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team!

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dialog.



The **2018 NNOAC Delegates' Meeting** and Conference will be held at the Washington Court Hotel **in Washington, DC, on Sunday, February 4, through Wednesday, February 7, 2018.**

Plan
Ahead.



The Coalition is published twice per year. Submit articles, photos, region reports, kudos, busts and other items of interest to: wbutka@nnoac.com

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the
change.

NNOAC ATTENDS NATIONAL SUMMIT ON CRIME REDUCTION AND PUBLIC SAFETY

NNOAC President Bob Bushman and NNOAC Regional Director Tommy Loving were invited to attend the National Summit on Crime Reduction and Public Safety, sponsored by the U.S. Department of Justice in Bethesda, Maryland, on Tuesday and Wednesday, June 20 & 21, 2017.

During the two-day event, the 320 attendees – law enforcement leaders, prosecutors, criminal justice practitioners, and treatment and prevention advocates – heard from Administration leaders and attended numerous breakout sessions to discuss current issues that affect crime and public safety in our country. NNOAC President Bob Bushman was a presenter in one of the breakout sessions, “Drug Supply Reduction and Prevention Strategies”.

During his welcoming speech on Tuesday morning, Attorney General Jeff Sessions outlined his goals to work with law enforcement and criminal justice service providers to find ways to reduce drug abuse and violent crime to make our communities safer.

He was joined at the Summit by Administrators from the FBI, DEA, ATF, and the US Marshal’s Service, as well as several leaders from the Department of Justice.

On Wednesday morning, Vice President Mike Pence addressed the assembly and gave a speech that included his heartfelt appreciation for the commitment and selfless service that law enforcement officers give to protect our citizens, as well as a pledge from the Administration to support law enforcement efforts to make our country safer.



On Monday, June 19th, President Bushman and Director Loving met with Attorney General Sessions in his office at DOJ. During the meeting with AG Sessions and his Chief of Staff, they had the opportunity to discuss a wide range of NNOAC issues, including funding, HIDTA, RISS, and policy concerns regarding drug legalization, criminal justice reform, asset forfeiture and technology.

President Bushman also emphasized that more needs to be done to recognize the needs of rural law enforcement; he encouraged AG Sessions to engage more of the rural law enforcement leaders in policy and strategy discussions.

On Tuesday, NNOAC President Bushman was also invited to join a roundtable meeting between Deputy Attorney General Rod Rosenstein and selected law enforcement leaders. It was a great opportunity to discuss emerging issues and, again, to highlight some NNOAC concerns.

It is clear, both from the personal meeting and through his remarks at the Summit, that AG Sessions continues to be a strong supporter of drug law enforcement and that he shares many of our concerns about the toll that drug abuse and violent crime are taking in our communities.

Since his confirmation, we have been pleased that Attorney General Sessions and his staff have reached out to the NNOAC on several occasions with questions and information regarding drug issues. We look forward to more opportunities to work with the Attorney General and his staff. ☆



Bob Bushman (left) and Tom Loving (right) with Jeff Sessions (center).

President's Report

By Bob Bushman

It is certainly an understatement to say that the Trump Administration has started out with a bang. During my entire lifetime, I don't remember another Administration that has gotten so much attention from the press and the media. **Unfortunately, there are a lot of other important stories that are not getting any mention. SUCH AS the return of meth in Minnesota. REF. ARTICLE PAGE 18**

From a NNOAC perspective, this Administration is providing opportunities we have not enjoyed for several years. We have national leaders who constantly and consistently voice their support for law enforcement. They recognize the dire consequences of drug abuse and crime, and they continually voice their concerns about the heavy toll that opioid abuse is taking on our country. More importantly, they are doing something about it. They are not shying away from the tough issues.

We have an Attorney General who is serious about keeping our country safe. As a United States Senator, Attorney General Jeff Sessions was a tireless leader in his support for law enforce-



President Bob Bushman

ment and legislation that protected our citizens. As Attorney General, he and his staff have hit the ground running to work with law enforcement leaders and organizations to identify ways that DOJ and their federal agencies can work more effectively with state and local law enforcement.

As proof, I call your attention to the article in this issue that highlights the Crime Reduction and Public Safety Summit meeting that Attorney General Sessions and DOJ sponsored in Bethesda, Maryland, in June (PAGE 5).

DOJ invited several subject-matter experts to provide information on current issues and emerging trends to over 300 attendees who represented law enforcement agencies and associations, criminal justice organizations and advocacy groups. As NNOAC representatives, Regional Director Tommy Loving and I were invited to attend the Summit, and I was asked to participate in a panel presentation on Drug Supply Reduction and Prevention Strategies.

Tommy and I also had an opportunity to meet with AG Sessions to discuss NNOAC and drug enforcement issues. We both appreciated his concern about the availability of dangerous drugs and his commitment to working with groups like the NNOAC to find ways to protect our country's communities and our young people from drug abuse and the violent crime that drug traffickers and their organizations bring to so many communities. **MORE ON SESSIONS ARTICLE PAGE 16-17**

We have our work cut out for us. During my travels and visits throughout the country, I am constantly hearing about the large seizures of metham-

phetamine, the increase in cocaine seizures, and the problems and crime related to marijuana trafficking in and around states that permit production and use of marijuana. I won't say "legalization", because it is still illegal.

Yet, many of these problems are drowned out by the headlines about the opioid abuse and overdose deaths throughout this country that are caused by heroin, fentanyl and carfentanil. **More than 50,000 Americans died from overdoses last year. That is totally unacceptable; those deaths were all preventable. We need an effective national drug control policy and strategy that is serious about addressing these issues.**

To that end, the NNOAC Foundation is hosting a Drug Enforcement Forum in Washington, DC, on September 12 & 13, 2017, to discuss policy issues and initiatives that will help to drive effective drug policy and legislation aimed at reducing drug abuse, drug availability, and violent crime. We have invited 50 agencies, organizations and associations – all of them our partners – to participate in presentations and discussions that will help us to identify the issues where we are in agreement as well as the issues where we need to focus our efforts to develop consensus on strategy and policy. We will discuss drug strategy and emerging issues, program funding, and support – including asset forfeiture, and criminal justice and sentencing reform. Attorney General Sessions and members of his staff will be attending and are supporting this important event. Working cooperatively with all of our partners is one of the best ways to succeed in matters of policy, strategy, and legislation.

The 2018 NNOAC Delegates' Meeting and Conference will be held at the Washington Court Hotel in Washington, DC, on Sunday, February 4, through Wednesday, February 7, 2018.

Please go to the NNOAC website at www.nnoac.com to find the conference registration and hotel reservation information.

Last year, the hotel filled up and some attendees had to find off-site accommodations. We have worked with the Washington Court to increase our room block for the upcoming conference, but I still encourage you to make

your room reservations soon. The 2017 Conference was our largest ever, and I expect similar numbers in 2018. Your attendance and your input are important to keeping the NNOAC at the forefront of drug enforcement policy and strategy discussions with the people who make those decisions.

Watch our website for other news and information regarding the Drug Enforcement Forum. We are always looking for articles and news to post there, too, so feel free to submit items of interest or information from your Association.

I hope to see you at the Delegates' Conference in Washington DC in February. ☆

COLOR KEY:

RED: ATTENTION

BLUE: SEE MORE ONLINE

or ON PAGE..

**GREEN: MARK YOUR CALENDAR
EVENTS**



Legislative and Policy Update

Brooks Bawden, LLC

Change was expected when the new administration was sworn in last January. Change is certainly upon us.

Events since January demonstrate a clear interest in shifting federal support for illegal drug-related efforts back toward a more balanced approach. The last several years of the Obama administration saw the U.S. Justice Department and the U.S. Congress shift attention toward criminal justice reform including lower sentences for drug-related federal offenders, lower funding for grant programs that support drug enforcement activities, and limiting the ability for law enforcement to use asset forfeiture policies to break drug trafficking organizations. In some cases, there was outright hostility and blame cast upon drug law enforcement officers for somehow inflaming America's drug addiction problems.

In just the past few months, evidence shows the change is real. Attorney General Sessions reinstated a tighter and more accountable form of federal "adoptions" of asset seizures by state and local law enforcement agencies. President Trump rescinded the Obama Administration executive order that restricted the ability for state and local law enforcement to obtain life-saving equipment through the DOD Excess

Property program. DOJ routinely and actively engages the law enforcement community including the NNOAC on issues the department is considering. The Attorney General directed US Attorneys to enforce federal law in marijuana experiment states. Attorney General Sessions addressed the NNOAC



Drug Enforcement Forum in Washington, DC and reiterated the administration's commitment to a balanced approach to drug policy including a reinvigorated drug enforcement effort. The President's opiates task force recommended a "state of emergency" be declared so that new resources can be driven toward preventing more overdose deaths and trafficking violence. With deaths skyrocketing, we have a true crisis on our hands, while resources and policy support to address that crisis have been dwindling.

In Congress, the House and Senate Appropriations Committees voted for sustained - and in some cases increased - funding for key grant programs that support drug enforcement activities including Byrne JAG and COPS. They rejected proposals to de-fund and shift the HIDTA program from ONDCP. The House left anti-marijuana enforcement amendments out of the FY 2018 CJS appropriations bill before sending it to the floor - a significant change from the past two years. They recommended sustained funding for the RISS program in FY 2018. During Police Week the

Brooks Bawden, cont.

from previous page

Congress passed several bills that will be helpful to law enforcement.

Clearly, things are positively different so far this year. But we are not without major challenges.

The administration is actively discussing shifting the HIDTA program out of ONDCP and possible funding reductions or changes in funding mechanisms. This would change the nature of HIDTA - especially the neutrality that is so critical to effective HIDTA operations. Some officials in the administration have an ideological bent against grant programs, including Byrne JAG and COPS, and are considering proposing major changes and reductions in the FY 2019 budget request early next year. Other officials in the current administration played a central role in pushing some of the NNOAC-opposed criminal justice reform proposals the last Congress and previous administration supported. A bipartisan group of congressional heavy-hitters is pushing hard to gut key federal asset forfeiture policies, which would benefit drug trafficking organizations. Some advisors to the administration are vocal proponents of marijuana and other

drug legalization. Investigators' challenges with accessing digital evidence - the "going dark" problem - are deepening, with little appetite for legislative help. Forensic lab backlogs are worsening in part because of the new necessity to not test certain suspected drugs in the field due to the extreme risk posed by fentanyl exposure.

These challenges are real. Thankfully, with the door open for dialogue, the NNOAC and our other law enforcement colleagues are making our voices heard. Sustained engagement is critical to continue the progress we are making.

Most important is direct engagement by state narcotic officer associations and their individual members back home with members of the House and Senate. Your NNOAC leadership - President Bob Bushman, Executive Director Ron Brooks, and the board of directors - need the support of the membership to amplify the message in the real world so that we can be as effective as possible as advocates for you in Washington, DC. ☆

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NATIONAL NARCOTIC OFFICERS' ASSOCIATIONS' COALITION

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Heroin, Fentanyl and Prescription Opioids

The region continues to see heroin and fentanyl overdose deaths at an all-time high. Law enforcement agencies throughout the region have seized synthetically produced fentanyl in liquid, powder and counterfeit prescription pills. In one incident, multiple overdoses occurring in South Dakota, North Dakota and Minnesota all involved a pill resembling an oxycodone 30-mg pill. Law enforcement laboratories rushed the examination of the pills and confirmed that they contained fentanyl. Law enforcement used the media and social media to warn suspected users of the dangers of these counterfeit pills, while at the same time conducting an investigation which determined that the pills had been ordered over the “dark web”. Although law enforcement was able to seize a number of these pills off the street before any additional overdoses occurred, we are continuing to encounter these dark web purchases from overseas which are time-consuming and require additional law enforcement resources and expertise to investigate.

The region has also been hit by an increase in the number of overdose deaths related to carfentanil. Carfentanil is a synthetic opioid that is 10,000 times more powerful than morphine. It's of a drug class similar to fentanyl and other fentanyl analogs, but it was never intended for human consumption. Carfentanil is only supposed to be used as a large-animal tranquilizer; it can be fatal to humans in doses the size of a few grains of salt. Most of the fentanyl products are being ordered over the dark web, and they are mostly sourced from China – which again presents many challenges to investigators trying to save lives and stop the flow of these dangerous substances into their communities. Law enforcement and EMS personnel in much of the region carry Narcan, which is able to revive those experiencing an opioid overdose in some instances. Reports indicate that multiple

doses of Narcan are having to be used in those areas most affected by the increase in opioids and fentanyl in order to revive overdose patients. Even then, it is not always successful.

Large multiple-kilogram seizures of heroin are occurring across the region, with most of it being in the form of an off-white powder that can be snorted, smoked, or injected. Most of the heroin seen in the Midwest region is sourced by Mexican Drug Trafficking Organizations (DTO's) and transported to the region from the southwest border. Opioids and other prescription abuse continues to be the catalyst of many heroin users, with four out of five heroin users indicating they first started using heroin after becoming addicted to prescription opioids. Heroin and opiate use in the region has increased exponentially in recent years. The new population of heroin and opioid abusers is more diverse – users represent a wider range of economic status, age (younger), and race. Alarmingly, Minnesota ranks highest among all states in the ratio of mortality rates due to drug poisoning by heroin and other opioids among American Indians/Alaska Natives in comparison to Whites and African Americans to Whites.

