the United States imprisons more people for drug offenses than it ought, provides too little treatment services and fails to find sensible ways of linking criminal justice and treatment. I hope that Congress will undertake a more systematic approach to drug policy in the future and examine more than marginal changes.

PREPARED STATEMENT OF JOHN M. WALSH, SENIOR ASSOCIATE FOR THE ANDES AND DRUG POLICY WASHINGTON OFFICE ON LATIN AMERICA

Chairman Webb and Members of the Committee, I am honored to testify before you today about U.S. drug policy. My organization, the Washington Office on Latin America (WOLA), has for many years conducted research and advocacy in support of more humane and effective drug control policies. WOLA is a founding member of the International Drug Policy Consortium (IDPC), a global network of NGO's that promotes open, objective debate on drug policy and supports evidence-based approaches that reduce drug-related harm and respect human rights. Within a matter of months, a new U.S. Administration will be in place, and the United Nations will be issuing a new political declaration setting the course for global drug control efforts in the decade ahead. This is therefore an opportune moment to promote a serious debate about the direction of U.S. drug policy at home and overseas, and I appreciate your initiative in doing just that.

Allow me to begin on a personal note. In what must be sheer coincidence, today's hearing occurs 22 years to the day after the cocaine overdose death of Len Bias, the University of Maryland basketball star. Bias's death came in the midst of the crack epidemic that was devastating so many urban minority communities, and was among the events that made drugs the American public's top concern and spurred Congress to pass the Anti-Drug Abuse Act of 1986. That law included the "certification process," which was intended to compel closer drug control cooperation by other governments, threatening economic sanctions. Len Bias's passing hit close to home for me personally because he was my contemporary; I had just graduated from Georgetown University (at the time a basketball power itself) and had avidly followed his rise to stardom.

But the manner of Bias's death was especially relevant to me in a more peculiar way: I had just begun a year-long Jesuit volunteer program in Peru, the country which at the time was the world's leading producer of coca leaves, the raw material for cocaine. As the "drug war" became headline news in the United States and the major Andean cocaine "source" countries, it became apparent to me early in my stay in Peru that an emphasis on forcibly eradicating coca bushes held little promise as a strategy to curb cocaine production and consumption. Without other alternatives in place to earn a living, farmers would replant coca sooner or later. Fast forward more than two decades, and that is precisely what has happened. Today, the Andean region is evidently growing as much coca and producing as much cocaine as ever, although Colombia has long since emerged as the top coca-growing country (see figure below; 2007 estimates should be available later in June 2008).



* 1987–1991 totals include small estimates for Ecuador: 1987, 300 hectares; 1988, 240; 1989, 150; 1990, 120; 1991, 40.

Note: For 2006, ONDCP reported only ranges for Bolivia or Peru. For Bolivia, the ranges reported for 2005 and 2006 were nearly identical, so this figure uses the same point estimate for 2006 as for 2005. For Peru, ONDCP reported a 17 percent increase for 2006 when compared to similar survey areas from 2005. The figure presented here takes a conservative approach, using an estimate for 2006 for Peru the represents only 10.5 percent increase over 2005.

Source: State Department and ONDCP

But the situation is actually worse than the relatively stable aggregate numbers suggest: as coca cultivation and production have shifted within and across borders, the environmental damage and violence that accompany the illegal drug trade have also spread. Still, the State Department, in its annual *International Narcotics Control Strategy Report,* has insisted that, "The cornerstone of U.S. supply reduction strategy remains source-zone eradication. We continue to strongly believe that drug crops are the weakest link in the drug production chain."

Those who support continued forced eradication efforts argue that production of illicit drugs would be even worse without the programs presently in place. But this assessment fails to account for the significant negative and counterproductive effects of forced crop eradication. The eradication of crops upon which farmers and their families depend pushes people deeper into poverty, and thereby reinforces their reliance on illicit crops. As the areas where these crops are grown are also the most marginalized, this also means that for many local farmers, their primary interaction with the state is via repressive anti-drug programs. Decades of forced eradication efforts in Latin America have left a trail of social conflict, political unrest, violence and human rights violations.

U.S. DRUG POLICY ON AUTO PILOT, WITH MONEY TO BURN

My point in reviewing the experience with forced eradication is that a stiff dose of historical perspective is in order as policymakers contemplate the scope of the drug trade today, and engage in a critical examination of how to improve U.S. drug policies.

Current policies are not new, nor have they been resource-starved. At home and abroad, the enforcement-led approaches that dominate U.S. drug policy today took their shape by the mid- to late-1980s. Even as drugs receded as a top public concern, government spending at all levels continued apace, with the bulk of spending dedicated. to prosecuting and incarcerating drug offenders. The combination of increased prosecutions and escalating penalties made drugs the leading contributor to an unprecedented explosion in the number of Americans behind bars. By my conservative calculations, since 1981, Federal, state and local governments have spent at least $800 billion (adjusted for inflation) on drug control, including $600 billion on efforts typically classified as "supply control" (domestic enforcement, interdiction, and international programs). Come appropriations time, the winning formula for Federal anti-drug agencies has generally been a variant of "We scored great successes against the drug traffickers last year—eradicating so many hectares of crops, seizing so many tons of drugs, arresting so many dealers—but the enemy remains formidable, so to sustain the progress we have made will require increased resources." More often than not, Congress has complied.

Beyond direct government spending on drug control, illicit drugs and drug control policies generate considerable economic costs to the nation. My estimate of direct expenditures does not include these burdens, which include cost categories such as productivity losses due to drug-related premature death or to drug-related incarceration. The White House Office of National Drug Control Policy (ONDCP) last published estimates of this sort in 2004, showing the overall annual economic costs of illicit drugs growing every year from 1992 ($108 billion) to 2002 ($181 billion). While the findings of such exercises are certainly subject to debate—given the many limitations of the underlying data and the numerous assumptions that have to be made—the wide range of sectors affected (heath care, crime and criminal justice, workplace productivity, etc.) suggests the large scale of the problem and the potential benefits of improving policies in ways that can reduce these steep social and economic costs.

LESSONS FROM THE SUPPLY SIDE

Since the basic elements of current U.S. drug policy have been in place for at least two decades, and drug control agency budgets have generally grown rather than shrunk, it is fair to say that a track record has been established. Were these well-established policies to have succeeded, the successes should presumably have been evident by now. And were they to have failed, or at least fallen short of expectations, those failures should also be discernible by now. In either case, we should be able to draw some lessons, whether positive or negative.

It should go without saying that more and better social science research on drug control strategies is desperately needed—especially regarding enforcement, which has received the lion's share of resources but has been the subject of negligible research and evaluation. Indeed, the next U.S. Administration and Congress can do much to set in motion a fruitful research. In the meantime, as preface to a look at the illegal drug trade today, especially with regard to the U.S.-Mexico border, I offer three fundamental points about the dynamics of the drug trade and the limits of supply control that policymakers should bear in mind. First, a cautionary note about the numbers swirling about the drug policy debate is in order.

Because they offer the aura of objectivity and precision, numbers are the coin of the realm in debates over public policy, including drug control, and have created the impression that we are measuring drug control progress in a sophisticated and meaningful way. But the variety of numerical estimates regarding the size and scope of the illegal drug industry are just that—estimates—and they should all come with a warning label: Handle with Care! The clandestine nature of the drug trade frustrates accurate quantitative measurement. Participants in an illegal activity obviously do not welcome scrutiny, and go out of their way to avoid detection. This applies not only to the drug smuggler trying to evade the police, but also to the drug user wanting to avoid social disapproval. Given the numerous, complex factors at play and the difficulties of gathering reliable information about a clandestine and dangerous activity, measurement uncertainty is a given.

Rather than allowing these considerable uncertainties to be masked by seemingly precise figures, policymakers should insist that the uncertainties be made explicit, through presentation of the estimates as plausible ranges, not single figures ("point estimates"). To its credit, last year ONDCP began to present its Andean coca cultivation estimates as ranges, opening the door to more realistic consideration of the coca growing and cocaine production estimates. Specifically, ONDCP reported that its 2006 estimate of 157,200 hectares under coca cultivation in Colombia was "subject to a 90 percent confidence interval of between 125,800 and 179,500 hectares." In other words, ONDCP was 90 percent confident that the true level of Colombian coca cultivation in 2006 was somewhere between 125,800 and 179,500 hectares.

Lesson 1: The Balloon Effect

The first, and perhaps the most obvious lesson of recent drug control history is that there is essentially no such thing as unalloyed drug policy success on the supply side. This is because the so-called "balloon effect" is as relevant as ever. Simply put, increased pressure on the drug trade at a given time and location tends to displace activities elsewhere, much as squeezing a balloon in one place forces it to expand in others. The balloon effect continues to describe the mobility of coca cultivation in Colombia, in the face of aerial herbicide spraying and forced manual eradication. It also applies to smugglers' adaptation to intensified enforcement pressure in one zone by shifting to new routes and/or new smuggling methods. As far as the evolution and status of Mexican drug trafficking organizations, the most momentous example of the balloon effect was the late 1980s-early 1990s shift of Colombian traffickers away from their favored Caribbean and south Florida routes to the U.S. market and toward Mexico, where they partnered with Mexican criminal groups with

pre-existing networks and smuggling routes into the United States. In addition, as relatively unsophisticated smuggling methods are countered by enforcement pressure, traffickers have adapted with new techniques, whether tunnels, semi-submersibles, utilizing container shipping, etc. In this way, enforcement operations that are trumpeted as successes often contribute, however unintentionally, to new scenarios that can be even worse and pose greater enforcement challenges than what came before.

The balloon effect can also be thought of in policy terms, where apparent success in one supply control realm can increase the odds against success in another. This is especially important regarding the interplay between crop eradication and drug interdiction, which are typically presented as complementary approaches, but may work at cross-purposes in practice. Drug interdiction is generally preferable to crop eradication, both on efficacy and justice criteria: crop eradication achieves little impact on traffickers' bottom lines or on overall supplies because the crops are so readily and inexpensively replaced, even as the brunt of enforcement falls on those who gain the least and suffer the most from the activities of the drug trade. Interdiction at least targets higher levels of the criminal organizations, and beyond the quantities of drugs seized, can provide information that helps to apprehend more significant drug trade figures. But success in interdiction (and traffickers' expectation that some significant fraction the drugs they are smuggling will not make it to their intended market) also increases traffickers' incentives to promote more cultivation, to make up for the anticipated losses.

The importance of bearing in mind the balloon effect is that, while such consequences may well be unintended, at this point they can no longer be considered unforeseeable. Why belabor a point that seems as obvious as it is important? The answer is that, unfortunately, high-ranking U.S. drug policy officials have appeared to be in denial about the balloon effect, engaging in wishful thinking rather than a realistic assessment of outcomes. For example, in touting the intensified pace of fumigation in Colombia in 2003, ONDCP Director John Walters declared that, for "those who have been religious like believers in the balloon effect, the balloon is not growing, the balloon is not moving, the balloon is shrinking, and it's shrinking at historic levels. It's maybe time to get another God."

