

AMERICA'S WAR ON DRUGS

Lawmakers, CEOs, Police Chiefs, Academics And Artists Talk About One Of The Most Controversial Issues Of Our Time

Since 1968, the United States has spent increasing amounts of taxpayers' money - more than \$40 billion last year - trying to stop drug use through the criminal-justice system. Three-fourths of federal anti-drug money goes to police, prisons, border patrol and interdiction efforts in countries like Colombia. Only one-fourth goes to prevention and treatment. Thirty years after war was declared, there are no fewer drug addicts but more people in prison for drug crimes than ever before. Half a million of America's 2 million prisoners are locked away for drugs, and 700,000 people are arrested each year for marijuana possession alone. In 2001, a record seventy-four percent of Americans say they believe the Drug War is failing. The majority say drug addiction should be approached as a disease, not a crime. In these pages, we asked lawmakers, scientists, police and law-enforcement officials, prominent journalists, musicians, academics, business leaders and authors to contribute to a newly energized debate about the future of American drug policy. Even President Bush's nominee to head the Drug Enforcement Administration, Republican congressman Asa Hutchinson, admits that the public is frustrated and that change is necessary. "We need to show that we're not simply trying to put nonviolent users in jail," he tells Rolling Stone. The War on Drugs has become a war against the nation's citizens. The time for drug-law reform is now. -- Jann S. Wenner

ERIC STERLING - PRESIDENT, THE CRIMINAL JUSTICE POLICY FOUNDATION

In January I spoke at the Drug Policy Forum of Hawaii, a very successful group that got the state legislature to pass a medical-marijuana bill with the governor's support. I asked for shows of hands: "How many of you think the War on Drugs is wrong?" Everybody raised his hand. I asked, "How many of you came to this opinion in the last year or two?" Nobody raised his hand. I asked, "How many of you think there is a coherent strategy for achieving drug-policy reform?" Almost nobody raised his hand. I asked, "Who are the critical people to reach?" and somebody said, "Young people." I said, "Young people don't vote." Someone else said, "Poor people." I pointed out that they have the least political power.

Instead of preaching to the choir, we need to arrange discussions before chambers of commerce and Wall Street interests - the people who have the Republican Party's ear - and explain how this affects the national bottom line. You're not going to move the Republican Party until you move them.

Then you have to reach out to labor and teachers and point out how the War on Drugs is inconsistent with the ideals of the labor movement - how it hurts working people, how it damages schools, how it undermines education. You're not going to move the Democratic Party until you move them.

That scene in Traffic on the airplane, where the drug czar asks for new ideas and there is an embarrassed silence, is mirrored by the unembarrassed silence from this White House, which, two months in, hadn't named a new drug czar or announced a new policy. This administration has nothing to say on the subject of drugs. The fact that the position went unfilled says something about the position's ultimate emptiness, and perhaps even about the problem's paper-tiger quality. We say "the great drug crisis," but perhaps drugs are just a part of other real crises, such as child abuse, poverty, despair.

Drugs are more available, cheaper and more pure than ever. We still fail to treat the majority of drug addicts. Drug use among eighth-graders went up in the 1990s. High school seniors say heroin and marijuana are more available than ever. And the death rate from drugs has nearly doubled in the Nineties, from 3.2 to 6.3 per hundred thousand. Seventeen thousand deaths last year, from 7,000 in 1990.

People look at Proposition 36 in California and say, "Aha, there's a whole treatment-instead-of-incarceration paradigm shift." I don't think that's very profound. Lip service about treatment has been around for decades. Treatment is being advanced in the context of drug courts, and that's nothing new. When I first started practicing law in 1976, what you'd do for your drug-addicted clients was get them into treatment.

What would be a paradigm shift is a police commissioner saying he's not going to arrest people for possession of drugs. A prosecutor announcing she wasn't going to take drug-possession cases to court. A president commuting the sentences of thousands of nonviolent drug offenders. A legislature willing to decriminalize marijuana, refusing to have arrested those possessing marijuana or growing it in their own home. A superintendent of schools who allows teachers to talk to their students about their own drug experiences in honest discussions about drug use to prevent drug abuse. It would be a shift to give incentives to drug users to turn in dealers who sell adulterated drugs, to help drug users test their drugs for safety. To treat drug users as our children and accept that making it safer to be a drug user is in the public interest. It would be a shift to include drug users, not just recovered addicts, in the making of drug policy. What we do now is like making policy toward Indians and only allowing into the process those Indians who were members of Christian churches and have renounced Native language and Native ways.