Methamphetamine

Methamphetamine in the region has now surpassed marijuana as the primary drug of choice for people entering treatment, behind alcohol. The Midwest region continues to see record increases in methamphetamine seizures and arrests. As an example, seizures in Minnesota have gone up 483% from 2009-2016 and continue to increase. Mexican DTO's control a majority of the delivery and distribution of meth that arrives in the region, and wholesale methamphetamine is readily available at very cheap prices and at very high quality. Seizures of 70 pounds and larger are becoming common across the Midwest, with wholesale prices continuing to drop to all-time lows. We continue to see only a handful of small methamphetamine labs – which are capable of producing small amounts in “one pot” containers – in contrast to the hundreds of such labs discovered in the early 2000's. Partnerships and cross-state investigations by federal, state, and local law enforcement continue to identify and investigate mid- to upper-level dealers and importers of methamphetamine coming into the region.

Cocaine

After several years of decreasing amounts of cocaine being seized and the number of people entering treatment, over the past two years there has been an alarming trend of increases in the availability and seizures of cocaine that are occurring in the region. Illinois as seen several large seizures of cocaine – some in excess of 60+ kilograms of cocaine. As cocaine availability and use increases, we are seeing a rise in the number of overdose deaths related to cocaine, as well. Laboratory analyses of samples of cocaine are also showing that some of the cocaine is being laced with fentanyl. This makes it even more dangerous to the unsuspecting user and to law enforcement personnel who encounter it. ➤

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Southeast Region Drug Update

The states have not noticed a dramatic change in drug trends affecting their communities in the past year. The Southeast, much like the rest of the United States, is being overwhelmed with the opiate/opioid epidemic. The state of Tennessee is number two in the United States for the amount of opioid prescriptions issued each year. We in law enforcement know that that statistic is followed by the illegal use of heroin – or, even worse, fentanyl-laced heroin. This is not an isolated incident and this is the same problem facing much of the nation. We are losing more lives to overdoses each year than to motor vehicle accidents. This type of addiction doesn't know gender, race or socio-economic status. For years, the Southeast dealt primarily with black tar and brown heroin; but that has changed with the addition of "china white" powder which, much of the time, is laced with fentanyl or – even worse – with carfentanil.

We are also seeing an increase in illegal drugs being shipped via commercial parcel services. We have dealt with the shipping of illegal drugs for many years. The increase is growing each day with the legalization of marijuana in

the western United States. The use of Fed Ex and UPS has always been an issue for shipping illegal substances, but the use of the USPS has grown over the past two years. Drug violators, when being interviewed as to the reason they are using the postal service, advised that it takes longer to get a federal search warrant and the packages aren't on time. The drug violators explained that they believe that packages that arrive late have been intercepted by law enforcement, so they declined or refused to accept them. In reality, the difference in the time frame to obtain a federal search warrant versus a state search warrant is usually several hours to one day. The drug violators are getting educated on this problem and are shipping more and more packages through the U.S. postal service. The majority of the shipments are multi-pound packages of high-grade marijuana.



The potential profit on marijuana is one of the most lucrative investments in the drug trade. The average price of high-grade marijuana in the California/Colorado area is less than \$1,000 per pound. The sale price in the Nashville area is a minimum of \$2,500 per pound – and many times it is even more when broken into smaller amounts. So a 10-pound parcel will make at least a \$15,000 profit, with minimum risk.

We are seeing a decline in the home-made methamphetamine labs, but are unfortunately seeing an increase in crystal methamphetamine. This trend is especially prevalent in rural areas and smaller cities. The Southeastern hub for crystal methamphetamine is Atlanta, Georgia. The crystal meth is shipped into that area and being dispersed in large amounts. The meth is often transported into Atlanta in a liquid form and converted into crystal form before being shipped to other cities/states.

Many of the states are seeing an uptick in the cocaine distribution. Although the price of cocaine has stayed steady over the past two years, the seizures appear to be on the increase. With the increase in crystal methamphetamine, we would think that the cocaine trade would be decreasing, but that does not appear to be the case. ➤

Keep up the fight and stay safe.

Northeast Region - William Butka
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The Northeast Region represents the New England states. This region, like other sections of the country, continues to experience drug overdose deaths at record levels, despite the use of Naloxone. The primary causes of the overdose deaths are Fentanyl, Carfentanil, U47700 and W-18. Massachusetts and Maine have passed legalization of marijuana. This trend is disturbing in the New England area considering drug overdoses in the region.



The Fentanyl, Carfentanil, U47700 and W-18 do cause concern for police, fire, ambulance, and emergency room personnel. In the New England area, law enforcement officers were taken to emergency rooms for accidental exposure.

The accomplishments due to the work of both law enforcement and drug treatment personnel – resulting in drug reduction – were lost due to the policies of the prior administration. We can only hope this can be reduced again. The legalization efforts are hurting the good work of the past.

In Connecticut, it is encouraging to see an increase in the number of editorials, articles and letters to the editor opposed to legalization. Newspapers with a prior history of refusing to print letters to the editor and editorials against legalization now print them.

As editor-in-chief of *The Coalition* magazine, I have made several changes in this digital copy. Link(s) are embedded in articles that will display the full report, and we got “funky” with colors and presentation. ➤

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What About Us, the Citizens? Have We Become A Petri Dish Experiment?

For decades, the pro-marijuana advocates have outright lied to the ill- or un-informed citizens in our nation. They have claimed: Marijuana isn’t addictive. It

is harmless. It will cure anything under the sun. It’s safer than alcohol. It’s safer to drive when stoned than not. It’s not a gateway drug leading to the abuse of drugs like heroin, fentanyl, methamphetamine and other drugs (despite growing scientific data that it is).

In truth and in fact, marijuana is addictive and it leads to a host of “cannabis use disorders”. Now we are in an “Opioid Crisis”. When is the last time we had such a crisis? This is another case where public servants (us, the police) warned our legislators that they had to tighten up on the availability of opioids and go after the suppliers and unethical prescribers of these pharmaceuticals. This is a warning we have been issuing for more than 20 years.

It seems that many local, state, and federal government leaders have worked hard to normalize dangerous and previously illegal activities. In this great land of ours, more emphasis has been placed on providing for the criminals than for the victims. False narratives in the media have placed police and the public in danger. Increased drug use, acceptance of criminal behavior, and lighter sentencing have added to many more problems than we could have ever imagined. You can see illegal drug use in public right outside the Federal Courthouse in San Francisco, in schools – and overdose cases in public libraries seem to have been deemed acceptable by our lawmakers.

Friends, during a July 25, 2017, press conference about a large black-market marijuana bust, Colorado District Attorney Dan May made statements that resulted in variations of the following headline: “Colorado DA: ‘Marijuana is gateway drug to homicide’”. The press conference, which included Colorado Attorney General Cynthia Coffman, announced the indictment of 13 owners, managers, and employees of “Hoppz’ Cropz”, a marijuana head shop in Colorado Springs. According to Coffman, the store sold cigarette lighters and other cheap merchandise at a high price, while offering grams of marijuana for free. This scam covered up over a half million dollars in retail sales of marijuana. During the press conference, District Attorney Dan May said marijuana is the “gateway drug to homicide.”

Here’s an excerpt from a news report on the press conference (emphasis mine): <http://www.nbc11news.com/content/news/436730123.html>

“Colorado Springs Police Department put out this year we had 22 homicides in Colorado Springs last year, 2016. Eight of those were directly marijuana. That isn’t somebody just using marijuana, that is somebody being murdered over legal marijuana grow in their house. Murdered over an illegal marijuana grow.”

Continued on next page.

May went on to say local authorities are overwhelmed with trying to stop the crime involved with marijuana. “Marijuana is pouring out of Colorado,” May said. “It’s much more valuable in the streets of New York City than it is in the streets of Denver. Colorado’s system is terrible.”

May also stated the homeless population has gone up 50 percent each year in Colorado Springs since marijuana was legalized.

The Southern Colorado Cannabis Council immediately took offense, calling May’s statement “utterly false” and stating that “This is an extremely dangerous statement. It is dangerous to Colorado’s fastest growing industry and it is dangerous to anyone associated with cannabis Colorado.”

NOTE TO CANNABIS COUNCIL: I agree. Killing people over pot is dangerous to those who are killed, and dangerous to Colorado’s “fastest growing industry.”

Law enforcement understands that marijuana use is dangerous. The University of Washington recently published research examining the cumulative effects of early adolescent depression on cannabis use disorder at age 18. Researchers interviewed 521 middle-school students and used data from annual assessments when they were aged 12-15 and again when they were 18. Study results were published in the journal *Addiction*.

The study was reviewed and analyzed by ScienceDaily, an online science research news site. Here’s an excerpt from that review: “The researchers were surprised to see that the prevalence of cannabis and alcohol use disorder in this study was notably higher than national estimates....” You can read the entire article here: <https://www.sciencedaily.com/releases/2017/07/170717151031.htm>

Major cities of the western states – including San Francisco and Seattle – are once again considering “safe zones” where drug addicts may inject illegal drugs. California’s Assembly Bill AB 186 would allow such sites in the cities or unincorporated areas in the counties of Alameda, Fresno, Humboldt, Los Angeles, Mendocino, San Francisco, San Joaquin and Santa Cruz. I guess they have given up trying to treat addiction and offer this up as acceptance of bad, life-threatening behavior. What a great example for children – and adults. When will this end? People who want treatment get it. People who are addicted NEED treatment – not a place to use more drugs! Where does the money come from to pay for the drugs and the staff to monitor these “safe zones”? You and I pay for the illegal drug users’ bad habits. Addicts won’t seek rehabilitation as long as these misguided people enable bad behavior. This year alone, more than

14,000 used needles/syringes have been recovered from the Santa Cruz, CA, beaches.

AB 186 would let select counties establish facilities where drug users may inject their illegal drugs in controlled health care facilities. Bill supporters (such as the ACLU of CA and the CA Association of Alcohol and Drug Prevention Executives) suggest that such a program may reduce public drug use, discarded syringes, HIV and hepatitis infections, and overdose deaths – as well as offering treatment referrals. According to the Santa Cruz Sentinel, Analicia Cube, a founder of the community group Take Back Santa Cruz, said that she did not want Santa Cruz County, and likely the city of Santa Cruz, to be the state’s “test monkey” for new ideas that she said often don’t pan out.

She pointed to impacts on neighborhoods surrounding such a facility – whether those be increases in property theft or drug dealers flocking to the concentration of buyers.

Michael Anthony “Mike” Gatto, former California State Assemblyman for the 43rd District, recently wrote an op-ed criticizing not only 2014’s Proposition 47 (mandating that prosecutors can no longer prosecute certain crimes as felonies) but also California’s process for enacting legislation. It is very well written and interesting. Mr. Gatto had the courage to speak out and admit this failed measure. Here’s the link: <http://www.pe.com/2017/07/29/prop-47-a-tough-lesson-in-weakness-of-initiatives-2/>

Denver’s drug problems have gotten so bad lately that police officers have been regularly patrolling the Central Library to combat a spike in drug use and illegal activity there. A lengthy article published on July 7, 2017, in the Denver Post illustrates the problems and some of the actions that have been taken to try to address them. <http://www.denverpost.com/2017/07/07/denver-police-downtown-library-drug-use-illegal-activity/>

NNOAC’s own Bob Bushman, along with several others, recently wrote an op-ed critical of President Obama’s “Smart on Crime” initiative. The op-ed, published on Fox News on July 5, 2017, is very well written but too long to reproduce here. You may find it interesting, so here’s the link to it: <http://www.foxnews.com/opinion/2017/07/05/law-enforcement-leaders-how-smart-was-obamas-smart-on-crime-initiative-not-very.html>



I am ending with these final thoughts:

- Be safe
- Watch your friend's six
- Protect each other in the field
- Speak out about sound public policies whenever you have the opportunity.
- We don't run away to avoid doing the right thing.

We watch out for others' safety and try to prevent bad things from happening to good people. If we could, we'd hand out free common sense, too. ➤

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News from the Commonwealth of Pennsylvania

Pennsylvania Attorney General Josh Shapiro said he is part of a bipartisan group of Attorney Generals, nationwide, investigating manufacturers' roles in "creating or prolonging" America's opioid abuse crisis. The multi-state probe is looking at corporate marketing and sales practices.

Pennsylvania, among many other states, has seen spikes in drug overdose deaths, and a rise to public costs for treatment of addicts, with a widespread provision of overdose antidote drugs, like Naloxone, given to first-responders.

Shapiro noted many heroin users started by abusing prescription opioids, and this investigation "is going to hold everyone, everyone, accountable for their role in this tragedy, no matter how big and powerful they are."

State and local leaders are studying ways to regain billions from the companies who manufacture and sell the powerful painkillers. Last month, the Ohio Attorney General, through outside counsel, sued 5 pharmaceutical companies alleging they made false and deceptive statements about the risks and benefits of prescription opioids. Ohio has the 5th highest rate of overdose deaths in the country, with 29.9 deaths per 100,000 people. Pennsylvania is not far behind in 6th place, with 26.3 deaths per 100,000. According to Reuters, additional lawsuits against opioid manufacturers have been filed by two California counties, the city of Chicago, four counties in New York, and the State of Mississippi.

