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**DRUG POLICY**



## FAKE WEED, REAL CONSEQUENCES: EFFECTIVE STRATEGIES FOR ADDRESSING SYNTHETIC CANNABINOIDS IN HOUSTON

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“Fake Weed, Real Consequences: Effective Strategies for Addressing Synthetic Cannabinoids in Houston”

## Introduction

As governments across the United States are scaling down the war on drugs, many states and localities are simultaneously turning to law enforcement and criminal sanctions to combat the latest drug threat—designer substances. Designer drugs, or novel psychoactive substances, are manufactured to mimic the effects of other illicit drugs such as marijuana, ecstasy, and opioids, but are considerably more dangerous.

The latest drugs to cause alarm are synthetic cannabinoids (SynCans). Cities across the country are reporting upticks in SynCan-related emergency department visits and increases in violent encounters between first responders and individuals under the influence of SynCans. Marketed as “legal weed,” SynCans are not marijuana. Known by a variety of names including kush, K2, and spice and often sold in colorful packaging, SynCans are manufactured chemical compounds that are usually sprayed on plant material to be smoked, but they are also available in liquid form (Image 1). They are theoretically supposed to behave like THC, the primary psychoactive element in cannabis, but in reality they tend to have a much broader and more intense array of side effects than natural cannabis.<sup>1</sup>

**Image 1.** Examples of SynCan packaging



Source: National Institute on Drug Abuse, National Institutes of Health

Because the popularity of SynCans is relatively new, reliable data on use rates and health effects are not yet available. But anecdotal accounts indicate a rise in use, especially in urban areas and among the poor, the homeless, and adolescents. The dangerous and sometimes fatal side effects of extreme instances of SynCan use, including seizures, brain damage, and death, have prompted the U.S. government, all 50 states, and many localities to enact bans on SynCans.

While these knee-jerk reactions may be understandable, it is unclear whether such an approach will reduce SynCan use in any way. Decades of evidence from the war on drugs indicate that prohibition and criminal penalties do little to deter people from using or selling drugs. Instead of going down this path again, **governments would be better served by treating SynCans as a public health issue, focusing on increasing awareness of the risks associated with SynCan use and minimizing the harms caused by SynCan use by emphasizing treatment and prevention.**

A rise in SynCan use in the city of Houston has burdened first responders and, due to some very public overdoses, caused a public outcry. So far, the city's response has emphasized utilizing law enforcement to target SynCan sellers and, more often, SynCan users. While trying to reduce the SynCan supply in Houston may be a legitimate use of city resources, arresting people for SynCan use arguably wastes manpower and taxpayer money while failing to improve public safety or lower use rates.

This report reviews the current state of SynCan use and some of the factors that have led to the popularity of these designer drugs. It then examines the extent of the SynCan problem in Houston and the city's response to date. It concludes by urging the city to adopt a public health-based approach to SynCan use and offering several related policy recommendations.

### **Synthetic Cannabinoids: Highly Potent, Hard to Prohibit**

Synthetic cannabinoids (SynCans) were originally created in the early 1990s to research how the brain's endocannabinoid system regulates functions such as appetite, mood, and pain.<sup>2</sup> Illicit drug manufacturers soon discovered SynCans and saw the easy-to-create compounds as an opportunity to make money and evade law enforcement, as most countries, including the U.S., did not yet ban these substances.<sup>3</sup> While there are now at least 15 SynCans on the federal Schedule I list of controlled substances, this designation has had little effect on production or availability, as manufacturers respond quickly to new bans by altering the chemical make-up of the designer substances. As evidence of this, a 2014 special report from the National Forensic Laboratory Information System found that the chemical composition of SynCans changed substantially from 2010 to 2013, and that the availability and variety of SynCans also increased significantly during that period.<sup>4</sup>

SynCans can be two to 100 times more potent than THC, and they can have additional toxic effects on the brain and body that natural cannabis does not.<sup>5</sup> According to the Centers for Disease Control and Prevention, "acute synthetic cannabinoid exposure reportedly causes a range of mild to severe neuropsychiatric, cardiovascular, renal, and other effects; chronic use might lead to psychosis."<sup>6</sup> Visible symptoms associated with SynCan use typically follow one of two patterns. One is marked by symptoms such as lethargy, respiratory depression, seizure, and unresponsiveness, and the other is characterized by high agitation, elevated heart rate, aggressive behavior, and paranoia.<sup>7</sup> The range and varying intensity of SynCan effects can make it difficult to determine whether someone is under the influence of SynCans or other drugs, or how that person will react in

a particular situation, presenting challenges for paramedics, law enforcement, and other first responders.

Despite the negative health effects that may accompany the use of SynCans, two characteristics make them highly attractive to users: they are inexpensive and undetectable in standard drug screens. The low cost of SynCans makes them a rational drug of choice for anyone with limited funds who wants to get high, and because users are typically able to avoid positive drug tests, SynCans are especially attractive to youths, athletes, military personnel, and people in other occupations that drug test regularly, as well as to probationers and parolees.

### **How SynCan Prohibition Leads to SynCan Proliferation**

The rise in SynCan use can be traced directly to the prohibition policies of the war on drugs. According to Jag Davies of the Drug Policy Alliance, “Almost no one would touch this synthetic stuff—actually, it wouldn't even exist—if it weren't for the criminalization of the marijuana plant itself. Attempting to ban one new substance after another is like a game of whack-a-mole: Each time one gets banned, another untested and potentially more dangerous drug pops up to replace it.”<sup>8</sup> SynCans are not unique in this regard: historically, even the most effective prohibition policies have resulted in the creation of dangerous alternatives.<sup>9</sup> In Iowa, strict precursor laws that banned the possession of substances used for the production of methamphetamine had no impact on demand, but they encouraged suppliers to adopt more dangerous means of production.<sup>10</sup>

The Drug Enforcement Administration (DEA) has responded to rising concern over SynCans by placing known structural subsets of synthetic cannabinoids on the list of Schedule I Controlled Substances. However, as law enforcement agencies acknowledge, this policy does little to prevent chemists and manufacturers from developing other SynCans not covered by the Schedule I ban.<sup>11</sup> An unfortunate consequence of this strategy is that the newer chemicals are often more dangerous than their predecessors. The active chemical compounds in SynCans available on the market in 2009 were known by chemists to be relatively moderate in their effects, but they were subsequently banned by the DEA, and the chemical compounds that replaced them arguably pose greater risks to users.<sup>12</sup> Some states and localities, including Houston, have tried to close legislative loopholes by passing broader bans on the manufacture and sale of any drugs analogous to already identified SynCans, or on synthetic drugs altogether. But even when legislation closes loopholes, it does not stop the sale of SynCans. Instead, sales move “under the counter” at smoke shops and convenience stores or onto the street.<sup>13</sup>

While marijuana prohibition is a clear precursor to the advent of SynCans, it is unlikely that lifting the federal marijuana ban would completely eradicate SynCan use. However, legalizing marijuana may give potential and current SynCan users an incentive to choose natural cannabis over the synthetic kind. Since marijuana was legalized in Colorado in 2014, criminal charges for SynCans have significantly declined.<sup>14</sup> More data are needed to better understand the impact of marijuana legalization on SynCan use, but given that one

of the main attractions of SynCans is that they can be used without detection, many SynCan users may prefer marijuana if they could use it without fear of legal repercussions. Recent survey data finding that 93 percent of individuals who have used both natural and synthetic cannabis prefer natural cannabis<sup>15</sup> supports this assertion.

