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Rethinking the War on Drugs

Prohibition and legalization aren't our only choices when it comes to drugs. Proven programs can greatly reduce the harm caused by hard-core users—and reduce our prison population, too.

By MARK A.R. KLEIMAN, JONATHAN P. CAULKINS and ANGELA HAWKEN



Current drug policies do much more damage than they need to and much less good than they might, argues UCLA Prof. of Public Policy Mark Kleiman. He talks with WSJ's Gary Rosen about what's wrong with the war on drugs and what could be done to reduce the harm of heavy drug use.

"For every complex problem," H.L. Mencken wrote, "there is an answer that is clear, simple and wrong."

That is especially true of drug abuse and addiction. Indeed, the problem is so complex that it has produced not just one clear, simple, wrong solution but two: the "drug war" (prohibition plus massive, undifferentiated enforcement) and proposals for wholesale drug legalization.

Fortunately, these two bad ideas are not our only choices. We could instead take advantage of proven new approaches that can make us safer while greatly reducing the number of Americans behind bars for drug offenses.

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Our current drug policies do far more harm than they need to do and far less good than they might, largely because they ignore some basic facts. Treating all "drug abusers" as a single group flies in the face of what is known as Pareto's Law: that for

any given activity, 20% of the participants typically account for 80% of the action.

Most users of addictive drugs are not addicts, but a few consume very heavily, and they account for most of the traffic and revenue and most of the drug-related violence and other collateral social damage. If subjected to the right kinds of pressure, however, even most heavy users can and do stop using drugs.

Frustration with the drug-policy status quo—the horrific levels of trafficking-related violence in Mexico and Central America and the fiscal, personal and social costs of imprisoning half a million drug dealers in the U.S.—has led to calls for some form of legalization. Just last week, at the Summit of the Americas in Cartagena, President Barack Obama got an earful from his Latin American counterparts about the need to reverse current U.S. drug policy.

The appeal of legalization is clear. At a stroke, it would wipe out most problems of the black market by depriving gun-wielding thugs of their competitive advantage. But for it to work, it would have to include not just the possession of drugs but their production as well—and not just of marijuana but of substances that really are very dangerous: cocaine, crack, heroin and methamphetamine.

Legalizing possession and production would eliminate many of the problems related to drug dealing, but it would certainly worsen the problem of drug abuse. We could abolish the illicit market in cocaine, as we abolished the illicit market in alcohol, but does anyone consider our current alcohol policies a success? In the U.S., alcohol kills more people than all of the illicit drugs combined (85,000 deaths versus 17,000 in 2000, according to a study in the *Journal of the American Medical Association*). Alcohol also has far more addicted users.

Alternative Drug Programs that Yield Results



Q. Sakamaki for The Wall Street Journal

Each participant in the program has a chance to speak during the meeting of the Drug Market Intervention program.

Any form of legal availability that could actually displace the illicit markets in cocaine, heroin and methamphetamine would make those drugs far cheaper and more available. If these "hard" drugs were sold on more or less the same terms as alcohol, there is every reason to think that free enterprise would work its magic of expanding the customer base, and specifically the number of problem users, producing an alcohol-like toll in disease, accident and crime.

Fortunately, there are things that we already know how to do that work demonstrably better than our current antidrug regime and avoid the predictably dire consequences of legalization. These practical measures can't abolish drug abuse or the illicit markets, but they could shrink those problems to a manageable size.

Start with the biggest problem: alcohol. Inflation has eroded the federal alcohol tax down to about a fifth of its Korean War level in constant-dollar terms. Analysis by Philip Cook of Duke University suggests that tripling the tax—from about a dime to about 30 cents a drink—would prevent at least 1,000 homicides and 2,000 motor-vehicle fatalities a year, all without enriching any criminals, putting anyone behind bars or having a SWAT team crash through anyone's door.

Raising alcohol taxes would have a big effect on adolescents and heavy drinkers, but many problem users of alcohol would have enough money to keep guzzling. Some of them like to drink and drive, or drink and beat up other people. Telling them not to misbehave does not do much good, because being drunk makes them less responsive to the threat of criminal penalties. So we need to find ways of preventing drinking among the relatively small group of people who behave very badly when they drink.

Larry Long, a district court judge in South Dakota, developed one promising approach, called 24/7 Sobriety. Started in 2005, it requires people who commit alcohol-related crimes—originally just repeat offenders for drunken driving but now other offenders—to show up twice a day, every day, for a breathalyzer test as a

condition of staying out of jail. If they fail to appear, or if the test shows they have been drinking, they go straight to jail for a day.

More than 99% of the time, they show up as ordered, sober. They can go to alcohol treatment, or not, as they choose; what they can't choose is to keep drinking. According to the state attorney general's office, some 20,000 South Dakotans have participated in 24/7 Sobriety (a large number for state with just 825,000 residents), and the program has made a big dent in rearrests for DUI.

By distinguishing sharply between people who use alcohol badly and the larger population of non-problem users, 24/7 Sobriety moves past the simple dichotomy of either banning a drug entirely or making it legal in unlimited quantities for all adults.



