Decriminalizing Drugs in NJ

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Opiates – Widespread use, varied responses in the 19th century
Antiracist Addiction Treatment Requires Decriminalization and Harm Reduction

Cocaine – Depends on who used it

“Yellow Peril” and the early criminalization of opium smoking

1906 - Pure Food and Drug Act
1909 - Opium Exclusion Act
1914 – Harrison Narcotics Act
1922 – Jones–Miller Act
1924 – Heroin Act
1934 – Uniform State Narcotic Act
Reefer madness and anti-Mexican sentiments

All in the name of protecting white women...
1971 Controlled Substances Act and the Modern Drug War

- "The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and black people" ..... 

- "You understand what I'm saying? We knew we couldn't make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin. And then criminalizing both heavily, we could disrupt those communities," Ehrlichman said. "We could arrest their leaders. raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did."

  - Former Nixon domestic policy chief John Ehrlichman

Stigma

- As a society, we have decided to punish those who use illicit drugs, and make them suffer.
  - We believe this is a deterrent and will cause people not to use.

Tostes et al. (2020) concluded that there was no evidence confirming the effectiveness of proposed interventions to reduce stigma, despite calls to change societal misperceptions of individuals with SUDs.
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Drug War Statistics

- US spends $47 billion+ per year
- Almost 91,799 overdose deaths in 2020, 60% due to fentanyl
- 1,155,610 drug law violation arrests in 2020 – 86% for possession only*
- 27% of arrests are Black (despite representing only 13.4% of the US population)

* US has the highest incarceration rate in the world ~ about 2.1 million people in prison in 2021

How Does it Look in New Jersey?

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Mass Incarceration

- The criminalization of drug possession is a major driver of mass incarceration.
- Each year, U.S. law enforcement makes more than 1.5 million drug arrests — more arrests than for all violent crimes combined.
- The overwhelming majority — more than 80 percent — are for possession only and involve no violent offense.

Who is getting arrested?

- More than 50% of Americans claim to have breached the drug laws
  - Can’t arrest 50% of the population
  - 19% of drug dealers are black, but are 64% of arrests for dealing
    - US incarcerates 4,919 black men per 100,000
      - 40-50% of black men in the US ages 15-35 are either in jail, on probation or have an active warrant
    - US incarcerates 943 white men per 100,000
      - In the US, white men use more drugs than black men
Social Determinants of Drug Arrest

- People convicted of drug possession face a host of additional consequences:
  - Eviction from public housing,
  - Disqualification from a wide range of occupational licenses,
  - At will employee,
  - Heavy fines,
  - Loss of the right to vote, and
  - Denial of public assistance.

*These consequences disproportionally affect non-white people.*

Looking in the Mirror

*We must call out the intersectional nature of drug policy and resulting key social determinants that continue to repress non-majority populations and target the most vulnerable of communities. This requires that we admit to and own our role in the perpetuation of this problem.*
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Racial Injustice

The laws, practices, and assumptions that govern how we treat people who use drugs have always been different for people of different races. For decades, these policies have been used to target and incarcerate people of color, especially Black Americans. Only now, as more communities experience opioid addiction and overdose, and the face of the crisis is white, we are starting to see drug use for what it is: a health issue that should focus on treatment and recovery. Our shifting responses to drugs have always been color-coded. We need to end the criminalization of drugs and people who use them, prioritize proven treatments and harm reduction, and remove barriers for people to get and stay well.

Mandatory Sentencing

- 2/3 of women on probation are Caucasian, while 2/3 of women in prison are African-American
- Prison industry growing due to mandatory sentencing for drug related crime.
- 56% of inmates in federal prison are serving drug related sentences.
- 70% of women are primary caregivers of children when they are sentenced to prison.
Overdose Rates 2015-2020

- Since 2015 the death rate among Black men has more than tripled – rising 213% – while the death rate among White men rose 69%.
- Women in the U.S. are less likely than men to die from drug overdoses. But death rates have risen sharply among women, too, especially Black women.

Redefining the Police

- Law Enforcement Against Drugs and Violence (L.E.A.D.) is a non-profit (501C3) organization, supported by dedicated police officers, committed to protecting our youth and communities from the proliferation of drugs, drug related crimes, peer to peer/cyber bullying and violence.
- Law Enforcement Assisted Diversion (LEAD) programs allow officers to divert individuals to treatment or social services, rather making low-level drug arrests.
- Individuals diverted through the LEAD program were 58 percent less likely to be rearrested, as compared to similar individuals processed through the criminal justice system.
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NJ Drug Arrests & Race

• In New Jersey, **eight out of ten people** arrested for a drug-related crime in the past decade were arrested for having a small amount of drugs.

