



# The case for decriminalizing heroin, cocaine, and all other drugs

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America's war on drugs has, by several measures, failed to live up to its goals.

Over the past couple of decades, illicit drug use has not decreased in a significant way. At the same time, the war on drugs has fallen short of its key economic goal: to make drugs more expensive, and therefore make them less accessible to drug users.

Even the White House's Office of National Drug Control Policy seems to agree with this point. In a release detailing the Obama administration's new anti-drug strategy, Michael Botticelli, acting director of ONDCP, wrote, "This Strategy ... rejects the notion that we can arrest and incarcerate our way out of the nation's drug problem."

The White House's strategy, to be sure, doesn't completely do away with incarceration and law enforcement in the fight against drugs, but the statement acknowledges that the last 40 years of the war on drugs have not produced the desired results.

Given the failures of the war on drugs and the spread of marijuana legalization, many drug policy experts

are now thinking about what's next. What should happen with other illicit drugs, such as heroin and cocaine, if the war on drugs isn't working? Should illicit drugs even be considered illegal in the first place?

I reached out to three drug policy experts for answers. They agreed that the criminalization of drugs has clearly failed, but where drug policy should go next remains a matter of debate.

## **There's one point of agreement: the war on drugs is a failure**

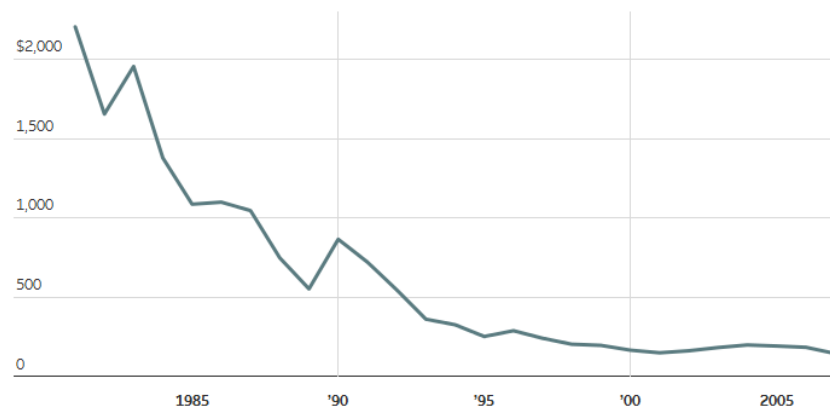
No matter their academic background or political leanings, there seems to be a consensus among many drug policy experts that the current war on drugs is a failure. This is the one point of agreement among Mark Kleiman, drug policy expert at UCLA; Jeffrey Miron, an economist at

Harvard University and the libertarian Cato Institute; and Isaac Campos, a drug historian at the University of Cincinnati.

The war on drugs goes after drug producers and dealers in an attempt to cut drugs at the source — before they reach the user. The idea is to cut down the supply, so drugs are more expensive and, therefore, less affordable and accessible for a drug user.

One way to check whether this strategy has succeeded is by looking at whether the price of drugs has gone up during prohibition. According to the most recent report from the White House's ONDCP, that's not the case. The prices of cocaine, crack, and heroin plummeted then stabilized in the past few decades, and meth's price has remained largely stable since the 1980s.

### Median bulk price of heroin per pure gram

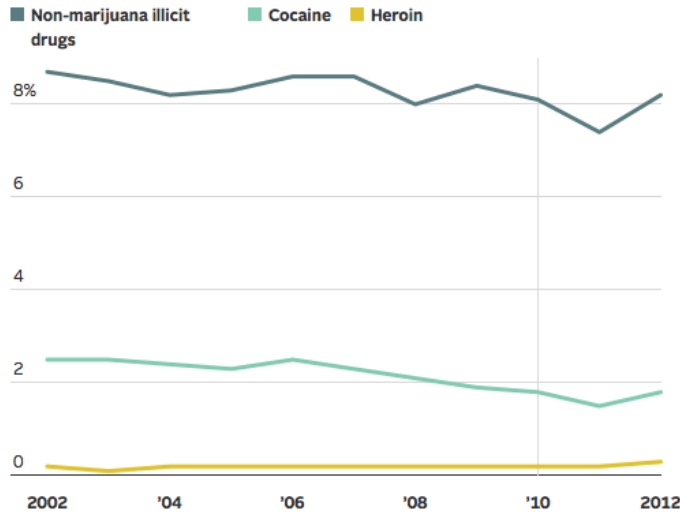


Source: Office of National Drug Control Policy



Another way to gauge the success of the war on drugs is actual drug use. Although non-marijuana illicit drug use was slightly lower in 2012 than 2002, the National Survey on Drug Use and Health found that the number of people who reported heroin use in the past year or month has been on the upswing.