### *Prohibition's Failure to Stop the Spread of SynCans in Houston*

Despite DEA and other law enforcement efforts to prohibit SynCan manufacture and use, government data and media accounts of SynCan overdoses in cities across the country indicate that problematic use of SynCans is on the rise. While SynCan use rates remain much lower than those of other drugs, and while SynCans continue to account for a small fraction of total toxic exposure cases,<sup>16</sup> calls to national poison centers involving SynCans have nevertheless increased drastically.<sup>17</sup> Several cities have experienced widely publicized waves of overdoses attributed to SynCans; along with law enforcement reports of increased availability and potency of SynCans, these incidents have sparked alarm and calls to action among policymakers and the public.

The data indicate that Texas is experiencing surges in the variety and popularity of SynCans that mirror national trends. The Texas Poison Control Center reported just six SynCan varieties in 2010; this increased to 33 in 2015.<sup>18</sup> There were 464 calls for SynCan exposure in Texas in 2013, compared to 782 in 2014, and 320 in the first five months of 2015. Data on drug treatment trends in the state indicate that more people are seeking help for SynCan use. The number of individuals entering state-funded drug treatment programs where SynCans were identified as the primary factor increased from 156 in 2012 to 720 in 2015. Seventy percent of patients were male, 45 percent were white, 42 percent were Hispanic, and their average age was 24.<sup>19</sup>

The national and statewide data correlate with metrics in Houston and Harris County, which have become an epicenter for SynCan manufacture and use. In late 2012, a Cypress teenager named Emily Bauer was hospitalized after smoking synthetic marijuana, and her story became national news.<sup>20</sup> Bauer's overdose coincides with data showing that Harris County accounted for the highest number of SynCan exposure calls in Texas between 2010 and 2015.<sup>21</sup> In November 2013, the DEA, having seized over one million packets of the drug in a two-year period, cited Houston among the nation's largest sources and markets for SynCans.<sup>22</sup>

By fall 2014, the Houston City Council felt compelled to act on this issue, passing a broad ban on "any illicit synthetic drug,"<sup>23</sup> a term intended to capture any SynCans on the market, regardless of chemical variations. While city officials hoped the ban would be effective, they also acknowledged that similar bans had proven difficult to enforce in nearby areas such as Pearland, Pasadena, and La Porte.<sup>24</sup> Indeed, the law prohibiting SynCan possession, manufacture, and sale in Houston seems to have had little effect on SynCan use. While actual use rates are difficult to determine, anecdotal evidence suggests problematic SynCan use has only been increasing. Houston-area emergency department personnel cited increases in the number of individuals seeking treatment for SynCan use in the year following the City Council's ban.<sup>25</sup> Data from the Houston Recovery Center show that between April and

October 2014, around the time the city ban was passed, only 3 percent of admissions were for SynCan use; during the same period two years later, SynCans accounted for 28 percent of the center's admissions.<sup>26</sup> Certainly, this may overstate the actual growth in SynCan-related incidents—as earlier figures may have underestimated SynCan prevalence, and more recent data benefit from improved tracking—but it would be hard to dispute that there has been an increase in SynCan-related incidents.

Some of the most complete data on SynCans in Houston come from the city's emergency medical services (EMS), which reports an estimated 2,370 SynCan-related calls between August 2015 and Nov. 5, 2016.<sup>27</sup> Of those recorded incidents, 54.7 percent of the individuals in need of assistance were black, 20.2 percent were white, and 17.1 percent were Hispanic. Nearly 81 percent were male, and the average age was 37. Almost half of all calls (47 percent) came from two zip codes: 77002, which accounted for 32 percent of calls and comprises parts of midtown and downtown Houston, and 77004, which includes south central Houston and the Third Ward.<sup>28</sup>

A principal concern of city officials is the strain of rising SynCan misuse on emergency response resources. Between September 2015 and June 30, 2016, nearly half of the 3,000 drug overdose calls made to EMS were related to SynCans.<sup>29</sup> But while city officials, first responders, and substance treatment providers have known about the increase in SynCan misuse for some time, the public generally was not aware of this problem. This changed when 16 individuals overdosed on SynCans in Hermann Park on June 30, 2016.<sup>30</sup> The incident received extensive media attention, leading city officials to take further action.

### *Policy Responses and Public Reactions to the Hermann Park Overdoses*

A week after the Hermann Park overdoses, Houston Mayor Sylvester Turner held a press conference on SynCan manufacture and use, vowing to “take back our parks and at the same time put out a call for those who want help, who need help, that this city is prepared to assist them.”<sup>31</sup> The mayor also promised to beef up the presence of police, including “a 50-person downtown police patrol division, the transfer of about 175 officers to patrol beats, an overtime program to add roving bike and golf-cart patrols in city parks and the hiring of 13 park rangers.”<sup>32</sup> A few weeks later, Turner and other city and county officials held a follow-up press conference to announce that undercover operations focused on suppliers had resulted in six arrests and the shuttering of four stores accused of selling SynCans, while 20 other stores were served restraining orders.<sup>33</sup>

Though the city continued to garner headlines with sting operations and additional police officers in hotspots, Leif Reigstad of the *Houston Press* questioned the impact of increasingly prohibitory policies on the underlying issues driving SynCan use in Houston:

In one sense, the crackdown seems to be working. Hermann Park and downtown landmarks such as the Central Library have visibly fewer kush smokers. However, many in the majority-homeless crowd at Wheeler Station say that the increased police presence downtown has only swept those kush smokers into midtown. And while Mayor Turner said in an August 11 press conference about kush that the city is focusing law enforcement efforts on

