

TIME TO ABOLISH THE DEA: EVALUATING THE AGENCY’S FAILURES AND CALLING FOR COMMUNITY INVESTMENTS

*Ifetayo Harvey**

INTRODUCTION	423
I. BACKGROUND: A BRIEF HISTORY OF THE DEA AND ITS MANDATE	424
II. THE DEA’S APPROACH TO DRUG USE AND DRUG ECONOMIES.....	428
III. THE DEA’S HISTORICALLY COUNTERPRODUCTIVE APPROACH AND CHALLENGES IN THE 2020S	432
IV. WHY SHOULD WE ABOLISH THE DEA AND WHAT SHOULD WE DO INSTEAD?	436
CONCLUSION.....	438

INTRODUCTION

For centuries, humans have used plants and other substances to alter one’s consciousness for spiritual or pleasurable purposes.¹ Today, humans derive most illicit drugs from plants.² But who decides when a plant transforms to a drug? The entity with the authority to determine when a substance or plant becomes an illicit drug has varied historically.³ Drug criminalization, with roots in the early 1900s, is a relatively new phenomenon in the eyes of

* Executive Director, People of Color Psychedelic Collective. This Essay was prepared for the Symposium entitled *Drug Law for the 21st Century: Learning from 50 Years of DEA-Led Public Health Policy* hosted at Fordham Law School on February 16, 2024, and co-organized by the *Fordham Law Review* and the Project on Psychedelics Law and Regulation (POPLAR) at the Petrie-Flom Center at Harvard Law School. I am grateful to my parents, Dianne Freeman Swain, Dexter Harvey, and my siblings. Thank you to the *Fordham Law Review* editors, particularly Darcy Gallego.

1. See generally Michael Winkelman, *Introduction: Evidence for Entheogen Use in Prehistory and World Religions*, 3 J. PSYCHEDELIC STUD. 43 (2019).

2. See Ciddi Veeresham, *Natural Products Derived from Plants As a Source of Drugs*, 3 J. ADVANCED PHARM. TECH. & RSCH. 200, 200 (2012) (“Even at the dawn of 21st century, 11% of the 252 drugs considered as basic and essential by the WHO were exclusively of flowering plant origin.”).

3. See David T. Courtwright, *A Century of American Narcotic Policy*, in TREATING DRUG PROBLEMS 1, 1 (Dean R. Gerstein & Henrick J. Harwood eds., 1992).

history.⁴ The United States granted the Drug Enforcement Administration (DEA) the authority to decide which drugs are criminal.⁵ Throughout its existence, the DEA's strategies for curbing drug use and trafficking have fallen short; instead, these strategies have led to skyrocketing overdose death rates, spillover violence, more power for drug cartels, and the agency's abuse of its power.⁶

This Essay calls for a reimagining of how the United States approaches drug policy, starting with the abolition of the DEA. In making the case for abolition, this Essay will proceed in three parts. First, Part I will provide a brief history of the DEA and its mandate as prescribed by the U.S. government. Part II will provide a snapshot of the DEA's approach to drug use and drug economies. Part III will explain why the DEA's approach has historically been counterproductive and will highlight challenges the agency has faced in the twentieth century in addressing new and emerging issues in communities. This Essay concludes by urging readers to reimagine what American society could be if community care and access to resources took precedence over criminalization and enforcement as embodied by the DEA.

I. BACKGROUND: A BRIEF HISTORY OF THE DEA AND ITS MANDATE

Since its creation in 1973, the DEA has shown the American people what failing drug policy looks like in the form of a law enforcement agency.⁷ Built upon the false premise that “drugs are inherently evil,”⁸ the DEA has a history riddled with corruption and ineffectiveness, continuously pushing the boundaries of policing.⁹ The agency was tasked with fighting the war on

4. See HUM. RTS. WATCH, EVERY 25 SECONDS: THE HUMAN TOLL OF CRIMINALIZING DRUG USE IN THE UNITED STATES 28 (2016), https://www.hrw.org/sites/default/files/report_pdf/usdrug1016_web_0.pdf [<https://perma.cc/LYA4-V4R7>] (“For much of the 19th century, opiates and cocaine were largely unregulated in the US. Regulations began to be passed towards the end of the 19th and at the start of the 20th century—a time when the US also banned alcohol.”).

5. See DRUG ENF'T ADMIN., THE DEA YEARS 34 (2021), https://www.dea.gov/sites/default/files/2021-04/1970-1975_p_30-39_0.pdf [<https://perma.cc/D4EK-ZFGD>].

6. See, e.g., Katherine Beckett & Fernando Montero, *We Won't Solve the Fentanyl Crisis with Failed Drug War Tactics*, THE HILL (Oct. 3, 2023, 4:00 PM), <https://thehill.com/opinion/4236447-we-wont-solve-the-fentanyl-crisis-with-failed-drug-war-tactics/> [<https://perma.cc/G98C-5JZU>].

7. See C.J. Ciaramella, *After 50 Years, the DEA Is Still Losing the War on Drugs*, REASON (Aug./Sept. 2023), <https://reason.com/2023/07/06/the-dea-at-50/> [<https://perma.cc/5FLM-2D8W>].

8. Mattathias Schwartz, *A Mission Gone Wrong*, NEW YORKER (Dec. 29, 2013), <http://www.newyorker.com/magazine/2014/01/06/a-mission-gone-wrong> [<https://perma.cc/8H3X-8HW9>].

9. See, e.g., Jim Mustian & Joshua Goodman, *Secret DEA Files Show Agents Joked About Rape in a WhatsApp Chat. Then One of Them Was Accused of It*, ASSOCIATED PRESS (July 25, 2024, 10:59 AM), <https://apnews.com/article/drugs-dea-rape-corruption-fentanyl-opioids-trafficking-649db430c4953a083a7af33ec34b9781> [<https://perma.cc/E6GA-DBRN>]; Jim Mustian & Joshua Goodman, *AP Report: Former DEA Agent Tells His Own Story of Corruption Before Jail Time*, PBS (Nov. 14, 2022, 6:24 PM), <https://www.pbs.org/>

drugs, which began as a means of criminalizing Black communities in the United States.¹⁰ As the war on drugs evolved to include combatting the supply of drugs from abroad, the DEA became part of the effort to build the law enforcement capacity of foreign countries, effectively becoming an international police force.¹¹ The mere fact that policing against drugs continues today proves that the war on drugs “has simply not worked.”¹²

The Controlled Substances Act of 1970¹³ (CSA) laid the groundwork for the DEA’s expansion and long-standing support from the federal government.¹⁴ The DEA succeeded the Federal Bureau of Narcotics (FBN), which dissolved in 1968.¹⁵ This change led to the creation of a campaign to criminalize drugs with the underlying intentions of building capital and setting new precedents for policing.¹⁶ Around the time of the FBN’s dissolution, “President Richard [M.] Nixon, New York Governor Nelson Rockefeller, and then-governor of California Ronald Reagan adopted ‘drugs’ as a campaign issue, promising to use police, prisons, and the military to ‘crack down’ and ‘get tough’ on drug users.”¹⁷ President Nixon and his administration used drugs as a campaign talking point to paint a picture that drugs were the primary concern for the American public, despite heroin use rates declining in the late 1960s.¹⁸

Critics, including Edward Jay Epstein, argued that “[President] Nixon and his cohorts invented the heroin epidemic of the late 1960s” and “sought to subvert the entire democratic process.”¹⁹ In this view, the Nixon administration used the creation of the heroin epidemic as an issue to support

newshour/politics/the-drug-war-is-a-game-collaborating-with-cartels-money-laundering-how-a-dea-agent-became-the-agencys-most-corrupt [https://perma.cc/7AV4-BXY9].