But the air has not gone out of the balloon effect, as subsequent U.S. estimates on coca growing and cocaine production have made clear. WOLA's new report on fumigation in *Colombia, Chemical Reactions,* documents how the aerial herbicide spray operations "tend to reinforce rather than weaken Colombian farmers' reliance on coca growing, prompting more rather than less replanting, thereby contributing to coca's spread into new areas of the country." In designing strategies intended to reduce illicit crop growing or shut down smuggling routes, the balloon effect must be considered, not wished away. For example, if massive replanting continues to undermine forced eradication (a classic and recurring form of the balloon effect), then more realistic crop reduction strategies are required. Specifically, alternative livelihoods must be available to growers before pressure to curtail illicit crop growing can have any chance of sustainable success.

In fact, the most recent United Nations Office on Drugs and Crime (UNODC) report on alternative development and crop eradication notes explicitly that "some interventions continued to be improperly sequenced—focusing efforts and resources on eradication without due regard for livelihoods" and recommends ensuring "that eradication is not undertaken until small farmer households have viable and sustainable livelihoods and interventions are properly sequenced." U.S. policy should embrace this more promising approach and leave behind the many failures of forced eradication.

Lesson 2: Mature Markets, Robust Availability

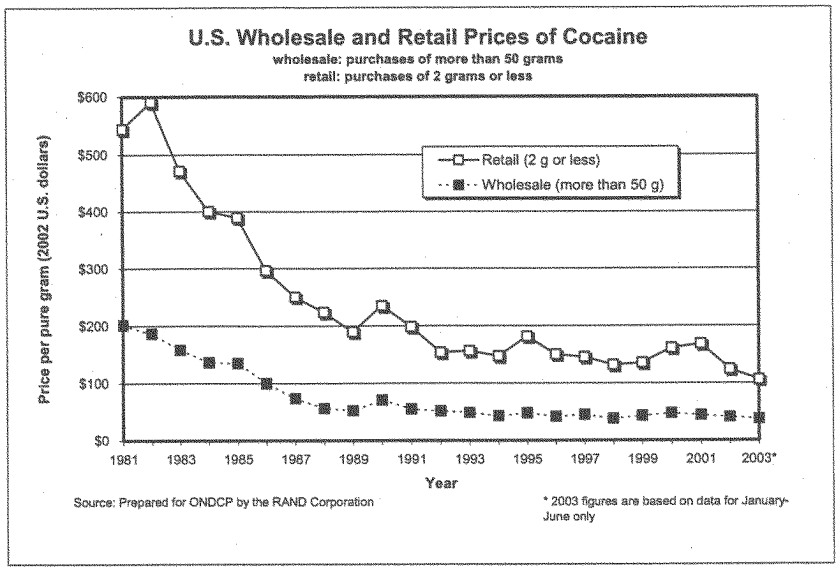
A second lesson to draw from the emphasis on supply control over the past few decades is that the targeted illicit drugs, including cocaine, have nevertheless remained quite available in the United States.

A perennial goal of U.S. drug policy has been to disrupt supplies enough to constrain availability. Reduced availability would mean higher prices and lower purity, which would encourage users to lower their consumption, and discourage others from initiating use. With respect to cocaine and other illicit drugs that are largely, if not entirely, produced outside the United States, interdiction, crop eradication, and overseas law enforcement have been at the center of the effort to reduce drug availability domestically. Until fairly recently, the conventional wisdom had held that trying to discourage illicit drug consumption by driving up prices was unlikely to accomplish much, on the assumption that the heavy drug users who account for the bulk of drug purchases were not very sensitive to changes in price. However, the new consensus among analysts is that prices do matter (that is, demand for

drugs like cocaine is considered somewhat elastic with respect to price), and that price increases—if actually achieved and then sustained—could contribute to reduced consumption.

But even as this new consensus has taken shape, strong evidence has continued to accrue that cocaine prices have in fact been falling, not rising (similar trends prevail for heroin). The most recent comprehensive analyses, produced for ONDCP by the RAND Corporation and covering 1981 through mid-2003 (see figure below), showed U.S. wholesale and retail cocaine prices at or near their historic lows as of mid-2003, with purity at or near historic highs.

In recent years, students' perceptions of cocaine's availability have been fairly stable, and periodic assessments by the Justice Department's National Drug Intelligence Center (NDIC) have offered no reason to suppose that U.S. cocaine availability has been squeezed:



- *January 2005:* "Key indicators of domestic cocaine availability show stable or slightly increased availability in drug markets throughout the country. . . "
- *January 2006:* "Cocaine is widely available throughout most of the nation, and cocaine supplies are relatively stable at levels sufficient to meet current user demand."
- October 2006: Despite record levels of cocaine lost or seized in transit toward the United States, "there have been no sustained cocaine shortages or indications of stretched supplies in domestic drug markets."

Last November, ONDCP presented evidence of nationwide cocaine "shortages" in 2007 including estimates that cocaine's price had climbed nearly 50 percent during the year's first three quarters. 'While the methods behind these latest price estimates remain unclear, there seems little doubt that the U.S. cocaine market was disrupted in 2007. The disruptions appeared to stem from factors such as stepped-up drug enforcement and interdiction by Mexican authorities, disputes within and between Mexican drug trafficking organizations, increased shipment of cocaine to European markets (where currencies had become stronger against the U.S. dollar), and perhaps increased cocaine distribution within transit countries. Taking all these factors into account, it would have been surprising if no market disruptions had been detected.

But these shortages and concomitant price increases are likely to be temporary. NDIC's latest report, released in October 2007, put the disruptions in perspective, noting that Mexican drug trafficking organizations "will most likely undertake concerted efforts to reestablish their supply chain, and because cocaine production in South America appears to be stable or increasing, cocaine availability could return to normal levels during late 2007 and early 2008."

Adjustments by suppliers resulting in rebounding cocaine availability would comport with the historical pattern displayed in the figure above, as occasional price

spikes have always been followed by declines, as producers and smugglers respond to higher prices. The record demonstrates that price increases have occurred with some frequency—but the record makes it equally clear that such increases have proved to be rather short-lived. This is not to say that larger and more durable price increases are impossible, but rather that the track record suggests very strongly that even the most impressive increases are likely to give way, sooner rather than later, to resumed price declines.

Price trends are of course a function of both supply and demand. While robust supply is evidently a large part of the equation, it may be that cocaine's historically low U.S. retail prices are also due to slackening demand. Indeed, total U.S. cocaine consumption appears to have peaked in the late 1980s, declined modestly through the 1990s, and then plateaued. There is no indication that consumption has been going down in recent years. Household and school-based surveys, for example, show that the percentage of Americans who use cocaine has remained basically stable since 2000. These surveys, however, say little about the numbers or consumption patterns of the chronic, heavy users who account for the bulk of cocaine consumption.

The most recent published estimates of the number of chronic cocaine users and of total U.S. cocaine consumption were released by ONDCP in 2001; the estimates extended through 1999, with projections for the year 2000. Early in 2005, ONDCP received a study by Abt Associates that updated the cocaine consumption estimates through 2003. But more than 3 years later, ONDCP has still not released that study. One suspects that, had the study provided evidence of declining overall cocaine consumption, the findings would have been released by now. Given the importance of this issue, Congress should insist that ONDCP immediately clarify the status of the report.

An important corollary to the inability to drive up cocaine prices is that the reductions in the prevalence of cocaine use that have been recorded historically cannot plausibly be attributed to supply control success. Since prices have fallen over time, not risen, it stands to reason that whatever factors may have accounted for reduced use, supply control programs have not been among them. For example, the National Household Survey on Drug Abuse (now the National Survey on Drug Use and Health) found that the number of current (past-month) cocaine users declined from an estimated 5.7 million in 1985 to 1.5 million in 1995. Over this period, cocaine's retail price fell fairly steadily, and in 1995 the price stood at less than half its 1985 level. Clearly, the prevalence of cocaine use fell for reasons other than restricted availability and rising prices.

Lesson 3: Needle in a Haystack

A third lesson arising from the long U.S. experience with aggressive supply control policies is that stemming illicit drug smuggling for sustained periods of time is unlikely to occur in a country and region that prizes international commerce and facilitates an enormous flow of legal goods across national borders. This lesson applies most emphatically to the U.S.-Mexico relationship. Last year, Mexico ranked as the third largest importer into the United States ($211 billion, trailing only China and Canada), and as the United States second largest export market ($136 billion, trailing only Canada). As of 2004, about a million people and 300,000 cars and trucks crossed the U.S. border with Mexico every day. And at just one U.S.-Mexico border post, about 15 million freight containers cross the border every year.

Legal commerce on this scale presents drug traffickers with nearly boundless opportunities to smuggle their product into the United States, and as detection technologies are improved, traffickers adapt with new smuggling techniques and routes. Unless this enormous influx of commercial goods into the country is dramatically curtailed (a scenario both unforeseen and unwelcome), drug seizure statistics will mean little as measures of ultimate drug control success. The quote below by Carnegie Mellon University drug policy expert Jonathan Caulkins is from a 2003 book, but it remains as apt as ever:

> "On the order of 300–400 metric tons of cocaine . . . enter the United States each year. Those quantities are a tiny, tiny fraction of the corresponding numbers for legitimate commerce, and that is what makes interdiction so difficult. . . Even with seizure rates of 25–40 percent, cocaine keeps flowing in at prices that, while high compared to legal drugs such as tobacco and alcohol . . . are still low enough to retain a mass market. The counter-drug experience with interdiction is sobering: making U.S. borders impermeable to cocaine and heroin has proven impossible. In a free society with substantial international trade and tourism, 'sealing' the borders is not practical."

THE U.S.-MEXICO BORDER AND DRUG TRAFFICKING

The partnership between Colombian and Mexican drug trafficking organizations that took root in the 1990s did not bode well for Mexico. In the years since, the Mexican organizations have asserted their dominance over the lucrative trafficking routes and networks into and within the United States, growing in reach, wealth and firepower. According to the Justice Department's NDIC, Mexican trafficking groups now "control the transportation and wholesale distribution of most illicit drugs in every area of the country except the Northeast," and their "established overland transportation routes and entrenched distribution networks enable them to supply primary and secondary drug markets throughout these regions." The Southwest border region "is the principal arrival zone for most drugs smuggled into the United States."

Even as the Mexican drug trafficking organizations were gaining strength, Mexican politics and government was becoming more democratized, with the end of the PRI's long-standing monopoly on elected office. Old trafficking arrangements that existed under the PM began to crumble as state, local and Federal offices were at times held by three different political parties. Traffickers confronted a more complex political environment in which to do business. They had to confront, intimidate or buy-off new actors. The illicit drug trade in Mexico has been extremely violent in recent years. Much of the violence seen today relates to conflicts over key smuggling routes between rival cartels. But as government officials have sought to enforce the law, the police have been increasingly targeted. From January through April 2008, on average 27 police officers were killed each month, and in May the toll climbed to 64. As of mid-May, the Mexican media had tallied 1,245 cartel-related killings for the year, including the assassination of the acting head of the country's Federal police, who had played a key role in organizing recent government operations against the Sinaloa cartel.

