WASHINGTON POLICY CENTER

Improving lives through market solutions

POLICY BRIEF

A new approach is needed to solve the opioid crisis

By Dr. Roger Stark, Policy Analyst,
Center for Health Care

July 2018

Key Findings

1. *The formal fight against illegal drugs began in 1971 when President Nixon declared an official "war on drugs."*
2. *The country has spent over $1 trillion on this effort against illicit drugs.*
3. *Data strongly suggests that the current opioid crisis is not caused by legal prescription drugs, by their manufacturers and distributers, or by doctors. The number of legal prescriptions written by physicians has actually decreased over the past five years, while opioid deaths have increased dramatically.*
4. *Instead the crisis is caused primarily by illegal fentanyl, heroin, and to a lesser extent, cocaine.*
5. *From the Center for Disease Control and Prevention's 2016 data, prescription drugs were the cause of 23 percent of drug-related deaths, a clear minority compared to illicit drug deaths.*
6. *For the fight against illegal drugs to be successful, it must address both the supply of illegal drugs and the demand for drugs.*
7. *The emphasis for the past 50 years in the U.S. has been to combat the supply of drugs and punish those who use illegal drugs.*
8. *Since elected officials have been unable to close the market for illegal drugs and slow or stop the overdose death rate, it is time for a new approach – one that views the drug user as an individual with a preventable and treatable disease.*

WASHINGTON
POLICY CENTER
Improving lives through market solutions

POLICY BRIEF

A new approach is needed to solve the opioid crisis

By Dr. Roger Stark, Policy Analyst,
Center for Health Care

July 2018

A new approach is needed to solve the opioid crisis

By Dr. Roger Stark, Policy Analyst,
Center for Health Care

July 2018

Introduction

In 1969, President Richard Nixon declared that drug abuse was "a serious national threat."[1] He followed this up in 1971 with the statement that drug abuse was "public enemy No. 1" and announced a "war on drugs." This has been an ongoing battle for 50 years. In spite of the billions of taxpayer dollars spent over the years, the current opioid crisis is a direct result of the failure of this effort.

Background

In 1906, the federal government passed the Pure Food and Drug Act which, for the first time, required doctors to accurately label prescribed drugs. Opium importation was restricted in 1909 with the Opium Exclusion Act, which was the first federal legislation in the U.S. that made a drug illegal.[2] Opium use had actually decreased because of city and state laws, however, federal officials were motivated by international politics to pass restrictive legislation.

Congress passed the first comprehensive government drug policy, The Harrison Narcotics Act, in 1914. The law regulated the manufacture and sale of cocaine, marijuana, alcohol, heroin, and morphine and was rigidly enforced. Doctors and pharmacists became the target of the law, especially those who prescribed narcotics as a maintenance treatment for drug addicts.

Heroin was recognized as being extremely addictive. In 1924, Congress outlawed its importation, sale, and use.[3] It was estimated at the time that over 90 percent of drug addicted criminals arrested in New York City were using heroin.

In 1930, several federal drug agencies were combined into the Federal Bureau of Narcotics (FBN). The primary mission of the FBN was control of and punishment for opium and heroin smuggling.

In 1968, the FBN was merged with the Bureau of Drug Abuse Control, an agency of the Food and Drug Administration, and formed the Bureau of Narcotics and Dangerous Drugs (BNDD). Congress passed the Comprehensive Drug Abuse Prevention and Control Act of 1970 which, for the first time, established a schedule that placed drugs in five categories based on their medical effects and their potential for addiction.

1 "Timeline: America's war on drugs," NPR Staff, National Public Radio, April 2, 2007, at https://www.npr.org/templates/story/story.php?storyId=9252490.
2 "The opium exclusion act of 1909," by Dale Gieringer, Counterpunch, February 6, 2009, at https://www.counterpunch.org/2009/02/06/the-opium-exclusion-act-of-1909/.
3 "The history of heroin," Heroin.net, Sober Media Group, at https://heroin.net/about/a-brief-history-of-heroin/.

