



FIFTY FAILED YEARS LATER, IT'S TIME TO END AND DISMANTLE THE WAR ON DRUGS

We are
the Drug
Policy
Alliance.

ACLU

June 17th, 2021 marks 50 years since President Nixon declared the “War on Drugs,” stating that drug abuse was “public enemy number one.” President Nixon’s declaration was pretextual and racist. John Ehrlichman, the Watergate co-conspirator and President Nixon’s domestic affairs aide, told a reporter decades after Nixon declared the War on Drugs: “We knew we couldn’t make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin and then criminalizing both heavily, we could disrupt those communities.” Ehrlichman continued: “We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did.”

In the half century since Nixon’s deceptive declaration and the enactment of the Controlled Substances Act, the Drug War has become deeply embedded in our federal laws and policies. The United States has adopted increasingly punitive policies toward the possession, use, and unregulated supply of drugs. But long prison sentences and far reaching civil sanctions have failed to reduce rates of drug use, the availability or the pricing of commonly used drugs, or the rates of drug overdose. The Drug War has not solved any problems associated with drug use. Instead, we have wasted hundreds of billions of taxpayer dollars subjecting our own people to mass criminalization and incarceration that disproportionately harms communities of color.

Now is the time to refocus our nation’s approach to drug use and possession. The scientific community has made clear that health and harm-reduction tactics are far more effective means of addressing drug use than criminalization. It is time we listened. We must refocus the systems, policies and priorities at the heart of the nation’s existing approach to drug use and possession.

The Drug War has achieved only the harmful purposes President Nixon intended. It must end. During his candidacy, President Biden acknowledged many of the Drug War’s gravest mistakes:

- Biden [declared](#) “No one should be incarcerated for drug use alone.”
- Biden [promised](#) to “end, once and for all, the federal crack and powder cocaine disparity.”
- Biden [announced](#) that he “supports an end to mandatory minimums,” and a plan to “work for the passage of legislation to repeal mandatory minimums at the federal level.”
- Biden [committed](#) that he would “decriminalize the use of cannabis and automatically expunge all prior cannabis use convictions,” and said he would “support the legalization of cannabis for medical purposes, leave decisions regarding legalization for recreational use up to the states, and reschedule cannabis.”
- Biden [explained](#) that people struggling with “substance use disorders should have access to affordable, quality care long before their situations escalate and they interact with the criminal justice system.”

On this 50th anniversary of the Drug War, President Biden must make good on his campaign promises and take steps to dismantle this rotten system. He must take immediate actions to mitigate the harms the Drug War has inflicted on people and communities—especially people and communities of color. He must also begin building a new comprehensive drug policy system that is based on public health principles rather than mass criminalization and incarceration.



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To show he meant what he said on the campaign trail, here are 10 things

President Biden can and must do now:

1. Declare an end to the War on Drugs.

President Biden must clearly acknowledge that the Drug War has failed to make the country safer or healthier and must declare that it is over. The Administration must take immediate steps to prioritize evidence-based health and harm-reduction strategies, reduce the role of law enforcement, and rectify past and continuing systemic inequities.

2. Use the Clemency Power to Reduce Incarceration and Marginalization for Drugs.

Nearly half of the people in federal prison are there for drug offenses. President Biden must use his clemency power to significantly reduce the prison population. He must grant commutations to remedy the racial inequities caused by the crack/powder sentencing disparity, grant commutations to people incarcerated for drug offenses—including those subject to mandatory minimums, and pardon all persons convicted of simple possession.

3. Direct the Department of Justice to Divert Resources Away from the War on Drugs' Worst Policies.

Going forward, a lot of harm can be avoided if the Department of Justice shifts its priorities. President Biden must ensure that federal prosecutors use their discretion in a manner consistent with the goals of reducing incarceration, promoting alternatives to criminalization, and supporting the establishment of robust harm-reduction programs. He must order the Attorney General to ensure that federal prosecutors:

- Stop charging people with drug offenses that trigger mandatory minimum sentences.
- Stop prosecuting marijuana offenses.
- Stop charging people with simple drug possession.
- Stop using the drug-involved premises law to shut down or prevent the establishment of harm reduction services and ensure that policy is reflected in the government's position in pending litigation.