• **Black New Jerseyans were 2.6 times more likely** than white New Jerseyans to be arrested for their personal substance use.

[Graph showing racial disparities in New Jersey Drug Possession Arrests, 2010-2019]

Drug decriminalization will decrease racial disparities in Oregon’s drug arrests by 95%.

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When I was 18..........

- New Jersey’s annual drug war investment is:
  - 2.6 times greater than expenditure for the Division of Mental Health and Addiction Services (DMHAS) in the Department of Human Services.
  - 19.1 times greater than investment in public health protection services like epidemiology, cancer prevention and monitoring, smoking cessation programs, and protections from workplace hazards.
  - 40.4 times greater than investments in homelessness prevention and the State Rental Assistance Program combined.
  - **139.9 times greater than investment in community health services.**
  - **544.6 times greater than investment in harm reduction programs.**
  - 737.9 times greater than budget allocation for the Office of Minority and Multicultural Health.

- Source: *New Jersey Policy Perspective Report* (Jun. 16, 2021)
Compulsory/Coerced Treatment

- Legally coerced treatment through the criminal justice system has been criticized for a lack of evidence of its effectiveness and its infringement of the rights of offenders.
  - Inferior outcomes compared to voluntary treatment seeking
  - Purported benefits of mandated treatment do not persist after legal leverage is lifted
  - Use of legal referrals is associated with poor quality of therapeutic relationships, noncompliance, and low client confidence in treatment

MOTIVATION

Foucault’s concept of Disciplinary Power

- “A mechanism of power that extracts time and labor from bodies, and it is exercised through constant surveillance” (Foucault 2003).
  - The regulation of conduct is achieved through the ordinary relationships of force and discipline.
  - Disciplinary power operates through the normalization of deviant behavior in which providers see the deviant people as objects of intervention.
  - Such an intervention occurs within prisons, asylums and drug treatment centers. Disciplinary power is situated in the everyday practice of care, in the contact between carer and cared-for through discourses of professionalism and theory.
UN Supports Decriminalization

- The UN system has now joined many policy makers and scholars in calling for decriminalization of drug possession for personal use alongside alternatives to conviction and punishment as an essential step to ending punitive forms of treatment.

- A policy shift should respond to individuals’ complex and intersectional needs by:
  - the expansion of a continuum of services provided in the community
    - outreach services to low-threshold harm reduction services such as needle syringe programs and opioid agonist therapy,
    - residential rehabilitation and outpatient psychosocial and mental health support—to respond to individuals’ complex and intersectional needs

Defining Recovery

- Recovery lacks a commonly accepted definition, and does not always incorporate total abstinence.
  - Functioning rather than abstinence
  - Abstinence does not guarantee higher functioning

How does substance abuse treatment research measure treatment success?
ABSTINENCE
Misinformation

- The US National Institute on Drug Abuse endorses legally-mandated treatment on grounds that
  “Individuals who enter treatment under legal pressure have outcomes as favorable as those who enter treatment voluntarily” (NIDA, 2012, p. 19).

- RCTs are rare, statement based almost entirely on observational designs.
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Self Determination

- A 2019 (SAMHSA) national study found that 90% of people with substance use disorders did not receive treatment in the past year and the top reason was that they were unwilling to quit.
- Treatment should be low-barrier and low-threshold, which means we must use a harm reduction approach and meet people where they are until they are ready to make a change.

Reasons for Not Seeking Treatment

- Not ready to stop using
- Not knowing where to go for treatment
- No insurance / Can't afford
- Other

Values & Ethics

NASW Code of Ethics
- Values:
  - Fundamental to social work is attention to the environmental forces that create, contribute to, and address problems in living.
  - Social workers challenge social injustice.
- Ethics:
  - 1.02 Self-Determination: Social workers respect and promote the right of clients to self-determination and assist clients in their efforts to identify and clarify their goals.