The BNDD was ultimately combined with several other federal agencies, including border custom offices, and formed the Drug Enforcement Administration (DEA) in 1973. The DEA is now the official national drug enforcement agency for the United States, with 5,000 special agents, 6,000 support personnel, and a yearly budget of $3 billion.[4]

The war on drugs

Although the federal government had been actively involved with illegal drug regulation since the beginning of the 20th century, the official war on drugs began in 1971 when as noted above, President Nixon stated that drug abuse was "public enemy number one." His reaction was in response to a rise in recreational drug use, especially marijuana, in the U.S. and an alarming rate of heroin use among troops in Viet Nam.

The Nixon Administration's first major anti-drug action was the initiation of Operation Intercept which targeted the importation of marijuana grown in Mexico.[5] Although effective, Mexican drugs were quickly replaced by marijuana grown in Columbia. Operation Intercept, in one form or another, exists today, but it is similar to playing the game whack-a-mole. As soon as one drug pipeline is shut down, another will pop up and take its place.

The Carter Administration called for the legalization of marijuana. Although no action was taken at the federal level, states began to allow marijuana to be used for medical purposes.[6]

President Reagan faced an ever increasing illegal drug usage problem. In a six-year span from 1978 to 1984, cocaine use increased by 700 percent in the U.S. The Reagan Administration focused more heavily on drug users than on the supply channels. Congress passed the Anti-drug Abuse Act in 1986 which set minimum prison sentences for various drug uses.[7] The new law also established another agency, the Office of National Drug Control Policy (ONDCP).[8] Because of a "zero tolerance" policy, incarceration rates for illegal drug use increased dramatically in the late 1980s. Today, half of all men incarcerated in federal prisons and 16 percent in state prisons are there for drug crimes.[9] Federal funding for rehabilitation and drug treatment dropped in the 1980s.

The George H.W. Bush Administration increased narcotic regulation with the First National Drug Control Strategy which was managed by the ONDCP.

Although billions of taxpayer dollars flowed into the effort to reduce illegal drug use in the Clinton, George W. Bush, and Obama Administrations, public and government concern over illegal drugs waxed and waned.[10] Mandatory sentencing guidelines were relaxed and states took over more control with the legalization of marijuana on a state-by-state basis.

4 "DEA staffing and budget," United States Drug Enforcement Administration, Department of Justice, at https://www.dea.gov/pr/staffing.shtml, accessed May 2018.
5 "The United States war on drugs," Stanford University Department of Education, at https://web.stanford.edu/class/e297c/poverty_prejudice/paradox/htele.html.
6 "Marijuana policies and policy reform," Drug War Facts, 2018, at http://www.drugwarfacts.org/chapter/marijuana_policy.
7 "War on drugs," The History Channel, A&E Networks, 2018, at https://www.history.com/topics/the-war-on-drugs.
8 "Office of National Drug Control Policy," Executive Office of the President of the United States, 2018, at https://www.whitehouse.gov/ondcp/.
9 "Offenses," Federal Bureau of Prisons, April 28, 2018, at https://www.bop.gov/about/statistics/statistics_inmate_offenses.jsp.
10 "War on drugs," The History Channel, A&E Networks, 2018, at https://www.history.com/topics/the-war-on-drugs.

In response to the alarming increase in opioid deaths in the U.S., in March 2017, President Trump issued an Executive Order that established yet another agency, the President's Commission on Combating Drug Addiction and the Opioid Crisis.[11]

The United States currently spends over $50 billion per year on the war on drugs.[12] In 2016, 1.6 million people were arrested in the U.S. for drug violations, 84 percent for possession only. Over the past 50 years the U.S. has spent over $1 trillion fighting this drug war.[13]

The current opioid crisis

Opioids are defined as "(drugs) possessing some properties characteristic of opiate narcotics but not derived from opium."[14] These drugs include heroin, fentanyl, cocaine, methamphetamine, methadone, and prescription drugs such as OxyContin.

