

High Level Workshop  
Working Group on  
**ALTERNATIVES  
TO INCARCERATION**

Antigua, Guatemala, 17-19 June, 2014

Inter-American Drug Abuse Control Commission - CICAD  
Secretariat for Multidimensional Security  
The Organization of American States - OAS



*Closing*  
THE GAP



# High Level Workshop - Working Group on Alternatives to Incarceration

Antigua, Guatemala, 17-19 June, 2014

Draft Report

---



## INTRODUCTION

The "Working Group on Alternatives to Incarceration" was proposed by the Colombian government in the framework of CICAD 54, held in December 2013 in Bogotá, Colombia, and subsequently approved at CICAD 55 in Washington, DC in April 2014.

The Government of Colombia, as Chair of CICAD, in collaboration with the Executive Secretariat of the Inter-American Drug Abuse Control Commission (CICAD), Secretariat for Multidimensional Security of the Organization of American States (OAS) seeks, through this initiative to create a Working Group on "alternatives to incarceration" in the framework of CICAD, to prepare a technical report on existing and possible alternatives to incarceration for drug-related offenses in accordance with international drug conventions, taking into account the reality of offenses, patterns of drug use, the regulatory frameworks of each country, and the contents of the Hemispheric Strategy and Action Plan 2011-2015. The Working Group will submit its progress at CICAD 56 and a final report at CICAD 57.

This High Level Workshop, held in Antigua, Guatemala, from the 17<sup>th</sup> to 19<sup>th</sup> of June 2014, is intended to provide a space for member states to discuss a variety of alternatives around the experiences of various countries, and to identify the potential for adaptation to the specific contexts of member states, including the potential, attractive elements, challenges of various types of intervention.

This activity is part of the framework of the Working Group on Alternatives to Incarceration led by the Government of Colombia, through the Ministry of Justice, as President of the Inter-American Drug Abuse Control Commission (CICAD), Secretariat for Multidimensional Security of the Organization of American States (OAS). This workshop is receiving financial support from the Government of Spain through the National Plan on Drugs and the Spanish Agency for International Cooperation and Development (AECID) and the Government of the United States (through the Closing the Gap initiative).

This document is intended to serve as a synthesis of the presentations and discussions held during the workshop, so that it can serve as an input to the Technical Working Group in the development of their report.

This report is organised conceptually in the same manner in which the high level workshop took place, namely around alternative approaches at different stages of the criminal justice process: prior to entry, within the judicial system prior to conviction, at conviction with alternative sanctions, and post-conviction within the prison system:

- **Section 1: Description of the Problem:** This section provides an overview of how drug laws are applied in the hemisphere, their impacts, and results. It analyses the use of the penal system as a means to respond to the drug problem, including other themes such as proportionality, and use of preventive detention and its impact on incarceration.
- **Section 2: Alternatives Before Entering the Criminal Justice System:** This section discusses some options for drug-related offenders to prevent their entry into the criminal justice system, pointing out the main advantages and challenges of implementing these alternatives and their results.
- **Section 3: Alternatives in the Judicial System Prior to Conviction:** This section discusses some options for drug-dependent offenders within the criminal justice system who have not

been convicted, though may be in pre-trial detention, identifying advantages and disadvantages as well as results.

- **Section 4: Alternative Sanctions in the Judicial System:** This section discusses some options for drug-dependent offenders within the criminal justice system who have been convicted, identifying advantages and disadvantages as well as results.
- **Section 5: Alternatives for Prison Populations:** This section discusses some options to reduce prison populations and prevent recidivism, taking into account strategies with a view to offenders' re-entry into society, identifying advantages and disadvantages as well as results.
- **Section 6: Specialized Groups:** This session will discuss some options for special groups such as children, those suffering from mental illness, women, and other excluded groups

Each section includes a brief summary of the presentations and experiences shared during the workshop. These are followed by a summary of the discussion groups' contributions and comments regarding the experiences discussed.

This report also includes the following Appendices:

- **Appendix I:** Meeting Agenda
- **Appendix II:** List of Participants

## 1. Description of the Problem

### **Diana Guzmán (Centro de Derecho, Justicia y Sociedad; Colombia)**

This presentation focused on a study conducted in seven countries in Latin America regarding drug policies and penal law, and their impact on the jail system. The analysis centred on two elements: the impact of drug policies on the judicial and penitentiary systems, and the extent to which the principle of proportionality was effectively represented and applied in the application of the law.

Latin American countries generally use the penal system as the main tool to conduct the war on drugs. This research project conceptualises the principle of penal proportionality as a guarantee of the international human rights framework, in that punishment should fit the crime. In this respect, the question that should be asked is: what are the harms caused by crimes associated with drugs? These should be considered as primary harms (direct harms to the health of the victim and to public health) and secondary harms or concerns. What the research found is that the severity of sanction is, in practice, linked to the secondary problems or concerns, related to the prevailing discourse about the problems relating to the presence of drug markets. While the protection of public health is used as the justification for the penalties imposed, the findings indicate that the motivation is more closely linked to using penal sentences as a way to deal with the State's concerns about the violence linked to the secondary effects of drug-related offenses. However, according to judicial principles, the notion of proportionality should be linked to primary rather than secondary harms.

The second element of the research considers the distinction between abstract (how legislators define crimes and penalties) and concrete (how penalties are actually applied) proportionality. The study focuses only on abstract proportionality. It uses two indicators: an historical analysis of the trends of penalisation and a comparative analysis of the penalisation of drug trafficking vis-à-vis the penalties imposed for other, more serious crimes. This analysis is intended to test how penalties for drug crimes compare with penalties for other crimes.

The study finds that there is an upward trend in the number of penal articles related to drugs in all the participating countries, although not uniformly so. Over time, more actions and behaviours have been penalised, and broader types of behaviours are penalised together, even though the specific terms within the laws are of differing severity. For instance, the concept of "trafficking" considers possession for personal use on the same level as trafficking major amounts of drugs. The upward trend is clearly similar in all the countries under study, in terms of the number of conducts penalised, as well as in terms of the severity of the maximum penalties that could be imposed. In both cases, there is low chronological dispersion, with the 1960 and the 1980s emerging as the significant periods when the upward trends have intensified.

Similarly, the study notes that minimum penalties for trafficking of drugs also show an upward trend, to the extent that there seems to be little correspondence between the harm caused and the punitive response, thus disregarding the principle of proportionality. While there is an increasing trend towards punitive responses in Latin America, this trend appears to be more closely linked to drug-related offenses. For instance, the study finds that in Bolivia, the penalty for trafficking is two and a half times more severe than the penalty for homicide. Regionally, the penalty is also much higher for trafficking than for rape.

When considering the impact of these legal and penal trends on the incarceration system, the study finds that those who are being penalised the most are young and poor men, with low levels of education. At the same time, there is an increase in the rate of incarceration of women. In fact, the

majority of incarcerated women in the region are there for drug offenses, even though women tend not to be the main players in the drugs trade. What these findings show is that conviction for criminal activity is concentrated, resulting in punishment being similarly concentrated on categories of persons who comprise those that are least able to protect themselves or influence how major drug trafficking organizations operate. This sometimes happens through the criminalisation of consumers. Even when consumption itself is not criminalised, this can happen through the interpretation of the trafficking offenses to include possession for consumption. The incarceration of these weak links in the chain leads to a phenomenon whereby elements of the criminal networks are constantly being replaced, and the networks themselves are not weakened.

An additional impact of these trends is the widespread overcrowding of prisons, which results in large part from the fact that, in some places, up to 74% of the incarcerated population is comprised of drug-related offenders.

**Israel Alvarado (Director General de Delitos Federales contra el Ambiente y Litigio de la Procuraduría Federal de Protección al Ambiente (PROFEPA), Mexico**

There is an overuse of pre-trial detention in Latin America including for drug-related offenses. In principle, pre-trial detention should be used only in exceptional circumstances, but it is commonly applied. In fact, the Inter-American Human Rights Commission has noted an alarming level of this type of detention in the region.

This is problematic because the conditions of pre-trial detention tend to be much worse than “normal” prison conditions. Detainees are subjected to loss of income, forced separation from their families, and inhumane conditions –the same as inmates serving a sentence, even though they may not be ultimately found guilty of any wrongdoing.

The causes of this situation are varied. Since 2013 there have been changes in policies related to drugs and to pre-trial detention, despite a wide adoption of accusatory models of justice, which entail the presumption of innocence. This is because public opinion has provoked a significant backlash to the application of this principle. In addition, there are important structural deficiencies in the application of the justice system, which leads to long delays in the trial process and prevents speedy trials. Furthermore, the independence of judges in some cases has been constrained by the adoption of mandatory sentences. Put together, these conditions create overcrowding in prisons, as well as a rapid increase of prison costs. Worse still, this situation has not yielded the desired effect of reducing criminal activity, but has contributed to increasing incarceration and its related social costs.

Considering the situation from a cross-cutting perspective including human rights, the needs of vulnerable groups, and the needs of women, we see a negative effect in particular for women. There has been a change in the criminal conduct of women. Traditionally, women were accused primarily of crimes of passion, infanticide, and abortion. Increasingly, women are involved in micro-trafficking, especially as “mules.” We also see that criminalisation is highly selective: the poorest women are punished especially harshly, even though this has little to no effect on the real power structures of trafficking. As a result, the majority of the women in custody have been convicted of drug-related offenses. There is also disagreement as to whether or not women’s particular conditions should be taken into account by the judicial system. Some judges think that they should be treated the same as men, while others suggest that treatment should be differentiated in light of women’s position in the power structures of crime. Others still argue that we should consider women’s role in childrearing, and apply the primacy of the needs and rights of the child.

There are some positive variables that could lead to a reduction in the use of pre-trial detention. The first of these is, as already mentioned, the adoption of the accusatory system, which relies on the presumption of innocence, and requires the prosecution to demonstrate that there is a need for pre-trial detention for each case, which would be limited to cases of flight risk, threats to witnesses, etc.

It is clear that, from a public policy perspective, the option of pre-trial detention should not be eliminated. However, it is important to work, particularly with the media, in order to explain the changes in the judicial system to the public at large. An important tool in this endeavour would be the use of evaluation and supervision strategies, which have not been in wide use in Latin America, to set up a monitoring and evaluation system both generally and in particular for pre-trial detention. This would respond to concerns about the risk to the public presented by those accused of, for instance, micro-trafficking, and to separate them conceptually from major players in the drugs chain.

Additional positive variables towards reducing the use of pre-trial detention are the basic principles of justice, including the presumption of innocence rooted in the accusatory system, the principle of the exceptionality of pre-trial detention, the independence and objectivity of the judiciary to be able to consider issues on a case by case basis, and increasingly the promotion of non-custodial supervision or probation measures.

