Ethan Nadelmann: Drug Policy During the Obama Administration: An Assessment

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Welcome! Thank you for showing up at 5:45. I'm Ethan Nadelmann, the founder and executive director of the Drug Policy Alliance.

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So, Obama--he's been in power for about 22 months--not quite half a term. What can we say about Barack Obama and harm reduction and drug policy reform?

Let me start off with the good news. I think some of this is history, but let's just say this: Obama, when he was running, made three specific commitments on drug policy reform. He said that he was going to support federal funding for needle exchange; he said that he was going to pull back the federal government when it came to cracking down on medical marijuana; he said he was going to roll back these crack/powder laws and try to eliminate the crack/powder disparity. ... There were laws that were passed during the heat of the drug war back in the mid '80s that basically said that somebody caught in possession of just 5 grams of crack cocaine--less than a little shot glass--would be treated just the same as 500 grams of powder cocaine. And in many parts of the country, nobody but black people were prosecuted for crack offenses. So, [Obama] said all three of those things, and by and large, he made good on them. On the needle exchange thing, he didn't lead--when you looked at the White House website the day after the inauguration, it had up there crack/powder reform and federal funding for needle exchange. He didn't provide the leadership on it. We don't quite understand what happened. The leadership was really provided by Nancy Pelosi, the Speaker of the House, who I think leaned in personally. I'm sorry, how many people here are from outside the United States? Ok, I'll do my best to fill in some details here. Nancy Pelosi, the Speaker of the House, and David Obey, congressman from Wisconsin, and Jose Serrano, congressman from New York City who's actually the only congressman I know of who lends his name to a meeting on safe injection sites throughout the United States so Serrano's a gutsy guy with a secure district who gets his stuff. And so, it did go through--barely, narrowly, you know, Democrats just voted for president--but it did go through; it did open this up. Now, if [Bill] Piper was here he would be able to help me with the question of what comes next and implementation; we are worried about what comes next. On the issue of crack/powder, Obama was very clear that this was a major commitment. This was an issue of fairness, of overly harsh sentencing, and also a matter of racial justice. Eric Holder, the African-American Attorney General, said to people both publicly and privately, that he regarded reform of the crack/powder laws and to some extent the mandatory minimum laws more broadly, as a personal commitment--as a legacy issue for him and the administration. And the truth is that he and the justice department got in there and they said 'We are going for full repeal.' You know it was

100:1 disparity, 'We are going for 1:1; eliminate the crack/powder disparity without any compromises.' ... These people from the justice department, set up a task force, they met with people--a whole coalition that included Drug Policy Alliance, Families Against Mandatory Minimums, George Soros's Open Society Research Center, the Sentencing Project, and--also important--whereas many of the leading African-American organizations and civil rights organizations had leaned back on this issue for a long time--the NAACP started to step up to the plate. What's called the Leadership Conference on Civil Rights, which has always been a little [reluctant] about this stuff, has stepped up to the plate. The civil rights organizations that have always been kind of reluctant really began to get up there. The Congressional Black Caucus was providing some important leadership on this stuff and other things began to happen. If you think about it, in the end, they didn't repeal the crack/powder disparity, but they reduced it from 100:1 to 18:1. It was a very significant victory. There were debates, obviously, among the reform coalition: 'Could we take this compromise? Changing it from 100:1 to 18:1 is like changing the law, you know, in the American Constitution, about slaves being treated as 3/5 to 4/5 instead of whole human being.' But nonetheless, the fact is that there was a consensus--more or less a consensus--that we needed to get the best compromise we could now. That this was a situation where we didn't want the perfect to be the enemy of the good. And that because nobody knew what would happen in the 2010 election, and there were fears that what actually did happen might happen, there was a sense of 'Let's get this the best we can.' The other thing was, Democratic leadership, especially Dick Durban, the Illinois Senator, the number 2 guy in the U.S. senate, he was 'I'm there for 1:1.' We had key allies. Pat Leahy, the former head of the Judiciary Committee from Vermont, was going for 1:1. The ones who you feel miff about it are the ones like Diane Feinstein from California, and to some extent Chuck Schumer from New York, my congressman. Diane Feinstein--just an aside--she has been a nightmare on this stuff. I mean she is worse than many of the Republicans in the U.S. senate. There's an excellent piece on Alternet or Huffington Post by Stephen Gutwillig, my California-based colleague, about her. [She's] just consistently opposing progressive criminal justice reform initiatives, opposing medical marijuana, pushing for new sanctions, new mandatory minimums; she has been a close-minded nightmare when it comes to the issues of sensible progressive drug policy and harm reduction. But nonetheless, even she agreed to some compromise on this stuff. Equally significant, Republicans began to come on board. Warren Patch, Lindsey Graham, Tom Coburn, the guy from Oklahoma, they came on board--why? I think some of them were listening, some of them were beginning to get the racial justice piece, some of them were beginning to realize that the grossness of the racial disparity is galling. I think also that there was some important organizing there. Remember who Chuck Colson is? He was a guy, in the Richard Nixon days, who went to prison for the Watergate stuff--he goes to prison, finds God, comes out, and he creates this coalition called ... Prison Fellowship Ministries. Basically, it's got this religious component bringing together conservative Christian Republicans on Capitol Hill. They get into the issues around prison reform. They get into the issues around re-entry. They're not wild progressives but they're trying to move things in the right way. They're coming from a Christian place with a capital 'C', and they're seeing that this is a part that we--you know when Goerge Bush, when he was president, starts talking about re-entry, with a million people coming out of prison into society, and says we have to do something. There's a guy there named Pat Nolan. Pat Nolan was a