The critical issue when analyzing drug-death data is to separate the most likely causal drug from other ingested chemical compounds. Only 28 states, including Washington state, actually make an effort to test for the specific death-causing drug, rather than simply reporting an "opioid death."[15]

The Center for Disease Control and Prevention (CDC) tracks deaths and autopsy reports. The following is from the "CDC's analysis, based on data from 2015 through 2016:

- Across demographic categories, the largest increase in opioid overdose death rates was in males between the ages of 25-44.
- Overall drug overdose death rates increased by 21.5 percent.
    - The overdose death rate from synthetic opioids (other than methadone) more than doubled, likely driven by illicitly manufactured fentanyl (IMF).
    - The prescription opioid-related overdose death rate increased by 10.6 percent.
    - The heroin-related overdose death rate increased by 19.5 percent.
    - The cocaine-related overdose death rate increased by 52.4 percent.
    - The psychostimulant-related overdose death rate increased by 33.3 percent."[16]

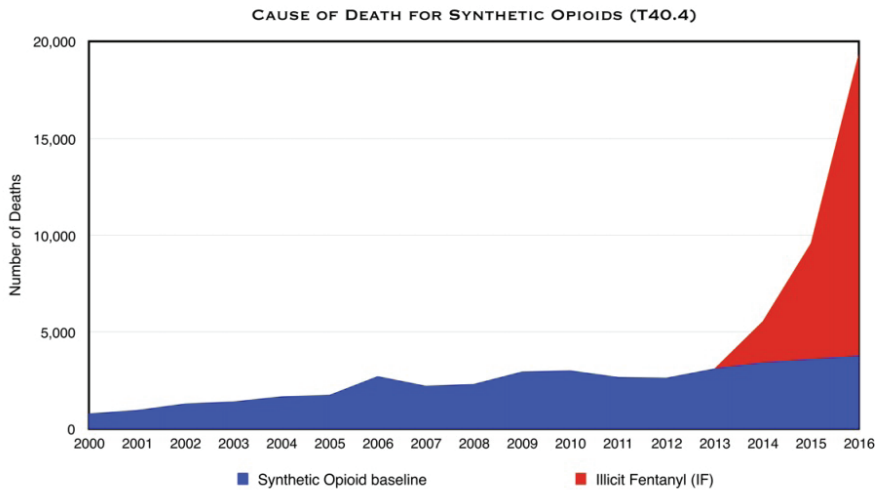
Data reported by the CDC for 2016 show:

- 63,600 total deaths in the U.S. from drug overdose;
- 20,000 from fentanyl;

11 "Office of National Drug Control Policy," Executive Office of the President of the United States, 2018, at https://www.whitehouse.gov/ondcp/.
12 "Drug war statistics," Drug Policy Alliance, 2018, at http://www.drugpolicy.org/issues/drug-war-statistics.
13 "How much does the war on drugs cost?," by German Lopez, Vox, May 8, 2016, at https://www.vox.com/cards/war-on-drugs-marijuana-cocaine-heroin-meth/war-on-drugs-cost-spending.
14 "Opioid," Merriam Webster Online Dictionary, 2018, at https://www.merriam-webster.com/dictionary/opioid.
15 "Increases in heroin overdose deaths," Center for Disease Control and Prevention, October 3, 2014, at https://www.cdc.gov/mmwr/preview/mmwrhtml/mm6339a1.htm.
16 "U.S. drug overdose deaths continue to rise; increase fueled by synthetic opioids," Press Release, Centers for Disease Control and Prevention, March 29,2018, at https://www.cdc.gov/media/releases/2018/p0329-drug-overdose-deaths.html.