At the same time, we should not overlook other contributing factors that promote the use of pre-trial detention. These include in particular the increasing creation of overspecialised institutions to deal with prosecution of drugs related behaviours. In practice, this has led to the generalisation of pre-trial detention for both men and women. This has been coupled with a lack of understanding of the public of the principles of the accusatory system, as well as the development of victims' rights movements which can exert pressure towards a more punitive approach to crime.

The main tool in changing these negative trends especially with regards to public opinion is information. Unfortunately, there is a significant lack of statistics because no disaggregated data is collected for detention and pre-trial detention in particular, in spite of the basic principle of the differentiation of procedural forms.

### **Bryce Pardo (Specialist, LEDA program, CICAD)**

The Program "Updating and improving legal frameworks on drugs – Legislation on Drugs in the Americas" (LEDA) compiles and publishes member states' legislation on drugs.

There are a number of trends emerging from an analysis of the legislation, which include the decriminalisation of the possession of drugs for personal use in most countries in the hemisphere. This results primarily from the observation of the negative effects of the stigma created by criminalisation of drug use, which has limited the effect of public health interventions.

At the same time, there is an unequivocal criminalisation of supply-related offenses through the United Nations convention against the illicit traffic of narcotic drugs and psychotropic substances. Therefore, it is only the criminalisation of consumption behaviours that can be decriminalised.

The push for decriminalisation has been supported by the Portuguese experience in particular, which has shown that decriminalisation of use has not had significant negative impacts, and that these are outweighed by the public health benefits of the approach.

While the Portuguese experience is particular, the evidence seen there is supported by the experiences of jurisdictions in the US and Australia where cannabis use has been decriminalised,



and where there has been no significant increase in use. It is too early to draw conclusions on legalized marijuana in the states of Colorado and Washington.

Throughout the Western hemisphere, there have been moves towards decriminalisation since the 1970s. However, it is very difficult to tell, due to the lack of data, how these legislations have impacted the use or the markets of drugs. We do have data that in Brazil, for example, the adoption of the law decriminalising possession for personal use has corresponded with an increase in the number of arrests and convictions for minor trafficking and retail sale, which several studies suggest that personal use continues to be criminalised in practice.

Overall, the trends in the Americas show a variety of statutes with some countries maintaining laws that criminalise possession with sanctions that include incarceration (United States, Canada, Central America, and the Guyanas), while others have statutes that either have no penalisation or include civil penalties such as fines.

### **Question and Answer Session**

The discussion that followed this panel centred around the lack of empirical data on both the effects of the specific laws and on their application. The participants seemed to share a consensus view that the many data gaps represent an important challenge for the development of evidence-based

#### **Conceptual Highlights**

In spite of growing decriminalisation of possession due to the increased awareness of its public health rather than criminal nature, there are some instances of increased punitive responses for other drug-related offenses based on a perception that the drug problem threatens security. Many of these responses are disproportionate to the actual harms caused by drug use.

There is also an accumulation of evidence that these punitive approaches fail to address the actual problem of organised crime and its associated violence, tending to disproportionately affect the weakest links in the chain of trafficking (users and micro-traffickers).

The primary challenge to the promotion of alternatives to incarceration is the widespread lack of understanding by

legislation and policy. In addition, they also feed into the public's responses to crime that favour a more punitive approach to the prosecution of drug-related offenses. This constitutes a major challenge in the promotion of alternatives to incarceration for drug-related offenses.

## 2. Alternatives before Entering the Criminal Justice System

### **Brendan Hughes (European monitoring centre for drugs and drug addiction): Alternatives to punishment in Europe and the Portuguese model.**

Resistance to reducing incarceration for drug related offenses often appeals to UN conventions. In fact, the 1961 convention, since its amendment in 1971, does mention alternatives to punishment for these types of offenses, specifically treatment, education, and after care. Similarly, the 1988 convention cites alternatives to convictions or punishment for cases of a minor nature, including supply-related offenses.

It should be noted that the term “Alternatives to incarceration” is ambiguous. In the justice system, there are broadly two kinds of measures: retributive (such as fines, community work, driving bans...) and rehabilitative (e.g., education, treatment, and rehabilitation). Both types of measures can include or exclude prison. The term “alternatives to incarceration” would therefore apply to both types, whereas the term “alternatives to punishment” would apply only to rehabilitative measures. In the European Union, the Action Plans on drugs have increasingly focused on enhancing the use and effectiveness of treatment within the objective of increasing alternatives to incarceration. There are many types of alternatives to punishment in Europe, which can take place at various points in the process: Arrest referral (police), suspension of prosecution or court procedures, or after the verdict.

The underlying and important political question regarding these approaches is where the “correct” balance would be between punishment and alternatives. There are a number of factors to consider for each alternative, leading to a broad spectrum of applicability. The possibilities might be available only in selected sites or on a nation-wide level, and in some countries there have only been pilot projects. In some cases, the entry criteria are very narrowly defined, in others, they are very encompassing.

Whatever the model, it is difficult to know how they are implemented, because very few countries are really recording the data. The practices that result in diversion from the criminal justice system are usually not recorded. Yet, experts suggest that most of the alternative responses are rarely used by the judiciary, even when they exist in law.

The effectiveness of the models is also difficult to assess in light of the absence of a clear definition of effectiveness. Considering that the main drug problem in Europe is the use of heroin, would a model be considered effective if someone stops using heroin but continues to use cannabis, or would it be considered a failure as they are still a drug user?

These difficulties in definition and in data collection leads to a situation where, whereas the legal frameworks in Austria and Germany are very similar, the fact that they record different kinds of data means that statistically the situation looks very different between these two countries.

The confusion regarding the data has led to what can be termed a “cautious circle”, where politicians want alternatives but also want to avoid looking too soft on crime and therefore when alternatives to punishment are explored they have very general and ill-defined objectives, bounded by several limitations. Such projects are then implemented by law enforcement and public health personnel with completely different ideas of what would constitute success or failure, and with little trust between them. Moreover, due to the lax definition of the programs, there is often an important mismatch between drug users and the programs. At the time of program evaluation, the usual finding is that the system was not implemented as designed, that the limitations were such

that the requirements of the program were not met, and therefore a new program needs to be designed, which re-starts the cycle.

Portugal stands out in this context because its approach has been both consistent and coherent. It resulted from a serious crisis in the 1980s related to the use of injected heroin and the spread of HIV. This sparked a national debate about criminalisation and incarceration. In 1998, a commission of experts was appointed which developed thirteen areas of recommendations. The government's response was to take on all 13 areas. From July 2001, the possession of up to 10 doses of any controlled drug with no intent to supply was decriminalised and became an administrative offence that requires the offender to attend a commission for dissuasion (CDT). There are CDTs in every district, and every user is seen by the commissions, which consist of three members plus a support team, with the aim of treating any addiction and to rehabilitate the person using the most appropriate intervention(s) for them.

There are two key elements to this system: the CDTs are managed by the Ministry of Health rather than the justice system, and there is a clear aim, with no ambiguity between a punitive and a rehabilitative purpose. While punishment is still part of the system, it is no longer the main principle.

Whether the Portuguese system works or not is a matter of interpretation. From a positivist perspective, the different types of statistical data available lead to a variety of interpretations. From a social constructivist perspective, however, we must note the fact that there have been various governments of different political leanings since the introduction of the system, and that the system has not changed. The policy is no longer up for debate, which suggests a broad agreement in Portuguese society that this system is working for them.

### **James Pugel, Racial Disparity Project/Seattle Police Department (retired), United States**

The City of Seattle has had an ongoing problem of drug use, and has attempted five different types of responses in the past, including Drug Treatment Courts (DTCs, which are still active, since 1996). There was however a concern on the part of civil society groups, that in order to have access to the DTC program, one had to be arrested, charged, and come before the courts. This would result in an arrest record that could have detrimental effects on individuals later in life, even if the DTC program was successfully completed. As a response to this problem, LEAD was developed (Law Enforcement Assisted Diversion), which is based on a harm reduction approach with no abstinence requirement. This program takes into consideration the fact that there was a small cohort of non-violent, subsistence-level drug dealers.

In addition, it is intended as a response to the different pressures from various stakeholders, including businesses who want the dealers to be put away, and rights advocates objecting to the disproportionate incarceration of African-American men. Budgetary pressures also added to a very acrimonious and confrontational context. After over two years of negotiations, and in consultation with all relevant stakeholders, the LEAD program was set up.

Participation in the program is limited to low-level drug dealers, users, addicts, or prostitutes, detained in small area of downtown Seattle. If the police officer deems the LEAD eligible, then there is no arrest; the person is taken to the police station, where a social worker will be called in to engage the individual and determine on a collaborative basis the person's housing, hygiene, psychological, and/or educational needs. A person can only qualify for the program if: they are in possession of 3 grams or less of drugs, are amenable to treatment and diversion, are not exploiters (pimping or having runners), and have not been convicted or involved in violent crime. There can also be social (as opposed to criminal) referral into LEAD.

After two years of operation, the program is in the process of conducting an evaluation and collection of lessons learned. The program has been expanded geographically and has had a budgetary increase. The impact of the program on recidivism and expenses is under review, but so far no disastrous results have been noted, and the program is getting referrals from the DTCs and continues to receive funding from various foundations.

**Amy Crawford, Deputy Director, National Network for Safe Communities, Center for Crime Prevention and Control, John Jay College of Criminal Justice, United States**

The National Network for Safe Communities focuses on the most troubled and distressed communities in the United States, and increasingly abroad, working to reduce violence by directly engaging with active offenders while minimising the use of arrest and incarceration and bridging the gap between law enforcement and communities. The Drug Market Intervention (DMI) is the National Network's strategy to eliminate "overt" drug markets and the violence and disorder they cause in communities by focusing on strengthening informal mechanisms of social control rather than the formal legal sanctions of the criminal justice system.

Overt drug markets are those that operate in public, whether indoors or outdoors, and make it possible for non-community members to enter and buy drugs without knowing anybody. In the United States, these drug markets are usually found in poor, disadvantaged communities of colour, and their presence facilitates both direct and indirect harms to the communities because of the violence and chaos associated with them. Neither the law enforcement approach (cracking down on users and dealers) nor the social services approach (tackling the root causes that lead people to use drugs) has had meaningful impact the problem. Furthermore, increased arrest and incarceration lead to other social problems, such as absent parents, loss of household income, and permanent impact on education, marriage, employment, and earnings potential.

The logic of DMI is to address the market itself, which is usually comprised of a small number of dealers connected to the majority of the violence and dealing. The key principle of the intervention is to minimise formal sanctions and focus instead on enhanced deterrence based on the community's moral stance about what behaviour is tolerated.

To implement DMI, law enforcement, community members, and social service providers form a partnership. The police and community work together to identify a particular drug market. Police arrest violent dealers and build "banked cases" on nonviolent dealers – i.e., collect evidence but temporarily suspend prosecution. These dealers are notified to attend a "call-in" meeting, where community leaders, law enforcement representatives, social service providers, ex-offenders, and "influentials" (those with positive influence in dealers' lives) engage with them directly.