10. See Tom LoBianco, *Report: Aide Says Nixon’s War on Drugs Targeted Blacks, Hippies*, CNN (Mar. 24, 2016, 3:14 PM), <https://www.cnn.com/2016/03/23/politics/john-erlichman-richard-nixon-drug-war-blacks-hippie/index.html> [https://perma.cc/H6NC-H9LZ] (quoting John D. Erlichman, an aide for President Richard M. Nixon, 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.”).

11. See LIANA W. ROSEN, CONG. RSCH. SERV., R34543, INTERNATIONAL DRUG CONTROL POLICY: BACKGROUND AND U.S. RESPONSES 30 (2015) (describing how the DEA has played a role in the United States’s efforts to dismantle foreign drug networks).

12. Schwartz, *supra* note 8 (quoting George P. Schultz, who served as the Secretary of State under President Ronald Reagan).

13. Pub. L. No. 91-513, §§ 100-709, 84 Stat. 1236, 1242–84 (1970) (codified as amended at 21 U.S.C. §§ 801–904).

14. See 21 U.S.C. § 801.

15. See HARRY G. LEVINE & CRAIG REINARMAN, *CRACK IN AMERICA: DEMON DRUGS AND SOCIAL JUSTICE* 326 (1997); see also MIKE GRAY, *DRUG CRAZY* 96 (1988).

16. See LEVINE & REINARMAN, *supra* note 15.

17. *Id.* at 326.

18. See, e.g., *Public Enemy Number One: A Pragmatic Approach to America’s Drug Problem*, RICHARD NIXON FOUND. (June 29, 2016), <https://www.nixonfoundation.org/2016/06/26404/> [https://perma.cc/VR3Z-HHLN] (capturing President Nixon’s rhetoric and reasoning, which continues to live on at least in part by a foundation named after him, for declaring drug abuse “public enemy number one”).

19. ARNOLD S. TREBACH, *THE HEROIN SOLUTION* 231 (2d ed. 2006).

its antidrug agenda and to strip more power from ordinary people.²⁰ In 1968, President Nixon said, “[D]oubling the conviction rate in this country would do far more to cure crime in America than quadrupling the funds for Mr. [Hubert H.] Humphrey’s war on poverty.”²¹ This demonstrates that President Nixon preferred a carceral approach to crime rather than proactively preventing crime by addressing poverty.²²

Over the years, the federal government granted the DEA more power and funding,²³ solidifying its presence in fifty states and expanding to ninety-three foreign offices in sixty-nine countries.²⁴ Because of the physical and financial expansion of the DEA, the agency acts as a global police force, a pattern that has existed “[s]ince at least the 1920s, [where] the U.S. government has led a worldwide police, military, and ideological battle for punitive prohibition.”²⁵ The DEA exported this ideology to other countries, leading to the use of prohibitionist drug policies that are inhumane.²⁶ At home in the United States, the expansion of criminalization has led to increased policing, especially in Black communities.²⁷ This is evidenced by exponential growth in incarceration rates from the 1970s to the 1990s.²⁸

The DEA’s mission and strategies are corrupt, counterproductive, and do more harm than good. From the beginning, the Nixon administration premised the agency’s mission on falsehoods.²⁹ Its unrestrained power has led to the militarization of police and the increase of questionable law enforcement tactics.³⁰ Abolishing the DEA would create an opportunity for the United States to redirect its efforts and funding toward public health

20. *See id.*

21. *Id.*

22. *See id.*

23. *See DEA Staffing and Appropriations*, DRUG ENF’T ADMIN., <https://www.dea.gov/data-and-statistics/staffing-and-budget> [<https://perma.cc/25WX-RLGX>] (last visited Oct. 12, 2024) (demonstrating a steady increase in the agency’s budget).

24. *See Foreign Divisions*, DRUG ENF’T ADMIN., <https://www.dea.gov/foreign-offices> [<https://perma.cc/9KSH-BXQ3>] (last visited Oct. 12, 2024).

25. *See* LEVINE & REINARMAN, *supra* note 15.

26. *See* Eunisses Hernandez & Norma Palacios, *How the US Drug War Fuels Migration, Violence, and Trauma*, SALON (Aug. 4, 2018, 2:00 PM), <https://www.salon.com/2018/08/04/how-the-u-s-drug-war-fuels-migration-violence-and-trauma/> [<https://perma.cc/T6AV-3RCT>] (discussing how the exportation of U.S. drug policy has facilitated the militarization of Latin American law enforcement agencies to carry out counter-narcotics efforts against their own people).

27. *See* Robyn Smyton, *How Racial Segregation and Policing Intersect in America*, TUFTSNOW (June 17, 2020), <https://now.tufts.edu/2020/06/17/how-racial-segregation-and-policing-intersect-america> [<https://perma.cc/DGJ7-4WT7>] (describing research study conducted by Professor Daanika Gordon that found that due to several factors “predominantly Black neighborhoods are . . . over-policed when it comes to surveillance and social control”).

28. *See* LEVINE & REINARMAN, *supra* note 15, at 262–65.

29. *See* GRAY, *supra* note 15, at 96 (“According to the Pentagon and other government sources, [the number of heroin addicts] peaked in 1969 and may have actually been declining when the war on drugs was launched.”).

