

FAVORABLE
HB 0953
SB 0618

STATEMENT OF
ERIC E. STERLING, J.D.¹
SUBMITTED TO
THE MARYLAND HOUSE OF DELEGATES
HEALTH AND GOVERNMENT OPERATIONS COMMITTEE
HON. JOSELINE A. PENA-MELNYK, CHAIR
HON. BONNIE CULLISON, VICE CHAIR
MARCH 7, 2023

**IN SUPPORT OF
HB 0953**

Public Health – Overdose and Infectious Disease Prevention Services Program

Chair Pena-Melnyk, Vice Chair Cullison, and Honorable Delegates, thank you for reading my statement in support of HB 953.

All members of this committee are keenly aware of the crisis of addiction and overdose that is afflicting every corner of the United States and the state of Maryland. Like most Americans, all of you know someone who is or was addicted to some substance and quite likely someone who has died from an overdose. My first cousin was one of them.

In the 1980s, I was a colonel in America’s “war on drugs.” In March 1980, when I first organized an oversight hearing of the U.S. House Judiciary Committee on the U.S. Drug Enforcement Administration (DEA), **the annual number of drug overdose deaths was about 6100.** I later played a major role in Congress’s shaping of anti-drug policy. I accompanied Members of Congress to Mexico, Peru, Bolivia, Colombia and Jamaica to encourage those nations to more fully participate in America’s “war on drugs.” I have flown over the border in a U.S. Customs helicopter, toured DEA’s secret intelligence center in El Paso, and spoken to graduates of the DEA Academy in Quantico. I organized dozens of congressional hearings on every aspect of the drug abuse problem and wrote many provisions of the Anti-Drug Abuse Acts of 1986 and 1988. Yet, every year the number of people who die from drug overdose has gone up and now exceeds 100,000 annually.

What we have been doing is not working. The principal reason for this failure is that we have defined the problem improperly and thus listened to the wrong voices. The physiological condition of addiction is not wrongful or criminal. Managing addiction in society should not be a criminal justice matter. The police – as admirable, courageous and well-trained as most of them are – are not the proper authority for guidance on this phenomenon. The problem is human nature – our drive to avoid pain and to seek pleasure.

The foundations of our current drug use crisis were laid, beginning 150 years ago, in racism against Chinese immigrants and later the rise of Jim Crow laws in reaction to the growing economic, social and political success of the men and women freed from enslavement. To

stigmatize hard-working Chinese immigrants competing for jobs in the American west, they were associated with opium use, and the intentional addiction of white women with opium. To stigmatize the children and grandchildren of the men and women freed from their enslavement, Black people were falsely associated with the use of cocaine, heroin and the rape of White women. These social constructs were deliberate and explicit. Unfortunately, the police were assigned the responsibility of suppressing these people.

All our contemporary thinking about drugs has been shaped by this legacy and the falsehoods, myths, and exaggerations of a perspective that sees drug use as deviant and depraved.

For 150 years, our drug policy has been grounded in the dehumanization of the people who use drugs.

It is time to start over! **The goal of drug policy should be to protect the lives of persons who use drugs, to reduce their suffering, and to honor their dignity.** The center of drug policy should no longer be about improving enforcement or giving law enforcement more tools to “fight” the drug trade, etc. **The center of drug policy must be the well-being of people who use drugs.** The goal should not be grounded in the fear that someone else may be tempted or encouraged to use drugs.

When we take seriously the lives of people who use drugs and see them as the loved children, siblings and parents in families that struggle – like all families – then our communities can save them from overdose and death.

The use of drugs is risky, but that is not a constitutional or logical basis for punishing the use of drugs. American culture is grounded on risk. The entirety of our nation’s wealth is based on the risk of our capitalist system. The risk of economic devastation was recognized by the framers of the Constitution who charged the Congress with the power to “establish uniform laws. . .on the subject of Bankruptcies throughout the United States” (Article I, section 8, clause 4), a power that *precedes* coining money, establishing post offices, and even creating courts and declaring war. Congress recognized the need to protect people who take risks and fail in economic matters because taking risk is fundamental to human nature and essential to success.

We celebrate the risks of skiers racing down the slopes, of boxers, of automobile racers. We encourage our kids to take the risks of playing football and other potentially devastating sports.

We organize to protect against risks. We train and employ *lifeguards* and station them along the beach in Ocean City to protect against the risk of bathing in the ocean. We require *lifeguards* at public swimming pools.

Imagine another culture that was water-phobic. Imagine a culture that sees leaving solid ground for the water as deviant and evil. Such a culture would struggle to prevent people from encountering the danger of the lakes, ponds, rivers and oceans. Such a culture would outlaw swimming or teaching how to swim. And yet millions would seek the relief and pleasure of the water every summer. They would sneak out to secret places to swim and swim at night to remain

unseen – and thousands would die, ignorant of how to swim and without the presence of lifeguards.

Today, the primary factor that makes drug use most dangerous is the illegality of the use, sale, and production of the drugs, and the stigma around the use of drugs. The stigma has perverted the medical use of drugs so that persons using drugs available through legal channels often lie to their doctors about their conditions. Doctors struggle to talk honestly with their patients. Persons who suffer from addiction are excluded from the legal medical system.

It is long past time to stop conditioning care for people who use drugs on the demand that they abstain, notwithstanding their compelling addictions.

HB 0953 and SB 0618 would enable people in Maryland who do not hate or fear people who use drugs to help save the lives of those who use drugs by bringing risky drug use into spaces with *lifeguards* trained and equipped with the tools to save them.

Many in our society who are Christians often ask, “What would Jesus do?” If we take to heart the Book of Matthew, do we doubt that Jesus who reached out and *touched* a despised leper to heal him (Matt. 8:3) would today work at an overdose prevention center?

Delegates, for those of you for whom the New Testament of the Bible is instructive, consider the Roman centurion in Capernaum – “a man under authority, with soldiers under me”ⁱⁱ – who asks Jesus to heal his servant. You are men and women of authority, but if you have the faith of the centurion who appeals to Jesus, you can help save the lives of thousands of our brothers and sisters in Maryland suffering from substance use disorders by creating the overdose and infectious disease prevention program of HB 0953.

I urge a favorable report.

ⁱ Eric E. Sterling was Executive Director of the Criminal Justice Policy Foundation (1989-2020). He has lived in Maryland 30 years and the 18th legislative district over 25 years. From 1979 to 1989 he was Assistant Counsel, U.S. House of Representatives Committee on the Judiciary responsible for drug abuse matters among many other issues. In Montgomery County, he served for 10 years on the Alcohol and Other Drug Abuse Advisory Council including three years as chair. He graduated from Haverford College with a B.A. in Religion in 1973, and received a J.D. from Villanova University Law School in 1976.

ⁱⁱ Matthew 8:5-13; Oxford Annotated Bible, *The Holy Bible*, Revised Standard Version, 1962.