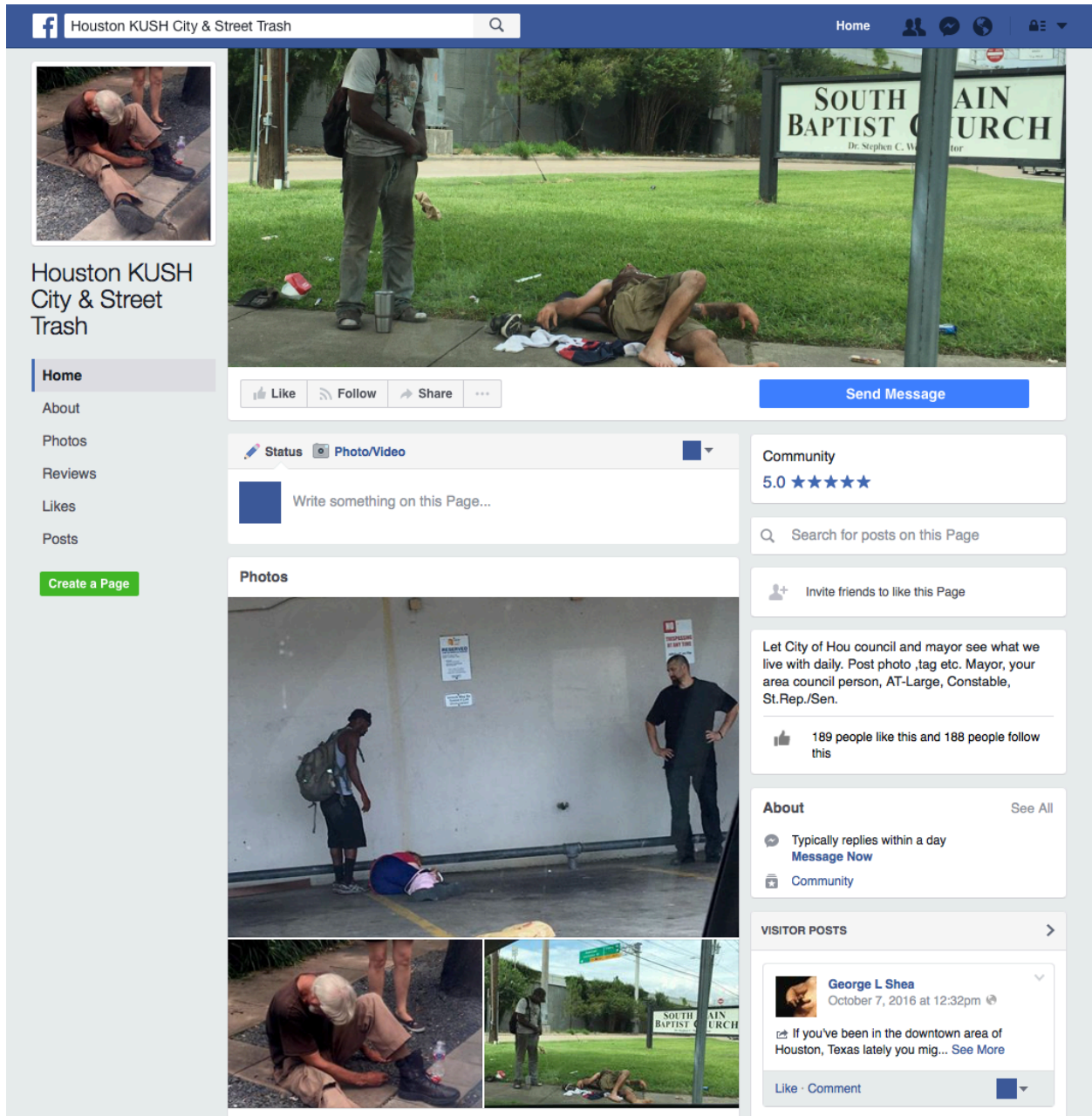
distributors rather than users, it's still somewhat puzzling to see the city framing this drug epidemic as a quality-of-life crime rather than a public health crisis, especially because not all of Houston's kush users are out smoking on the streets.<sup>34</sup>

On September 19, 2016, after another undercover operation netted two arrests and more than \$400,000 worth of SynCan, Turner did acknowledge the root cause of SynCan use, tweeting that “#Kush is a #substanceabuse issue”; in the same tweet, he also correctly highlighted that SynCan use is “NOT a #homeless issue.”<sup>35</sup> Because many of those who overdosed at Hermann Park in June were homeless,<sup>36</sup> the issues have become somewhat intertwined. Turner's distinction between homelessness and substance use was undoubtedly informed by a desire to preserve the city's recent successes fighting homelessness.<sup>37</sup> The Houston Police Department's Homeless Outreach team, which pairs mental health and social service personnel with law enforcement, recently drew praise from the U.S. Department of Justice—which also noted that increasing criminalization of homelessness does “little to prevent and end homelessness but it also takes law enforcement officers away from their important work of solving crime and protecting the public.”<sup>38</sup>

Despite Turner clearly delineating the difference between SynCan issues and homelessness, the high visibility of the Hermann Park overdose cases as well as the increasing number of homeless individuals arrested following the Hermann Park overdoses seems to have influenced public opinion. A KHOU news segment that aired in September 2016 reported on a neighborhood's efforts to combat the SynCan problem through a Facebook group.<sup>39</sup> The news report claimed the group was devoted to combatting SynCan use in the neighborhood, but it did not mention that the Facebook group was titled “Houston KUSH City & Street Trash” and seemed to be more focused on shaming the local homeless population than on the dangers associated with SynCan use (Image 2).<sup>40</sup> The city must take care to preserve and maintain the progress it has made in the fight against homelessness by discouraging the public from conflating the two issues and also ensure opportunities for effective approaches that safely and compassionately address substance use.