Republican legislator--a state legislator in California--goes to prison for whatever, I don't know what he did, comes out and maybe had a substance abuse problem, joins this thing and he becomes the guy at Chuck Colson's fellowship who gets the drug policy reform thing all the way. And he begins the process of pulling together people on the right wing to behind this as well. He's got the access; he's got the entree. So what happens is you begin to get some bipartisan consensus around this stuff. And when this stuff actually goes through, it goes through not by everybody voting and seeing what the actual vote was, it's done by something calling unanimous consent. It was really, in many respects, a major victory. If I had been asked a year and a half ago when Obama came in and made his commitment "Is it really going to happen?", I've got to tell you, I would have been hesitant. There was one moment when the White House asked all the activists to show up for a meeting and said 'Look, we all agree on 1:1; eliminate disparity. We all acknowledge that we're not going to get that far. We all agree it's better to get this done so, please, don't dam the compromise. Let's all get in this together. And if we end up being in a position where we need you to dam the compromise publicly, then we'll ask you to dam the compromise.' But, it actually worked out, right. There was this sense, when it came through, like 'It's still 18:1. It's still humiliating.'. But, on the other hand, it was a major success in which the Obama administration put major resources in it, and key leadership played a role, and where we can claim a lot of credit. The result will be that thousands and tens of thousands of people will spend less time behind bars than they otherwise would have if this law had not passed.

I've been involved in so many political battles over the years--the Rockefeller drug laws among others--where people say 'No, we want the whole [thing]. If you can't repeal the Rockefeller laws, then forget it. If you can't repeal the crack/powder disparity, forget it. And if you get a half of a loaf or two-thirds of a loaf now, you'll never get the rest of the loaf because the issue's dead.' But what I've seen--and it's changed my thinking about the relationship between incrementalism and larger goals--which is that more often, if you can succeed in getting the third of a loaf or a half of a loaf, it may knock it off the plate for a few years, but it gives you credibility and experience to try to get the rest of the loaf later. In New York on the Rockefeller Drug Laws reform, we got a little piece in 2004 and we got a piece in 2005. Some people said 'You can't do that, it'll be dead for the next decade' and we came back in 2009 when the political conditions were right and we got like 70% of the vote. And quite frankly, turning down the compromise--to say 'Let's go for the whole shebang or nothing'--well that may feel good and we may feel righteous and we may feel pure, but the result will be thousands of people will spend more time behind bars because we had to feel so morally righteous that we couldn't take the compromise.

Now the big issue on the planner right now is retroactivity. Now you have this crazy situation where people in the future are going to get shorter sentences than the people who are currently serving. Retroactivity means applying the new, shorter, sentences to the people already punished. It's hard to get that through. People are scared of what's called the Willie Horton Effect--the guy who gets out early now and goes and rapes and murders people--so it's hard to get it through. The hope is that the Sentencing Commission, the official body, will move forward or that congress will do it. We'll see; that's the next frontier.

Okay, so, needle exchange: Obama didn't lead, but it went through with his blessing; crack/powder: the Justice Department, Obama, they did some good stuff--maybe not everything we wanted, but a lot; thirdly: medical marijuana. I've got to tell you, when Attorney General Holder issued that memorandum about a year ago saying that the federal government is no longer going to focus on medical marijuana in states where state authorities say it's operating legally, that was huge. Huge! Just look at Colorado today. Colorado, where we passed a medical marijuana initiative in 1998, and 5 years later most people didn't know we had legalized medical marijuana there wand there as only a small number of patients, now you've got a thousand dispensaries around the state. Now you've got the state setting up regulations--not great ones, but not bad ones either. You have this thing booming, you've got like a billion dollar industry. You have local authorities, you have police, you have health departments, you have politicians who all agree it's the right thing. It opened it up. What it did was send two messages. It sent a message to the attorneys general and other law enforcement people in the 13-odd states at the time that had legalized medical marijuana that they could now get their hands dirty in regulating it. I remember going to New Mexico a couple years ago and meeting with the then-Attorney General [Gary] King and him saying 'It's all illegal under federal law!.' Once this Holder memorandum came down, there was a shift. And, the second message it sent, was to those states that had not yet legalized medical marijuana, where legislators would tsay to us 'We can't do it, it's all illegal under federal law, I don't care what those other dozen states are doing,' it basically said "Yes you can," that the feds aren't going to regard this as a violation. So, that memo Holder wrote, I believe, is truly significant. And people have seen the opportunity to really rush forward in a very big way and very important way. I think Obama and his administration do deserve credit. They made three explicit commitments, and they actually made good on all of those. Now, that's unfortunately not the whole story! [Laughter] But it's an important part of the story!