The partnership tells the dealers that the community values and cares about them but that the dealing must stop. The police also inform them that local law enforcement has developed cases on them but that these cases will be "banked." The partnership then explains to them that if they continue to deal, the police will activate the banked cases against them. Finally, social service providers explain that they are offering special help to dealers to help them change their lives.

In this way, the community and law enforcement provide a "second chance" to these individuals, and the DMI strategy has produced significant reductions in recorded crime in many intervention areas. But statistics alone do not capture the power of the intervention. DMI is frequently able to eliminate overt drug markets, restore community stability, reset relationships between the community and the police, and reduce the use of arrest and profligate enforcement. For community residents, the bottom line is that they have reclaimed and transformed their neighborhood.

**Mike Trace, IDPC -International Drug Policy Consortium, Chair (via Video)**

In 1998, the United Kingdom launched a 10 year national drug strategy. At the time, one of the key principles was the diversion of people who committed drug or drug related offenses away from the criminal justice system and into treatment and health services.

This was the result of two main political drivers: the first was that such a diversion would be cost effective, based on the reasoning that treatment was cheaper than imprisonment, and on the hypothesis that money would also be saved through a reduction in crime. The second driver was the improvement of the health and welfare of drug users themselves.

Two main approaches were used for this purpose. For minor drug offences (possession or consumption alone), while the law allowed for strong penalties, in practice these were seldom applied, and so there was a normalisation of diversion practice, with police and prosecutors simply applying fines and warnings to people who represented no other risk to society. The second group targeted was those who committed crimes to raise money to support their addiction, an estimated 300 thousand people in the United Kingdom. The rationale was to provide them access to treatment so that they would not need to commit crimes to pay for their drug use.

In order to implement these measures, it is first important to get the national systems right, rather than conduct short term and small scale pilot projects. The United Kingdom took the approach of applying a national policy over ten years to create a structure that would allow for implementation across the country.

Warnings and different procedures were put in place depending on the class of drug. Thus, the vast majority of people arrested for possession/consumption would get cautions and small fines, and not go through expensive court procedures. Prosecutors also have the option of deciding not to prosecute if the case is not in the public interest, among other options for police and prosecutors to divert such cases during the early phases.

This system was backed up by having good access to specialist assessment of the drug users to determine if they had treatment needs or dependence issues, by having social workers in every police station who can do that assessment and place or refer individuals to the relevant services. This gets a lot of people into treatment who might not go otherwise.

At the court and sentencing stage, the same principles apply. Court officials, and probation and court social work departments, can assess individuals who are appearing in court to determine if they have a drug problem that needs treatment. If offenders accept to get treatment, there are many options to offer and so diversion can occur at this stage also. In all cases, referral and treatment are voluntary.

After ten years of implementation, research has shown that drug use rates and drug-related crime are down, with important savings as a result. Also, crime related to drug addiction and use has been steadily falling over this same period, and this is attributed to the fact that a large proportion of the target group have been provided with treatment. This has turned out to be good policy, and also popular with the public, who generally support the idea of diverting minor offenders and of providing treatment instead of imprisonment.

## Group Discussion summary

Core elements of the approaches	Challenges for application in Member States
Harm reduction No criminal record No abstinence requirement Broad consultation and involvement of community stakeholders Reduction of violence Keeping communities intact	Low levels of capacity of front line law enforcement Need to modify the legal frameworks of member states Weakness of civil society reduce communities' ability to effectively represent their views and collaborate with authorities Important lack of capacity of social services would need to be addressed

### Conceptual Highlights

The criminalisation of consumption-related acts (possession and acquisition) and minor distribution result in the overcrowding of prison facilities and in the recurring arrest and incarceration of low-level offenders.

Diversion strategies for low-level offenders at the initial contact with the criminal justice system reduce overcrowding and the costs associated with prosecution and incarceration. It also reduces the long-term harm to individuals associated with having a criminal record.

The three approaches presented are based on a principle of harm reduction, both to the offenders and to the community.

The LEAD intervention and Drug Market Strategies actively include the community in the determination and implementation of the strategy. Empowered communities and law enforcement actors can collaborate fruitfully to resolve the communities' concerns.

The National Drug Strategy of the United Kingdom applies nationally rather than as a pilot project, which allows for a comprehensive approach.

In all three cases, different types of offenses carry different types of penalties and different kinds of responses.

The diversion of offenders has had important positive effects on the costs of prosecution and incarceration, as well as on rates of recidivism.

### 3. Alternatives in the Judicial System Prior to Conviction<sup>1</sup>

**Mark Kleiman, Professor, UCLA School of Public Affairs, United States**

While a strong case can be made that drug use is associated with criminal behaviour and that therefore the criminal justice system should be used to force drug users into treatment, either prior to or after conviction, some assumptions in this perspective are problematic.

First, while drug taking is common, substance use disorder (SUD, or addiction) is rare. In addition, not all persons with SUD engage in criminal activity. Further, empirical evidence suggests that laws criminalising drug possession have little impact on consumption. Thus, diversion strategies tend to refer people to treatment for a disease they don't actually have, at significant expense. These approaches also rely on the voluntary participation of the individuals involved.

A possible alternative is to mandate desistance from drug use, and consider the outcome rather than the process: the swift, certain, and fair approach, as opposed to diversion, focuses on stopping the use of the drug. It can be applied to people who are substance users and are also active criminals, at any point in the criminal justice system. The process involves scheduling random drug tests with daily call-ins, and where every missed or positive test will bring immediate but not severe sanction. This has the advantage of identifying people with actual SUD without engaging in an expensive process, as well as not treating people who are not in fact sick. Finally, it does not rely on voluntary participation and can be applied to all types of drug users.

In order to succeed, this approach requires an understanding that there is a real intention to help participants succeed. There must be a clear warning that consistent sanctions will be applied, and these must be designed as the minimum necessary dose of punishment.

#### Conceptual Highlights

Not all drug users have Substance Use Disorder (SUD), and therefore treatment is not the only possible –nor the most effective- alternative to incarceration.

A “swift, certain and fair” approach to mandated desistance from drug use achieves the same outcomes as mandated treatment at a lower cost, and without reliance on the voluntary participation of offenders.

---

<sup>1</sup> The discussion groups for Session Three were merged with those for Session Four

## 4. Alternative Sanctions in the Judicial System

### **Angela Hawken, Associate Professor of Public Policy University Pepperdine.**

There are many different kinds of diversion programs, in which treatment decisions are based on self-reported behaviour. However, it has been established that participants tend to lie, expecting a better outcome for themselves. Usually, sanctions are limited because resources are limited.

Hawaii's Opportunity Probation with Enforcement (HOPE) experiment is based on the behavioural triage model, where not everyone is forced into treatment, and behaviour is monitored rather than self-reported.

The HOPE experiment includes all types of cases. The process begins with formal orientation, followed by regular random drug tests, and applies an immediate sanction to every violation. Three or more violations will lead to mandated treatment, almost always residential.

Randomised Controlled Trials conducted on this experiment show significant improvements in outcomes, with reductions in drug use, in missed appointments, and in arrests. It was also shown to be relatively inexpensive compared to incarceration, and led to reduced costs from a drop in the number of days of incarceration.

The HOPE experiment involved selecting probationers on the basis of drugs involvement (usually use of methamphetamine), and with a demonstrated history of non-compliance. All participants had on average 17 prior arrests, and two thirds of participants had other criminal involvement. Half of participants never tested positive again; only 9% had more than three violations and attended mandated treatment. Because of the simplicity of the process, a single judge is able to supervise the 3000 cases involved, which is significantly more than in Drug Treatment Courts.

Behavioral triage shows that 80-90% of drug users have a bad habit, and only the remaining 10-20% have a true dependency issue. The perception of the participating probationers was overwhelmingly positive, insofar as they deemed the process to be fair.

The experiment was quickly replicated state-wide in two states, and is now in place in over 20 jurisdictions in 20 states, with similar results.

### **Beau Kilmer, Co-Director of the RAND Drug Policy Research Center**

South Dakota is a small rural state with a large land mass and low population density. In 2002 it ranked second in the United States in terms of the percentage of drivers involved in fatal crashes who had a high level of alcohol in their system. Alcohol-involved offenders also accounted for a large share of the prison population. While many of these individuals were ordered by a judge not to consume alcohol when they were in the community, this condition of supervision was rarely enforced. The Attorney General argued that in order to reduce the prison population, they had to enforce the alcohol abstinence orders for this population.

Under this program, named 24/7 Sobriety, alcohol-involved offenders have to submit to breathalyzer tests twice a day, every day. If alcohol is detected, they are subject to a swift, certain, and fair sanction (typically a night or two in jail).

The program began in 2005 with a few pilot programs, and by 2010 almost all counties in the state had adopted it, with 300-400 new participants added every month. As the program expanded geographically, it also took on different types of offenses and adopted new technologies, such as continuous alcohol monitoring bracelets. Most participants are enrolled for drunk driving offenses, but the program now also includes assault and domestic violence cases, as well as community corrections violations. The program is also flexible enough to include pre-trial (51%) and post-conviction (49%) participants. In all cases, the testing and administration are paid for by the



offenders, with a one dollar per breathalyzer test fee (\$2/day), on the principle that they were likely spending more money than that on alcohol and should therefore be able to cover this cost (the per day costs are higher for the alcohol monitoring bracelets).

24/7 Sobriety is a successful program in South Dakota. Of the total number of tests, more than 99% are clean. About 50% of participants have one violation at least, either failing the test or failing to appear for the test. The total number of repeat drunk driving arrests was reduced by 12%, domestic violence arrests by 9%, and traffic crashes for males aged 18-40 by 4%. Kilmer and colleagues are now examining whether the program reduced mortality in the state.

### **Alberto Amiot, Second Court Judge Santiago, Chile**

Alternatives to incarceration are important for the hemisphere because we are facing important problems related to the high cost of policing, of running the justice system, as well as significant problems regarding social integration.

Drug Treatment Courts (DTCs) create the conditions for a holistic alliance between mental health professionals and the justice system, which allows us to look at the causes of behaviour rather than the effects. By working in a horizontal, equal relationship, it is possible to focus on the real problem, which is problematic addiction.

It is clear that DTCs are not necessarily the best option, but they do have the advantage of serving to “break the ice” for judges, prosecutors, and other members of the judiciary system, with regards to seeking alternatives to incarceration. They are an entry point into a perspective of therapeutic justice.

DTCs have a variety of key objectives. The first is to contribute to solving the underlying condition that leads to the crime, and to restore the well-being of the community. They do so by finding alternative means to re-socialise offenders and reduce recidivism, thus leading to social integration. They seek to reduce the size of the prison population as well as the high levels of recidivism, in order to reduce the congestion of the penal system.