30. *See, e.g., id.* at 96–97 (“Now it was a vast international law enforcement operation with over four thousand agents. And . . . the agency’s operations routinely ran afoul of the Constitution . . .”).

initiatives that are proven to help drug-involved people.³¹ Along with abolishing the DEA, repealing the CSA would allow for a more meaningful human-centered approach to regulating drug use and sales.³² The CSA is rooted in arbitrary, racist, and classist drug hierarchy,³³ not in science or compassion.³⁴ The United States exerts its position as a global power by encouraging other countries to make similar laws based on the CSA.³⁵ Repealing the CSA would reduce the stronghold the war on drugs has on the United States and the ripple effects it has created throughout the world.³⁶

To further understand the role of the CSA in the war on drugs, it is important to note that the CSA created the drug scheduling system.³⁷ Scheduling is a classification scheme used by law enforcement to describe a drug's addictive potential and associated risks.³⁸ Drugs classified as Schedule I or Schedule II have a high potential for addiction or death.³⁹ Many drug policy reform advocates argue that the scheduling system ranking is mainly arbitrary and lacks scientific foundation, because "there was no significant body of research on all the drugs at the time, and no formal examination was conducted to accompany their categorization."⁴⁰

31. See, e.g., TRACY PUGH, JULIE NETHERLAND, RUTH FINKELSTEIN, KASSANDRA FREDERIQUE, SIMONE-MARIE MEEKS & GABRIEL SAYEGH, N.Y. ACAD. MED. & DRUG POL'Y ALL., *BLUEPRINT FOR A PUBLIC HEALTH AND SAFETY APPROACH TO DRUG POLICY* 17 (2013) (explaining that a public health and safety approach to drug policy is a "coordinated, comprehensive effort to create safer, healthier communities, measuring success by the impact of drugs and our drug policies on the public's health").

32. See Cassandra Frederique, *No Drugs Should Be Criminalized. It's Time to Abolish the DEA.*, TRUTHOUT (Oct. 27, 2020), <https://truthout.org/articles/no-drugs-should-be-criminalized-its-time-to-abolish-the-dea/> [<https://perma.cc/663T-9AE8>] (calling for the repeal of the CSA and a transition toward a more evidence-based approach to drug use in society).

33. See, e.g., andré douglas pond cummings & Steven A. Ramirez, *The Racist Roots of the War on Drugs and the Myth of Equal Protection for People of Color*, 44 U. ARK. LITTLE ROCK L. REV. 453, 454 (2022) (discussing that "under [the CSA] people of color suffer grossly disproportionate incarceration relative to whites").

34. See *id.*

35. See, e.g., John Hudak, *UNGASS and the Consequences of International Drug Policy*, BROOKINGS (April 7, 2016), <https://www.brookings.edu/articles/ungass-and-the-consequences-of-international-drug-policy/> [<https://perma.cc/DYK3-DUZP>] (discussing the United States's "forceful [international] advocacy" on drugs and how it led to "the most prominent international agreement, the Single Convention on Narcotic Drugs signed in 1961").

36. See Frederique, *supra* note 32; Hernandez & Palacios, *supra* note 26.

37. See 21 U.S.C. § 812; see also JOANNA R. LAMPE, CONG. RSCH. SERV., R45948, *THE CONTROLLED SUBSTANCES ACT (CSA): A LEGAL OVERVIEW FOR THE 118TH CONGRESS* 5–6 (2023) (explaining the system for classifying controlled substances through scheduling as "the heart of the CSA").

38. See LAMPE, *supra* note 37, at 5–6.

39. *Drug Scheduling*, DRUG ENF'T ADMIN., <https://www.dea.gov/drug-information/drug-scheduling> [<https://perma.cc/KB9W-F343>] (last visited Oct. 12, 2024).

40. SHEILA P. VAKHARIA, *THE HARM REDUCTION GAP* 26 (2024).

II. THE DEA'S APPROACH TO DRUG USE AND DRUG ECONOMIES

In order to discuss how the DEA functions, one must first address that drug use as a problem is a social construct.⁴¹ The reality is that the problem cannot be solved because there is no way to stop humans from using drugs, and the framing of drug use as a criminal action instead of innocuous behavior allows law enforcement to create endless work and revenue for themselves.⁴² As a case in point, even though the United States imposes some of the harshest penalties against drugs in the world, people still use and sell drugs.⁴³ Given that the threat of prison time or death does not stop drug use, what will? Studies indicate that heightened enforcement does not deter drug misuse, distribution, or other drug-law violations.⁴⁴ Yet the government, via the DEA, continues to attempt to curb drug use and sales, while exerting control on and extracting profits from communities.⁴⁵

The DEA works in conjunction with the Central Intelligence Agency (CIA), the Federal Bureau of Investigation (FBI), other federal agencies, and local law enforcement to pursue drug traffickers using military-grade surveillance technology and weapons.⁴⁶ In the early days of the war on drugs, the DEA failed at its mission to stop drug trafficking and enforce the CSA, especially regarding marijuana, crack, and heroin.⁴⁷ In the 1970s, heroin use became more prevalent as the trade and manufacturing of the drug expanded outside of Asia.⁴⁸ Notably, “the impact of heroin on crime [was] . . . hysterically overstated.”⁴⁹ Drugs were a cover for the government to stifle anti-war movements, the civil rights movement, and other social justice movements.⁵⁰ Further, in its early days of working with border patrol,

41. See Jonathan Taylor Langner, *Socially Constructing Marijuana Policy and Target Populations in the News Media 3–4* (May 2019) (Ph.D. dissertation, University of Arkansas, Fayetteville).

42. See generally Elisa Guerra-Doce, *Psychoactive Substances in Prehistoric Times: Examining the Archaeological Evidence*, 8 *TIME & MIND* 91 (2014) (demonstrating that drug use has been historically documented as part of the human experience). It is precisely because drugs have been used throughout history that no amount of restriction or punishment will succeed in stopping humans from using drugs.

43. Cf. Dana Graham, Comment, *Decriminalization of Marijuana: An Analysis of the Laws in the United States and the Netherlands and Suggestions for Reform*, 23 *LOY. L.A. INT'L & COMP. L. REV.* 297, 304–08 (2001) (describing the history and development of drug laws in the Netherlands where the focus is to both prevent serious drug use and treat those who are addicted to drugs).

44. See PEW CHARITABLE TRUSTS, *MORE IMPRISONMENT DOES NOT REDUCE STATE DRUG PROBLEMS* 4–5 (2018), https://www.pewtrusts.org/-/media/assets/2018/03/pspp_more_imp_risonment_does_not_reduce_state_drug_problems.pdf [<https://perma.cc/MF42-TTRK>].

45. Rosa del Olmo, *The Hidden Face of Drugs*, *SOC. JUST.*, Winter 1991, at 10, 29–30, 36 (discussing the historical shift in the DEA's approach to focus on the economic aspect of drug use).