Shapiro's staffers said Thursday, the larger AG's group is taking a different approach, one that is relying more on the upfront use of internal investigative tools.



The Philadelphia division of the U.S. Drug Enforcement Agency released a new analysis of Pennsylvania fatal overdoses on July 27, 2017, stating nearly 80 percent of Pennsylvania counties have fatal overdose rates that exceed the national average. Pennsylvania's rate is 36.5 fatal overdoses per 100,000 people. The most-recently published national rate is 16.3 per 100,000 people.

The U.S. Drug Enforcement Administration said drug overdose deaths rose by 37 percent across Pennsylvania last year for a total of 4,642. According to the DEA's data, prescription or illegal opioids, such as heroin, painkillers, or fentanyl, were implicated in 85 percent of the deaths, and some of the largest increases occurred in Pennsylvania's most rural counties.

Strong law enforcement and incarceration must remain at forefront of fighting opioid crisis

*By Curtis Hill,
Indiana Attorney General*

President Trump's Commission on Combating Drug Addiction and the Opioid Crisis has urged him to declare a national emergency to deal with the current drug crisis.



In a recent report, the commission states that approximately 142 people die each day from a drug overdose. That means every three weeks the nation loses to overdose roughly the same number of Americans killed in the terrorist attacks of Sept. 11, 2001. The annual number of deaths – more than 50,000 – equates to nearly the total number of U.S. troops lost during the entire Vietnam War.

- In the face of this devastation, we must pursue a clear strategy for victory.
- Success in fighting the opioid crisis sweeping the

nation requires a sensible balance among three strategies – prevention, treatment and enforcement.

- Experts across the spectrum seem to agree on the need for a steadfast commitment in the areas of prevention and treatment.

Far too often, however, some of these same voices downplay or refute altogether the need for vigilant enforcement of drug laws and the incarceration of offenders.

This year in Indiana, I organized the Attorney General's Public Safety Coalition (PSC). In June, we focused our first meeting on the value of jail chemical addiction programs available to inmates. Four of the "experts" who spoke at our conference stood out from others because they were clad in jail attire and under guard.

All four inmates expressed, in various ways, the same theme: "Getting arrested saved my life!"

Arresting and incarcerating criminals who prove to be chronic drug addicts – and connecting them to quality long-term treatment programs -- represents one of our best methods of reaching drug users most in need of services.

Everyone recognizes the need for more treatment facilities across the United States serving the general population. Experience, however, teaches us that we cannot always expect addicts to just line up and ask for help. The nature of addiction will not allow such rational behavior. Incarceration, therefore, plays a vital role in helping addicts recognize their need for intervention.

The recent popularity of efforts to limit jail time for drug users might be well-intended, but based on what we've heard from inmates, one must conclude that the most compassionate course might actually be giving them more jail time.

Don't get me wrong. I don't know a police officer or prosecutor in Indiana advocating for the incarceration of first-time, low-level drug offenders. Rather, our police and prosecutors tend to target violent and chronic offenders – those whose illegal drug use becomes more than a threat to their own health or a minor nuisance to others.

When drug addicts easily bail out without treatment, we do them a disservice. They typically go right back to the routines and habits that got them in trouble in the first place. A better course is to provide addicts prolonged sustainable programming while they are incarcerated followed by a solid after-care plan upon their release.

Dr. Sally Satel, a prominent addiction psychiatrist, recently wrote in *The Wall Street Journal*:

"Americans shouldn't lose sight of the virtues of coerced treatment and accountability. . . . When all else fails, handcuffs can help, too. A problem with treatment is that addicts often stay with the program only for brief

periods. Dropout rates within 24 weeks of admission can run above 50 percent, according to the National Institute on Drug Abuse. Courts can provide unique leverage. Many drug users are involved in addiction-related crime such as shoplifting, prescription forgery and burglary. Shielding them from the criminal-justice system often is not in society's best interests — or theirs."

Here in Indiana, I envision all counties having access to a jail chemical addiction program – either by operating their own quality programs or participating in regional programs. Working with law enforcement and other community leaders, I intend to press policymakers statewide to support jail chemical addiction programming as an effective weapon in Indiana's ongoing battle against substance abuse.

When discussing issues associated with illegal drugs and substance abuse, one encounters a common refrain these days: "Society cannot arrest its way out of this problem."

Well -- true enough.

But then, neither can we arrest our way out of armed robbery, burglary, criminal confinement, homicide or sexual assault.

Do these truths, then, mean that we let crimes go unpunished?

Let's hope not.

No one disputes that criminal behavior is related to many other issues – addiction, education deficiency, mental illness, poverty, social maladjustment and the list goes on. Society reaps great benefits from the efforts of professionals devoted to addressing these root causes. By all means, let's keep public-health and socioeconomic issues front and center.

The truth remains, however, that civil society depends on maintaining law and order.

"We must reject the idea that every time a law's broken, society is guilty rather than the lawbreaker," President Ronald Reagan told us. "It is time to restore the American precept that each individual is accountable for his actions."

We all must recognize the dangers of reducing personal accountability – which happens whenever we reduce penalties for breaking the law or diminish stigmas associated with destructive behavior.

For the safety of our families and neighborhoods, police and prosecutors must keep working to protect the innocent from those who continually flout our laws. And state legislatures and governors nationwide must keep laws on the books that sufficiently penalize drug crimes.

We do, after all, face a national emergency. ☆

Curtis Hill is Indiana's 43rd Attorney General.

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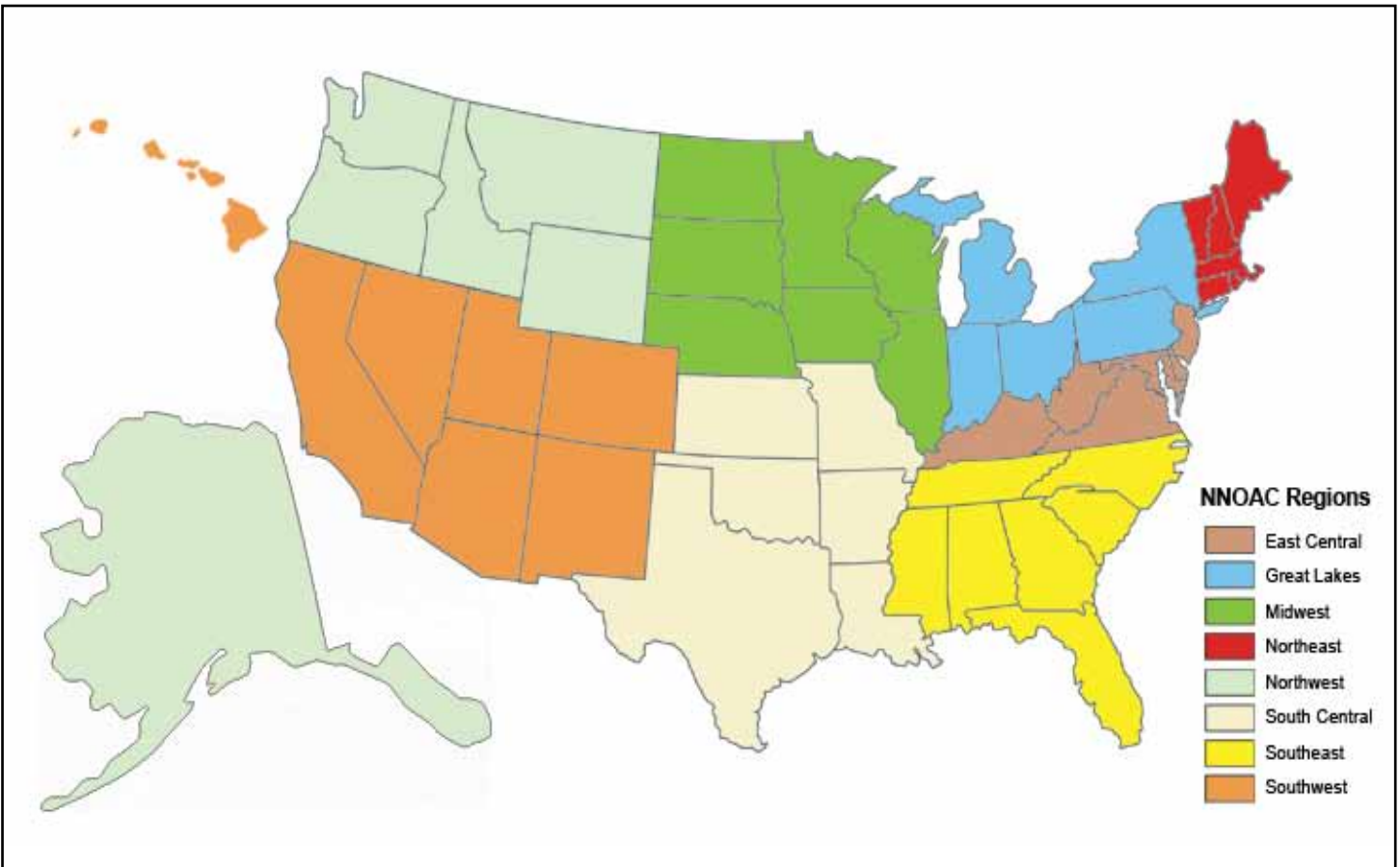


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LET'S KEEP TALKING!

**Ernie Martinez, Director At-Large NNOAC
Past President, Colorado Drug Investigators
Association**

Looking back at the first series of meetings in which I participated with the marijuana working groups, advising Colorado officials on the framework of regulation for the nascent medical marijuana retail laws. These legislative mandates were lobbied for heavily and the language was intentionally vague, so as to allow a wide-open market.

With valuable input from colleagues in California, and with historical experience in Colorado to date, a few of us fervently advised state officials to place hard boundaries to every single aspect of the 'seed-to-sale' regulatory framework. Unfortunately, this did not occur. To this very day, many aspects of the sales and manufacturing of 'medical' and recreational marijuana and related products go unchecked. There are factors contributing to this deficiency, which I will write about in the near future.

In Colorado, what has transpired since then are many crimes related to marijuana in all categories (homicide, robbery, burglary, theft, juvenile use, DUID, & accidents). These were the issues which I spoke about as your representative at a congressional briefing on June 27, 2017. Other participants on the panel were Kevin Sabet (Smart Approaches to Marijuana); Sheriff Grady Judd, representing the National Sheriffs Association; and a representative of the National District Attorneys Council.

These congressional briefings included separate House and Senate staff panels on the marijuana black market



in states that have legalized marijuana, as well as the effects that it has on neighboring states and the rest of

the country. In addition to the above, I discussed the effects that legalization has had on the state of Colorado and the challenges we face with organized crime, illegal grow operations, and increased use of marijuana by teens. Sheriff Judd discussed how the marijuana black market from states such as Colorado has affected Florida, the importance of continued research into medical uses of components of marijuana, and the need to push back against the false narratives pushed by those who have advocated for legalized recreational or medical marijuana.



The National Survey on Drug Use and Health's (NSDUH) recently released report relates that every day, 7,000 new people try marijuana for the first time. This number is much greater than trends we had seen in the early 2000s! This report also found that the number of daily or near-daily users of marijuana in 2016 *doubled* compared to the number of heavy users about a decade ago. As we predicted, the use increased significantly among age groups 12 years, 18 years, and 26 years and older. Needless to say – but I will, anyway – *almost twice* as many 12- to 17-year-olds are using marijuana as compared to cigarettes on a past-month basis. Moreover, among those 18 and older, there has been a significant upward departure, as compared to 2015, in the percentage of marijuana users who are unemployed. These are just some of the effects – not only in Colorado, but across the nation.

You hear from the marijuana lobby and 'Big marijuana' that all is well and that youth use is down. Far from it, especially in Colorado. I encourage everyone to read respectable scientific data and review other data with a balanced approach, and you will be able to educate everyone you meet. Here in Colorado, we are in year ten of the sales and 'safe access' rhetoric, and it's the same old story that I see occurring in state legislatures across the U.S. Don't fall for it – and please learn from the mistakes in this social experiment in Colorado. Keep talking! □

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Stop Pot Legalization

at the Federal Level

***This is an “op-ed” and is solely the opinion of the author.**

by *Peter F. Boyce, General Counsel*
National Narcotics Officers Association Coalition

More than 30 states have some form of marijuana legalization or de-criminalization of pot and the tally of Pro Pot States is likely to grow despite the efforts of the NNOAC, our President or Attorney General.

The two million member American Legion has launched a campaign to reduce marijuana restrictions by calling for the reclassification of pot on a federal level from a drug that has no medical benefit and is more dangerous than cocaine, to one that would be in the same category as prescription pain killers.

The American Legion contends that its members need access to medical marijuana to treat such conditions as post traumatic stress disorder, chronic pain and opioid addiction. Some members of the American Legion claim they became addicted to opioids while being treated by VA doctors who over prescribed opioids as a way to deal with medical issues. States like New Jersey have passed new laws allowing veterans to get medical marijuana when they otherwise would not qualify.

The argument being made by the American Legion seems in part to be that since the synthetic opioid Fentanyl, along with over prescribed use of other opioid medications, has created a crisis for veterans and non-veterans alike why not allow the use of Pot as an alternative. A representative of the Legion was quoted in a Wall Street Journal article on

July 30, 2017 as saying “We are hearing these compelling stories from veterans about how cannabis has made their lives better, that they were able to use it to get off a whole cocktail of drugs prescribed by VA doctors, that it helped with night terrors and gave them relief from chronic pain.”