Obama, you know, he talked about treating addiction as a health issue rather than a criminal issue--well, how does that suss out? If you look at some of the best stuff that came out of the Obama administration, it wasn't coming out of the Drug Czar's office. I mean, they have plenty of good people like two former public health commissioners in New York. Ann Hamburg to head the FDA and Tom Frieden to head the Centers for Disease Control (CDC). So, you've got good people working there. Other good people are going in to work there/ .There's some very good people working in the Justice Department, at secondary and tertiary levels there, and these guys are sort of pushing in the right direction. But, Kerlikowske, the Drug Czar--I mean, he's a nice guy. He's smart. He was the police chief of Seattle, which hosts Hempfest, where one hundred thousand people get together each year at the end of the summer to celebrate cannabis and marijuana, and nobody gets arrested. Kerlikowske visited Vancouver--I think it was the safe injection site there--and wrote a memorandum very objectively assessing it. Kerlikowske's listening, and Seattle is one of the most progressive cities in the country when it comes to dealing with drugs and not just marijuana. And, among police chiefs, he's one of the more thoughtful people. He doesn't know a lot about drugs, per se, and he came in wanting to be--the first time I met him he was joking around and it was a very nice interaction--and he appointed somebody who's pretty good as his deputy. Tom

McClellen, leading drug treatment researcher from the University of Pennsylvania, somebody who had really struggled with addiction in his family, lost one kid to an overdose, another kid struggling, and he's smart. Like a lot of guys in treatment, he's kind of allergic to the marijuana issue, and unfortunately he was telling Kerlikowske things that were not true or were problematic. But when it came to treatment, this guy's pretty good. He's basically saying that he was seeing with the new health care act, that there is going to be a real opportunity to start to provide a large amount of new resources for people struggling with drug addiction and mental illness through the ordinary medical care system. A major DPA objective is not just making more treatment beds and treatment slots, but enabling people to deal with their addictions through ordinary health care, and he got that. He also had a personal thing around the issue of collateral consequences. You know, people who have a drug conviction or addiction past who aren't allowed to get a license or get public housing, and McClellan was very clear that this is not acceptable. Now, McClellan also is not a bureaucrat, which was very good in some respects but it also meant that he is no longer there. Because, what happened I think is after about six months he realized it wasn't for him and after nine months he said "I'm leaving!" and he stayed around until the beginning of the fall, basically to get stuff in, but the guy who sent a message out there that we care and who really cared about research--though he was a little too sympathetic to the whole drug courts thing and coerced treatment and had the blind spot about marijuana and you couldn't get him talking about the more cutting edge stuff--but compared to people who have been there before he was really good, and he's now gone. I think he just couldn't deal with the bureaucracy and I don't think he's got a successor. Meanwhile, the other thing that Kerlikowske did is he appointed as one of his special assistants a fellow named Kevin Sabet. Kevin Sabet was the only guy in the 1990s in his 20s who signed up with the fanatical anti-drug organizations. He created an organization called Berkeley Students Against Drugs. He was embraced by the anti-drug fanatics. And he's not dumb. He's clever and he's got some charm, he interacts with people, he would come to some of our conferences, right. He would sign on to some attrocious stuff, but he went to Oxford...he came back, and Kerlikowske appoints him to be his kind of right-hand--not right-hand man at the upper echelon--but his special assistant. Which means whenever anybody from the drug policy reform world is meeting with Kerlikowske, who's in the room? Kevin Sabet. Whenever testimony is being prepared on any issue or controversy, who's there? Kevin Sabet. Whenever there's got to be some testimony or statement about marijuana, who's there? Kevin Sabet. This guy was a true ideologue, a true ideologue. He's also an opportunist, so he's seen where you have to move a little bit, but the fact that he was the key right-hand guy has not been helpful at all. I mean Kerlikowske did his conference calls with the reform community and has done more reach-out, unlike his predecessor John Walters who, you know,--it's almost as if he had asked for his own restraining order from being within 50 feet of any drug policy reformer, right. They would never hold public engagements because, God forbid, he might be asked a substantive question that was critical. It was all hyper-controlled. By the end of 8 years, nobody had ever heard of him. Probably less people had heard of him after he had been Drug Czar for 8 years than before he became Drug Czar. So, Kerlikowske's been more open in a way, but he's not been effective. He's not been a leader. And when you look at his statements, I mean, he keeps saying this stuff like 'Marijuana is not a medicine,' and it's like "What are you talking about!? How much evidence do you need?. Go the

website of the National Institute of Health, type in the words therapeutic cannabis and open up your eyes!."

