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The Case for Banning Supervised Drug Consumption Sites

Key Points

- Supervised drug consumption sites are illegal under federal law.
- Supervised drug consumption sites, while effective at overdose reversal, have proven ineffective at leading addicts into treatment.
- Overdose reversal, as a sole metric of success, does not consider the permanent brain damage that can result from continued use and “reversal.”
- Supervised drug consumption sites result in harm to the community surrounding the sites.
- A vast majority of homeless struggle with addiction. The enablement of their disease will not aid them in permanently exiting homelessness.

Introduction

America is facing a deadly drug epidemic. Nationally, the Centers for Disease Control and Prevention (CDC) reports that drug overdose claimed the lives of approximately 108,000 Americans in January 2022—a 49% increase over the number of fatalities reported in January 2020 ([CDC, 2023, Figure 1a](#)). Texas has not been immune to this problem. According to the CDC, 4,172 Texans overdosed in 2020, reflecting a 33% increase over the year prior ([National Center for Health Statistics, 2022](#)).

In response to this crisis, certain elected officials have set about creating and operating facilities known as Supervised Drug Consumption Sites (SDCSs) where drug users may “bring previously obtained drugs, such as heroin and fentanyl, [to use] under the supervision of staff trained to respond in the event of an overdose or other medical emergency” ([Kashiwagi, 2023, para. 2](#)). Such a policy raises serious concerns about the role of government and the effect of its action.

Careful consideration of the issue and its likely harmful effects should prompt the Texas Legislature to prohibit SDCSs from operating in the Lone Star State, as is consistent with existing federal law.

Background

History of SDCSs

SDCSs operate on the principle of harm reduction. Proponents contend that illicit drug use is inevitable and, as such, “by providing education information around safer drug use, increasing access to the powerful antidote naloxone, and conducting hundreds of overdose prevention trainings each year, we help save thousands of lives” ([National Harm Reduction Coalition, n.d., para. 3](#)). Under this rationale, several states have passed or are right now considering legislation to open state-based harm reduction facilities. Rhode Island is one such example, with it being the first state to authorize a pilot program in 2021 ([Rhode Island Department of Health, n.d.](#)). The state of New York may soon join its ranks as policymakers are currently debating a measure to allow state-regulated supervised drug-use facilities, which would make it “the second [state] if the legislation passes both houses of the Legislature this session” ([Lisa, 2023, para 7](#)).

Problems with SDCSs

North America's first SDCS opened in Vancouver, B.C., in 2003 following a constitutional exception to Canada's Controlled Drugs and Substances Act ([Dooling & Rachlis, 2010](#)). Considering how long it has been in operation, it provides useful case study information about the possible policy implications of establishing SDCSs.

While the Vancouver site reports over 6,000 overdose reversals without deaths since 2003, fewer than 1.35% of site consumers entered the adjoining drug treatment facility ([Vancouver Coastal Health, 2019, para. 1](#)). Further, advocates remain silent on the fact that the area's illicit drug toxicity deaths have risen by 765% in the last decade ([BC Coroners Service, 2023, p 3](#)). These data points hint at persistent and prolonged substance abuse issues despite the presence of an SDCS and targeted treatment efforts.

This heightened activity may have larger, communitywide implications too. The potential for these second-order effects were captured well by former Deputy Attorney General Jeff Rosen ([2020, para. 8](#)) who said: "As drug users gather, so do drug traffickers who prey on them." Such a dynamic poses an obvious threat to public safety. To punctuate the point further, consider that in San Francisco, where the nation's first SDCS was opened in 2021, emergency call data revealed a 126% increase in emergency calls surrounding the Tenderloin-based site—an average of six calls per day—compared to an 11% increase citywide ([Sjostedt, 2022, para 7](#)). Here too is evidence of a deterioration in public safety norms.

In light of these data points, the raw number of overdose reversals may not be as persuasive when considered in isolation.

Tragically, many who overdose and are revived continue to abuse illegal substances, such as heroin, and are at serious risk of toxic brain injury. According to a report from the Office of the Assistant Secretary for Planning and Evaluation, the principal advisor to the secretary of the Department of Health and Human Services on policy development, non-fatal opioid-involved overdose can lead to brain hypoxia or brain anoxia, which can lead to permanent damage, slower reaction time, impaired memory, reduced motor skills, and diminished physical functioning ([Zibbell et al., 2019, p. v](#)). It can also lead to prefrontal cortex damage which can make it more difficult for individuals to control their addictions ([p. vi](#)). These are the types of risks that should be noted when Texas policymakers consider SDCSs.

