

Through the Looking Glass



A CAGW Special Report

Wasted in the War on Drugs:
Office of National Drug Control Policy's Wasted Efforts

By Katherine Walkenhorst
June 26, 2006



1301 Connecticut Avenue, NW Suite 400 Washington, D.C. 20036 (202) 467-5300
Internet Address: www.cagw.org

CITIZENS AGAINST GOVERNMENT WASTE

Citizens Against Government Waste (CAGW) is a private, nonprofit, nonpartisan organization dedicated to educating the American public about waste, mismanagement, and inefficiency in the federal government.

CAGW was founded in 1984 by J. Peter Grace and nationally-syndicated columnist Jack Anderson to build public support for implementation of the Grace Commission recommendations and other waste-cutting proposals. Since its inception, CAGW has been at the forefront of the fight for efficiency, economy, and accountability in government.

CAGW has more than one million members and supporters nationwide. Since 1986, CAGW has helped taxpayers save more than \$758.7 billion.

CAGW publishes a quarterly newsletter, Government WasteWatch, and produces special reports, monographs, and television documentaries examining government waste and what citizens can do to stop it.

CAGW is classified as a Section 501(c)(3) organization under the Internal Revenue Code of 1954 and is recognized as a publicly-supported organization described in Section 509(a)(1) and 170(b)(A)(vi) of the code. Individuals, corporations, companies, associations, and foundations are eligible to support the work of CAGW through tax-deductible gifts.

Thomas A. Schatz, President
David E. Williams, Vice President of Policy
Katherine Walkenhorst, Research Associate

Citizens Against Government Waste
1301 Connecticut Avenue, NW
Suite 400
Washington, DC 20036
Phone: (202) 467-5300
Internet Address: www.cagw.org

Introduction

As the Office of National Drug Control Policy (ONDCP), established in 1988 by the Anti-Drug Abuse Act, approaches its eighteenth year of existence, it continues to demonstrate its inability to either achieve its core objectives or function efficiently. The fiscal 2007 budget summary for the ONDCP, providing \$245 million for the National Drug Control Strategy, proves that this year will be business as usual for the federal government and the ONDCP.

Despite consistent failures in reaching its own goals, the ONDCP continues to fund its four primary programs: High-Intensity Drug Trafficking Areas (HIDTA), the Counterdrug Technology Assessment Center (CTAC), the Drug Free Communities Program, and the National Youth Anti-Drug Media Campaign. The most wasteful aspect of these programs continues to be the media campaign that was created to reduce the use of marijuana in the United States. Despite a lawsuit concerning the integrity of the ad agency, a government report detailing the failure of the campaign, and a study revealing that the ads provide a reverse effect, the federal government, using the federal appropriations system, has decided to throw another \$120 million at the problem in fiscal year 2007, a \$30 million decrease from fiscal year 2006.

As the ONDCP continues to run this wasteful program, it is becoming apparent that it is attacking the wrong target. Although numerous studies have revealed that marijuana does not serve as a gateway drug, it continues to be the primary focus of the federal government's war on drugs. As methamphetamine and cocaine use continue to grow in the United States, the government refuses to acknowledge that its current prevention techniques are ineffective and wasteful.

The government also exhibits its obsession with containing marijuana use by continuing to throw unnecessary funding and unavailable resources towards tracking down and persecuting patients using medicinal marijuana in states that have legalized the substance for medical use only. Not only does this undermine federalism, it also proves that the government is incapable of exercising any kind of fiscal restraint. As the drug problem in the United States continues to grow, the U.S. is focusing some of its most important resources on persecuting patients with terminal illnesses, while problems with methamphetamine and cocaine persist.

In an attempt to reign in wasteful government spending on the fight against medical marijuana, an amendment will be offered by Representatives Maurice Hinchey (D-N.Y.) and Dana Rohrabacher (R-Calif.) in the fiscal 2007 Science-State-Justice-Commerce Appropriations Act. This amendment will ensure that the U.S. Drug Enforcement Agency (DEA) can no longer use resources to raid and persecute users of medical marijuana in the states that have deemed it to be legal. It in no way prevents the DEA from arresting individuals who have obtained the substance in an illegal manner. In this time of excessive waste and expanding deficits, Congress must start sending a signal that its priorities are in order.

Passage of the Hinchey/Rohrabacher amendment will ensure that valuable resources and taxpayer dollars are spent in a more effective manner.

