

Jesse Schwab

Politics of the Green: The Obama Administration Changing the Marijuana Conversation

Advisor: Jennifer Gumbrewicz, Department of Justice, Law and Society

University Honors

Spring 2012

## Table of Contents

Abstract.....	2
Introduction.....	3
Official Marijuana Policies.....	5
Federal Agencies Focusing on Drug Control.....	5
ONDCP and NDCS.....	5
Federal Implementers.....	6
Shift to Public Health Approach.....	9
Global Commission on Drug Policy.....	11
Background on GCDP.....	11
Structure of the “Report of the GCDP.....	12
Analysis of the National Drug Control Strategy.....	15
Level of Approach Inconsistencies.....	15
Legal Status Reform Opposition.....	16
Public Health Inconsistencies.....	17
Goals and Strategies Disjointed.....	18
Explanation for Lack of Change.....	20
Conclusions.....	21
Works Cited.....	23

### Abstract

This paper will analyze the Obama Administration's marijuana policies. The Office of National Drug Control Policy (ONDCP) releases an annual National Drug Control Strategy that sets forth federal drug policies. Since the first Obama Administration Drug Control Strategy in 2010, the approach to marijuana policies has shifted from a solely criminal justice approach to a public health approach. In order to analyze the legitimacy of the ONDCP's policies, the NDCS will be compared to another public health based drug control strategy, the report of the Global Commission on Drug Policy. The GCDP recommends a comprehensive public health approach.

The paper concludes that the shift to public health rhetoric is primarily a political maneuver, as the funding and programs implemented by the Obama Administration do not reflect a public health approach. However, the Obama Administration is changing the marijuana conversation, concrete public health policies have not been implemented. The paper concludes that the ONDCP should adopt the structure and approach of the GCDP, but not necessarily the specific recommendations of the report. An approach more like that of the GCDP would allow the ONDCP to create consistent public health policies.

## Introduction

The Obama Administration has changed the federal approach to marijuana policy. While marijuana has historically been treated as a strictly criminal justice issue, the Obama Administration has shifted the approach towards marijuana to focus more heavily on public health. The Administration claims to be taking a new, balanced approach focusing on the three key issues of prevention, treatment and law enforcement. The redefinition of the marijuana problem has implications for public opinion and specific policy initiatives.

The National Drug Control Strategy (NDCS), released each year by the Office of National Drug Control Policy (ONDCP), identifies the drug problems the country faces and outline's the administration's plans to tackle these problems. This paper will analyze whether the new approach is being actualized in the strategies put forth in the NDCS.

In order to analyze whether the NDCS represents sound policy, it will be compared to a comparable drug strategy, the "Report of the Global Commission on Drug Policy". The Global Commission on Drug Policy (GCDP) takes a public health approach to marijuana policy. The policy recommendations contained in the report are consistent with public health goals. This "Report of the Global Commission on Drug Policy" will serve as a standard for consistent and cohesive public health policy.

To be clear, this paper will not make recommendations for the type of marijuana policies that should be implemented in the United States. Instead, it will analyze whether the ONDCP is truly implementing a public health approach to marijuana policy. It will identify whether the public health goals set forth are met by the strategies laid out by the ONDCP.

The Obama Administration's redefining of the marijuana problem to a public health issue more accurately reflects and achieves the goals of the administration. The Obama

Administration has appropriately recognized that a solely criminal justice approach does not achieve their goals. However, the NDCS lacks consistency between the stated goals and the implementation strategies. While the framing of approach to marijuana policy is public health based, many of the strategies have not changed. The ONDCP is attempting to implement a public health strategy within the confines of the criminal justice structure that was already in place. Additionally, the ONDCP is working under the inaccurate assumption that any change to the legal status of marijuana will unquestionably work against the stated goals of the administration. The ONDCP does not articulate an evidentiary basis for this assumption, and does at all address legal changes short of full legalization. This indicates an unwillingness to discuss legal status changes even if evidence is presented to suggest they would be successful.

The ONDCP should adopt an approach similar to that of the Global Commission on Drug Policy. The recommendations of the "Report of the Global Commission on Drug Policy" may or may not be advisable for implementation in the United States. However, the structure of identifying goals and strategies that fit into the framework of public health is an improvement that would remove inconsistencies and create more cohesive marijuana policies in the United States.

Important to the analysis of the NDCS is an understanding of general drug policy strategies. Drug policies can be separated into supply side policies and demand side policies. Supply side policies aim to reduce the availability of marijuana. Demand side policies seek to reduce the number of users and frequency of use. The goals and strategies must align in terms of supply or demand approaches. Public health goals are purely demand side. All of the public health harms result from use either from an individual's use harming themselves or others. Public safety policies attack both supply side and demand side.

