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Moving Beyond the “War on Drugs”

Response to Asa Hutchinson

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Opening Remarks

First, I want to thank Ambassador Djerejian and Professor Martin and the James A. Baker Institute for holding this conference. This is a great venue for this event. I also want to thank Mr. Hutchinson especially for coming and engaging in a dialogue, because for so long - for much too long- those who favor the status quo and those who favor reform have not talked to each other and we need to have a dialogue, a discussion. If we do that, I think we can find some solutions to this very important problem that affects us now and will affect future generations. I think this seemingly intractable problem of drug abuse is one that can be solved. There is research that shows what works, and if we talk to each other and listen to each other, we can figure out the way to proceed. I appreciate the way you go around the country, Mr. Hutchinson. You were in a bookstore in Maryland recently and heard medical marijuana patients asking tough questions. You mentioned San Francisco. You are going around the country hearing people dissenting, and there is a lot of dissent about the drug war. A recent Pew poll shows that only about 15 percent of the public believe the drug war is winnable—only about 15 percent. Do you know what that is equal to? That is equal to the number of people who believe that Elvis Presley is still alive. It is a shrinking minority and there is good reason why people feel that way. The facts really do not support the success that Mr. Hutchinson sees in the drug war.

I am not going to focus much on our disagreements. I am not trying to defeat Mr. Hutchinson in debate. That is too easy to do, really, when you have the facts, the history, and when you have the laws of economics, when you have the laws of supply and demand, and when you have common sense on your side. So I'm not trying to defeat him today. My goal here is a loftier goal, and that is to engage in dialogue that can solve this problem. I don't expect we will solve that today, but I do hope that this is the beginning of a dialogue, and I am not going to respond to every fact or claim by Mr. Hutchinson. I gave him a copy of our booklet, *Drug War Facts*, so he can study it for our next debate, and I inscribed it very personally for you. I hope you will look at it.

Response to Asa Hutchinson

I'm going to start at one point where we do have disagreement, and that is the question, "Are we winning the 'war on drugs'?" If you start from the premise that we are winning the 'war on drugs,' there is no need to discuss this issue. We are all happy. But the facts are not the way Mr. Hutchinson sees them. In fact [to Hutchinson], you rely a lot on just one survey for your claim that we're winning, and that is the Household Survey, which is conducted by the Department of Health and Human Services. It is a large survey of U.S. households. It is called the Household Survey for a reason. There three things I want to say about it. First, among the households that are not counted are those who are homeless, where you see 50 percent addiction rates; those who are mentally ill, where you see similar addiction rates, and who are hospitalized; and those who are incarcerated. So, as the incarceration rate of drug users goes up, the percentage of people who are saying they are using illegal drugs will go down. It doesn't mean that drug use is going down. It just means we are not counting those people. We in the United States now have two million people behind bars, 500,000 for drug offenses, and about a million with underlying substance abuse problems. So, if you say you have under a million heroin addicts and under a million heavy cocaine users, but then you add 500,000 to a million people to that group, you suddenly have a whole different picture from that which Mr. Hutchinson describes.

In addition, the Household Survey is a survey. What happens is that a government surveyor comes to your house and asks questions. We know that when the numbers of those who admit their drug use are compared to drug test results, there is about 25 percent underreporting. Many people don't admit their drug use. I imagine that is even more true when the government comes to your house and asks you about drug use. So, if we are already talking about a 25 percent differential when someone knows they're going to be drug tested—for example, in a pre-trial or bail situation—you can expect to find an even larger differential when they are responding to a government surveyor, with no drug test involved. Finally, a lot of people won't even take the survey. In fact, about 20 percent of those who are asked to participate in the survey refused to answer the questions. So this Household Survey is very sketchy. It is not the best basis for claiming victory. [To Hutchinson] I hope that in the future you will recognize the shortcomings and not rely on it so heavily, because if you look at more solid data, the numbers of people who are harmed by drug abuse, or the price and impurity of

drugs—still not perfect, but much harder numbers—you find failure on many levels.

For example, if you look at overdose deaths, after spending half a trillion dollars by the government from 1980 until today, we are seeing record overdose deaths. That is a more solid number, and that is not a sign of victory. We are also seeing record mentions of drugs in emergency rooms. Once again, a more solid number, and after half a trillion dollars, we don't expect to see record mentions of drugs in emergency rooms. We are also seeing rapid spread of HIV and AIDS among the drug-using populations. Half the new AIDS cases come from injection drug uses. Again, a solid number that does not show victory.

We are also seeing adolescent drug use increase. With adolescents, we don't have as much of a problem with the incarceration issues that make the Household Survey less useful. We also have the Monitoring the Future surveys, which is a survey of high-school students, and those show a 50 percent increase in adolescent drug use since 1990, before President Clinton [took office.] In the last years of the previous Bush administration, we began to see adolescent drug use going up.

