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Sensible Solutions to the Urban Drug Problem

*edited by Patrick Basham*

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## Introduction

### Re-evaluating the “War on Drugs”

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## Re-evaluating the “war on drugs”

In 1998, British Columbia’s chief coroner, Larry Campbell, issued this rhetorical challenge: “It’s time someone stepped forward and said the “War on Drugs” is lost.” Commencing with conferences held in Vancouver in April 1998 and in Toronto in November 1998, and continuing with writings and public speeches, during the past two years I have repeatedly said exactly that: the “War on Drugs” is lost. As an alternative, I suggest an approach similar to that articulated by Ethan Nadelmann, the leading American drug policy analyst.

Why is the “War on Drugs” such a failure? In my view, drug prohibition has all the characteristics of numerous other well-intentioned, yet expensive, counterproductive, Big-Government programs that have outlived any usefulness. The reasons are myriad and include the following: drug prohibition reflects our failure to learn from history; drug prohibition causes crime; drug prohibition corrupts police officers; drug prohibition violates civil liberties and individual rights; drug prohibition throws good money after bad; and drug prohibition weakens—at times, even destroys—families, neighbourhoods, and communities.

Canadian governments—federal and provincial—have seldom given serious thought to drug policy, preferring instead to follow whatever variation on failure is being proposed during the latest “crisis.” It is my contention that such conventional thinking has only served to empower organized crime, corrupt governments, distort the marketplace, hinder health care, and feed into an ever-growing law enforcement and penal industry. In sum, common sense and experience have been ignored, folly has been repeated, and the “War on Drugs” has become a war on reason itself.

All of the evidence—academic, scientific, and anecdotal—confirms that most of the serious problems we associate with illegal drug use are caused directly or indirectly not by drug use itself but by drug prohibition. It is only by separating drug use from drug prohibition that one is able to assess whether or not the harmful side effects of prohibition overwhelm the benefits of supposed lower drug consumption and the resulting lower social costs.

American economist Thomas Sowell has suggested that “Crusades are judged by how good they make the crusaders feel, but policies are judged by their consequences.” I agree. In that vein, the observations presented below about the health, crime, economic, and philosophical issues at stake outline the objections to the continuation of the drug war presented throughout this book.

First, a very brief overview of the history of drug prohibition. At the turn of the century, in Canada, in the United States, and in England all currently illegal drugs—for example, cocaine, opium, and morphine—were legal. Not only were these drugs legal but they were available for purchase both at drug stores and by direct-mail. Interestingly, under these conditions of free supply, demand—that is, public consumption—rose, then peaked, then plateaued, and then fell away. So, at a time when drug use was on the decline, the Canadian, British, and American governments decided to make such drug use illegal.

Was this action the result of new medical or scientific research on the dangers of drug use? No, it was not. Why, then, in 1913, did Canada prohibit these drugs and why did the Americans follow-suit a year later?

The answer is three-fold: first, anti-Chinese racism successfully cast this minority group both as the supplier of, and as the demand behind, many of these drugs; second, a then-powerful Christian activism sought to outlaw those lifestyles and behaviours deemed unhealthy, both to the individual and to society in general; and, third, economic rent-seeking on the part of medical doctors, who desired a professional monopoly over the legal dispensation of these drugs.

Almost a century later, it is time to take stock. In a nutshell, the record of drug prohibition is a record of failure. The evidence of failure is all around us. If one was standing in my former neighbourhood on the edge of Vancouver's notorious Downtown Eastside, one would say that the evidence of failure is literally all around. Despite the vice squads, courts, prisons, and propaganda that form the "War on Drugs," illegal drugs are everywhere, available to just about anyone who wants them. Today, the levels of illegal drug production and illegal drug profits are at an all-time high. Despite the greatest anti-drug enforcement effort in history, the drug problem is worse than ever. The world-wide trade in illicit drugs is currently estimated at \$600 billion. That figure constitutes eight percent of all international trade, sufficient to line the pockets of an ever-expanding global criminal class.

Unsurprisingly, prohibition of drugs has not worked any better than prohibition of alcohol. Drugs are no less prevalent than before prohibition. In some cases, for example cocaine, usage is much higher. The number of hard-drug addicts has remained steady for 20 years. In British Columbia, the "War on Drugs" has been such an overwhelming "success" that, today, one in ten of its residents now either smoke or grow marijuana or both. British Columbia's annual marijuana crop is now worth an estimated \$4 billion. This means marijuana is British Columbia's most lucrative agricultural product.