Upon taking office in December 2006, Mexican President Felipe Calderon launched a series of high-profile military and police operations in states where organized crime was believed to be most concentrated. These operations have included 27,000 soldiers as well as Federal police. However, the surge in violence does not appear to be abating in response to these tactics. On the contrary, as illustrated by the killing of the head of the Federal police, the drug trafficking organizations have targeted senior government officials in Mexico City, as well as targeting high-ranking operatives in rival cartels. Like Calderon, his predecessors Ernesto Zeclillo and Vicente Fox came into office promising to tackle organized crime and violence, expanding the role of the military to restore public order. Their efforts generated a temporary sense of improved citizen security through purges of corrupt officers, the creation of new forces, and a visible reliance on the military that brought some tactical victories, including the capture of a number of important cartel leaders. But the gains were eroded as new trafficking leaders and organizations emerged and government officials have been intimidated or corrupted.

Against this backdrop, in October 2007, the U.S. and Mexican governments issued a joint statement announcing the "Merida Initiative," a multi-year plan for U.S. aid to help Mexico and Central Americans combat drug trafficking and organized crime. The Initiative has been billed as a cooperative effort between the U.S. and Mexican governments. It is clear that U.S. demand fuels the drug trade, and the easy availability of guns in the United States has helped turbo-charge drug violence in Mexico—where officials calculate that 90 percent of confiscated firearms originate north of the border. Yet there is nothing in the Merida Initiative about what the United States will do to reduce demand, curb money laundering or slow the flow of weapons south. While the Bush Administration requested $500 million for Mexico for FY2008, the Congress appears likely to approve reduced but still significant funds in the pending "war supplemental" appropriations bill.

In any case, U.S. policymakers should recognize that the Merida Initiative is unlikely to have much impact on the availability of illicit drugs in the United States. Mexico's crucial challenge is to buttress civilian institutions—especially the police, prosecutors and the judicial system—and invest in crime prevention. While the military can at times provide temporary relief, by occupying an area, only effective rights-respecting police and judicial institutions will be able to provide lasting solutions. Even if Mexico succeeds in diminishing the drug-related violence that racks that country today, it will not necessarily entail or lead to a reduction in the flow of illicit drugs into the United States. Given the scope of U.S.-Mexican legal commercial relations and a continued strong demand for illicit drugs within the United States, the drugs will flow.

CONCLUSIONS

The lessons drawn from the United States' many years in vigorous pursuit of supply side drug control victories—the persistence of the balloon effect, the resilience of illicit drug markets, and the impossibility of "sealing the borders"—suggest that the United States' supply control objectives and expectations should be brought into line with reality. There will be no quick fixes, no silver bullets (e.g., fumigation). In the long term, sustained efforts to create alternative livelihoods and to strengthen justice institutions in producer and transit countries hold promise for reducing the scope and depredations of the illicit drug industry, but such an approach will require patience and a departure from a results-now mentality obsessed with crop and seizure statistics.

Moreover, even the most well-conceived and painstakingly implemented efforts on the supply side will stand little chance of success over time if the lucrative markets for illicit drugs (still anchored by the advanced industrial nations, including the United States), continue to grow. There is a strong case for much more ambitious efforts to reduce the size of the illicit market through proven demand-side programs such as treatment. But even so, dramatic declines in the size of illicit drug markets should not be expected any time soon. Rather than continue the search for the silver bullet, policymakers would do well to recognize that illicit drugs pose a perennial problem that cannot be eliminated, but can be managed significantly better than we have done thus far. This entails adopting a harm reduction approach that, broadly speaking, seeks to minimize the harms associated with illicit drug production, distribution and use, but also to minimize the harms generated by policies meant to control illicit drugs.

I applaud Chairman Webb and this Committee for helping to initiate a different, more constructive discussion about drug policy, and for ensuring that the debate includes both the international and domestic concerns.

PREPARED STATEMENT OF ANNE J. SWERN, FIRST ASSISTANT DISTRICT ATTORNEY, KINGS COUNTY, BROOKLYN, NEW YORK

Mr. Chairman and members of the Committee—Good morning and thank you for the invitation to testify today about two innovative prosecutor-run programs that seek to reduce drug abuse, improve public safety, and save money.

My name is Anne J. Swern. I am the First Assistant District Attorney in Kings County (Brooklyn), New York. I have served the public as a prosecutor in Brooklyn for almost 28 years under three elected district attorneys, the most recent being Charles "Joe" Hynes, who has been in office since 1990 and is Brooklyn's longest serving DA. By way of brief background, our county has a population of 2½ million people. It is the most populous county of New York State's 62 counties, and the seventh largest county in the United States. Last year our office prosecuted over 6,400 felony cases. Approximately 2,100 were for the possession or sale of drugs. Clearly, Brooklyn, like so much of the U.S., is still tackling the serious problem of drug crime. However, we have made great strides since the late eighties and early nineties when drug crime was rampant. (For example, in 1989, there were a record number of 12,640 felony drug arrests in Brooklyn.)

In those days, New York State principally dealt with drug crime through enforcement of the notoriously tough Rockefeller Drug Laws, which mandated long prison sentences for the possession or sale of even small amounts of drugs. The so-called "revolving door" phenomenon became the unhappy metaphor defining our criminal justice system—addicts committing crime so that they could get money to get high, then being arrested and sent to prison for a few years, only to come back out of prison still desperate for drugs, and renewing the cycle of addiction, crime, and imprisonment. Clearly, as DA Hynes repeatedly asserted, we could not prison-build ourselves to a safer society.

I'll be focusing today on two programs that DA Hynes created to combat this "revolving-door" of substance abuse and drug-related crime. The first program, the Drug Treatment Alternative-to-Prison program, called "DTAP," diverts addicted offenders into long-term community-based substance abuse treatment in lieu of incarceration. The second program, Community and Law Enforcement Resources Together, called "ComALERT," focuses on recidivism reduction through effective reentry for former prison inmates returning to their Brooklyn communities.

These two programs—one addressing offenders entering the criminal justice system; the other addressing former inmates re-entering their communities—have had profound positive impact on individuals and communities. With me today is Norma Fernandes, who is a graduate of DTAP and also the current Community Coordinator of our ComALERT reentry program, and she will be able to provide a unique insight

into that impact. These prosecution-run programs—DTAP and ComALERT—also make sound fiscal sense. Monies are invested in changing lives and nurturing a strong economic base for communities, rather than just poured into prisons to house a revolving-door population of addicted offenders.

There are two aspects of these programs that I want to emphasize because they are integral to their success.

First, these programs are run by the District Attorney's Office. Prosecutors can and should be involved in programs that go beyond a reactive approach to crime. Ultimately, a district attorney's responsibility is to ensure and, if possible, improve public safety. Programs that effectively treat the underlying causes of an offender's criminal behavior fulfill that mission by reducing recidivism. By spearheading these programs, prosecutors enhance community safety and gain the support of those whom they serve. Furthermore, because the community knows that the district attorney's foremost concern is public safety, the community trusts prosecutors to run these programs in a responsible manner and minimize any danger. This aspect distinguishes prosecutor-run programs from many other models, including certain drug court models, and makes these programs especially suitable to repeat offender or more serious offender populations.

Second, these programs, while prosecution-run, are nevertheless based on collaboration with entities normally outside the criminal justice sphere. Prosecutors are not clinicians. They do not have the expertise to evaluate or treat the disease of drug addiction. However, by joining forces with drug treatment providers, prosecutors can successfully address the root causes of an addict's criminal behavior. Furthermore, collaboration with other social service agencies, for example those dealing with employment, housing, education, mental health, and family related issues, ensures that the many additional needs of these forensic clients are met. In a nutshell, these programs embody a holistic approach to the individual, while never forgetting the paramount importance of protecting the public.

DTAP

In 1990, DA Hynes launched DTAP in Brooklyn. This prosecution-run treatment diversion program targets non-violent repeat felony offenders with serious drug addictions—a population almost entirely overlooked for diversion in 1990, and one which, even today, is still considered by many jurisdictions as too high-risk or difficult to divert from incarceration. DTAP has achieved significant success in reducing drug abuse and criminal recidivism in its target population, and it offers jurisdictions a cost-efficient option for tackling the twin scourges drug addiction and addiction-motivated crime in their communities.

As of June 1, 2008, 2,594 defendants have been accepted into Brooklyn's DTAP since the program's inception. Of those participants, 349 are still in treatment and 1,095 have completed the program and have had their charges dismissed. In 2003, the National Center on Addiction and Substance Abuse (CASA) at Columbia University completed a 5-year federally funded study of DTAP and issued a White Paper summarizing its findings. (National Center on Addiction and Substance Abuse at Columbia University, Crossing the Bridge: An Evaluation of the Drug Treatment Alternative-to Prison (DTAP) Program (2003)). In the accompanying statement to the CASA White Paper, former United States Secretary of Health, Education and Welfare Joseph A. Califano, Jr., now CASA's chairman and president, hailed Brooklyn DTAP as a "promising example of what law enforcement can do to reduce the number of addicted drug offenders." (*Id.* at ii).

There are two key premises behind DTAP (and behind drug courts for that matter): (1) that the criminal recidivism of addicts can be reduced if the addiction is effectively treated; and (2) that legal coercion can be a powerful motivator to get addicts to succeed in treatment. In 1990, these premises were not widely accepted in the law enforcement community; however, now, over a decade and a half later, research has confirmed that legal coercion can help addicts enter and stay in treatment, and extended treatment can successfully address their debilitating disease and reduce criminal recidivism.[1] The proliferation of drug courts, which now exist in all 50 states, confirms the popularity of treatment diversion.

However, if *chronic* drug offenders are going to be diverted into community treatment, it is imperative that the safety of the public at large and of those within the

[1] The National Institute on Drug Abuse has recognized, as one of its principles of effective drug addiction treatment that treatment does not have to be voluntary to be effective; rather, sanctions and enticements in the criminal justice system can "increase significantly both treatment entry and retention rates and the success of drug treatment interventions." Nat'l Institute on Drug Abuse, Nat'l Institute of Health *Principles of Drug Addiction Treatment: A Research-Based Guide 5* (1999).

drug treatment program themselves (the non-forensic clients, the counselors, and staff) not be jeopardized during the diversion period. The concern over the risk to public safety naturally increases with the severity of the criminal offender's pending charges, of his or her criminal history, and of his or her addiction. The chronic drug user, who is a serious, albeit nonviolent, repeat felony offender, combines the desperation of the hard-core addict with the demonstrated propensity to repeatedly engage in criminal behavior despite previous periods of incarceration. Such an individual poses a higher risk to public safety than an offender charged with drug possession as a misdemeanor or a first felony. At the same time, it is *precisely* from this group of individuals that society stands the *most* to gain if treatment is successful.