To switch to the international thing for a second. When you have what's going on now in Mexico--Mexico is like Chicago during the age of prohibition and Al Capone times 50--and you have Calderon, the President, reluctantly saying 'Maybe we need a debate on legalization,' and you have his predecessor Vicente Fox saying 'It's time to legalize,' you have his predecessor Zedillo signing on with two other Latin American presidents calling for a major opening of debate. And Kerlikowske has nothing to say in response? And not even to respond on an elevated level; not even to say 'We understand the arguments for repealing marijuana prohibition, we understand how this would take away money from traffickers...but nonetheless here our our concerns: we're concerned about an increase in marijuana use...'--not even on that level. And that's was so offensive: to have someone not even respond on a level that is intellectually honest. And, he's a politician, and therefore it's hard to be intellectually honest [laughter], but still, you want to think there's something more elevated going on. I'll tell you something else. On the more cutting-edge issues like safe injection sites, which are now standard operating procedures in something like 30-40 cities around the world including Canada, Australia, all through Europe, other places. Heroin maintenance--heroin maintenance, you know, the evidence is in, it reduces illegal drug use, reduces criminality, helps people get their lives together, reduces overdoses, hepatitis C, HIV, etc. ... and saves taxpayer money. Switzerland started doing it as a research thing, now it's national policy. Germany as a research thing, now it's national policy. The Dutch, as a research thing, now national policy. The Spanish have done it, the Brits are moving forward, the Canadians--the NAOMI study in Vancouver and Montreal, now being succeeded by something called SALOME, publishing in the New England Journal of Medicine. And now the Danes, you know, the Danes, a few months earlier this year, said 'We're skipping the research phase. We're just going to go do it.' Why? First of all they say 'The evidence is in, and we have no reason to believe the Danes are that much different from anybody else.' Secondly they said, and this is important, 'It would be unethical to have a control group when you already know the results of what happens to the people in the untreated group.' Right? I mean, this is the point that Bob Newman has been making about the methadone, the continuing studies around methadone, and putting people into control groups with no methadone when the evidence is so overwhelming, it's like assigning a certain percentage of the control group, you know, either to death or return to very serious addiction. And they also didn't want to spend the money on it. In the United States? In the United States, we can't get this thing going. In the late 1990s, my organization was called the Lindesmith Center, we organized an international conference on heroin maintenance at the New York Academy of Medicine in 1998, we held an invitation-only meeting to try to get these trials going in North America. The Canadian leg took off and did their thing. The American leg got stuck and just kind of disintegrated after Republicans came in; nothing really happened. But, when you talk to people from the Drug Czar's office it's like 'We can't talk about it!'. When researchers get invited to international conferences who have worked in this area, they're asked not to talk about this thing. It's as if this is where we're still in the days--and I make the analogy that trying to do honest drug research in America today is like trying to do honest social science research in the old Soviet Union. Which is that you learn over a certain period of

time that there's just certain questions you're just not supposed to ask and certain answers you're just not supposed to give or find. Or that if you do ask these questions or you do submit these research proposals or you do find these inconvenient answers, it's not just that your proposal's going to be sent to somebody who hates your guts and you're never gonna get the money, you're also not going to be asked to serve on committees yourself, you're also not going to get your phone calls returned. I have a friend of mine who teaches, is a professor, in Singapore. He says 'You know, in Singapore, we don't really torture people that much, the government. We don't really lock them up. We just co-opt them in a way they begin to realize that if they are co-opted and work within the range of--some of which are very interesting questions--everything's good, you're taken care of.' But if you push a little too much, you're out of favor. And that policy remains, not quite with the intensity of the Bush administraition or the Clinton administration before them, but it still remains. NIDA just issued a RFP, a request for proposals, involving medical marijuana. And so, some people in the academic community were thinking about applying for this stuff. And some people asked 'What about including DPA, or even including Marsha Rosenbaum?,' my former DPA colleague who was for 20 years a NIDA grantee, and the word was 'Better not to,' because still, that's the politics. I can tell you the times I get invited to speak someplace where there's going to be people from NIDA, and what happens is first they ask permission from the government whether it's okay to have me there or not. Now, McClellen in one case said 'I don't mind,' but in other cases, I just heard other stories, says 'No, we don't want that to happen. We don't want him there.' And it's not just me; I suppose there's some other people as well. But that type of censorship that's going on--that remains. The unwillingness to participate, truly, in the international scientific community--that's where NIDA, the National Institute on Drug Abuse, remain fundamentally cowardly and corrupt.

Okay, so Obama, the other thing he's done that's so disappointing, is he nominated, as head of the DEA, Michelle Leonhart. And she was a Bush appointee as head of the DEA, she was a former special agent in charge in Los Angeles who did the medical marijuana raids, she's been associated with various corruption scandals, and--there's this other thing the DEA can do--when you appeal to the DEA on some decision like scheduling the drug I or II or about access to the drug for medicinal purposes, there's an administrative law hearing which is legitimate. What inevitably happens--whether it's rescheduling marijuana to I or II or rescheduling MDMA to I or II or allowing the University of Massachusetts or some other private organization to produce marijuana for research purposes, so that the government doesn't have a monopoly on marijuana for research down on its farm in Mississippi--typically the administrative law process leads to the right outcome, saying 'Yes, the science says reschedule,' or 'Yes, of course we should open up other ser--', and Michelle Leonhart overturned, as is her legal power, the recommendation of the administrative law judge...in this case, about allowing Lyle Craker, a professor at UMass-Amherst, to produce this stuff. Now, you know, I'll tell you, we were hoping that she might stumble on other issues, but the hearing [to confirm her appointment] was just yesterday, and it looks like she's going through; the fact that she's an African-American woman, I think, probably makes it that much tougher; I think the Democrats don't want to oppose an Obama nominee when it's tough enough to get other nominees through. So, he didn't have to do that. He didn't have to do something

that represented such a symbol of continuity; he's taken some flak for that in other areas, but to do it in this area was just really offensive. So there's really been a sense of positive movement, I'm happy, but not going as far as I'd hoped. And now, of course, what happens for the next two years?

