

# Smart on Crime, Smart on Drugs



---

*October 20, 2014*

## High-Level Dialogue – Working Group on Alternatives to Incarceration

---

Richard Baum

Chief, International Policy, Office of National Drug Control Policy

[RBaum@ondcp.eop.gov](mailto:RBaum@ondcp.eop.gov)

[WHITEHOUSE.GOV/ONDCP](http://WHITEHOUSE.GOV/ONDCP)

# Breaking the Cycle of Drug Use and Crime

Our record of reform reflects our approach to drug use as a public health issue, not just a criminal justice problem.

- **Restore balance** to how we reduce drug use – we cannot arrest our way out of the drug problem
- Improve **fairness and confidence** in our criminal justice system
- Support evidence-based **alternatives to incarceration** – both pre- and post-trial
- **Help formerly incarcerated individuals** successfully reenter society

# Criminal Justice Challenges

- In 2012, more than 6 million adults were involved in the criminal justice system—either on probation or parole, or incarcerated in jail or prison
  - Approximately 1.6 million incarcerated and 4.8 million on probation/parole<sup>1</sup>
- The costs of managing these populations is significant.
  - In 2012, state corrections spending totaled more than \$53 billion<sup>2</sup>
- A recidivism study's findings: in over 40 states, more than 4 in 10 offenders returned to state prison within three years of their release<sup>3</sup>

# National Drug Control Strategy Supports Smarter Approach on Drugs and Crime

- Signals a fundamental shift in the way the Federal Government approaches the task of reducing drug use and its consequences
- Based on decades of research demonstrating that a substance use disorder is a disease of the brain – one that can be prevented, treated, and from which one can recover
- Recognizes that the criminal justice system should try approaches other than incarceration for qualifying non-violent offenders
- Supports efforts within the criminal justice system to address the offender's criminal activity and his or her underlying substance use disorder

# Drug/Crime Link

- ONDCP supports training and technical assistance to create a full spectrum of evidence-based and appropriate treatment and less restrictive supervision within justice systems.
- The goal is to decrease reliance on incarceration for drug-related crime, but for those requiring incarceration, substance use disorder treatment and other services should be provided to help with successful recovery and reentry.
- Through its policy efforts and programmatic support, ONDCP is working to increase awareness on the importance of substance use disorder treatment and recovery support for justice-involved individuals.

# Changing Sentencing Guidelines

- Starting in August 2013, U.S. Attorney General Eric Holder has issued a “Smart on Crime” report and several memoranda to address fairness in charging and sentencing, crime prevention, and reentry support.
- The Department of Justice has clarified its charging policy on mandatory minimum penalties for low-level, non-violent drug offenders – building on early efforts on the crack/cocaine disparity.
- Federal prosecutors’ charging decisions should reflect the specific circumstances of the case: conduct, criminal history, circumstances related to the crime, and community needs.
- New requirement that Federal transition centers – known as halfway houses – have Substance Use Disorder treatment available.
- The most severe mandatory minimum penalties are reserved for serious, high-level, or violent drug traffickers.

# Justice Reinvestment & Pretrial/Prosecutorial Diversion

- “Justice reinvestment,” uses data-driven approaches to criminal justice to help jurisdictions develop policies and practices such as evidence-based risk and assessment tools.
- A variety of models divert people charged with crimes away from the traditional justice process and toward case management, supervision, community service, substance use treatment, and supportive services.

# Drug Courts

- A proven method for addressing offenders with substance use disorders
- Over 2,700 in the United States
- Intensive treatment and other services provided for a minimum of one year
- Frequent appearances before a judge
- Random drug testing, sanctions, and incentives



# Testing and Sanction Strategies

- Identifies probationers most likely to violate terms of community supervision
- Every detected violation has consequences
- Frequent and random drug tests
- Uses swift, certain, and short terms of incarceration for violations
- Uses warrants and sanctions for absconding probationers
- Drug treatment when requested or if needed due to inability to abstain

# In-Custody Treatment

- Treatment should not stop at the prison door – those who need treatment should get it wherever they are in the justice system.
- For incarcerated individuals not eligible for drug court or community supervision, appropriate treatment and other supportive services should be provided.
- A study in the California Department of Corrections and Rehabilitation found that inmates who participated in an in-prison treatment program and completed an aftercare program had the lowest recidivism rates — 31.3 percent — when compared to those who did not receive treatment.

# Reentry Efforts

- The long-lasting and far-reaching consequences of crime involvement are an impediment to employment, housing, and education.
- Over the past few years, we have been focusing on access to treatment and employment to help reduce recidivism. The Administration has issued guidance and best practices on the appropriate use of criminal histories in hiring procedures.
- The *National Drug Control Strategy* supports the provision of services that can help released offenders successfully reintegrate into the community.
- To decrease the rate of re-offending and re-entering the criminal justice system, local, state, and Federal systems are piloting projects that connect offenders to services outside prison.

# Public Health and Public Safety Collaboration

- Understanding Substance Use Disorders (SUDs) as a Disease
  - Foundation of the Administration's efforts to address SUDs in the criminal justice system
  - Need for education: government officials, policy makers, and justice practitioners
- Public Health/Public Safety Interventions
  - Current strategies and increased focus on front-end diversion
  - Provide at all phases of the criminal justice process
  - Consider collateral consequences in developing new strategies

# Smarter International Drug Policies

- **Support Drug/Crime Reform Under UN Conventions:** There is strong consensus behind maintaining the three Conventions, but these offer considerable flexibility for signatories to adapt appropriate means for achieving the Conventions' objectives.
- **Promote Innovation:** The U.S. Government recognizes that new, innovative approaches to address drug crimes may be appropriate under particular circumstances. These include greater use of public health interventions; access to medications for scientific and medical purposes (including medication-assisted treatment); screening and referral to treatment; support for recovery; alternatives to incarceration and re-entry; and research.
- **Support Drug Control Measures:** USG will continue to address drug production, trafficking, and related illicit finance and transnational organized crime around the globe. Progress against cocaine trans-national organized crime must be maintained.
- **Way Ahead:** USA takes a 21<sup>st</sup> century approach, supporting significant reforms to promote public health and reduce the consequences related to drug use while opposing efforts to negotiate new treaties.