



Legislation Text

---

File #: Res 0617-2023, Version: \*

---

Res. No. 617

Resolution calling on United States Attorney General Merrick Garland and the Department of Justice to issue guidance that they will not prosecute overdose prevention centers under section 856 of the Controlled Substances Act, and the Office of National Drug Control Policy to develop a set of standards, policies, and procedures for overdose prevention centers.

By Council Members Lee, Restler, Lee and Ossé

Whereas, New York City and the nation are experiencing an opioid crisis involving the misuse of prescription opioid pain relievers as well as heroin and fentanyl; and

Whereas, According to the New York City Department of Health and Mental Hygiene (DOHMH), overdose is the leading cause of accidental death in the city, surpassing motor vehicle deaths, homicides, and suicides combined; and

Whereas, According to provisional DOHMH data, 2,668 individuals died of a drug overdose in New York City in 2021, an increase of 27 percent since 2020 and 78 percent since 2019 ; and

Whereas, Opioid overdose deaths in New York City persist despite the availability of treatment services, collaborative interventions between public health and law enforcement, and increased access to the emergency overdose rescue medicine naloxone, according to DOHMH; and

Whereas, Harm reduction encompasses a set of practical strategies aimed at reducing the morbidity and mortality associated with drug use; and

Whereas, Overdose prevention centers (OPCs), also known as supervised consumption sites, are professionally supervised facilities where persons who use drugs can consume them under controlled conditions and access services including safe disposal of syringes and injection equipment, vaccination, HIV and hepatitis C testing, linkage to substance use treatment, counseling, and connections to social and medical

services; and

Whereas, Supervised consumption is a proven harm reduction strategy and approximately 100 OPCs operate in countries including Germany, Spain, and Canada; and

Whereas, According to a 2021 report on OPCs published by the National Institutes of Health, “the preponderance of the evidence suggests these sites are able to provide sterile equipment, overdose reversal, and linkage to medical care for addiction, in the virtual absence of significant direct risks like increases in drug use, drug sales, or crime;” and

Whereas, In November 2021, New York City opened the first two government-sanctioned OPCs in the United States; and

Whereas, According to DOHMH, since opening on November 30, 2021 to the end of 2022, the two supervised consumption sites were used over 52,000 times by 2,227 unique individuals, staff intervened in more than 670 overdoses to prevent potential injury or death, and there were no overdose deaths at the facilities; and

Whereas, The success of New York City’s OPCs has spurred other cities and states-including New York State-to consider legislation that would allow for supervised consumption programs; and

Whereas, Section 856 of the Controlled Substances Act, known as the “crack house statute,” makes it illegal to own, rent or operate a location for the purpose of using a controlled substance; and

Whereas, There is disagreement as to whether the crack house statute applies to OPCs; and

Whereas, Despite the evidence that OPCs are an effective harm reduction strategy, many jurisdictions and operators are reluctant to open OPCs due to the possibility of federal enforcement under the Controlled Substances Act; and

Whereas, In April 2021, then-Mayor Bill de Blasio, along with the mayors of cities including Philadelphia, San Francisco, and Oakland, sent a letter to Attorney General Merrick Garland requesting clarity from the Biden administration over whether opening OPCs would violate federal law and urging Garland to

issue a national policy “deprioritizing enforcement” of the Controlled Substances Act against OPC operators and clients; and

Whereas, In a February 2022 statement to the Associated Press, the Department of Justice said it is “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;” and

Whereas, The Office of National Drug Control Policy (ONDCP) leads and coordinates the nation’s drug policy so that it improves the health and lives of the American people; and

Whereas, ONDCP’s 2022 National Drug Control Strategy was the first national plan to prioritize harm reduction, focusing on preventing death and illness in drug users while trying to engage them in care and treatment; and

Whereas, The Strategy directs federal agencies to take actions that meet people who need treatment where they are and ensure those at highest-risk of an overdose can access evidence-based treatment; now, therefore, be it,

Resolved, That the Council of the City of New York calls on Attorney General Merrick Garland and the Department of Justice to issue guidance that they will not prosecute overdose prevention centers under the Controlled Substances Act, and the Office of National Drug Control Policy to develop a set of standards, policies, and procedures for overdose prevention centers.

LS # 12540  
4/27/23  
NM