The National Youth Anti-Drug Campaign

Since it was created in 1998, the National Youth Anti-Drug Media Campaign has been a failure. According to the campaign's website, the purpose of the project is "to educate and enable youth to reject illegal drugs, especially marijuana and inhalants." However, numerous studies done by public and private organizations revealing the failure of the campaign and the unearthing of scandals have proven the media campaign to be an abysmal failure. For example, an assessment performed by the Program Assessment Rating Tool (PART), set up by the federal government to determine the success of federal programs, has found since 2003 that the Youth Anti-Drug Media Campaign has failed to demonstrate results. According to the program results section of the assessment, "the outcome data from the evaluation suggests little or no direct positive effect on youth behavior and attitude attributable to the Campaign to date. Perhaps some positive effect on parental attitudes/behavior but that has not yet translated into an effect on youth."¹

Not only did PART reveal a lack of results, but it also unveiled that the bidding process for the ad agency for the campaign is non-competitive. Instead of attempting to save taxpayer dollars, the ONDCP simply signs over the contract to the ad agency of its choice. Even worse, the success of the ad agency is not determined by performance. In the section reviewing the program's strategic planning, the PART assessment states, "contractors are held accountable only for meeting process goals and other goals that are not directly related to the outcome measures established by ONDCP."² Showing a complete lack of fiscal restraint, the ONDCP is not demanding that the ad campaign provide any evidence of positive results.

This lack of oversight on the part of the ONDCP caused problems for the campaign in early 2004. Due to the lack of a competitive application process, two advertising executives in charge of the media campaign were indicted for over-billing the ONDCP. According to a January 2004 article in the *Wall Street Journal*, "A grand jury indicted one current and one former senior executive of WPP Group PLC's Ogilvy & Mather advertising agency, alleging the pair worked with unidentified co-conspirators to defraud the U.S. government."³ This dynamic duo, hired by the U.S. government, told employees to exaggerate the amount of daily work that went into the campaign.

¹ PART, "Youth Anti-Drug Media Campaign Assessment," (viewed on June 23, 2006) <<http://www.whitehouse.gov/omb/expectmore/detail.10000356.2005.html>>.

² *Idem*.

³ Brian Steinberg, "Two Tied to Ogilvy Contract are Indicted," *The Wall Street Journal*, January 7, 2004.

The company was also charged with presenting false vouchers meant to support the increase in labor costs. The total cost of the contract with Ogilvy & Mather was \$684 million. At the time of the indictment, the drug office was spending \$150 million a year on advertising, while the President's 2007 budget requested \$120 million for the ad campaign.⁴ Considering the size of the budget, a 20 percent decrease of \$30 million does not seem sufficient for an ad campaign that is still not producing results.

While the ONDCP is being scammed by private ad agencies, it decided to do a little scamming of its own. In 2003 the ONDCP came under fire shortly after releasing a series of ads during the Super Bowl. Running on one of the most important nights for ad campaigns, the ads inaccurately maintained that drug users were directly aiding terrorism and linked unwanted teenage pregnancy to marijuana smoking. Along with demonstrating a complete lack of ability to reform the war on drugs, the media campaign took a turn for the worse by lying to the viewers and destroying the possibility of credibility.

More advertising misdeeds were revealed in a report released by the Government Accountability Office (GAO) in January 2005. The GAO determined that the drug czar's office illegally spent \$155,000 on a series of ad campaign segments distributed to local TV news stations before the 2004 Super Bowl. The content of these clips contained "pre-packaged" news stories that led the viewer to believe that the reporting was coming from an independent third party, the news station. However, the "reporting" was actually a voice over script created and released by the ONDCP. According to the GAO report, more than 22 million households viewed these clips without the knowledge that they were created by a government agency. The report states, "ONDCP's prepackaged news stories constituted covert propaganda in violation of publicity or propaganda prohibitions."⁵

A number of government studies ranging from the GAO to the ONDCP itself have determined that the ad campaign has been ineffective in decreasing the use of drugs among teenagers. Those results have been confirmed by private sector research. David Murray, an assistant professor at the Annenberg School for Communication at the University of Pennsylvania, found that the strides taken in drug and alcohol reform have nothing to do with the ONDCP. In fact, the areas that are reforming the most are not even part of the ad campaign. In one interview, Murray noted, "We are getting great benefits, but we aren't sure we have anything to do with it. Tobacco and alcohol consumption have fallen among teens, but the ONDCP doesn't address smoking or alcohol."⁶

⁴ Drug War Distortions, "Ad Executives Indicted for Overbilling Media Campaign," (viewed on April 30, 2006), <<http://www.drugwardistortions.org/distortion16.htm>>.