The NNOAC sponsored a Summit in September intended to educate and empower all narcotic officers about the reality of Marijuana Legalization and to give law enforcement the tools necessary to get the FACTS to the public about the affects legalization and has had on states like Colorado, Washington and others. Law enforcement must become very vocal about the legalization issue to try and offset the huge amount of money spent by the Pot sellers to promote this dangerous drug as a harmless cure all. Jeff Sessions understands the importance of the issue. He has stated most emphatically in a letter to congressional leaders asking them to allow the Justice Department to override state marijuana laws. “The Department of Justice must be in a position to use all laws available to combat the transnational drug organizations and dangerous drug traffickers who threaten American lives.”

Get behind Jeff Sessions’s efforts to enforce federal law in all 50 states. Federal law, if properly amended, may be able to pre-empt state law on marijuana legalization.

In the words of President Trump “Don’t be too nice.”○

Jeff Sessions: Being soft on sentencing means more violent crime. It’s ti...

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The Washington Post

Opinions

Jeff Sessions: Being soft on sentencing means more violent crime. It’s time to get tough again.

By Jeff Sessions June 16

Jeff Sessions is U.S. attorney general.

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. For the approximately 52,000 Americans who died of a drug overdose in 2015, drug trafficking was a deadly business.

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. Meanwhile, the average sentence length for a convicted federal drug offender decreased 18 percent from 2009 to 2016.

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. 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.

The increase in murders continued in 2016. Preliminary data from the first half of 2016 shows that large cities in the United States suffered an average increase in murders of nearly 22 percent compared with the same period from a year earlier.

As U.S. attorney general, I have a duty to protect all Americans and fulfill the president's promise to make America safe again. Last month, after weeks of study and discussion with a host of criminal-justice participants, I issued a memorandum to all federal prosecutors regarding charging and sentencing policy that once again authorizes prosecutors to charge offenses as Congress intended. This

two-page guidance instructs prosecutors to apply the laws on the books to the facts of the case in most cases, and allows them to exercise discretion where a strict application of the law would result in an injustice. Instead of barring prosecutors from faithfully enforcing the law, this policy empowers trusted professionals to apply the law fairly and exercise discretion when appropriate. That is the way good law enforcement has always worked.

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, and in most of those cases the defendants were drug dealers who accepted plea bargains in return for reduced sentences.

Federal drug offenders include major drug traffickers, gang members, importers, manufacturers and international drug cartel members. To be subject to a five-year mandatory sentence, a criminal would have to be arrested with 100 grams or more of heroin with the intent to distribute it — that is 1,000 doses of heroin.

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. Overdose deaths from opioids have nearly tripled since 2002. Overdose deaths involving synthetic opioids rose an astonishing 73 percent in 2015.

My fear is that this surge in violent crime is not a “blip,” but the start of a dangerous new trend — one that puts at risk the hard-won gains that have made our country a safer place.

Some skeptics prefer to sit on the sidelines and criticize federal efforts to combat crime. But it's not our privileged communities that suffer the most from crime and violence. Minority communities are disproportionately impacted by violent drug trafficking. Poor neighborhoods are too often ignored in these conversations. Regardless of wealth or race, every American has the right to demand a safe neighborhood. Those of us who are responsible for promoting public safety cannot sit back while any American communities are ravaged by crime and violence. ➤

There are those who are concerned about the fate of drug traffickers, but the law demands I protect the lives of victims that are ruined by drug trafficking and violent crime infecting their communities. Our new, time-tested policy empowers police and prosecutors to save lives.

Methamphetamines in Minnesota Revisited



By Carol Falkowski

Carol Falkowski is the CEO of Drug Abuse Dialogues, a training and consultation business. She is the former director of the alcohol and drug abuse division of the Minnesota Department of Human Services, former director of research communications at

Hazelden, and has been part of nationwide drug abuse epidemiology network since 1986. [Her most recent report, Drug Abuse Trends in the Twin Cities, can be found here.](#)

Methamphetamines have returned to Minnesota.

No corner of the state is untouched.

The data regarding methamphetamines (meth) show increases that surpass the topmost levels reached in 2005 at the height of the last meth epidemic. To better understand this resurgence, let's flash back to 2005 when methamphetamine abuse was at its peak.

By 2005, Minnesota had endured five years of devastation attributed to meth production, distribution, abuse and addiction. Media outlets told gruesome stories of child abuse and neglect at the hands of meth-addicted parents. Makeshift meth labs wreaked havoc on the environment in rural and urban areas alike, while law enforcement agents scrambled to shut them down at risk of great bodily harm. Minnesota courts realized the consequences of meth addiction and production, as did our correctional and health care systems. Minnesotans drove by billboards featuring people whose faces and teeth had become horrifically disfigured by meth addiction. Meth addicts flocked into treatment centers in record numbers, as distraught families feared that there was no effective treatment for this special type of addiction. Communities, big and small, convened town hall meetings in church basements, high school gyms, and civic auditoriums.

Laws restricting the over-the-counter retail sale

of products containing pseudoephedrine (a key ingredient used to make methamphetamines), were passed in Minnesota and 34 other states, before the Federal law was passed in 2005, spearheaded by our then Senator Norm Coleman.

That Federal law, heralded as one of the most effective legislative responses to the drug abuse problem in this country, seemed to swiftly and significantly curtail both small, mom-and-pop meth labs and super labs. Multiple indicators of meth abuse and addiction precipitously declined. Gradually people breathed a sigh of relief.

Yet the significant declines were relatively short-lived. Meth made in Mexico gradually replenished the supply. **Starting in 2009, the indicators quietly began to rise again and now surpass those 2005 peak levels.** Again methamphetamine casts its looming shadow across Minnesota and America.

What's different now? With this wave of methamphetamine abuse and addiction there are fewer meth labs. **We are also in the midst of a burgeoning opioid epidemic, an onslaught of increasingly deadly synthetic drugs, and the illicit sale of counterfeit pills. In terms of our mostly widely used illegal drug, marijuana smoking among adolescents exceeds cigarette smoking, and more Americans than ever (60%) favor its legalization.**

What remains the same is that the methamphetamine supply is plentiful and its use is widespread. **Confiscations of meth by law enforcement are again breaking records.** Once again Minnesota treatment centers are filled with meth addicts seeking help. And yes, meth addiction is treatable.

People take drugs to feel good or feel better. It is that straightforward. The likelihood of any individual developing addiction is a combination of genetic and environmental factors. Some prefer stimulant drugs like methamphetamines, while others prefer depressant drugs like opioids and alcohol.

Addiction is a chronic, relapsing disease that changes the structure and function of the brain and is characterized by compulsive drug seeking and

DEA RELEASES FENTANYL GUIDE

FOR LAW ENFORCEMENT AND FIRST RESPONDERS

**treat any powders as if they contained fentanyl*

In June of 2017, the Drug Enforcement Administration (DEA) released a video message to law enforcement nationwide about the dangers of handling fentanyl and its deadly consequences. DEA Acting Administrator Chuck Rosenberg reminds law enforcement and first responders that “exposure to an amount equivalent to a few grains of salt can kill you. You can be in grave danger even if you unintentionally come into contact with fentanyl.”

Over the last several years, U.S. Law Enforcement has seen a dramatic increase in the availability of dangerous synthetic opioids. A large majority of these synthetic opioids are structural derivatives of the synthetic drug “fentanyl.” Fentanyl is a synthetic opioid currently listed as a Schedule II prescription drug that mimics the effects of morphine in the human body, but has potency 50–100 times that of morphine. Due to the high potency and availability of fentanyl, both transnational and domestic criminal organizations are increasingly utilizing these dangerous synthetic opioids as an adulterant in heroin and other controlled substances. The presence of these synthetic opioids in the illicit U.S. drug market is extremely disconcerting as the potency of these drugs can easily overcome users and lead to overdose incidents and overdose-related deaths throughout the nation. Moreover, the strength of these substances is such that law enforcement and first responders are at risk of overdose simply through unintentional exposure.

DEA intelligence indicates China and Mexico are the main source countries for illicit fentanyl smuggled into the

United States. Generally speaking, shipments from China tend to be lower in volume, but higher in purity relative to other fentanyl seizures, whereas shipments from Mexico tend to be larger but lower in purity. Less frequently, Fentanyl is routed and smuggled through Canada. Of note, many China-based trafficking organizations utilize the internet to distribute fentanyl, fentanyl-related substances, and synthetic opioids globally. These items are often intentionally mislabeled when shipped. Police dogs are at risk of serious health effects from exposure to fentanyl and fentanyl related substances.

Officers should be aware the DEA labs have processed exhibits containing fentanyl and its analogues mixed with heroin, cocaine, methamphetamine, and synthetic cannabinoids. While the potency alone should be enough to merit caution, the mixing of these substances in with others makes field testing and drug identification more challenging and potentially hazardous. ***Law Enforcement and First Responders should treat any powders or suspected drugs as if they contained fentanyl.**

Do not disturb Due to the hazardous nature of the synthetic opioids described above, law enforcement personnel, or any first responders, who encounter fentanyl or fentanyl-related substances should NOT take samples or otherwise disturb any powdered substances without employing proper PPE, as this could lead to accidental exposure. Law enforcement personnel,



as well as first responders, should exercise appropriate safety precautions at all times when fentanyl or fentanyl-related substances are suspected.

Call HAZMAT

If the presence of fentanyl or any synthetic opioid is suspected, personnel should immediately contact the appropriate officials within their agency who have been trained to handle hazardous materials, or contact the nearest DEA field office for assistance. Having specially trained law enforcement (or hazardous materials “HAZMAT” incident response team) professionals equipped with the necessary equipment, to include Level “A” PPE, on-site to assess the situation prior to exposure or contamination is recommended. This includes situations involving unknown powdered substances and/or pill milling or encapsulating operations.

When encountering unknown powders, personnel should use, at the minimum, Personal PPE to include nitrile gloves, N-95 dust mask, eye protection, disposable paper suit, or paper coveralls, and shoe covers. Naloxone should also be readily available for administration.

For additional information on the DEA recommendations for First Responders and to view the DEA video please visit:

https://www.dea.gov/druginfo/Fentanyl_BriefingGuideforFirstResponders_June2017.pdf

<https://www.dea.gov/druginfo/fentanyl.shtml>

This guide and video will provide recommendations to law enforcement and first responders on the fentanyl exposure risks and treatment, fentanyl detection and decontamination. ○

Meth in Minnesota, cont.

from page 18

use, despite harmful consequences, according to the National Institute on Drug Abuse. Yet unlike other chronic diseases with behavioral components, such as diabetes, hypertension or asthma, most addiction goes untreated, thereby threatening the public safety and damaging individuals, families and entire communities.

Let this resurgence of methamphetamine serve as a reminder that even though a certain drug disappears from the headlines, it does not disappear from our streets. Meth is a long-acting stimulant drug that heightens alertness and suppresses appetite. The lure of these effects has not diminished over time, nor has the desire of people to feel good or feel better.

The illegal drug business is ruthless and profitable, organized and unrelenting. It is always seeking new customers.

We need to be equally unrelenting and organized in our prevention, law enforcement and treatment responses. When it comes to effectively curbing drug abuse, it’s everyone’s business. □



FEATURE: Violence in Urban America A REMEDY UNDER ATTACK

Law Enforcement Use of “Stop and Frisk”

BY Mike Callahan

In 2013 a federal judge in New York declared the New York Police Department’s (NYPD) execution of the so called “stop and frisk” procedure unconstitutional.¹ In Chicago, in March 2015, the American Civil Liberties Union (ACLU) issued a report entitled “Stop and Frisk in Chicago” which alleged that the Chicago Police Department (CPD) disproportionately utilized the “stop and frisk” procedure against the city’s African-American population, causing systemic abuse of their constitutional rights. Shortly after the ACLU report, in April 2015, a class action suit was filed in federal court in Chicago on behalf of minority plaintiffs alleging that the CPD used the stop and frisk procedure in an unconstitutional manner to deprive them of their constitutional rights.²

On August 7, 2015, the CPD entered into an agreement with the ACLU which would be overseen by a former United States Magistrate Judge. The agreement required the CPD to create and maintain significant data regarding officer execution of stop and frisk practices; overhaul and improve officer training on stop and frisk; and make regular progress reports to the former Magistrate Judge and the ACLU.³

History and Development of “Stop and Frisk”

In 1968, the United States Supreme Court recognized that law enforcement officers needed a proactive lawful investigative tool to combat prospective criminal activity **before it occurred**. In Terry v. Ohio⁴ a police officer observed two male suspects acting suspiciously at approximately 2:30 p.m. One suspect walked to the front of a store from a nearby street corner. He stopped, looked inside the store and returned to the street corner. He conferred with the other suspect who had waited for him to return. The second suspect was observed to repeat the same conduct as the first suspect and return to the corner to confer with his partner. Each suspect performed this ritual about six times. The officer, who had years of experience as a police officer and had never seen these suspects before, suspected that they were “casing” the store for a holdup.⁵

The officer approached them, grabbed one and spun him around. He patted the man’s outer clothing for weapons and discovered a handgun. The Supreme Court ruled that the man was subjected to a “seizure” of his person (i.e. an investigative detention/not an arrest) but the seizure was justified because the officer had developed facts amounting to a **reasonable**



suspicion that criminal activity was taking place. The Court also ruled that the “pat down” frisk for weapons was justified because the officer had a **reasonable fear** for personal safety based upon his observations that suggested they were planning an armed robbery.

