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## A response to Jeff Sessions

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In a recent Washington Post op-ed, U.S. Attorney General Jeff Sessions makes numerous misleading claims about the U.S. War on Drugs and the appropriate role of the federal government in combatting drug crime. The premise of his argument is that drug trafficking is an intrinsically violent and crime-inducing activity, so the only way to make our communities safe is by adopting a tougher, heavy-handed approach to drug crime.

However, many of the facts and statistics that the Attorney General uses to support his arguments are distorted, misguided, or flat out incorrect. Sessions paints a false narrative of drug trafficking in America, and he mistakenly assumes that weak drug law enforcement has spurred violent crime. Let's analyze his statements one by one.

“Drug trafficking is an inherently violent business. If you want to collect a drug debt, you can't, and don't, file a lawsuit in court. You collect it by the barrel of a gun.” Correct. But only because drugs are illegal! Prohibition forces drug production and distribution underground, so standard dispute resolution uses violence rather than courts. The solution is trivial: legalize drugs.

“For the approximately 52,000 Americans who died of a drug overdose in 2015, drug trafficking was a deadly business.” Drug overdoses indeed claimed 52,000 lives in 2015, according to the CDC, but most of these involved non-prohibited drugs, such as prescription painkillers.. In addition, Sessions confuses drug overdoses with drug trafficking. The majority of the 52,000 overdose deaths had nothing to do with drug smuggling or drug crime; rather, they were instances in which someone accidentally consumed too much of an opioid. That occurs far more under prohibition, when information about purity and quality are scarce, than in a legal market.

“Yet in 2013, subject to limited exceptions, the Justice Department ordered federal prosecutors not to include in charging documents the amount of drugs being dealt when the actual amount was large enough to trigger a mandatory minimum sentence. Prosecutors were required to leave out objective facts in order to achieve sentences lighter than required by law. This was billed as an effort to curb mass incarceration of low-level offenders, but in reality it covered offenders apprehended with large quantities of dangerous drugs. The result was that federal drug prosecutions went down dramatically — from 2011 to 2016, federal prosecutions fell by 23 percent.” Sessions states that total federal prosecutions fell dramatically between 2011 and 2016, but he fails to mention that federal drug prosecutions actually remained constant (32%) as a

share of all prosecutions during that time period. The natural interpretation is therefore that federal prosecution became less aggressively generally; not that attention to drug enforcement declined disproportionately.

“Meanwhile, the average sentence length for a convicted federal drug offender decreased 18 percent from 2009 to 2016.” The correct number is closer to 15 percent.

“Before that policy change, the violent crime rate in the United States had fallen steadily for two decades, reaching half of what it was in 1991. Within one year after the Justice Department softened its approach to drug offenders, the trend of decreasing violent crime reversed.” National violent crime has fallen precipitously since peaking in the early 1990s, and violent crime indeed ticked up in 2015. But Sessions conveniently forgets that in 2012—right before the policy change supposedly went into place—violent crime rates actually increased. Violent crime rates then fell steadily in 2013 and 2014, the two years immediately after the Justice Department’s policy change. In 2015, violent crime edged up by 3.9 percent, but it’s too early to tell if this represents a reversing trend or just one of the numerous ups-and-downs observed since 1990.

“In 2015, the United States suffered the largest single-year increase in the overall violent crime rate since 1991. And while defenders of the 2013 policy change point out that crime rates remain low compared with where they were 30 years ago, they neglect to recognize a disturbing trend that could reverse decades of progress: Violent crime is rising across the country. According to data from the FBI, there were more than 15,000 murders in the United States in 2015, representing a single-year increase of nearly 11 percent across the country. That was the largest increase since 1971.” These facts are all correct. But again, one year of data is not even remotely enough to demonstrate a change in trend. Ups and downs in the crime rate happen regularly. And even if crime rates were slightly on the rise, where is the evidence that this is connected to fewer drug convictions? Many other factors are plausibly at play.

“Defenders of the status quo perpetuate the false story that federal prisons are filled with low-level, nonviolent drug offenders. The truth is less than 3 percent of federal offenders sentenced to imprisonment in 2016 were convicted of simple possession.” Sessions conflates “low-level, nonviolent drug offenders” with those “convicted of simple possession.” Nearly half of the nation’s roughly 200,000 federal inmates are imprisoned on drug-related charges. Sessions is right that hardly any of these charges are for mere possession. But drug trafficking encompasses activities as benign as selling a few grams of marijuana on the street corner. 35% of drug offenders sentenced in federal prison had no or minimal criminal history beforehand, according to a recent report by the Bureau of Justice Statistics. And 76% of drug offenders serving time did not use a weapon in their most recent offense.

“The truth is that while the federal government softened its approach to drug enforcement, drug abuse and violent crime surged. The availability of dangerous drugs is up, the price has dropped and the purity is at dangerously high levels.” Rising drug availability, declines in prices, and rising purity levels have been trends since long before the Obama policy changes. For example, the cost of heroin has fallen by over 70 percent since the early 1990s. The same pattern is true for other drugs. There is no evidence that the federal government’s change in policy had any discernable impact on drug prices, availability, or purity.

“Overdose deaths from opioids have nearly tripled since 2002. Overdose deaths involving synthetic opioids rose an astonishing 73 percent in 2015.” It is true that opioid overdose deaths have risen nearly threefold since 2002 – which demonstrates that rising drug availability and potency are trends that far predate Obama-era policy changes.

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