## Official Marijuana Policies

Under the Controlled Substances Act, marijuana is classified as a Schedule I drug. The definition for a schedule one classification has three components: "the drug or other substance has a high potential for abuse, the drug or other substance has no currently accepted medical use in treatment in the United States and there is a lack of accepted safety for use of the drug or other substance under medical supervision."<sup>1</sup> Alcohol and tobacco also meet the three components, yet have not been classified as Schedule I drugs, and remain legal in the United States. The arbitrary distinction between alcohol and tobacco and marijuana is not explained anywhere in federal policy.

Section 841 of the Controlled Substances Act defines a "drug, narcotic, or chemical offense" as, "any offense which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell or transfer ant substance which is prohibited under this subchapter."<sup>2</sup>

Sixteen states in the U.S. state marijuana laws that contradict the federal prohibition of marijuana. In each of these states, the "use of marijuana for pain relief, nausea and loss of appetite by people with AIDS, cancer and other debilitating diseases" has been legalized.<sup>3</sup>

## Federal Agencies Focusing on Drug Control

The federal government employs multiple federal agencies to implement marijuana policies. The agencies can be separated into policy creators and policy implementers.

### **Office of National Drug Control Policy and the National Drug Control Strategy**

The ONDCP serves as the policy creating agency for federal marijuana policies. The ONDCP "advises the President on drug-control issues, coordinates drug--control activities and

---

<sup>1</sup> "Title 21"

<sup>2</sup> "Title 21"

<sup>3</sup> "State Medical"

related funding across the Federal government, and produces the NDCS."<sup>4</sup> It serves as a part of the Executive Office of President Obama. Under the Obama Administration, the Director of the ONDCP is Gil Kerlikowske, who has a long history of experience in law enforcement and policy. He has served as Chief of Police in Seattle, Washington, Deputy Director for the U.S. Department of Justice in the Office of Community Oriented Policing Services, President of the Major Cities Chiefs, President of the Police Executive Research Forum and a number of law enforcement positions.<sup>5</sup>

In his role as director, Kerlikowske oversees the creation of the NDCS. This document, released annually, "outlines Administration efforts to reduce illicit drug use, manufacturing and trafficking, drug-related crime and violence, and drug-related health consequences."<sup>6</sup> The federal approach to drug policy formation, implementation and enforcement is guided by the goals and strategies outlined in this report. The Obama Administration released their inaugural NDCS in 2010. The Administration purports to have redefined the issue of drug use in America to include greater attention to public health concerns.

### **Federal Implementers**

Under the Obama Administration, several institutions are serving as implementers and enforcers of policy. In assessing the implementation of policies, it is important to note the distinction between federal and state efforts and policies. The ONDCP recognizes in the NDCS that drug culture varies across the U.S. and localized approaches may be necessary.<sup>7</sup> However, one area the administration has not demonstrated any flexibility on is the legal status of marijuana. Sixteen states have passed laws legalizing medical marijuana. Actions by the Obama

---

<sup>4</sup> "Office"

<sup>5</sup> "Office"

<sup>6</sup> "Office"

<sup>7</sup> "National", pg. 6

Administration and a ruling from the Supreme Court indicate that these state laws are not respected by the federal government. Though this paper will not address the specifics of medical marijuana laws, the interaction between federal marijuana laws and state marijuana laws is important.

The primary agency being used to enforce prohibition is the Department of Justice. The Obama Administration has utilized the Department of Justice to bust medical marijuana dispensaries, despite early statements saying they would not. In 2008 Obama was quoted saying "I'm not going to be using the Justice Department resources to try to circumvent state laws [on medical marijuana]."<sup>8</sup> However, since October 2009 "the Justice Department has conducted more than 170 aggressive SWAT-style raids in 9 medical marijuana states, resulting in at least 61 federal indictments."<sup>9</sup> Obama has since commented that his earlier statements were meant in regards to individuals using medical marijuana. He clarifies that "I never made a commitment that somehow we were going to give carte blanche to large-scale producers and operators of marijuana--and the reason is, because it's against federal law."<sup>10</sup> Attorney General Eric Holder's guidance to law enforcement in states with legal medical marijuana was expressed through a memo from Deputy Attorney General. The memo recommends that resources be devoted to supply side arrests. The memo does not authorize law enforcement to ignore the federal ban on marijuana use, but does suggest that possession and individual use are not priorities.<sup>11</sup> This memo was elicited by Attorney Generals in several states with legalized medical marijuana who requested clarification on the federal government's position.