Image 2. Homepage of local Facebook group devoted to fighting SynCans and homelessness



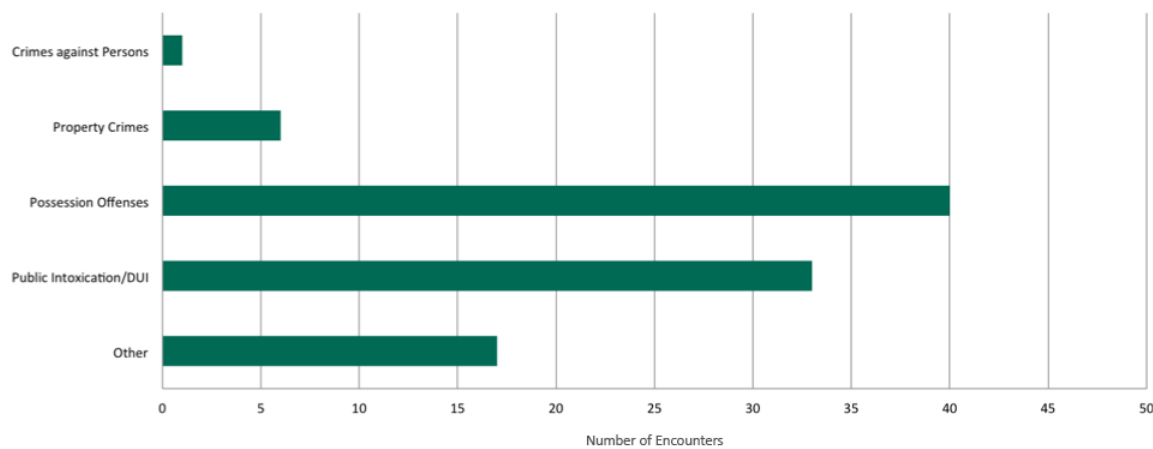
Source: Houston KUSH City & Street Trash Facebook page

*Impact of Using Law Enforcement to Combat SynCans*

Prioritization of Valuable Resources on Lower-Level Offenses

Recent data from Baytown, Texas, highlight the limitations of using prohibition to address SynCans. From May through August 2016, the Baytown Police Department recorded 97 encounters with SynCans, 93 percent of which did not involve property crimes (only 6 percent of encounters) or crimes against persons (less than 1 percent of encounters).<sup>41</sup> The vast majority of SynCan-related encounters were for public intoxication or minor possession offenses, suggesting they may have posed little threat to public safety (Figure 1).

**Figure 1.** Baytown Police Department synthetic-THC encounters by type of encounter (May–August 2016)



Source: Data supplied by Timothy Carter, crime analyst for the Baytown Police Department.

Court filing data from Harris County indicate that like Baytown, Houston’s law enforcement response to SynCans has centered on low-level possession arrests. From January through June 2016, records from the Harris County District Clerk’s office show an average of 25.8 SynCan-related charges per month, 62 percent of which were misdemeanors.<sup>42</sup>

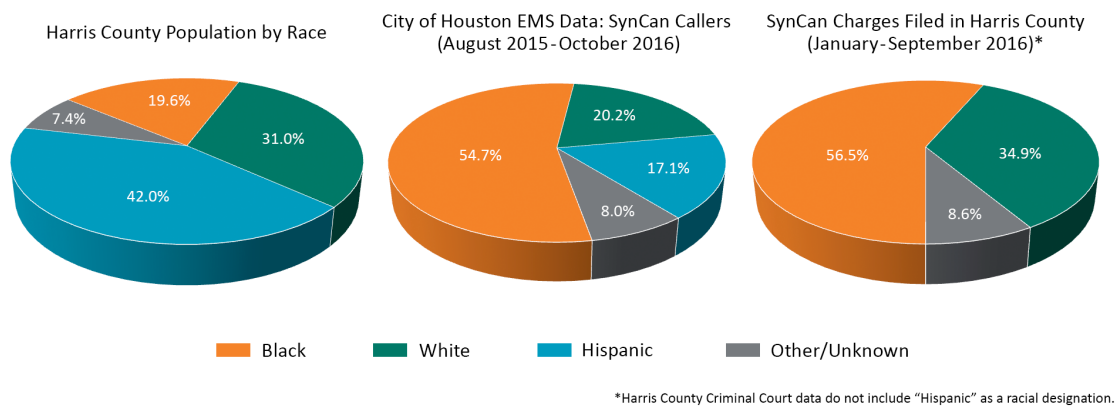
In this light, Houston’s decision to mobilize 238 officers and increase overtime pay to address SynCan use and its associated offenses seems to be an ineffective allocation of resources for the Houston Police Department (HPD)—which cleared only 39 percent of rape cases, 19 percent of robberies, and 6 percent of burglaries reported in 2015.<sup>43</sup> Refocusing resources on such higher-level crimes may be a more effective approach to improving community safety.

Impact on the African-American Community

Although the percentage of black individuals charged with SynCan-related offenses decreased slightly from 58.1 percent in the first six months of 2016 to 52.7 percent from

July through September, the proportion charged with SynCan-related crimes remained nearly three times that of black individuals in the general population.<sup>44</sup> These numbers roughly mirror the EMS call data, which show that black individuals accounted for 54.8 percent of SynCan-related calls from August 2015 through October 2016.<sup>45</sup> Given that two of the primary reasons for using SynCans are its low cost and ability to evade detection on drug tests, the over-representation of black individuals in arrests and EMS service calls may reflect underlying issues such as higher rates of poverty, homelessness, and contact with the criminal justice system. At the same time, arrest and EMS data are relatively poor proxies for actual use rates, as they only reflect trends in more visible or problematic use. Data on use rates for all illicit drugs show that black individuals are no more likely to use than other groups,<sup>46</sup> but further data are needed at the local and national level to determine whether SynCans stray from this general pattern.

**Figure 2.** Data comparing arrest, EMS, and Houston population demographics



Source: U.S. Census Bureau (2015), Houston Fire Department, Harris County District Clerk's Office

*Alternatives to Prohibition: The Case for a Public Health Approach*

Rather than focus on criminalizing drug use, public health-based drug policy aims to minimize the health consequences associated with drug use for individual users and society. In the U.S., the most notable advances toward public health-based drug policy have been in response to opioid use. Well-established responses to opioid use—including distribution of the overdose reversal medication naloxone, medication-assisted therapies, and syringe exchange programs—have been quite effective in reducing rates of addiction, overdose, and spread of communicable diseases.<sup>47</sup>

Unlike opioids, there are no antidotes or substitute medications for SynCans. However, governments still can respond to SynCan use in ways that emphasize public health rather than punishment. At the very least this means that, **instead of increasing penalties for SynCan possession, policymakers should invest in prevention programs that educate the public about the negative health consequences of SynCan use and invest in treatment programs that assist people who are using SynCans problematically.**

More controversial—but probably more effective—policy responses could include the following: decriminalize possession and use of SynCans but continue to prohibit their manufacture and sale; end drug testing for marijuana among probationers and parolees to disincentivize SynCan use as an undetectable alternative; and, for some user populations, provide material incentives where reward is contingent upon abstaining from use.

Finally, as an alternative to prohibition, government regulation—for SynCans as well as many other illicit drugs—is increasingly seen as a better way to control sales of these products and to restrict access by minors. Product regulations, such as labeling requirements that provide information about ingredients and potency, could improve drug safety for users.<sup>48</sup> Government regulation of SynCans would not be an endorsement of their use but rather, as with alcohol and tobacco, a recognition that some people will choose to use them regardless of their adverse effects or legal status, and that regulation is the best way to reduce the harm associated with that use.