ACA Code of Ethics
- Values:
  - Promoting social justice
- Ethics:
  - A.1.a. Primary Responsibility: The primary responsibility of counselors is to respect the dignity and promote the welfare of clients.
  - A.4.a. Avoiding Harm: Counselors act to avoid harming their clients, trainees, and research participants and to minimize or to remedy unavoidable or unanticipated harm.
What Happened with the Police in Portugal?

- Policing efforts have shifted from regular contact with problematic users to focus instead on international cooperation targeted at trafficking syndicates, with the police regularly seizing tons rather than kilograms of illicit substances destined for European drug markets.

Did More People Start Using Drugs?

- The policy shift did not lead to an increase in drug use. It has now been in place for 18 years and is supported by both sides of parliament.

- Of the people who are referred to the Commission, approximately 90% are assessed as recreational users, with the remaining 10% assessed as dependent users.

- The success of the approach is not just decriminalization, but also the structured and prioritized access to treatment and other support services (such as employment and housing).

- **60%** in treatment
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Overdose

Drug Induced Deaths per Million Population, Ages 15-64

<table>
<thead>
<tr>
<th>Country</th>
<th>Deaths</th>
</tr>
</thead>
<tbody>
<tr>
<td>Portugal</td>
<td>369</td>
</tr>
<tr>
<td>Spain</td>
<td>13</td>
</tr>
<tr>
<td>France</td>
<td>93</td>
</tr>
<tr>
<td>US</td>
<td>69</td>
</tr>
<tr>
<td>EU Average</td>
<td>21.3</td>
</tr>
<tr>
<td>UN-69</td>
<td>15</td>
</tr>
</tbody>
</table>

Sources: European Drug Report 2017 and New York Times

Then & Now Portugal's Drug Decriminalization

Key developments since Portugal decriminalized drugs in 2001

- Overdose deaths:
  - 1999: 369
  - 2016: 30

- New HIV diagnoses due to injecting:
  - 2000: 907
  - 2017: 18

- Number of people incarcerated for drug offences:
  - 1999: 3,863
  - 2017: 1,140

Sources: The Lancet, drugpolicy.org, EMCDDA, VHPA

STUDY ON THE EFFECTS OF THE INTERVENTION

In your opinion what is the purpose of the Commission?

<table>
<thead>
<tr>
<th>Purpose of the Commission</th>
<th>Participants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Help to quit the use of illicit substances</td>
<td>71</td>
</tr>
<tr>
<td>To inform about the problems associated with the use of illicit substances</td>
<td>67</td>
</tr>
<tr>
<td>To help change the lifestyle</td>
<td>63</td>
</tr>
<tr>
<td>To inform about the law</td>
<td>43</td>
</tr>
<tr>
<td>Referral to Health Services</td>
<td>16</td>
</tr>
<tr>
<td>To punish/penalise</td>
<td>9</td>
</tr>
<tr>
<td>Other function</td>
<td>5</td>
</tr>
</tbody>
</table>

Source: SICAD, EMPECO

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Our Pathway

- Law Enforcement Assisted Diversion
- Decline to prosecute
- 911 Good Samaritan Laws
- NJ legalizing cannabis
- Measure 100 in Oregon

- Medical use: 38 states, 4 territories, and 5 states for CBD only
- Recreational use: 19 states, Washington DC, and Guam
  - Colorado
  - Montana
  - Alaska
  - New Jersey
  - Oregon
  - New York
  - California
  - Virginia
  - Maine
  - Massachusetts
  - Connecticut
  - Nevada
  - Rhode Island
  - Michigan
  - Vermont
  - Illinois

Oregon – Measure 110

- The Oregon measure makes possession of small amounts of what have long been considered harder drugs a violation, similar to a traffic ticket, and no longer punishable by jail time. The law also funds drug addiction treatment from marijuana sales taxes.
  - Eliminate Criminal Penalties and impose a civil fine for low-level drug possession offenses.
  - Avoid a fine by completing a health assessment, where access to treatment or other services may be offered.
Oregon – Measure 110

The Measure creates the Drug Treatment and Recovery Services Fund, which will be funded from existing revenues:

- Marijuana taxes in excess of $45 million annually (expected to be around $145 million when the measure is implemented); and
- Law enforcement cost savings from decriminalization
Oregon – Measure 110

• Building/Expanding Infrastructure

• Funding Addiction Recovery Services throughout the state to immediately triage the acute needs of people who use drugs, assess and address their on-going needs through intensive case management and link them to care and services. These centers can be housed in or operated by existing qualified providers.