In reaching its decision, the Court in Terry observed that law enforcement officers were constitutionally permitted to arrest law breakers **after** a crime had occurred if they had **probable cause** to justify the arrest. However, the Court believed that officers, to enhance public safety, needed something more, i.e. the ability to stop, detain and question persons they suspected of criminal activity before the crimes actually occurred. The Court recognized that the public would be better protected from criminal mayhem, if officers could detain suspects for a reasonable period for investigation in the absence of probable cause that would be required to support an arrest.

1 Floyd v. City of New York 959 F. Supp. 2d 540 (U.S.D. C. S.D. N. Y., 2013).

2 Darnell Smith et. al. v. City of Chicago et.al., (Case No. 1:15-cv-03467).

3 See, ACLU “Stop and Frisk Settlement,” March 2017.

4 392 U.S. 1 (1968).

5 The Court ruled that these facts were sufficient to justify an investigative detention of the suspects because they amounted to a **reasonable suspicion** that criminal activity was afoot.

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Proactive Instead of Reactive

In the 1980's my father would stop by the house in a beat up Ford F350 with a camper shell on it. At the time, this was the narcotics vehicle. It was covered in rust and smelled like an ashtray and body odor. As a kid I thought it was the coolest thing ever. It looked the part and served the department for many years. A lot has changed since then.

The 1997 North Hollywood shootout showed the world that there was an immediate need for the development and use of armored vehicles within the law enforcement community. Since then, agencies have looked to the armored SWAT truck as the vehicle of choice for high risk operations and emergency situations. Although highly functional, these vehicles are limited in their use and normally have a hefty price tag of upwards of \$350,000.

Today's narcotics officer is dealing with heavily armed, often cartel funded, individuals who would not hesitate to engage in a gunfight with the first badge they see. Some of the same weapons used in the North Hollywood shooting are in the hands of today's narcotics dealers. How can departments protect officers, while still preserving the element of surprise? What can be used for surveillance during a buy bust; but at drop of a dime be a lifesaving tool to "safely" extract a wounded person from a dangerous situation?

Agencies are looking for ways to meet these threats head on while providing officer safety and they haven't been able to find a solution, until now. The solution is the International Armored Group and their Armored Ford Transit Van.

International Armored Group (IAG) was founded over 20 years ago and has grown into one of the largest armored vehicle manufacturers in the world. IAG offers over 80 different models of armored vehicles and specializes in SWAT and SRT

vehicles. IAG has worked closely with law enforcement agencies to create a discrete armored transit van that is more versatile and affordable than the traditional SWAT trucks. One of the factors behind its design was to protect narcotics officers without losing its covert capability.

IAG's vehicles come with the patented SMARTARMOR Single Piece Sidewall Design. The entire length of the vehicle's sidewall is protected with one continuous piece of ballistic steel that integrates all door overlaps and pillars. This provides the highest level of ballistic protection for those inside. IAG was also the first armoring company in the world to manufacturer ballistic glass in-house. Ballistic glass from 3rd party manufacturers is often made from a standard mold and then has to be modified to fit the vehicle in question. By having both vehicle and glass manufacturer under one roof, it guarantees a low profile look and the highest level of ballistic protection.

In 2014, IAG introduce the "Armored Tactical Van" and the "Armored Transit Van" in 2016. The Armored Ford Transit Vans are available in NIJ Level III (7.62, .308 150gr) level of protection and offer the industry's leading interior volume plus 12-person seating. This has created a much more enjoyable experience for officers that are forced to remain in the armored vehicle for long periods of time. In addition, a state-of-the art surveillance system has been installed to increase situational awareness for officer safety. This system features a 360° camera system with a large split screen monitor and a remote viewing option from a command post. The van is also set up to accommodate a medical stretcher and can be used as an armored rescue vehicle to move any wounded personnel or civilians out of a fluid situation. This vehicle was designed to be a multi-purpose armored van that is perfect for high risk warrants, mobile takedowns, active shooter, or undercover work. In a mass casualty incident, every second counts. Being able to rapidly put officers into or extract wounded out of a violent encounter could determine if someone recovers from a leg wound or dies on the floor from loss of blood.

With the increased negative public perception of law enforcement and the media's narrative about "Weapons of



2017

FORGING A PARTNERSHIP

Law Enforcement & Treatment

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Colorado Heroin Response Work Group

Prepared by:

[Colorado Heroin Response Work Group of the Colorado Consortium for Prescription Drug Abuse Prevention](#)

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Forging a Law Enforcement and Substance Abuse Treatment/Recovery Partnership

by

Colorado Heroin Response Work Group

**Learn the language –
Accept the differences – Embrace the goal**

In May of 2016, the Heroin Response Work Group (HRWG) was established as part of the larger Colorado Consortium for Prescription Drug Abuse Prevention. The working group's purpose is to establish a coordinated, statewide response to the emerging heroin

problem in Colorado. Members of the work group represent diverse backgrounds in the state of Colorado and include representatives from the Rocky Mountain High Intensity Drug Trafficking Area (RMHIDTA), the Colorado Department of Public Health and Environment (CDPHE), the Colorado Attorney General's Office (COAG), the Colorado Department of Human Services (CDHS), the Drug Enforcement Administration (DEA), US Attorney's Office (USA), Colorado Counterdrug Taskforce (CO-CDTF), Colorado Association of Chiefs of Police (CACAP), the Colorado Drug Investigator's Association (CDIA), as well as various other prevention, treatment, recovery and law enforcement organizations.

Introduction: This paper points out some of the differences that may exist between the law enforcement and treatment/recovery professionals. For the purposes of this report, the term "treatment" will include recovery. The emerging opioid and heroin problem has helped demonstrate the necessity for developing a partnership. The general issues identified and summarized are the result of interviews and a focus group including law enforcement, treatment and recovery professionals in Colorado. The interviews were conducted by some members of the Colorado Heroin Response Work Group.

Purpose: There is no illusion that this report is a scientific study. It simply serves to identify some of the differences that may exist between the treatment and law enforcement professions. However, not all of those in treatment or law enforcement agree on the issues identified in this report. This document is not designed to support a particular position. The purpose is to help recognize there may be professional differences but not allow those differences to interfere with relationships or collaboration. These two important professions can agree to disagree and still work together. If they get entangled in the areas where they disagree, they will never develop a mutual partnership. The key is accepting the philosophical and cultural differences and embracing the common goal of impacting the substance abuse problem.

Some Potential Philosophical Differences:

1. Primary emphasis by treatment is on the person whereas primary emphasis by law enforcement is on the public.

Treatment and recovery, by the nature of their professions, place an emphasis on treating the person who uses drugs. Success is achieved when that person

FORGING, CONT.

is removed from the cycle of addiction and often illicit behavior. That then becomes their primary focus and the measure of their success. The treatment professional gets to know the person and empathizes with their circumstances and addiction. A potential result of successfully treating the addiction and leading the person to recovery is the positive impact on family, friends and society.

Law enforcement’s emphasis is to protect the public from those who engage in irresponsible and/or criminal behavior. Their success is based on the crime rate. If the law violator is removed, then he/she is not committing crimes or victimizing others. Law enforcement empathizes with victims since they see them when most traumatized, often at the actual scene of the crime. Law enforcement observes firsthand the adversity and tragedy caused by those who engage in criminal behavior, many of whom are substance users. However, if that person is no longer involved in the illicit use of substances, that should affect his/her propensity for irresponsible and/or criminal behavior – a win for both treatment and law enforcement, as well as society.

2. Treatment considers substance abuse a disease whereas law enforcement views substance use as a choice.

Treatment professionals often classify substance abuse as being a disease similar to diabetes, cancer, etc. Many in law enforcement disagree with that perspective, since the person chooses to use drugs but people don’t choose to get cancer or diabetes. Law enforcement believes the “disease” view absolves the user from being responsible for their condition. Treatment examines the progressive nature of substance abuse and many believe it is a brain disorder.

While it is true that the substance user chooses to use the substance, it is doubtful he/she chose to become addicted. The alcoholic chooses to drink alcohol but did not choose to become an alcoholic. Choice does play a role but there can also be environmental and genetic factors

involved. In a similar fashion, those with diabetes or even cancer, like a substance user, may have contributed to that condition through what they eat, lack of exercise, etc. That doesn’t change the fact that they have a disease. As with substance abuse, environmental and genetic factors can play a role in contributing to a person having cancer or diabetes.

3. Treatment emphasizes harm reduction whereas law enforcement believes that drug use should be stigmatized.

Many treatment professionals embrace harm reduction strategies, such as needle exchange, as a cost-effective intervention to avoid unintended consequences of drug use, such as the spread of communicable diseases. Additionally, they also cite the benefit of safe disposal of used needles

Some General Cultural Differences Discussed Include:

Treatment	Law Enforcement
Politically and socially more liberal	Politically and socially more conservative
More methodical	More action oriented
More impressed with titles, credentials, higher education and academia	More impressed with street knowledge/experience
Tends to use terminology coined by profession	Tends to use more street terminology
Influenced by research and studies	Influenced by personal experience
Focused on longer term results and reducing drug -related harm	Focused on immediate results and reducing drug-related crime

and reduction of risk of accidental needle stick injuries of law enforcement. Treatment professionals believe that harm reduction strategies serve as a gateway for access to services such as treatment and medical care.

Law enforcement, on the other hand, often looks at harm reduction as a disguised agenda used by those who support the legalization of drugs to remove the stigma of drug abuse and to normalize drug use. Law enforcement believes that a tolerant public attitude and acceptability of drug use are major factors in the rate of use. They cite tobacco smoking as an example of a substance that once was considered “cool” but now is stigmatized as having helped reduce the rate of smoking. Law enforcement believes the more normalized a behavior becomes the more people will be engaged in that behavior. Likewise, the more stigmatized a behavior, the less people will engage

in that behavior. Treatment professionals believe that stigmatizing drug use and addiction interferes with an individual’s ability to admit his/her problem as well as seek, and stay in, treatment. They also believe that it damages his/her social interaction and pushes them more toward a group that engages in similar behavior.

4. Success of treatment versus success of law enforcement.

Treatment often tends to downplay the necessity of supply reduction and frequently will refer to law enforcement as having failed in the war on drugs. Law enforcement tends to believe that treatment overstates its success rate and believes supply reduction is a necessary ingredient in a successful drug policy.

5. Treatment endorses Medication-Assisted Treatment (MAT) whereas law enforcement’s view is that MAT is simply substituting one addictive drug for another.

Many treatment professionals believe that Medication-Assisted Treatment is an important therapy to treat the uncontrollable, compulsive behavior that is addiction. Medications such as methadone and buprenorphine play an important role in addressing dangerous addiction as part of a comprehensive treatment plan. Law enforcement often views MAT as substituting one addictive drug for another with the only difference being that one is illegal and the other legal. They often cite abuses of these programs and the lack of overall success in becoming drug free. What is drug free may be another area of differences between law enforcement and treatment.

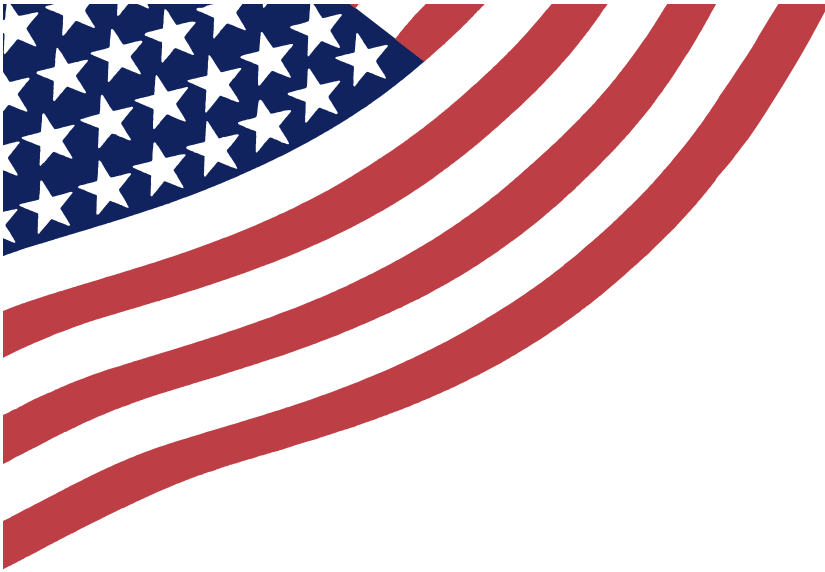
6. There are a variety of treatment and recovery methods whereas law enforcement considers all treatment/recovery options part of the same discipline.

