



# EXPLAINER

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## Overdose Prevention Sites & Federal Drug Policy

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The United States' draconian Drug War continues to obstruct evidence-based public health and [harm reduction](#) interventions proven to decrease the country's historic and preventable overdose crisis. Lawmakers must remove federal barriers that prevent healthcare practitioners and advocates from using proven approaches that will save lives. Local communities know the solutions that will work best in addressing overdose deaths in their jurisdictions, and the federal government should not get in the way of community-based public health, including overdose prevention sites.

### Harm Reduction Approaches to Drug Policy

#### *Overdose Prevention Sites*

Known by a variety of names including "safe injection facilities" and "[supervised consumption sites](#)," [overdose prevention sites](#) are facilities where people use pre-obtained drugs under the supervision of trained staff. Rather than continue to force people who use drugs to resort to using alone and in unsanitary environments, overdose prevention sites bring people out of the shadows through stigma-free, lifesaving and safer conditions. Overdose prevention sites are a [proven public health approach](#) supported by [numerous medical associations](#)--including the [American Medical Association](#)--that prevent the spread of infectious disease like HIV and hepatitis C, as well as abscess, by providing sterile supplies and safer use education. In addition, overdose prevention sites operate as resource hubs to connect people with housing services, drug treatment, other forms of healthcare, harm reduction services and more.

At the sites, staff trained to use naloxone ([a medication that reverses an opioid overdose](#)) or provide oxygen are able to respond to overdoses immediately. This is critical as the number one reason that people die from a preventable overdose is because they are using alone. People who use drugs face incredible [stigma in the healthcare system](#) and beyond, making overdose prevention sites a critical point of access to essential healthcare in a non-judgmental environment. In fact, these sites have [reduced the amount and frequency of drug use](#), and [increased access to drug treatment](#), especially among people who distrust the treatment system and are unlikely to access treatment on their own. Research has also shown that overdose prevention sites [reduce injection-related hospitalizations](#), [improper syringe disposal and public injecting](#), and [neighborhood crime](#).

While no sites are currently legally operating in the U.S., more than 150 sites across [Europe](#), [Canada](#), and [Australia](#) have successfully [operated for over 30 years with reductions in overdose deaths](#).

#### **Racist Drug War**

Black, brown, Indigenous, and low-wealth communities have been [targeted and criminalized through the racist drug war](#). The drug war has been a [vehicle](#) for mass incarceration, deportation, disenfranchisement, militarized police force and violence, barriers to housing, employment, discrimination, restriction to federal services and has separated families. In 2017, [27 percent of](#)

[people arrested for drug violations were Black](#), although Black people make up only 13.4 percent of the U.S. population and use drugs at the same rate as other racial groups. Incarceration is a discriminatory, and ineffective approach to addressing substance use, and research demonstrates that it is not only a revolving door, but deadly. Studies show overdose is the [leading cause of death](#) for people with substance use disorder who are released from jail or prison, making mass incarceration especially deadly for Black and brown people even after release.

### ***Rising Death Toll***

A devastating [half a million people in the U.S.](#) have died from overdoses since 1999. COVID-19 has intensified challenges for people who use drugs. People with opioid use disorder are [more than twice as likely to contract COVID-19](#) and those with a lifetime substance use disorder face more adverse health outcomes from the disease. [More than 83,544 people in the U.S. died of a drug overdose](#) from July 2019–July 2020, the largest number of overdose deaths over one year, and “the latest numbers suggest an acceleration of overdose deaths during the pandemic.”

### **Legal Barriers to Harm Reduction Approaches**

#### ***Legal Implications of the Third Circuit’s Safehouse Ruling***

[Safehouse](#), a Pennsylvania nonprofit dedicated to saving lives through a range of overdose prevention services, attempted to open an overdose prevention site in Philadelphia. The [3rd Circuit Court of Appeals ruled in January](#) that “Congress has made it a crime to open a property to others to use drugs ([21 U.S.C. §856](#))” and stated that “Safehouse and its supporters can lobby congress to carve out an exception.” While this ruling only applies to the [3rd Circuit covering all of Pennsylvania, New Jersey, Delaware, and the U.S. Virgin Islands](#) for now, the federal statute could create a barrier in other jurisdictions where communities intend to open these lifesaving facilities, like in [San Francisco](#), [New York City](#), [Seattle](#), and other cities.

Safehouse [intends to appeal the January 2021 3rd Circuit decision](#) that reversed a [previous ruling from the U.S. District Judge](#) which gave Safehouse the green light to proceed.

#### ***Federal Barriers: 21 USC § 856***

In 1986, Congress passed the [Anti-Drug Abuse Act](#), an amendment to the Controlled Substances Act, and included what is known as the “Crack House Statute” which subjects “managing or controlling any place for the purpose of manufacturing, distributing, or using any controlled substance” to criminal prosecution. In 2003, the statute was expanded through the [Illicit Drug Anti-Proliferation Act](#), formerly known as the RAVE Act, to “prohibit knowingly leasing, renting, or using, or intentionally profiting from, any place (as well as opening, maintaining, leasing, or renting any place, as provided under current law), whether permanently or temporarily, for the purpose of manufacturing, storing, distributing, or using a controlled substance.”

This outdated, vague, and overly-broad law is having the unintended consequence of stopping overdose prevention sites like Safehouse from operating, which has the potential to save thousands of lives each year.

### **Congressional & Executive Action Solutions**

*The following actions could be taken to remove federal barriers to overdose prevention sites.*

#### ***Biden Administration***

President Biden should instruct the Department of Justice (DOJ) to drop all pending cases challenging overdose prevention sites, including the Safehouse case. The DOJ should also institute a policy restricting future prosecution under the “Crack House Statute” or any other provision of the Controlled Substances Act.

### ***Appropriations***

Similar to the [longstanding appropriations rider](#) that prevents the DOJ from interfering with state marijuana laws, Congress should pass a rider that prevents the DOJ, DEA, and other federal agencies from interfering in state and local overdose prevention site initiatives.

### ***Amend the Controlled Substances Act & Other Federal Statutes***

The federal “Crack House Statute” ([21 U.S.C. §856](#)) prohibits the known *use* of a controlled substance in a facility, which prevents nonprofits like Safehouse from operating an overdose prevention site in their community. Congress should amend this statute to remove “use” from its purview and/or create a carveout from the Controlled Substances Act more broadly for the operation of overdose prevention sites with local or state approval.

### **Conclusion**

Overdose prevention sites are an important public health strategy that reduces the harms of drug use and saves lives. To comprehensively address the overdose crisis, we need many interventions working together. Federal drug policy reforms must also work to reduce the stigma and marginalization of people who use drugs. Access to medication assisted treatment without barriers, access to syringe service programs, and funding for harm reduction, public health, and evidence-based services are additional steps that lawmakers must consider in a holistic approach to the ongoing overdose crisis.

***CPCC thanks Safehouse, and \_\_\_ organizations for their comments and insights.***