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Honorable Charles E. Grassley
Chairman, Senate Committee on the Judiciary
135 Hart Senate Office Building
Washington, DC 20510

Honorable Richard J. Durbin
Ranking Member, Senate Committee on the Judiciary
711 Hart Senate Office Building
Washington, DC 20510

Re: S. 545, The Combatting Illicit Xylazine Act

Dear Chairman Grassley and Ranking Member Durbin:

On behalf of the Federal Public and Community Defenders, we write to express our opposition to S. 545, the Combatting Illicit Xylazine Act. At any given time, Federal Public and Community Defenders and other counsel appointed under the Criminal Justice Act represent about 90 percent of all individuals in the federal criminal system because they cannot afford counsel. It is our clients who will bear the costs of a decision to bypass the Controlled Substances Act's scheduling procedures by placing xylazine on Schedule III through legislation, in direct contravention of the warnings of medical, scientific, and public health experts.

When Congress passed the Controlled Substances Act (CSA) more than 50 years ago, it recognized that federal drug policy must be informed by medical and scientific expertise—expertise that lawmakers simply do not have. As a result, the CSA provides a process that requires rigorous testing and analysis by the medical, scientific, and public health experts at the Food and Drug Administration (FDA)

before a substance can be administratively scheduled under the CSA.¹ The FDA's evaluation considers eight statutory factors related to the effects of the substance on a person's body and its potential for abuse, and a substance cannot be scheduled absent a finding that the substance has a potential for abuse.²

The FDA is already conducting—and it may have completed—its scheduling evaluation of xylazine, a veterinary tranquilizer that is sometimes used along with illicit drugs, such as fentanyl and methamphetamine, as an adulterant. Congress should allow that process to continue without interference. Although the presence of xylazine in the fentanyl supply has caused understandable alarm, as it can cause serious side effects, scientists are only beginning to understand how xylazine impacts the human body and brain; the Department of Justice has acknowledged as much.³ A coalition of more than 150 scientists and public health experts recently told Congress,

[T]here is a strong need for further research to better understand the pharmacological properties of xylazine, the pathophysiological effects of xylazine, overdose risk, clinical treatments, harm reduction responses, potential racial and gender disparities, and patterns of use, among other needed research.⁴

Further research is particularly important because recent studies, including a study about xylazine funded by the National Institute on Drug Abuse (NIDA), indicate that the presence of xylazine in the fentanyl supply *reduces* the risk of overdose

¹ See 21 U.S.C. § 811. The statute requires that the evaluation be conducted by the Department of Health and Human Services; the FDA is the division of that Department that performs the evaluation.

² Those factors include: (1) the substance's actual or relative potential for abuse; (2) scientific evidence of its pharmacological effect, if known; (3) the state of current scientific knowledge regarding the substance; (4) its history and current pattern of abuse; (5) the scope, duration, and significance of abuse; (6) what, if any, risk there is to the public health; (7) its psychic or physiological dependence liability; and (8) whether the substance is an immediate precursor of a substance already controlled under the relevant subchapter. See 18 U.S.C. § 811(c).

³ See Department of Justice, [Letter to the U.S. Sent'g Comm'n](#) at 7 (July 15, 2024) ("Because these substances are not approved for use in humans, their effects have not yet been fully studied . . .").

⁴ [Letter from Aaron Bailey, MSc. et al. to Congress re: Opposition to Placing Xylazine on Schedule III of the CSA \(Sec. 203, Title II of H.R. 4531\)](#) at 1 (Dec. 11, 2023).

death, rather than increases it (as the DEA has claimed).⁵ And despite early proclamations that xylazine does not respond to naloxone, more recent research shows “promising signs that naloxone could reverse xylazine overdose . . . ,”⁶ and “community responders are now advised to administer naloxone [in cases involving xylazine] regardless.”⁷ Just last month, at a hearing before the United States Sentencing Commission, a Department of Justice witness who was asked whether studies show that mixing xylazine with fentanyl makes xylazine more or less dangerous, and whether xylazine responds to naloxone, testified, “I agree that this is an area where more study needs to be done.”⁸

In the face of this evidence, it is not only unnecessary but also imprudent to hurriedly use legislation as an end-run around the CSA’s evaluation procedures for xylazine. Xylazine use by humans is not nearly as prevalent as media narratives would have us believe; in fact, in fiscal year 2023, only 2.7% of sentenced federal cases involving fentanyl or a fentanyl analogue also involved xylazine.⁹ And unlike fentanyl, xylazine is not a substance that drug users seek out; researchers have found instead that drug users “overwhelmingly preferred opioids without xylazine,”

⁵ See Nat’l Inst. on Drug Abuse, NIH, [Xylazine](#) (Sept. 2024) (last accessed January 21, 2026) (“[E]arly research does not indicate that xylazine combined with opioids increases odds of fatal overdose. NIDA-funded research found that people with xylazine and fentanyl in their systems at the time of overdose had lower rates of heart attack and coma than those who tested positive for opioids alone” and were no more likely to die, be admitted to the hospital, or stay in the hospital longer); see also Jennifer S. Love, et al., [Opioid Overdoses Involving Xylazine in Emergency Department Patients: A Multicenter Study](#), 61 Clinical Toxicology at 9 (2023) (“[I]n this large multicenter cohort study, clinical outcomes for ED patients with illicit opioid overdose were significantly less severe in those testing positive for xylazine.”).