- 15,000 from heroin;
- 14,500 from natural and semi-synthetic opioids (mostly prescription drugs);
- 14,100 from all other opioids such as cocaine, methadone, etc.[17]

According to the CDC, from 2006 to 2010 the opioid overdose rate tracked closely with the overdose rate of prescription opioid drug users, one per 13,000 prescriptions. From 2010 to 2016, however, the prescription drug death rate dropped while non-medical drug users turned to the use of fentanyl and heroin in the illicit market.[18] The following graph shows the dramatic contribution of fentanyl-related overdose deaths over the past six years:



All of this data strongly suggests that the current opioid crisis is not caused by legal prescription drugs, by their manufacturers and distributers, or by doctors. Instead the crisis is caused primarily by abuse of illegal fentanyl, heroin, and to a lesser extent, cocaine. From the CDC's 2016 data, prescription drugs were the cause of 23 percent of drug-related deaths, a clear minority compared to illicit drug deaths.

While the number of opioid overdose deaths has risen over the past ten years, the number of legal drug prescriptions written by doctors decreased 22 percent from 2013 to 2017.[19] From 2016 to 2017 alone, the number of written prescriptions decreased by nine percent.

There are undoubtedly isolated cases of over-prescribing, but the evidence strongly suggests that the increase in the illegal market is the prime cause of the rise in overall opioid deaths.

Illegal drug pipelines have also become more sophisticated. For example, fentanyl is available in a powder form and is now smuggled into the U.S. via mail services, making it even more difficult to intercept.[20]

17 "Underlying cause of death, 1999 to 2016 request," CDC WONDER, Centers for Disease Control and Prevention, at https://wonder.cdc.gov/controller/datarequest/D76;jsessionid=EC4A12D2A6A7268D848A26A83D93A398.

18 "Estimating the actual death rate caused by prescription opioid medication and illicit fentanyl," by John Lilly, *Journal of American Physicians and Surgeons*, Spring, 2018, at http://www.jpands.org/vol23no1/lilly.pdf.

19 "Physicians progress to reverse the nation's opioid epidemic," American Medical Association Task Force 2018 Progress Report, American Medical Association, 2018, at https://www.end-opioid-epidemic.org/wp-content/uploads/2018/05/AMA-2018-Opioid-Report-FINAL.pdf

20 "Get drugs out of the mail," by Tom Ridge, *The Detroit News*, May 13, 2018, at https://www.detroitnews.com/story/opinion/2018/05/13/get-drugs-mail-ridge-stop-act/34877197/.

Policy analysis

Any market transaction depends on the supply of a product or service and the demand for that product or service. The illegal drug trade is no different. For a war on drugs to be successful, it must reduce both the supply and the demand for drugs.

The emphasis for the past 50 years in the U.S. has been to combat the supply of drugs and punish those who demand drugs. This has cost American taxpayers billions of dollars, yet the current opioid crisis shows the limitations of this approach. As one supply chain is stopped, another takes its place. As one drug becomes less accessible, another takes it place.

From a sociologic perspective, there are three ways of viewing the drug abuse problem.[21] The first way is from a moralist viewpoint, where illegal drug use is considered to be sinful and defective. At the present time in the U.S., this is the least popular attitude toward the drug problem.

The second way of considering the problem is the temperance viewpoint, where the drug itself is the problem. This has been the overwhelming attitude in the war on drugs and has driven much of the government policy toward solving the problem. As long as there is a high demand for illicit drugs, suppliers will find a way to get the drugs to the customers. A classic example of the futility of this approach was the prohibition of alcohol in the 1920s in the U.S.

In one sense, this temperance attitude is the easiest for elected officials to support. It looks like they have identified the problem and are actively doing something about it. With the current opioid crisis, prosecuting drug manufacturers, distributors, and doctors gives the appearance of tough action. Yet the data strongly suggests that the large increase in drug-related deaths is the result of illegal fentanyl and heroin abuse, not the use of legal prescription drugs.