For the last two years until next month, the chairman of the Judiciary Committee was John Conyers, a senior African-American member of congress from Detroit. He's on the honorary board of the DPA; he's been to our conferences. He gets it. He's now going to be replaced by Lamar Smith from Texas who was the only guy to speak out on the floor of congress against crack/powder reform a few months ago. I mean, Congressman Sensenbrenner, another right wing [radical], he spoke out in favor! The guy with oversight of the appropriations subcomittee, with oversight of the Drug Czar's office the past two years, was Dennis Kucinich. I mean, what could be better?! When he's holding hearings, we're able to talk with him and his staff. There was a day I went down to testify with him and Kerlikowske--and normally, you'd expect me to be getting grilled on Capitol Hill--but it was Kerlikowske getting grilled! I mean, it was beautiful! [Laughter] Well, he's not going to be in charge anymore. Barney Frank, you know, he was chairman of the Financial Services Committee, now he's weakened, but we're still counting on him to do things surrounding marijuana reform and he's very committed on this issue. But across the board, this means in the House, it's going to be very problematic. It means we're going to have to play defense now. It means they may try to come back and screw over the needle exchange funding thing, because America, deep down, remains a very primitive nation. It means that D.C., which passed a medical marijuana initiative in 1998, which just remained dormant for like 11 or 12 years and then congress just passed this legislation that allowed this initiative to sprout, like one of those strange plants that only flowers once every 12 years. Which means, right, that if it actually gets implemented, that next year when you go to visit your congressman, you can walk like a half a mile and visit the local medical marijuana dispensary in the nation's capital--what could be better!--and what a great symbol to have a medical marijuana dispensary in the nation's capital, but will that survive the new congress? I don't know. The Senate's still there, but the margin is less. Durban's still there, still in power, but it is gonna be tricky. Are we going to see any real leadership from Obama? Is Obama going to dig in and defend the things on needle exchange, defend the things on medical marijuana in D.C.? Is Holder going to stick with the force of his memo or not? I don't know. I don't know. This is all seriously at risk now. Will retroactivity on the crack/powder bill go? We'll have to see. Is the Drug Czar's office going to be more e accommodating Republicans? They're going to have to be, because they report to those guys as well.

So for the next two years, it's hard to be optimistic except possibly on one front. And Bill Piper, and Jasmine [Tyler], who's my other colleague in the Office of National Affairs, basically what we're going to try to push forward is what we call our "Star of the Drug War message." Because in one area where Republicans are as good and sometimes better than Democrats is in cutting funding. And there's a whole host of anti-tax groups like Grover Norquist and a range of others which are basically saying 'Nope, nope, nope!'. All this money down the drain on interdiction programs to keep drugs out of the country that don't really work: they say 'We can get rid of that!'. All this stuff on anti-drug ads on TV with no evidence that they work: 'We can cut that!'. Some of you may

have seen this fantastic op-ed piece a couple weeks ago in the New York Times by Charles Blow, the guy who writes that big center-of-the-page column on Saturdays, I think it is, and my colleague Harry Levine, at Queens College, played a key influence on that piece. Blow detailed, how with respect to the Byrne Grants--B-Y-R-N-E, named after a police officer who was murdered by traffickers 20 years ago--Byrne Grants are essentially unrestricted federal money going to local police departments. For federal and state task forces, other sorts of money. The money can be used for treatment, but by-and-large... Remember the Tulia thing, Tulia, Texas, 50 black people and one white person busted and sent to prison for, like, forever and ever, until it turned out the guy who put them behind bars was a racist who lied all across the board and the people got out? The was Byrne Grant money. Now why are the Democrats supporting it? Because it's the way they keep good relations with local police departments. You're a Democrat, you're from a big city, big city police chiefs, they want the Byrne money, therefore here's money, more money for cops...Clinton's whole initiative, cops initiative, you know, in the stimulus plan, what does Obama do? Billions of more dollars for cops. And of course, if you give more money to cops, oftentimes it does lead to more drug arrests. So, there's a chance in which the Republicans actually may be in favor of cutting this. There was a point at which, I think, President Bush even proposed cutting this stuff. So, there are opportunities, maybe, to cut back on some of the bad drug war spending. It's hard to see any new good stuff coming--new money for treatment, new money for harm reduction--that's going to be very difficult to see coming out of any congress. But cutting the bad stuff--maybe we have a shot. The Tea Party: mostly bad, but they're interesting! [Laughter] They are all over the place. You know, one-third of the Tea Party folks in California liked Prop. 19, the California legalization ininitiative The new senator from Kentucky, Rand Paul--how far from the tree does he fall from his father, Ron Paul? Ron Paul, a libertarian libertarian libertarian. I mean, he's almost an anarchist he's such a libertarian! [Laughter] And Ron Paul...the only two guys until recently advocating for legalizing marijuana were Ron Paul and Barney Frank. Ron Paul is a passionate advocate for drug policy reform so long as it doesn't involve the government spending money. Ron Paul, you know, he'll get rid of these restrictions on access to sterile syringes, he'll cut the prison population. Rand Paul has occasionally said some good things; his Democratic opponent in the senatorial election actually ran ads accusing Rand Paul of being 'soft on drugs.' And think about it, a Democrat accusing the Republican of being soft on drugs in Kentucky, which has a big meth problem. So, Rand Paul--I don't see him as a great ally, but it's interesting; there's a few other libertarians and other Republicans who may not be so quick to fall in lockstep behind the Republican leadership. One problem we had a few years ago were Republican members of congress who would agree with on something like needle exchange or medical marijuana, but saying 'I can't do it publicly, I can't buck my leadership,' but maybe they'll be more willing to do so right now. So, I'm looking for silver linings, and these are tiny silver linings. But there's still the possibilities that we need to look for and we need to play with them on this stuff. The other thing is, that whole Christian coalition around Colson and Pat Nolan--they're not going away. And they showed the ability to move stuff with respect to the crack/powder bill. And they're also involved with some other efforts, with the Heritage Foundation, some bipartisan stuff about reassessing the state of criminal law, federal criminal laws, and the way that every year, congress passes a new law criminalizing something, kind of the flavor of the year for criminalization. Now, they're