DAN RATHER - ANCHOR AND MANAGING EDITOR, THE CBS EVENING NEWS

There's a general sense that what we have been doing in the so-called Drug War simply doesn't work. And the situation, in many important ways, has gotten worse, not better. There's a sense that we're in a losing game, and you don't stay in a losing game. So what should we do now? I agreed with [Clinton drug czar] Barry McCaffrey when he said it's been a mistake to do it as a war. He thought a better comparison is cancer. We've been in the fight against cancer with the real and certain knowledge that it's going to be long, and there's no magic bullet. You have to keep experimenting. You have to keep researching. You have to go one small step at a time.

Things have gotten better in recent years. And I don't think journalism has led the public; I think it's the other way around. Honest people can differ about this, but this business of the press turning people against the Vietnam War...people didn't question the war until Johnny down the street came back in a flag-draped casket. Until that happened in every neighborhood, it was easy to see the war as something happening "over there." Maybe the same thing is happening in the Drug War. As long as people could believe it was confined to the wrong side of the tracks or the elite that had money to buy fancy drugs, it was easy to say, "Whatever the police and government say is all right with me." But when Drug War casualties began to mount in the suburbs, people's eyes began to open.

JOHN TIMONEY - POLICE COMMISSIONER OF THE CITY OF PHILADELPHIA

Right now, the extremes govern policy. For example, the crack epidemic in the late Eighties was a big concern, but politicians overreacted by creating this difference between crack cocaine and powder cocaine. Without

a doubt, you feel bad when you send people to prison who need treatment. But very few people in jail are there for first-time possession. The ones who are particularly affected by drugs are the minority communities. We get a lot of pressure to clean up neighborhoods where there are four or five drug dealers on the block. But then we also hear another cry: You're incarcerating a whole generation, giving up on too many people. Some members of the minority community may see an effort toward drug legalization as whites trying to continue genocide through drugs in the black community. The important thing is that you need to make sure the minority community is involved in this discussion.

ORRIN HATCH - U.S. SENATOR, UTAH (REPUBLICAN)

I don't think there's any law that can prevent a teenager from taking that first puff of a marijuana cigarette, that first sniff of cocaine. If I knew what it was, I would dedicate my career to passing it. But we need more education. When you have a young person who has experimented, you know how fast they can get in trouble on methamphetamine. We have to get some treatment for them. We haven't concentrated as we should on first-time offenders. They can get drugs in jails, but there's no real education in the jails, and no treatment.

Keep in mind, treatment alone won't do it. Enforcement alone won't do it. Education alone won't do it.

We have to reduce both the demand for and the supply of drugs. The movie Traffic drives home the point that law enforcement alone won't solve the problem. And a lot of people have had to face the fact that their own children have experienced drugs. First-time use of drugs has gone way up. If you look at Ecstasy alone, use by tenth- and twelfth-graders is up sharply. A huge portion of those who used heroin for the first time last year were under eighteen. Like anything else, back in the 1980s, we thought we were right. There were too many judges being too permissive. But I do think it's time to re-evaluate and look for the injustice. And where there's injustice, correct it. The sentencing laws have worked to a large degree because people aren't being treated with disparity now the way they were. So there was a need for uniform standards for judges. But we've seen some flaws and some intractability. I think marijuana is a gateway drug; nobody can deny that. And I get furious when I hear people say it's harmless. This is not the same marijuana that was used in the Sixties and Seventies. Potency is way up. We know that if you stop a kid from even smoking before twenty-one, they'll probably never touch drugs. If they start on marijuana, there's a high propensity to go on to harder drugs.