While Houston may not have the ability or desire to implement these more progressive policy responses, it is still possible for the city to respond to SynCan use in a way that does not exacerbate the negative consequences of prohibition policies.

### **Program Spotlight: Pilot Intoxication Team**

Although it has received less media attention than store busts and increases in police presence, the city of Houston quietly laid the groundwork to address SynCan use as a public health issue even prior to the Hermann Park overdoses. In May 2016, Houston launched a pilot Public Intoxication Team (PIT) program, which offers individuals suspected of being intoxicated—with SynCans, alcohol, or other drugs—the option to be diverted from jail to the Houston Recovery Center (HRC), where they are monitored until they are sober and offered further treatment.<sup>49</sup> The PIT has proven to be an efficient use of resources in combatting the SynCan problem. With a team of only two people dispatched to limited areas and working only five days a week, the PIT encountered, treated, and admitted more than 300 individuals under the influence of SynCans to HRC between May and September 2016.<sup>50</sup>

Though limited in staff, the PIT quickly forged partnerships with various law enforcement agencies in Houston, with over three-quarters of their SynCan admissions resulting from referrals from the Houston Police Department, Metro Police, and the Houston Fire Department.<sup>51</sup> Similar partnerships between agencies in other jurisdictions have been shown to produce better fiscal and personal outcomes, including reduced system costs and recidivism rates,<sup>52</sup> making the PIT the most effective tool Houston has in dealing with SynCan issues. In addition to the PIT's efficacy, it is also a remarkably inexpensive program. According to an HRC budget estimate for 2017 (the PIT pilot was not immediately renewed following the trial period), fully funding the Public Intoxication Team would cost approximately \$10,000 per month,<sup>53</sup> significantly lower than the costs associated with policies resulting in increased arrests and incarceration.

## Policy Recommendations for Houston

### *1. Improve Data Collection to Ensure an Evidence-based Policy Response to Synthetic Cannabinoids*

Lack of data on SynCan use is a major challenge to crafting appropriate, informed policy responses. Information on different variables—including the populations that use SynCans, the locations where SynCan use is most prevalent, the effect of SynCans on user health, and the effect of SynCan users on public health and safety—is critical to developing targeted interventions. While the city has collected some data on SynCan use, more detailed information is needed.

It will also be important to differentiate first responder calls involving SynCans by type of encounter, which will help determine whether SynCans are most frequently cited in public nuisance infractions, such as public intoxication, or more serious offenses, such as property and violent crimes. Furthermore, data on fire department and EMS calls can help discern the types and severity of health problems reported in conjunction with SynCan use. These data would also be useful for public health research and, by extension, for the advancement of evidence-based policy solutions in Houston.

The Baytown Police Department’s Crime Analysis Division currently collects data on SynCans that tracks the number and type of police, fire department, and EMS encounters with SynCans, as well as the time and day of the week on which such encounters are most frequent.<sup>54</sup> These data have been immensely helpful to the Baytown Police Department and to organizations working to address SynCan use in the Baytown community.<sup>55</sup> The city of Houston and Houston Police Department could partner with the Baytown Police Department to adopt their collection methods. Baytown’s Crime Analysis Division has already indicated its willingness to share its techniques with the city of Houston.

### *2. Start a Public Awareness Campaign*

While media reports of SynCan overdoses highlight the risks associated with the drugs, as relatively new substances they still may not be well understood by the public. For example, the Texas School Survey found that in Harris and surrounding counties, nearly 10 percent of students in grades 6-12 reported that they do not know whether “synthetic marijuana” is dangerous, compared to just 4 percent who do not know whether regular marijuana is dangerous, and 5 percent who do not know whether tobacco is dangerous.<sup>56</sup> To prevent and discourage SynCan use, the public—particularly youth and other at-risk populations—must be provided with accurate information explaining what SynCans are and how they are harmful. An awareness campaign can provide this information and may help to reduce SynCan use.

Other cities have made public awareness a central tenet of their response to SynCan use, with encouraging results. New York City’s public information campaign about the dangers of synthetic drugs includes signs on bus shelters and at stores and other businesses in areas where use is especially high. According to city officials, this approach has led to an 85 percent drop in SynCan-related emergency department visits between July 2015 and May

2016, and June 2016 saw the fewest number of emergency department visits involving SynCans in more than a year.<sup>57</sup> While there was a three-day spike in SynCan incidents in July 2016, they were significantly clustered in two Brooklyn neighborhoods, leading officials to suspect a bad batch of SynCans was the cause. The spike is not viewed as a return to upward trends in SynCan hospitalizations or overdoses.<sup>58</sup>

East of Houston, Baytown has been the focus of public awareness efforts led by several nonprofit organizations. The Council on Recovery and the Southeast Harris County Community Coalition have devoted resources to educating professionals who work with youth about the dangerous health effects and prevalence of SynCans in their communities. In 2015, the Council on Recovery hosted a Summit on Synthetic Marijuana that brought together professionals in law enforcement, health care, emergency response, social work, and substance use treatment. The Council on Recovery created public service announcement billboards in English and Spanish to warn the public about the risks of SynCans, which the Southeast Harris County Community Coalition posted in Bay City, La Porte, and Baytown during the summer of 2016 (Image 3). With data provided by the Baytown Police Department, the coalition was able to use the billboards to target specific neighborhoods with known SynCan hotspots.<sup>59</sup>

**Image 3.** Billboard posted in Baytown warning public about using kush (SynCans)



Source: Council on Recovery, Prevention Resource Center Region 6, Southeast Harris County Community Coalition

Houston has the community resources necessary for effective public outreach. Prevention efforts should be focused on adolescents, who may be tempted by the cheap high and lack of detection afforded by SynCans. Parents should also be part of education efforts. Community organizations that serve youth, especially those that target at-risk adolescents, such as the Council on Recovery and My Brother's Keeper, could play a central role in this outreach. High schools and juvenile probation services are also potentially effective outlets for communication with parents and youth that, for adolescents in particular, should emphasize science-based information about drug experimentation, use, and abuse, as well as pragmatic strategies for engaging in alternative activities to drug use.<sup>60</sup>

The city could also collaborate with organizations such as the Salvation Army and homeless shelters to discourage SynCan use among homeless populations. Geographic data from Houston Police Department arrest records and the Houston Emergency Medical Services call records can be compiled to determine high use areas where warnings about SynCans can be posted. This method of communication can also be helpful if city officials learn of a bad batch of SynCans; clusters of overdoses—not just for SynCans but for all drugs—are likely caused by tainted batches, and if public officials learn of this quickly, they can post notices warning users to exercise additional caution.<sup>61</sup>

### *3. Renew and Expand the Public Intoxication Team Pilot Program*

Despite the fanfare accompanying successful sting operations, the city of Houston's most effective response to SynCans has been its utilization of the Public Intoxication Team (PIT). The PIT is 1/100th the size of the team of officers mobilized in response to the Hermann Park overdoses, and it works in a limited geographic area only five days a week. Despite this, the PIT successfully partnered with law enforcement to initiate over 300 SynCan-related admissions to Houston Recovery Center, operating with an efficiency that clearly shows the advantages of treating SynCan use as a public health problem rather than a crime.

