



Executing The Wrong Opioid Policy

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Earlier this month, President Trump suggested executing drug dealers. Attorney General Jeff Sessions followed up with a memo instructing U.S. attorneys to seek the death penalty “when appropriate” against certain drug dealers, including mere racketeers and sellers of “extremely large quantities of drugs.” As is so often the case with popular hysteria, the problem is misunderstood, and panicked solutions are bound to fail.

The actual cause of the overdose crisis is the anti-drug crusade itself. As surgeon and health scholar Dr. Jeffrey Singer argues, despite a concerted state and federal effort since the late 1990s to limit opioid use, opioid overdoses have skyrocketed—more so in heroin and fentanyl than in prescription painkillers. This fact is the crucial missing piece.

The federal crackdown on opioids includes tightened 2016 Center for Disease Control guidelines for prescribing opioids, increased Drug Enforcement Administration (DEA) investigations of doctors since 2001, and a more restrictive rescheduling of hydrocodone in 2014. On the state level, 49 of 50 states have passed prescription drug monitoring programs to reduce overprescription (up from 16 states in 2001). At least 16 states have increased criminal penalties for illicit opioid use since 2011, while others have begun to enforce long-dormant rules.

The effect on pain patients is to force them into the black market for their relief—exposing them to such dangerous options as heroin, fentanyl, mixtures, and other adulterated opioids. And by stimulating this market, nonmedical users are further exposed to these more dangerous substances.

No wonder black market drugs are the prime source of overdoses. CDC data from 2006 to 2015 correlates the recent decline in prescriptions with a spike in overdoses from heroin and fentanyl. Professional medical monitoring is simply safer than the results of forced migration into the black market, even for patients who require large doses of pain medication.

Perhaps the most widely covered aspect of the story involves abuse-deterrent formulations (ADFs): pills, such as oxycodone, manufactured to be harder to snort or inject. Though they have reduced opioid overdoses, they have also ignited heroin overdoses. According

to a 2018 National Bureau of Economic Research working paper, one month after the reformulation of Oxycontin in 2010, heroin deaths substituted “one-for one” for opioid deaths. Four years later, opioid deaths remained flat, while heroin deaths quadrupled. Yet, true to form, the FDA has since encouraged manufacturing ADFs. Five states have already mandated that health insurance cover ADFs; up to 15 states over the past two years have considered it. Such efforts will only exacerbate the crisis, as more ADFs mean more legitimate patients are forced into the black market.

This phenomenon is not confined to opioids. After more than two decades of prohibition on legal sources of methamphetamine, meth overdoses have also skyrocketed, and meth is now making a comeback. And the national war on marijuana in the ‘70s and ‘80s caused a boom in the black market for cocaine, along with heroine, crack, and meth.

Conversely, decriminalization has starved black markets and the dangers that come with them, argues Harvard economist Jeffrey Miron. After across-the-board drug decriminalization in 2001, Portugal has seen a steep decline in drug use, overdoses, incarceration, and HIV infections. The Czech Republic’s drug reforms have had similar effects. Recent marijuana legalizations in states such as Colorado, Washington, Oregon, and Alaska have seen little to no rise in marijuana use. Even Colorado Governor John Hickenlooper, who previously opposed his state’s marijuana legalization, said, “our worst nightmares haven’t materialized”—the data on crime, underage drug use, and traffic accidents support his humble admission.

If prescription opioid restrictions have caused so much of today’s heroin and fentanyl epidemic, most drug war advocates like those in the Trump administration should recognize that further criminalization, including executions, is foolish policy. Instead, decades of restrictions on legal opioids should be removed immediately, and we should emphasize various methods of medical treatment, therapy, and harm reduction.