⁵ Drug Policy News, "GAO Slams Illegal ONDCP Propaganda Masquerading as 'News'," (viewed on June 11, 2006), <http://www.drugpolicy.org/news/01_07_05gaondcp.cfm>.

⁶ David Kiley, "Are Anti-Drug Ads a Big Waste," *BusinessWeek*, October 5, 2005.

A study released in March 2006 contains information that might help eliminate all support for the National Youth Anti-Drug Campaign. According to the Department of Psychology at Texas State University, students that are exposed to the ONDCP media campaign are more likely to try marijuana than those that are not exposed. In the study, 229 18- to 19-year-old U.S. college students were asked to complete a short survey meant to determine each individual's attitude toward marijuana.⁷

After completing the survey, students were asked to watch a 15-minute science program that contained ads from the National Youth Anti-Drug Campaign or anti-tobacco ads. The students were then given another survey to determine their attitudes on marijuana. The views toward marijuana became less negative among the students that were presented with the ads from the ONDCP than the group that watched the anti-tobacco ads. According to the researchers, the students that watched the anti-marijuana commercials were more likely to try marijuana than the students that watched the anti-tobacco commercials.⁸ If the results of this study are accurate, the government has thrown more than \$1 billion at a campaign that has only succeeded in increasing the number of teenage marijuana users.

The Real Enemy

As U.S. funding continues to pour into hurricane relief efforts, the war in Iraq, and the Drug War, it is absolutely necessary that Congress exercise fiscal restraint and appropriate resources to the highest priorities. Unfortunately, the federal government has become so obsessed with decreasing marijuana use that it is spending money unwisely.

In order to defend its obsessive anti-marijuana ad campaign, the ONDCP has consistently made claims that halting the use of marijuana is critical because the substance serves as a "gateway" to more dangerous drugs. However, the ad campaign can only ride the coattails of that argument for so long. A 2002 study by the Rand Drug Policy Research Center, an institution that does not favor the legalization or decriminalization of marijuana, found that marijuana does not serve as a gateway to the use of heroin or cocaine. One of the primary researchers, Andrew Morral, stated:

If our model is right, it has significant policy implications. For example, it suggests that policies aimed at reducing or eliminating marijuana availability are unlikely to make any dent in the hard drug problem. When enforcement resources that could have been used against heroin and cocaine are instead used against marijuana, this

⁷ Maria Czyzewska, "Explicit and implicit effects of anti-marijuana and anti-tobacco TV advertisements," *Addictive Behaviors*, May 3, 2006.

⁸ *Idem*.

could have the unintended effect of worsening heroin and cocaine use.⁹

This conclusion has been supported by a number of other research groups, such as the Sociology Department at the State University of New York at Stony Brook and the National Institute of Medicine.¹⁰ However, the ONDCP and the federal government refuse to heed the results of these studies, and continue to put excessive pressure on decreasing the availability and use of marijuana. Meanwhile, the use of methamphetamines, cocaine, and heroin continues to grow.

One of the most pervasive drug problems in the U.S. is abuse of methamphetamine. The manufacture of this drug is easy and it has proven to be highly addictive and dangerous. While marijuana use in teenagers remains the primary focus of the ONDCP's ad campaign, the methamphetamine problem has been growing. A DEA report concluded that while the use of methamphetamines was once most prevalent in the western part of the U.S., it has spread to almost every major metropolitan area, excluding the Northeast. According to figures released by the ONDCP in 2004, 2.5 percent of 8th graders had experimented with the use of methamphetamines. By 2005, that number had grown to 3.1 percent.¹¹

According to Senate Majority Leader Bill Frist (R-Tenn.), methamphetamine use, not marijuana use, is the most dangerous drug problem the U.S. is currently facing. On May 15, 2006 the Majority Leader spoke out in favor of the establishment of National Methamphetamine Prevention Week, stating, "I am delighted the resolution was adopted. It is an important issue. This is our number one drug problem today. We made real progress earlier in the year addressing the methamphetamine epidemic that is occurring across the country. Much more needs to be done."¹² If Congress is willing to take the necessary measures to put methamphetamine use at the top of the agenda, the ONDCP, the Department of Justice, and the DEA must be willing to follow suit.