Although the initial PIT pilot was limited in scope, it should be renewed and expanded on the recommendation of the mayor's Office on Homelessness and the Houston Recovery Center.<sup>62</sup> A major asset to the city, the HRC has the capacity and resources to help get more users into substance use treatment. If SynCan use is, as Turner tweeted, a "substance abuse issue,"<sup>63</sup> renewing and fully funding the PIT pilot while expanding its reach is the cheapest, safest, and most effective way for the city of Houston to proceed.

### *4. Decriminalize SynCan Possession*

Prohibition of SynCans, as the data and anecdotal evidence indicate, does little to reduce their supply or demand, but it does banish them to the black market where product controls are absent and criminal enterprises flourish. This is why some reform-minded voices are calling for federal and state regulation of SynCans as a way to minimize the harm associated with their use.<sup>64</sup> While the city of Houston does not have the legal authority to legalize and regulate SynCans, it can decriminalize possession and use.

The ordinance passed by the Houston City Council in 2014 bans the sale and use of SynCans. Prohibiting SynCan sales can be instrumental in targeting major suppliers and distributors, but outlawing SynCan use is a continuation of failed drug war policies that have had little deterrent effect and essentially criminalize drug addiction. It also misdirects law enforcement resources to the most visible instances of drug use. To the extent that it diverts law enforcement from crimes against persons or property, this policy does little to improve public safety.

Houston can amend its ban to remove penalties for SynCan use while still maintaining a prohibition against its sale, as New York City has done. While that city has aggressively targeted the sale of SynCans in convenience stores and bodegas in low-income

neighborhoods,<sup>65</sup> possession of SynCans is not a punishable offense.<sup>66</sup> This strategy reflects an understanding that law enforcement plays a crucial role in targeting SynCan distribution, but SynCan use is primarily a public health problem that disproportionately affects the poor and mentally ill.<sup>67</sup>

If Houston were to remove penalties for SynCan use, it would be an important step toward adopting a public health-based drug policy. Under such an approach, individuals under the influence or in possession of SynCans can be diverted by police to the HRC rather than arrested; many officers are already doing this. At the HRC, users can access drug treatments and other resources not available to them in jail.

## Conclusion

Synthetic cannabinoids are not the first novel substance to attract new users. From LSD to crack cocaine to methamphetamines, the last century is littered with examples of new drugs gaining popularity and causing alarm among law enforcement, the media, and the public. In the past, responses to new drugs have often used fear rather than evidence to guide policy decisions.<sup>68</sup> However, drug trends tend to follow a similar pattern, regardless of government action. Enthusiasm leads to an increase in use—for a time. As more people become familiar with the drug and its consequences, use decreases to a significantly lower and more stable rate. Broadly speaking, this is the use pattern most drugs follow, albeit with intermittent spikes in use that coincide with market changes, such as an increase in purity, a decrease in price, or a tightening of another drug market.

It is too early to say with certainty what pattern SynCans will follow, but based on past evidence it is likely that, while use rates may continue to increase for a time, they will at some point stabilize and then slowly decline. Historically, the U.S. government has not responded well to new drug trends. SynCans present an opportunity for policymakers to make pragmatic and evidence-based decisions regarding how to address a new and problematic substance.

Houston, like other cities across the U.S., has been significantly affected by rising SynCan misuse. Users are attracted to the drugs because they are inexpensive and undetectable by traditional drug testing methods, yet they elicit a powerful high. To a non-user, the drugs can only be seen as trouble; their effects are unpredictable, sometimes leading to violent reactions or medical complications, and they appear to offer no redeeming benefits, medical or otherwise. They have been a challenge for first responders, who have had to divert resources from other calls to respond to SynCan users. Their use in public spaces, such as Hermann Park, has made their adverse effects visible, causing consternation among the broader public, which is disturbed by the sight of homeless people and others walking in the street and behaving erratically.

So far, Houston's response to rising SynCan use has emphasized targeting users and sellers through law enforcement resources. The city's efforts to crack down on businesses selling SynCans should be commended, as should its pilot Public Intoxication Team. Yet there are



opportunities for improvement. This report has outlined several ways in which Houston can better respond to SynCan use. These include increasing data collection to inform policy decisions; starting a public awareness campaign founded on partnerships with community organizations; renewing and expanding the PIT, which has demonstrated success in responding to SynCan use; decriminalizing SynCan possession and use; and diverting individuals found in possession or under the influence of SynCans to the Houston Recovery Center.

Ultimately, this report urges Houston policymakers to adopt a pragmatic, public health-based response to SynCan use. The failures of the war on drugs should serve as a cautionary tale about adhering to a more punitive approach: increasing penalties for drug use does not deter use, nor does it make the public safer, but it does waste taxpayer money and harms the vulnerable communities it targets.

Finally, Mayor Turner's distinction between the SynCan problem and homelessness is important, and must be emphasized. First, there is no evidence to indicate that homeless individuals account for the majority of SynCan users, though they are more likely to use in public. Second, drug users and the homeless are two heavily stigmatized groups; conflating the two can create challenges for advancing public health-based policies. Just as the current opioid epidemic has offered opportunities to change the conversation about drug use and reduce the stigma attached to drug users, Houston may be able to capitalize on the growing attention to SynCans to push a more effective, compassionate approach. Local leaders and others interested in reform should take advantage of this opportunity to educate the public about homelessness, its causes, and its challenges, and encourage a conversation about how to respond constructively to both homelessness and SynCan use in a way that does not punish either group—but rather, offers avenues for change that can positively impact these populations and the larger Houston community as a whole.

## Endnotes

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<sup>2</sup> Terrence McCoy, “How this Chemist Unwittingly Helped Spawn the Synthetic Drug Industry,” *The Washington Post*, August 9, 2015, accessed December 5, 2016, [https://www.washingtonpost.com/local/social-issues/how-a-chemist-unwittingly-helped-spawn-the-synthetic-drug-epidemic/2015/08/09/94454824-3633-11e5-9739-170df8af8eb9\\_story.html](https://www.washingtonpost.com/local/social-issues/how-a-chemist-unwittingly-helped-spawn-the-synthetic-drug-epidemic/2015/08/09/94454824-3633-11e5-9739-170df8af8eb9_story.html).