While the Obama Administration has not yet prosecuted any individuals using medical

---

<sup>8</sup> "Obama Explains"

<sup>9</sup> "Obama Explains"

<sup>10</sup> "Obama Explains"

<sup>11</sup> Russo



marijuana in compliance with state laws, the administration has found other ways to punish these individuals. In February 2011 the U.S. Department of Housing and Urban Development release a memo regarding Public Housing and Housing Choice Voucher Programs. The memo prohibits the acceptance of individuals who under state laws use medical marijuana, and allows for the removal of current residents who use medical marijuana .<sup>12</sup> Additionally, the Internal Revenue Service has special tax policies for medical marijuana dispensaries. IRS deputy associate chief counsel spelled out the official position in a letter to members of congress: "Section 280E of the Code disallows deductions incurred in the trade or business of trafficking in controlled substances that federal law or the law of any state in which the taxpayer conducts the business prohibits."<sup>13</sup> This means that dispensaries "cannot deduct standard business expenses such as payroll, security or rent."<sup>14</sup>

The only federal organization to comply with state medicinal marijuana laws has been the Department of Veterans Affairs (VA). In July 2010, the VA released a new policy that veterans receiving medical marijuana through another physician could continue to use VA clinics for other health needs. Though the clinics will not provide prescriptions or pay for it, they stopped banning the use of clinics to individuals testing positive for marijuana use if they had a prescription.<sup>15</sup>

The sum total of these actions indicates that marijuana policies will need to be settled on a federal level. The Obama administration has cracked down harder than previous administrations, sending the message that they will be handling this issue.<sup>16</sup> Though more localized information may be relevant to the implementation of policies, the administration does

---

<sup>12</sup> Russo

<sup>13</sup> Olson

<sup>14</sup> Olson

<sup>15</sup> Yen

<sup>16</sup> "Obama Explains"

not appear flexible on the legalization issue.

### Shift to Public Health Approach

The Obama Administration, since its inaugural NDCS in 2010, has suggested that they are taking action to make public health a large portion of the drug policy approach. Obama described the change: "... my new strategy includes efforts to educate young people who are the most at-risk about the dangers of substance abuse, allocates unprecedented funding for treatment efforts in federally qualified health centers, reinvigorates drug courts and other criminal justice innovations, and strengthens our enforcement efforts to rid our streets of the drug dealers who infect our communities."<sup>17</sup> Statements like these from Obama and his Administration are shifting the discussion to treatment and preventative public health approaches to drug policies.

Obama has a history of opposing the drug war in the United States. In a 2004 senate debate he stated, "The war on drugs has been an utter failure. We need to rethink and decriminalize our marijuana laws. We need to rethink how we're operating the drug war."<sup>18</sup> Prior to the Obama Administration, the approach to marijuana policies has constantly remained a criminal justice approach.

The Obama Administration's Drug Czar, Gil Kerlikowske, has discussed the end of "drug war" terminology since early 2009. In his first interview as Drug Czar Kerlikowske commented, "Regardless of how you try to explain to people it's a 'war on drugs' or a 'war on a product', people see a war as a war on them. We're not at war with people in this country." Kerlikowske's statement indicates a transition in the approach to drug policies. The term "war on drugs" is not used by the Obama Administration, and public health issues have been increasingly publicly

---

<sup>17</sup> "National Drug..2010", pg. iii

<sup>18</sup> Debusmann

discussed. The shift was brought on by an acknowledgment that past practices were not effective. Kerlikowske pointed out, "We cannot continue to pursue the same old strategy and expect better results."<sup>19</sup> The NDCS will be judged against this standard. The Obama Administration must truly alter the strategy in order to achieve better results.

Prior to the release of its first NDCS, the Obama Administration completed a comprehensive evaluation of the drug strategies in practice during the Bush Administration. The research included the creating of the Interagency Working Group for Demand Reduction, participation by Kerlikowske in roundtables with professionals in a multitude of drug related areas such as law enforcement and politicians, and communication with relevant stakeholders like members of Congress and American Indian organizations.<sup>20</sup>

The new research contributed to advocacy of a newly balanced approach. The ONDCP suggested in 2010 that past criminal strategies would continue to be used, but with the addition of public health strategies. The public health issues were described in the 2010 NDCS as "drug addiction is a disease with a biological basis, and drug use-whether to not the user is addicted-raises the risk of traumatic accidents, infectious diseases, psychiatric disorders, family violence, and a host of other health problems. Drug use also complicates the management of virtually every prevalent chronic illness (e.g., diabetes, chronic pain, hypertension, insomnia), resulting in significant suffering and healthcare costs."<sup>21</sup> The Administration is publicly describing current drug users as patients.