## Percent of population reporting illicit drug use in the past year



Source: National Survey on Drug Use and Health



Campos, who's analyzed the historical numbers in his research, says drug abuse has never strongly correlated with drug policy. The numbers instead go up and down for all sorts of other reasons, including cultural shifts, fads, and changing demographics.

"nobody's got any empirical evidence that shows criminalization reduces consumption noticeably"

The failure to significantly raise drug prices or reduce drug use are why drug policy experts in general agree the war on drugs — and criminal enforcement against drugs in particular — isn't working.

As a result, experts argue the war on drugs comes with substantial costs — mass incarceration, an illicit drug market that finances violent criminal organizations, and a disproportionate effect on minorities — with no substantial benefit. It might be better, then, to look at decriminalizing these substances and going after drug abuse outside the criminal justice system.

Even Kleiman, the most cautious of the three experts interviewed for this story, supports decriminalization. Kleiman once opposed the idea, but he says he warmed up to it after looking at the evidence.

"What I've learned since then," he says, "is nobody's got any empirical evidence that shows criminalization reduces consumption noticeably."

### Experts disagree on whether decriminalization is enough

Although drug policy experts agree on decriminalization, they disagree on how it should work.

Kleiman supports general decriminalization for possession while keeping criminal penalties on sales. He would also keep some restrictions on people who prove to be a problem through their drug abuse.

"If somebody's a heroin user and a burglar, and he doesn't stop being a burglar unless he stops being a heroin user, then it's perfectly reasonable to require that person to quit," Kleiman says. "I also think it's perfectly reasonable to require a drunk driver to quit [drinking]."

Kleiman points to 24/7 Sobriety Programs as evidence this approach could work. The programs require twice-daily alcohol testing for every single person convicted of drunk driving, and anyone who fails the test is swiftly sent to jail for a few days. In South Dakota, alcohol-related traffic deaths declined by 33 percent between 2006 and 2007 — the highest decrease in the nation — after implementation of a 24/7 Sobriety Program.

In a paper, Kleiman analyzed a similar program in Hawaii for illicit drug users. Participants in that program had large reductions in positive drug tests and were significantly less likely to be arrested during follow-ups at three months, six months, and 12 months.

Kleiman's support for decriminalization stops short of supporting legal sales or distribution. The big problem with that, Harvard's Miron and the University of Cincinnati's Campos say, is that it keeps the illicit drug market in criminal hands. If sales and distribution aren't provided through some legal venue, then criminal organizations can continue making lots of money off drugs to fund their violent activities.

"The black market might even be fueled somewhat by the fact that people won't be arrested anymore, because maybe more people will use," Campos says. "We don't know if that's the case, but it's possible."

Campos, however, opposes outright commercialization of all drugs. His ideal policy would let people obtain drugs legally through different methods, depending on the drug. Cocaine, for instance, could be offered at very low doses in pharmacies. More addictive and dangerous drugs, like heroin, could be offered in controlled environments, similar to maintenance-dose programs in Switzerland that proved to reduce crime and death among heroin users.

"The most dangerous thing about taking heroin right now is you don't know what you're really taking. You don't know how pure it is, which makes it very easy to overdose," Campos says. "So under a regime in which these things are regulated, heroin use would be much safer."

Miron says all drugs, from possession to sales, should be fully legal. That would allow adults to possess any drug, but it would also let for-profit companies come in and sell the substances. Miron claims legalization would eliminate or significantly shrink the black market that currently funds criminal organizations and their violent activities.

It could also, Kleiman warns, lead to increased use or more problem users. For-profit drug businesses, just like alcohol and tobacco companies, would prefer heavy users, because the

heavy users tend to buy way more of their product. In Colorado's legal marijuana market, for example, the heaviest 30 percent of users make up nearly 90 percent of demand for pot.

"They are an industry with a set of objectives that flatly contradicts public interest," Kleiman says.

Miron argues that, even if sales or distribution are legalized, the harder drugs could be taxed and regulated similarly to or more harshly than tobacco and alcohol, although he personally doesn't support that approach. "You could absolutely legalize it and have restrictions on commercialization," Miron says. "Those should be separate questions."

### **The empirical evidence for decriminalization is lacking**

This disagreement among the experts is possible, even when looking at the research, because there's not much evidence on what would happen to drug abuse after decriminalization.

There's some evidence when it comes to decriminalization of marijuana, which showed that, at worst, it caused a temporary rise in pot use that eventually leveled out. There's also some research from Portugal, which decriminalized all drugs in 2001, that found drug use fell among teenagers but tricked up for young adults ages 20 to 24.