Finally, look at[the] price and impurity of drugs. These numbers come from reports by DEA agents, so we take them with some skepticism, but even so, the price of heroin and cocaine is cheaper than it was in 1980, the purity of heroin and cocaine is greater than it was in 1980. And drugs like methamphetamine, which had disappeared back in those days, are making a comeback. Drugs like crack, which didn't exist in those days, now exist. So, from 1980 to today, we are not a safer, healthier society. We are not winning the 'war on drugs' and, by the way, it is well past third down. As you pointed out, we have been fighting this drug war since the beginning of the last century. We have 25 percent of the world's prisoners in the United States, with 5 percent of the world's population. This is not third down. We are beyond third down. It is time to pick the ball up and try a new approach.

So, taking all these facts into account—overdose deaths, emergency room mentions, AIDS, adolescent drug use, price, purity—it's awfully hard to say with a straight face that this is victory.

We are not safer and healthier.

Now, how do we deal with this? What I want to do with the rest of my time is focus on the areas on which I think we have some agreement, where we have common goals. My goal, as far as building a successful drug policy, is to find policies that reduce the harm to society, that reduce crime and violence, reduce disease, reduce dysfunction, and reduce adolescent use. Those are my goals. I really don't have a great concern about someone using marijuana privately. It doesn't affect them negatively in a way that hurts society and it is not really my concern. My concern is how drug abuse affects our communities' safety and our communities' health. I'm sure you agree with that. You are concerned also about the safety and health of our community.

If you look at a policy to deal with heroin, one of the more difficult drugs to deal with, a policy that would reduce crime by heroin addicts by 50 percent, that would decrease homelessness by a third, that would decrease the spread of HIV, that would prevent overdose deaths, that would undermine the drug markets, and that would be a policy we could all support—that policy exists. It has been tried in Switzerland for about a decade and is being tried in more and more European countries, even other countries in the Americas are looking at it, [and] Australia is looking at it also. That policy is heroin maintenance programs. This is not the *prescription* model of heroin; it is the *clinic* model, where an addict will go to a clinic and purchase heroin, not be given it, but purchase it and use it at the clinic under the eyes of a health-care worker. With that kind of approach, Switzerland has seen a tremendous success. These are published, peer-reviewed reports. The World Health Organization, not an advocate of reform, has looked at this and they have agreed that we have seen a significant reduction in crime, a disappearing of overdose deaths, a reduction in the drug market, a reduction in homelessness—all positives. And yet, I don't hear anyone in our federal government talking about this policy. We have a heroin epidemic in this country and we are not taking action. We're not even making methadone available. The National Academy of Sciences, the Institute of Medicine, the National Institute of Health, and the American Medical Association have all advocated that methadone be available by a doctor's prescription and filled in a pharmacy. We don't do that in the United States, something so obvious, in the midst of an epidemic. We could be saving lives with

that simple step and we should be doing, I think, more than that, [for example,] a pilot program in some of our cities that would look at the clinic model for dealing with heroin.

Another example of a policy that is a proven success and is even less radical is needle exchange. As I mentioned, half of the new AIDS cases come from injection drug users. When you look at women and children, it is an even higher percentage. And the research is so strong on needle exchange. There is no longer any debate. Needle exchange does not increase drug use, needle exchange does not increase the spread of HIV—in fact, it reduces HIV by up to 50 percent—and it serves as a bridge to treatment. If you favor treatment, you need to recognize that needle exchange serves as a bridge to treatment for many people. The Surgeon General and the Secretary of Health and Human Services both acknowledge that needle exchange works. It reduces HIV; it does not increase drug use. Again, all the gold standards of American medicine, the National Institute of Health, the National Academy of Sciences, and the American Medical Association all support needle exchange, but the federal government refuses to provide funds, so that communities can decide to prevent the spread of AIDS in the most dangerous community, the injection-drug-using populations. It is time for us to move off that. It is time for us to get serious about HIV and drug abuse and provide funding for needle exchange.

Now let's consider the most widely used illegal substance, marijuana. Marijuana accounts for almost half of all drug arrests. Almost 750,000 drug arrests last year were for marijuana, and most were for possession. One thing we know about marijuana is that decriminalization works. We know from U.S. experience, and we know from the experience in Holland, and we see the rest of Europe now following the Dutch lead because it has been so successful there. Decriminalization works. The evidence is in. In 1982, the National Academy of Sciences, in a report called *An Analysis of Marijuana Policy*, reviewed the evidence on marijuana decriminalization in the United States. From 1972 to 1978, 11 states, covering one-third of the population, decriminalized marijuana possession. So we had a history to look at. And what did the National Academy of Sciences find from that? They found that it worked, that there was no increase of marijuana use in those states compared to states that had not decriminalized. In fact, the National Academy of Sciences recommended that