mostly concerned with lessening the penalties on white collar criminals, but around the edges, they end up lessening the penalties for some other stuff as well. So, there's something that we can work with. I'm always thinking, "I can't just look at the Republicans, the conservatives, the Tea Party as a monolith, because if we just look at them as a monolith we can't get anywhere." And the same is true in the state legislatures, as well.

Now, let me also just say something about Prop. 19. Prop. 19 in California, the marijuana legalization initiative that was started by a fellow named Richard Lee, otherwise known as the "mayor of Oaksterdam," a leading medical marijuana provider in Oakland. A very savvy guy from Texas originally, from a conservative Republican family here. He decided a year and a half ago or more that he wanted to run a ballot initiative to legalize marijuana in 2010. And I and other people, Rob Kampia at Marijuana Policy Project, Dale Gieringer from California NORML, we all said 'We should wait 'til 2012; young people don't vote in off-year elections.' But Richard was absolutely determined, for whatever his reasons: 'Let's sieze the momentum and go right now.' And as soon as he decided he was determined to go, I said 'Okay, we're going to help you. If you're going to do it, we want to have the best possible showing. We'll help you raise the money; we'll help you with the final drafting; we'll help you with the media.' And we really formed a beautiful partnership where the campaign around Richard with Drug Policy Alliance, with Students for Sensible Drug Policy, with LEAP--Law Enforcement Against Prohibition, and new groups coming in. It was, truly, a transformative moment. I called Richard a few weeks before the election and I told him, and I said this publicly as well, "You were right. Because, even though Prop. 19 is surely going to lose, and I personally was surprised it got 46.3% of the vote (I was ready for the low 40s on this thing), even though it's probably going to lose, it has set us so much ahead of where we would have been otherwise." There's been other legalization efforts--Alaska twice tried to legalize marijuana, Nevada twice tried to do it, Colorado once did it--each of those created a little national media, but something hit this time. It was the year, it was the time, it was California, it was the fact that if you look at the annual Gallup polls asking 'Do you favor legalizing marijuana use?,'--just Google search "Gallup" and "marijuana"--and what you'll see is that in the '60s only 12% of Americans said legalize it, by the late '70s it was up to 28% maybe 30%, then it dropped--a warning, by the way, that it could drop again--it dropped down to the low 20s and from the mid 1980s to the mid 1990s, support for legalizing marijuana was about 25%. From 1995 to 2005, it slowly went up from about 25-26% up to about 36%. In the last 5 years, from 2005 to 2010, support for legalizing marijuana has jumped 10 points. 46% Of Americans now say they favor legalizing marijuana use; 50% are opposed. That margin is down to 4 points. In the west, it's 58%; among liberals it's 70%; among young people, 60-something percent. There's a gender gap, with men in the mid 50s and women in the mid 40s. Blacks and Latinos are in the mid 40s. Older Latinos are the most opposed out of everybody in America, but younger Latinos look more like blacks and whites than their older generation. It's more of a generational slip that's going on. I was worried that the Gallup phrasing, "Do you favor legalizing marijuana use?," that people would think it's just about use and not about legalizing the sale. But, we then did a test poll recently where we asked half the people "Do you favor legalizing marijuana use?" and the other people "Do you favor legalizing marijuana?" and drop off the "use" to see...it