This model is based on the direct supervision of the individual’s recovery by a magistrate. The Judge or magistrate relies on a support team of prosecutors, defense attorneys, probation and police officers, health professionals, and social workers, who all work to support the rehabilitation and social reintegration of the person into the community.

The objective is to interrupt the cycle of criminal behaviour, use of alcohol and other drugs, and imprisonment, through a greater emphasis on judicial supervision, better coordination and use of resources, and an acceleration of the judicial process.

These basic mechanisms have been applied in different ways in each jurisdiction and country. The key elements for the successful application of the model include:

1. DTCs include services for treatment for drug and alcohol dependence as part of the processing of cases in the justice system.
2. In a non-adversarial perspective, the defense and the prosecution promote public security, while protecting the rights of all persons involved in the judicial action.
3. Eligible participants are identified and immediately included in the DTC program.
4. Abstinence is monitored through testing for the consumption of drugs or alcohol.

5. A coordinated strategy determines the response of the DTCs to participants' compliance.
6. There needs to be continuous judicial interaction with every participant.
7. Monitoring and evaluation are key to assess the objectives and effectiveness of the program.
8. Continuous interdisciplinary education promotes the effective planning and implementation of DTCs.
9. The effectiveness of the Courts can be ensured by promoting relationships between drug treatment courts, public institutions, and community-based organisations, which also generates community support for the program.
10. Cases must be appropriately managed.
11. The program must be flexible and applied on a case by case basis.
12. There must be a rehabilitation strategy in place.

In the countries where this model has been assessed, there are positive changes in key areas such as: reduced crime, reduced recidivism in the use of drugs, reduction in the size of the prison population, efficient use of resources, and improved social reintegration of the individual participants.

**Julius Lang, Director of Training and Technical Assistance, Center for Court Innovation, United States**

The Center for Court Innovation is a New York based NGO whose mission is to aid victims, to reduce crime, and to increase public confidence in the justice system. Its work is based on collaboration between civil society organisations and the court system, designing and implementing demonstration projects, where action research methods are used to collect performance indicators.

The Community Court Model was developed to respond to a series of problems, including the multitude of misdemeanor level offenses, community perceptions of safety, the erosion of public trust in the justice system in general, and congestion of the justice system. The traditional responses to these problems (jail time, fines) make no effort to address social problems, which results in a revolving-door process.

The community court model combines the strengths of different intellectual approaches. It is based on the establishment of a community justice centre, where the community is involved in addressing the problems, and where the quality of life of the community is central. It is based on a therapeutic model, combined with the principles of restorative justice, with the understanding that the community as whole is harmed by the crime that occurs there.

The model places a single judge in a designated area who brings the power of the justice system to help the community solve its local problems. The focus is on the place, and is therefore not problem specific. There are approximately 50 such courts operating in the world today, mostly in the United States, Canada, Australia, and Singapore, although so far there are none in Latin America.

The types of geographic areas where these community courts operate are the New York City Midtown Community Court (established in 1993, with low resident population but a lot of daytime occupants); Melbourne's Neighbourhood Justice Centre since (established in 2007, in a largely residential area with many public housing projects); Vancouver's Downtown Community Court (established in 2008, in a mixed use area with many homeless people as well as the Central Business District and some residential spaces). Some of the examples have required creativity, because it is not always possible to have a stand-alone court. In South Dallas, they found a

community centre where they brought the courtroom into an existing complex; in Portland, Oregon, a new facility for the homeless includes many services and holds a court in the atrium once a week. The idea is to bring the court to the population it is intended to serve, with social services available in the same building.

All the functioning community courts share six common elements.

1. They provide enhanced information (about problems in the community such as use of drugs, SUD, availability of therapies, as well as a better understanding of the community context of the crime, and thus a better understanding of the person).

2. They promote community engagement (from the planning stages, which involve focus groups, interviews with the formal and informal leaders of the community, community surveys collecting baseline data about community attitudes).

3. They rely on and promote collaboration (between the courts and other agencies -both governmental and non-governmental- that provide the actual services).

4. They provide individualised justice (which takes into account the previous elements of enhanced information and collaboration, leading to sentencing that is appropriate for the particular individual in his/her context).

5. They offer clear lines of accountability (which is hugely important for improving the public trust, with a visible community service identified by the communities themselves).

6. They have had very positive outcomes.

An independent evaluation was conducted by the National Center for Safe Courts in the New York City Midtown and the Red Hook Community Justice Centre (both in New York City). It found positive results in terms of crime reduction, although it is impossible to attribute them entirely to the community courts. Yet, in Red Hook, by comparing it with surrounding precincts to determine a broad baseline, it found that public support for the justice system had increased, including higher approval ratings of the police, the prosecutors, and the judges. At the same time, there was reduced incarceration and recidivism. The findings also showed the model to be cost efficient, in that the savings per defendant outweighed the cost of setting up the community courts.

Before embarking on setting up such a model, there are some key planning questions that need to be answered: Is it needed? Is there a desire to test new approaches? What is the existing legal framework? Who are key stakeholders? Who would lead the planning? What are the primary concerns for the legal system? What community might be the focus of a pilot, and what would their primary concerns be? What services does the offender population need? Are there appropriate resources in terms of staffing, budget and services? What are the exact goals and how are they going to be measured?

### Conceptual Highlights

The HOPE Experiment in Hawaii is based on the behavioural triage model: Not everyone is forced into treatment, and behaviour is externally monitored, not self-reported. This improves the quality of the empirical evidence.

The South Dakota 24/7 alcohol use reduction program is based on mandatory abstinence supported by mandatory monitoring and blood testing. It includes the notion of offenders paying for their own monitoring, thus reducing the costs of implementation.

Both of these programs are based on the “swift, certain, and fair” principle of retribution. They also require relatively few resources and can be self-funding.

Drug Treatment Courts promote collaboration among the different actors in public health and the justice system, seeking to restore the individual’s health and reintegrate him/her into the community.

The Community Court model is based on the principles of the therapeutic model and of restorative justice. It brings the justice system to the community with a dedicated judge.

The latter twomodels are based on a restorative ethos of solving the underlying conflict to the crime and promoting the well-being of the community as a whole. They are also resource intensive to put in place, but doshow overall cost effectiveness.

### Group Discussion summary

Core elements of the approaches	Challenges for application in Member States
<p><b>Swift, certain, and fair approach:</b></p> <p>Assumption that most problem users are not addicts</p> <p>Focus on outcomes rather than process for mandated desistance from drug use</p> <p><b>HOPE and 24/7:</b></p> <p>Swift, certain, and fair response to non-compliance</p> <p>Compulsory participation</p> <p>Cost of intervention is borne by offenders</p> <p><b>DTCs and Community Courts:</b></p> <p>Holistic interventions</p> <p>Voluntary participation</p> <p>Restorative justice and community focused</p>	<p>Need to have a juridical definition of health criteria to differentiate the categories of drug use, drug abuse, and drug addiction</p> <p>Potentially high costs of instituting monitoring systems (unlikely to be borne by offenders who are usually poor), high cost of technology</p> <p>Lack of institutional capacity to operate monitoring systems</p> <p>Jurisdictional limitations for involvement of the community</p> <p>Cultural and political norms regarding substance abuse are resistant to change, among the public as well as justice system professionals</p> <p>Lack of capacity for provision of treatment</p>

## 5. Alternatives for Prison Populations

### **Jonathan Wroblenski, Director, Office of Policy and Legislation, Department of Justice, United States**

This presentation is an overview of the history of how the United States (US) got to where it is today in relation to drug use, abuse and control, and prison populations, and of some of the steps the US is taking to change and improve the current situation. There are many elements of the story that are unique to US history and circumstances, among them:

The US is a federal entity, where law enforcement is decentralized. There are federal law enforcement agencies, prosecution systems, courts, and prisons, but most law enforcement takes place at the state and local levels. There are 2.2 million people in prisons and jails in the US, or more than 700 per 100,000 people. In most of Europe this rate is under 100 per 100,000 .

In terms of drug abuse and laws, the US has seen great successes and failures and has undergone repeated extraordinary social and policy change. In the first 240 years of its history, the US has had three distinct cycles of permissive drug use and temperance. In the 1700s there was tremendous alcohol use (by today's standards) in the colonies, especially of beer and cider. Then began the first temperance movement, which was a fairly successful social movement, lowering alcohol consumption significantly. It was later interrupted by civil war in the mid-1800s. Following the Civil War, the US experienced a period of increased alcohol use and the introduction of opiates and cocaine, which were at the time legal, over-the-counter medicines. At the end of the 19th century, in the face of significant amounts of abuse, the second temperance movement began, which culminated with Prohibition. This period saw laws that made illegal the sale of hard drugs and also alcohol, until 1933, when Prohibition ended. The third cycle of permissive alcohol and drug use began after Prohibition through the 1960s with high level of alcohol consumption, as well as cannabis, heroin, LSD, and cocaine. The Nixon administration then declared the war on drugs, which is now almost 40 years ago.

The 1960s also saw significant social change, the civil rights movement, and the beginning of the women's movement, while at the same time a large increase in the rates of violent crime. One of the results of this social upheaval was a change to the incarceration policy and our current levels of incarceration. There was also increased police presence in streets, police departments were professionalized, and there was also an increase of drug treatment programs and their availability.

The 1970s saw an important change in US sentencing laws. Until the 1970s in almost all states, sentencing was indeterminate. Rehabilitation was the primary purpose of incarceration, and so sentences imposed often did not specify precisely how much time one would spend in prison. This approach was later considered ineffectual, and as a result sentencing laws changed, with many states adopting determinate sentencing laws, based on the notion that whatever the crime committed, the amount of time in prison should be certain. With these laws often came increases in the incarceration terms imposed, including through the adoption of mandatory minimum sentencing laws. In 1986 mandatory minimum sentences were introduced in the federal system for drug trafficking crimes.

These mandatory minimum sentences were often coupled with the creation of sentencing commissions, typically comprised of judges, prosecutors, defense lawyers, and politicians, which set guidelines for imprisonment terms. Because the existing statutory sentencing ranges are often very broad, these commissions help to determine narrower guidelines, for example, depending on whether the crime involved violence or not, whether the defendant was armed or not, etc. Together,

these changes in US sentencing laws resulted in a huge increase in the use of imprisonment, from 700,000 inmates to the current 2.2 million.

While the national violent crime rate began to drop from 1992 to 2000, and started dropping again from 2007 to 2011 (with similar trends in murder rates) the prison populations continued to grow. In economic terms, this was unsustainable. The share of the Federal Justice Department budget, for example, that is dedicated to prisons and detention has gone from 27% in 2000 to 31% in 2013 and is expected to rise further in the coming years.