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'If subjected to the right kinds of pressure, even most heavy users can and do stop using drugs.'

An alternative means to the same end would require everyone buying a drink to show identification. A state could then make someone convicted of drunken driving or drunken assault ineligible to buy a drink just by marking his driver's license. That is a pretty minimal intrusion on the liberty of people convicted of crimes and on the privacy of those who don't now get "carded."

The same principle of denying drugs to problem users could work for the currently forbidden drugs. Current laws already make it illegal to possess or use cocaine, heroin and methamphetamine, but the risk of arrest is too low to be much of a deterrent. However, once someone has been convicted of a crime, the rules change. Abstinence can be required as a condition of pretrial release, probation or parole, and that condition can be enforced with chemical testing.

Drug testing is already widespread for probation and parole, but these systems lack any sort of swift, moderate penalty for detected drug use. Given the alternatives currently available—issuing a warning to the relapsed drug user or sending him back to serve out his full sentence—most judges and parole officers choose the warning. Probationers quickly learn that a warning is mostly a bluff, and they keep on using drugs and committing crimes.

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Steven Alm, a circuit judge in Honolulu, and Leighton Iles, the probation chief for Tarrant County, Texas (Fort Worth and Arlington), have demonstrated that swift and certain sanctions make all the difference. In a carefully studied yearlong trial involving hundreds of probationers, Judge Alm's program, called HOPE, reduced drug use by more than 80% and days behind bars by more than 50%, according to figures from the National Institute of Justice. Offenders quickly learned that drug use was no longer something they could get away with, and even most long-term users were able to quit. The program freed them from the cycle of use, crime and incarceration.

Letters to the Editor

[The War on Drugs Itself Is Causing Most of the Damage](#)

Having to call in every day to find out whether it is your day to be tested turns out to be powerful help in staying clean. As one probationer told a researcher, "Knowing I had to make that phone call the next morning ruined the high." Leighton Iles's Swift program in Texas has recorded equally impressive results,

and there are promising pilot efforts with parolees in Seattle and Sacramento.

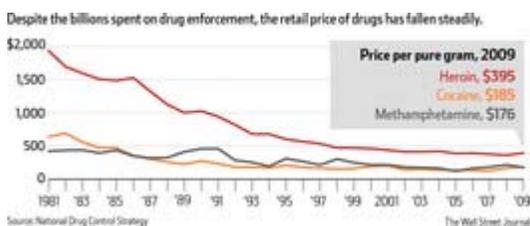
Substantial progress in suppressing the drug use of arrestees would be a great boon. It would deprive the illicit drug markets of their most valuable customers, which would, in turn, reduce violence in inner-city neighborhoods and take the pressure off Latin American countries now racked by drug dealing.

Since the war on drugs started in earnest three decades ago, the law has found it impossible to stop the flow of illegal drugs. Prices have dropped despite billions of dollars spent on catching drug dealers and locking them up. We are long overdue for refocusing antidrug efforts on the central task of protecting public safety and order.

David Kennedy of John Jay College in New York City has pioneered two related programs designed to go after the most violent dealers and organizations and to shut down the most violent market areas. His Drug Market Intervention program, first used in High Point, N.C., in 2004 and replicated many times in places such as Hempstead, N.Y., and Memphis, Tenn., focuses on areas where crack houses and flagrant street-corner dealing generate crime and disorder.

The first step, once the police negotiate community support, is to identify all the dealers and make cases against them. Then comes the surprising part: Instead of being arrested, the nonviolent dealers are called in for a meeting. (The handful of violent ones go to jail.) They are presented with the evidence against them—perhaps video of them making a sale—and confronted by angry neighbors, clergy and relatives. Each one is then offered a choice: Stop dealing and get help to turn your life around, or tell it to the judge.

The point is not to eliminate the drug supply but to force dealing into a less flagrant and socially damaging form: sales in bars or home delivery instead of street-corner transactions. The results have been spectacular, with long-established markets disappearing overnight.



Prof. Kennedy's other innovation was the Boston Ceasefire program. In 1996, violent youth gangs engaged in drug dealing and other crimes were brought in by the authorities and given a simple message: "If anyone in your gang shoots somebody, we will come down on every member of the gang for all of his illegal activity." Suddenly gang members had a strong reason to enforce nonviolence on one another, and pressure from peers

turned out to be more effective than pressure from police officers. Youth homicides dropped from two a month before the program started to none in the following two years.

This approach could be applied to violent individuals as well. Instead of trying to arrest all dealers indiscriminately, law enforcement could identify the most violent dealers, warn them that if they don't stop right away they are headed to prison, and focus on putting away as many as possible of those who don't quit. That wouldn't shrink the supply of drugs, but it might reduce street violence.

The U.S. has reached a dead end in trying to fight drug use by treating every offender as a serious criminal. Blanket drug legalization has some superficial charm—it fits nicely into a sound-bite or tweet—but it can't stand up to serious analysis. The real prospects for reform involve policies rather than slogans. It remains to be seen whether our political process—and the media circus that often shapes it—can tolerate the necessary complexity.

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