turned out people responded almost the same way. So, those Gallup results are powerful. It means... In California, when we lost the ballot initiative, we then did a survey right afterwards...roughly 25% and maybe more of all the people who voted against Prop. 19 said they still favor legalizing marijuana. What it means is that they liked the idea of legalizing marijuana, but they were worried about the specific initiative, they were worried about what the federal government would do, they were worried...just couldn't get themselves to pull the lever. If young people had shown up--and it's possible that more young people voted because of this, there's some evidence of this--but they didn't show up en masse. If they had shown up in 2010 the way they had shown up in 2008, and the way they may show up in 2012, a presidential year, Prop. 19 would have gotten 49%, in the margin of error of victory. Now, I bring this up in the context of Obama because this is a tough issue for them. You think about Holder...about three weeks before the election, Attorney General Holder said 'If California legalizes this, we will bring the full force of the federal law down!,' and I wish he hadn't said that, and if he had to say it, I wish he had found a quieter way to say it or another time to say it, because I think it did scare people. But, truth be told, I'm not sure it would have been that easy for him to do otherwise. I mean, the fact of the matter is, I put myself in Holder's shoes, he's thinking 'You know guys, I just gave you a huge present with my memo on medical marijuana a year ago, and already you're trying to push me to the next step!?.' And [with] medical marijuana, you've got to be a resident in order to get it...[if] you legalize marijuana in California, you're going to have marijuana tourism, just like the Dutch have marijuana tourism in Maastricht and places like that. We have interstate commerce responsibilities as a federal government. [With] medical marijuana, I can say it's mostly local...here, how could you say that? And the police department--and this is the problem with cops--the cops are ideological on this thing. They refuse to discuss it, to open it to debate. Except for the guys with LEAP, the Law Enforcement Against Prohibition guys, most of whom are retired and a few are still in office. The California police chiefs and others--not the blacks and Latinos, they endorsed it--it's like not only do they demand that if you want their support or their endorsement, you have to be against [legalization], they refuse to have a debate. To my knowledge, none of these organizations had an internal discussion. None of them invited me or somebody from LEAP or somebody else to debate this issue. There's a fearfulness and an arrogance that's going on there. That prison-industrial complex, which isn't willing to spend a lot of money keeping marijuana enforcement in place, but they are ideologically and emotionally connection to this thing. They don't want to let go of this thing. So, we have a major problem there, and that also influences Holder and the administration.

Now, what's going to be interesting in 2012 is the following. A majority of Democrats now favor legalizing marijuana. A substantial majority of young people age 25 or 30 favor legalizing marijuana. Some of them, you know, will change their views as they take on the hypocrisy that comes with parenting. [Laughter] But, what's he going to do when, in the Republican presidential primaries, you have Ron Paul, maybe again, running on this line, and maybe not just him but [also] Gary Johnson, the former Republican governor of New Mexico who's the only sitting governor ever to endorse legalizing marijuana. And Gary Johnson, who I know very well, is going to be running...in the national primary. If Ron Paul hands off the baton of the libertarian wing of the Republican party to Gary Johnson, and Gary Johnson has got more energy, has got

more--he may not be the most articulate on the whole range of broader issues--but he knows this issue. And he, by the way, is not just about legalizing marijuana--he talks about harm reduction. Gary Johnson talks about legalizing marijuana and harm reduction and he understands it. He learned harm reduction, he understands it, he supports it, right. This libertarian governor who slashed every spending proposal that ever came through increased funding for drug treatment in New Mexico by 50% in his last year. ... He's also the most sympathetic of the Republicans on civil unions, on immigration policy, on getting out of Iraq and Afghanistan. He's got a whole host of policies, as libertarians do, that overlap with the left wing of the Democratic party. If you're 18, 19, 20, 21, and you're voting for the first time, and Obama has lost his sheen, and there's one guy out there who's speaking to the issues that you care a lot about, and you're pulling the lever for the first time in your life at a Republican primary and signing up as a Republican so you can vote in that primary for a guy like Gary Johnson, you have to worry about that a little bit. In California, 60% of the people who voted for Jerry Brown and Barbara Boxer also voted for Prop. 19. Now, all of these candidates in California, statewide, you know, basically opposed Prop. 19 but none of them campaigned against it. And Gary Newsome, who's now the Lieutenant Governor, the former mayor of San Fransisco, is practically apologizing for coming out against it. He's with us, essentially, and he's waiting for the moment when we can do it politically. But you know what else is interesting? Meg Whitman, the Republican candidate [for California governor], she did not campaign against Prop. 19. Because what she knows is that if you're trying to appeal to young people, and 65% of young people favor legalizing marijuana and, I'm not exactly sure, but it may also be that a majority of young Republicans favor legalizing marijuana, why would you want to alienate them on this thing? She could look at the numbers and see tat 30% of the people who voted for her also voted for Prop. 19. So, Marijuana...and I realize, at a harm reduction conference, we don't talk about marijuana much. And in terms of Drug Policy Alliance, we do marijuana reform, sentencing reform, and harm reduction--our "Big Three". ... But the marijuana issue is taking off in such a massive huge way, and it's important. Marijuana possession arrests right now account for something like 45% to 50% of all drug arrests in America. The total number of drug arrests has dropped a little bit from a few years ago, from 1.8 million to about 1.6 million, and of those, 800-thousand are for marijuana possession. To many people, that's their first time encountering the criminal justice system. As Harry Levine from Queens College has shown in a whole series of reports, in New York and California, it is overwhelmingly young people especially men of color who are getting arrested for this stuff. The evidence shows that black, white, and brown are more or less equally likely to use marijuana and to possess marijuana in their pockets. But it's young people of color being arrested at 3-, 5-, and 10-times the rate [of whites]. Harry has a beautiful phrase, and I don't have the exact quote, but he talks about how marijuana has almost become the way of training young people of color to becoming participants in the criminal justice system. It's the first way we can get our hands on you. So, the marijuana issue... and also, remember, marijuana offenders may not be filling the state prisons and federal prisons, but they're showing up in local jails. And what nobody's counting, and nobody's producing numbers on, is the significant portion of all people behind bars in America, and especially the states like California, who are not there for a specific offense they committed, but for a violation of parole and probation. We have 2.4 million people behind bars in federal and state prisons and local