In order to reap these benefits without sacrificing public safety, DA Hynes created DTAP, the nation's first *prosecution-run* treatment diversion program aimed at prison-bound repeat felony offenders. DTAP is based on a deferred-sentencing model that is, the sentence is deferred while the defendant undergoes treatment. A defendant, who has been charged with a felony offense, pleads guilty to a felony with the following understanding: If the defendant successfully completes a residential substance abuse treatment program, the defendant will be allowed to withdraw the plea of guilty and the case will be dismissed by the court, with the prosecutor's consent, in the interest of justice. However, if the defendant fails to complete the program (for example, he absconds from the program), the court will impose upon the defendant the previously negotiated prison sentence applicable to the felony.

So what are the core elements of DTAP? Essentially, there are seven elements:

- *First,* DTAP targets repeat non-violent felony offenders who, if convicted, face mandatory imprisonment under the State's predicate offender sentencing laws. DTAP accepts both defendants charged with drug offenses and defendants charged with other non-violent offenses such as larcenies and commercial burglaries, so long as the defendant is truly drug addicted and his conduct was motivated in large part by that addiction. In carefully screening candidates with regards to violence, we look beyond the charges appearing on the rap sheet, because a DTAP candidate may have serious violence issues that haven't made it into his or her criminal history—for example, a history of domestic violence or gang-related violence. For that reason, our warrant enforcement team does a background check on each candidate. It's crucial that we don't compromise the safety of the clients and staff of the community-based treatment facilities when we send them DTAP clients.
- The *second* key element of DTAP is that the eligible offender *must be drug-addicted* and in need of substance abuse treatment, and the offender's addiction must have been a significant contributing factor to his or her crime. In Brooklyn, we use the experienced clinicians at TASC to assess the treatment needs of DTAP candidates. Spending treatment dollars on those who are *not* addicted is not just a waste of money but it also compromises the treatment of those who *are* addicted.
- A *third* element of DTAP is that the offender is diverted into *long-term, intensive residential substance abuse treatment* which includes educational and vocational training, employment assistance, and a period of aftercare. Defendants with extensive drug histories who have repeatedly engaged in criminal activities to finance their drug habits, i.e., DTAP's target population, require intensive intervention and rehabilitation to support re-integration into society. For many DTAP participants, the environment in which they were living (the people with whom they were associating and the places that they frequented) bolstered their drug addiction. The participants need to be removed from that environment for a significant length of time (usually 15 to 24 months) to begin the process of recovery and re-socialization.
- *Fourth,* in DTAP, the prosecution *carefully monitors* the offender's progress in treatment. While the DTAP participant is in treatment, TASC receives regular updates on the participant's progress from the treatment provider. These updates include assessments of the participant's compliance with the provider's rules, the participant's psychological and mental status, and the results of drug tests (urinalysis). TASC, in turn, provides constant updates to the District Attorney's Office and to the court about each defendant's progress. Close monitoring by the prosecution helps satisfy the criminal justice concern of not compromising public safety.
- *Fifth,* if the DTAP participant fails the program, either by violating the treatment provider's rules or by absconding, the *offender faces a set term of imprisonment* that was clearly conveyed to the offender prior to diversion into treatment. Up until 1998, DTAP used a deferred prosecution model—that is, the charges were held in abeyance while the defendant underwent treatment, and if the defendant failed treatment, the case would proceed to trial or plea. In 1998, we switched to a deferred-sentencing model, under which the defendant enters a guilty plea up front. Thus, the risk associated with failure shifted from a strong probability of a prison sentence under the old model, to a virtual guarantee of a prison term under the new

model. The switch in models in 1998 significantly increased treatment retention rates. For those defendants admitted to DTAP under the deferred-prosecution model, the 1-year treatment retention rate was 64 percent. Under the deferred sentencing model, the current 1-year retention rate has risen to 76 percent—a difference of 12 percentage points.

Why is this substantial increase in the 1-year retention rate so important? Because research shows a positive correlation between the length that a defendant stays in treatment and the likelihood of that individual not re-engaging in drug use and criminal activity. That is, if an offender stays in treatment for at least 12 months, there is a greater likelihood that drug treatment will be effective in the long term.

In short, certainty of punishment plays a crucial role in a drug-addicted defendant's successful rehabilitation. Although we recognize that relapse is part of the recovery process, and evaluate applications for readmission on a case-by-case basis, every DTAP participant knows that he or she faces a sentence of imprisonment if, after being given a reasonable chance to succeed he or she absconds from treatment or fails to complete the program. The prison alternative—the external motivation—is the extremely valuable incentive for defendants to enter and stay in drug treatment.

• The *sixth* key element of the DTAP program is the prosecution's *warrant enforcement team* that investigates the background of each DTAP candidate, quickly apprehends any offender who absconds from treatment, and returns that absconder to court for sentencing. Maintaining this enforcement team allows us to minimize the risk in diverting repeat felony offenders. Indeed, as a result of these precautions, 90 percent of DTAP participants who abscond from treatment are returned to court in a median time of 21 days.

• And finally, the *seventh* key element—if the offender successfully completes the DTAP program, the felony charge or *charges are dismissed* and the graduate continues to have at his or her disposal the employment assistance services of the DTAP job developer. To graduate from the DTAP program, a participant must have successfully completed all phases of the drug treatment plan. The participant also must have housing and a job or comparable means of subsistence (for example, the defendant is in funded vocational training or, if seriously ill, on some kind of medical disability). These conditions are fully explained to the defendant prior to entry of the guilty plea, and they are integral to the DTAP agreement.

So, in sum, those are the seven key elements of DTAP.

The researchers at CASA (National Center on Addiction and Substance Abuse) at Columbia University conducted a 5–year evaluation of DTAP which was sponsored by the Federal Government. CASA concluded that DTAP did indeed reduce recidivism. An analysis comparing those who graduated from DTAP to those of the matched comparison group who served time in prison revealed these dramatic findings: DTAP graduates had rearrest rates that were 33 percent lower (39 percent vs. 58 percent), reconviction rates that were 45 percent lower (26 percent vs. 47 percent), and were 87 percent less likely to return to prison (2 percent vs. 15 percent) 2 years after completing the program than the matched comparison group 2 years after leaving prison.

CASA's research also revealed that DTAP graduates are three and one-half times likelier to be employed after completing the program than they were prior to the arrest that caused them to enter the program (92 percent v. 26 percent).

Finally, the CASA team concluded that DTAP's results were achieved at about half the average cost of incarceration. CASA calculated that the average cost for a DTAP participant was $32,975, and compared that to the average cost of $64,338, if that same person had been sent to prison. We've conducted our own analysis of the economic benefits derived from the implementation of the DTAP program. Our analysis of the savings realized o correction, health care, public assistance and recidivism costs combined with the tax revenues generated by the DTAP graduates indicates that diversion to DTAP has resulted in economic benefits of about $44 million dollars per the 1,095 graduates thus far.

These statistics amply demonstrate that diversion to DTAP doesn't just make sound sense from ethical and criminal justice points of view, but also from a basic fiscal point of view as well. For these reasons, DTAP has been embraced by all five district attorneys in the counties that make up New York City, and has been implemented by several other district attorneys throughout New York State. Over the years, DTAP has attracted the attention of researchers, criminal justice practitioners, and lawmakers concerned about reducing drug-related crime and the high costs of incarceration.

Federal criminal justice and public health agencies that promote best practices in substance abuse control have repeatedly endorsed and disseminated the success of

DTAP, and as early as 2000, Federal lawmakers began introducing legislation that would fund DTAP programs across the country. The day of Federal DTAP legislation finally arrived on April 9, 2008, when President Bush signed into law the Second Chance Act. A key section of that legislation authorizes Congressional appropriations of $10 million dollars to be used for grants to state and local prosecutors creating and implementing DTAP programs. The seven key DTAP elements which I previously discussed would distinguish these prosecution-run programs.

Now, the question is—will Congress follow through and appropriate the funds that the Second Chance Act has authorized? I would urge it do so.

B. COMALERT

Just as diverting addicted offenders from prison into drug treatment can be an effective means of reducing recidivism and thereby promoting public safety, so too can making sure that ex-offenders receive substance abuse treatment and transitional employment and other social services once they return to the community. Because successful re-entry can have such a positive impact on an individual's and, by extension a community's, well-being, DA Hynes created, in close collaboration with Counseling Service of EDNY (an out-patient drug treatment provider), the Doe Fund (a provider of transitional employment and housing), the New York State Division of Parole, and numerous community-based social services providers, ComALERT—Community and Law Enforcement Resources Together—a re-entry partnership program for Brooklyn residents who are on parole and who have been mandated to engage in substance abuse treatment.

The program started in 1999, but underwent several changes, until it assumed its present structure in October 2004. There are currently approximately 150 active participants in ComALERT. For most clients, the program last three to 6 months. From October 1, 2004, to May 31, 2008, 743 clients graduated the program, and the program graduation rate is 55.7 percent.

Most ComALERT clients are recently released from prison and are referred to the program by Parole. At ComALERT's downtown Brooklyn location, clients receive outpatient substance abuse treatment from licensed counselors and attend individual counseling and group sessions. They are regularly tested by for drug use. Once drug testing results verify that a ComALERT participant has been drug and alcohol free for at least 30 days, he or she can begin engaging in other services, and, per the referral of the primary counselor, will meet with ComALERT's Community Resources Coordinator.

Approximately one-third of ComALERT clients receive a referral to, and preferential placement in, the Doe Fund's Ready Willing & Able (RWA) program, which provides transitional employment, transitional housing (if needed), job skills training, 12-step programs, and courses on financial management and other life skills. RWA participants work full time in manual labor jobs, primarily street cleaning, and are paid $7.50 per hour. A portion of the salary is deposited directly into a savings account for the client. After 9 months of transitional employment, participants begin the search for a permanent job. During this process, they continue to receive a stipend. Once RWA participants secure permanent employment and housing, they graduate from the program, and the Doe Fund continues to provide them with $200 per month for 5 months. ComALERT's weekly individual and group counseling sessions and periodic drug testing help clients maintain sobriety and their enrollment in RWA, which enforces a zero-tolerance policy for drug and alcohol use.

In addition to providing referrals for RWA and other transitional employment, ComALERT's Community Resources Coordinator also links participants to a wide range of other social services offered by community-based providers, such as transitional housing, vocational training, GED test preparation, family counseling, and job readiness programs. Service referrals are specifically tailored to meet the needs of the individual clients.

On site, at the ComALERT Re-Entry Center, participants may attend HIV/STD/hepatitis, and meet with an onsite doctor who conducts physical health assessments and provides referrals as necessary. ComALERT participants who need mental health treatment, but only at a moderate level, may receive such treatment from their ComALERT primary counselor. If the client has a serious and persistent mental illness and needs treatment involving medication, the primary counselor or the onsite doctor will refer the client to an outside mental health treatment provider. ComALERT plans to augment, in the near future, the range of wraparound services offered onsite.