In our high schools, 23 percent of Canadian teenage boys use marijuana on a regular basis. Among American high school students, use of marijuana more than doubled during the

last decade. Half of American high-school seniors use drugs of one kind or another; one-third of American eighth-graders use drugs. The United States has half a million heroin addicts and now has five million cocaine users.

All the arrests and all the incarcerations have not stopped either the use or the abuse of drugs, or the drug trade, or the crime associated with black-market transactions. In our prisons, drugs are plentiful and their use is widespread. No matter what they try, prison wardens cannot keep drugs out—an important lesson for those who would turn this, or any country, into a figurative prison to stop drug use. Nor is the Canadian judicial system exactly a drug-free zone. For example, in May 1997 a federal drug laboratory's chemist died of an overdose of cocaine and heroin, immediately casting doubt on 20 years worth of drug convictions.

Another startling, deeply unpleasant, but equally unavoidable fact about the “War on Drugs” is that 80 percent of drug-related deaths are not the result of drug use—they are the result of drug prohibition. This makes complete sense. After all, an illegal drug is one that is not subject to regulation or quality control or producer liability. Therefore, drug-taking remains a health lottery for addicts.

Drug-related AIDS is almost exclusively the result of prohibition. 50 percent of new HIV patients are intravenous drug users. In Vancouver this year, 400 people will die of a drug overdose; in British Columbia, intravenous drug overdose is the leading cause of death for adults between 30 and 49 years. Why such alarming figures? Prohibition's drain on the public purse prevents the necessary rehabilitation, detoxification, and other treatment facilities from being funded at anything more than a fraction of the required level.

In response to such chilling statistics, Health Canada recommended the opening of four so-called “safe injection sites” in Vancouver's Downtown Eastside. The goal is to mirror the success of similar programs in three European cities. These programs, such as that operating in Frankfurt, Germany, have led to dramatic declines in HIV cases and in the number of overdose deaths. Of course, such programs are not a panacea. They require, at a minimum, parallel detoxification and rehabilitation programs. Similarly, so-called “heroin prescription” trials have been endorsed by British Columbia's chief health officer. As Ambros Uchtenhagen details in his chapter on Swiss drug policy, experimental heroin prescription programs have been successful in Switzerland. The resulting decline in social dysfunction, including crime, has led to similar programs in Spain, Luxembourg, and the Netherlands. Such experimentation has been endorsed by ten German police chiefs and most state health ministers throughout Australia.

But, one might ask, are not these drugs so bad for one's health that their use must be proscribed? It is true that “hard” drugs, such as heroin and cocaine, are permanently dam-

aging to your health, as is long-term use of marijuana. But viewed in comparative terms, the respective risks attached to some “soft” drugs do not appear quite so alarming. For example, according to the French government’s medical research institute, alcohol is far worse for your health than is marijuana. This June 1998 study confirms a recent study by the World Health Organization that concluded that marijuana posed less of a health threat than either alcohol or tobacco. If drug prohibition were rescinded, there would remain no logical basis for the different legal treatment of these different drugs for the medical dangers of alcohol and tobacco would exceed those of legalized heroin, cocaine, and marijuana.

A related issue, of course, is that of so-called “medical marijuana,” that is, the use of marijuana for medical purposes. As discussed by Jeffrey Singer in his chapter on the medicalization approach to drug policy and political realities and drug policy reform, it has been conclusively and repeatedly demonstrated that marijuana may serve as a tremendously helpful appetite stimulant or pain reliever to patients afflicted with, for example, AIDS or cancer or multiple sclerosis. Although, at present, the courts are showing some tolerance of medical marijuana, and the federal government has put out to tender the related clinical trials, our legislation remains anachronistic. I share the observation of Jim Hart, Canadian Alliance member of parliament, who commented, “To process, charge, and convict people for medicinal use of marijuana is a blatant waste of limited resources.”

When it comes to the health-care aspect of this debate, as then-Vancouver police chief Bruce Chambers observed, “Filling prisons or hospital beds with substance abusers doesn’t make any public policy sense.” It is the contention of the contributors to this volume that, if we ended the war on drugs, drug addicts could be treated as patients, not as pestilence.