jails. I think we have something like 5.4 million people on probation and parole. When you hand in a dirty urine sample, even for marijuana, or get caught in possession of drugs, even a joint, you then get reincarcerated. Your initial offense may have been shoplifting, prostitution, whatever it may be, but it's not counted as a drug offense. So, marijuana, and its enforcement, permeates the criminal justice system. It is the sort of principal relationship, oftentimes, between police and young people. And I've had people say to me 'Ethan, you guys succeed in legalizing marijuana, you know what's going to happen? That's going to leave the full brunt of the drug war coming down on the rest of the drug users--the heroin, meth, and cocaine...'. And I'll tell you something: that's possible, but I think the more likely hypothesis is one that my no longer living but wonderful colleague Lin Zimmer once said, which is that marijuana is what fuels and subsidizes the broader drug war. That if you take marijuana out of the picture, you remove half of the drug arrests, you remove the motivation for suburban police departments and to some extent even urban police departments to keep harassing because what are they going to find when they can't get that stuff anymore. You demolish the drug testing industry, because most of that is about finding marijuana. You take the steam out of the drug war. Does legalizing marijuana lead--is it a slippery slope, as some claim, to legalizing everything else? No--I wish it was slippery! [Laughter] You look at the Netherlands, right, and they more or less legalized possession and retail sale of marijuana 30 years ago, and they haven't come anywhere close to legalizing other drugs, and elsewhere as well; people make a major divide. But what you do see is that the elements of pragmatism and rationality that enter in to marijuana reform and taking marijuana out of the criminal justice system, do seem to go hand-in-hand with more rational policies with other drugs. When Gary Johnson gets up there and is talking about legalizing marijuana and harm reduction, he's going to be educating Republicans about what all this stuff means. It's about a pragmatic approach, a cost-beneficial approach, about all this stuff. And what's Obama going to do? Is Obama just going to stand back, I mean, I don't know how he figures this. But quite frankly, we know this issue--there's now survey research in Colorado and Washington state and anecdotal evidence everywhere--that young people care about this issue, that they are moved by this issue...that they will show up at the polls. And that this issue can begin to move elections. Major articles--front page story of the New York Times and a major story in the Wall Street Journal--about marijuana coming of age, is something that the major political parties need to pay attention to now. So, something's happening there. For those of you who are on the DPA mailing list--and I hope you all are; go on the website and do it--you're probably going to be seeing even more of our messaging about marijuana. That does not mean that we are relinquishing our commitment to other areas of harm reduction and sentencing reform. What it does mean is that when you want to communicate with hundreds of thousands of people, that the marijuana issue is the one they'll most likely respond to. We're testing this all the time--testing, when we do a message on needle exchange or crack/powder--and inevitably, people respond more to the marijuana messaging. At Drug Policy Alliance, we see engaging people on the marijuana reform issue as not just a way to take marijuana out of the criminal justice system, but as a way to open them up to harm reduction and sentencing reform with other drugs. Part of our role, as Drug Policy Alliance, is saying to the marijuana-only organizations 'Don't ever say we've got to legalize marijuana so we can crack down on the other drugs--that's not acceptable.' Part of our role is saying that

good policy on marijuana opens doors on the others. Part of our role is running for seven years in New Jersey to legalize needle exchange so that then we position ourselves to run to legalize medical marijuana and we're not just pot people--we are harm reduction and public health people. It's taking the Rockefeller reform coalition that we built over 12 years in New York and turning it around and saying 'Now we're going to go after the issue of marijuana arrests in New York City and introducing bills in Albany to legalize marijuana.' It's that fusion, that fusion...so what I ask all of you in harm reduction is 'Embrace this marijuana thing. Own this thing. Keep the fusion of this thing going.' And there's all the other issues too. You know, there's the evidence that keeps bubbling up out of the medical marijuana places about how many people who have had serious problems with heroin, cocaine, methamphetamine and alcohol, find that smoking marijuana every day seems to be the way they can stay off their other [drugs]. My friend Howard Josepher, who I think is doing a panel right now in the other room, he started to engage the recovery coalition in New York state, and he's saying 'Am I in recovery?,' you know, who's in recovery? Are people in recovery only people who are abstinent, or are people in recovery people who no longer have a problem with their previous problem drug or any other drug, but who use. There's a dialogue and discussion going that is opening things up. So, we're always in a new world. You know, I personally hope and pray that Obama rises to do what he needs to do and as Bill Clinton figured out, when he got swamped in '94, how to come back, I hope Obama can do that without having to make the kind of concessions that Clinton did in '95 and '96. But hopefully, that Obama can win that kind of victory; hopefully, that Democrats can take back the congress. I say this on a personal level, which I shouldn't be doing because I have to represent big tents, but I also say this from a drug policy reform position. But so long as Republicans have power, and they always will, we need to look for the silver linings, we need to look to stir up the debates, we need to look for where the Christians can become our allies in dealing more humanely and compassionately with things, we need to look where libertarians can join us in cutting the drug war costs, you know, and it is the only possible way to move forward. Thank you very much.