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The Fentanyl Resurgimiento— A Drug Like No Other

BY STEVE SMITH

On January 11, 2023, Dr. Rahul Gupta, the Director of the White House Office of National Drug Control Policy (ONDCP) declared a small victory. He reported new figures from the Center for Disease Control estimating that nationally there was a 2.57 percent decrease in the number of fatal drug overdoses for the period ending in August 2022 over the same period in 2021.

Dr. Gupta said: “For the last two years, the Biden-Harris Administration has taken historic steps to remove barriers to addiction treatment, go after drug traffickers and their profits, and get more naloxone into communities. As a result, today’s data continue to show a decrease in overdose deaths for the fifth month in a row.”

But just two months earlier in November 2022, the DEA had issued a dire Public Safety Alert:

“Xylazine is making the deadliest drug threat our country has ever faced, fentanyl, even deadlier,” said Administrator Milgram. “DEA has seized xylazine and fentanyl mixtures in 48 of 50 States. The DEA Laboratory System is reporting that in 2022 approximately 23% of fentanyl powder and 7% of fentanyl pills seized by the DEA contained xylazine.”

The DEA alert was remarkably accurate.

For example, in April 2023 the *San Francisco Chronicle* reported that despite widespread naloxone availability, fentanyl overdose deaths from January to March 2023 hit 200—up over 41% over the same time period in 2022. If overdoses continue at their present rate approximately 800 will die before the end of the year. Nationally the news isn’t much

better—and while some states saw improvement—overall fentanyl deaths are up, but at a slower rate of increase. So much for the 2.57% reduction.

If they continue at their present rate, a report in Lancet predicts 1.22 million more opiate overdose deaths by the end of the decade.

In response, harm reduction teams doubled down, distributing more glass pipes and more naloxone hoping that the slower rate of drug uptake from fentanyl smoking versus injection and the availability of naloxone to treat overdoses will reduce the rising death count. They also hope that trust building with the addicts may encourage them to seek treatment. Hope isn't working.

Why don't addicts simply make the switch from needles to smoking? The answer is they much prefer the high they experience from injecting drugs. Known as the rush, it provides the fastest rate of uptake and one of the most profound drug highs that has been experienced by humans to date. Unfortunately, over the next 1-4 hours the high subsides and the addict begins the frantic search for their next high as well as to avoid the painful effects of withdrawal.

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To extend the high the drug market has found Xylazine. Xylazine is a central nervous system depressant. By slowing the heart rate and respiration of its users it prolongs the high the user experiences from smoking or injecting fentanyl. Sometimes, though, it slows respiration until it stops. Xylazine is like desomorphine—also known by the street name “crocodile”—in that it leaves the users with skin lesions that can worsen to necrosis necessitating amputation.

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The Commonwealth Fund reports that from 2020-2021 nearly 200,000 people died nationally—mostly from opioid and methamphetamine overdoses.

In 2021, California alone accounted for 10,901 of those deaths.

Unlike the federal system and many other states, California has a history of remarkably progressive and experimental drug laws and treatment programs. As far back as 2000, the voters passed Proposition 36 allowing for court supervised treatment and rehabilitation. Since then the legislature and voters through ballot initiatives have passed de facto drug decriminalization, sentencing reductions, and legalization for marijuana.

All of this was despite the fact that even at its prison population height in 2011, only 5-8% of California's inmates were serving sentences for drug offenses.

Further, California law did not allow for prosecutions for conspiracy where no drugs were found, and there were no life sentences ever given for drug offenders unless it was an underlying offense in a murder, a serious crime of violence, or the third strike following two violent felonies. The last category being the most controversial.

Lastly, California was just one of two states not to adopt the 1986 federal sentencing disparity for powder versus rock cocaine which is largely blamed for overincarceration rates of Black Americans.

Unfortunately, today's model of drug treatment without consequences is failing. It's a system of forbearance where in the name of civil liberty, addicts are in control of their fate and treatment is driven only by their willingness to voluntarily submit to the process. For an alcoholic or person addicted to less dangerous drugs that system might work, but for fentanyl addicts that is not the case.

Manual Campito, a former addict himself and now a homeless advocate working the streets of Los Angeles, likens the almost slavish devotion to the failed model of voluntary street treatment and harm reduction to assisted suicide.

In April, Democrats in the Assembly Public Safety Committee and in the Senate blocked no less than six bills including one written by Democratic Assemblyman Freddie Rodriguez designed to address the crisis, all in the name of reducing sentencing disparities. One bill that did make it out of the Public Safety Committee, AB 675, would ban fentanyl dealers and users from carrying firearms at the same time. AB 675 is a move in the right direction but dealers seldom shoot and kill their customers—the drug does that. Firearms are protection from rival drug cartels or offensive weapons to intimidate and expand their distribution franchise.