<sup>3</sup> Ibid.

<sup>4</sup> U.S. Department of Justice, Drug Enforcement Administration, “National Forensic Laboratory Information System (NFLIS) Special Report: Synthetic Cannabinoids and Synthetic Cathinones Reported in NFLIS, 2010–2013” (Washington, D.C., 2015), accessed December 5, 2016, [http://www.deadiversion.usdoj.gov/nflis/2010rx\\_synth.pdf](http://www.deadiversion.usdoj.gov/nflis/2010rx_synth.pdf).

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<sup>7</sup> New York City Department of Health and Mental Hygiene, “Increase in Synthetic Cannabinoid (K2)-related Adverse Events and Emergency Department Visits, New York City,” July 14, 2016, accessed December 5, 2016, <https://www1.nyc.gov/assets/doh/downloads/pdf/ah/synthetic-cannabinoids-7-14-16.pdf>.

<sup>8</sup> Jag Davies, “Banning fake pot won't make it go away,” *CNN.com*, February 5, 2013, <http://www.cnn.com/2013/02/05/opinion/davies-synthetic-pot/>.

<sup>9</sup> See Radley Balko, “Meth isn’t an argument for drug prohibition. It demonstrates prohibition’s failures,” *The Washington Post*, October 12, 2015.

<sup>10</sup> “Iowa’s Struggle against Meth Continues,” *Cedar Rapids Gazette*, March 29, 2014.

<sup>11</sup> Houston High Intensity Drug Trafficking Area (HIDTA), “2015 Houston HIDTA Threat Assessment on Synthetic Cannabinoids,” Houston Investigative Support Center, August 2015.

<sup>12</sup> Hamilton Morris, “Visiting the Factories in China Where Synthetic Marijuana Gets Made,” *Vice News*, January 19, 2016, accessed on December 5, 2016, <http://www.vice.com/read/visiting-the-factories-in-china-where-synthetic-marijuana-gets-made>.

<sup>13</sup> Houston HIDTA, “2015 Threat Assessment.”

<sup>14</sup> See Colorado Synthetic Cannabinoids Court Filing Data 2012-2016. Data obtained from Colorado State Court Administrator’s Office on July 7, 2016.

<sup>15</sup> A.R. Winstock and M.J. Barratt, “Synthetic Cannabis: A Comparison of Patterns of Use and Effect Profile with Natural Cannabis in a Large Global Sample,” *Drug Alcohol and Dependence*, 2013.

<sup>16</sup> Riederer et al., “Acute Poisonings.”

<sup>17</sup> Numbers show a rise from 1,115 between January and May of 2014 to 3,621 between January and May 2015. See Houston HIDTA, “2015 Threat Assessment.”

<sup>18</sup> Jane C. Maxwell, “Substance Abuse Trends in Texas: August 2016,” *National Drug Early Warning System Sentinel Community Site Profile* (University of Texas at Austin, 2016).

<sup>19</sup> Ibid.

<sup>20</sup> Christina Zdanowicz, “Teen narrowly escapes death after smoking synthetic marijuana,” *CNN.com*, February 5, 2013, <http://www.cnn.com/2013/02/04/health/synthetic-marijuana-irpt/index.html>.

<sup>21</sup> Houston HIDTA, “2015 Threat Assessment.”

<sup>22</sup> Dane Schiller, “Houston gains key role in synthetic marijuana,” *Houston Chronicle*, November 30, 2013, <http://www.houstonchronicle.com/news/investigations/article/Houston-gains-key-role-in-synthetic-marijuana-5024607.php>.

<sup>23</sup> Houston City Council, 2014, Article XVII Illicit Synthetic Drugs.

<sup>24</sup> Ibid.

<sup>25</sup> Houston HIDTA, “2015 Threat Assessment.”

<sup>26</sup> Houston Recovery Center, “Houston Recovery Center Top Reported Substances: 4-1-13 to 10-1016.” Data obtained November 2016.

<sup>27</sup> Because EMS data on SynCans are based on the subjective reporting of the individuals seeking assistance and the first responders recording the reason for the call, rather than on drug testing, this figure may underestimate the actual number of SynCan calls.

<sup>28</sup> Data obtained from Houston Fire Department, received November 8, 2016.

<sup>29</sup> St. John Barned-Smith and Gabrielle Banks, “Mayor Pledges to Beef up Police Presence in Parks, Downtown to Stop Kush,” *Houston Chronicle*, July 23 2016, accessed December 5, 2016, <http://www.houstonchronicle.com/news/houston-texas/houston/article/In-response-to-Kush-deaths-Houston-mayor-vows-to-8335348.php>.

<sup>30</sup> Meagan Flynn, “16 Hospitalized After Synthetic Marijuana Overdose at Hermann Park,” *Houston Press*, June 24, 2016, <http://www.houstonpress.com/news/16-hospitalized-after-synthetic-marijuana-overdose-at-hermann-park-8511687>.

<sup>31</sup> Barned-Smith and Banks, “Mayor Pledges to Beef up Police Presence.”

<sup>32</sup> Ibid.

<sup>33</sup> Lauren Talarico, “Mayor: Several 'kush' stores shut down, others issued restraining order,” *KHOU.com*, August 11, 2016, <http://www.khou.com/news/crime/mayor-turner-to-address-houstons-kush-problem-thursday/294777253>.

<sup>34</sup> Leif Reigstad, “Kush City: Houston has Become a Major Hub for the Latest Drug of Choice,” *Houston Press*, August 16, 2016, <http://www.houstonpress.com/news/kush-city-houston-has-become-a-major-hub-for-the-latest-drug-of-choice-8670910>.

<sup>35</sup> Sylvester Turner, Twitter post, September 19, 2016, 11:13 a.m., <https://twitter.com/sylvesterturner/status/777903367267815424>.

<sup>36</sup> Flynn, “16 Hospitalized,” 2016.

<sup>37</sup> See, e.g., Robbie Couch, “Houston Nearly Halves Homeless Population in 4 Years,” *Huffington Post*, June 11, 2015, [http://www.huffingtonpost.com/2015/06/11/houston-homelessness-declines\\_n\\_7561640.html](http://www.huffingtonpost.com/2015/06/11/houston-homelessness-declines_n_7561640.html).