Medication-Assisted Treatment, non-medication assisted treatment and recovery, etc. often share different philosophies on treating substance abuse whereas law enforcement places all treatment options under the same umbrella. Within the treatment profession, there are varying opinions as to what works best and how to measure success. Recovery professionals often feel they are a different profession from treatment. Recovery specialists view treatment as having an expiration date whereas recovery is a life-long process. Treatment professionals differ on how to measure the success of mandated treatment through the criminal justice system versus voluntary treatment. Law enforcement tends to believe that mandated treatment, using the “carrot and stick” philosophy, is generally more effective than voluntary. Treatment also differs on the use of Medication-Assisted Treatment versus no medication in treatment. Law enforcement, on the other hand, often considers the various types of treatment and recovery as one discipline. That includes all the differences and issues that arise between law enforcement and treatment. However, the following analogy, comparing treatment and recovery, tends to resonate with law enforcement. An individual has an injury that requires surgery to treat the injury (treatment) but for the individual to resume

Some Language Differences:

Treatment Language	Law Enforcement Language
Person who uses drugs (PWUD), inappropriate use, substance misuse disorder, person involved in risky use of a substance	User, dooper, druggie, drug user
Person with a substance use disorder, substance behavioral disorder, drug disease, active addiction problem use, substance dependence	Addict, drug habit, strung out, junkie
Person who injects drugs (PWID)	Person who shoots up
Addiction-free, in recovery, sobriety	Clean
Negative or positive test results	Clean or dirty test
Medication-assisted treatment	Drug replacement or substitute
MAT, abstinence-based treatment, recovery, outpatient treatment, inpatient treatment, relapse prevention, long-term residential treatment, drug counseling, group counseling	Treatment
Withdrawal Management Center	Detox

Continued on page 31



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September 2017

An Analysis of the Implementation of the 2014 Clemency Initiative

UNITED STATES SENTENCING COMMISSION



An Analysis of the Implementation of the 2014 Clemency Initiative

Introduction

On April 23, 2014, the Department of Justice announced an initiative to encourage qualified federal inmates to petition to have their sentences commuted by President Barack Obama. The stated intent of the initiative was to lower sentences for non-violent offenders who “likely would have received substantially lower sentences if convicted of the same offense” under the law then in effect.

The Department of Justice (DOJ) announced six criteria that would entitle offenders to be prioritized for consideration for clemency. Over 24,000 offenders petitioned for clemency under the initiative, and the President commuted the sentences of 1,696 of those offenders.

This report analyzes the sentence commutations granted under the initiative. It provides data concerning the offenders who received a sentence commutation under the initiative and the offenses for which they were incarcerated.

It examines the extent of the sentence reductions resulting from the commutations and the conditions that the President placed on his commutations. It also provides an analysis of the extent to which these offenders appear to have met the announced criteria for the initiative.

Finally, it provides an analysis of the number of offenders incarcerated at the time the initiative was announced who appear to have met the eligibility criteria for the initiative and the number of those offenders who received a sentence commutation.

The President’s Clemency Power

The Constitution gives the President the power to grant clemency to persons who have committed federal offenses. Article II of the U.S. Constitution provides:

The President . . . shall have Power to grant Reprieves and Pardons for Offenses against the United States, except in Cases of impeachment.¹

Although the text of the President’s clemency power uses only the words “reprieves” and “pardons,” the power is generally understood to extend to five different forms of clemency: reprieves, pardons, amnesties, remissions, and commutations.²

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Key Findings

The key findings of this report are:

- President Obama made 1,928 grants of clemency during his presidency. Of them, 1,716 were commutations of sentence, more commutations than any other President has granted.
- Of the 1,928 grants of clemency that President Obama made, 1,696 were sentence commutations under the 2014 Clemency Initiative.
- The commutations in sentence granted through the Clemency Initiative resulted in an average sentence reduction of 39.0 percent, or approximately 140 months.
- Of the 1,696 offenders who received a commuted sentence under the Clemency Initiative, 86 (5.1%) met all the announced Clemency Initiative factors for consideration.
- On April 24, 2014, there were 1,025 drug trafficking offenders incarcerated in the Federal Bureau of Prisons who appeared to meet all the announced Clemency Initiative factors. Of them, 54 (5.3%) received clemency from President Obama.
- By January 19, 2017, there were 2,687 drug trafficking offenders who had been incarcerated in the Federal Bureau of Prisons when the Clemency Initiative was announced and who appeared to meet all the announced Clemency Initiative factors. Of them, 92 (3.4%) received clemency from President Obama.

This report discusses President Obama's use of commutations under the Clemency Initiative; however, the other forms of clemency will be discussed briefly.

The Five Forms of Clemency

A reprieve is a temporary postponement of a punishment.³ It suspends the execution of the sentence of the court⁴ but has no effect on the crime or the punishment imposed for it.⁵

In contrast, a pardon relieves the offender of all punishment for the offense that has or may be imposed.

The President can pardon someone before or after a formal conviction for a crime;⁶ however, in practice pardons are usually granted after a person has been convicted, served the punishment imposed, and demonstrated rehabilitation by leading an exemplary life upon release.⁷

Amnesties are, in essence, a type of pardon granted to a class of people for similar criminal acts.⁸ Most commonly, they are granted to a class of offenders who have not been prosecuted for the offense, often before any arrest for the crime has been made.⁹

The President may also order the remission of fines and forfeitures. This form of clemency requires the government to return to an offender all or a portion of the fine and forfeitures which a court ordered accrue to the government.¹⁰

Commutations of sentence are the form of clemency¹¹ used for the Clemency Initiative. A commutation does not relieve the offender of any legal consequence of the underlying offense, but only adjusts the punishment to be imposed.¹²

The most common form of a commutation is the substitution of a lesser punishment of the same character for the punishment imposed by a court, such as the reduction in the length of a sentence of imprisonment.¹³

But commutations can also involve a change in the type of punishment itself, such as replacing a sentence of death with a sentence of life imprisonment.¹⁴

The Review of Clemency Petitions

Although the power to grant clemency belongs exclusively to the President, petitions for clemency have been processed by the Attorney General and his or her staff since 1852. In 1891, Congress established the Office of the Pardon Attorney in the Department of Justice, and the "clerk of pardons" (whom DOJ had renamed "the attorney in charge of pardons") became the Pardon Attorney. For most of the time since, the Pardon Attorney reported directly to the Attorney General, who then presented the Pardon Attorney's recommendations to the White House

for decision. Before 1962, the Attorney General sent only those petitions that were recommended for clemency and all petitions which involved the death penalty.

Beginning in 1962, DOJ also began sending to the President those petitions which it recommended be denied.

In 1978, the Attorney General delegated supervisory authority over the Office of the Pardon Attorney to the Deputy Attorney General (DAG), who continues to supervise the office today. Under current practice, the DAG sends the DOJ recommendation to the White House through the Counsel to the President. In early 2016, DOJ appears to have revised its policy to also send to the President the Pardon Attorney's comments regarding petitions which the Pardon Attorney recommended be approved but the DAG recommended be denied.¹⁵

Conditioning Grants of Clemency

The President may attach conditions to a grant of clemency. In general, there are few, if any, legal limits on the conditions that the President may impose.¹⁶ The types of conditions imposed in the past have been wide-ranging, such as requiring the offender to swear allegiance to the country¹⁷ to performing acts of service benefitting the nation.¹⁸

While an offender cannot refuse a commutation outright,¹⁹ he or she can effectively refuse it by refusing to perform a condition attached to it.²⁰

Grants of Clemency Over Time by Different Presidents

In the modern era, President Franklin D. Roosevelt granted more clemencies than any other president. In his 12 years and one month in office, he granted 2,819 pardons, 488 commutations, 12 reprieves, and 477 remissions.²¹ President George H.W. Bush granted the fewest clemencies. During his four years in office, he granted 74 pardons and three sentence commutations.

President Barack Obama made 1,928 grants of clemency during his presidency.²² Of them, 1,716 were commutations of sentence, more commutations than any other president has granted.²³

Announcement

On April 23, 2014, Deputy Attorney General James Cole held a press conference to announce a new Clemency Initiative. In the press release accompanying the event, DOJ stated that the Initiative was undertaken "at the behest of" President Obama and was intended to lower sentences for non-violent offenders who "likely would have received substantially lower sentences if convicted for the same offenses" had they been sentenced under the law at the time

the Initiative was announced.²⁴

Mr. Cole stated at the press conference: For our criminal justice system to be effective, it needs to not only be fair; but it also must be perceived as being fair. These older, stringent punishments that are out of line with sentences imposed under today’s laws erode people’s confidence in our criminal justice system. I am confident that this initiative will go far to promote the most fundamental of American ideals—equal justice under law.²⁵

As discussed above, the announcement of the Initiative by the Deputy Attorney General was consistent with historical practice regarding the review of petitions for clemency, all of which are filed with the Department of Justice.

Criteria Entitling Offenders to Prioritized Consideration Under the Initiative

At the press conference on the Initiative, Mr. Cole announced six “criteria” that he said DOJ would consider when reviewing clemency petitions from federal inmates.

In the press release issued after the event, DOJ stated that “Under the new initiative, the department will prioritize clemency applications from inmates who meet all of” the announced factors.²⁶ The six factors were:

- 1) They are currently serving a federal sentence in prison and, by operation of law, likely would have received a substantially lower sentence if convicted of the same offense(s) today;
- 2) They are non-violent, low-level offenders without significant ties to large scale criminal organizations, gangs or cartels;
- 3) They have served at least 10 years of their prison sentence;
- 4) They do not have a significant criminal history;
- 5) They have demonstrated good conduct in prison; and
- 6) They have no history of violence prior to or during their current term of imprisonment.²⁷

Effect of Announcing Factors

Announcing a set of criteria to be considered when reviewing petitions for clemency is not unprecedented. DOJ had previously promulgated what it calls “Rules Governing Petitions for Executive Clemency.”²⁸ However, these “rules” are mostly procedural in nature. In fact, in the rules themselves DOJ states that they are advisory and only for “the internal

guidance of Department of Justice personnel.”

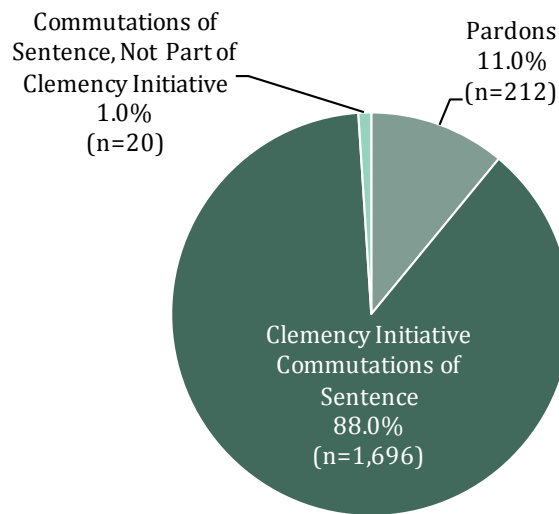
The only provision that appears to limit an applicant’s eligibility to receive clemency²⁹ is the requirement that pardon petitions should not be filed until five years after the petitioner’s release from confinement for the offense for which the petitioner seeks the pardon.³⁰

In announcing the 2014 Clemency Initiative, DOJ provided six broad factors that it would consider in addition to those listed in the Code of Federal Regulations; however, the role that those factors were to play in the decision to grant clemency under the Initiative is unclear. For example, while the official DOJ announcement stated that offenders meeting these criteria would simply qualify for “prioritized consideration,” at other times DOJ referred to the factors as “eligibility criteria.”³¹

In Mr. Cole’s prepared remarks announcing the Clemency Initiative, which were posted on the DOJ website, he stated that “the initiative is open to candidates who meet six criteria.”³² He also noted that “[i]dentifying worthy candidates within our large prison system will be no easy feat” and that “a good number of inmates will not meet the six criteria.”³³ As recently as August 2017, the DOJ website provided a link to these same criteria with the words “Read more about who is qualified to apply for commutation under the new criteria.”³⁴

Keep reading on our website

Figure 1. Grants of Clemency by President Barack Obama 2009-2017



The 2014 Clemency Initiative

LAG, cont.

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War on the Streets of America”, there needs to be a solution that maximizes officer safety yet is discrete enough to allow agencies the ability to enter any situation without drawing attention to it or inciting a hostile environment. Today, it can be parked in front of the Rose Bowl and 4 hours later be used to record an undercover operation. The next day, parked outside State Capitol for a political protest. Most individuals would walk by that van and not think anything of it. Now let’s have the same 3 locations and replace the Van with the departments SWAT Vehicle. Would the response be the same and would it be positive?

Recent incidents in the UK, France and Germany have put a spotlight on concerts, political rallies, sporting events and even protests as premier targets for terrorist activity. The US has just now started to experience what others around the

world are desperately trying to prevent. Threats of terrorism have forced law enforcement to react accordingly, while maintaining a low public footprint and not put added strain on already maxed out budgets.

Due to budgetary and political restraints, today’s law enforcement is forced to be “reactive” to violent situations. The Armored Ford Transit Van from International Armored Group is changing the script, by providing one of the most proactive tools in today’s market. □

Bert Coutts

Owner, Pride Supply and US Law Enforcement Advisor for International Armored Group and Night Optics USA.

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FORGING, CONT.

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their normal function, they may need physical therapy (recovery).

