Prohibition's Consequences: The Need for Legal Harm Reduction in Practice and Policy

Club Health SF 2013: Alphabetamines
Overview

Prohibition's unforeseen consequences include promoting interest in, and experimentation with the growing number of psychoactive chemicals.

There's two immediate ways to perceive this:
1) people want to get high, and will do anything that's psychoactive, or
2) people want to get high, and would prefer not to break the law.

The common element? People want to get high, and prohibition is not stopping it.
Legal Harm Reduction

- If getting high only consideration, the subject matter of legal harm reduction isn't worth discussing, it won't be used.
- That means assuming #2, people want to get high, and prefer not to break the law.
- There are a multitude of other reasons, such as curiosity, peer pressure, mental health issues, etc. that can also contribute, but you all want this presentation to end today.
The Key Problems

- Prohibition includes draconian punishment
- The law is vague and rarely definitive
- The law is rarely enforced uniformly
- Not everyone agrees on what the law means
- Sometimes, the law doesn't matter at all
- There are laws preventing communication
Draconian Punishment

- With this crowd, don't think I have to explain this at all. If our international guests have questions, naturally I'll answer them.
- This is true, of course of everyone else as well.
3,4 MDMA is not in 21 USC 811

- But reducing legal harm requires me to say, you should avoid being caught ingesting, possessing, or distributing MDMA, because:
  - Law doesn't matter, possession and/or use of MDMA will lead to punishment under federal law, should they choose to enforce it.
  - Law doesn't matter, because MDMA was already declared to be an Analog of MDA.
  - It doesn't matter, because “Ecstasy” is illegal, so MDMA can be a counterfeit of...
What's An Analog?

- An analog is the central point of this presentation: it is controlling on the principle of legal harm that exists in every incident relating to an alphabetamine.
- 21 USC 813 defines an analog as any compound or substance, not already scheduled, that 1) is substantially similar in structure to a controlled substance, 2) substantially similar OR GREATER in effect than a controlled substance, and 3) meant for human ingestion.
In Case That's Too Inclusive...

- Federal Counterfeit Substance makes any substance, sold as an illicit substance, treated criminally as if it is that substance.
- No one can agree on what constitutes substantially similar. One could say that caffeine is substantially similar to cocaine, in terms of its side effects and withdrawal.
- Evidence of intent for human consumption was stated by a Customs Official to be “probable cause.”
I Want Relevance!

- The lack of uniform enforcement, the ambiguity of definitions, and the draconian punishments form an incentive for people to try unscheduled chemicals, creating a “gray” market, where legality is uncertain.

- Because comparison to an illicit substance, or instructions on effects if consumed creates an evidentiary knowledge of intent to consume, they both should be avoided for legal harm reduction, but for harm reduction create a communication barrier that can be deadly.
Now Hype: Bath Salts!

- Bath Salts are a term coined for gray market alphabetamines sold over the counter, as bath salts, as an attempt to avoid liability to federal and state analog laws.
- The buyer generally is not aware of this fact.
- One technique used in selling bath salts is selling a “salt pill” of substantially more than what is safe for human consumption, thereby demonstrating not for human consumption.
- The buyer generally is not aware of this fact.
What to Do About It?

- How do we get communication about the gray market that does not impart liability to the vague laws that might or might not be valid.
- How do we inform the consumer about the dangers that different chemicals represent? For example, when Methylone sold, 200mg would be a high but normal dosage. For 2C-I, 200mg would be traumatizing, if not fatal.
- What do we do when asked comparatives? For instance, MDPV was called “super-coke”
There are rules to how the D.E.A. chooses to schedule substances. They are mainly that an established market has developed for the substance in question.

There are rules in how to talk about alphabetamines – never compare to anything scheduled, and