The NDCS specifically addresses the Administration's public health based rationale for the continued ban on marijuana: "Diagnostic, laboratory, clinical and epidemiological studies clearly

---

<sup>19</sup> "National Drug...2010", pg. v

<sup>20</sup> "National Drug...2010", pg. 7

<sup>21</sup> "National Drug...2010", pg. 7

indicate that marijuana use is associated with dependence, respiratory and mental illness, poor motor performance, and cognitive impairment, among other negative effects, and legalization would only exacerbate these problems."<sup>22</sup> Once again, the Obama Administration closely ties the prohibition of marijuana with public health improvements, despite no evidence to suggest this is true.

### Global Commission on Drug Policy

In order to assess the consistency of the NDCS proposed by the Obama Administration, it should be contrasted to other public health and safety approaches to marijuana. The stated goals of the commission are, "review the basic assumption, effectiveness and consequences of the 'war on drugs' approach, evaluate the risks and benefits of different national responses to the drug problem, and develop actionable, evidence-based recommendations for the constructive legal and drug policy reform." <sup>23</sup>

### **Background on the Global Commission on Drug Policy**

The Global Commission on Drug Policy's report is an excellent source for a drug policy plan. The organization points out that "No country has come up with a fully satisfactory set of policies. The polarization between legalization and prohibition blocks the debate."<sup>24</sup> The problem of polarization is evident within the Obama Administration, as the ONDCP continues to make unsubstantiated claims linking prohibition to public health improvements.

The group allows for open discussion on drug policies without the constraints of a specific nation's political culture. The commission has representatives from across the world, but includes three representatives from the United States: George Schultz, former Secretary of State,

---

<sup>22</sup> "National Drug...2010", pg. 8

<sup>23</sup> "What We Do"

<sup>24</sup> "What We Do"

John Whitehead, banker and chair of the World Trade Center Memorial, and Paul Volcker, former chairman of the US Federal Reserve and of the Economic Recovery Board.<sup>25</sup> The commission also includes Kofi Anon, former secretary general of the United Nations, and former presidents and prime ministers of five states.<sup>26</sup> The commission also contains representatives from Poland, Pakistan, Mexico, Columbia, Brazil, Greece, Spain, Switzerland, Germany, Peru, Czech Republic, United Kingdom and Norway.<sup>27</sup>

### **Structure of the "Report of the Global Commission on Drug Policy"**

The Global Commission on Drug Policy released, in June 2011, a report on the failure of the global war on drugs. The report contains four principles recommended to guide national and international drug policies, and eleven recommendations for action.

The principles are:

*"1. Drug policies must be based on solid empirical and scientific evidence. The primary measure of success should be the reduction of harm to the health, security and welfare of individuals and society.*

*2. Drug policies must be based on human rights and public health principles. We should end the stigmatization and marginalization of people who use certain drugs and those involved in the lower levels of cultivation, production and distribute, and treat people dependent on drugs as patients, not criminals.*

*3. The development and implementation of drug policies should be a global shared responsibility, but also needs to take into consideration diverse political, social, and cultural realities. Policies should respect the rights and needs of people affected by production,*

---

<sup>25</sup> "What We Do"

<sup>26</sup> Carter

<sup>27</sup> "What We Do"

*trafficking and consumption, as explicitly acknowledged in the 1988 Convention on Drug Trafficking.*

*4. Drug policies use be pursued in a comprehensive manner, involving families, schools, public health specialists, development practitioners and civil society leaders, in partnership with law enforcement agencies and other relevant government bodies.”<sup>28</sup>*

Each of the eleven recommendations in the report is premised on the four principles. Additionally, the recommendations specifically address the issues discussed in the four principles. An examination of three examples are provided below to demonstrate this.

The fifth recommendation is "*challenge, rather than reinforce, common misconceptions about drug markets, drug use and drug dependence.*"<sup>29</sup> This recommendation demonstrates an acknowledgment that public knowledge and misperceptions are important in the forming of drug policy. Particularly in the United States, the federal government is responsive to public opinion, especially in highly publicized and controversial areas of law. The report acknowledges general fear of drugs and observes, "these fears are grounded in some general assumptions about people who use drugs and drug markets, that government and civil society experts need to address by increasing awareness of some established (but largely unrecognized) facts."<sup>30</sup> This recommendation helps to address all four principles. Principle one is achieved because if the general population is more educated about the realities of drug information, drug policies will not have to cater to misperceptions and fears of the public. Stigmatization will decrease if people are more educated, achieving principle two. Principle three will be addressed because there will be greater consideration of those involved. The general public can become more actively and appropriately involved in the process of forming policies when more informed,

---

<sup>28</sup> "War", pg. 5-9

<sup>29</sup> "War", pg. 13

<sup>30</sup> "War", pg. 13

addressing principle four.