7. Treatment and law enforcement define the term “evidence” differently.

The word “evidence” in law enforcement is likely to mean meeting the legal burden of proof in developing a case that an individual is guilty of a crime. Treatment professionals think of evidence-based practice, which focuses on proof of what works to achieve a desired health outcome. “Evidence” is held up as a guiding principle for treatment: the method in which the data were collected and analyzed and the demonstrated effectiveness of an intervention are key drivers for treatment and public health practice and policy. This is related to some of the issues identified above, including whether or not stigmatization is beneficial, and whether or not MAT works. Evidence-based crime policy is utilized to a greater degree by law enforcement. This may help bridge some gaps between treatment and law enforcement.

8. Treatment and law enforcement are governed by a variety of laws, regulations and policies.

Treatment and law enforcement are required to operate under specific laws, regulations and policies. This is a topic that the two professions need to discuss early in their working relationship. Understanding differences and limitations should help reduce unrealistic expectations and hard feelings. For instance, law enforcement may feel that treatment is not cooperating in sharing information about their client. However, treatment is, by law, limited on what they may share regarding their client. Treatment may expect a law enforcement officer to exhibit some flexibility in interaction with their client on relatively minor offenses. However, law enforcement may be limited by regulations or policy in their amount of discretion involving a criminal offense. A healthy, candid discussion concerning limitations and restrictions is important in sustaining a long-standing relationship.

Conclusion: The partnership between law enforcement and treatment communities is crucial in addressing the heroin problem. The differences identified in this paper should not be obstacles to developing a positive working relationship, but rather provide each profession a glimpse into some different points of view. The goal is putting those differences aside and working together for the common good. □

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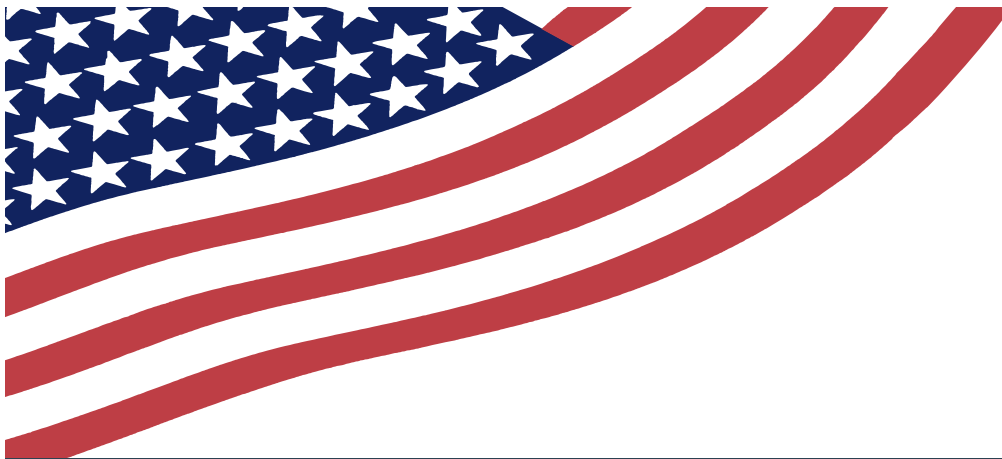
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Recidivism Among Federal Drug Trafficking Offenders

UNITED STATES SENTENCING COMMISSION



Chapter One: EXECUTIVE SUMMARY

This report examines a group of 10,888 federal drug trafficking offenders who were released in calendar year 2005. They were originally sentenced between fiscal year 1991 and the first quarter of fiscal year 2006.

These 10,888 offenders, who were all U.S. citizens, represent 42.8 percent of the 25,431 federal offenders who were released in calendar year 2005 and analyzed in the Commission's 2016 *Recidivism Overview Report*.

Chapter Overview

- Introduction
- Key Findings
- Measures & Methodology

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Click BELOW to READ FULL REPORT

<http://www.natlnarc.org/recidivism-among-federal-drug-trafficking/>

Key Findings

Key findings of the Commission’s study of recidivism among drug trafficking offenders are that:

Figure 1.1
Overview of Drug Trafficking Recidivism Study Findings

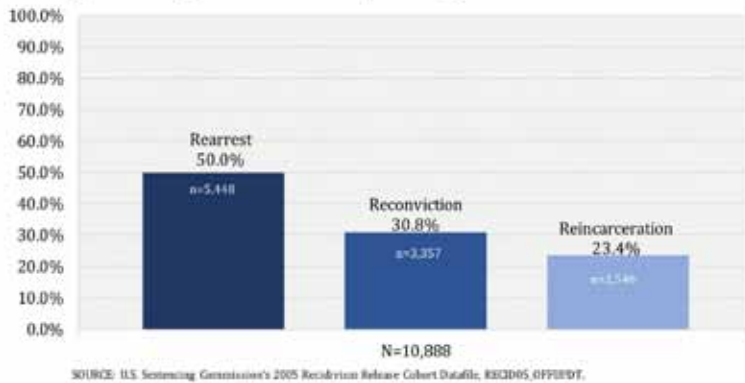


Table 1.2
Overview of Drug Trafficking Recidivism Study Findings

Recidivism Measure	Rearrest	Reconviction	Reincarceration
Percent	50.0%	30.8%	23.4%
Median Time to Recidivism	25 Months	34 Months	33 Months
Median Number of Recidivism Events	2	1	1
Most Serious Post-Release Event	Assault (23.8%, n=1,297)	Drug Trafficking (18.9%, n=633)	Drug Trafficking (21.7%, n=553)
Median Age at Release	32	32	31

SOURCE: U.S. Sentencing Commission's 2005 Recidivism Release Cohort Datafile, RECID05_OFFRPT.DT. The Commission excluded cases from this analysis that were missing information necessary to perform the analysis. Median age at release is shown for recidivist offenders only.

- Over the eight-year follow-up period, one-half (50.0%) of federal drug trafficking offenders released in 2005 recidivated by being rearrested¹² for a new crime or rearrested for a violation of supervision conditions.
- Crack cocaine offenders recidivated at the highest rate (60.8%) of any drug type, while powder cocaine offenders recidivated at the lowest rate (43.8%).
- Of those drug trafficking offenders who recidivated, the median time from release to the first recidivism event was 25 months.
- Nearly one-fourth (23.8%) of drug trafficking offenders who recidivated had assault as their most serious new charge followed by drug trafficking and public order offenses.
- A federal drug trafficking offender’s criminal history was closely associated with the likelihood of recidivism. Recidivism rates ranged from 35.4 percent for offenders with zero criminal history points to 77.1 percent of offenders in the highest Criminal History Category of VI.
- A federal drug trafficking offender’s age at time of release into the community was also closely associated with likelihood of recidivism. Drug trafficking offenders released prior to age 21 had the highest recidivism rate, 65.0 percent, while drug trafficking offenders over 60 years old at the time of release had the lowest recidivism rate of 16.5 percent.
- The strong associations of both criminal history and age with recidivism rates are tied to certain other findings. There was an inverse association between the base offense level under the guidelines (which is determined by the drug type and quantity) and recidivism rates. Similarly, there was an inverse association between both the presence and length of a statutory drug mandatory minimum penalty and recidivism rates. The longer sentences received by the more serious drug trafficking offenders result in older ages at release, which is a likely factor affecting this result.
- There was little apparent association between the length of imprisonment and recidivism for drug trafficking offenders overall. However, once Criminal History Category is accounted for, length of imprisonment is associated with lower rates of recidivism. Again, longer sentences result in older ages at release, which combined with criminal history differences, are likely factors affecting this result.
- Federal drug trafficking offenders had a substantially lower recidivism rate compared to a cohort of state drug offenders released into the community in 2005 and tracked by the Bureau of Justice Statistics. Over two-thirds (76.9%) of state drug offenders released from state prison were rearrested within five years, compared to 41.9 percent of federal drug trafficking offenders released from prison over the same five-year period.

FEATURE: Violence, cont.

To meet this perceived need, the Court created the legal concept of **investigative detention** which is also known as **stop and frisk**. The Court ruled that henceforth law enforcement officers would have the right, consistent with the Fourth Amendment; to **stop, detain and question** persons suspected of criminal activity; if they possessed facts and reasonable inferences drawn from those facts that amounted to a **reasonable suspicion** that criminal activity may be present.⁶ This was to be considered a **detention for investigation**; not an arrest and probable cause was not required.⁷

The Court further observed that such investigative stops are often inherently dangerous for police officers and consequently gave officers the additional constitutional right to **“pat down” or “frisk”** the person detained for weapons if the officers possess facts amounting to a **“reasonable fear” for their safety**. The Court explained that “there must be a narrowly drawn authority to permit a reasonable search for weapons for the protection of the police officer, where he has reason to believe that he is dealing with an armed and dangerous individual [i.e. a reasonable fear for safety], regardless of whether he has

6 The Court explained that **reasonable suspicion** involves a lesser standard of proof than probable cause for arrest and involves a police officer justifying an investigative seizure by pointing to **“specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion.”** (emphasis added). The Court explained that **reasonable suspicion** is an **objective standard** which assesses the facts available to the officer at the moment of the seizure to determine whether they would amount to a reasonable belief that criminal activity may be present.

7 **Probable Cause** is also an objective standard that determines whether a law enforcement officer is in possession of sufficient facts and circumstances and reasonable inferences drawn from them to support a full custody arrest of an individual. In other words, probable cause requires sufficient facts and circumstances for an officer to reach a reasonable belief that the person to be arrested has committed a particular criminal act. Because an arrest is a greater intrusion into a person’s freedom and liberty than an investigative detention, the objective standard for judging the officer’s action is higher, i.e. probable cause vs. reasonable suspicion.

probable cause to arrest the individual for a crime.”⁸

The Court also made abundantly clear that this so-called “frisk” for weapons was to be limited in scope to a **pat down of the outer clothing for weapons only**. It was not to be used to search for possible evidence of criminal activity. The Court explained, “Officer McFadden confined his search strictly to what was minimally necessary to learn whether the men were armed and to disarm them once he discovered the weapons. He did not conduct a general exploratory search for whatever evidence of criminal activity he might find.”⁹

The Value and Efficacy of Stop and Frisk in Urban America

Professor Lawrence Rosenthal, Chapman University School of Law, recently published a “Legal Studies Research Paper” that discusses the necessity and efficacy of law enforcement use of “stop and frisk” in urban America.¹⁰ Professor Rosenthal points out that research has determined that urban youth gangs are heavily involved in drug trafficking and use the threat of violence to inhibit competition.¹¹ He reports that “[r]esearch has consistently documented that violence driven by conflicts within and among gangs, drug-selling crews and other criminally active groups generate the bulk of urban homicide problems.”¹² He instructs that the need to control definable areas of the city to limit competition necessitates the use of violence and intimidation tactics. These tactics include threats and intimidation directed toward law abiding citizens to keep them from reporting to the police and testifying in court.¹³ Rosenthal states that it is not surprising that gang related homicides often go unsolved because witnesses are afraid to come forward.¹⁴

Rosenthal reports that in urban America, firearms are pervasive and there is considerable evidence that criminal street gangs carry firearms at elevated rates to protect themselves and their turf from rival gangs.¹⁵ The Rosenthal

8 392 U.S. 1,27. (Insert added by author).

9 Id. at 30.

10 See Lawrence Rosenthal, “Good and Bad Ways to Address Police Violence”, 48 *The Urban Lawyer* 675 (2016).

11 Id. 707, 708.

12 Id. at 708.

13 Id.

14 Id.

15 Id. at 709.

FEATURE: Violence, cont.

report states that there is considerable evidence of a statistical relationship between an increase in the numbers of police assigned to certain areas of a city and decreases in violent crime.¹⁶ However, he points out that when police officers simply drive through violence prone areas of a city, potentially violent criminal gang activity is not curtailed.¹⁷ Rosenthal explains that police officers must be proactive in policing strategy to combat inner city crime effectively.¹⁸ He points out that particularly impressive crime reductions occurred in New York City between 1991 and 2009. For example, in 1991 the size of the City's police force began to increase and the NYPD "placed greater emphasis on aggressive stop and frisk tactics." This emphasis on aggressive stop and frisk was coupled with directing greater enforcement efforts in certain centers of the City which were identified by crime reports as City 'hot spots.'¹⁹

In 2013, Professor Rosenthal observed that the homicide rate in New York City was 31 per 100,000 in 1991. In 2012, the homicide rate dropped to 5.05 per 100,000 which demonstrated an amazing public safety achievement. Rosenthal reported that between 1991 and 2007 the homicide rates of black citizens dropped from 58 per 100,000 people to 15.9 per 100,000, an even more astounding public safety achievement. Similarly, in 1991 the New York City homicide rate for Hispanics was 44 per 100,000 and by 2007 it dropped to 4.9 per 100,000.²⁰ Aggressive and focused policing substantially reduced crime and offered significant protection for area citizens.

The Attack on Stop and Frisk; Who Is Hurt By It; Why Does It Matter?

As explained at the outset, there have been several recent lawsuits filed that are designed to limit, if not eliminate, law enforcement's ability to use the "stop and frisk" procedure to protect the community from harm and violence. ²¹This effort to bring outside control upon law enforcement's

16 Id. at 710.

17 Id. at 711.

18 Id. at 712.

19 Id.

20 See, Rudovsky and Rosenthal, "Debate: The Constitutionality of Stop and Frisk in New York City." (2013) Faculty Scholarship. 590.