Recently, though, the US has been trying to make some changes. The Smart on Crime Initiative, announced by the Attorney General in 2013 aimed in part to control the prison population by changing sentencing guidelines for drug trafficking. Penalties for drug trafficking have been quite severe, and the federal system prosecutes about 25 thousand people per year for drug trafficking, with an average sentence of 6-8 yrs. This has contributed significantly to the high federal prison population. Smart on Crime is trying to reduce the minimum sentences to 2 and 5 years (from the current 5 and 10 years respectively), which, if implemented with important re-entry and policing investments, should have little or no negative impact on public safety and would free up money for programs like LEAD, HOPE, 24/7 (that we have heard about here), and allow us to focus on preparing prisoners to come back to their community, and on reducing reoffending.

The Justice Department hopes to use the mandatory sentencing statutes more selectively and intelligently, and to use its resources to try to reduce reoffending. Much work is needed to improve prisoner re-entry, and it will require both resources and legal changes. Relatedly, the Attorney General is studying the collateral consequences of convictions, because since the 1960s and 1970s, many laws were passed that make convicted people ineligible for jobs, public assistance, and public housing.

**Luis Fernández Fanjul, Deputy Director of Treatment Villabona Penitentiary Center, Asturias, Spain**

In Spain, drug consumption not penalised, only micro-trafficking. By European Union standards, the rate of imprisonment is high, at 150 per 100 thousand. About 23% of the prison population is there for drug trafficking-related crime. Prisons are constitutionally mandated focus on re-education, and are based on the principle of individualised, planned/predictable, and voluntary treatment.

A study in 2011 showed that within a month of incarceration, 76% of inmates consume drugs. To address this general problem, programs are being implemented to address the drug dependent prison population. These programs focus on prevention, assistance, and social integration. One of the most important programs, which is rather controversial, is the needle exchange program. Based on the principle of harm reduction, the program has provided over five thousand clean needles to the prison population. There is also a methadone treatment program, which is aimed at harm reduction but also leads to reduced dependence. Such programs improve health, and at the same time reduce conflict in prisons.

The most important programs for rehabilitation and detoxification involve educational action with individual and group therapy. They rely on the collaboration of the treatment teams with professionals from all areas of the penitentiary system. The specific modalities depend on the characteristics of the actual building and on the profile of the prisoners. However, all modules are based on two pillars: therapeutic groups and drug-free spaces in the compounds. Asturias is implementing the educational and therapeutic model, with the active participation of prison guards, who become part of technical teams by coaching/mentoring and leading the therapeutic groups.

Twenty years of experience have shown that this involvement is necessary for the model to work. This approach also helps to reduce bureaucratisation of penitentiary work.

There are at present 24 centres where the model is in place, and there is an active policy to implement it in all penitentiaries in Spain. This approach is complemented by the establishment of strategic communities with the support of NGOs. These receive the prisoners during any temporary or definitive release from prison, and help them prepare for their reintegration into society.

Another important element of the approach is that the modality of the open prison regime allows prisoners to sleep at home, with some controls. This facilitates the prisoners' reintegration with their family, and also offers day treatment services for drug users. During the last stage of serving the sentence, early probation is possible for those who have voluntarily undergone initial treatment within the prison system.

At present, Spain is looking to increase the linkages of the penitentiary system with the health and social services networks during and post incarceration in order to ensure the continuity of treatment.

**Dra. Doris Ma. Arias Madrigal, Magistrada, Sala Tercera Corte Suprema de Justicia, República de Costa Rica.**

In Costa Rica, the penalty for introducing drugs into penitentiary centers ranges from 8 to 20 years. However, a recent reform has been introduced that recognises that the women, who are the vast majority of those involved in this activity, are usually in conditions of vulnerability. If convicted, the law requires that they serve a jail sentence, and can bring their young children under 3 years of age with them. Since the recent reform, 130 women have left prison.

This reform is the result of a gender-based analysis that highlights the asymmetries affecting women. There is, for instance, more social stigmatisation of women who commit crimes, due to the cultural idealisation of women as mothers, as well as assumptions and stereotypes. This leads to harsher penalties for women who are perceived to have broken the values system. This also explains the high number of young women who are imprisoned for assuming control of own sexuality.

Once in prison, there is a double standard on sexual behaviour and in relation to roles of maternity/paternity. This leads to negative discrimination in the treatment that women receive while in prison. Indeed, the work they do there is based on domestic roles, and there are no opportunities for education in IT, for instance, whereas there are courses for beauty treatments and sewing. The women have to conform to sexist stereotypes, and sexual diversity is stigmatised. Many of these women are still controlled by their husbands/partners, even when in prison, and are still experiencing domestic violence, in addition to having to face overcrowding and violence in the prisons themselves.

In recent years, there has been an increase in women's participation in the drug trade. Costa Rica (and Central America) is strategically located for the drug trade, between the producing countries and the consuming markets in North America and Europe. This has created both micro- and macro-trafficking, and this in turn means that we need to need to understand the social, economic, and cultural factors driving women's participation in this trade, as well as the differential effects of crime for women.

The 2013 Antigua Declaration calls for gender perspectives to be incorporated into public policies on drugs. We need to understand the role of women as producers, providers, micro-traffickers, mules, and consumers. But we also need to understand the real and potential harm that can result

from the incarceration of women not only to them, but also to their families and society as a whole. The Declaration also calls on states to deal with overcrowded prisons, promote better access to justice, and to respect the proportionality between the harm caused and the sentence imposed. There is also a very broad mandate to provide access to rehabilitation, as well as to holistic health and social reintegration programs.

The reforms in Costa Rica are linked to the principles of the Antigua Declaration, and the legal reform is based on a sociological and criminological study on the situation of women deprived of liberty.

Sixty percent of female offenders are convicted of committing trafficking crimes, whereas this figure is only 24% for male offenders. Fifty percent of women are heads of household, and their involvement in drug sales or trafficking is usually a way to cover their socioeconomic responsibilities at home. There are 780 women in prison, 511 of whom are there for trafficking, and 120 for bringing drugs into penitentiary establishments. Ninety-seven percent of these women were heads of household, with low levels of schooling. This was also usually a first offense. The analysis also found that the prison sentences were affecting these women's families, which brought up the consideration of the best interests of the children. On the basis of this analysis, and considering the principle of proportionality, it was determined that the prison sentences given were not necessary.

The Costa Rican case shows that existing international agreements and conventions, including Committee on the Elimination of Discrimination against Women (CEDAW) and the Convention of Belen do Para, can be the basis for reforms to the sentencing approaches for these women, without need for a significant legal transformation, as these agreements are considered to be an integral part of the signatories' legal system. The Bangkok Rules also highlight the need to avoid incarceration as far as possible and apply a wide range of alternatives to prison. The challenges today are looking for a more humane approach to punishment, a greater consideration of the human development needs of those who commit crimes, and the needs of their families. It is clear that legislation is insufficient for this purpose, and there is a need for strong support networks for life after prison.

**Antonio Delgado, Specialist Department of Public Security (DPS), Secretariat for Multidimensional Security, Organization of American States (OAS)**

In looking at how to reduce recidivism, the OAS has developed a strategy for monitoring and evaluation of reintegration programs, with the objective of developing tools that will support institutional capacities, that will help to understand which types of interventions are effective and how to assess the impact that they may have on reoffending and on reintegration into society.

The first stage of the strategy development process was to conduct a study to try to understand the current situation in seven countries in the hemisphere. This was a mapping of existing evaluation models, which included statistical, juridical, institutional, and programming analyses. This study found a high level of variability of the data. It is often unclear who is in charge of providing and monitoring post-incarceration services. There is also often a significant lack of appropriate human resources, and there is a concomitant paucity of regular monitoring of data.

The next stage of the study was to identify good practices, not only of what programs are effective but also at how we know that they are working, that is to say, examining the relevant monitoring and evaluation systems. The practices assessed are mostly occurring in the United States, Canada, and the United Kingdom.



On the basis of this study, it is possible to identify some basic principles and concepts that can inform the design and implementation of programs and of monitoring and evaluation systems:

- Effective rehabilitation practices must identify the factors that can support or impede the probabilities of reducing recidivism
- Effective programs undertake diagnoses of the prison population to understand its specific risk factors for reoffending
- The motivation of participants is an indispensable component of the design and implementation of effective programs
- Program design must take into account the learning and response capacity of participants
- Successful programs have a clear theoretical approach on which their actions are founded
- Human resources are an important factor for the success or failure of programs
- Affective programs follow good practices and apply replicable and reputable methodologies. One of these methodologies is the inclusion of evaluation mechanisms
- Better results are obtained when there is continuity between intra-mural and post-release programming in the participants' communities.

For monitoring and evaluation to be effectively possible, there need to be some pre-requisites: the evaluated intervention must have been explicitly planned and designed; it must have a system for data storage; and it must have reliable data collection processes, whether qualitative, quantitative, or both.

With these elements in place, it is possible to develop a set of common indicators that will on the one hand collect and assess the required information relative to the specific program and responsive to the national needs of each country, and on the other hand be replicable and transferable to allow for comparison across experiences and programs.

### Conceptual Highlights

The dramatic rise in incarceration resulted from a period of high crime, significant drug use and abuse, and criminal justice reform. The United States is currently experiencing a trend of re-examining its high rates of incarceration as well as its drug control policy, but finding appropriate solutions to the existing prison overcrowding is proving difficult.

In Spain, there is a recognition that there is substantial drug use within prisons, and a therapeutic approach was adopted. The principle is to use the period of imprisonment as an opportunity to prepare convicted offenders to re-enter society after undergoing detoxification.

In Costa Rica, recognising that vulnerable women are the main candidates for incarceration for introducing drugs to penitentiary facilities has given rise to a program that seeks to address the underlying causes of their vulnerability, providing them with vocational training and ensuring the well-being of their children while they are detained.

Effective interventions can be identified when there is an effective monitoring and evaluation system, with relevant and replicable indicators. This requires an effective and explicit planning and design process.

### Group Discussion summary

Core elements of the approaches	Challenges for application in Member States
Restorative justice Considering the collateral consequences of criminal conviction Focus on program design and implementation with in-built data collection for monitoring and evaluation	Cultural and political norms tend toward stigmatisation and thus complicate the adoption of a restorative approach There is an important lack of institutional capacity Potentially high costs of capacity-building Infrastructural and human resource capacity gaps limit effective data collection and thus monitoring and evaluation

## 6. Specialized Groups

### **Corina Giacomello, author of the report 'Women, drug offenses and prison systems in Latin America' Mexico**

In a context of epidemic overcrowding in the prison population in the region, there are important challenges to the application of the justice system's responsibility to ensure that difference does not become inequality.

The war on drugs is an important factor in a growing imbalance between drug policies and human rights policies. Combined with generally inefficient justice systems, there is a need to search for alternatives throughout the process. Alternative measures can be applied by the police, as well as by judicial and administrative authorities. They can be based on legislative changes, or take the form of ad hoc programs.