The sixth recommendation is "countries that continue to invest mostly in a law enforcement approach (despite the evidence) should focus their repressive actions on violent organized crime and drug traffickers, in order to reduce the harms associated with the illicit drug market."<sup>31</sup> This takes into account the cultural and political realities of certain areas that are criminal justice focused, addressing principle three. It focuses in the types of organizations that, as shown by evidence, are likely to be impacted by a criminal justice approach, advocating the use of law enforcement against "organized crime groups that have expanded their power and reach on the back of drug market profits ", accomplishing the evidence based approach principle one recommends<sup>32</sup>. Principle two is directly addressed by focusing resources on groups that create a threat to human rights and public health. Finally, principle four is taken into consideration with the clear implication that other strategies should be used to combat drug production that is not related to organized crime.

The seventh recommendation is to "promote alternative sentences for small-scale and first time drug dealers."<sup>33</sup> The commission outlines the dangers of the status quo in which, "governments are filling prisons with minor offenders serving long sentences, at great cost, and with no impact on the scale or profitability of the market"<sup>34</sup> This fulfills the first principle's call to emphasize reducing harm. Practices that don't reduce harm shouldn't be implemented. This directly accomplishes the second principle's command not to marginalize low level offenders. Principle three is achieved by taking into consideration the social and cultural realities of low level offenders. Principle four is achieved by recognizing that a comprehensive approach

---

<sup>31</sup> "War", pg. 14

<sup>32</sup> "War", pg. 14

<sup>33</sup> "War", pg. 16

<sup>34</sup> "War", pg. 16

involves relinquishing law enforcement jurisdiction over some drug issues.

The remaining eight recommendations follow the trend of the mentioned three. The principles are truly considered and addressed through the recommendations proposed by the report.

### Analysis of the NDCS

The Obama Administration purports to have shifted the approach to drug policy. Since the first drug control strategy of this administration in 2010, the ONDCP has emphasized consideration for public health issues as a primary focus of their drug policies. Obama's message to congress in the 2012 drug control strategy primarily stressed his instruction to "reengage in efforts to prevent drug use and addiction and to make treatment available for those who seek recovery."<sup>35</sup> Obama further argued, "this new, balanced approach will expand efforts for the three critical ways that we can address the drug problem: prevention, treatment, and law enforcement."<sup>36</sup> The Obama Administration fails to approach these three issues with the balanced approach they claim to have.

### **Level of Approach Inconsistencies**

The ONDCP states, "A national prevention system must be grounded at the community level."<sup>37</sup> This assertion is similar to the GCDP report's third premise that policies "need to take into consideration diverse political, social and cultural realities."<sup>38</sup> In line with this principle, the GCDP report makes the recommendation to "encourage experimentation by governments

---

<sup>35</sup> "National Drug...2010", pg. iii

<sup>36</sup> "National Drug...2010", pg. iii

<sup>37</sup> "National Drug...2012", pg. 9

<sup>38</sup> "War", pg. 8



with models of legal regulation of drugs."<sup>39</sup> This recommendation suggests giving room for more localized governments to make the proper legal decisions for their constituents regarding marijuana. The Obama Administration has been unwilling to relinquish this power to the states. Obama's steadfast insistence on prohibition everywhere limits the Administration's ability to truly implement public health strategies.

### **Legal Status Reforms**

One of the most praiseworthy aspects of the GCDP report is the first premise, that "drug policies must be based on solid empirical evidence and scientific evidence."<sup>40</sup> Any solid policy must be based in the realities it seeks to address. The NDCS fails to implement such an approach because the Administration does not even address research related to prohibition.

Given that one of two over-arching goals stated by the ONDCP is to reduce the use of illicit drugs, it is crucial that the administration accurately assess the impact that any change to the legal status would have on use. The inaugural Obama NDCS asserts briefly the administration's view on legalization of marijuana: "Keeping drugs illegal reduces their availability and lessens willingness to use them. That is why this Administration firmly opposes the legalization of marijuana or any other illicit drug. Legalizing drugs would increase accessibility and encourage promotion and acceptance of use."<sup>41</sup> Of importance is the fact that this statement is not supported by any evidence or references to research. This assumption serves as a basis for many of the arguments contained within the strategy. The assumption that removing the current ban on marijuana will increase use eliminates several reform options. These include, but are not limited to, changing the classification of marijuana to a different

---

<sup>39</sup> "War", pg. 12

<sup>40</sup> "War", pg. 5

<sup>41</sup> "National Drug...2010", pg. 8

schedule under the Controlled Substance Act, decriminalization and regulated legalization. The Administration's unwillingness to consider these possibilities stifles the discussion, working against the Administration's goal of comprehensive strategies.