46. See ROSEN, *supra* note 11.

47. See GRAY, *supra* note 15, at 150.

48. ALFRED W. MCCOY, *THE POLITICS OF HEROIN: CIA COMPLICITY IN THE GLOBAL DRUG TRADE* 19 (1991).

49. TREBACH, *supra* note 19, at 2.

50. See LoBianco, *supra* note 10.

the DEA failed to deter traffickers who outsmarted the DEA's tactics and started using creative means to evade arrest, including interfering with radio frequencies.⁵¹

The DEA uses several strategies to enforce the CSA.⁵² The agency has arms that extend to policy, regulation, lobbying, advocacy, and the media.⁵³ During the Reagan administration, “between October 1988 and October 1989 . . . the *Washington Post* alone ran 1,565 stories—28,476 column inches—about the drug crisis.”⁵⁴ Law enforcement agency budgets often allow for public relations departments that work alongside newspapers or other news media.⁵⁵ These bodies work in concert, often pushing what some call “copaganda,” which occurs “when police agendas lead in media coverage and cops are foregrounded even in the face of failure.”⁵⁶ The DEA combines its leverage in the media and pattern of fabricating drug crimes in order to increase its budget and power, thus providing proof that the agency must fill its profit motive.⁵⁷ With support on both sides of the aisle and from both houses in Congress, “the budget for the [DEA] quadrupled between 1981 and 1992,”⁵⁸ increasing from less than \$2 billion to more than \$12 billion.⁵⁹ Instead of quadrupling the DEA's budget, why is Congress not investigating what is at the root of the supposed increase in drug crimes? Perhaps because Congress knows that if law enforcement targeted all drug users the same, there would be implications for their social class.⁶⁰ Or, perhaps the issue goes unnoticed because law enforcement disproportionately targets Black people for drug use, despite White people using at similar rates.⁶¹

The DEA's educational and public service campaigns rely on misinformation and a refusal to understand opposing viewpoints. In “How

51. See GRAY, *supra* note 15, at 150 (describing how difficult it was for law enforcement to compete with traffickers).

52. See *What We Do*, DRUG ENF'T ADMIN., <https://www.dea.gov/what-we-do> [<https://perma.cc/KW9Z-WGDK>] (last visited Oct. 12, 2024).

53. See *id.*

54. See LEVINE & REINARMAN, *supra* note 15, at 21.

55. C A Sullivan, *Public Relations*, L. & ORD., Oct. 1993, at 94, 94, <https://www.ojp.gov/ncjrs/virtual-library/abstracts/police-public-relations-1> [<https://perma.cc/CN3J-96P7>].

56. Robin Andersen, *Guns, Guns, Guns: Criminal Justice, Mass Shootings, and War*, in PROJECT CENSORED'S STATE OF THE FREE PRESS 2023, at 175, 180 (Mickey Huff & Andy Lee Roth eds., 2023).

57. See, e.g., Christopher Ingraham, *New Report: In Tough Times, Police Start Seizing A Lot More Stuff from People*, WASH. POST (Nov. 10, 2015, 5:00 AM), <https://www.washingtonpost.com/news/wonk/wp/2015/11/10/report-in-lean-times-police-start-taking-a-lot-more-stuff-from-people/> [<https://perma.cc/8NJ2-2YEK>]; Christopher Ingraham, *Since 2007, the DEA Has Taken \$3.2 Billion in Cash from People Not Charged with a Crime*, WASH. POST (Mar. 29, 2017, 12:29 PM), <https://www.washingtonpost.com/news/wonk/wp/2017/03/29/since-2007-the-dea-has-taken-3-2-billion-in-cash-from-people-not-charged-with-a-crime/> [<https://perma.cc/2EDY-4Y9S>].

58. See LEVINE & REINARMAN, *supra* note 15, at 21.

59. See *id.*

60. See ACLU, A TALE OF TWO COUNTRIES: RACIALLY TARGETED ARRESTS IN THE ERA OF MARIJUANA REFORM 29 (2020), https://assets.aclu.org/live/uploads/publications/marijuana_report_03232021.pdf [<https://perma.cc/9EWU-H7HZ>].

61. See pond cummings & Ramirez, *supra* note 33.

to Hold Your Own in a Drug Legalization Debate,”⁶² a pamphlet published by the DEA in 1994, a panel of experts acknowledged drug policy reformers’ argument that U.S. drug prohibition was more expensive and repressive than in any other industrial democracy.⁶³ Although the purpose of the pamphlet was to acknowledge opposing arguments and inform DEA agents of ways to respond, because the pamphlet does not engage with the arguments in good faith, it instead serves as an example of how the DEA frames itself as a good actor when compared to drug policy reformers.⁶⁴ The DEA took the same approach when a DEA administrative law judge disagreed with the agency’s stance on marijuana in 1988, ruling that “marijuana in its natural form is one of the safest therapeutically active substances known to man” and that “there is accepted safety for use of marijuana under medical supervision.”⁶⁵ The DEA, however, “brushed aside the [administrative law judge’s] ruling and ridiculed the very idea of medical marijuana.”⁶⁶ This response demonstrates that instead of basing its educational materials on science and compassion to empower individuals to make smarter choices regarding substance use, the DEA relies on fear-based ideology. Despite evidence that their methods do not work in curbing drug use or sales, the DEA still advances prohibitionist policies.⁶⁷ Rather than investing in communities or advancing a public health approach to drug use, the DEA encourages the criminalization of drug materials and supplies,⁶⁸ like glass pipes and syringes, which may lead to more stigma and death because drug users lack access to materials that make their drug use safe.

Another issue is the DEA’s use of force. Historically, in the domestic and international arenas, the “[DEA’s] operations routinely ran afoul of the Constitution.”⁶⁹ Unlike any singular law enforcement agency, the DEA can “detain and interrogate suspects, call for wiretaps and no-knock warrants, and bring in the tax men.”⁷⁰ The DEA works with state and local police departments to teach them their practices, such as no-knock warrants.⁷¹ The case of Breonna Taylor, a Black woman in Louisville, Kentucky, that police

62. See LEVINE & REINARMAN, *supra* note 15, at 345.

63. See *id.*

64. See *id.*

65. See GRAY, *supra* note 15, at 176 (quoting Marijuana Rescheduling Petition, No. 86-22, at 58–59, 66 (U.S. Drug Enf’t Admin. Sept. 6, 1988)).

66. *Id.*

67. See *id.* (“Since there was obviously no longer any need for the crude natural product, DEA officials slammed the door on cannabis with finality in 1992.”); see also DEP’T OF JUST. & DRUG ENF’T ADMIN., DRUG FACT SHEET 3 (2020), https://www.dea.gov/sites/default/files/2020-06/Marijuana-Cannabis-2020_0.pdf [<https://perma.cc/92MU-YU79>].

68. See, e.g., DRUG ENF’T ADMIN., 1975-1980, at 44–45, https://www.dea.gov/sites/default/files/2021-04/1975-1980_p_39-49.pdf [<https://perma.cc/DGT5-DXRE>].

69. GRAY, *supra* note 15, at 97.

70. *Id.* at 96.