At the same time, there is a drive to reduce the economic cost of imprisonment for the state, as well as to address overcrowding, violence and human rights violations in prisons, reduce recidivism and juvenile offenses, and a search for holistic policies.

The Tokyo Rules from United Nations provide minimal rules that guide measures that do not deprive offenders of liberty. This is important because the current punitive culture will require radical change in order to be able to consider other alternatives. There is a need to recognise the necessity for structural change, in addition to looking at particular changes.

Alternative measures need to consider the needs of specific groups: women, LGBT, disabled, foreigners, migrants, indigenous people, children and adolescents in conflict with the law, and those persons who are dependent on someone who is incarcerated.

We must also consider the principle of non-discrimination and consider the differential impact of policies on the aforementioned groups. It must be remembered that prisoners are subjects of rights, and that therefore the state is the guarantor for all individuals under its authority in prison.

Women continue to be a minority in prisons, but their numbers have nearly doubled in Latin America since 2006, and drug related offenses are the number one or number two reason for incarceration. Mostly, these women are mothers (and since when women go to prison, they keep their children with them, the children are also institutionalised, or they stay with other relatives). It is important to ensure that the state take these circumstances into consideration and develop a gender perspective in its approach to the drug problem. There is currently a danger of non-inclusion of this gender dimension, and therefore a need for mainstreaming gender considerations into policy design and implementation. There are many possible partners to assist in this process, but it is important that the justice system itself should take on this responsibility.

"One size fits all" and punishment *tout court* approaches are important causes of the penitentiary crisis.

### **Ana Cecilia Escobar M, Consultant in mental health, alcohol and substance abuse PAHO / WHO Guatemala**

When speaking about mental health, it is not a factor usually considered as being related to mortality, but it is still an important factor. Life expectancy adjusted for disability plays an important part in determining life expectancy—in Latin America, this accounts for up to a 33% loss.

There are a lot of myths regarding mental health

- “Mental health is about crazy people.” But 25% of people experience mental health problems in their lifetime.
- “People with mental health issues are unable to make decisions for themselves.” This is contrary to the rights-based principle that everyone should be allowed to make decisions for themselves.
- “People with mental health issues should be isolated.” This leads to inappropriate medical and social responses and increases stigma, isolation, and discrimination.

What does “vulnerability” mean? It means stigma and discrimination, premature death, exclusion from employment, from income opportunities, from educational opportunities; it means reduced access to health and other services. It ultimately means exposure to violence and abuse.

It is clear that prisons are inadequate places for people with mental health disorders, as they are intended for punishment, not to provide treatment and attention. There are no adequate programs for these people in prisons, and there is a strong stigma that results from the belief that they are all dangerous. However, most people with mental health issues are not violent, and most violent people do not have mental health disorders.

A public health approach to the drugs problem seeks to promote social wellbeing and the health of individuals and families. It can complement other efforts as it implies a prevention approach and calls for early intervention, an ethos of harm reduction and the prioritisation of treatment and rehabilitation, as well as of social integration.

Such an approach would require a significant paradigm shift, to a system that is person-centred, with integral and integrated interventions, including a human rights and public health perspective. It should also be intercultural, gender-sensitive, and include families, communities, and society as a whole, which must all be part of the response.

### **Ingegerd Nilsson, Goteborg, Sweden**

This presentation offers a glimpse of the situation with adolescents in Sweden who are involved with drugs and alcohol, and outlines the typical penalties for minors. Swedish adolescents consume primarily cannabis, with alcohol the second most commonly used substance. The data results from the survey conducted every three years in all schools among 15-17 year olds. The data show that 20% of youth have smoked cannabis at least once; about 10% smoke frequently. In cities like Gothenburg, Stockholm, and Malmo, the rate of consumption is higher, around 40%.

The penalties for juveniles in Sweden are the imposition of youth service, fines, placement in youth care or, in some cases, in institutional care. For people over 18, in contrast, the penalties for low-level drug offenses are often fines or incarceration of up to six months. The most common penalty for minors is youth care. This is a defined contract where the social welfare services have to account for the arrangements it plans, according to the social services act. This is usually the placement of the youth in a foster home, participation in drug treatment programs, or family interventions.

A typical juvenile intervention requires the youth to sign a contract to attend treatment over six sessions, which deal with drugs and alcohol education, an assessment of the family situation, and include the parents in the final session. It is a very short program with a clear end point, and usually also includes drug tests. The evidence so far shows that these youths have no cannabis in their system when they leave the program; unfortunately there is no follow up to assess whether they go back to consuming afterwards.

### **Conceptual Highlights**

There is a general lack of awareness in policy making circles regarding the differential effects of drug use and incarceration on the basis of gender, disability status, and age.

These elements must be taken into consideration in order to avoid disproportionately negative effects on vulnerable populations.

The most effective approach requires mainstreaming gender analysis, as well as a public health and human rights approach

## 7. Towards a Coherent Strategy

- Rodrigo Uprimny, Director of Dejusticia and Professor, National University, Colombia
- Mauricio Boraschi, Deputy Prosecutor, Deputy Prosecutor Against Trafficking in Persons and Smuggling of Migrants Traffic, Costa Rica
- Adriana Henao, Program Manager Alternatives to Incarceration of the Inter-American Drug Abuse Control Commission (CICAD), Secretariat for Multidimensional Security of the Organization of American States (OAS).

### **Rodrigo Uprimny Yepes, Coordinator of the Working Group and Director of Dejusticia.**

This presentation will provide the theoretical foundation for the report that the Working Group will be presenting to CICAD member states.

The basis for the report is the observation that the punitive approach with regards to drugs has had undesired effects and at times negative impacts. One of the undesired outcomes has been the increase in the severity of sentences, including for minor possession charges. There has also been a major increase in prison populations, as has been discussed with regards to the United States, but that is also occurring throughout the hemisphere. This has in turn had serious consequences in terms of human suffering, with the inhuman conditions of detention and imprisonment that also accompany overcrowding. This has been caused at least in part by the indiscriminate and undifferentiated increase in sentences, and the brunt of the problem is borne by the most vulnerable, weakest links in the chain of trafficking. Studies in Colombia have shown that only about 2% of the people incarcerated for trafficking offenses have even a minimal decision-making role in the trafficking organisations. There is clearly a need to identify alternative approaches.

Alternatives to incarceration need to be identified not only for consumers, since generally consumption is not criminalised in the Americas, but throughout the chain of production and trafficking.

The report will focus on four main normative points:

- 1) **Compatibility with drug conventions:** There are many reasons to be critical of the international drug regime. But we must recognise that within this regime there is much more flexibility than has generally been used. It does not necessarily require extreme sentencing, nor an undifferentiated approach; on the contrary. It is states that have adopted an extreme approach. Within the framework of existing conventions, there are many possible alternatives to imprisonment.
- 2) **Public health approach:** This represents the most significant paradigm shift regarding the issue of drugs. It finds its roots in the observations of the General Committee on Cultural Rights, which highlights the right to health, as well as in the report of the Health Rapporteur in 2010 to the United Nations General Assembly. A public health approach must be distinguished from harm reduction approaches. The latter is concerned with primary harms (those resulting directly from abuse of substances, such as cirrhosis of the liver) and the former with secondary harms (those that result from the policy intending to ensure control, such as those resulting from a process where there is a prohibition on the production and consumption of alcohol, which leads to the production of unregulated, low quality alcohol).
- 3) **Human Rights approach:** The Working Group assumes that human rights must be the focus in the search for alternatives. What such an approach would represent is still under debate, but when applied in other areas of public policy, it usually involves the following four elements:

- It must take seriously the inviolability of rights (in this case it might mean refocusing the notion of consumers from delinquents to people with an illness, even though sometimes that is also problematic);
- It must also take seriously the state's duties in regards to human rights. It is not just a matter of not violating such rights, but also constitutes a duty to protect and help realise those rights;
- All public policies must include human rights as a mainstreamed perspective, adhering to the principles of participation, equality and non-discrimination, and accountability;
- The effects of public policies on human rights must be measured continuously;
- Alternatives must include a differential approach for the effects of policy on vulnerable groups and include a gender analysis.

4) Based on empirical evidence: What do we know so far about experiences of alternatives? The most important datum so far is the huge diversity of experiences, which as we have seen in this meeting can occur at different moments in the process and involve a wide variety of measures. The fact that there are so many different experiences draws attention to the fact that there is no "one size fits all" panacea. The logical conclusion is that we need to develop a menu of possibilities.

There are huge obstacles to any paradigm shift that need to be considered also: budgetary constraints, cultural perspectives that favour punitive approaches, juridical constraints in some cases, and the complexities of inter-institutional cooperation. However, in spite of all these differences and complexities, it is imperative to examine alternatives that may improve the situation caused by the global drug problem, for human as well as democratic reasons.

**Mauricio Boraschi, Deputy Prosecutor Against Trafficking in Persons and Smuggling of Migrants, Costa Rica**

The initiative represented by this Working Group opens up a panorama that we as a region have been too shy to address. Usually, the notion of humanising drug policies aims at prevention and consumption. But so far we have insufficiently considered alternatives to incarceration for drug-related crimes. This has to be highlighted as the problem. Perhaps focus on this issue will allow us to center the justice system where it belongs – on the human being.

Incarceration has been seen as the easiest solution, but it is neither easy nor cheap, and it is certainly not sustainable. This approach generates expenses, pain, and the destruction of human beings and of families. Our discussions in this meeting seem to suggest that the main concern is overcrowding, but I would add to that the awareness that incarcerating minor offenders resolves nothing. And when we spend so much money in the administration of penal justice and on the police, it is very hard to have to accept that.

What are prisons for? In Latin America and Central America, they are places where people serve sentences. And when we speak of drug-related crimes in a broader sense, society automatically becomes aggressive and demands imprisonment of the guilty. We are happy to find alternatives for the crimes committed by those who have problematic use of drugs, but we don't want to even talk about alternatives for crimes directly related to drug trafficking. This punitive populism increases the costs of the administration of prisons and of justice, and therefore complicates the possibility of investing in treatment and preventive programs. In most places, prisons are nothing more than universities of crime, which many enter at the stage of pre-trial detention.

What this causes is terrible social anxiety, to which we have responded with ideas that further confuse the public. We speak of decriminalising consumption, of legalising drugs or production for

consumption, of establishing free trafficking areas... So this initiative is very important, because we are not talking about utopias or scenarios, but about real people, youth entering the penal system. And so we need to seek what this session's title suggests, a coherent strategy. It is time to define what that would be.

Human rights and gender approaches must be fully incorporated in our proposals. The application of the law should be like a bespoke suit, and yet it has become a mass production factory. We have to dare to take the step towards differentiated sentencing as well as differentiated execution of sentences. We need to re-establish the community and social responsibility. All of the alternatives we have discussed here depend to a great extent on social actors taking up the challenge, largely because budget constraints have been an easy excuse for the state to not do anything.