⁶ Elizabeth Hlavinka, [Attempts to ban an emerging drug threat are repeating the mistakes of the drug war, experts caution](#), Salon (Dec. 21, 2023); see also Madigan L. Bedard, et al., [Xylazine is an agonist at kappa opioid receptors and exhibits sex-specific responses to opioid antagonism](#), 11 Addiction Neuroscience at 10 (2024) (urging “more nuanced health messaging” lest messages about xylazine being nonresponsive to naloxone “lead people to not use naloxone in an overdose scenario when xylazine is suspected in conjunction with fentanyl”).

⁷ Adams L. Sibley, et. al., [A brick to a bundle: A qualitative study of behavioral responses to xylazine adulteration](#), 145 Int’l J. of Drug Pol’y at 2 (2025); see also [Bailey letter](#) at 2.

⁸ U.S. Sent’g Comm’n, [Public Hearing on Proposed Amendments to the Sentencing Guidelines](#) at 90 (Feb. 17, 2026)

⁹ Compare U.S. Sent’g Comm’n, [Public Data Briefing on Proposed Amendments on Drug Offenses](#) at 37 (Jan. 8, 2026) with U.S. Sent’g Comm’n, [QuickFacts: Fentanyl Trafficking Fiscal Year 2023](#) and [QuickFacts: Fentanyl Analogue Trafficking Fiscal Year 2023](#) (showing the total number of sentenced cases for fentanyl and fentanyl analogues, respectively).

and are engaging in harm-reducing behaviors specifically to avoid xylazine.¹⁰ Experts therefore “urg[e] caution against reactive policy measures that interrupt the unregulated supply of xylazine” because their data suggest that such measures have the potential to reverse harm-reducing behaviors and “lead to a rebound in street fentanyl or polydrug consumption.”¹¹ They also warn that because “xylazine is routinely used in pharmaceutical development because it is unscheduled to study new medications, from diabetes to Alzheimer’s to cancer,” “[p]lacing xylazine on Schedule III would be massively disruptive to essential American industry.”¹²

And while Defenders understand Congress’s desire to take action to address the fentanyl overdose crisis, we should not overlook the rapidly-shifting landscape of that crisis. Over the past two years, drug overdose deaths—particularly deaths related to fentanyl—have been dropping sharply. CDC data show that in 2024, overdose deaths declined by more than 26 percent from the previous year, and overdose deaths from synthetic opioids such as fentanyl saw an even greater decline of 36.5%.¹³ Overdose rates have continued to drop through August 2025 (the latest month for which data is available).¹⁴ The fentanyl overdose death rate of course remains way too high. But the past two years show that sustained change is possible—and is already happening—without legislative action to schedule xylazine.

Finally, we must point out that we now have decades of experience demonstrating that criminal penalties fail to deter drug use, because they do nothing to address the root causes of substance use disorder, which drives the demand for

¹⁰ [Sibley et al.](#), 145 Int’l J. of Drug Pol’y at 1; *see also* Ju Nyeong Park, et al., [Xylazine awareness, desire, use and exposure: Preliminary findings from the Rhode Island community-based drug checking cohort study](#), 11 Drug and Alcohol Dependence Reports at 4 (2024) (indicating that only 1 out of 121 study participants wanted xylazine).

¹¹ [Sibley et al.](#), 145 Int’l J. of Drug Pol’y at 5.

¹² [Bailey Letter](#) at 4.

¹³ Press Release, CDC, [U.S. Overdose Deaths Decrease Almost 27% in 2024](#) (May 14, 2025).

¹⁴ *See* Nat’l Ctr. on Health Statistics, CDC, [Provisional Drug Overdose Death Counts](#) Fig. 1a (last visited February 6, 2026); *see also* Mike Stobbe, [US overdose deaths fell through most of 2025, federal data reveals](#), Associated Press (Jan. 14, 2026). Experts have offered multiple possible explanations for this trend, including increased access to naloxone and other harm-reduction strategies, expanded addiction treatment, and the decreasing purity of fentanyl. *Id.*; *see also* Jan Hoffman & Noah Weiland, [What’s Behind the Remarkable Drop in U.S Overdose Deaths](#), N.Y. Times (Nov. 21, 2024). A study released in January suggests that China’s crackdown on fentanyl precursors created a supply shortage that may have contributed to the declining death rate. David Ovalle and Cate Cadell, [A study offers a surprising reason for plunging U.S overdose deaths](#), Washington Post (Jan. 8, 2026).

drugs. The failed “war on drugs” has run parallel to the overdose crisis for more than 30 years, resulting in severe racial disparities in drug enforcement, mass incarceration, and a capacity and staffing crisis at the Bureau of Prisons. We urge Congress to avoid exacerbating the harms of our failed drug policies.

The FDA’s evaluation of xylazine will determine whether it meets the scientific criteria for placement on Schedule III of the CSA. We ask Congress to allow that process to continue to completion to ensure that the placement of xylazine on any schedule of the CSA, if appropriate, is informed by the proper medical and scientific analysis.

Thank you for your time and consideration.

Very truly yours,



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