71. See Dara Lind, *Cops Do 20,000 No-Knock Raids a Year. Civilians Often Pay the Price When They Go Wrong.*, VOX (May 15, 2015, 12:12PM), <https://www.vox.com/2014/10/29/7083371/swat-no-knock-raids-police-killed-civilians-dangerous-work-drugs> [<https://perma.cc/D93X-6JHC>] (discussing the history of no-knock warrants and the relationship of the police practice with the war on drugs).

shot in her home after doing a no-knock warrant, exemplifies how practices like wiretapping and no-knock warrants can compromise individuals' and police officers' safety beyond the context of the DEA's enforcement.⁷² The DEA not only uses these policing techniques, it also uses surveillance and wiretapping.⁷³

The DEA is also known for civil asset forfeiture, a tool used by law enforcement to weaken drug trafficking syndicates and individuals suspected of drug trafficking.⁷⁴ In one case, the DEA suspected a Rochester woman, Cristal Starling, and her boyfriend, of using and selling drugs.⁷⁵ In a search of Starling's home, the DEA seized \$8,000 despite recovering no illicit drugs.⁷⁶ It took three years, with the help of a team of lawyers, for Starling to recover her \$8,000.⁷⁷ In another case, police in Kansas City, Missouri pulled over Rudy Ramirez of Edinburg, Texas while he was en route to Missouri to purchase a Corvette with \$7,300 in cash.⁷⁸ The police suspected Ramirez of possessing drugs, told him he was free to go, yet took \$6,000 from him.⁷⁹ The reality is that most people who lose money and resources to civil asset forfeiture never recover it.⁸⁰ As the DEA frequently confiscates valuable property without process, it has left thousands worse off.⁸¹

Another strategy the DEA employs is informants, individuals who are sent to go undercover and often violate U.S. law.⁸² DEA agents are supposed to

72. See Ifetayo Harvey, *Breonna Taylor Is Dead Because of the Racist War on Drugs*, LUCID NEWS (Nov. 2, 2020), <https://www.lucid.news/breonna-taylor-is-dead-because-of-the-racist-war-on-drugs/> [<https://perma.cc/GXT7-4KN4>].

73. See, e.g., *Factsheet: War on Drugs: Surveillance*, BRIDGE INITIATIVE (July 31, 2023), <https://bridge.georgetown.edu/research/factsheet-war-on-drugs-surveillance/> [<https://perma.cc/WQ8A-UFLF>] (describing how the DEA has used surveillance and wiretapping as part of the war on drugs).

74. See *DEA Asset Forfeiture*, DRUG ENF'T ADMIN., <https://www.dea.gov/operations/asset-forfeiture> [<https://perma.cc/46GD-5P7F>] (last visited Oct. 12, 2024) (providing the DEA's definition of asset forfeiture); see also *Asset Forfeiture Abuse*, ACLU, <https://www.aclu.org/issues/criminal-law-reform/reforming-police/asset-forfeiture-abuse> [<https://perma.cc/2U7N-J9WL>] (explaining civil asset forfeiture and how the police abuses it).

75. Dan King, *Rochester Woman Gets Money Back After Police Seized It Without Suspecting Her of Crime, Will Fight for Interest Payments*, INST. FOR JUST. (Feb. 7, 2024), <https://ij.org/press-release/rochester-woman-gets-money-back-after-police-seized-it-without-suspecting-her-of-crime-will-fight-for-interest-payments/> [<https://perma.cc/G74C-57YD>].

76. See *id.*

77. See *id.*

78. See *id.*

79. See *id.*

80. LISA KNEPPER, JENNIFER McDONALD, KATHY SANCHEZ & ELYSE SMITH POHL, INST. FOR JUST., *POLICING FOR PROFIT: THE ABUSE OF CIVIL ASSET FORFEITURE* 30 (3d ed. 2020), <https://ij.org/wp-content/uploads/2020/12/policing-for-profit-3-web.pdf> [<https://perma.cc/BU5U-ZHWN>] (stating that according to available data from four states that track whether anyone filed a claim for returned property, relatively few property owners contest forfeiture).

81. See Kyla Dunn, *Reining in Forfeiture: Common Sense Reform in the War on Drugs*, PBS, <https://www.pbs.org/wgbh/pages/frontline/shows/drugs/special/forfeiture.html> [<https://perma.cc/SC9F-9NGY>] (describing cases where people have been suspected of drug trafficking for carrying significant amounts of cash).

82. See Brad Heath & Kevin Johnson, *Crimes by ATF and DEA Informants Not Tracked by Feds*, USA TODAY (Oct. 7, 2012, 9:12 PM), <https://www.usatoday.com/story/news/2012/10/07/informants-justice-crime/1600323/> [<https://perma.cc/QP2A-UQLS>].

protect their informants by requesting their supervisor's permission "before they permit informants to commit even minor crimes; in more serious cases—involving violence or big drug shipments—they must also get permission from Justice Department lawyers."⁸³ Yet, when asked, the DEA admitted that "they do not track how often such permission is given."⁸⁴ In journalist Gary Webb's *Dark Alliances*, he discusses how the DEA, in partnership with the CIA, worked to fund the Contras, a right-wing counterrevolutionary group in Nicaragua, by helping them sell cocaine in the United States.⁸⁵

The kidnapping and torture of DEA intelligence agent Enrique ("Kiki") S. Camarena, which took place in Guadalajara, Mexico, is a striking example of how the DEA, despite its resources, lacks the sophistication needed to keep its agents and informants safe.⁸⁶ Camarena worked undercover to gain intel on the Guadalajara cartel.⁸⁷ The kidnappers filmed hours of torture they carried out on Camarena.⁸⁸ Since Camarena's death, some have speculated that the CIA was involved in his torture.⁸⁹

The DEA's approach to addressing drugs, by employing surveillance and wiretapping for example, spreading misinformation, using excessive force and civil asset forfeiture, and failing to protect informants, demonstrates that its commitment as an agency is not to the communities of the United States; rather, it is committed to perpetuating policies that cause harm.

III. THE DEA'S HISTORICALLY COUNTERPRODUCTIVE APPROACH AND CHALLENGES IN THE 2020S

The DEA's mission, beyond enforcing the CSA, has been to fight the war on drugs, but the agency has failed to accomplish that mission.⁹⁰ Rather, drugs continue to win—drug use has not stopped or significantly decreased since the beginning of the war on drugs.⁹¹ Instead, the DEA has set new

83. *Id.*

84. *Id.*

85. GARY WEBB, *DARK ALLIANCE: THE CIA, THE CONTRAS, AND THE CRACK COCAINE EXPLOSION* 97–98 (1998).

86. See *The Enrique (Kiki) S. Camarena Story*, DRUG ENF'T ADMIN., <https://www.dea.gov/red-ribbon/kiki-red-ribbon-history> [<https://perma.cc/EK28-MFU9>] (last visited Oct. 12, 2024) (providing a brief overview of Camarena's story); see also Diana Washington Valdez, *Ex-DEA Investigators: CIA Operatives Involved in DEA Agent's Kidnapping, Death*, EL PASO TIMES (Oct. 19, 2013, 4:07 AM), <https://www.elpasotimes.com/story/news/local/blogs/border-cafe/2013/10/19/ex-dea-investigators-cia-operatives-involved-in-dea-agents-kidnapping-death/30957225/> [<https://perma.cc/5D7X-MBJU>] (covering the CIA's role in the death of Camarena).