The statements made about legalization by the ONDCP are unfounded. Assessments of areas where marijuana has been decriminalized such as Portugal and Australia show only slight increases in use, consistent with the small increases in areas where marijuana is still legal.<sup>42</sup> Regarding the conclusions on the ONDCP, "there's absolutely no evidence whatsoever that decriminalization, or even legalization, leads to more use."<sup>43</sup> The refusal to consider alterations to the legal status of marijuana undermines the administration's ability to implement an effective public health approach to demand reduction.

### **Public Health Inconsistencies**

The primary reason the GCDP report was chosen as a point of comparison is the consistency between goals and strategies. The commission clearly defines how it will treat drugs. Specifically, the second principle dictates that "we should end that stigmatization and marginalization of people who use certain drugs and those involved in the lower levels of cultivation, production and distribution, and treat people dependent on drugs as patients not criminals."<sup>44</sup> In particular the phrasing "patients not criminals" dictates the changes in policy. The commission sticks to this approach throughout the report. On the contrary, the NDCS fails to achieve consistency between goals and strategies. The NDCS similarly suggests that drug users be treated as patients, but simultaneously advocates for the continued prohibitions and the prosecution of drug users.

---

<sup>42</sup> Goodman

<sup>43</sup> Goodman

<sup>44</sup> "War", pg. 5

Governments face the constant tension between protecting the populous and allowing for the freedom of individual choice. The realm of public health requires a particularly tricky balancing act. By reframing the marijuana issue as a matter of public health, the ONDCP has further blurred the line between marijuana and legal drugs. Tobacco and alcohol are also treated as public health issues but are not regulated through prohibition. The ONDCP has provided no explanation as to why the marijuana public health issue warrants a total ban while prohibition does not work for alcohol or tobacco. The public health approach to marijuana reinforces the arbitrary nature of marijuana prohibition.

Evidence actually suggests that marijuana causes less harm than alcohol and tobacco. In a study on the comprehensive harm to society done by seventeen different drugs, marijuana was listed below alcohol and tobacco. On a scale of 0-3, 3 being the greatest harm, marijuana was ranked a 1.3, while tobacco received a 1.6 and alcohol received a 1.8.<sup>45</sup> The administration justifies the prohibition of marijuana on the public health and safety risks that marijuana poses. However, the government fails to establish what these harms actually are.

### Goals and Strategies Disjointed

A primary purpose of the NDCS is to identify goals. The federal government has identified reduction in demand as the primary goal from both a public health and safety perspective. The federal government has included the use of the criminal justice system and continued prohibition as a strategy for achieving this goal. This approach continues despite evidence that it has not worked in the past.

The NDCS strategy suffers from inconsistencies between supply-side and demand-side strategies. In comparison, the GCDP report clearly defines the strategy as a demand side public

---

<sup>45</sup> "War", pg. 12

health approach and a limited supply side criminal justice approach. In line with this definition, all of the recommendations pick one of these issues to address. For example, recommendation two suggests more treatment programs for drug users, a demand-side public health approach.<sup>46</sup> Recommendation eight suggests investment in evidence-based youth prevention programs, another demand-side public health approach.<sup>47</sup> Recommendation six suggest focusing law enforcement efforts specifically on organized crime financed by drug dealing, a supply-side, limited criminal justice approach.<sup>48</sup>

The NDCS fails to make the same demand-side and supply-side distinctions. In fact, in several cases the strategy advocates for contradicting policies. As with the GCDP report, a proper public health/criminal justice balance approach will implement demand-side public health strategies and supply-side limited criminal justice approach. The administration has acknowledged that they can't arrest their way out of the drug problem.<sup>49</sup> The Obama Administration insists on a hard line of illegality of marijuana. The Obama Administration uses the criminal justice approach too broadly. Rather than reducing the demand-side criminal justice approach, the National Drug Control Budget for 2013 includes increases in law enforcement and incarceration spending. Spending on incarceration and monitoring of drug addicted inmates will cost \$4.527 billion, a \$141.8 million increase from FY2012.<sup>50</sup> Domestic law enforcement also shows a budget increase. An additional \$61.4 million will be spent on domestic law enforcement since FY2012, totaling \$9.4 billion for the year.<sup>51</sup>

The ONDCP asserts that, "preventing drug use before it begins is the most cost-effective,

---

<sup>46</sup> "War", pg. 10

<sup>47</sup> "War", pg. 16

<sup>48</sup> "War", pg. 14

<sup>49</sup> Gardner

<sup>50</sup> "The National"

<sup>51</sup> "The National"

common sense approach to promoting safe and healthy communities.<sup>52</sup> The 2012 NDCS indicates that the prevention programs have made the most significant strides of any policy changes the Administration has implemented.<sup>53</sup> These strategies would be unaffected by a change in legal status to marijuana, but the ONDCP refuses to acknowledge this. Essentially, the ONDCP is implementing a public health approach within a criminal justice structure. Until the ONDCP accurately assesses and adjusts the criminal justice structure, public health will not be a true priority.

