Jeff Sessions Declares War on Drugs and Drug Users

How the attorney general's policy change could result in a sizable spike in HIV transmission

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In a memo released earlier this month, Attorney General Jeff Sessions instructed federal prosecutors nationwide to seek the strongest possible charges and sentences against their defendants. "It is a core principle that prosecutors should charge and pursue the most serious, readily provable offense," Sessions wrote in his defense of maximum punishment towards mandatory minimums. This policy change rescinds the guidelines released by then-Attorney General Eric Holder in 2013, designed to curtail harsh sentences for defendants charged with low-level drug offenses.

In the previous memo, Holder wrote, "In some cases, mandatory-minimum and recidivist-enhancement statutes have resulted in unduly harsh sentences and perceived or actual disparities that do not reflect our Principles of Federal Prosecution." Additionally, Holder noted that prosecutors should consider whether such charges "would create a gross sentencing disparity" compared with other defendants. However, Session's updated guidance rejects this stance by insisting that seeking the maximum punishments lawfully possible is what keeps all Americans safe.

Many advocates, journalists, and current and former Washington officials were quick to respond to Friday's memo including: Joyce Vance, former US Attorney for the Northern District of Alabama, Wade Henderson, CEO at The Leadership Conference on Civil and Human Rights, Representative Justin Amash (R-MI), U.S. Senators Dick Durbin (D-IL), Cory Booker (D-NJ), and Rand Paul (R-KY). Each expressed their outright concern for what Sessions' memo means to the American people.

Also, among those responding was former Attorney General Holder who was highly critical of the memo, who said that, "The policy announced today is not tough on crime. It is dumb on crime. It is an ideologically motivated, cookie-cutter approach that has only been proven to generate unfairly long sentences that are often applied indiscriminately and do little to achieve long-term public safety."

Advocates are noticing a reemergence of the War on Drugs that also includes the American Health Care Act (AHCA). The health care bill's failure to meaningfully address America's opioid issue as a public health crisis coupled with the increased emphasis on the criminalization of drug use

counters the President's claim during the campaign trail that he would focus on ending the national opioid epidemic.

The AHCA would take billions of dollars away from mental health and substance use treatment programs, jeopardize access to treatment for 1.3 million Americans who receive care through Medicaid, and any one with health insurance in states that chose to opt out of ACA-era Essential Health Benefits. President Trump's promise to end the opioid epidemic cannot be fulfilled if he endorses legislation that change Medicaid as we know and cut federal funding to the program by about $880 billion over 10 years.

Another threat to combating the opioid epidemic are the remarks made by Health and Human Services Secretary Tom Price, calling Medication Assisted Treatment—the most effective, evidence based treatment we have for opioid addiction, "just substituting one opioid for another." This combined with the proposed reduction of the Office of National Drug Control Policy's budget by 95% directly contradicts Trump's rhetoric around addressing the opioid epidemic and comes at a time when we can least afford a disorganized federal response to substance use.

Historically, the war on drugs has disproportionately affected people of color, particularly Black Americans. Similarly, the HIV epidemic in the United States disproportionately affects people of color, including many of the Black Americans who are unjustly targeted and imprisoned in the war on drugs. Given the recidivism, poverty, and social ostracism that often accompanies incarceration and the fact that incarcerated populations have rates of HIV infection more than 5 times that of the general populous, along with the lack of testing and prevention programs in many prisons, this could result in a sizable spike in HIV transmission.

In addition to harmful racial implications of a revival of the war on drugs, the policies being pursued by the Trump administration can have a devastating effect on people who inject drugs too. The HIV outbreak in Scott County, Indiana was not a one-off phenomenon and the cuts being made to Medicaid, the potential elimination of Essential Health Benefits that mandate insurers provide mental health and substance use disorder coverage, the virtual elimination of the Office of National Drug Control Policy, and Secretary Price's cavalier dismissal of evidence-based opioid treatment means that it isn't a matter of if another outbreak occurs, but when. The epidemic in Scott County started in large part because then Governor Mike Pence and the Indiana legislature defunded Planned Parenthood, which was the only provider of HIV testing in the region.

The current administration is responsible for providing sensible policy that is equitable to all Americans, but is instead proposing criminal justice and health policy reforms that are dangerous to people living with HIV. At AIDS United, we will continue with our activism and vigilance to require Congress and the Trump administration to propose criminal justice initiatives and health policies that do not reverse our progress towards ending the HIV epidemic. We believe that a public health crisis is solved with the combination of interdisciplinary research, community interventions, and equitable health care coverage; not stricter policies which include lengthier prison sentences.

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