BERNARD C. PARKS - CHIEF OF POLICE, LOS ANGELES POLICE DEPARTMENT

It's a failed policy to call anything a war when you're addressing issues in the community - when you declare war on your own community. There are many sides to address - the supply-and-demand side, prevention, intervention, rehabilitation, enforcement. The hardest thing for most people to do is hold themselves responsible and show strength of will and character. In order for addicts to change, there must be some reward that forces them to do what they need to do, a lever to hold them to accountability. It's hard to take crime out of the drug equation. The Department of Justice has done forecasting figures - random drug tests on people arrested on non-narcotic charges. Seventy to eighty percent of them had drugs in their system. In the city of L.A., drugs are intertwined with many of our crimes.

Our financing goes to the most sexy part: arresting people. It's not as

sexy to put money into prevention and education. We need more K-12 education, and when we see early uses of gateway drugs - alcohol, cigarettes, marijuana - we need to intervene and double our educational efforts. We need to make the penalties for using and selling unattractive to people. Right now, people are going into custody as addicts and coming out as addicts. People also get out of jail and have no supervision. We have to have rehabilitation. We need a broader strategy focusing on education and health. It's not just about capturing seventeen tons of drugs a year. We know that if there's no demand for drugs, there's no market. We're still trying to figure out what the impact of Proposition 36 will be.

Proposition 36 views drug use as a singular crime or event when, often, it is interrelated with other crimes - auto theft, for example. Many of our bank robbers are doing it to fulfill their drug needs. If people have the ability to beat their drug habit, they do it. But without a hammer hanging over their head, they don't. We're going to give them one or two chances without the hammer. If you look at the records, most people we arrest are not just into marijuana, but a myriad of things. That's common. Look at Al Capone. They got him not on murder but on taxes.

ASA HUTCHINSON - U.S. REPRESENTATIVE, ARKANSAS (REPUBLICAN) NOMINEE, ADMINISTRATOR OF THE DRUG ENFORCEMENT ADMINISTRATION

The War on Drugs has been successful in terms of individual lives saved and the billions of young people who have declined to use drugs. We're sending the right message to kids: Drugs are very bad, they're illegal, and don't experiment or use them. That must be articulated in a way kids understand.

We have to concentrate on high-level dealers. We need to show that we're not simply trying to put nonviolent users in jail. One way to do this, for example, is drug courts. I'm a strong advocate of drug courts - the threat of prison with long-term rehabilitation. As a member of Congress - and I will continue this if I get the opportunity to head the DEA - I've supported steps to prevent racial profiling. We also need to diminish sentencing guidelines between crack cocaine and powder cocaine. Currently you get a five-year sentence for 500 grams of powder, but only five grams of crack lands you the same prison time. Marijuana can be used as a gateway drug, and I believe that has been shown anecdotally and statistically. The current move toward legalization of drugs such as marijuana is harmful and sends the wrong message to young people.

BARNEY FRANK - U.S. REPRESENTATIVE, MASSACHUSETTS (DEMOCRAT)

Getting high on marijuana means you're rebellious, while getting drunk on beer means you're a good old boy. But ask any cop whether he'd rather go into a house full of people high on marijuana or one full of people drunk on beer. They'll tell you they'd much rather deal with people on marijuana.

I introduced legislation in the Massachusetts legislature to legalize marijuana twenty-five years ago. I currently have two bills on the subject. One would change the penalties for people currently in prison on marijuana charges - we ought to be letting them out, except in the most egregious cases. The other would permit medical marijuana. Of course medical marijuana ought to be legal. A lot of my friends on the left think that the public is on our side and it's always the politicians who are blocking everything good. I don't happen to think that's true. I don't think the public is as far left as some of my friends do. But on drug policy, the public is ahead of the politicians. You see it in the referenda [on medical marijuana]. The public is actually more sensible. The politicians are all afraid of being tagged "soft on drugs."

We need to stop the prosecution of users and low-level dealing of a bag or two. I would certainly make the use of marijuana not a crime, but I wouldn't change the rules on large-scale distribution.

GARY JOHNSON - GOVERNOR OF NEW MEXICO

I am forty-eight. I smoked pot when I was younger. I didn't get screwed up on pot, and I didn't know anybody who did. The reason I talk about legalization is, somebody has to sell people their drugs. You ask a room of a thousand people if you think you should go to jail for smoking pot. Nobody's hand goes up. Ask how many think you should go to jail for selling a small amount; a few hands go up. Ask how many think someone selling a lot of pot should go to prison, and a lot of hands go up. And I always say, "That's hypocrisy."