As long as government collusion in China and Mexico continue to enable the manufacture and trans-shipment of fentanyl and its precursors, pharmaceutically sourced drugs and medically supervised use will fail.

Dealing fentanyl is a “wobbler” in California, meaning that it can be charged as a felony or a misdemeanor and when charged as a misdemeanor the offender can have their case dismissed after a short period of probation and no jail time. This is hardly a deterrent given the profits at stake.

Retired judge James Gray recently argued that the drug wars had failed and drug decriminalization and medically supervised opiate use was the solution to both the violence and the deaths.

His statement clearly ignores the free market, human nature, and the science of addiction. Fentanyl has changed the rules.

Even legalized marijuana is failing because it is far cheaper for users to buy their drugs at low prices from criminal cartels than the more expensive legally sourced marijuana. Cartels are killing to keep their profits flowing. Further, as long as government collusion in China and Mexico continue to enable the manufacture and trans-shipment of fentanyl and its precursors, pharmaceutically sourced drugs and medically supervised use will fail.

The narcotics free market is voracious in its profit driven need to sell more and more product. If or when their customers die—new ones are born every day. There aren't enough avocado ranches in Mexico to replace the revenue fentanyl contributes to the economy in Mexico. China's involvement in fentanyl production is possibly even more nefarious.

Those who think a drug like fentanyl can be managed much like alcohol are plain wrong. The rate of alcohol poisoning is just 6 per day nationwide not including DUI's or chronic liver disease deaths. Maybe that's a politically acceptable level of death. For fentanyl, it's roughly 273 deaths per day. That cannot be acceptable in any decent society or moral construct.

Currently, the street price of fentanyl is \$20.00 per dose. That may be cheap for you and me but it is a fortune for an unemployed addict or someone facing the consequences of homelessness. Yet, California has given them an option. Shoplifting, burglary, and prostitution provide an unending source of money that is effectively decriminalized by Prop 47. San Francisco, which has both the highest rate of overdose death and the highest rate of theft in California, knows all too well the damage they inflict on the economy and well-being of its residents. In San Francisco, dealers are alleging their own victimization by human traffickers to escape prosecution – yet are not cooperating with law enforcement to identify those alleged traffickers.

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In 2001, the year Prop 36 was passed, there were just 1,226 fatal overdoses in California. By 2011, they had increased to 4,180 and, in the decade of Prop 47 and 57, they peaked at 10,901 in 2021.

All of this makes one wonder how advocates of the treatment model now in use measure success? As Sam Quinones recently wrote in the *Atlantic Monthly*, “America's approach to addiction has gone off the rails.”

Three strikes and incarceration for drug offenders wasn't perfect and reformers have used a handful of examples to justify their efforts to reform criminal justice through decriminalization and de-carceration.

According to the National Registry of Exonerations in 2022, California had just 5 exonerations, compared to 126 in Illinois, 11 in Texas, and 16 in Michigan. Over the ten preceding years, California averaged just 10 exonerations per year—the lowest of any large state.

The stories of the wrongfully convicted are truly compelling and their release is cause for celebration and reflection. Yet, they are almost always attributed to wrongdoing, not flaws in the law. For example, the majority of Illinois exonerations were caused by just one corrupt Chicago Police Department investigator. That’s not institutional—that’s individual wrongdoing.

Likewise, the Federal system of justice and drug enforcement was at times very aggressive in its prosecution of individuals for relatively minor drug offenses. In some drug conspiracy cases, no drugs were found and prosecutions were based solely on the testimony of informants, sending people to prison for life terms. This is something that did not occur in California state prosecutions.

Yet for ten years, using statistics from other states and the federal system, reformers in California have hoodwinked voters into believing that the justice system in California was manifestly unjust. That’s a disservice to the work of the police, prosecutors, judges, jurors, and yes, even defense attorneys, who often know that court enforced treatment and the threat of incarceration is the best thing for their clients.

Now, in part due to these misguided reforms, as evidenced in the PRI report “Paradise Lost,” Californians are dying and victimized at rates that ten years ago would have been unheard of.

Deterrence and the fair and equitable dispensation of justice, including incarceration, along with robust medically supervised rehabilitation, saves lives. As Sam Quinones wrote:

America’s approach to drugs and addiction today...is both well intentioned and out of date, given the massive street supplies of fentanyl and meth. It is failing just about everyone.

If we’re serious about curbing use of these most damaging illicit drugs, I believe we need to move to an approach that both the left and the right may find uncomfortable. We need to use arrests and the threat of confinement to break the hold of addiction. We also need to transform jail, and change what it means for people with a drug addiction to be in jail.

I couldn’t agree more—what we are doing now, or perhaps not doing, is ruining lives and killing people.

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