Along with the increased use of methamphetamine use, increased cocaine use and availability continues to be a significant problem. According to figures provided by the ONDCP, cocaine use among college students jumped from 5.4 percent to 6.6 percent from 2003 to 2004. Like methamphetamine, cocaine is a highly addictive substance.¹³ While the cocaine-use trend has fluctuated since the late 1980's, one pattern has remained stagnant. Due to the addictive nature of the

⁹ RAND, "RAND Study Casts Doubt on Claims that Marijuana Acts as a 'Gateway' to the Use of Cocaine and Heroin," press release, (viewed on June 13, 2006), <<http://www.rand.org/news/press.02/gateway.html>>.

¹⁰ Drug Library, "A Conversation About the Gateway Myth," (viewed on June 1, 2006), <<http://www.druglibrary.org/think/~jnr/conv.htm>>.

¹¹ ONDCP, "Facts and Figures: Methamphetamines," (viewed on June 10, 2006), <<http://www.whitehousedrugpolicy.gov/drugfact/methamphetamine/index.html>>.

¹² The Congressional Record, "National Methamphetamine Prevention Week," May 15, 2006, p. S4567.

¹³ ONDCP, "Facts and Figures: Cocaine," (viewed on June 10, 2006), <<http://www.whitehousedrugpolicy.gov/drugfact/cocaine/index.html>>.

substance, heavy users of cocaine ensure that cocaine production remains at an all-time high, as the average heavy user consumes eight times more than the average first time or light user.¹⁴

According to a Rand Drug Policy Research Center study, the number of heavy users and consumption of cocaine continue to increase.¹⁵ If the government continues to throw its resources toward the halting of teenage marijuana use, use of these more potent drugs will continue to expand.

Medical Marijuana

Due to an influx of studies presented by institutions like the Institute of Medicine,¹⁶ detailing that marijuana assists in cutting down on the painful and uncomfortable effects caused by cancer and chemotherapy, 11 states, including Alaska, California, Colorado, Hawaii, Maine, Montana, Nevada, Oregon, Rhode Island, Vermont, and Washington, along with the District of Columbia, have enacted legislation that allows the use of marijuana with a doctor's recommendation. While the federal marijuana laws contain no information on the use of marijuana for medicinal purposes, the states must be given the right to create and enforce these laws within their jurisdiction.

Unfortunately, the federal government is using valuable taxpayer dollars to track down and persecute medical marijuana patients that are using the drug legally in their state. These individuals are usually struggling with terminal illnesses and simply want to live out the rest of their lives in as little pain as possible. It is useless to throw millions of dollars into attacking patients that are simply trying to find the most effectual medicine possible. According to former Surgeon General Joycelyn Elders, "The evidence is overwhelming that marijuana can relieve certain types of pain, nausea, vomiting and other symptoms caused by such illnesses as multiple sclerosis, cancer and AIDS or by the harsh drugs sometimes used to treat them."¹⁷

Although the states have persuaded by the sufficient research and public opinion suggesting that marijuana serves an important medical purpose, the federal government continues to throw an enormous amount of funding toward persecuting medical marijuana users and raiding facilities that allow use for medicinal purposes. In 2001, shortly after 9/11, the DEA carried out a raid on a Los Angeles hospice. This particular hospice was one of the leading providers of medicinal marijuana. At the conclusion of the raid, the DEA had arrested and prosecuted 1,000 patients that were using medical marijuana.

¹⁴ RAND, "Controlling Cocaine: Supply Versus Demand Programs," summary, (viewed June 2, 2006), <http://www.fathom.com/media/PDF/2184_cocainess.pdf>.

¹⁵ *Idem*.

¹⁶ The Science of Medical Marijuana, "About the U.S. Government Funded Institute of Medicine Study," (viewed May 29, 2006), <<http://www.medmjscience.org/>>.

¹⁷ Jocelyn Elders, "Myths About Medical Marijuana," *The Providence Journal*, March 24, 2004.

With 11 states and D.C. approving legalized forms of medical marijuana, the Gallup Poll revealed that 73 percent of Americans favor the legalization of medical marijuana. However, public opinion does not seem to be a factor as far as Drug Czar John Walters, Director of the ONDCP, is concerned. Despite numerous studies refuting his claims, Walters consistently asserts that the Federal Drug Administration (FDA) has found no scientific research suggesting the benefits of marijuana for medical purposes. When faced with public opinion polls and scientific research, Walters accuses pro-marijuana organizations of preying on “the compassion of Americans to promote their political agenda and bypass FDA’s rigorous standards which have safeguarded our medical supply for over 100 years. Smoking illegal drugs may make some people feel better. However, civilized societies and modern day medical practices differentiate between inebriation and the safe, supervised delivery of proven medicine by legitimate doctors.”¹⁸

Facing the Supreme Court

When the DEA carried out its series of raids in California in 2001, Angel Raich, a patient suffering from brain cancer, and Diane Monson, a patient suffering from chronic back pain, were arrested. These patients, along with two anonymous donors that provided marijuana plants to patients free of charge, filed a lawsuit against Attorney General John Ashcroft and the federal government. After going through the federal appeals process, the case arrived at the Supreme Court in 2005.

