

June 26, 2017

The Honorable Bob Goodlatte
US House of Representatives
2309 Rayburn HOB
Washington, D.C. 20515

The Honorable John Conyers
US House of Representatives
2426 Rayburn HOB
Washington, D.C. 20515

cc: Members of the House Judiciary Committee

Dear Chairman Goodlatte and Ranking Member Conyers,

The undersigned coalition of civil and human rights, faith and criminal justice reform organizations write to inform you of our opposition to **HR 2851, the Stop Importation and Trafficking of Synthetic Analogues Act of 2017**. This bill would greatly expand the penalties for drug offenses, add mandatory minimum sentences to the federal code, and give the Attorney General unchecked power to schedule drugs and set criminal penalties. The proposed legislation is a backwards approach to addressing the country's drug problem by ignoring evidence of effective drug interventions and countering the common public sentiment that embraces treatment over incarceration as the right approach to the opioid epidemic.

We are acutely concerned by the dangers presented by drugs like fentanyl and its synthetic analogues, with an alarming number of overdose deaths attributed to these types of substances. But HR 2851 will do little to deter the use or sale of these drugs. We know that synthetic analogues are often manufactured outside the country where the substances are mixed with heroin. In June 2016, the head of the DEA Chuck Rosenberg testified before the Senate Judiciary Committee that, "Illicit fentanyl, fentanyl derivatives, and their immediate precursors are often produced in China." By the time the drugs enter the United States where they are sold, buyers and sellers are often unaware of the composition and potency of the drugs. However, users and sellers would face heightened penalties under the bill regardless of their knowledge of the presence of these substances.

In late 2015, this Committee recognized the failings of harsh sentences for drugs like heroin and crack and voted overwhelmingly to reduce such penalties. This bill undermines that admirable bipartisan commitment to proportional and fair sentencing for drug offenses. The inclusion of a new mandatory minimum sentence is particularly egregious because these inflexible, "one-size-fits-all" sentencing laws undermine justice by preventing judges from fitting the punishment to the individual and the circumstances of their offenses. Mandatory sentencing laws have caused federal prison populations to soar, leading to overcrowding and exorbitant costs to taxpayers.

As organizations committed to transparency and evidence-based approaches to drug policy we are also concerned by the unprecedented power granted to the Attorney General under this legislation. Currently, for a drug to be scheduled and penalties applied, the Department of Justice must work in collaboration with public health officials at the Department of Health and Human Services, before deciding how to proceed. Each agency has equal weight when making decisions. Under this proposal, the public health role is circumvented, leaving the Attorney General with unilateral power to decide which drugs are scheduled and thus how the ensuing penalties are applied. To give the Attorney General this unbounded authority is troubling and misguided.

This Committee has spent years studying the issue of overcriminalization and warning Congress about the overreach of the executive branch. To now cede unique authority to the Attorney General to decide which substances are illegal and set penalties accordingly, without the input of Congress, contradicts the good work of this Committee and its commitment to justice.

Finally, it is important to note that the U.S. Sentencing Commission is already studying the issue of synthetic drugs and penalties. They have held hearings on the issue and heard testimony from a variety of law enforcement and public health officials as they seek to find solutions to this complex topic. The expertise and information gathered by the Commission is important to review and consider before this Committee moves forward with legislation in this area.

Our country is at a crossroads. We are in the midst of an opioid epidemic, but tough sentences will not solve the problem because, as we know, our current federal sentencing regime is racially discriminatory, ineffective and in need of an overhaul. Instead, public health approaches, education, and treatment remain key. This Committee wisely recognized the value of this approach when it recently passed the Comprehensive Addiction and Recovery Act, as well as the Sentencing Reform Act of 2015. To advance HR 2851 now would contradict the Committee's good work. We urge you and your colleagues to oppose this deeply misguided and damaging bill.

Sincerely,

A New PATH (Parents for Addiction Treatment & Healing)
Alliance of Baptists
American Civil Liberties Union
Baltimore Harm Reduction Coalition
Bend the Arc Jewish Action
Blacks in Law Enforcement of America
Broken No More
CAN-DO Foundation
Charles Hamilton Houston Institute for Race and Justice at Harvard Law School
Chicago Recovery Alliance
Church of Scientology National Affairs Office
Conference of Major Superiors of Men

#cut50

Defending Rights & Dissent

Disability Rights Education & Defense Fund (DREDF)

Drug Policy Alliance

Drug Policy Forum of California

Faith Action Network - Washington State

Families Against Mandatory Minimums (FAMM)

Federal Public and Community Defenders

Friends Committee on National Legislation

Harm Reduction Coalition

Harm Reduction Services

Heartland Health Outreach, Inc.

Help Not Handcuffs (NJ)

Hep Free Hawaii

Hepatitis Education Project

HIPS

HIV Education Prevention Project of Alameda County

Human Rights Watch

International Centre for Science in Drug Policy

Justice Strategies

Law Enforcement Action Partnership

Life for Pot

Los Angeles County HIV Drug & Alcohol Task Force

Moms United to End the War on Drugs

Multidisciplinary Association for Psychedelic Studies

National African American Drug Policy Coalition, Inc.

National Alliance of Faith and Justice

National Alliance for Medication Assisted Recovery

National Association for the Advancement of Colored People (NAACP)

National Association of Criminal Defense Lawyers

National Association of Social Workers (NASW)

National Council on Alcoholism and Drug Dependence-Maryland

National Council of Churches

National Lawyers Guild, Drug Policy Committee

National LGBTQ Task Force Action Fund

Needle Exchange Emergency Distribution (NEED)

Prevention Point Pittsburgh

Project Inform

Protect Families First

Public Justice Center (PA)

Sensible Colorado

StoptheDrugWar.org

Students for Sensible Drug Policy

The CHOW Project (HI)

The Drug Policy Forum of California

The Leadership Conference on Civil and Human Rights

The Midwest Harm Reduction Institute
The National Viral Hepatitis Roundtable
The Sentencing Project
The United Methodist Church – General Board of Church and Society
Truah: The Rabbinic Call for Human Rights
Union for Reform Judaism
Urban Survivors Union (CA, NC, WA)
WOLA (Washington Office on Latin America)