On a day-to-day basis, the most tangible cost of the war on drugs is criminal behaviour. Most drug-related crime is, in fact, prohibition-related crime. According to the American Research Triangle Institute, 90 percent of drug-related crime results, not from drug use, but from the illegality of drugs. Whether it is drugs or alcohol, prohibition stimulates crime. Prohibition stimulates violence. In downtown Vancouver—where 10,000 addicts roam the streets—90 percent of property crime is drug-related. Throughout British Columbia, 80 percent of property crime is drug-related. Across Canada, there are 64,000 documented drug offences committed each year.

Why is there so much crime? The answer is that so many addicts must spend their days stealing the large amounts of money—on average, between \$500 to \$1,000 a day—needed to buy their drugs. Why are the drugs so costly? The only reason is their illegality. The street price of cocaine and heroin is usually from 50 to 100 times the

pharmaceutical cost of producing the drugs. The risks incurred by the black-market suppliers and dealers are rewarded by the exorbitant retail prices paid by users.

In 1997, 2,000 Canadians went to jail for simple possession of marijuana. Cumulatively, hundreds of thousands of Canadians have criminal records for possessing small amounts of *cannabis*. Of course, the scale of the American problem is much worse. In the United States, there are more than 1 million drug arrests per year, including one-half million marijuana-related arrests. Today, 50 percent of all American prison inmates are drug offenders. In 1980, there were 50,000 American drug prisoners; today, there are 400,000.

What makes this situation particularly frustrating is the fact that drug treatment and rehabilitation programs are both cheaper and more effective than prisons at conquering drug addiction and the social dysfunction that may accompany it. For every dollar invested in a good drug-treatment program, seven dollars in social costs are saved. Further insights are offered by Robin Room and Patricia Erickson, respectively, in their chapters on “harm reduction,” a progressive approach that works within the constraints of current legislation to allow, for example, methadone treatment, heroin maintenance, and needle-exchange programs as well as safe injection sites and the decriminalization of marijuana.

Prison sentences for drug offences, designed to suppress the illegal drug trade, frequently rival the sentences for murder and rape. The results are overloaded courts and prisons. Increasingly, then, it is being realized that the criminal justice system is the most expensive method of intervention in the drug area. Of course, the expense might not appear so onerous if it produced results. However, all of the evidence suggests criminalizing drug users does not work.

In practice, the drug trade is like an old mattress—whenever it is pushed down in one area, it springs up in another. This is because drug use is largely insensitive either to price or to punishment. Both historians and sociologists confirm that the demand for drugs rises and falls largely according to social factors impervious to the efforts of governments. Drug use, like alcohol consumption, is sensitive to social mores, education, and the perceived health risks.

As the late Gil Puder illustrates in his chapter detailing why policing must reject the “War on Drugs,” drug prohibition also leads to the corruption of the police, the courts, and customs officials. According to Clayton Ruby, one of Canada’s leading lawyers, “We’ve built up institutions that depend on jobs and incomes from chasing drugs.” Although policy changes are coming, change is slow because so many bureaucrats, police officers, and prison guards are making a living off the “War on Drugs.” Worst of all, perhaps, we have exported this corruption throughout Latin America and the rest of the world. In late 1998, for example, the top investigators of an elite, American-trained, Mexican police drug unit

were found to be on the payroll of leading drug traffickers. There is only one solution: either we make police officers, judges, and customs agents morally perfect or we eliminate the black market in drugs.

Richard Stevenson's insightful chapter on the economic cost of the "War on Drugs" establishes that the fundamental economic problem with drug prohibition is that it ignores the basic laws of supply and demand. To win the "War on Drugs," either supply or demand must fall. On the supply side of the equation, there are two strategies. The first is interdiction—that is, preventing drugs from entering the country in the first place. In theory, this sounds fairly straightforward; in practice, however, it has proven a disaster. For example, American customs and drug agents prevent only 10 percent of illegal drugs from crossing the border between the United States and Mexico. The second strategy is termed "alternative crop subsidization." This means paying Latin American and Asian farmers to grow other things. Again, the theory is reasonable but, in practice, farmers grow what pays best—and nothing pays like illegal drugs.

Even if either of these strategies were to prove successful, the victory would be short-lived, at best. For, this is an economic vicious circle: if you reduce the supply of drugs, the price of the drugs rises. The rise in price leads to a rise in crime as addicts have to perform more illegal acts to afford their illegal habits. In addition, the increase in price, with its suggestion of increased profits, is an incentive for more people to enter the supply business.