Professor Bruce Western of Harvard University recently completed research evaluating ComALERT. Professor Western analyzed the recidivism rates of ComALERT graduates from July 2004 to December 2006, and compared those rates to all

ComALERT attendees for that period (i.e., for all participants regardless of whether they graduated or were discharged) and to those of a matched control group of Brooklyn parolees who did not participate in ComALERT. Outcome percentages for ComALERT graduates were *substantially* better in all categories when compared to those of a matched control group. One year after release from prison, parolees in the matched control group (who did not have the benefit of ComALERT) were over twice as likely to have been re-arrested, re-convicted, or re-incarcerated as ComALERT graduates. Even 2 years out of prison, ComALERT graduates showed far less recidivism than the parolees of the matched control group. Twenty-nine percent of ComALERT graduates were re-arrested, 19% re-convicted, and only 3% re-incarcerated for new crime.[2] By contrast, 48% of the matched parolees were re-arrested, 35% re-convicted, and 7% re-incarcerated on a new crime. Even re-incarceration based on parole violations occurred much less frequently for ComALERT graduates (16%) than for parolees in the matched control group (24%).

As to employment, ComALERT graduates were nearly four times as likely to be employed as the parolees in the matched control group, and they also had much higher earnings than parolees in the control group.

These results validate ComALERT as an effective collaborative model for ensuring that ex-offenders make a successful transition from prison to the community. In light of its success at reducing recidivism and increasing employment, the ComALERT re-entry model should continue to garner fiscal support.

New York taxpayers pay over $2.5 billion a year to maintain prison operations. In New York City, it costs $67,000 per year to house an inmate in jail.[3] Each time a person is re-arrested and sent to jail, it costs $183 a day to house the person. In contrast, providing a person with ComALERT's drug treatment and case management services costs only $10 a day and providing a person with wages for the Doe Fund's transitional employment costs only $44 a day. These figures show that an effective re-entry program targeted at reducing the number of parolees returning to prison has the potential to save New York a significant amount of money.

Thus, not only does ComALERT meet the long-term goal of reducing crime to increase public safety, but this enlightened approach to law enforcement also makes sound economic sense. The New York State government has wisely decided to invest funds in ComALERT. On a national level, the recently enacted Second Chance Act of 2007 offers hope that prosecutors throughout the country could implement their own ComALERT re-entry partnership programs. Of course, once again, it is up to Congress to now appropriate all the Federal funding authorized by the Second Chance Act.

Both the ComALERT and DTAP models offer jurisdictions cost-effective means for reducing drug-addiction related crime—one of our nation's most pernicious social problems. Despite decades of well-meaning state and Federal efforts to tackle the problem, our country is still facing a drug abuse crisis. In a report released in March, the Office of National Drug Control Policy noted that there were over 20 million drug users and approximately 7 million chronic drug users (drug dependent or drug abusers) in the U.S. in 2006 (Office of Nat'l Drug Control Pol'y, Exec. Office of the President, *Current State of Drug Policy: Successes and Challenges,* at 5 (2008)). The same group estimated the economic cost of drug abuse to be $180.9 billion in 2002 (Office of Nat'l Drug Control Pol'y, Exec. Office of the President, *The Economic Costs of Drug Abuse in the United States,* 1992–2002 at vii (2004)). Of that overall sum, an estimated $107.8 billion were crime-related costs (Id. at xii). In fact, the most rapid growth in drug abuse costs from 1992 to 2002 came from "increases in criminal justice system activities, including productivity losses associated with growth in the population imprisoned due to drug abuse" (*Id.* at xiii).

The precise nature of the nexus between drugs and crime continues to be investigated and debated, but that such a nexus exists appears beyond dispute. According to the Arrestee rug Abuse Monitoring Program (ADAM) Annualized Site Report for Manhattan, New York, among samples of adult males arrested in 2002, over three-quarters (81 percent) tested positive for at least one kind of illicit drug, and over

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[2] Although the comparison is imperfect, the recidivism rates of ComALERT graduates were dramatically lower than for prisoners released from state prisons in general. A study conducted in 2002 of inmates released from state prisons in 1994, concluded that, 2 years after release, approximately 59% had been re-arrested, 36% re-convicted, and 19% re-incarcerated for a new crime. P. Langan & D. Levin, RECIDIVISM OF PRISONERS RELEASED IN 1994 at 3, table 2 (U.S. Dep't of Justice, Bureau of Justice Statistics, NCJ 193427, June 2002).

[3] According to the New York City Independent Budget Office, this figure does not include a multitude of additional costs attributable to jail operations, including, but not limited to, pension and health care costs of jail employees and debt services costs associated with jail construction and renovation. If all those additional costs are taken into account, the average annual cost per city jail inmate vaults to $113,276 per year, or $310 per day.

a quarter (26 percent) tested positive for multiple drugs. Among males and females arrested for drug offenses, almost all (91 percent and 92 percent, respectively) tested positive for some kind of illegal drug. Nationwide in 2000, in half the 35 ADAM sites, urinalysis indicated that 64 percent or more of adult male arrestees had recently used at least one of five drugs: cocaine, marijuana, opiates, methamphetamine, or PCP (phenocyclidine). (Nat'l Inst. of Justice, U.S. Dep't of Justice, *Arrestee Drug Abuse Monitoring 2000 Annual Report* 1 (2003)).

According to a 1997 survey of inmates in state prison, 83 percent reported past drug use and 57 percent were using drugs in the month before their offense. (Christopher J. Mumola, U.S. Dep't of Justice, Bureau of Justice Statistics, *Special Report: Substance Abuse and Treatment, State and Federal Prisoners, 1997,* at 1 (1999)). A third of state prisoners said that they had committed their current offense while under the influence of drugs. Drug offenders (42 percent) and property offenders (37 percent) reported the highest incidence of drug use at the time of the offense. (Id. at 3). Nineteen percent of state prisoners said that they had committed their current offense to obtain money for drugs. (Id. at 5). Tragically, statistics tell us that when these drug-abusing inmates leave prison, they are likely reoffend. Recidivism rates for drug offenders are depressingly high. In a 15-state study of prisoners released in 1994, 66.7 percent of the drug offenders were rearrested within 3 years and 47 percent were reconvicted of a new crime within that period (Patrick A. Langan & David Levin, U.S. Dep't of Justice, Bureau of Justice Statistics, *Recidivism of Prisoners Released in 1994,* NCJ 193427, at 8 table 9 (2002)).

While community-based treatment and other wraparound social services carry a price tag, their cost is much less than that of incarceration in prison, especially when one considers the effectiveness of diversion and re-entry programs at reducing recidivism. Many states throughout the country are now confronting the crippling costs of an exploding prison population.[4] The DTAP and ComALERT models that we have used so successfully in Brooklyn transform lives, improve communities, and save money. These programs deserve to be replicated in jurisdictions around the country, and Congress should ensure that adequate funding is appropriated for that goal.

PREPARED STATEMENT OF NORMA FERNANDES, KINGS COUNTY (BROOKLYN), NEW YORK

The youngest of three children, I grew up in a dysfunctional environment. When I was eleven, my mother passed away from cirrhosis of the liver. At age fifteen, I dropped out of high school because I was addicted to heroin. The foundation of my teenage years revolved around jail and the street corners of Brooklyn . . . either selling drugs or, at a more desperate time, robbery. Because of my addiction, I didn't care who I hurt. After many attempts to get sober through 30-day detoxification, as well as time in jail, these experiences did nothing to keep me off drugs. Although time in jail prevented me from committing crimes while I was there, it gave me only the opportunity to clean out my system, rest, and time to think about how I would become a better criminal when I would eventually be released. Thfs was the cycle of my life until when, at age twenty-two, I decided to enroll in a methadone program.

At the time of my final arrest, I was on ninety (90) milligrams of methadone and charged with felony-level criminal sale of a controlled substance. I knew I had effectively outgrown my "status" with the New York City Department of Corrections, and would soon find myself in an upstate prison. Fortunately for me, the Brooklyn D.A Charles J. Hynes believed in substance abuse treatment alternatives instead of prison, and for this I'll always be grateful to him. I never thought I would ever be able to live my life without getting high and committing crimes; however, I was given the opportunity to participate in DTAP. I was diverted into a program of long-term residential drug treatment instead of going upstate to prison.

Detoxifying off the methadone at Rikers Island (New York City's jail) was a nightmare. I lost 45 pounds in less than 2 months, and felt like I was going to die. I had no appetite, nor was I able to sleep as my body reacted violently and painfully to the awful withdrawal from methadone. It was an agonizing process that included many fights with fellow sufferers, undoubtedly because I was still a sick, suffering, and very angry person during this period.

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[4] As of June 30, 2007, the state prison population in the U.S. had swelled to 1,395,916 inmates. William J. Sabol, U.S. Dep't of Justice, Bureau of Justice Statistics, *Prison Inmates at Midyear 2007,* NCJ 221944, at 3 table 2 (June 2008)

I was later mandated to Samaritan Village, a therapeutic community located in Ellenville, in upstate New York. My time spent there will never be forgotten. It wasn't easy adjusting to a structured environment and sitting in groups, and when I arrived to Samaritan Village, I was scared, angry, and lonely. As time went on, however, I began to learn a lot more about myself, the real me, and I can proudly say that Samaritan Village helped me to grow up. I obtained my GED while there, learned how to live life soberly and responsibly, and learned how to set short and long-term goals. These experiences empowered me and encouraged me to strive hard so I could accomplish anything I want to achieve in life.

Today I'm a college graduate, and owner and landlord of a four-family building in Brooklyn. I'm also a proud single parent with a very intelligent, level-headed daughter. I love the person I am today. I have no doubt that had I not been offered the chance to enter long-term residential treatment, I would not have set any positive goals nor accomplished them, and definitely would not be here today sharing this story. The only choices guaranteed me in the future I would've faced back then were pretty grim: either become a recidivism statistic in prison with an even higher sentence, or a death statistic buried in a cemetery somewhere. Instead, I have accomplished every goal I've set for myself, and will continue to be prosperous in everything I do. Is this an individual with high self esteem or what?

I am now employed by the Kings County District Attorney's Office as Community Resources Coordinator for the ComALERT reentry program, assisting individuals paroled to Brooklyn in obtaining vital supportive services. The services include outpatient drug treatment, job placement, vocational training, free GED courses, health benefits, and VESID entitlements. The fact that ComALERT is sponsored by the Kings County District Attorney's Office plays an essential role and has a positive impact on each agency providing supportive services to our ComALERT clients. And even though there are clients who walk into ComALERT initially resistant because it's a program sponsored by the DA's office, once they become engaged by the reentry program and involved in the different services provided at ComALERT, they're anxious to come back.

