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Vanita Gupta

July 11, 2017

The Honorable Bob Goodlatte
US House of Representatives
2309 Rayburn HOB
Washington, D.C. 20515

The Honorable John Conyers
US House of Representatives
2426 Rayburn HOB
Washington, D.C. 20515

cc: Members of the House Judiciary Committee

Oppose H.R. 2851

The Stop the Importation and Trafficking of Synthetic Analogues Act

Dear Chairman Goodlatte and Ranking Member Conyers,

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the civil and human rights of all persons in the United States, we urge you to oppose H.R. 2851, the "Stop the Importation and Trafficking of Synthetic Analogues Act." The solution to the current opioid crisis must be to encourage public health approaches, drug abuse education, and comprehensive treatment programs. Instead, this legislation seeks to revive the disastrous failure that was "The War on Drugs" by imposing harsh mandatory minimum sentences and granting the Attorney General unfettered discretion to schedule drugs and set criminal penalties.

By imposing harsh mandatory minimum sentences for drug users and sellers, H.R. 2851 would further exacerbate overcrowding in our nation's prisons at an exorbitant economic cost to taxpayers and at an irreversible human cost to those who are incarcerated and their families. People of color would be disproportionately impacted by these penalties, as race unfortunately continues to influence the sentencing and enforcement of drug convictions. In fact, studies show that people of color are far more likely to be arrested for selling or possessing drugs, and are often more likely to face mandatory-minimum sentences than whites facing eligible charges.¹ Increasing the severity of punishment for drug offenses will only exacerbate such disparities, which will drastically upend families and the broader community in the process. Furthermore, history has proven time and again that harsher penalties do not translate into lower rates of crime. Nevertheless, H.R. 2851 adopts a strategy that has displaced families and sent low-level drug offenders, disproportionately individuals of color, to prison for unreasonably lengthy sentences without having a discernable impact on drug crime in the United States.

H.R. 2851 would also dramatically change the existing system of scheduling drugs by granting the Attorney General with the unchecked power to decide which drugs are scheduled, what equivalency tables apply to these scheduled drugs, and what quantities



establish an intent to manufacture or distribute. This is problematic for many reasons. First, under current law, the scheduling process enjoys the benefit of receiving input from the federal agency that specializes in public health, the Department of Health and Human Services. However, under H.R. 2851, the Attorney General would no longer be required to clear its findings with the Department of Health and Human Services² and would no longer need to demonstrate a history of abuse and what, if any, risk there is to the public by the substances the Attorney General seeks to schedule.³ The result could be the criminalization of all manner of substances that might not be particularly lethal or dangerous. Furthermore, with the current Attorney General's unabashed yet dangerously misguided revival of the "War on Drugs," the result could be a scheduling system where more prosecutions and harsher drug charges will occur. Congress should not dodge its own duty to pass specific laws in complex areas by granting unchecked power to an attorney general. That is not the responsible way to address the opioid addiction crisis.

Finally, the proposed legislation fails to address one of the central issues of the opioid epidemic: the importation of synthetic analogues manufactured outside this country. According to the Drug Enforcement Administration, "hundreds of thousands of counterfeit pills have been brought into the United States from China over the last several years."⁴ H.R. 2851 does nothing to address the international nature of synthetic drugs nor does it provide any support to public health approaches, drug abuse education, or comprehensive treatment programs demonstrated to be successful in reducing drug use, drug crime, and recidivism rates. Instead, this legislation utilizes blunt tools long proven ineffective at reducing drug crime.

Ultimately, H.R. 2851 threatens to exacerbate discriminatory drug sentencing decisions and further overcrowd our prison system at an unreasonable financial cost to taxpayers and human cost to those incarcerated and their families. For these reasons, we urge you to oppose H.R. 2851, the Stop the Importation and Trafficking of Synthetic Analogues Act of 2017, when it is marked up in the House Judiciary Committee tomorrow morning.

Thank you for your consideration. If you have any questions, please contact Sakira Cook at 202-263-2894 (ext. 2894) or cook@civilrights.org.

Sincerely,



Vanita Gupta
President & CEO

¹ See “Testimony of March Mauer, Executive Director of The Sentencing Project before Hearing on Unfairness in Federal Cocaine Sentencing: Is it time to Crack the 100 to 1 Disparity?” *The Sentencing Project*. May 21, 2009. <http://www.sentencingproject.org/wp-content/uploads/2016/01/House-Judiciary-Testimony-on-Federal-Cocaine-Sentencing-May-2009.pdf>; See Also Rothwell, Jonathan. “How the War on Drugs Damages Black Social Mobility.” Sept. 30, 2014. <https://www.brookings.edu/blog/social-mobility-memos/2014/09/30/how-the-war-on-drugs-damages-black-social-mobility/>.

² *Id.*

³ See 21 U.S.C. 811(b) (2014).

⁴ See O’Connor, Sean. “Fentanyl: China’s Deadly Export to the United States” *U.S.-China Economic Security Review Commission*. Feb. 1, 2017. Pg. 17. https://www.uscc.gov/sites/default/files/Research/USCC%20Staff%20Report_Fentanyl-China%E2%80%99s%20Deadly%20Export%20to%20the%20United%20States020117.pdf.