decriminalization become national policy and they recommended that we begin to experiment with taxing the marijuana market. So, marijuana decriminalization is a clear, research-proven, effective method of drug policy. In fact, if we look back over the last 30 years, I would say that it is one of the most effective drug policies we have had. From 1972 to 1978, we had decriminalization and then from 1978 over the next 10 years we had reductions in marijuana use. We reduced the penalty for marijuana possession and marijuana use went down. I'm not saying that marijuana decriminalization caused marijuana use to go down, but reducing the penalties did not result in increased use. So we can reduce the harm of the drug war and reduce marijuana use. History shows it has worked and we need to look at history.

The other issue regarding marijuana that has to be looked at more carefully is the medical use of marijuana. Whatever the debate on marijuana policy generally, we've got to move forward on medical use. It's a shame that we keep hearing the same thing from the government, "When more research comes through, then we will do something." Well, the fact is that in 1988, when the federal government stopped research on marijuana, we were at the final phase of research. There is a three-stage process for drug approval in the United States that the FDA goes through: Phase One is animal studies, Phase Two is small-population studies, and Phase Three is large-population studies. We were in Phase Three, the large patient population studies of medical use of marijuana, which showed it was working, and the federal government closed down the research for the next decade. In 1980, I argued before the chief administrative law judge of the Drug Enforcement Administration. We presented evidence that showed medical marijuana is safe and effective. In addition, the chief administrative law judge of the DEA, who gets a paycheck from the Department of Justice every two weeks, ruled that the DEA had been arbitrary and capricious in denying medicine to the seriously ill. But we were shut out of the political process in Washington, we were shut out of the regulatory process, so we resorted to the political process in the states. There have been initiatives held around the country and, consistently, the public supports medical marijuana. Why? Because it works. Polling actually shows that a high percentage of Americans know somebody who has benefited from medical marijuana. So, no matter what the federal government says about it not working, experience shows that, in fact, it does work.

Now I want to focus on a hot-button issue, the use of drugs by kids - adolescent drug abuse. Everyone is interested in this issue. I have college-age and high-school-age sons, so I have teenage kids of my own. This is something I'm personally concerned about, and my view is that, unfortunately, the drug war does more to hurt our kids than to protect our kids. It is easier for a high-school kid to buy marijuana than it is for an adult to buy marijuana. It is easier for a high-school kid to buy marijuana than it is for them to buy beer. It is easier for a high-school kid to buy cocaine, heroin, ecstasy, LSD, and amphetamines, than it is for them to buy prescription drugs. We have better protection for our kids from prescription drugs and alcohol than we do from the illegal drugs. In addition, unfortunately, we spend our very limited money on drug education on having police officers come into the school to teach about drugs. Those are the wrong messengers, with the wrong message. We need to have drugs treated as a health issue. We need to have health professionals teaching about drugs, not police. That would be the effective way, but it is not the way of the drug war, in which law enforcement dominates.

In addition to availability and purchase, we are seeing our kids trying drugs. In fact, half of our high-school students will use an illegal drug before they graduate, and while most of those kids don't get into abusive relationships with those drugs - in fact, in most years, the percentage of kids who use these substances on a regular basis is in single digits - it is still true that most high-school kids will try illegal drugs. So half the kids are not going to listen to a zero-tolerance drug education program. They have already broken the zero-tolerance barrier. We need something that works with those kids. What does work most effectively for preventing abuse is after-school programs for kids. It's that 3:00 to 7:00 time period, when the kids come home from school, mom and dad are working or a single parent is working; that is the time of the heaviest delinquency, the heaviest drug abuse, pregnancy, and all sorts of problems. After-school programs are most effective, and yet what is the drug war doing? The drug war is putting up barriers to those effective programs. The great raging debate now in the drug field is the idea of drug-testing kids who want to do extracurricular activities. So put a barrier up so that kids who want to keep busy and active can't, so they get bored and get into trouble. We need to be making those programs more available, not less available. We need to

be spending more money in after-school programs. We spend only \$600 million on after-school programs nationally, whereas, according to the Children's Defense Fund, we should be spending \$5 billion a year nationally on after-school programs to meet the needs of the neediest kids. That would be effective drug policy [rather] than putting up barriers. In fact, when kids get involved in using drugs, rather than denying them services like after-school programs, we should be encouraging them to get involved in such programs. Therefore, the drug war is doing more harm than good when it comes to our kids. And those are just some of the ways.