I know how imperative it is for a formerly incarcerated individual to have these essential supportive services in order to successfully reintegrate back into the community. Supportive services are particularly important for a population that is highly at risk to recidivate because they don't have access to effective substance abuse treatment, or have any marketable skills to secure employment. As a former client, and now as a productive community member and a social services professional, my personal experiences have shown me in a number of ways that programs like ComALERT and DTAP aren't only effective at restoring lives. Thanks to the enlightened thinking of civic leaders like Brooklyn DA Charles Hynes, I've now also seen how these programs have solid economic and public safety benefits that each and every one of us can all enjoy.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF NATIONAL DRUG CONTROL POLICY
Washington, D.C. 20503

PREPARED STATEMENT DIRECTOR JOHN P. WALTERS

THE STRATEGY

On February 12, 2002, the President released his Administration's first *National Drug Control Strategy,* a balanced approach to reducing drug use in America focusing on three national priorities: stopping use before it starts, healing America's drug users, and disrupting the market for illegal drugs. All three of these priorities support and complement each other and are necessary to reducing the problem of drug consumption in the United States. As prevention and treatment programs reduce the domestic demand for drugs and the size of the drug-using market in the United States, the efforts of Federal, State, local, tribal, foreign, and international law enforcement agencies serve to further destabilize the business of drug producers and traffickers, reducing the scale and impeding the flow of drug profits to the criminal organizations and terrorist groups that benefit from them.

This Administration articulated a clear plan to reduce the supply of illegal drugs in America, based on the insight that "the drug trade is in fact a vast market, one that faces numerous and often overlooked obstacles that may be used as pressure points." The market disruption component of our strategy has been of particular importance. It has reduced not only the number of Americans who experience the sorrow of addiction but also the number of innocent people around the world who are victimized by organized crime and terrorism. Its most effective operation involves a comprehensive approach that combines cooperation with international organizations, the work of courageous allies in countries such as Colombia, Mexico, and Afghanistan, improved border security, enhanced intelligence, record-setting interdictions on the high seas, and the targeting of precursor chemicals and criminal finances.

These pressure points exist all along the illegal drug supply chain, where traffickers undertake such challenging tasks as overseeing extensive drug crop cultivation operations, importing thousands of tons of essential precursor chemicals, moving finished drugs over thousands of miles and numerous national borders, distributing the product in a foreign country, and covertly repatriating billions of dollars in illegal profit. This Administration has aggressively attacked these pressure points, and as a result we have seen that drug trafficking does indeed operate like a business, with traffickers and users alike clearly responding to market forces such as changes in price and purity, risk and reward.

By interfering with these market forces, law enforcement has made it more likely that those who have not used illicit drugs will never initiate use, that current drug users will seek help, and that drug dealers will face greater risks and reap smaller profits. We are routinely told by critics (and you will have been offered testimony before this Committee) that our supply reduction activities are ineffectual. This testimony is unreliable, and is not supported by the actual facts. For a dramatic example of the power of supply reduction, consider that when domestic law enforcement efforts dismantled the world's largest LSD production organization in 2000, within a year the reported rate of past-year LSD use by young people (8th, 10th, and 12th graders combined) plummeted—a drop of 58 percent from 2001 to 2007.

The effect can be seen for yet another drug of concern—Ecstasy, use of which had been rising steeply as a drug associated with the youth "rave" scene in the United States. internationally, the disruption of several major MDMA (Ecstasy) trafficking organizations in Europe led to an 80 percent decline in U.S. seizures of MDMA tablets from abroad between 2001 and 2004, followed by a consequent 50 percent drop in the rate of past-year use among young people between 2001 and 2007.

Similarly, between 2002 and 2006 dedicated Federal, State, and local efforts, including the passage of the Combat Methamphetamine Epidemic Act of 2005, P.L. 109–177, tightened controls on methamphetamine's key ingredients and contributed to a 60 percent decline in the number of superlab and small toxic lab seizures and a 59 percent percent decrease in past-year methamphetamine use among the Nation's youth between 2001 and 2007. That is, controlling the supply of methamphetamine by attacking precursor chemicals effectively stemmed what had been a rising epidemic of both production and use of this devastating drug. Our supply control success against methamphetamine has been carried forward into 2007, when data

from DEA's STRIDE data base on the price and purity of this drug show a stunning 31 percent decrease in purity and 73 percent increase in price from the first quarter to the third quarter of 2007.

Further international controls on the essential precursor chemicals involved in methamphetamine production are constricting the availability of this drug even more. The overarching principle is that supply reduction remains an essential component of any effective drug control policy, and works best when offered in conjunction with effective prevention and treatment efforts.

OVERALL RESULTS OF THE NATIONAL DRUG CONTROL STRATEGY

The release of the Administration's first National Drug Control Strategy marked a turning point. Results from the *Monitoring the Future* study for calendar year 2002 revealed a downturn in youth drug use after a decade in which rates of use had risen and remained at high levels. Six years later, this decline in youth drug use continues and is mirrored by declines in positive workplace drug testing in the U.S. adult workforce. The percentage of workers testing positive for marijuana use declined by 29 percent from January 2000 to December 2007. Workplace drug test positives for methamphetamine among workers is declining after an increase during the first half of the decade, falling by 51 percent between 2005 and 2007. Perhaps most remarkably, overall drug test positives, as measured by Quest Diagnostics' Drug Testing Index, show the lowest levels of drug use in the adult workforce since 1988.

Further, there has been substantial progress against South American heroin, the leading source of heroin in the United States. Aggressive eradication reduced Colombian opium poppy cultivation by 65 percent from 2001 to 2006. This reduction, combined with increased seizure, yielded a 22 percent decrease in the retail purity of Colombian heroin and a 33 percent increase in the retail price from 2003 to 2004. This progress continues, with eradication teams in Colombia now reporting difficulty in locating any significant concentrations of opium poppy and with poppy cultivation falling to the lowest levels since surveys began in 1996.

Most recently, domestic and international law enforcement efforts have combined to yield a historic cocaine shortage on U.S. streets. Law enforcement reporting and interagency analysis coordinated by the National Drug Intelligence Center (NDIC) indicate that numerous major U.S. cities with large cocaine markets experienced sustained cocaine shortages between January and September 2007, a period in which Drug Enforcement Administration (DEA) reports indicated a 44 percent climb in the price per pure gram of cocaine. This cocaine shortage affected more areas of the United States for a longer period of time than any previously recorded disruption of the U.S. cocaine market. (In fact, and contrary to testimony before the Committee that these advances against cocaine are "short lived," our most recent data now being analyzed indicate that the disruption of cocaine availability in the United States has now extended through 15 months.)

NDIC analysis of workplace drug testing data and emergency room data indicates that this sustained cocaine shortage was attended by reduced cocaine use during the first half of 2007. The national rates of positive workplace drug tests for cocaine use were 15 percent lower during the second quarter of 2007 than during the second quarter of 2006 (the rates are currently at the lowest levels ever recorded in the QUEST data base). Among the 30 cities for which more focused workplace drug testing data are available, 26 experienced decreases in the rates of positive workplace drug tests for cocaine during the second quarter of 2007 in comparison to data from the same period of 2006.

Further evidence of the impact of the cocaine shortage can be found in reports from the Substance Abuse and Mental Health Services Administration's (SAMHSA's) Drug Abuse Warning Network (DAWN), which provides emergency room admissions data for 10 of the 38 cities where cocaine shortages were observed. In 9 of those 10 cities, the percentage of drug-related emergency department visits involving cocaine was lower during the second quarter of 2007 than during the same period of 2006.

Additional intelligence community analysis indicates that the cocaine shortage is most likely the cumulative result of interdiction and organizational attack efforts in the source zone and the transit zone. Dedicated efforts by the Government of Colombia, massive seizures of cocaine in transit, and aggressive Mexican and U.S. law enforcement efforts targeting large Mexican drug trafficking organizations have combined to disrupt the flow of cocaine and other illicit drugs—particularly methamphetamine, which also has experienced a rise in price and decline in purity—into the United States.

With the lessons learned from this historic cocaine shortage, and with the continued partnership of the Mexican Government, U.S. law enforcement agencies are taking action to leverage this unprecedented opportunity to expand international cooperation and aggressively attack the cocaine market. Support for the Merida Initiative will ensure that these efforts will be enhanced and continued.

The fight against illegal drug production and the narco-trafficking organizations that control this market has produced other profound and positive changes for our international partners. For instance, the political, military, economic and counter-narcotics landscape in Colombia has changed dramatically since 2000. For the first time in its history, the Colombian Government has established a police presence in each of the country's 1,099 municipalities. Increased security of roads and highways has allowed for greater freedom of movement for people and commerce, and contributed to impressive economic progress and the reduction of poverty. Since 2002, violence indicators have been reduced to their lowest levels in decades. Homicides decreased by 40 percent, kidnappings by 83 percent, terrorist attacks by 76 percent, and attacks against the country's infrastructure by 60 percent through the end of 2007.

Ambitious programs of eradication, interdiction, extradition, counter-terror military and police operations, anti-money laundering efforts, and prosecution of drug organizations and their leaders have dramatically improved security and weakened the narco-terrorist infrastructure. Due to eradication and interdiction, significant quantities of cocaine are prevented from entering the U.S. and other markets and narco-terrorist strongholds in large coca producing areas like Putumayo are being challenged. Interdiction has successfully attacked the cocaine air bridge routes used by narcotics traffickers and forced them to use more expensive and slower maritime and land routes. Moreover, this success against cocaine has been accompanied by comparable progress against Colombian heroin production, which has decreased dramatically (as mentioned above), due in large part to focused Colombian military and police efforts. Over 620 narcotics traffickers and other criminals have been extradited to the United States for trial since 2002.

The overarching objective of the U.S. supply reduction strategy is to reduce the quantity of illegal drugs available in the United States. The aerial spraying campaign in Colombia is a part of that strategy and has been focused on attacking coca production at the source. Aerial spraying is considered an effective and efficient way to get at the thousands of hectares planted in remote and inaccessible regions of Colombia. Although some point to recent U.S. Government and UNODC estimates that indicate possible increases in Colombian cocaine cultivation, there are other metrics that must be weighed when evaluating the effectiveness of the supply reduction strategy.

We have concluded that potential production is a better measure of our success against the cocaine market than the cultivation estimate alone. The estimate of cocaine production from Colombia is based on several factors: hectares of coca cultivation, leaf yield per hectare per year, the alkaloid content of the leaf, cocaine base laboratory efficiency and cocaine hydrochloride laboratory efficiency. The U.S. Government is constantly reviewing and updating these factors to ensure as accurate an estimate of production as possible and this makes it difficult to compare estimates from year to year.

Counting only the number of hectares of coca will not account for a key variable that comprises potential production, which is the coca leaf yield per hectare. We should not assume that all coca fields are equally productive. We have been able to document that aerial spraying can reduce coca yield while the plant is still counted as a fully mature plant in the annual estimate. That is, we can document progress against potential production, reducing the efficiency and value of cocaine cultivation, even though the "footprint" of hectares of cultivation appears similar.