87. *See id.*

88. *See id.*

89. *See id.*

90. *See* Ciaramella, *supra* note 7.

91. *See* Susan Stellan, *Is the 'War on Drugs' Over?: Arrest Statistics Say No*, N.Y. TIMES (Nov. 5, 2019), <https://www.nytimes.com/2019/11/05/upshot/is-the-war-on-drugs-over-arrest-statistics-say-no.html> [<https://perma.cc/TZ5L-5NV3>] (discussing how as of 2019, the high number of arrests for marijuana possession suggests the war on drugs has not ended, but rather continues).

precedents for policing and pushed the bounds of the constitutionality of its methods.⁹² Further, the DEA has failed to prevent the proliferation of drugs and drug overdose deaths.⁹³ Separately, but relatedly, the DEA's approach does not align with an American public that increasingly supports the end of the war on drugs through the legalization or decriminalization of drugs.⁹⁴

From 1981 to 1993, the federal drug budget grew from approximately \$1.7 billion to \$13 billion.⁹⁵ The DEA's portion of that budget grew contemporaneously.⁹⁶ By the time President Nixon left in 1974, the DEA, the agency he created, "was larger by an order of magnitude than the [previous] one[s] he inherited,"⁹⁷ including the FBN.

The billions of dollars spent by the DEA could have been reallocated to improving schools, infrastructure, or housing. What the government did, and continues to do, however, is allocate billions of dollars into an agency created to solve the overblown war on drugs. The author of this Essay posits that using drugs is a means to an end that alters one's state of consciousness. And although there are risks associated with drug use—just like there are risks associated with driving a car—those risks do not mean that drug use merits criminalization.

Because the DEA and other agencies use incarceration as the primary solution for drug use, their most salient impact has been a contribution to mass incarceration.⁹⁸ The U.S. prison population has increased by 500 percent since the inception of the DEA and the onset of the war on drugs.⁹⁹ As of October 2024, individuals incarcerated for drug offenses make up about 44 percent of the U.S. federal prison population.¹⁰⁰ Exponential prison rate increases are indicative of how prevalent drug offenses are.

The Domestic Cannabis Eradication/Suppression Program is another example of wasteful spending that the government could repurpose to enrich society. The program provides money to states to eliminate illegal cannabis

92. See GRAY, *supra* note 15, at 97.

93. See Alexander Lekhtman, *Overdose Deaths Fell Slightly in 2023, per CDC, but Emergency Continues*, FILTER MAG. (May 17, 2024), https://filtermag.org/2023-overdose-deaths-cdc/?utm_source=twitter&utm_medium=social&utm_campaign=filter [<https://perma.cc/2KAQ-S5Y5>].

94. *On 50th Anniversary of "War on Drugs," Poll Shows Majority of Voters Support Ending Criminal Penalties for Drug Possession, Think Drug War is a Failure*, ACLU (June 9, 2021, 9:30 AM), <https://www.aclu.org/press-releases/50th-anniversary-war-drugs-poll-shows-majority-voters-support-ending-criminal> [<https://perma.cc/8PU8-HMV5>].

95. See GRAY, *supra* note 15, at 201.

96. See *id.*

97. *Id.* at 96.

98. See *50 Years and a Wake Up*, SENT'G PROJECT, <https://www.sentencingproject.org/advocacy/50-years-and-a-wake-up-ending-the-mass-incarceration-crisis-in-america/> [<https://perma.cc/2HCT-4KE2>] (last visited Oct. 12, 2024).

99. See *id.* ("The prison population has grown 500% since 1973, the year America began to sharply increase its prison population.")

100. See *Statistics: Offenses*, FED. BUREAU OF PRISONS, https://www.bop.gov/about/statistics/statistics_inmate_offenses.jsp [<https://perma.cc/SJB5-DD8V>] (Oct. 6, 2024).

plants.¹⁰¹ For example, the program spent nearly \$5.4 million in California in 2015,¹⁰² despite California having a medical marijuana program since 1996 and subsequently legalizing adult use of cannabis in 2016.¹⁰³ The DEA spends a great deal of money eradicating marijuana plants from the United States, a losing battle because the eradication program has not proven to be effective.¹⁰⁴ Although twenty-five states in the country have legalized cannabis, the DEA has chosen to raid legal dispensaries in states where cannabis is legal.¹⁰⁵

From the beginning of the drug war, vilifying immigrants and creating fear about the country's borders have been a part of politicians' approach to the drug problem.¹⁰⁶ For example, President Nixon stated, "I will take the executive steps necessary to make our borders more secure against the pestilence of narcotics."¹⁰⁷ President Reagan, in the 1980s, described migrants who bore no relationship to drug cartels as "drug traffickers," which led to the allocation of additional funding to border patrol to fight those "traffickers."¹⁰⁸ President George H.W. Bush, in the 1990s, described the border as "the front lines of the war on drugs."¹⁰⁹ This commentary on immigrants and the border, and their relationship to drug use and distribution, serve as examples that fear of immigrants has long been tied to inciting fear about drugs.¹¹⁰ Further, the unconstitutional precedents set by the DEA¹¹¹

101. *Domestic Cannabis Eradication/Suppression Program*, DRUG ENF'T ADMIN., <https://www.dea.gov/operations/eradication-program> [<https://perma.cc/7H57-9VRX>] (last visited Oct. 12, 2024).

102. See Christopher Ingraham, *The DEA Spent \$73,000 to Eradicate Marijuana Plants in Utah. It Didn't Find Any.*, WASH. POST (Nov. 24, 2021, 11:17 AM), <https://www.washingtonpost.com/news/wonk/wp/2016/10/07/the-dea-spent-73000-to-eradicate-marijuana-plants-in-utah-it-didnt-find-any/> [<https://perma.cc/9XY8-562X>].

103. See Steven W. Bender, *The Colors of Cannabis: Reflections on the Racial Justice Implications of California's Proposition 64*, 50 U.C. DAVIS L. REV. ONLINE 11, 12–13 (2017) (summarizing the history of California's approach to medical marijuana and recreational marijuana).