The third viewpoint is that drug abuse is a treatable disease, just like many cases of mental illness. Advocates of this viewpoint support more money for treatment and prevention, rather than money for police activity. To date, law enforcement has accounted for 75 percent of the money spent on the war on drugs.

Many who view drug abuse as a disease would like to see the decriminalization of the drug user and more emphasis on prosecuting major suppliers and manufacturers of illegal drugs. This is not to be confused with the legalization of all drugs. Incarceration of the user is extremely expensive for taxpayers and provides no real treatment or long-term solution. Shifting resources to prosecuting suppliers while providing treatment for users is not an argument for legalization.

An unintended consequence of the current opioid crisis is that patients who are truly in pain are often denied or limited in the amount of prescription pain-relieving medication they can actually receive.[22] This limitation is obviously a disservice to thousands of patients in pain who could benefit from opioid medications and whose prescribed use of pain medication is not contributing at all to the broader opioid crisis.

21 "The United States war on drugs," Stanford University Department of Education, at https://web.stanford.edu/class/e297c/poverty_prejudice/paradox/htele.html.

22 "Drug war facts," 2018, at http://www.drugwarfacts.org/chapter/painmanagement.

Doctors have the advantage of assessing and treating a patient's pain in the most timely fashion. Physicians should not be subjected to laws that restrict the amount of pain relief they can provide patients.

Conclusion

The 50-year fight against illegal drugs has cost taxpayers over one trillion dollars and yet has been of limited effectiveness. The drug crisis in the United States continues, and a different approach is needed.

When considering the current opioid crisis, focusing punishment on prescription drug manufacturers and doctors is misplaced. Data from the government CDC confirm that the alarming increase in opioid deaths over the past ten years is from illicit fentanyl and heroin, not legally-available medications.

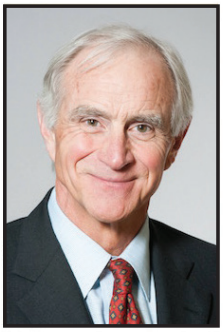
Elected officials have been unable to close the market for illegal drugs and slow or stop the overdose death rate. Perhaps it is time for a new approach to the drug abuse problem – one that views the drug user as an individual with a preventable and treatable disease, while making every effort to fully prosecute illicit drug manufactures and smugglers.

Washington Policy Center is an independent research organization in Washington state. Nothing here should be construed as an attempt to aid or hinder the passage of any legislation before any legislative body.

If you have any comments or questions about this study, please contact us at:

Washington Policy Center
PO Box 3643
Seattle, WA 98124-3643

Online: www.washingtonpolicy.org
E-mail: wpc@washingtonpolicy.org
Phone: (206) 937-9691



About the Author

Dr. Roger Stark is the health care policy analyst at Washington Policy Center and a retired physician. He is the author of two books including *The Patient-Centered Solution: Our Health Care Crisis, How It Happened, and How We Can Fix It*. He has also authored numerous in-depth studies on health care policy for WPC, including *The Impact of the Affordable Care Act in Washington State, A Review of the Medicaid Program: Its Impact in Washington State and Efforts at Reform in Other States, What Works and What Doesn't: A Review of Health Care Reform in the States,* and *Health Care Reform that Works: An Update on Health Savings Accounts*. Over a 12-month period in 2013 and 2014, Dr. Stark testified before three different Congressional committees in Washington DC regarding the Affordable Care Act. Dr. Stark graduated from the University of Nebraska's College of Medicine and he completed his general surgery residency in Seattle and his cardiothoracic residency at the University of Utah. After practicing in Tacoma he moved to Bellevue and was one of the co-founders of the open heart surgery program at Overlake Hospital. He has served on the hospital's governing board. He retired from private practice in 2001 and became actively involved in the hospital's Foundation, serving as Board Chair and Executive Director. He currently serves on the Board of the Washington Liability Reform Coalition and is an active member of the Woodinville Rotary. He and his wife live on the Eastside and have children and grandchildren in the area.