Further, even our own estimate of cultivation itself is subject to several changing variables. For example, in an effort to improve the accuracy and comprehensiveness of the U.S. estimate, the 2005 survey expanded by 81 percent the size of the landmass that was imaged and sampled for coca cultivation. The newly imaged areas showed about 39,000 additional hectares of coca. Because these areas were not previously surveyed, it was impossible to determine for how long they have been under coca cultivation. Because of this uncertainty and the significantly expanded survey area, a direct year-to-year comparison is not possible—*this was a break in the data trend line.* (In fact, if one held constant the area surveyed between successive years, actual cultivation within that area has fallen, and fallen most steeply in sectors affected by aerial spray.) The 2006 area surveyed was again increased, this time by 19 percent compared with 2005, resulting in an increase of 13,000 hectares from the 2005 estimate; almost all of the increase was identified in these newly surveyed areas. Because these areas had not been previously surveyed, it is

not possible to know with certainty if the coca found in these areas is in fact newly planted and had not been producing for a period of time and reflected an improved understanding of where coca was growing in Colombia.

Rapid crop reconstitution, a move to smaller plots, and the discovery of coca in previously unsurveyed growing areas, have posed major challenges to the techniques and methodologies used to understand Colombia's coca cultivation and cocaine output. After losing one-third of the estimated coca cultivation to herbicidal spraying between 2001 and 2004, traffickers and growers implemented the widespread use of techniques such as radical pruning and replanting from seedlings. Such countermeasures result in crops that are initially unproductive or significantly less productive than mature fields. Once again, the impact of our eradication activities is to make cocaine production more costly and less efficient and the enterprise less viable for narcotrafficking organizations.

Colombia's anti-drug efforts have also affected the FARC (Fuerzas Armadas Revolucionarias de Colombia or Revolutionary Armed Forces of Colombia), a terrorist organization that depends on drug trafficking, kidnapping, and theft to sustain itself. According to a U.S. Government study, FARC drug profits declined from $90–150 million in 2003 to $60–115 million in 2005. The FARC's overall profit per kilogram of cocaine declined from a range of $320–460 in 2003 to $195–320 in 2005. Coca eradication and other activities drove up FARC costs related to its drug activities, particularly the cost of buying cocaine products from farmers and producers. That trend has continued.

Supply reduction remains an effective tool for disrupting the entire market of illicit narcotics and enabling the U.S. Federal, State, and local levels of government and our allies to apply pressure to the links of this chain from production through transit and all the way to sale on the streets of the U.S. Furthermore, Plan Colombia and our follow-on Consolidation Strategy are a prime example of how supply reduction strategies not only disrupt the flow of narcotics bound for the U.S., but also combat the regime corrosion caused by Drug Trafficking Organizations (DTOs).

The expanded presence of the GOC throughout Colombia has been instrumental in reclaiming key illicit cultivation areas from the FARC and other DTOs. These actions against the supply chain are most effective when coupled with programs to provide alternative, sustainable livelihoods, another mainstay of Plan Colombia. Once an area is secured by Colombian security forces, development and economic projects, including those of USAID are established to solidify the GOC's presence and provide legitimate sources of income.

Importantly, the benefits of our efforts are not restricted to our host-nation partners. Effects on communities in the United States are likewise positive. As we have demonstrated, there has been a 24 percent decline over the past 6 years in youth drug use. Workplace drug testing is showing a continuing unprecedented drop in cocaine positive tests, dropping to their lowest levels ever. Coupled with these falling demand indicators, there has been a dramatic shortage in both cocaine and methamphetamine supply throughout the U.S. over this past year, as demonstrated by law enforcement reporting and data showing falling purity, rising prices, record seizures, and declining cocaine productivity in Colombia. Finally, the narco-terrorists in Colombia and the criminal cartels in both Colombia and Mexico have received crushing blows.

WHAT ARE THE FACTS ABOUT DRUG CRIME AND INCARCERATION?

Our response to drug crime in America is far more just and effective than the conventional mythology would have it. While incarceration of individuals convicted of drug offenses linked to trafficking or violence remains a central and appropriate response by the U.S. criminal justice system, for non-violent drug offenders, drug courts are a viable alternative. Drug courts have reduced recidivism, substance abuse, and criminal justice costs. Under President Bush's leadership, the number of drugs courts has more than doubled since 2001, with more than 2,100 drug courts currently operating and an additional 285 in the planning or development phase. (For violent drug offenders, a drug court is not an appropriate sanction and instead incarceration is imposed.)

While drug courts and supervised, sanctioned treatment represents our major policy thrust, many misconceptions persist about the nature and type of offenses of those who are ultimately incarcerated for a drug charge. The Bureau of Justice Statistics records data on drug offenders. In the Federal system, 53 percent of the overall offender population is imprisoned for drug offenses, which are, overwhelmingly, trafficking offenses. Contrary to simple assertions that marijuana offenses are somehow leading to a surge in prisoners, the table below indicates that those individuals

in the Federal system incarcerated for marijuana/hashish has actually decreased as a percentage of all Federal drug offenders from 1997 to 2004.

Type of Drug Involved in the Offense	Percent of Drug Offenders			
	State		Federal	
	2004	1997	2004	1997
Marijuana/Hashish	12.70%	12.90%	12.40%	18.90%
Cocaine/Crack	61.80%	72.10%	65.50%	65.50%
Heroin/Other	12.20%	12.80%	8.10%	9.90%
Opiates				
Depressants	2.20%	1.20%	1.40%	0.60%
Stimulants	18.60%	9.90%	18.70%	31.00%
Hallucinogens	1.70%	1.10%	2.30%	1.70%

Note: More than one type of drug may have been involved in the offense.

The lesson offered by data on the incarcerated population at the State level is even more striking. Roughly 20 percent of offenders in that system are incarcerated for drug offenses. Note, however, that the percentage of offenders in the State system that are marijuana-possession only offenders is less than three-tenths of 1 percent of the entire State incarcerated population. This information is gleaned from the 2004 Survey of Inmates in State Correctional Facilities, derived from a sample of State offenders.

Drug possession offenders (all drug types) = 6.0% of State prisoners
Drug offenders, no prior sentences (for any crime) = 4.4% of State prisoners
Drug offenders held for crimes involving marijuana = 2.7% of State prisoners
Drug offenders held for crimes involving ONLY marijuana = 1.4% of State prisoners
Marijuana-only drug offenders, no prior sentences = 0.4% of State prisoners
Marijuana-only possession offenders = 0.3% of State prisoners
Marijuana-only possession offenders, no prior sentences = 0.1% of State prisoners

The assertion that low-level marijuana prosecutions, in particular for simple possession, are somehow substantial factors in prison incarcerations is a glaring distortion of the actual facts. To take a specific example, though you have been told in testimony that more than 30 percent of those State prison inmates in Maryland are incarcerated for marijuana possession, that testimony is simply unsustainable. Data from the State of Maryland indicate that there are approximately 4,830 inmates in the State of Maryland serving time for any drug offense— possession and distribution for any illicit drug, not just marijuana. That figure for all drug offenses amounts to only 21.5 percent of their entire inmate population. To assert that one third of those serving time in State prison are doing so on a marijuana possession conviction, a small subset of all drug offenses, is dangerously misleading. (If that were true, Maryland would have a rate of marijuana possession incarceration more than 100 times the national average.) No Maryland State prison data support that erroneous testimony.

Almost all of the individuals serving time for cocaine base (crack) offenses in the Federal system are due to distribution-related, rather than possession, offenses. Less than 1 percent of all crack defendants were convicted of simple possession with the remaining 99 percent convicted of distribution-related offenses. (U.S. Sentencing Guidelines, *Use of Guidelines* and *Specific Offense Characteristics: FY 2006,* and letter from Alice Fisher, Assistant Attorney General, Department of Justice, to Ricardo Hinojosa, Chair, U.S. Sentencing Commission, November 1, 2007). Tougher penalties for crack were enacted by Congress in the 1980s to respond to the growing threat drugs, particular cocaine and crack, posed to American communities.

As has been noted, the death of rising basketball star Len Bias from a cocaine overdose shocked the American conscience. At the same time, crack ravaged our

inner cities. Congress responded by passing mandatory minimums including the stiff penalty for crack which has recently come under great scrutiny.

As a nation, we have made great progress against drug abuse and its consequences since the 1980s. The widespread use of cocaine powder and its dangerous alternative crack have lessened dramatically, and at the Federal level, we have put mechanisms in place to respond to the various threats posed by drugs. Not only is law enforcement equipped to respond to this threat, but other sectors of society have been mobilized as well, in accord with our balanced drug control strategy. This Administration has increased capacity and expanded consumer choice of treatment for drug abuse. With assistance from Congress, we have had historically robust prevention messages aimed at youth. This progress has demonstrated remarkable results in the past several years.

Again we draw your attention to a central measure of our drug policy: drug use among youth has declined 24 percent since 2001. We know from research that declines of that magnitude in the youth population produce benefits for them and for their communities that will stay with them throughout their lives. We must stop drug use before it starts, and where drug use is found, we must continue to support the institutions that respond to the ravages of drug abuse and its effects on families and communities, in particular poor and minority communities, where drug trafficking and abuse are profoundly devastating.

The arguments above should serve as an effective refutation of a common caricature of the Administration's drug control policies— that we have excessively relied on punitive law enforcement remedies over prevention and treatment efforts and a public health understanding of drug addiction. This caricature is a fraudulent portrait, painted most frequently by those intent upon demonstrating the futility of the fight against illegal drugs, so that their own policies of acquiescence look more palatable by contrast. Their characterizations are belied by the facts. We have a balanced strategy that takes very seriously a public health understanding of the disease of addiction, and that integrates that public health comprehension with effective use of the law.

The Administration's drug control budget, in fact, makes an enormous investment in prevention and treatment programs. A basic tenet of the Administration has been to request funding for programs proven to work and reengineering those that do not. This approach has been effective, as can be seen in the drastic reductions in youth drug use since 2002.

The National Youth Anti-Drug Media Campaign educates youth on the dangers of drug abuse. Recent results have been striking. Youth use of any illicit drugs declined by 24 percent since 2001, while perceptions of risk in using drugs and an increase in norms of social disapproval for drug use climbed. Moreover, the declines were steepest in the very target audience (youth 14–16) and with respect to the target drug (marijuana) on which the Campaign focused.

Critics of our drug control policies, when confronted with the fact of a dramatic downturn in youth drug use since 2001, and confronted further with dramatic downturns in not only marijuana use but, even more strikingly, cocaine and methamphetamine QUEST workplace drug testing positives over the same time period, and further confronted with the striking evidence of constricted availability of cocaine and methamphetamine as attested by the STRIDE data on price and purity changes, try nevertheless to cling to their fundamental insistence that "nothing has worked."