The two major criticisms of legalizing marijuana are: You're sending the wrong message to kids, and, use will go up. My problem is, we're measuring success on use. We should toss that out. If you or I read tomorrow that alcohol use was up by three percent, we wouldn't care. We understand that use goes up or down. What we care about is, is DWI up or down? Is incidence of violence up or down? Are alcohol-related diseases up or down? Those same rules ought to apply to drugs. We ought to be concerned about violent crime, hepatitis C, HIV, turf warfare among drug gangs and nonviolent users behind bars. Those are all distinct harms caused by drugs under our current policy.

If I were the dictator - and I'm not - and I had to set up a distribution system for marijuana tomorrow, it would be similar to liquor. I'd allow sales at liquor establishments. People say, "There will be bootleg pot." And there probably would be for a little while. But then it would die out. Why would you buy bathtub gin when you can buy Tanqueray?

The idea of a drug pusher is a myth. Most drug transactions are buyers seeking sellers. When I talk about legalization of other drugs, I adopt the term "harm reduction." What we're really after is reduction of the harms that drugs - and drug policy - do. If we can move from a criminal model to a medical model, we'll be going a long way.

I was elected in 1994, and I have been re-elected but cannot run for a third term under our term-limits law. People talk about being courageous. I'm living evidence of why term limits should be in effect. Would I have brought this issue out if I thought I could be elected to a third term? I don't know. I raised the legalization issue after my re-election. In the first term, I talked about the failure of the Drug War and that arresting people isn't going to work. But it wasn't until the second term that I made a conscious decision to turn up the volume and search out some solutions.

LORETTA SANCHEZ - U.S. REPRESENTATIVE, CALIFORNIA (DEMOCRAT)

When I was growing up, my youngest uncle was a heroin addict. I saw directly for about ten years the effect of that addiction: It manifested itself in his inability to hold a job; he was sent over and over to the California state penitentiary system, sometimes for heroin use, most of the time for armed robbery or breaking and entering; he would commit crimes to get money; he would go for a stint to prison, get as clean as you can get in that situation. He would write me a letter every two weeks, he would get out, then the problem was how to get a job, so he would end up using again. When I was eighteen, my mother and grandmother had to go to San Francisco and ID his body - he was found in a hotel room with a bullet between his eyes.

For every person we're putting into a drug court who gets diverted into drug treatment, there's got to be thirty who go straight to prison. What are they learning there? They are co-habiting with people who are hardened criminals and drug users. It would be much better if we did more of these drug courts, where you get a second chance.

HENRY A. WAXMAN - U.S. REPRESENTATIVE, CALIFORNIA (DEMOCRAT)

We've always put the emphasis on the supply side when we ought to put the emphasis on the demand side. We ought to be making treatment available to anyone who wants it, to get a handle on addiction. That's clear. If you look at the voters in California, they were pretty clear [on Proposition 36]. They'd rather have people go to treatment than to a jail cell. How much longer can we keep warehousing people? It's not doing any good, and you can argue it's doing considerable harm. I'm not sure the debate is really opening up. I'm not sure "everybody" is saying the Drug War is a failure and we ought to be doing more treatment and education than enforcement. I've always been against mandatory minimums, for example. Judges should have the discretion to decide each individual case on its merits. But you have to look at the people in control of the committees in the Congress. Maybe Hatch is saying some new things right now about drug treatment over incarceration. But he's the chair of the Judiciary Committee in the Senate, and if he believes these things, he could do something about it.

DAVE MATTHEWS - MUSICIAN

If you look at the generations that came before, I don't think youth have become more wild. Maybe they're more armed now, but young people have always been adventurous. We say that our young people shouldn't be using drugs, so we give them a little speech about how they'll become worse people, we give them some sort of minimalist education, and then we punish them for experimenting. We don't fix the problem - all we do is increase the problem. It turns the slight, adventurous recklessness of youth into criminal behavior. It's like we're manufacturing criminals. Whoever came up with the idea of restricting financial aid for drug offenses? He needs to be in prison.