We need to work together among institutions and among countries. We must take up the opportunities that present themselves, and do so quickly.

**Adriana Henao, Program Manager Alternatives to Incarceration of the Inter-American Drug Abuse Control Commission (CICAD), Secretariat for Multidimensional Security of the Organization of American States (OAS).**

On the basis of the New Hemispheric Drug Strategy, the Institution Building and Integral Program Section of CICAD has developed various programs, such as the DTC Program, the LEDA program, and programs to promote the social integration of growers, traffickers and consumers. The most recent effort, Closing the Gap, began in May 2014 with financial support from the United States. This program seeks to respond to the problem of overly harsh sentences and excessive use of pre-trial detention.

This project defines drug-related offenders as: people caught breaking the law or in possession of drugs for personal use; non-violent distributors of small quantities of drugs, small-scale non-violent producers, and drug dependent offenders who commit crimes to finance their habit.

The project is intended to analyse different alternatives and to offer options for Member States. The project focuses on two main areas: diversion from the justice system, and alternatives and sentencing options. This will include pre-trial services, deferred sentencing programs, drug treatment courts, improved sentencing strategies, probation options, support services and community-based therapeutic alternatives. This will also include restorative justice mechanisms, such as restitution mechanisms, community service, and conflict resolution mechanisms, among others.

With regards to sentencing, the options to be assessed will include the de-penalisation of some behaviours, shorter sentences for some offenses, non-custodial sentencing, and the increased autonomy of prosecutors in terms of parole options.

The primary goal of these alternatives is to promote the social integration of drug-related offenders through a multi-agency effort combining a variety of mechanisms (justice, health, education, employment programs) to ensure the sustainability of results.

The first expected outcome of the project will be the conduct of an analysis in five countries (Costa Rica, Colombia, Panama, Peru, and the Dominican Republic), involving an assessment from institutional, cultural, and structural perspectives.

The second expected outcome will be a hemispheric report on alternatives, which will be the report produced by the Working Group and for which this Meeting represents an important input.



The third and final expected outcome of the project will be the design of possible interventions which incorporate the findings from the individual and hemispheric assessments.

## Closing ceremony

**Antonio Lomba**, Acting Head of Section for Institutional Strengthening and Comprehensive Programs, Program Manager Drug Treatment Courts Inter-American Drug Abuse Control Commission (CICAD) Secretariat for Multidimensional Security, Organization of American States (OAS).

**Luis Fernández Fanjul**, Deputy director of Treatment Villabona Penitentiary Center Asturias, Spain

**Miguel Samper Strouss**, Vice Minister of Justice of Colombia

The organisers thanked the participants and the support teams, as well as the government of Colombia for its leadership on this initiative, and the Spanish International Cooperation Agency (Aecid) for its support.

Vice Minister Samper thanked CICAD and Aecid for the organisation of the meeting. He highlighted that the origin of the Working Group was the recognition that there are new variables that need to be taken into account, with new technologies and new tools for both criminals and law enforcement agencies that will require new responses. Paradigms have changed and there is a receptive climate for initiatives of this kind. But it is important to have an empirical base for the design of new policy. We also need to understand that there may be better and more efficient and effective ways for states to invest in responding to this changing context, and it is becoming increasingly clear that new policies must take vulnerabilities into account in their design.

He also noted that the hemispheric problem with drugs is not so much related to consumption – although this is also on the rise- as it is with the violence associated with trafficking. The response has been to incarcerate those who are easiest to catch, the micro-dealers who are almost immediately replaced in the trafficking chain. As such, imprisonment does not even serve the preventive purpose it is argued to have. The current conditions in most prisons are not even suitable for maintaining the prisoners’ dignity, let alone considering the possibility of their rehabilitation.

Finally, Vice Minister Samper highlighted that it would be important for the expert group leading the crafting of the report not to focus on consumption alone. While we need to get away from the punitive responses, it is clear that they are easy to “sell” to public opinion. Punitive populism, however, has also reduced the legitimacy of the state. Our objective therefore must also be to strengthen the rule of law.

## Appendix I – Meeting Agenda

### **HIGH LEVEL WORKSHOP - WORKING GROUP ON ALTERNATIVES TO INCARCERATION**

#### **AGENDA**

**Within the framework of the Working Group on Alternatives to Incarceration led by the Government of Colombia, through the Ministry of Justice, as President of the Inter-American Drug Abuse Control Commission (CICAD) of the Organization of American States (OAS)**

Antigua, Guatemala. 17 to 19 June 2014

The "Working Group on Alternatives to Incarceration" was proposed by the Colombian government in the framework of CICAD 54, held in December 2013 in Bogotá, Colombia, and subsequently approved at CICAD 55 in Washington, DC in April 2014.

The Government of Colombia, as Chair of CICAD, in collaboration with the Executive Secretariat of the Inter-American Drug Abuse Control Commission (CICAD), Secretariat for Multidimensional Security of the Organization of American States (OAS) seeks through this initiative to create a Working Group on "alternatives to incarceration" in the framework of CICAD, to prepare a technical report on existing and possible alternatives to incarceration for drug-related offenses in accordance with international drug conventions, taking into account the reality of offenses, patterns of drug use, the regulatory frameworks of each country, and the contents of the Hemispheric Strategy and Action Plan 2011-2015. The Working Group will submit its progress at CICAD 56 and a final report at CICAD 57.

This activity is part of the framework of the Working Group on Alternatives to Incarceration led by the Government of Colombia, through the Ministry of Justice, as President of the Inter-American Drug Abuse Control Commission (CICAD), Secretariat for Multidimensional Security of the Organization of American States (OAS). This workshop is receiving financial support from the Government of Spain through the National Plan on Drugs and the Spanish Agency for International Cooperation and Development (AECID) and the Government of the United States (through the Closing the Gap initiative).

## TUESDAY 17 JUNE 2014

*Location: Training Center AECID, ROOM 12.*

**08:30-09:00** Registration and disbursement of materials

### **09:00-09:45 WORKSHOP OPENING**

- Ambassador **Paul E. Simons**, Executive Secretary of the Inter-American Drug Abuse Control Commission (CICAD), Secretariat for Multidimensional Security of the Organization of American States (OAS).
- **Samuel Urueta**, Acting Director of Drug Policy and related activities, Ministry of Justice and Law, Colombia.
- **Luis Fernández Fanjul**, Deputy director of Treatment Villabona Penitentiary Center Asturias, Spain
- **María Luisa Aumequet**, Training Area Coordinator, Training Center AECID La Antigua, Guatemala.

### **09:45-11:00 PROGRAM PRESENTATION: OBJECTIVES, METHODOLOGY, AND PARTICIPANTS**

- **Samuel Urueta**, Acting Director of Drug Policy and related activities, Ministry of Justice and Law, Colombia.
- **Adriana Henao**, Program Manager Alternatives to Incarceration of the Inter-American Drug Abuse Control Commission (CICAD), Secretariat for Multidimensional Security of the Organization of American States (OAS).

**11:00-11:30** Coffee Break

**11:30-12:30: SESSION 1 DESCRIPTION OF THE PROBLEM:** This session will provide an overview of how drug laws are applied in the hemisphere, its impacts and results. We will analyze the use of the penal system as a means to respond to the drug problem, including other themes such as proportionality, and use of preventive detention and its impact on incarceration.

- **Diana Guzmán**, Researcher, Center for Law, Justice and Society, DeJusticia, Colombia.
- **Israel Alvarado**, National Institute of Criminal Science, Mexico.
- **Bryce Pardo**, LEDA Manager, Drug Legislation in the Americas of the Inter-American Drug Abuse Control Commission (CICAD), Secretariat for Multidimensional Security of the Organization of American States (OAS) program.

**12:30-13:00: Opportunity for questions and comments on the first session**

**13:00-14:00** Lunch Break

**14:00-15:00: SESSION 2 ALTERNATIVES BEFORE ENTERING THE CRIMINAL JUSTICE SYSTEM:**

This session will discuss some options for drug-related offenders to prevent their entry into the criminal justice system, pointing out the main advantages and challenges of implementing these alternatives and their results.

- **Amy Crawford**, Deputy Director of "John Jay College, National Network for Safe Communities", Center for Crime Prevention and Control, United States.
- **James Pugel**, Racial Disparity Project/Seattle Police Department (retired), United States
- **Brandon Hughes**, European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)
- **Mike Trace**, IDPC (International Drug Policy Consortium) Chair.

**15:00-15:30: Opportunity for questions and comments on the second session**

**15:30-16:00** Coffee Break

**16:00-18:00:** Group work: Feasibility of options available to drug-related offenders prior to entry into the criminal justice system in Member States.

**18:00** End of first day

## **WEDNESDAY 18 JUNE 2014**

*Location: Training Center AECID, ROOM 12.*

**09:00-10:00 SESSION 3 ALTERNATIVES IN THE JUDICIAL SYSTEM PRIOR TO CONVICTION:**

This session will discuss some options for drug-law offenders within the criminal justice system who have not been convicted, though may be in pre-trial detention, identifying advantages and disadvantages as well as results.

- **Mark Kleiman, Professor**, UCLA School of Public Affairs, United States

**10:00-10:30 Opportunity for questions and comments about the third session**

**10:30-11:00** Coffee Break

**11:00-13:00** Group work: Feasibility of options related to Alternatives within the judicial system prior to conviction in the Member States.

**13:00-14:00** Lunch Break

**14:00-15:00 SESSION 4 ALTERNATIVE SANCTIONS IN THE JUDICIAL SYSTEM:** This session will discuss some options for drug-related offenders within the criminal justice system who have been convicted, identifying advantages and disadvantages as well as results.

- **Angela Hawken**, Associate Professor of Public Policy University Pepperdine.
- **Beau Kilmer**, Co-Director RAND Drug Policy Research Center
- **Alberto Amiot**, Second Court Judge Santiago, Chile
- **Julius Lang**, Director of Training and Technical Assistance, Center for Court Innovation, United States

**15:00-15:30 Opportunity for questions and comments on the fourth session**

**15:30-16:00** Coffee Break

**16:00-18:00** Group work: Feasibility of options and alternative sanctions in the judicial system in Member States.

## **THURSDAY 19 JUNE 2014**

*Location: Training Center AECID, ROOM 12.*

**09:00-10:00 SESSION 5 ALTERNATIVES FOR PRISON POPULATIONS:** This session will discuss some options to reduce prison populations and prevent recidivism, taking into account strategies with a view to offenders' re-entry into society, identifying advantages and disadvantages as well as results obtained in practice.