To do so, however, they have to move the goalposts. Rather than examining drug use among youth, for instance, they will turn instead to a new measure, "perceived availability" as self-reported by young people when asked whether or not they thought they could "very easily" or "fairly easily" obtain a drug. This response enables critics to claim that therefore "drugs are more available than ever." The facts show otherwise. Faced with the clear data showing declines in use and availability, critics that advance this measure of self-reported perceptions are relying on a remarkably weak measure of actual changes among this population.

In our experience, opponents of the Administration's drug control policies habitually make multiple assertions about our Strategy, and will further so testify before this Committee, that are simply not supported by the data. For instance, you were told that the data and research base for our policies, even in the face of a charge from the National Academy of Sciences in 2001 to strengthen our capacities, remains "extraordinarily slight" and that in the 7 years since that recommendation, "nothing much has changed." This charge is misinformed.

Just to mention a sampling of new or strengthened data and research developed by this office over the past 7 years, one notes the additions of: 1) The QUEST workplace drug testing system, a nationwide examination of nearly 10 million drug tests annually, brought in specifically to respond to an NAS hope for more biometric

measures of drug use; 2) Efforts to develop a biometric-based drug consumption estimate in the NSDUH; 3) The development of a National Seizure System that consolidates reporting of seizures at all Federal, state, and local levels; 4) Developing a Clandestine Lab Seizure System of reporting on nationwide meth lab incidents, helpful in tracking the nearly 60 percent reduction in such labs since 2005; 5) Developing a Cocaine Monitoring Program in conjunction with DEA to provide a scientific sampling system for cocaine price and purity nationwide; 6) Marked improvements to the methodology to analyze DEA's STRIDE data system that records the price and purity of purchased and seized drugs nationwide, a development specifically called-for by the NAS; and 7) Re-constructing and funding from internal ONDCP funds the ADAM collection of data from arrestees (after Congressional appropriations had failed to support the program—oddly, one critic in testimony before this Committee stated that ADAM had been "eliminated" and that "no one of the agencies that benefit from these data was willing to provide financial support." ONDCP is now in its second year of data collection in this program, in which we have invested more than $2 million.); 8) The addition of new questions to the NSDUH probing the dimensions and sources of prescription drug abuse; and 9) The development of a new Targeting and Mapping capacity, that allows the targeted distribution of drug policy resources focused on the geographic and temporal aspects of both drug treatment need and continued as well as emerging drug threats.

Further, we are routinely told that the dangers of marijuana use, especially by young people, are overstated in our Strategy. Notwithstanding the facts that today's more potent marijuana is the leading cause of drug treatment admission for youth, more consequential than all other drugs combined and greater even than alcohol in its impact, critics will seek to downplay this danger by claiming that those seeking treatment for marijuana dependency do so only because they are required to do so by the courts.

In fact, in testimony before this Committee it was argued that the supposedly "very high share" of those entering treatment through criminal justice referrals that dependent users are "motivated by the desire for a reduced penalty from the court rather than help in dealing with marijuana use or dependence." This statement is misleading. In reality, the marijuana criminal justice referral rate to treatment is, according to TEDS, approximately 57 percent of cases. However, the criminal justice referral rate to treatment for methamphetamine is itself nearly 50 percent, with the rate for alcohol referrals closely behind. Should one conclude that methamphetamine abuse, or alcohol intoxication, have thereby been shown not to be real dangers?

Clearly the correct conclusion is that the criminal justice system is playing a proper role in identifying when a defendant has an underlying substance abuse problem that is driving their criminal behavior, and is appropriately referring that person to the supervised, sanctioned treatment that only the court itself can require. The percentage of referrals to treatment from criminal justice is linked to the dramatic increase in drug courts that emphasize treatment over incarceration. Drug courts are a signature program that this Administration has promoted, and should be seen as a positive development. Moreover, these facts support the realization that keeping criminal sanctions against drug use, including marijuana, is a powerful adjunct to the goal of achieving not only prevention through deterrence, but great utilization of successful treatment, a key goal of demand reduction.

Further, the dangers of current marijuana use can be seen even more clearly in the sharp increase in admissions to emergency rooms where marijuana is cited as the cause of the emergency episode. The increasing role of marijuana can be seen in a 198 percent increase in emergency mentions between 1994 and 2002 as measured by DAWN, and in the fact that marijuana now surpasses heroin in the annual number of mentions for emergency room admissions. This rise in emergency cases is indeed driven by the dangers of the drug itself.

It's time to stop accepting unsubstantiated assertions that marijuana use is not a societal danger, and that laws against marijuana possession and trafficking are not an essential feature of a successful drug control strategy. Not only is marijuana the most prevalent drug of abuse in our society, the proceeds from marijuana sales are a major factor in maintaining international drug cartels that seek to destroy our way of life. An effective strategy against marijuana use, particularly youth use, is a central pillar of our success in pushing back against all illegal drug use.

THE ILLUSION OF HARM REDUCTION:

Some critics of our current policies, in testimony before the Committee, made reference to a supposed alternative policy approach, labeled "harm reduction." Advocates for these measures, found largely in Europe and including those calling for the

legalization of all drugs, advance the notion that we should accept drug use as inevitable, and therefore the goal of drug control should be to enable or sustain continued drug use under more regulated circumstances. They will promote such measures as syringe distribution programs to provide injection drug users with the means to continue injecting, in the belief that they are thereby reducing the "consequences" of drug use such as disease transmission. We find this belief tragically mistaken.

Not only is it the case that the most effective way to reduce diseases associated with continued drug use is to reduce the incidence and prevalence of drug use itself, we further know that treatment for the disease of drug addiction is the most effective and humane intervention we can make. Yet "harm reduction" advocates nevertheless push beyond syringe distribution for policies like "safe" injection rooms, government sponsored distribution of heroin to heroin addicts, and distribution of "safe" crack pipes, in an effort to lower costs and consequences of actually fighting back against drug use. Nowhere have we seen sound scientific evidence that such measures produce the desired policy effects, and everywhere such measures are institutionalized we see evidence of continued drug addiction, disease transmission, and unabated criminality.

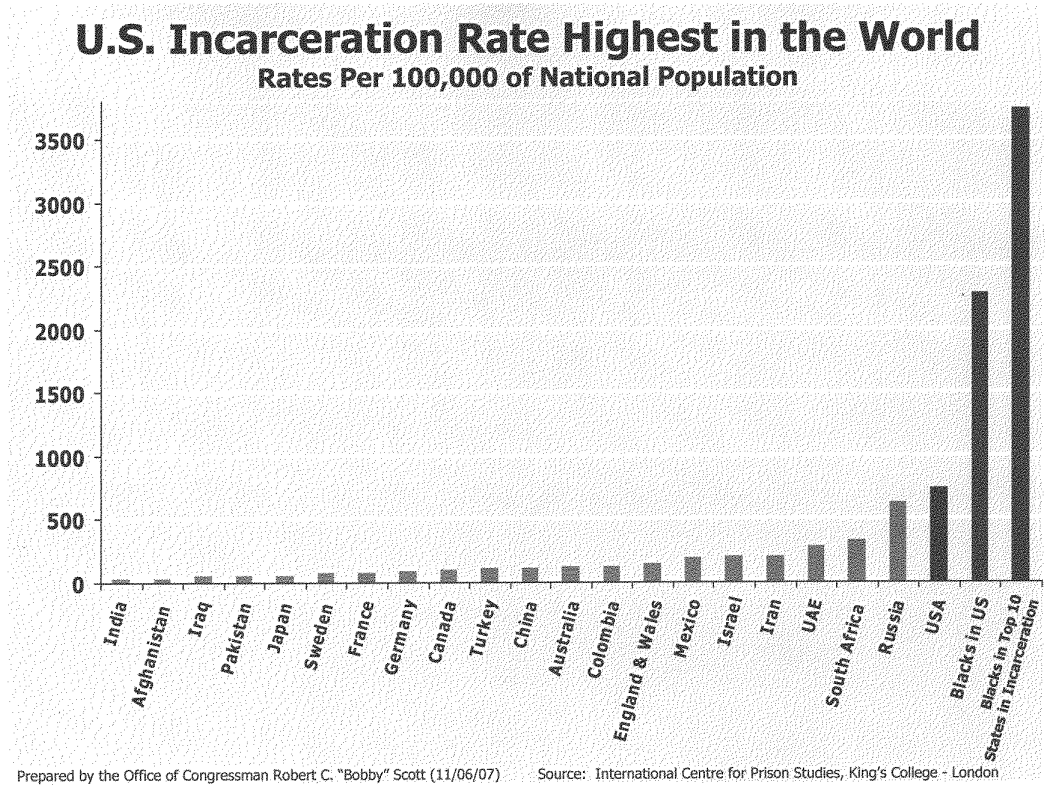
As was stated in testimony before this Committee, "harm reduction" advocates "might even be willing to tradeoff a little increase in drug use if you see a reduction in the total adverse consequences that come from it." To argue that this country's drug policy should be "willing" to accept more victims of drug use is a counsel of despair, and, we firmly believe, will turn out to provide, as surrender always provides, only the illusion of peace. Adopting "harm reduction" policies that acquiesce in continued drug use will reduce neither the ravages of drug use nor the pain and destruction that drugs cause in persons and their communities.

CONCLUSION

On December 11, 2007, the President appeared before a group of government officials, foreign dignitaries, and ordinary Americans to discuss the problem of illegal drugs in the United States. Nearly 6 years had passed since he had stood before a similar group to announce the Administration's first National Drug Control Strategy. This time, however, the President described not a rising threat, but one in retreat:

> "*Because Americans took action, today there are an estimated 860,000 fewer children using drugs than 6 years ago. Because Americans took action, because grassroots activists stood up and said 'We've had enough, ' because law enforcement worked hard—communities are safer, families are stronger, and more children have the hope of a healthy and happy life.* "

Supply reduction and demand reduction operating together demonstrably work, and the progress the United States has achieved in reducing drug consumption and trafficking is yet another indication that when our Nation rallies its greatest resource—its people—to confront an important problem, that problem can be made smaller. Skeptics and advocates of drug legalization have long argued that our fight against drugs is hopeless, but the clear evidence tells us that our Nation's fight against drugs is not only a necessary battle from which we must not shirk our responsibility; it is a battle that can be won. In fact, we are winning. Effective drug control policies have saved lives and strengthened our country.


U.S. Incarceration Rate Highest in the World
Rates Per 100,000 of National Population
3500
3000
2500
2000
1500
1000
500
0
India
Afghanistan
Iraq
Pakistan
Japan
Sweden
France
Germany
Canada
Turkey
China
Australia
Colombia
England & Wales
Mexico
Israel
Iran
UAE
South Africa
Russia
USA
Blacks in US
Blacks in Top 10 States in Incarceration
Prepared by the Office of Congressman Robert C. "Bobby" Scott (11/06/07)
Source: International Centre for Prison Studies, King's College - London