But it's unclear how this research could apply to the US decriminalizing all drugs. There are varying social, cultural, and economic factors at play, and it's not readily apparent how going from full criminalization to decriminalization would play into all of those factors.

The best evidence might be historical. After the US ended alcohol prohibition, Miron found that alcohol-related cirrhosis deaths went up by 10 to 20 percent. "That is an increase in use," Miron acknowledges, although he doesn't view it as a huge increase.

Campos looks back even further — to the late 19th century. Prior to the enactment of prohibition, hard drugs like cocaine, which was relatively new at the time, were almost entirely unregulated in the US: manufacturers could secretly include these drugs in any product, people could buy them over the counter with no prescription, and advertisers could make false claims about their benefits.

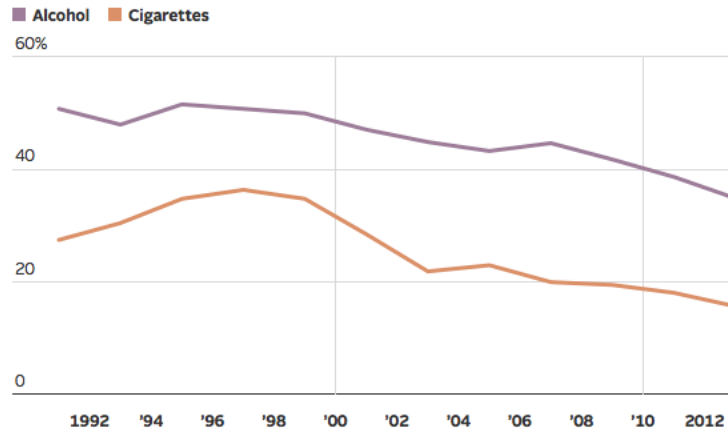
"We had the perfect storm for a wave of drug abuse," Campos says. "Even then, within a system far less regulated than anyone advocates for today — a system of radical legalization — we know that rates of abuse were not significantly higher than they have been in the last decade or so."

But Campos also cautions, "Initially, use of certain drugs would likely rise [after decriminalization]. I don't think there's any denying that for some people in the population there's a real deterrent effect in something being illegal."

There's some evidence, too, that a legal market doesn't have to lead to more drug use. Despite the remaining problems and deaths linked to tobacco and alcohol, the use of both has declined

among high school students. As marijuana legalization advocates argue, this suggests that a legal, regulated market can reduce use among the most vulnerable population for drug abuse.

## Percent of US high school students using legal drugs in the past 30 days

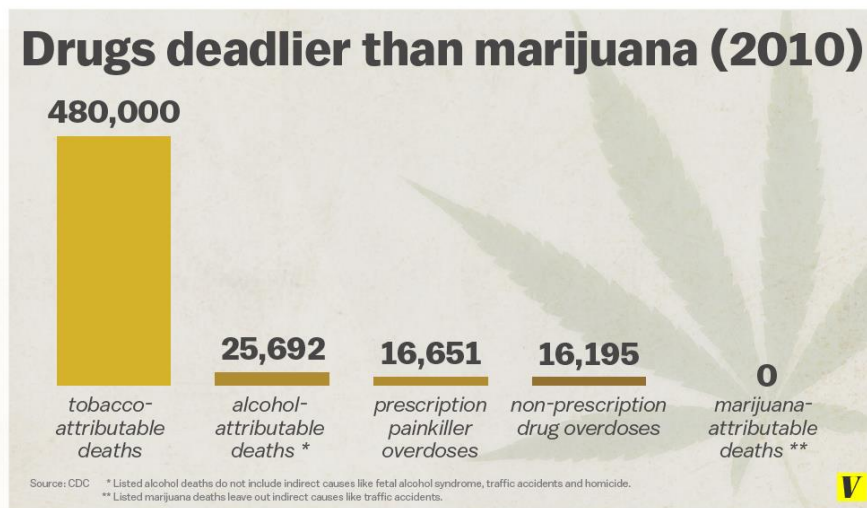


Source: CDC survey



In light of this decline, Campos points to the anti-tobacco campaigns as a great example of what could be done to curtail harder drug abuse under a legal regime. He argues public service announcements could be used to show people the risks involved and how to use drugs safely.

But even Campos acknowledges that it's not clear if these kind of ads would have the same impact for cocaine and other hard drugs as anti-tobacco campaigns did for cigarette smoking. Tobacco is demonstrably deadlier than any other drug in America and, as a result, a lot easier to warn people about without falling into misleading scaremongering.



That kind of hedging is very common in this debate. Although many drug policy experts support the end of criminalization, they just don't agree on how to go about it.