- **Jonathan Wroblenski**, Director, Office of Policy and Legislation, Department of Justice, United States
- **Luis Fernández Fanjul**, Deputy director of Treatment Villabona Penitentiary Center Asturias, Spain
- **Dra. Doris Ma. Arias Madrigal**, Magistrada Sala Tercera Corte Suprema de Justicia República de Costa Rica.
- **Antonio Delgado**, Specialist Department of Public Security (DPS), Secretariat for Multidimensional Security, Organization of American States (OAS)

**10:00-10:30 Opportunity for questions and comments about the fifth session**

**10:30-11:00** Coffee Break

**11:00-13:00** Group work: Viability of alternative options to prison populations in Member States.

**12:30-14:00** Lunch Break

**14:00-15:00 SESSION 6 SPECIALIZED GROUPS:** This session will discuss some options for special groups such as children, those suffering from mental illness, women, and other excluded groups

- **Corina Giacomello**, author of the report 'Women, drug offenses and prison systems in Latin America' Mexico.
- **Ana Cecilia Escobar M**, Consultant in mental health, alcohol and substance abuse PAHO / WHO Guatemala
- **Ingegerd Nilsson**, Goteborg, Sweden

**15:00-15:30 Opportunity for questions and comments about the sixth session**

**15:30-16:00** Coffee Break

**16:00-17:30 TOWARDS A COHERENT STRATEGY**

- **Rodrigo Uprimny**, Director of Dejusticia and Professor, National University, Colombia
- **Mauricio Boraschi**, Deputy Prosecutor, Deputy Prosecutor Against Trafficking in Persons and Smuggling of Migrants Traffic, Costa Rica
- **Adriana Henao**, Program Manager Alternatives to Incarceration of the Inter-American Drug Abuse Control Commission (CICAD), Secretariat for Multidimensional Security of the Organization of American States (OAS).

**17:30 Official Closing Ceremony of the Workshop**

- **Antonio Lomba**, Acting Head of Section for Institutional Strengthening and Comprehensive Programs, Program Manager Drug Treatment Courts Inter-American Drug Abuse Control Commission (CICAD) Secretariat for Multidimensional Security, Organization of American States (OAS).
- **Luis Fernández Fanjul**, Deputy director of Treatment Villabona Penitentiary Center Asturias, Spain
- **María Luisa Aumequet**, Training Area Coordinator, Training Center AECID La Antigua, Guatemala.

## FRIDAY 20 JUNE 2014

*Place: Hotel Camino Real, Salón Expedición*

**8:00-9:30** Breakfast meeting

**9:30-12:30** Workshop Support Group, CICAD and team from Ministry of Justice

**Participants:** The Technical Support Team, CICAD, Team from Colombian Ministry of Justice

**12:30-14:00** Working lunch hosted by the Ministry of Justice in Colombia

**Participants:** The Technical Support Team, CICAD, Team from Colombian Ministry of Justice

## Appendix II – List of Participants

### COORDINADORES

**Comisión Interamericana para el Control del Abuso de Drogas/Organización de los Estados Americanos -**

#### **CICAD/OEA EEUU**

**1.- Agustina Cocha**

*Comisión Interamericana para el Control del Abuso de Drogas -CICAD/OEA*

**2.- Adriana Henao Henao**

*Comisión Interamericana para el Control del Abuso de Drogas -CICAD/OEA*

**3.- Antonio Lomba Maurandi**

*Comisión Interamericana para el Control del Abuso de Drogas -CICAD/OEA*

### PONENTES

#### **Chile**

**4.- Alberto Amiot**

*Poder Judicial - Juzgado de Garantía de Santiago de Chile*

#### **Colombia**

**5.- Diana Esther Guzmán Rodríguez**

*Centro de Estudios de Derecho, Justicia y Sociedad- Dejusticia*

**6.- Rodrigo Uprimny Yepes**

*Centro de Estudios de Derecho, Justicia y Sociedad- Dejusticia*

#### **Costa Rica**

**7.- Doris Arias Madrigal**

*Corte Suprema de Justicia*

**8.- Mauricio Boraschi Hernández**

*Fiscalía General de la República*

#### **EEUU**

**9.- Amy Crawford**

*John Jay College, National Network for Safe Communities*

**10.- Angela Hawken**

*Pepperdine University*

**11.- Beau Kilmer**

*RAND Corporation*

**12.- Mark Kleiman**

*Luekin Seloul, University of California, Los Angeles*

**13.- Julius Lang**

*Center for Court Innovation*

**14.- James Pugel**

*Racial Disparity Project/Seattle Police Department (retired)/Chief Jim Pujel (Ret)*

**15.- Jonathan Wroblewski**

*U.S. Department of Justice*

#### **España**

**16.- Luis Fernández Fanjul**

*Secretaría General de Instituciones Penitenciarias del Ministerio de Interior*

#### **México**

**17.- Israel Alvarado**

*Instituto Nacional de Ciencias Penales*

**18.- Corina Giacomello**

*Universidad Autónoma de Chiapas, México*

**Portugal**

**19.- Brendan Hughes**

*European Monitoring Centre for Drugs and Drug Addiction -EMCDDA* Dirección:

**Suecia**

**20.- Ingegerd Nilsson**

*City of Gothenburg /Administration for allocation of Social Welfare/MiniMaria Göteborg*

**Comisión Interamericana para el Control del Abuso de Drogas/Organización de los Estados Americanos -  
CICAD/OEA**

**21.- Bryce Pardo**

*Comisión Interamericana para el Control del Abuso de Drogas -CICAD/OEA* Dirección:

**Organización de los Estados Americanos (OEA)**

**22.- Antonio Delgado Albert**

*Organización Estados Americanos - Departamento de Seguridad Pública*

**Organización Panamericana de la Salud (OPS)**

**23.- Ana Cecilia Escobar Martínez**

*Organización Panamericana de la Salud*

**PARTICIPANTES**

**Argentina**

**24.- Ricardo Dios Said**

*Secretaría de Programación para la Prevención de la Drogadicción y la Lucha contra el Narcotráfico -SEDRONAR* Dirección:

**25.- Patricio Antonio Falabella Cocaro**

*Secretaría de Programación para la Prevención de la Drogadicción y la Lucha contra el Narcotráfico (SEDRONAR)*

**26.- María Florencia Hochraich**

*Secretaría de Programación para la Prevención de la Drogadicción y la Lucha contra el Narcotráfico -SEDRONAR* Dirección:

**27.- María Eugenia Mihura**

*Secretaría de Programación para la Prevención de la Drogadicción y la Lucha contra el Narcotráfico (SEDRONAR)*

**Brasil**

**28.- Luiz Guilherme Mendes de Paiva**

*Ministério da Justiça- Secretaria Nacional de Políticas sobre Drogas - Secretaria Nacional de Políticas sobre Drogas*

**Colombia**

**29.- Juan Carlos Garzón Vergara**

*Ministerio de Justicia Colombia / Woodrow Wilson Center*

**30.- Claudia Paola Salcedo Vásquez**

*Ministerio de Justicia y del Derecho/Dirección de Política contra las Drogas y actividades relacionadas*

**31.- Miguel Samper Strouss**

*Ministerio de Justicia y del Derecho*

**32.- Samuel Urueta Rojas**

*Ministerio de Justicia y del Derecho*

**Costa Rica**

**33.- María Eugenia Mata Chavarría**



## **EEUU**

### **34.- Richard Baum**

*Office of National Drug Control Policy, White House*

### **35.- Leroy Brad Hittle**

*Department of State*

## **Guatemala**

### **36.- Aldo Jossue Chapas Gutiérrez**

*Ministerio Público de Guatemala - Fiscalía contra la Narcoactividad*

### **37.- Gustavo Adolfo Dubón Gálvez**

*Organismo Judicial*

### **38.- Christian Esaú Espinoza Sandoval**

*Ministerio de Relaciones Exteriores*

### **39.- Herman Gabriel Santos López**

*Ministerio de Gobernación Guatemala/Dirección General del Sistema Penitenciario*

## **Honduras**

### **40.- Roxana Morales Toro**

*Poder Judicial*

## **México**

### **41.- Briceida Cervantes Sánchez**

*Subsecretaría de Prevención y Participación Ciudadana, Secretaría de Gobernación*

### **42.- Tomás Gerzayn Estudillo Herrera**

*Coordinación de Asuntos Internacionales y Agregadurías*

*Subprocuraduría Jurídica y de Asuntos Internacionales,*

### **43.- Concepción Fuentes Castellano**

*Órgano Administrativo Desconcentrado Prevención y Readaptación Social*

### **44.- Mario González Zavala**

*Comisión Nacional contra las Adicciones*

### **45.- Elizabeth Hernández Hernández**

*Procuraduría General de la República*

## **Panamá**

### **46.- Gabriel Elias Fernández Madrid**

*Instituto de la Defensoría de Oficio - Defensa Pública*

## **Paraguay**

### **47.- José Aurelio Sandoval Ferreira**

*Secretaría Nacional Antidrogas -SENAD Dirección:*

## **Perú**

### **48.- María Jessica León Yarango**

*Poder Judicial - Corte Superior de Justicia del Callao*

### **49.- Abel Pulido Alvarado**

*Poder Judicial del Perú- Corte Superior de Justicia de Lima Norte*

## **Rep. Dominicana**

### **50.- Lucía Fermín González**

*Consejo Nacional de Drogas*

### **51.- Kenya Scarlett Romero Severino**

*Poder Judicial de la República Dominicana*

## **Trinidad y Tobago**

### **52.- Prakash Moosai**

*Judiciary*

**53.- Nirana Parsan**

*Ministry of Justice*

## **Uruguay**

**54.- Andrea Cutrin Coselino**

*Presidencia de la República Junta Nacional de Drogas - Red Nacional Atención en Drogas*

## **Agencia de los Estados Unidos para el Desarrollo Internacional (USAID)**

**55.- Shannon Schissler**

*Agencia para el Desarrollo Internacinal de los Estados Unidos -USAID*

## **Comisión Interamericana para el Control del Abuso de Drogas/Organización de los Estados Americanos -**

**56.- Pernell Clarke**

*Comisión Interamericana para el Control del Abuso de Drogas -CICAD/OEA*

**57.- Paul Simons**

*Comisión Interamericana para el Control del Abuso de Drogas -CICAD/OEA*

**58.- Joseph Christian Spadafore**

*Comisión Interamericana para el Control del Abuso de Drogas -CICAD/OEA*

## **Organización Panamericana de Saldud/Organización Mundial de la Salud -OPS/OMS.-**

**59.- Luis Roberto Escoto Aguilar**

*Organización Panamericana de la Salud/Organización Mundial de la Salud*

## **APOYO**

**60.- Mónica Treviño González**

*Note taker*

**61.- David Sperling**

*Interpreter*

**62.- Monique Fernández**

*Interpreter*





Organization of  
American States



Inter-American Drug Abuse  
Control Commission

**Organization of American States  
Secretariat for Multidimensional Security  
Inter-American Drug Abuse Control Commission**

1889 F. Street, NW, Washington, DC 20006 | Tel: +1.202.370.5000 • Fax: +1.202.458.3658  
cicadinfo@oas.org | CICAD.OAS.org