#### Explanation for Lack of Change

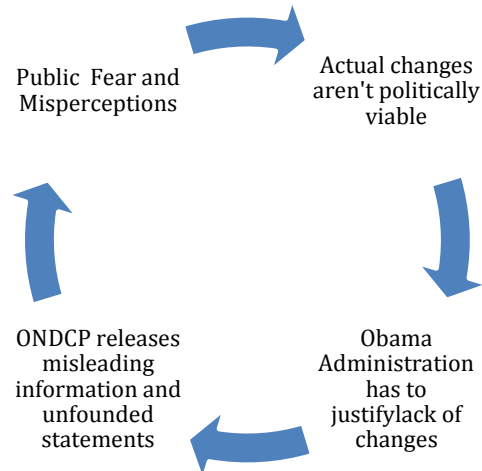
Given the assertions in this paper, it would seem that the Obama Administration would be open to actual drug policy reform. Unfortunately, as is done with many political issues in the Washington, the Administration is playing political games. Particularly with an upcoming election, it would be dangerous for the Obama Administration to enact reforms that would not be well received by the public. The public opinion can be encapsulated in this statement: "Fear of illicit drugs-as a source of crime and violence and even more as a magnetic temptation for children and teens-remains a powerful deterrent to any public support for a relaxation of hard-line, punitive anti-drug policies."<sup>54</sup> Drug policy in the United States is caught in a vicious cycle.

---

<sup>52</sup> "National Drug...2012", pg. 9

<sup>53</sup> "National Drug...2012", pg. 9

<sup>54</sup> Hakim



The Obama Administration is the first Administration making drug policy in the context of prevalent ant-drug war discussion. Unlike past Administrations, the Obama Administration faces political pressure to stray from a law and order approach. However, the general public remains largely misinformed about the realities of marijuana. There is not public support for a move away from marijuana prohibition. As such, the Obama Administration is left with a very small politically viable space in which to work. The strategies the Obama Administration is using are transitional. Though actual inclusion of public health considerations is limited, the Administration is changing the conversation.

### Conclusions

The Obama Administration has not truly implemented a public health approach. The ONDCP has been unable to break the cycle of fear driven, criminal justice based drug policies. The NDCS contains three primary issues. First, the entire strategy is based on the false premise that any change in the legal status of marijuana would result in increase in use and harms. As such, the ONDCP is unwilling to entertain any legal changes, even on a state level. Second, the administration wants to treat marijuana addiction as a public health issue but unjustifiably treats

marijuana legally different than other public health issues like alcohol or tobacco use. Third, unlike a true public health approach, the ONDCP continues to use demand-side criminal justice tactics. These tactics are largely ineffective, and result in the treatment of addicts as criminals not patients.

The Global Commission on Drug Policy Report provides an excellent point of comparison for the NDCS. The GCDP has managed to avoid all three of the problems the ONDCP has not been able or willing to avoid. The ONDCP may not want to implement the recommendations on the GCDP report. However, the NDCS should at least be approached in the format of the GCDP. If the ONDCP claims to be adding a public health approach, they should follow through. The ONDCP has implemented a change in rhetoric, but the success extends only that far. ONDCP Director Kerlikowske claimed, "We cannot continue to pursue the same old strategy and expect better results."<sup>55</sup> The NDCS could learn a lesson from the GCDP and Kerlikowke's rhetoric. Based on the NDCS, we shouldn't expect better results from these policies. However, the Obama Administration is changing the conversation, and actual changes are becoming increasingly politically viable.

---

<sup>55</sup> "National Drug...2010", pg. v

## Works Cited

Carter, Jimmy. "Call Off the Global Drug War - NYTimes.com." *NY Times*. N.p., 16 June 2011. Web. <[http://www.nytimes.com/2011/06/17/opinion/17carter.html?\\_r=1](http://www.nytimes.com/2011/06/17/opinion/17carter.html?_r=1)>.

Debusmann, Bernd. "Obama and the failed war on drugs: Bernd Debusmann| Reuters." *Business & Financial News, Breaking US & International News | Reuters.com*. N.p., 16 Apr. 2012. Web. <<http://www.reuters.com/article/2012/04/16/us-column-debusmann-drugs-idUSBRE83F0ZR20120416>>.