• Increasing Community Access to Care, including:
  • Treatment that is evidence-based, trauma-informed, culturally competent, client-centered and non-judgmental
  • Peer support and recovery services
  • Transitional, supportive and permanent housing
  • Harm reduction interventions

Fiscal Impact

<table>
<thead>
<tr>
<th>All dollars in millions</th>
<th>2019-21</th>
<th>2021-23</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drug Treatment and Recovery Services Fund (ARCs)</td>
<td>$61.1</td>
<td>$182.4</td>
</tr>
<tr>
<td>State School Fund</td>
<td>$(17.1)</td>
<td>$(73.0)</td>
</tr>
<tr>
<td>Mental Health, Alcoholism and Drug Services</td>
<td>$(8.6)</td>
<td>$(36.5)</td>
</tr>
<tr>
<td>Alcohol and Drug Abuse Prevention and Intervention</td>
<td>$(2.1)</td>
<td>$(9.1)</td>
</tr>
<tr>
<td>Oregon State Police</td>
<td>$(6.5)</td>
<td>$(27.4)</td>
</tr>
<tr>
<td>Net Increase In State Revenue</td>
<td>$26.8</td>
<td>$36.4</td>
</tr>
</tbody>
</table>
In 2021 Black people still had highest rates of possession arrests (11.63 per 100,000) compared to all racial and ethnic groups but they saw the largest drop in rates since 2019 - by 85%.
Decriminalizing as Best Policy Practice

- The World Health Organization came out publicly in support of the decriminalization of personal drug use.
  - Countries should work toward developing policies and laws that decriminalize injection and other use of drugs and, thereby, reduce incarceration.
  - Countries should work toward developing policies and laws that decriminalize the use of clean needles and syringes (and that permit NSPs [needle and syringe programs]) and that legalize OST [opioid substitution therapy] for people who are opioid-dependent.
  - Countries should ban compulsory treatment for people who use and/or inject drugs.

Global Commission on Drug Policy Supports Decriminalization

- Putting health and community safety first requires a fundamental reorientation of policy priorities and resources, from failed punitive enforcement to proven health and social interventions.
- Stop criminalizing people for drug use and possession – and stop imposing “compulsory treatment” on people whose only offense is drug use or possession.
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LCADC

UN Office on Drug
Control & World
Health Organization

- 10% of drug users have a problem with their substance
- 90% of people who use do not

Imagine A World

Imagine a world where we have what we need to overcome our challenges, where we can get and stay well. The truth is life is hard. We all struggle with something and for many this includes addiction. Imagine a world where we treat each other with care. A world where people aren’t locked away for our mistakes but offered a way to heal. Where rehab and treatment are widely available, helping people overcome these challenges. When we join together, we can make this a place where we have the support that we need to recover from addiction and shape our lives into what we imagine they can be.
People We Love

- The number one priority is getting well
- Life-saving protections from overdose
- Smart, evidence-based approaches that save lives
- For people we love facing addiction
- Out of reach because we’ve put prosecutors and criminal courts in charge
- Lock people away for mistakes

When you or a family member is sick or in pain, the number one priority is getting well—no matter what the condition. For people we love facing addiction, proven and effective programs like medication-assisted treatment and life-saving protections from overdose like naloxone, commonly known as Narcan, are out of reach because we’ve put prosecutors and criminal courts in charge of an issue that requires rehabilitation and treatment. Instead of relying on failed policies that prevent many from seeking treatment or lock people away for mistakes, we need to embrace smart, evidence-based approaches that save lives and give our loved ones the chance to heal and recover.

Drug Decriminalization

- Why do I advocate for the decriminalization of drugs?
  - Single most arrested offense in the US
  - Consequences of arrest are severe
  - Racial disparities and over-policing in communities of color
  - Free up law enforcement resources to be used in more appropriate ways
  - High overdose rates
  - Lack of investment in treatment and harm reduction infrastructure
  - Prioritize health and safety over punishment for people who use drugs
Drug Decriminalization

• Why do I advocate for the decriminalization of drugs?

• Reduces the number of people involved in the criminal justice system
• Improves cost-effectiveness of limited resources
• Creates a climate where people who are using drugs problematically can seek treatment without stigma or fear of arrest
• Improves treatment outcomes where treatment is called for
• Removes barriers to the implementation of evidence-based practices to reduce the potential harms of drug use.