The Criminalization of Prescription Drug Use in the United States

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The Drug Policy Alliance promotes drug policies grounded in science, compassion, health and human rights, including ending criminalization of illicit drug use and possession. Consistent with that approach to illicit substances, DPA supports policies that do not punish people simply for using or possessing prescription drugs for non-medical purposes.

Prescription drugs of misuse or abuse can include stimulants such as Adderall; opioids such as OxyContin; and benzodiazepines such as Xanax, as well as others.

The prevalence of the nonmedical past month use of prescription drugs (6.1 million) is higher than any illicit substance, including cocaine (1.4 million) and heroin (0.3 million), except marijuana (18.1 million), according to the National Survey of Drug Use and Health.

Unintended Consequences

A supply-side crackdown that reduces the supply of prescription drugs – without providing comprehensive drug education and treatment services – may alter availability of the drug, but does not reduce demand for the drug itself.

Supply-side policies and laws intended to reduce prescription drug diversion and misuse often and increasingly include:

- Law enforcement access to prescription drug monitoring databases
- Raiding and shutting down clinics that treat chronic pain patients
- Restricting the total number of physicians or pharmacies a patient can visit or “flagging” patients who pay cash for prescribed controlled substances

Policies that address drug misuse from a criminal justice perspective, but that fail to include a health, mental health and/or drug treatment component, can inadvertently make drug misuse in a community worse. When pharmaceutical opiate drugs begin to disappear from community drug markets as a result of a local crackdown, for example, people physically dependent on opiates may seek out a similar substitute – namely heroin. This can lead to a rise in viral disease transmission via syringes shared for injecting; accidental overdose due to inconsistent strength or purity of the illicit substance; or other health or criminal justice problems associated with purchasing street drugs from the illicit drug market.

Prosecuting prescribers believed to be overprescribing certain medications can lead to stigma against patients using those medications; as well as reduced access to certain medications that physicians may be reluctant to prescribe out of fear of law enforcement investigation.

We oppose efforts to criminalize and incarcerate people who use drugs and instead recommend policies that deal with substance misuse or abuse from a health-oriented perspective.

DPA supports the following health-based interventions:

- Expanding access to affordable, evidence-based substance abuse treatment for people who seek it
- Policies such as 911 Good Samaritan laws that encourage people to summon medical assistance at the scene of a suspected drug overdose without fear of arrest for minor drug law violations
- Expanded access, including over-the-counter, to the opiate overdose reversal medication naloxone
- Low- or no-cost access to opiate replacement treatments, such as methadone or buprenorphine
- Providing fact-based drug education for young people and increasing access to mental health care services

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