As neither interdiction nor alternative crop subsidization have proven themselves viable strategies, attention focuses on domestic demand. This means apprehending and punishing those who buy drugs for personal consumption. But, domestic demand is sufficiently large that, as a result, in North America the bulk of police, prison, and court resources are devoted to enforcing drug laws.

The bottom line is that prohibition has created a business environment in which there is nothing as profitable as smuggling and selling illegal drugs. For the drug entrepreneur, the profit margins are extremely high. For example, the retail prices of cocaine and heroin are five times their import prices. Now, throw into the mix the fact that the profits are tax-free. This reality has two very negative consequences for the successful prosecution of the "War on Drugs." First, it provides a huge incentive for others to enter into this line of work; and, second, it provides a huge incentive for suppliers and dealers to create more demand among their potential customer base. So, the economic rationale for entering into the illegal drug business is pretty straightforward.

Are we able to put a figure on what the illegal nature of the drug business costs the rest of us, as citizens and as taxpayers? As Eric Single has documented, the most recent studies conservatively estimate that \$1 billion to \$2 billion are either spent or lost in Canada in

relation to illicit drugs. This covers everything from prevention programs, health-care costs, lost productivity, and—the biggest cost of all—law enforcement. In British Columbia alone, \$79 million are spent annually on law enforcement directly related to suppressing the illegal drug trade. Of course, these figures are dwarfed by the size of the public investment in the “War on Drugs” south of the border where, directly and indirectly, Americans currently spend about \$60 billion a year. In total, the annual economic cost of North American drug-law enforcement is estimated at \$87 billion.

As James Ostrowski of the Cato Institute has written: “The War on Drugs imposes economic costs on large numbers of non-drug-abusing people in a failed attempt to save a relatively small group of hard-core drug abusers from themselves. It’s absurd to force some people to bear costs so that others might be prevented from choosing to do harm to themselves.” It is highly revealing that advocates of the “War on Drugs” are unable to defend drug prohibition on rational cost-benefit grounds. There is not a single empirical study that demonstrates that the social and economic benefits of drug prohibition outweigh the social and economic costs.

While the reality of the health, crime, and economic costs of drug prohibition are central to any re-evaluation of the drug war, there is also an important philosophical issue at stake here, one that will appeal to many besides die-hard libertarians. The painful reality is that, as economist Thomas Naylor of McGill University has documented, our individual rights are being trampled upon by the “War on Drugs.” Whether it is urine testing, roadblocks, routine strip searches, school-locker searches without probable cause or preventive detention, as Eugene Oscapella demonstrates in his chapter on the criminal law and twentieth-century Canadian drug policy, the war on drugs has led to a permanent increase in government power. In commenting on the consequences of the “War on Drugs,” Raymond Kendall, a former Secretary-General of the international criminal police commission Interpol, concluded that, “The prosecution of thousands of otherwise law-abiding citizens every year is both hypocritical and an affront to individual, civil, and human rights.”

The effort to find sensible solutions to the urban drug problem is ideologically inclusive. Consider, for example, the conclusions of two very prominent—but ideologically dissimilar—commentators. From the Left, international affairs expert Gwynne Dyer observes that “[a]s far as the technical and philosophical debate is concerned, the war is over; we just haven’t declared a cease-fire on the actual battlefronts yet.” From the Right, author and columnist William F. Buckley maintains that “[i]t’s the duty of conservatives to declaim against lost causes when the ancillary results of pursuing them are tens of thousands of innocent victims and a gradual corruption of the machinery of the state.” As Daniel Savas quantifies in his chapter on public opinion and illicit drugs, the general public is finding both comments increasingly persuasive.

To summarize, the “War on Drugs” has failed to reduce the supply of illegal drugs or to reduce consumption but it has succeeded in flooding prisons, fueling the AIDS crisis, and making billionaires out of drug traffickers. In my view, the continued use of methods proven to fail will lead inevitably only to more and to deeper failures. Hence, the timeliness of this publication in which leading authorities from the scientific, medical, legal, public-health and academic communities prescribe sensible solutions to the urban drug problem.

## About the author

Patrick Basham is a Senior Fellow at The Cato Institute in Washington, DC. Formerly Director of the Social Affairs Centre at The Fraser Institute, he has written and edited books, studies, papers, and articles on a variety of policy topics for both general and academic audiences. Following Bachelor’s and Master’s degrees from Carleton University and the University of Houston, respectively, he completed a doctoral dissertation in Political Science and shortly will receive his Ph.D. from Cambridge University.

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