21 The Milwaukee Journal Sentinel reported on 2/23/17 that the ACLU has sued the City of Milwaukee and its Police Chief in a class action suit over the police department's execution of its stop and frisk policy in the City.

ability to use this technique appears to be spearheaded by the ACLU. In its 2015 report pertaining to the Chicago Police and Stop and Frisk, the ACLU reported that Black Chicago citizens were subjected to 72% of all reported stops but only constitute 32% of the City population. The report also found that in the summer of 2014 there were more than 250,000 stops that did not lead to an arrest.²²

The ACLU's use of general population statistics to make their case for racial profiling of minority citizens is misleading and wrong. General population statistics are virtually meaningless when discussing the need for stop and frisk. The figures that are truly relevant and matter are the crime statistics for given areas of the City. City "hot spots" are where police resources must be concentrated. These are the areas where crime happens and is likely to happen. These are the areas where drug dealing is prevalent, rival drug dealing gangs compete for business and where violence breaks out on a consistent basis. These are the areas where law-abiding citizens are threatened into silence and fear leaving their homes and driving to the grocery store. It makes no sense for New York City officers to utilize stop and frisk tactics on business persons walking in downtown Manhattan at lunch time when crime reports for that area are deminimis, while ignoring the violence prone neighborhoods in other areas of the City. Crime statistics must dictate police presence and tactics. Implementation of stop and frisk, as long as it is done within constitutional parameters, is essential to crime reduction, public safety and officer safety.

Recent crime statistics from Chicago demonstrate what happens to a City when police officers become reluctant to utilize the stop and frisk tactic. According to a report in US News on March 24, 2017, the former United States Magistrate who is overseeing CPD compliance with its ACLU agreement to control stop and frisk, reported that CPD stops dropped from more than 1.3 million in 2015 to 54,000 in the first six months of 2016. Conversely, CNN reported at the end of 2016 that there were 762 murders and 4331 shooting victims in Chicago in 2016: up from 496 and 2939 in 2015.²³ Homicides in Chicago have increased by 58% and shooting victims increased by 32%. The CNN report stated that only 5 police districts within the City accounted for nearly two thirds of the murders.

22 One reasonable inference from this statistic is that bad guys were not carrying guns and drugs for fear of being stopped by police and frisked for weapons.

23 See, Wills, Hernandez and Baldacci, "762 Murders, 12 Months, One American City." (2016).

FEATURE: Violence, cont.

Effective, consistent and lawful use by police of the stop and frisk technique matters because the millions of innocent citizens who live and work and go to school in the crime plagued urban areas of America deserve nothing less than full protection. Anything less than a complete police strategy to protect the innocent is unacceptable and immoral. CNN reported in December 2016 concerning the wounding of a 10-year old girl in Chicago. The story titled “The Disappearing Front Porch” by Rosa Flores, tells the sad story of little Etyra Ruffin. She was sitting on her father’s lap on her grandmother’s front porch when suddenly and without warning, bullets began to fly. Etyra’s father was shot several times and Etyra was grazed in the arm. By God’s grace, both survived the 12-bullet onslaught directed against them. After the shooting, Etyra’s 11-year-old friend Devin stated, “ I feel scared in Chicago, all these people getting killed, I feel sad. I feel scared. I don’t want to be shot.”

There appears to be no clearly defined reason for why police use of the stop and frisk technique in Chicago has significantly declined. Some suggest that new much more detailed reporting requirements for each police stop that are

mandated by the CPD/ACLU agreement and a new state law²⁴ on stop and frisk that incorporates the agreement, is the primary cause of the decline.²⁵ A former U.S. Attorney opined that many CPD officers have become scared and demoralized as a result of the criticism of the stop and frisk tactic and no longer wished to bear the risks inherent in using it.²⁶

Nonetheless, Stop and Frisk matters for the thousands of innocent people, like Etyra and Devin, who reside in these violence prone areas of our nation. When the bad guys are afraid to carry guns, the innocent have a chance to be free. Law enforcement officers in Chicago and in the major urban areas of America should remember their oaths to protect the people and continue to be proactive in preventing crimes of violence. Etyra and Devin, along with the thousands of innocent people like them, deserve nothing less.

24 725 ILCS 5/107-14 and 725ILCS

25 See, Jerome R. Corsi, “Chicago Less Safe Because of ACLU Settlement Imposed on Police Department,” Law Enforcement Charitable Foundation.

26 Id.



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Developing Your K9 Unit's Potential

Well friends...my heart goes out to all the people out there who have suffered so badly with recent events. I'm sure you will pull it together and, with each other, overcome.

I thought I would write an article on educating and developing your Department on the use of the Police Service Dog. This article is more geared toward law enforcement, but I am sure there are points that the military dog handler can also use. Concerns always arise with many Departments regarding the use of the Police Service Dog (PSD). At some point, most agencies (or at least they should) are asked to identify issues regarding deficiencies during perimeters and containments for outstanding felony suspects and the utilization of the PSD. It has always been understood (or should be) that the PSD is a patrol-oriented asset during search operations for outstanding felony suspects. If an established criterion is met, K9 is requested to conduct a systematic search for the outstanding suspect / suspects. Normal containments start with patrol personnel either observing or responding to an unplanned event that ends with a suspect evading officers at some point during the incident. Officers are normally compelled (or should be) to exercise the option to establish containments for these suspects resulting in a successful capture. From this point on, events emerge regarding the successful operation and apprehension of the outstanding suspect. With this in mind we are constantly seeking ways for improvement to economize our usefulness. Let us review some of the tactics used to establish a successful containment.

K9 Personnel Response to Perimeters

Response from K9 personnel must be recognized as a top priority within your K9 unit. The work ethic of any K9 handler must be second to none. If this is not the case then an evaluation of this mindset must be corrected first and foremost. Most of the K9 handlers I meet have this needed pro-active mindset – and if they do not then peer pressure usually takes care of the problem. If it does not then leadership must step in and take action. If a K9 unit is out of sight then, as the saying goes, they are out of mind, too. If you are the last to be requested during containment operations or if they are conducting hand searches for felony suspects then you have your work cut out for you!

Air Support Response to Perimeters

I realize that in writing this many of you do not have the luxury of Air support during K9 operations, but if you do or if you can develop this area, then it will certainly assist in your success during K9 search operations. For those of you that are fortunate enough to have Air support then develop this asset. Classroom instruction and brainstorming is a must. Each party should know their needs, abilities and restrictions during search operations. Questions like tactical frequencies, availability, weather restrictions and air space restrictions should all be covered. Once again the K9 unit's marriage to this entity is paramount. The unique relationship with these two groups allows for continued efficiency in a K9 Units service to patrol. An Air Ship overhead allows for constant evaluation of needs and wants during the incident. This undoubtedly increases the usefulness and economizes the K9 search. Air Support assistance increases the likelihood of smaller perimeter containment. **The onset of Air Support during the initial stages of containment causes suspects to "put down" sooner, allowing for smaller perimeters and less personnel. This is also a selling point to management, allowing search operations to run smoother and finish quicker.**

Conducting the Perimeter Search

The dynamics of a typical K9 search cause K9 personnel to be constantly evaluating events as they unfold. This is an area in which we can have an impact on. Often times during a K9 search handlers are gathering evidence that directly affect search operations. Examples of this are viable witnesses reporting suspect's location and suspect movement during the search. This information often leads to the re-establishment and the upsizing or downsizing of the containment. The diligence of handlers and K9 supervision can have a direct impact on utilizing this information to economize on containment personnel.

Another noted and related area is the downsizing of containments. **During K9 search progression the elimination of areas should be noted and relayed to Command Post personnel as soon as practicable for perimeter personnel release.** My experience with other Departments is that this can usually be improved upon by simply communicating better. It is vital that K9 personnel and K9 supervision have constant

communication and evaluations during K9 searches to economize operations.

Scouting Operations

This is an area that usually needs development. Scouting missions were started with all good intentions in mind. It was recognized that often K9 personnel can begin search operations in identified areas on the containment where the suspect was either last seen or solid witness information placed the suspect in a particular area of the containment. Scouting missions are sometimes successful in locating the suspect quickly and efficiently thereby saving potential hours of search operations. This is in the best interest of public safety as well as economizing containment personnel. However, this tactic has another side to it. Many times these same scouting operations turn into **ghost searches** in which much time is utilized in searching areas where the suspect is not. After the scouting mission ends with negative results, the search is then restarted from its beginning in a systematic fashion. One can see the time that this can take if not used responsibly.

K9 supervision in this area can and has played a substantial roll. K9 handlers conducting scout operations often become tunnel visioned in their effort utilizing much time in their endeavor. K9 and patrol supervision have direct responsibility of being **proactive** in keeping K9 personnel on task. K9 training days as well as roll call training will condition K9 handlers to be cognizant of this concern. Over the years facts dictate that most K9 searches are successful because of systematic yard to yard searches, as opposed to hit and miss scouting operations.

Utilization of Department or Outside Assets

Successful perimeter containment requires the necessary personnel needed for a strong and solid

containment, anything less affords the suspect opportunity to escape. An area that always needs work is the organized use of Department assets. Many Departments are smaller in size and need to incorporate other nearby agencies for manpower needs. The time to organize this is before the fact and not as the incident unfolds. Multi-agency protocols should be agreed upon and then acted upon by pro-active training. All areas should be on the table, availability, communication, Air support, as well as policy agreements on the use of the PSD. Smaller entities should also consider having available teams from specialized units, such as SWAT, Special Problems Units. As well as Vice and Gang Units to assist in K9 search operations when manpower needs are identified. Once again these issues must be table topped first and then proofed with scenario-based training.

Replacement of Containment Personnel

The replacement of containment personnel is the responsibility of Command Post Personnel assigned to the involved Division. However, without proper **training and communication** Command Post Personnel may not identify this responsibility. With this being said, K9 supervision as well as the K9 handler, both hold some responsibility in this area.

During K9 search operations the systematic completion of containment portions should be continuously evaluated for the downsizing of said containments. It is essential that K9 personnel are frugal in this area to once again economize manpower needs. Often times during a search information is gathered by K9 personnel directly involved in the search that could justify such downsizing. This information should immediately be conveyed to Command Post personnel for evaluation and action thereby freeing up patrol personnel. Often times K9 personnel could be more expedient in this area.



High Risk Searches and Search Team Members

Much has been discussed in this area over the years regarding qualified personnel for high-risk K9 search operations. As K9 operations have developed and so has its professionalism and training. Currently close to **50% of K9 requests are considered high-risk in nature**. With officer safety issues in mind, this has inherently placed a significant burden on patrol divisions. Let's face it, many times the need for a higher level of trained search team members are not available. Smaller Departments should realize this and start empowering their Patrol personnel by offering and making available this needed training for these types of incidents. The use of a long rifle or shotgun during a K9 search operation requires unique training and this needs to be addressed. For our Department, the use of a one point or three-point sling is required during K9 searches. The ability to transition from long gun to pistol is a must. This training requires a higher level of performance and once again it should be completed during scenario-based training. Many Departments develop a cadre of officers for this type of training to be offered for patrol personnel. This satisfies the need for consistency and training in an organized fashion. Tactical insight and development must come from K9 personnel. The more personnel that are properly trained the faster and safer the K9 search can begin.

Perimeter Tactics Training

Many Departments lack in the area of containment training. This is the bread and butter of any successful K9 unit. Simply put—you cannot catch bad guys unless they are successfully contained. The chase and catch concept must change to chase and contain. Across the board statistics will show that most foot chases are not successful. The suspect always has the advantage. His only concern is to run—and run fast – whereas the officer must chase and do it safely to avoid ambush and set ups. Let us face another fact; many officers are not physically able to sustain a long foot chase like their counterparts (suspects). Containment training is a must and management must be committed and make it available. Many K9 units make this training available but most lack sadly in this area. This area requires an assertive and proactive attitude. Once again as the saying goes “out of sight, out of mind”. Proper perimeter tactics utilized during foot pursuits and suspect searches have shown not only a reduction in time spent during the operation but also a much higher success rate.

Seek Out Areas for Improvement

Patrol divisions and their assigned personnel must identify additional areas for K9 search operational improvement. Patrol supervision and officers are some of the best sources for ideas and information regarding areas identified for change. Many Departments utilize a Department wide questionnaire. This would afford concerned patrol personnel the opportunity to voice noted concerns of any issues they have observed. This is an excellent means of education and communication for the K9 Platoon. Just do not be thin-skinned when the results come back! LOL!

CONCLUSION

Some of the noted areas for improvement are the direct responsibility of the K9 Platoon. However, many of the other noted deficiencies will require outside cooperation and commitment from patrol entities. Economizing K9 perimeter searches will require a focus by all involved personnel. Other areas involve supervision oversight and some require more effort from the involved K9 Unit. Other areas are more complicated. Areas regarding Department commitment such as extensive patrol training as well as tactical equipment would show a slight monetary cost initially, but would pay off in large dividends by economizing patrol personnel during perimeter containments once implemented and established. □

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Doug is an advisory board member for K9s4COPs—a 501 (c)(3) nonprofit that pays for and provides trained K9s for law enforcement agencies and schools districts. In six years K9s4COPs has placed over 160 K9s in the United States and one in Paris, France, removing more than \$200 million in cash and contraband off the streets and are responsible for more the 5,000 arrests. For more information on how to donate or to apply for a K9-- please visit K9s4COPs.org

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