- Vastly expand the use of pretrial diversion for people whose alleged offenses relate to drugs.
- Advocate for sentences that do not punish crack cocaine offenses more harshly than powder cocaine offenses.
- Stop urging courts to revoke probation, parole or supervised release on the basis of positive drug tests and drug possession.

4. Fund Harm Reduction Services and Alternatives to Policing.

President Biden must require that the director of each federal agency that funds functions related to law enforcement, criminal justice, and healthcare services, prioritize awards to provide the following services, within existing grant program authority:

- “Non-police response” teams and alternative systems of response to calls for service relating to drugs;
- Programs that improve access to substance use disorder treatment, especially methadone and buprenorphine for opioid use disorder treatment;
- Harm reduction programs, including but not limited to needle and syringe service programs, drug checking programs, and other public health programs intended to reduce death, disease, or injury due to the use and administration of controlled substances.

5. Deschedule Marijuana.

The President must order his administration to initiate proceedings to administratively remove marijuana from the schedules of substances restricted under the Controlled Substances Act.

6. Stop Punishing Immigrant Communities for Drug Possession.

Current law gives the Attorney General and the Department of Homeland Security the discretion to impose unduly harsh consequences on immigrants for drug possession. President Biden must order relevant officials to:

- Revise all Immigration Customs and Enforcement guidance to ensure drug possession is not used as



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a reason to prioritize someone for civil immigration enforcement and removal.

- Issue guidance to United States Citizenship and Immigration Services to stop asking immigration benefit applicants about drug possession or use and ensure that admitted drug use is not a basis for referring someone for immigration enforcement.
- Stop using possession of marijuana and employment in the marijuana industry as a reason to deny naturalization and don't make people inadmissible on national security grounds when they express an intent to seek employment in the marijuana industry.
- Issue administrative opinions establishing that a criminal conviction for which someone was pardoned—or that was eliminated in any way—is no longer a conviction for immigration purposes, and withdraw existing opinions to the contrary.

7. Refocus the Nation's Budget to Reflect a New Drug Strategy.

Ending the Drug War means shifting the priorities reflected within the President's proposed federal budget. The President has [committed](#) to developing “a drug budget that includes an accounting and analysis of how federal dollars meet the needs of diverse populations and shape drug budget recommendations to target resources to address equity issues.” However, the Fiscal Year 2022 budget request would actually increase spending on drug enforcement strategies that have proven ineffective. To fulfill his commitment to addressing equity, the President must back away from decades of excessive spending on the Drug Enforcement Agency and instead invest in programs that support access to substance use disorder treatment, harm reduction programs, and local efforts to establish non-police first responder programs.

8. Reform Drug Education.

To keep people safer from overdose and other health risks, the President must take a new approach to drug education programs. Within the constraints of existing law, the responsibility for administering federal drug education and addiction-prevention programs must be centralized within the nation's health agencies and shifted away from law enforcement, particularly the Drug Enforcement Administration. Public information campaigns must be focused on promoting health and safety through honest, science-based information rather than threats of prosecution and punishment.

9. Eradicate Punitive Regulations.

President Biden must order federal agencies to identify existing regulations that provide for any type of sanction for drug possession and use and initiate rulemaking processes to eradicate as many of the sanctions as possible within the constraints of existing law.

10. Bring Together Experts to Legislatively End the Drug War.

Fifty years after the enactment of the disastrous Controlled Substances Act, President Biden must convene a Commission to propose an entirely new legislative framework for regulating drugs. Such a Commission must include and be led by individuals who have been directly impacted by the Drug War and who have lived experience relevant to the use of drugs, the delivery of harm reduction and substance use disorder treatment, and the criminal legal system. The Commission must, within no more than 18 months, propose legislation to repeal the Controlled Substances Act and reframe the issue as one of public health. The Commission must also propose legislation to amend all other federal laws that reflect Drug War strategies including within systems relating to health, housing, employment, child welfare, immigration, public benefits, and education. Finally, the Commission must propose legislation to amend the authorization for the Office of National Drug Control Policy to reflect priorities consistent with a new health-focused national drug strategy.