104. See *id.* (noting that U.S. taxpayers paid \$740.74 for each marijuana plant uprooted in New Hampshire that year).

105. See, e.g., Laura Entis, *Weed Dispensaries Find Legalization Leaves Them Vulnerable to Raids and Harassment*, THE GUARDIAN (Aug. 18, 2015, 12:44 PM), <https://www.theguardian.com/sustainable-business/2015/aug/18/marijuana-dispensaries-california-cannabis-dea-police-raids> [<https://perma.cc/5FU8-VUPS>] (describing how licensed dispensaries operate in a gray zone, leaving them vulnerable to DEA raids).

106. See HUM. RTS. WATCH, "DISRUPT AND VILIFY" THE WAR ON IMMIGRANTS INSIDE THE US WAR ON DRUGS (2024), <https://www.hrw.org/report/2024/07/15/disrupt-and-vilify/war-immigrants-inside-us-war-drugs> [<https://perma.cc/6G4F-P8FL>] (citing César Cuahtémoc García Hernández, *Creating Crimmigration*, 2013 BYU L. REV. 1457, 1506–08 (2014)).

107. See TREBACH, *supra* note 19, at 231.

108. See HUM. RTS. WATCH, *supra* note 106.

109. See *id.*

110. See *id.*

111. See, e.g., Scott Shane & Colin Moynihan, *Drug Agents Use Vast Phone Trove, Eclipsing N.S.A.'s*, N.Y. TIMES (Sept. 1, 2013), <https://www.nytimes.com/2013/09/02/us/drug-agents-use-vast-phone-trove-eclipsing-nsas.html> [<https://perma.cc/9ESB-EELK>] (discussing a slide presentation describing the Hemisphere Project, a law enforcement initiative in Los Angeles that was funded in part by the DEA, started in 2007, was carried out

established the foundation for the Patriot Act,¹¹² increased surveillance, and the technology industry's complicity in carceral practices,¹¹³ all of which continue to impact immigrant communities.

Another indicator of the DEA's failure as an agency is its slow response to the significant increase in the use of opioids since 1999.¹¹⁴ This slow and ineffective response played a role in the growth rate of opioid overdose deaths in the United States from 1999 to the present.¹¹⁵ One of the leading causes of drug overdoses has been due to the use of fentanyl, an opioid used mainly in medical settings for surgery and cancer patients.¹¹⁶ Fentanyl has become prominent in the public discussion around overdose deaths because illicit drug manufacturers use fentanyl as an adulterant with illicit substances like heroin and cocaine.¹¹⁷ Because fentanyl is more potent than other opioids such as heroin, the risks associated with overdose are greater.¹¹⁸ The DEA's response to the increase in overdose deaths related to fentanyl has been to lean into misinformation.¹¹⁹ In August 2022, the DEA announced in a press release that cartels, namely from Mexico, are trafficking brightly colored fentanyl to target young Americans.¹²⁰ The agency aims to "stop the trafficking of rainbow fentanyl and defeat the Mexican drug cartels that are responsible for the vast majority of the fentanyl that is being trafficked in the United States."¹²¹ The DEA's line of reasoning leans into "drug panic," the mass public moral alarm around drug use, because it allows the agency to absolve itself of being the problem.¹²² Drug panic rationalization relies on

in secrecy, and used the electronic call record information of individuals without their consent).

112. 8 U.S.C. § 1701.

113. See, e.g., Mark Cooke, *Mission Creep: The Patriot Act and the War on Drugs*, ACLU WASH. (Oct. 28, 2011), <https://www.aclu-wa.org/blog/mission-creep-patriot-act-and-war-drugs> [<https://perma.cc/6PKV-S96J>]; Lee Tien, *Peekaboo, I See You: Government Authority Intended for Terrorism is Used for Other Purposes*, ELEC. FRONTIER FOUND. (Oct. 26, 2014), <https://www.eff.org/deeplinks/2014/10/peekaboo-i-see-you-government-uses-authority-meant-terrorism-other-uses> [<https://perma.cc/59NZ-22YA>].

114. See OFF. INSPECTOR GEN., U.S. DEP'T JUST. REVIEW OF THE DRUG ENFORCEMENT ADMINISTRATION'S REGULATORY AND ENFORCEMENT EFFORTS TO CONTROL THE DIVERSION OF OPIOIDS, at i, 13 (2019), <https://oig.justice.gov/reports/2019/e1905.pdf> [<https://perma.cc/P5WN-32DT>].

115. See *id.*

116. See, e.g., Carrie MacMillan, *Why Is Fentanyl Driving Overdose Deaths?*, YALE MED. (Mar. 18, 2024), <https://www.yalemedicine.org/news/fentanyl-driving-overdoses> [<https://perma.cc/SP7C-SRX2>].

117. See *id.*

118. See *id.*

119. See generally Brandon del Pozo, Emily Sightes, Sunyou Kang, Jeremiah Goulka, Bradley Ray & Leo A. Beletsky, *Can Touch This: Training to Correct Police Officer Beliefs About Overdose from Incidental Contact with Fentanyl*, 9 HEALTH & JUST. 34 (explaining how the DEA has spread misinformation about fentanyl exposure).

120. See *DEA Warns of Brightly-Colored Fentanyl Used to Target Young Americans*, DRUG ENF'T ADMIN. (Aug. 30, 2022), <https://www.dea.gov/press-releases/2022/08/30/dea-warns-brightly-colored-fentanyl-used-target-young-americans> [<https://perma.cc/37YK-KK6V>] (last visited Oct. 12, 2024).

121. *Id.*

122. See, e.g., Michael Vitiello, *The War on Drugs: Moral Panic and Excessive Sentences*, 69 CLEV. ST. L. REV. 441, 442–50 (2021) (discussing moral panic around drugs and its impact

the trope that drug sellers are predatory actors, when in reality, there is no incentive for drug sellers to harm or kill their clients because they would lose money and damage their reputation.¹²³ By perpetuating inaccurate narratives about fentanyl, the DEA has failed to address the harm and protect communities. An indicator of this is the fact that the overdose crisis continues to wreak havoc on communities, despite the overdose death rate falling slightly in 2023.¹²⁴

Recently, the DEA announced that the agency was rescheduling marijuana from Schedule I to Schedule III, meaning the drug remains illegal under federal law.¹²⁵ For many advocates, this announcement comes as an insult to years of advocacy against marijuana prohibition.¹²⁶ Instead of descheduling marijuana entirely, reversing decades of its illegality, the DEA opted to reschedule it, an incremental step that may have been meaningful twenty years ago. In the absence of federal action for decades, twenty-five states have legalized cannabis on their own, which now raises the question of how descheduling cannabis at the federal level might complicate marijuana legalization on a state level.¹²⁷

IV. WHY SHOULD WE ABOLISH THE DEA AND WHAT SHOULD WE DO INSTEAD?

The DEA continues to confront new challenges, such as increased use of fentanyl and xylazine,¹²⁸ and in failing to appropriately meet those

on the development of drug policy). The author of this Essay uses “drug panic” to convey that this moral panic is specifically about drugs and continues to allow the DEA and the government overall to pursue its policies at the detriment of communities.