At this point - and I don't want to be too cynical - the financial gain from building prisons has become what keeps the Drug War going. It's the one thing in America right now that I just find offensive. And in this climate, there's no limit to how violated our rights to privacy can be. When you live in a country that has insane laws like America's drug laws, then it is hard to argue for our privacy rights and our civil rights, because with the laws the way they are, we don't have any rights. I mean, if I get caught with a bag of pot, then, "You're going downtown, baby" - what kind of madness is that? If we're in an environment where that sort of crazy behavior is tolerated, test the mailman and see if he's been smoking pot on the weekend, or make the kid who's walking your dog take a urine test to make sure he's not high while he's watching Bingo poop on the lawn.

If the Drug War was halted tomorrow morning, the drug use in this country would not change a bit. The only thing that would change is that people would stop getting their heads blown off in the street trying to get their smack on the corner. There are so many arguments for stopping the Drug War and very few for keeping it going. It's just a distraction from real problems in the world. You know, hunger and bad education fall to the wayside when you have to deal with this imaginary plague that's destroying our country.

CARL HIAASEN - NOVELIST AND COLUMNIST

One of the first novels I wrote was Powder Burn, about the Colombians moving into the cocaine trade in south Florida. The bloodshed in those days was quite spectacular. This is in '79, '80, '81, and the only change in all that time is they've become a lot more considered about where and when they kill each other. It's done less publicly now. But the basic elements of the drug trade haven't changed. Every day there's another freighter from Haiti busted and there are tons and tons of cocaine in the hold. The irony is, the price of a kilo on the street isn't much different than it was ten years ago. That tells you there is plenty of supply and plenty of demand. Lots and lots of people in jail, and the only difference is they're different people than they were back then. Or maybe not, actually.

I live in the Keys, which has been a smuggler's paradise forever. Many of the people I know here who are legitimate fishing guides and businessmen now were in the smuggling business once. Quite a few spent time in jail. Did it stop the smuggling? No. When I moved to the Keys from Fort Lauderdale in 1993, they took down the entire Coast Guard station at Isla Morada. The Coasties were seizing drugs and then selling them. They were running a cocaine operation out of the Coast Guard station.

In 1983 and '84, I spent some time riding around with DEA street agents when I was writing for the Miami Herald. They weren't cowboys. They were pretty smart guys. They had a pick of deals they could be doing. Cocaine one day, heroin the next, marijuana the day after that. Every day, they were throwing people in the can. And, to a person, every one thought he was on the right side but making no difference at all.

I remember once, up by Homestead, they had a deal for a tractor-trailer full of marijuana, and the deal is going on in a Holiday Inn somewhere, and I'm sitting in a car with a DEA guy. Drug dealers are the most hapless people. They're always late, always fucking up. And we're waiting for the call to go rushing in and bust everybody. Two kids ride by on their bikes. They don't see us because of our tinted windows. One pulls out a joint and lights it up, right in front of a DEA agent. The agent just laughs and says, "You see how we're not going to stop this?" Now we're fifteen years later, and it's just as easy to get whatever you want.

I've seen whole neighborhoods destroyed by crack cocaine, and it's terrible. The question is, Would it be better or worse if it wasn't illegal? Would there be less killing? It's something worth considering. The same conservative pinheads who trot out their actuarial tables on lives saved per dollar spent on environmental regulations ought to be doing the same calculations on what it costs to lock up thousands and thousands of people - locking up Dad and sending Mom to the welfare office.

SCOTT WEILAND - MUSICIAN

Prison isn't appropriate for drug users, if you're nonviolent. If you're a junkie or a crackhead or whatever, and do an armed robbery and someone gets injured, it's not nonviolent anymore. You could've made the decision to go on Santa Monica Boulevard and suck cock. That's what I would do rather than hold a bank up. You don't throw people in prison because they suffer from bipolar disorder, or a personality disorder, or any of those mental deficiencies. And there's no difference, really. If somebody has narcolepsy and falls asleep at the wheel, they're not going to go to prison for it.

One of the worst problems with drug offenders going to prison is the mandatory minimums. That's really where you see how it's pointed toward

people of color and people who don't have money. There are people doing longer prison sentences for drugs in some states than the people doing time for murder. I know there are some experimental programs in Europe where you are a government-sanctioned heroin addict, and you register as you do a person on methadone. I don't think legalizing drugs is going to create more addicts. It might inspire more people to try it out, but not everyone's geared for that. Alcohol is legal, and most people aren't alcoholics.