On June 7, 2005 the Supreme Court handed down a 6-3 decision that dealt a devastating blow to the users of medical marijuana.¹⁹ The court ruled that the federal government had the right to infringe on individual state’s enforcement of medical marijuana. In the majority opinion, Justice John Paul Stevens admitted that the case raises many troubling questions due to the claims that the users needed the marijuana to assuage pain. However, Stevens suggested that the court must defend the power of Congress to regulate “purely local activities that have a substantial effect on interstate commerce.”²⁰

The ruling of the Supreme Court is important for a number of reasons. First, it allows the federal government to continue to allocate wasteful law enforcement resources toward tracking down patients with terminal illnesses. The ruling is not forcing the states to revoke the medical marijuana laws; it is simply allowing the federal government to persecute any users of medical marijuana. According to California Attorney General Bill Lockyer, Californians with painful illnesses will continue to use marijuana and face the risk of persecution. The drug has become so vital for their comfort, that users would rather face the risk of arrest, than give up using the drug.

¹⁸ David Whitney, “U.S. Medical Pot Ban OK’d,” *Sacramento Bee*, June 7, 2005.

¹⁹ *U.S. v. Raich*, 125 S. Ct. 2195.

²⁰ Charles Lane, “A Defeat for Users of Medical Marijuana,” *Washington Post*, June 7, 2005.

The Hinchey/Rohrabacher Amendment

For the fourth consecutive year, Representatives Maurice Hinchey (D-N.Y.) and Dana Rohrabacher (R-Calif.) will be offering an amendment to the fiscal 2007 Science-State-Justice-Commerce appropriations Act. The amendment was voted down for three straight years, failing 152-273 in 2003, 148-268 in 2004, and 161-264 in 2005.

The amendment seeks to protect users of medicinal marijuana in states where it has been made legal. In floor debate in 2005, Representative Hinchey stated, "This amendment would affect only the States that allow the use of medical marijuana by preventing the Justice Department from arresting, prosecuting, suing, or otherwise discouraging doctors and patients in those States from following the laws of those States to relieve their physical injuries and conditions."²¹

The amendment will not prevent the Justice Department from actively seeking and persecuting marijuana users that obtain or sell the drug for recreational purposes. The legislation goes a step further in ensuring that medical marijuana patients residing in states that have not legalized the drug will also be a fair target for raids and arrests. In his floor statement, Hinchey added, "Opponents of this amendment have tried to misrepresent it. This amendment does not encourage the recreational use of marijuana. It does not encourage drug use in children. It does not legalize marijuana. It would give relief to people suffering from horrific diseases and allow their doctors to decide which drugs will work best to do so."²²

Simply put, the legislation will only prevent the federal government from arresting users of medical marijuana in states where the voters or legislators have made it legal.

Conclusion

The federal government and the ONDCP have chosen to ignore evidence suggesting that the methods being used in the war on drugs are not effective. Despite numerous controversies and a failing ad campaign, the government continues to pour millions of tax dollars into the program. Although the ONDCP has reported growth in the use of methamphetamines and cocaine, it continues to use its funding to send messages to teenagers about marijuana. Unfortunately, these messages had the reverse effect: creating a positive image of marijuana in teenagers and young adults.

²¹ The Congressional Record, "Medical Marijuana Amendment," July 22, 2005.

²² Idem.

The federal government has continued to waste federal resources in an attempt to thwart the use of legalized medical marijuana. In order to halt this improper use of resources, taxpayers must speak through the voice of Congress. In floor debate on his amendment in 2005, Rep. Hinchey stated, “In the Supreme Court's majority opinion last week, Justice John Paul Stevens wrote that the issue can be addressed ‘through the democratic process, in which the voices of voters allied with these respondents may one day be heard in the halls of Congress.’ With this amendment, we intend to use the powers granted us in the Constitution and reaffirmed by the Supreme Court last week to do just that.”²³

If passed, the Hinchey/Rohrabacher amendment would free up federal dollars for more important priorities and help to restore a proper division of power between the federal and state governments.

²³ Lane.