In the Texas context, SDCSs are a particularly challenging issue given the state's growing homeless population. Between 2016 and 2020—the most recent years with data available—Texas' homeless population grew by 17.8%, the second largest increase in the U.S. behind California ([U.S. Department of Housing and Urban Development, 2021, pp. 6,10](#) and calculations by the Foundation). A UCLA Policy Lab Study found that 75% of unsheltered homeless struggle with addiction, which is likely to hold true across homeless populations in Texas as well ([Rountree et al., 2019, p. 5](#)). In an environment such as this, SDCSs could have especially harmful societal consequences given the sheer number of people it could potentially affect.

Aligning State Law With Federal Law

According to [21 U.S. Code § 856](#), SDCSs are illegal under federal law. However, for unknown reasons, this statute has not been applied in a consistent manner from one administration to the next. This much is evidenced by the proposed establishment and operation of Safehouse SDCS.

In 2019, the Department of Justice (DOJ) successfully blocked Safehouse, a nonprofit organization based in Philadelphia, from launching what would have been the nation's first SDCS ([U.S. Attorney's Office, 2019](#)). Under the Biden administration, however, the DOJ entered settlement talks with Safehouse, saying that the agency was "evaluating supervised consumption sites, including discussions with state and local regulators about appropriate guardrails for such sites, as part of an overall approach to harm reduction and public safety" ([Balsamo & Peltz, 2022, para.9](#)). As of January 3, 2023, the matter has been referred to mediation ([Mediation Order, U.S. v. Safehouse, 2021](#)).

In the meantime, the DOJ has remained silent on the 2021 opening of the nation's first SDCS in San Francisco that was launched with the understanding that it would link illegal drug users to treatment services ([Kashiwagi, 2023](#)). Public outcry led to the site's closure after its first year of operation ([Sjostedt, 2022; Moench, 2022](#)). Meanwhile, during that same year, the DOJ again remained silent as New York City opened two SDCSs ([Mays & Newman, 2021](#)). A video from a concerned citizen shows a syringe lying on the ground at the entrance of a school yard ([Harlem Voice, 2022](#)). There is no publicly available data on the movement of customers into recovery.

The pending mediation between Safehouse and the DOJ, together with the DOJ's inaction on sites in both San Francisco and New York City, shows a lack of clarity on the legality of SDCSs throughout the United States, including

in Texas where state law does not specifically prohibit the operation of such sites ([Texas Controlled Substance Act, 1989](#)). This ambiguity in the law should prompt legislative action to clearly and definitively address the issue.

Recommendations

To protect the health of those struggling with addiction and all Texas communities, the Texas Legislature should explicitly prohibit SDCs in state statute to bring it in line with existing federal law. Doing so would make the Lone Star State the first state in the nation to do so.

In the event that the Legislature lacks the political will to move in this direction, a lesser-but-still-palatable alternative is to strictly regulate these sites so as to ensure that they are focused exclusively on recovery. Regulations of this type should include things like mandatory reporting requirements on the number of consumers who have accessed drug treatment services and how long they remain addiction free. ★

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Michele Steeb is a senior fellow with the Texas Public Policy Foundation and oversees the Foundation's initiative to transform United States' and Texas' homelessness policy. She has spent her career in causes for the public good beginning with leadership roles in both federal and state senate campaigns. She served four years as the Vice President of Political Affairs for the California Chamber of Commerce and prior to that, founded two technology-focused companies.

In 2006, Michele joined a struggling shelter for homeless women and children and transformed it into one of the nation's beacons of success. Saint John's, now a comprehensive 18-month program, helps homeless women and their children actively address and overcome the root causes of their homelessness by providing both housing and services to support them in becoming contributing members to society.

During her tenure, Michele served on multiple boards to address homelessness and was appointed by Governor Brown to serve on the State's Prison Industry Authority (2012-2020). She is a noted public speaker and author of "Answers Behind the RED DOOR: Battling the Homelessness Epidemic." Her work on homelessness has been published in several national outlets including the *Washington Post*, *USA Today*, *Newsweek* and the *Washington Examiner*.



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