

A proposed Biden drug policy could widen racial disparities, civil rights groups warn

[Carrie Johnson](#) 2-Minute Listen

Tablets believed to be laced with fentanyl are displayed at a Drug Enforcement Administration lab in New York in 2019. The Biden administration is hoping to crack down on abuse of synthetic opioids in part by putting them in the most restricted category or "schedule" under the law.

Don Emmert/AFP via Getty Images

A coalition of nearly 100 civil rights and criminal justice reform groups is protesting a [Biden administration proposal](#) that would potentially stiffen prison sentences for certain synthetic opioids, warning that it will exacerbate racial disparities already in the system.

The Biden proposal would permanently put many drugs chemically related to fentanyl in the most restricted category or "schedule" under the law.

"Since the inception of the war on drugs, African Americans and Latino people have born the brunt of enforcement-first approaches," said Sakira Cook, who closely follows the issues for the Leadership Conference on Civil and Human Rights.

In recent years, Cook said, about 70% of defendants charged with fentanyl-related crimes have been people of color. She said the new Biden plan will worsen those racial disparities in the system.

Kara Gotsch, deputy director of the Sentencing Project, a group that aims to reduce long prison sentences, is also fighting against the new Biden plan.

"It's not drug kingpins, it's not traffickers, it's people on the street who honestly once they're taken off the street are replaced the next day," Gotsch

said.

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The groups, led by the Drug Policy Alliance, outlined their concerns [in a letter to congressional leaders Friday](#).

The administration's response to the criticism

In a statement, the Office of National Drug Control Policy says the proposal is part of a bigger effort to respond to the overdose epidemic. That includes more money for drug treatment and work to promote research on what works best to curb the epidemic.

Acting ONDCP chief Regina LaBelle characterized the plan as a way to take "decisive action against the fastest growing driver of overdoses in the country, while protecting civil rights and encouraging scientific research," in a news release last month. LaBelle urged lawmakers to fund Biden's budget request, which includes \$10.7 billion to expand access to substance use prevention, treatment, recovery and harm reduction services.

The ONDCP said its plan is the result of consensus among government scientists at the Department of Health and Human Services and law enforcement agents who work inside the Justice Department.

It pointed out that the proposal includes a "safety valve" that would allow judges to vacate or reduce prison terms for people convicted of certain crimes related to fentanyl-type substances, if those substances are later taken off the most restricted list.

Activists insist it's the wrong approach

Criminal justice reformers said that approach is an outrage, because it fails to account for the fact that convicted people can spend years in prison and lose

access to jobs, housing and their families.

Cook, of the Leadership Conference, said "the prosecute first, ask questions later approach is wrong and doesn't help until it's too late."

Many criminal defendants won't have access to scientific and legal resources after they're convicted. Moreover, the advocates' letter described the case of Todd Coleman, an Ohio man who got a mandatory 10-year prison term for allegedly distributing a fentanyl-type substance. A court later reduced his sentence to three years after finding that none of the drugs were highly restricted substances and one wasn't dangerous or illegal at all.

"If you're going to send someone to prison, the government should be responsible for knowing what they're sending someone to prison for, and not ask questions after they've already prosecuted that individual," Gotsch said.

What happens next

The White House and Congress want to act before Jan. 28. That's when the current provisions involving fentanyl type drugs expire.

But the drug policy coalition wants congressional leaders to think twice and consider the country's experience with harsh cocaine laws in the 1980s and 1990s.

"So this is the issue of the day but it's a repeat of our past, and we do not want this administration or any other administration to continue to make the same mistakes that we have made in the past, and we want to chart a new path forward," Cook said.

In the deeply divided Congress, cracking down on opioids and other synthetic drugs is one of the few areas of bipartisan agreement.