It is time to end the war on drugs

An over-reliance on law enforcement and incarceration to address the drug problem has led to seriously adverse consequences not only for public health, but also for the courts and correctional systems.

A three year old visits his mom each month for a few hours. She never reads him a story before bed, nor will she help him with homework when he starts school. She mistakenly thought being a drug courier for a few hundred dollars might get him the necessities she could not afford. Mom is in prison. A governor faces the wrath of a federal court that demands he find a way to release 44,000 inmates from a prison system that is so overcrowded that basic medical care and inmate safety can no longer be provided. A trial judge’s docket is overwhelmed with drug cases, most of which result in lengthy and costly periods of incarceration. All are among the victims of the war on drugs. It is a war that soon will mark its 39-year anniversary. Few public policies have compromised public health and undermined the fair and effective functioning of the justice system for so long. It is time for the war to end and for policymakers to implement new strategies that utilize limited justice system resources in the service of public health and demand reduction.

The war on drugs was declared by President Nixon in June 1971. The metaphor of the war on drugs created the image of a united national effort to defeat an enemy. In times of war, dissent from the mission is unpatriotic and cost is of little concern. Americans don’t lose wars. But from its inception, the metaphor of war on drugs created problems. To call for an end to the war on drugs is not to advocate that drugs are good for you. Each day someone dies from a drug overdose. A child drops out of school because of drugs. A marriage goes afoul and an unreliable, drug-dependent employee is fired. A sound national policy is far more complex than a worn out metaphor.

Nixon administration officials considered other options that were radical by today’s standards. When President Nixon declared the war on drugs, he said narcotics were “public enemy number one in the United States.” For the next 39 years, this nation has been caught in a quagmire as devastating as the Vietnam war. Nixon’s rhetoric set in motion policies that shaped the composition of court filings and prison populations. The war led to racial profiling, polarized police-community relations, and contributed to a judicial philosophy that devalued the Fourth Amendment. The war, however, did little to provide treatment for the chemically dependent.

For decades, the war on drugs enjoyed bi-partisan support. In 1986, under the leadership of House Speaker Tip O’Neill, Congress passed mandatory-minimum laws that sent crack users to prison while powder cocaine users who possessed 100 times more product avoided prison. By the time the first President Bush appointed Bill Bennett drug czar, the amount of money spent on “consequences and confrontation” reached $12 billion. The nation devoted much of this money to expensive weaponry: fighter jets to take on Columbian cartels, and Navy submarines to chase cocaine-smuggling boats in the Caribbean. Meanwhile, states adopted laws that resulted in an explosion of prison populations.

What is the difference between thoughtful policy and a war on drugs? Wars allow leaders to marshal resources. Wars are ripe for myth creation and indeed myths may be necessary to continue the war. And wars have collateral casualties—innocent victims of war that a fair system of justice would not tolerate. Metaphors do have consequences.

There is now an opportunity to adopt a more sensible drug policy. But each day missed compounds the problem. So far this year, nearly $37 billion has been spent by law enforcement to arrest 1.3 million...
people. When the costs of prosecution and incarceration are added to lost productivity and other economic costs of the war on drugs, the figure is nearly $200 billion. Many state budgets are hemorrhaging from deficits and court budgets are being slashed. Prompt, fair, and affordable justice for both criminal defendants and civil litigants is threatened as state courts institute closures, staffing cuts, and other reductions in essential areas. An over-reliance on law enforcement and incarceration to address the drug problem has had serious, adverse consequences not only for public health, but also for the courts and correctional systems.

To paraphrase former Senator George Aiken, it is time to declare that we won the war on drugs. Perhaps that declaration occurred when Gil Kerlikowske, the Director of the Office of National Drug Control Policy, said that the Obama Administration would not use the term, “War on Drugs.” He correctly argues that the term is counterproductive.

Changing public policy is not as simple as dropping a metaphor. The problems caused by drug abuse and trafficking may well be more complex than when this country first declared a war on drugs. While consumption of many traditional street drugs has actually declined over the past decade, prescription drug abuse continues to grow.

Our system of justice needs a dramatic change. Some argue that drug policy rooted on prohibition was flawed from the start. Others respectfully disagree. At a minimum, the following steps seem sensible. First, the National Criminal Justice Act of 2009 should be passed. The panel created by the act would propose reforms to responsibly reduce the nation’s overall incarceration rate, restructure our approach to drug policy, improve the treatment of mental illness, and establish a system for reintegration of ex-offenders.

Second, each state should promptly develop a sensible corrections policy. While Governor Schwarzenegger negotiates an inmate reduction plan, he is not the only governor confronting the problem. Dozens of other states have prison populations that they cannot afford.

Third, as the debate over national health care policy proceeds, providing access to effective chemical dependency and mental health treatment is imperative. Providing effective treatment for those afflicted with chemical dependency should be paramount for any sensible drug policy. Cutbacks in state budgets may have the benefit of forcing policy-makers to reconsider failed correctional policy, but those deficits also have the potential to make access to chemical dependency and mental health treatment far more difficult.

Fourth, despite the budget challenges facing state courts, drug and mental health courts need to be maintained and, indeed, expanded. If there are any bright spots in the justice system’s approach to chemical dependency, it is the advent of these therapeutic courts. Given the long-term savings in lives and money associated with successful treatment programs, it truly would be penny-wise and pound-foolish to underfund drug and mental health courts.

Finally, we need to show greater compassion to the casualties of this war. Budget cuts may force the early release of the mother separated from her three-year-old son, but the economic choice she unwisely made will remain a temptation if employers refuse to hire her because of her criminal record. When our nation won World War II, we reached out to our former enemies and helped them rebuild their countries. Surely we can do the same for our own casualties of the war on drugs.