NORM STAMPER - CHIEF OF POLICE, SEATTLE, 1994-2000

I've been a lawman thirty-four years. I think our national drug strategy that has spanned both Democratic and Republican administrations has been a total failure. I have no problem with spending time, money and imagination in attempting to interdict drug trafficking and those making obscene amounts of money trading illicit drugs. Those people rank, in my estimation, pretty damn low on the scale of social legitimacy. But dealers are there for reasons that anyone in a capitalist society ought to understand. There is a huge demand for illegal drugs, and as individuals who are also armed want to expand their share of the market, we wind up with a whole lot of cops, dealers and innocent citizens finding themselves literally in the line of fire.

If I were king for a day and was going to learn from history, I would, in fact, decriminalize drug possession. Legalization is a different concept. Decriminalization acknowledges the fact that we set out to criminalize certain types of behavior, most notably during Prohibition, and we found that was an abysmal failure. We decriminalized the possession of booze. We criminalized other substances and demonized those who use them and, in the process, created an outlaw class that includes everybody from a senator's wife to the addict curled up in a storefront doorway.

I'd use regulation and taxation of these drugs, much as we do with alcohol and tobacco, to finance prevention, education and treatment programs. I can't think of a stronger indictment of our current system than that there are addicts who don't want to be addicts queuing up for treatment and can't get it because we're spending too much money on enforcement and interdiction. I would regulate, and I would tax, and I would stiffen penalties for those selling to minors or those who hurt another person while under the influence. And that includes driving under the influence.

We've pursued this terrible policy because we've attached huge moral import to this issue: that it's immoral to think about decriminalization. That it's immoral to think about the government regulating everything from production to distribution. Any politician or police official who speaks out for a sane course of action is seen as soft on crime, and demonized as well. It's not an easy sell to talk to an African-American mom who has three or four children, some of them teenagers, about decriminalization when she's doing all she can to keep her kids out of drugs.

I was careful when I was police chief, but I've been saying these things for years. I did suggest that our fear is keeping us from having a conversation. American businesses, perhaps more than anyone else in society, are among the first to raise the question. And I've heard it raised bluntly: Isn't this insane, this policy we're pursuing? The number of men and women in prison is truly staggering compared with twenty or twenty-five years ago. That ought to tell us something.

The biggest obstacle to a saner drug policy is that the current one has become so rigid and unassailable in the circles in which it must be discussed flexibly and intelligently and with open minds. It's a religion.

We've accepted on faith that if what we're doing isn't working, let's do more of it. [Former LAPD chief] Daryl Gates addressed a police chiefs' conference in Washington some years ago, and he made a statement that "one thing we're not going to talk about is decriminalization." There's something wrong with talking about it. To start entertaining doubts is a scary thing.

DAVID CROSBY - MUSICIAN

When I was in prison, probably eighty-five percent of the people were there for drugs in one way or another. Either they got caught with drugs, or they got caught selling drugs, or they got caught doing something while they were on drugs, or they got caught doing something terrible for the money to get drugs. So I don't think prison is a valid solution for any kind of drug use or addiction - either one. Addiction is a very tough thing; I've been addicted, and I know what it's like. It requires a lot of treatment - long-term treatment - a lot more treatment than the insurance providers are willing to offer.

I think they should just legalize marijuana. Put it this way - they sell liquor in every corner store in the United States. And booze is much worse for you than marijuana. Much worse. Drastically worse. Orders of magnitude worse. So it doesn't make any sense - they should just legalize it.

Personally, I think we should send some very serious lads from the Army down to the fields where coca is being grown. You've got to understand that we know where all the coca plants are in the Western Hemisphere because all plants have different infrared signatures, and our satellites can locate exactly where they are. We also know, in the four countries where these plants are, what soil and what altitude they're in. We know all that. So send somebody down, take it out of the ground and say, "Look: Plant coffee; we'll buy it directly from you, we'll pay you three times as much because we won't go through a middleman, and you'll be fine. Plant coca again, and we'll be back again next year and somebody will get hurt. This is not all right anymore. Game over. Too many lives ruined, too many families shredded, too much wreckage. We're going to take it seriously now."