Gardner, Amanda. "White House Drug Policy Shifts Strategy - US News and World Report." *Health News Articles - US News Health*. N.p., 17 Apr. 2012. Web. <<http://health.usnews.com/health-news/news/articles/2012/04/17/white-house-drug-policy-shifts--strategy>>.

Goodman, Amy. "Dr. Gabor Maté: More Compassion, Less Violence Needed in Addressing Drug Addiction." *Democracy Now!*. N.p., 6 June 2011. Web. 8 May 2012. <[http://www.democracynow.org/blog/2011/6/6/dr\\_gabor\\_mat\\_more\\_compassion\\_less\\_violence\\_needed\\_in\\_addressing\\_drug\\_addiction](http://www.democracynow.org/blog/2011/6/6/dr_gabor_mat_more_compassion_less_violence_needed_in_addressing_drug_addiction)>.

Hakim, Peter. "Inter-American Dialogue | Publication." *Inter-American Dialogue*. N.p., 31 Oct. 2011. Web. <<http://www.thedialogue.org/page.cfm?pageID=32&pubID=2790>>.

"National Drug Control Strategy 2012." Office of National Drug Control Policy. N.p., n.d. Web. <[www.whitehouse.gov/sites/default/files/ondcp/2012\\_ndcs.pdf](http://www.whitehouse.gov/sites/default/files/ondcp/2012_ndcs.pdf)>.

"National Drug Control Strategy 2010." Office of National Drug Control Policy. N.p., n.d. Web. <<http://www.whitehouse.gov/ondcp/2012-national-drug-control-strategy>>.

"Obama Explains Increasing Medical Marijuana Crackdowns, Raids In 'Rolling Stone' Interview." *Huffington Post*. N.p., 25 Apr. 2012. Web. <[http://www.huffingtonpost.com/2012/04/25/obama-marijuana-raids-rolling-stone\\_n\\_1451744.html](http://www.huffingtonpost.com/2012/04/25/obama-marijuana-raids-rolling-stone_n_1451744.html)>.

"Office of National Drug Control Policy | The White House." *The White House*. N.p., n.d. Web. <<http://www.whitehouse.gov/ondcp>>.

Olson, Al. "IRS ruling strikes fear in medical marijuana industry." *MSNBC*. N.p., 5 Oct. 2011. Web. <[bottomline.msnbc.msn.com/\\_news/2011/10/04/8153459-irs-ruling-strikes-fear-in-medical-marijuana-industry](http://bottomline.msnbc.msn.com/_news/2011/10/04/8153459-irs-ruling-strikes-fear-in-medical-marijuana-industry)>.

Russo, Tracy. "Memorandum for Selected United State Attorneys on Investigations and Prosecutions in States Authorizing the Medical Use of Marijuana." *The Justice Blog*. The United States Department of Justice, 19 Oct. 2009. Web. <<http://blogs.justice.gov/main/archives/>>

"State Medical Marijuana Laws." NCSL Home. N.p., n.d. Web. <<http://www.ncsl.org/issues-research/health/state-medical-marijuana-laws.aspx>>.



"The National Drug Control Budget: FY 2013 Funding Highlights | The White House." *The White House*. N.p., n.d. Web. <<http://www.whitehouse.gov/ondcp/the-national-drug-control-budget-fy-2013-funding-highlights>>.

"Title 21 United States Code (USC) Controlled Substances Act." DEA Diversion Control Program :: Welcome :: N.p., 3 Jan. 2007. Web. <<http://www.deadiversion.usdoj.gov/21cfr/21usc/812.htm>>.

"War on Drugs: Report of the Global Commission on Drug Policy." *Global Commission on Drug Policy*. N.p., n.d. Web. 12 Dec. 2012. <[http://www.globalcommissionondrugs.org/wpcontent/themes/gcdp\\_v1/pdf/Global\\_Commission\\_Report\\_English.pdf](http://www.globalcommissionondrugs.org/wpcontent/themes/gcdp_v1/pdf/Global_Commission_Report_English.pdf)>.

"What We Do." *Global Commission on Drug Policy: It's time to end the war on drugs*. N.p., n.d. Web. <<http://www.globalcommissionondrugs.org/what-we-do/>>.

Yen, Hope. "Veterans Affairs Department Issues Directive Allowing The Prescription Of Medical Marijuana." *The Huffington Post*. N.p., 24 July 2010. Web. <[http://www.huffingtonpost.com/2010/07/24/veterans-affairs-departme\\_n\\_658260.html](http://www.huffingtonpost.com/2010/07/24/veterans-affairs-departme_n_658260.html)>.