

A NEW APPROACH:

A Prosecutor's Guide to Advancing a Public Health Response to Drug Use

Executive Summary | 2021

For decades, the United States has relied on the criminal system to respond to substance use disorder. Every year, there are over 1.5 million drug-related arrests in the United States. The enormous amount of effort and resources our nation has invested in this response has resulted in minimal success. Shortly before the publication of this Guide, the Centers for Disease Control and Prevention announced that over 93,000 people lost their lives to drug overdoses in 2020 - a staggering thirty percent increase from just a year earlier. This dramatic rise in fatal overdoses illustrates the urgent need for criminal system actors, and prosecutors in particular, to rethink their roles in one of America's most intractable public health crises.

The recommendations in the IIP's *A New Approach: A Prosecutor's Guide to Advancing a Public Health Response to Drug Use* are informed by best practices, empirical evidence, and the collective wisdom of a working group of prosecutors, defense attorneys, advocates, people who have personally experienced incarceration for drug-related crimes, and public health experts from diverse jurisdictions. This Guide's central goal is to provide practical advice to prosecutors on how they can use their discretion in a way that promotes public health. Our hope is that this resource, along with [corresponding short video presentations](#), will stimulate creativity among prosecutors and inspire them to chart a more promising course of U.S. drug policy.

Below are five concrete steps prosecutors can take to influence drug policy within their communities. These steps and others are detailed in the Guide.

1 Staff Education and Training

Elected prosecutors should invite medical professionals, harm reduction experts, and directly impacted persons to educate and train staff on the history of U.S. drug laws, the physical effects of substance use disorder, what leads people to use and sell drugs, the nature of recurring use, and the medical treatment options available for substance use disorder.

2 Change the Narrative on Drugs Inside and Outside the Office

Prosecutors can use their status to change the narrative around drugs by emphasizing the importance of pre-arrest programs and harm reduction resources. Prosecutors should support effective, existing pre-arrest programs and utilize their political power to support legislation that adopts a public health approach to drug policy.

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3 Use Discretion

Prosecutors' offices should decline to prosecute certain cases, limit reliance on cash bail, and use mandatory sentencing structures sparingly.

4 Evaluate Local Drug Courts

Prosecutors should evaluate their local drug courts, and the role prosecutors play in those courts, to ensure practice and policies focus on public health rather than punishment.

5 Office Practices

Offices should avoid coercive plea tactics, encourage line prosecutors to look holistically at the accused's personal circumstances, and consider alternatives to incarceration.

For more information, visit www.prosecution.org/publichealth