123. See Kastalia Medrano, “Rainbow Fentanyl” Is Probably a Good Thing, at This Point, FILTER MAG. (Sept. 23, 2022), <https://filtermag.org/rainbow-fentanyl-dea-pills/> [<https://perma.cc/U627-N2DY>]; see also DRUG POL’Y ALL., RETHINKING THE DRUG DEALER 12–16 (2019), https://drugpolicy.org/wp-content/uploads/2023/05/Rethinking_the_Drug_Dealer_Report.pdf [<https://perma.cc/2N2L-3ZBH>] (discussing common myths about drug selling and distribution).

124. See Lekhtman, *supra* note 93.

125. See Schedules of Controlled Substances: Rescheduling of Marijuana, 89 Fed. Reg. 44597 (proposed May 21, 2024) (to be codified at 21 C.F.R. pt. 1308), <https://www.federalregister.gov/documents/2024/05/21/2024-11137/schedules-of-controlled-substances-rescheduling-of-marijuana> [<https://perma.cc/QEH8-YH2K>].

126. See Alexander Lekhtman, *Rescheduling Marijuana Is Not Enough, Most Public Comments Assert*, FILTER MAG. (June 26, 2024), <https://filtermag.org/rescheduling-marijuana-comments-legalization/> [<https://perma.cc/G9AL-HACK>] (providing a sampling of comments and reactions from advocates).

127. See, e.g., JOANNA R. LAMPE, CONG. RSCH. SERV., LSB11105, LEGAL CONSEQUENCES OF RESCHEDULING MARIJUANA (2024) (“If marijuana were moved to Schedule III, such activities would remain illegal under federal law and potentially subject to federal prosecution regardless of their status under state law.”).

128. See Aliza Chasan, *Xylazine, Fentanyl Mixtures Found in Almost Every State, DEA Warns*, CBS NEWS (Mar. 20, 2023, 4:54 PM), <https://www.cbsnews.com/news/xylazine-fentanyl-mixtures-found-in-almost-every-state-dea-warns/> [<https://perma.cc/YV64-YDCT>]; see also *Xylazine: A Drug That Naloxone Can’t Combat*, GET SMART ABOUT DRUGS (Jan. 27, 2023), <https://www.getsmartaboutdrugs.gov/news-statistics/2023/01/27/xylazine-drug-naloxone-cant-combat> [<https://perma.cc/FF8R-3S8Y>] (demonstrating how the DEA provides an

challenges, it continues to demonstrate the mistakes in its approach. Up to this point, this Essay has discussed the DEA's origin and its approach to addressing drug use through criminalization and heightened enforcement. Because the agency fails to address the actual needs of communities and allows for the continued proliferation of drug overuse and criminalization of people of color, the DEA should be abolished and replaced with an agency led by drug user organizers and movement leaders to create a safe supply and enact harm reduction principles on a larger scale.¹²⁹ As such, the government should redirect the DEA's budget to public health efforts to educate and inform the public on why people use drugs and the risks associated with drug use.¹³⁰

Along with abolishing the DEA, the U.S. government needs to reflect on the damage the DEA has caused in the name of the war on drugs and make drug war reparations.¹³¹ The government should distribute drug war reparations to communities and people impacted by drug criminalization, including drug users, sellers, and families torn apart by incarceration. Further, instead of funding the DEA, the government should redirect the money to communities most harmed by the war on drugs, fund harm reduction programs, and create an infrastructure where people can give and receive care in the community.¹³²

overview of xylazine without including information on how to reduce the risks of using the drug).

129. See, e.g., Frederique, *supra* note 32; Alex S. Vitale, *Abolish the Drug Enforcement Administration*, THE NATION (Oct. 20, 2017), <https://www.thenation.com/article/archive/abolish-the-drug-enforcement-agency/> [<https://perma.cc/K5PN-CFLJ>]; Maureen Meehan, *Reschedule Cannabis or 'Abolish The DEA,' Says Physician: Examining the 50-Year-Old, Trillion-Dollar Agency*, BENZINGA (Jan. 15, 2024, 2:57 PM), <https://www.benzinga.com/markets/cannabis/24/01/36632145/reschedule-cannabis-or-abolish-the-dea-says-physician-examining-the-50-year-old-trillion-dollar-> [<https://perma.cc/R9L4-EGMM>]; Grey Gardner, *As the DEA Swarms US Cities, Its Abolition Should Be Prioritized*, FILTER MAG. (Aug. 10, 2020), <https://filtermag.org/dea-cities-abolition/> [<https://perma.cc/8JAS-C43B>].

130. See generally, PUGH ET AL., *supra* note 31; see also *Overdose Prevention Centers (OPCs) (Deep Dive)*, DRUG POL'Y ALL., <https://drugpolicy.org/no-one-should-die-from-overdose-overdose-prevention-centers-save-lives/> [<https://perma.cc/LS9R-K8VH>] (last visited Oct. 12, 2024) (describing one public health approach advanced by drug policy advocates concerning overdose prevention centers).

131. See Jessica Flanigan & Christopher Freiman, *Drug War Reparations*, [https://www.pdcnet.org/C1257AEE006039C4/file/6FFEC017476CF85D8525856200593C3D/\\$FILE/resphilosophica_2020_0097_0002_0009_0036.pdf](https://www.pdcnet.org/C1257AEE006039C4/file/6FFEC017476CF85D8525856200593C3D/$FILE/resphilosophica_2020_0097_0002_0009_0036.pdf) [<https://perma.cc/YN3C-XE4U>] (last visited Oct. 12, 2024); see also Rich Wallace, *Why Reparations Can Counter the Legacy of a 50-Year "War on Drugs,"* NON-PROFIT Q. (Feb. 21, 2024), <https://nonprofitquarterly.org/why-reparations-can-counter-the-legacy-of-a-50-year-war-on-drugs/> [<https://perma.cc/5MUZ-PPCP>] (explaining how drug war reparations "acknowledg[es] the harm caused, support[s] affected communities, and work[s] toward healing and reconciliation").

132. See, e.g., *Invest in Community Safety. Reduce Reliance on Police and Punishment.*, ACLU, <https://action.aclu.org/petition/invest-community-safety-reduce-reliance-police-and-punishment> [<https://perma.cc/GQV6-ZKSW>] (last visited Oct. 12, 2024).

CONCLUSION

If the goal is to keep people safe from the risks associated with drugs, there are several better ways to do it than funding an agency like the DEA that has continually failed at its mission for decades. Instead, an industry based on the peril of drug-involved people has been created. The U.S. government should reevaluate its approach and heed the calls of organizers, advocates, and community members directly impacted by the war on drugs.