Finally, Mr. Hutchinson, we have a common goal of getting control of the market. The drug market right now, as you pointed out, is out of control. In fact, it is a market that funds all sorts of negative activity, including terrorism around the globe. But the fact is there are millions of Americans who spend billions of dollars on all sorts of drugs. We are the heaviest drug using culture in history. Ritalin for our kids, Prozac and Viagra for our adults, alcohol, tobacco, nicotine, Correctol—it's all out there, and yet those millions of Americans spending billions of dollars are not funding terrorists. So it is not drugs that lead to terrorism; it is drug prohibition that leads to terrorism. It is the illegal drug profits, it is that \$400 billion, as the UN describes it, "slush fund of untaxed dollars" that leads to any relationship between drugs and terrorism.

Once again, our drug war approach makes the problem worse as far as terrorism goes. Take, for example, Colombia. What we do primarily in Colombia is spray herbicides. We go through these peasant areas spraying herbicides. They don't just kill coca crops growing in the backyards of these peasants who make a dollar a day; they also kill food crops. What happens when a helicopter goes through? Who follows behind it? The FARC. That's the group we describe as terrorists. So we give the FARC, our enemy, ammunition to go win the hearts and minds of the peasants. They follow through, and those peasants have a choice. The FARC comes and helps them. Now they know who their friend is. They say, "The FARC will help us get through the night. The Americans, the Colombian government, they are here to hurt us." That is the view of the peasants. Or you will have some who are forced off the land into the cities. Those people go to cities where there is 20 to 30 percent unemployment and add to the social disruption, once again feeding the terrorism. So

once again, our drug war is making the situation worse.

I would love for you to point out one example where an interdiction or eradication program has resulted in less drugs in this country. In the early days, I was befriended by a guy named Ralph Salerno, a police chief in New York City involved in the French Connection case. He said that in the 1960s, they were told that if they broke the French Connection, the heroin from Turkey processed in France and distributed in New York City, that they would break heroin forever. In fact, they broke the French Connection, but it didn't break heroin forever. We are seeing regular overdose deaths today. In fact, what happened was the heroin market moved. It always moves. You can go through every step—take President Nixon's Operation Intercept on the border with Mexico, trying to stop cars going across the border. That spurred prescription drug use and it led to using planes and boats rather than cars to transport marijuana into this country. They added new routes and that led to a glut of these drugs, as a result of Operation Intercept. Then you can go to Jimmy Carter's spraying herbicides in Mexico in the 1970s. That spurred the U.S. marijuana market. Today, marijuana is one of the top crops in the United States. It also spurred the Colombian marijuana market. The Colombian market became so big that they were sending bales of marijuana into Florida. They flew to Florida, dropped the bales from a plane, and a speed boat would come pick it up and bring it to shore. Sometimes so many bales were coming in that they would wash up on shore; people in Florida called them "Square Grouper" and would have a party on the beach with this marijuana that washed up, there was so much of it. So what happened? President Reagan saw this problem in the 1980s and he brought in the military. The military was great at catching these big bales of slow-moving marijuana. And what did that mean? That meant that the Colombians switched to cocaine, and, not surprisingly, we soon had a cocaine glut in the United States, leading to crack and the whole 1980s problem with cocaine. I could go on and on. Unfortunately, with the Colombian problem, not only are you helping terrorists, but if you are successful in reducing cocaine, and I have my doubts about that, what will replace it? Methamphetamine. It's cheaper, can be produced domestically, no borders to cross, and it is more dangerous. So, in the next decade, we can have a methamphetamine explosion and blame it on the terrible drug users, when, in fact, the drug war is spurring them.

The reality is, we are in a situation similar to the old doctors who bled their patients. They didn't know how to deal with the situation, so they bled their patients, and what happened? Patients bled to death. We are drug warring ourselves to death. I am really sincere when I tell you that I want to find new ways. Prohibition is an 1800s concept, when the choice was "legal or illegal." We didn't have the Food and Drug Administration, and there was no Food, Drug, and Cosmetic Act. Once that act got put in place, we saw a lot of the opiate-based problems that you talked about in the 1880s disappear. But now, in the 21st century, we have developed administrative law, regulatory approaches, tax laws, and all sorts of ways to control dangerous activities. We don't have to rely on brute force, and brute force has, in fact, not worked. So it is time to put the 1800s behind us and move to the 21st century and come up with some new solutions. For some drugs, that may mean a regulated market like alcohol, perhaps with more restrictions on advertising and where it can be sold. For other drugs, it may mean a prescription law. But it may be there can be a third way. I hope to really engage you in an ongoing dialogue about this, because I really appreciate your coming forward and participating in this discussion. For too long we have let this problem worsen. We have been divided between the legalizers and the drug warriors, and that really doesn't get us anywhere. As a culture, this is too important an issue to keep doing the same thing over and over. I am confident that the United States is better than just repeating the same mistake, the same century-old mistake over and over again, and I hope today is the beginning of the end of the war on drugs. Thank you all very much.