



STUDENT DRUG-TESTING COALITION
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Joint Statement in Opposition to the Vienna Declaration March 14, 2011

The criminalization of illicit drug use provides positive health and social benefits by deterring nonmedical use of substances that cause great harm to HIV/AIDS-affected individuals. The use of criminal justice sanctions that respect human rights and provide drug treatment services can accelerate an individual's recovery from drug dependence and prevent drug-related harms to HIV/AIDS-affected individuals preventing its further proliferation. The criminal law against illegal drug use is a major public health strategy to reduce drug abuse and the many health, safety and productivity losses imposed by drug abuse.

The Vienna Declarationⁱ was released by a group of non-governmental organizations (NGOs) and signed by private individuals to outline a global strategy to deal with the modern drug epidemic. However, the Vienna Declaration is based on three false premises: 1) that the criminalization of illegal drug use fuels the HIV/AIDS epidemic, 2) that criminal justice and health promotion are conflicting approaches to drug policy, and 3) that the major costs of illegal drug use are those generated by the criminal justice system.

The Criminalization of Drugs Does Not Fuel the HIV/AIDS Epidemic

The prohibition of illegal drug use does not encourage the spread of HIV/AIDS. Rather it reduces illegal drug use among HIV/AIDS patients, as well as the non-infected population thereby reducing the population vulnerable to HIV/AIDS infection by contaminated needles. Illegal drug use exacerbates weaknesses of the immune system, making individuals with AIDS more susceptible to infection and death.ⁱⁱ Marijuana use causes impaired immunity,^{iii iv v vi} and opens the door for the virus that causes Kaposi's Sarcoma,^{vii} life-threatening for individuals with HIV/AIDS. Marijuana also contains bacteria and fungi that put users at risk for infection.^{viii ix x} Illegal drug use among AIDS patients is life-threatening because these drugs lessen the effectiveness of anti-retroviral (ARV) medications.^{xi} Nonmedical drug use is associated with increased risky sexual behaviors which promote transmission of HIV/AIDS in a way that needle exchange cannot prevent.^{xii xiii}

Illegal drug use also increases sexual violence which in turn results in more HIV infections, particularly among the most vulnerable members of society including women^{xiv} as well as children. Mother-to-child transmission of HIV/AIDS now can be largely prevented by medical intervention; however, there is no protection for unborn fetuses from the adverse effects of a drug-using mother.^{xv}

There are 200 million illegal drug users globally, making up 5% of the world population aged 16-64,^{xvi} and an estimated 33.4 million people living with HIV/AIDS.^{xvii} Since the emergence of the HIV/AIDS epidemic in 1981, an estimated 25 million people have died of HIV/AIDS-related causes and two million people die each year from this disease.^{xviii} These numbers are tragically high, but so is the number of global drug-related deaths, estimated at 223,000 each year.^{xix} As previously noted, illegal drug use increases the risks associated with both contracting and treating HIV/AIDS. Reducing drug use must be part of the solution to curb the distressingly high HIV/AIDS death toll.

The Criminal Justice System and the Public Health System Are Complementary and Not Conflicting Approaches to Drug Policy

The Vienna Declaration concludes that “reorienting drug policies towards evidence-based approaches that respect, protect and fulfill human rights has the potential to reduce harms deriving from current policies and would allow for the redirection of the vast financial resources towards where they are needed most: implementing and evaluating evidence-based prevention, regulatory, treatment and harm reduction interventions.” Prevention and treatment are programs that promote public safety and public health. The goal of treatment is to cease -- and abstain from -- nonmedical drug use. “Harm reduction” tolerates, and thus perpetuates, nonmedical drug use. “Harm reduction” seeks to reduce the “harm” caused by nonmedical drug use without stopping the use itself. Defining the roles of the criminal justice system in reducing illegal drug use as unreasonable or inhumane and defining illegal drug use as a “human right” are as sensible as defining drunk driving as a protected human right and its enforcement as an inhumane waste of resources. Substance abuse prevention and treatment work to stop nonmedical drug use. Making nonmedical drug use a crime is an important public health strategy that reduces many of the “harms” produced by illegal drug use.

To promote public health and public safety, and to reduce both illegal drug use and HIV/AIDS, the World Federation Against Drugs (WFAD), the Drug Free America Foundation, Inc. (DFAF), the Institute for Behavior and Health, Inc. (IBH) and numerous other organizations and individuals support a balanced restrictive drug policy that uses the criminal justice system, and the illegal status of nonmedical drug use, to reinforce both prevention and treatment. The current globally-endorsed balanced drug abuse prevention policy can be improved.

The challenge of future drug policy is to find ways to encourage the legal and justice systems to work better together with prevention and treatment to achieve goals that neither can do alone. Treatment systems can work together with the criminal justice system by incorporating new, effective and evidence-based strategies to reduce illegal drug use among criminal offenders. These approaches also reduce the commission of new crimes and associated incarceration.

Among such programs are Drug Courts which focus on getting drug using offenders into treatment for long-term recovery from addiction. Offenders are regularly and randomly tested for drug use, are required to frequently appear in court, and are rewarded for success and sanctioned when they do not live up to their obligations including those to court, society,

themselves, and their families,^{xx} Drug Courts are specialized programs that reduce drug use, crime, and save money. They have had the greatest success with higher risk and higher need offender populations.^{xxi} As the United Nations Office on Drugs and Crime reports, "The UN 1988 Drugs Convention, UNGASS Guiding Principles on Demand Reduction and related Action Plan specifically target drug-abusing offenders and call on governments to take effective multidisciplinary remedial initiatives. Drug Courts can be a very effective element in an overall package of responses."^{xxii}

Other care management programs utilize a new paradigm yielding remarkable results. Programs using this new paradigm hold drug users to a zero tolerance policy through frequent random drug testing. Any positive drug test or other violation of the program is met with swift, certain, but brief incarceration. Treatment is reserved for those who choose it or who fail with monitoring alone. Hawaii's Opportunity Probation with Enforcement (HOPE) is one such program. Any violation of probation, including detection of drug use, is met with an immediate, short-term jail stay. While this approach was widely expected to increase rates of incarceration, it has in fact reduced incarceration, as well as drug use. HOPE has also dramatically reduced recidivism, the rate of arrest for new crimes.^{xxiii} This new paradigm of care management has been validated with two other populations: offenders convicted of driving while impaired under South Dakota's 24/7 Sobriety Project^{xxiv} and substance-abusing physicians in Physician Health Programs.^{xxv} This paradigm holds the promise of dramatically improving the performance of community corrections (parole and probation) while reducing crime, incarceration and drug use.

Implementing Drug Courts and other innovative criminal justice probation programs will decrease illegal drug use and provide many individuals access to treatment.

The Major Costs of Illegal Drug Use are Generated by the Drug Use Itself

The greatest costs of illegal drug use are *not* generated by the criminal justice system but by the nonmedical drug use itself. These costs include not only sickness and death but reduced productivity and the high healthcare costs generated by illegal drug use.

We are committed to efforts to improve current drug policy to further reduce illegal drug use by building on a balanced strategy that includes the criminal justice system. Rather than choosing between prevention and treatment on the one hand, and the criminal justice system on the other, it is important to find better ways for them to work together to achieve vital public health and public safety goals that neither can achieve alone. We know that the prevention of illegal drug use and HIV/AIDS prevention must go hand-in-hand; they are not in conflict with one another.

HIV/AIDS tree should never hide drug abuse forest!

Organizations:

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