<sup>38</sup> U.S. Department of Justice Community Oriented Police Services, *Community Policing Dispatch* 8, no. 12 (December 2015), [http://cops.usdoj.gov/html/dispatch/12-2015/alternatives\\_to\\_criminalization.asp](http://cops.usdoj.gov/html/dispatch/12-2015/alternatives_to_criminalization.asp).

<sup>39</sup> Stephanie Whitfield, “Neighbors fighting back against kush,” *KHOU.com*, September 7, 2016, <http://www.khou.com/news/local/neighbors-fighting-back-against-kush/315270635>.

<sup>40</sup> Ibid.

<sup>41</sup> Timothy Carter, “Baytown PD Synthetic THC-Encounters,” Baytown Crime Analysis Division, received September 8, 2016.

<sup>42</sup> Harris County District Clerk Data: of the 155 SynCan-related charges filed between January 1 and June 30, 2016, 96 were misdemeanors.

<sup>43</sup> “Crime in Texas 2015,” Texas Department of Public Safety, [http://dps.texas.gov/administration/crime\\_records/pages/crimestatistics.htm](http://dps.texas.gov/administration/crime_records/pages/crimestatistics.htm).

<sup>44</sup> Harris County District Clerk Data: 90 of the 155 (58.1 percent) defendants charged with SynCan-related crimes between January 1 and June 30, 2016 were black; between July 1 and September 30, 2016, 38 of 72 (52.7 percent) of defendants charged with SynCan-related crimes were black. Per 2015 Census Bureau data, 19.5 percent of Harris County residents are black.

<sup>45</sup> Data obtained from Houston Fire Department, received November 8, 2016.

<sup>46</sup> See Center for Behavioral Health Statistics and Quality, “2015 National Survey on Drug Use and Health: Detailed Tables, 2016,” Substance Abuse and Mental Health Services Administration, Rockville, MD.

<sup>47</sup> U.S. Department of Health and Human Services, Office of the Surgeon General, “Facing Addiction in America: The Surgeon General’s Report on Alcohol, Drugs, and Health” (Washington, D.C.: HHS, November 2016).

<sup>48</sup> Drug Policy Alliance, “Novel Psychoactive Substances (NPS): Establish Restrictions but Don’t Criminalize Them,” August 2015; Morris, “Visiting the Factories in China Where Synthetic Marijuana Gets Made.”

<sup>49</sup> Stephanie Whitfield, “New city program getting kush users off the streets,” *KHOU.com*, September 8, 2016, <http://www.khou.com/mb/news/local/new-city-programs-getting-kush-users-off-the-streets/315698141>.

<sup>50</sup> “PIT Stats by Month,” Houston Recovery Center, 2016.

<sup>51</sup> Ibid. Over the six-month pilot, 76 percent of the PIT’s referrals came from the HPD, Metro Police, or HFD.

<sup>52</sup> See Susan E. Collins, Heather S. Lonczak, and Seema L. Clifasefi, “LEAD Program Evaluation: Criminal Justice and Legal System Utilization and Associated Costs,” June 24, 2015; and Susan E. Collins, Heather S. Lonczak, and Seema L. Clifasefi, “LEAD Program Evaluation: Recidivism Report,” March 27, 2015.

<sup>53</sup> “PIT 2016-17 Budget,” Houston Recovery Center, 2016.

<sup>54</sup> Timothy Carter, Crime Analyst for Baytown Police Department, e-mail message to author, August 31, 2016.

<sup>55</sup> Emily Dean, regional evaluator for Prevention Resource Center 6, phone conversation with author, August 25, 2016; Amber Buras, coalition coordinator for South East Harris County Community Coalition, e-mail message to author, September 9, 2016.

<sup>56</sup> Prevention Resource Center Region 6, “Regional Needs Assessment,” Council on Recovery, 2015.

<sup>57</sup> New York City Department of Mental Health and Hygiene, “Increase in Synthetic Cannabinoid (K2)-related Adverse Events and Emergency Department Visits, New York City,” July 14, 2016.

<sup>58</sup> Susan Scutti, “Fewer K2 Synthetic Pot Hospitalizations Expected in New York City,” *CNN.com*, July 15 2016, accessed December 5, 2016, <http://www.cnn.com/2016/07/15/health/nyc-k2-hospitalizations/>.

<sup>59</sup> Buras, e-mail message to author, September 9, 2016.

<sup>60</sup> The efficacy of abstinence-based, “Just Say No” style drug education for youth is increasingly questioned. A growing number of experts now call for drug education focused on preventing abuse rather than use, providing youth with science-based information about drugs so they can make informed decisions about use, and emphasizing alternative outlets for entertainment and experimentation. See, for example, Thomas Nicholson, David F. Duncan, John White, and Fred Stickle, “Focusing on Abuse, Not Use, in Drug Education,” *Journal of Substance Use* 18 (2013): 431-439; Peter M. Monti, Suzanne M. Colby, and Tracy A. O’Leary, *Adolescents, Alcohol, and Substance Abuse: Reaching Teens through Brief Intervention* (New York: The Guilford Press, 2004); Martha Rosenbaum, “New Perspectives on Drug Education/Prevention,” *Journal of Psychoactive Drugs* 48 (2016): 28-30.

<sup>61</sup> This has been done in Amsterdam. See Mike Pearl, “America Loves this Dutch Cocaine Warning Sign,” *Vice News*, December 4, 2014, accessed December 5, 2016, <http://www.vice.com/read/america-loves-this-dutch-cocaine-warning-sign-909>. More recently police in New Haven, CT, warned the public about a tainted batch of cocaine through local media sources, although they stopped short of posting actual signs. Renee Chmiel, Jacquie Slater, and Josh Scheinblum, “Tainted Drugs on the Streets of New Haven,” *News 8*, June 24, 2016, accessed December 5, 2016, <http://wtnh.com/2016/06/24/new-haven-officials-provide-drug-crisis-update/>.

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<sup>63</sup> Turner, Twitter post, September 19, 2016.

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<sup>65</sup> Mark Morales, “NYPD and New York State to Crack Down on K2 Sellers,” *The Wall Street Journal*, July 14, 2016, accessed on December 5, 2016, <http://www.wsj.com/articles/nypd-and-new-york-state-to-crack-down-on-k2-sellers-1468538576>.

<sup>66</sup> “Mayor de Blasio Signs K2 Legislation into Law to Criminalize Sale and Production,” City of New York, last modified October 20, 2015, <http://www1.nyc.gov/office-of-the-mayor/news/737-15/mayor-de-blasio-signs-k2-legislation-law-criminalize-sale-production>.

<sup>67</sup> NYC Department of Mental Health and Hygiene, “Increase in Synthetic Cannabinoid (K2)-related Adverse Events.”

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